

ARTHUR ROBINSON & HEDDERWICKS
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HUMAN RIGHTS AND EQUAL OPPORTUNITY
LEGISLATION AMENDMENT BILL 1992

EXPLANATORY MEMORANDUM

(circulated by authority of the
Minister for Health Housing and Community Services
the Honourable Brian Howe MP and
the Attorney-General the Honourable Michael Duffy MP)



Human Rights and Equal Opportunity Legislation Amendment Bill 1992

Outline

This Bill makes amendments to the *Human Rights and Equal Opportunity Commission Act 1986* (the HREOC Act) required by the proposed Disability Discrimination Bill 1992 and makes other amendments to bring Commonwealth anti-discrimination law up to date with existing practice in a number of areas.

1. The Bill inserts a definition of Disability Discrimination Commissioner into the HREOC Act and indicates that that office holder becomes a member of the Commission. It also adds a provision to allow the Commission to exercise functions under the Disability Discrimination Bill and makes other minor amendments relating to the implementation of that Bill.
2. The Bill also brings certain sections of the HREOC Act, the *Sex Discrimination Act 1984* (the SDA) and the *Racial Discrimination Act 1976* (the RDA) into line with current practice in relation to the delegation of functions and provisions for persons to act in a statutory office created under those Acts.
3. There are also amendments to the RDA and SDA relating to bringing the recreation leave entitlements for the Sex Discrimination and Race Discrimination Commissioners into line with other Commonwealth Statutory Office holders.

Financial Implications

There are no financial implications arising from the enactment of this legislation.

Notes on ClausesPart 1
PreliminaryClause 1 - Short Title

This provision indicates the title to the Bill when enacted will be called the 'Human Rights and Equal Opportunity Legislation Amendment Act 1992.

Clause 2 - Commencement

This clause states this Bill will come into force when Part 6 of the Disability Discrimination Bill comes into force. Part 6 deals with the Office of Disability Discrimination Commissioner.

Part 2
Amendments of the Human Rights and Equal Opportunity Commission Act 1986Clause 3 - Principal Act

This clause is self-explanatory.

Clause 4 - Interpretation

This provision adds a definition of 'Disability Discrimination Commissioner into the HREOC Act.

Clause 5 - Constitution of Commission

This clause makes it clear that the Disability Discrimination Commissioner is to be a member of the Human Rights and Equal Opportunity Commission.

Clause 6 - Functions of Commission

This clause allows HREOC to undertake those function given to it under the Disability Discrimination Bill.

Clause 7 - Forms of examinations or inquiries to be at discretion of Commissioner etc

This clause indicates that the power given to HREOC to conduct its proceedings relating to holding of examinations and inquiries does not relate to examinations and inquiries under the Disability Discrimination Bill. The power to hold those examinations and inquiries comes from the Disability Discrimination Bill itself.

Clause 8 - Inter-governmental arrangements

This amendment will provide the Minister with power to enter into arrangements with State and Territory governments for those governments to undertake functions of the Commission either jointly or on behalf of the Commission in relation to the functions conferred on the Commission by the Disability Discrimination Bill.

Clause 9 - Delegation

This provision brings the HREOC Act in relation to delegation into line with current Commonwealth practice and should be read in conjunction with Section 34AB of the Acts Interpretation Act 1901.

The provision also indicates that this provision does not effect the delegation of powers under the Disability Discrimination Bill. Delegation of those powers must be dealt with under that Bill.

Clause 10 - Acting President and Human Rights Commissioner

This provision also brings acting arrangements under the HREOC Act into line with current practice and should be read in conjunction with Section 33A of the Acts Interpretation Act 1901.

Part 3
Amendments of Other Acts

Clause 11

This clause is self-explanatory

Schedule

Amendments of other Acts

Racial Discrimination Act 1975

Amendment to:

Section 32 - The existing section is repealed and replaced by a new provision which brings the recreation leave entitlements of the Race Discrimination Commissioner into line with other Commonwealth Statutory Office holders.

Section 34(2)(a) - The reference to granted by the Minister is no longer required as the Race Discrimination Commissioner leave entitlements will be determined under the amended Section 32.

Subsections 36(1),36(2) - The reference in these provisions in relation to the acting arrangements for the Commissioner are no longer necessary because of the provisions of Section 33A of the Acts Interpretation Act 1901

Subsections 40(1) and (2) - These provisions are also no longer necessary given the generally applying provision in Section 34AB of the Acts Interpretation Act 1901.

Sex Discrimination Act 1984

These amendments effect the same amendments to the Sex Discrimination Act as the abovementioned provisions do to the Racial Discrimination Act.