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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

HUMAN RIGHTS LEGISLATION AMENDMENT BILL (NO 2)
1999

REVISED EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
the Honourable Daryl Williams AM QC MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY THE
HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED

HUMAN RIGHTS LEGISLATION AMENDMENT BILL (NO. 2) 1999

OUTLINE

This Bill provides for the reorganisation of the Human Rights and Equal Opportunity Commission ('the Old Commission') and its renaming as the Human Rights and Responsibilities Commission ('the New Commission'). The New Commission will have a responsibility to protect and promote the human rights of all Australians, and will also promote an understanding and acceptance of the responsibility of Australians to respect each others' human rights.

The executive structure of the New Commission will consist of a President and three Deputy Presidents, each of whom will also have responsibility for specific subject areas as follows:

- one Deputy President will be responsible for social justice and race;
- one Deputy President will be responsible for sex discrimination and equal opportunity; and
- one Deputy President will be responsible for human rights and disability.

The Bill makes education, dissemination of information on human rights and assistance to business and the general community - for example, through the development of guidelines which will assist people to comply with their obligations under federal anti-discrimination legislation - central functions of the New Commission.

Removal of the Privacy Commissioner from the Old Commission and the establishment of the office as a separate statutory authority is to be effected by the *Privacy Amendment (Office of the Privacy Commissioner) Act 1999*.

In addition to those outlined above, the Bill makes the following changes:

- The Community Relations Council, and the provision for the establishment of advisory committees, are abolished.
- The New Commission will not have powers of delegation under the *Disability Discrimination Act 1992*, the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*. Instead, the Bill provides for their repeal and consolidation into one delegation provision in the renamed *Human Rights and Responsibilities Commission Act 1986*.
- The New Commission will not have a power to recommend the payment of damages or compensation following inquiries into certain types of complaints under the renamed *Human Rights and Responsibilities Commission Act 1986*.
- The Commission will be required to notify the Attorney-General when it is seeking leave to intervene in court proceedings which involve human rights or discrimination issues.

The Bill also makes consequential amendments to other legislation, for example the *Crimes (Torture) Act 1988*, the *Defence Act 1903*, the *Workplace Relations Act 1996* and the *Federal Court of Australia Act 1976*.

FINANCIAL IMPACT STATEMENT

The Bill is not expected to have any significant financial impact.

NOTES ON CLAUSES

Abbreviations

1. The following abbreviations are used throughout these notes:

DDA	<i>Disability Discrimination Act 1992</i>
HREOCA	<i>Human Rights and Equal Opportunity Commission Act 1986</i>
HRLAA (No. 1)	<i>Human Rights Legislation Amendment Act (No. 1) 1999</i>
New Commission	Human Rights and Responsibilities Commission (after the amendments made by this Bill)
1998 PS Act	<i>Public Service Act 1998</i>
Old Commission	Human Rights and Equal Opportunity Commission (before the amendments made by this Bill)
PA(OOPC)A	<i>Privacy Amendment (Office of the Privacy Commissioner) Act 1999</i>
RDA	<i>Racial Discrimination Act 1975</i>
SDA	<i>Sex Discrimination Act 1984</i>

Clause 1 - Short title

2. This clause provides that the Act may be cited as the *Human Rights Legislation Amendment Act (No.2) 1999*.

Clause 2 - Commencement

3. This clause provides for the commencement of the Act. Subclause (1) provides that, subject to the remaining provisions of clause 2, the Act commences on a day to be fixed by Proclamation.
4. Subclause (2) ensures that this Act cannot be proclaimed to commence until all of the items in Schedule 1 to the HRLAA (No. 1) have commenced. This provision and subclause (3) are necessary because the amendments made by this Act assume that the amendments made by the HRLAA (No. 1) have already commenced.
5. Subclause (3) provides for the automatic commencement of the Act if it has not been proclaimed within a specified period of time. The effect of this provision is as follows:
 - If the HRLAA (No. 1) has already commenced when this Act receives the Royal Assent, this Act will automatically commence on the second day after the end of the six month period beginning on the day on which it receives the Royal Assent, if this Act has not been proclaimed before that day.

- If the HRLAA (No. 1) has not commenced when this Act receives the Royal Assent, this Act will automatically commence on the second day after the end of the six month period beginning on the day on which the HRLAA (No. 1) receives the Royal Assent, if this Act has not been proclaimed before that day.
6. Subclause (4) provides that items 13, 16, 86, 91 and 92, and Part 4 of Schedule 1 and item 20 of Schedule 2 do not commence if the PA(OOPC)A has already commenced. The PA(OOPC)A removes the Privacy Commissioner from the Old Commission and establishes the office as a separate statutory authority. Subclause (5) provides that item 17 and Part 4 of Schedule 1 commence immediately after the PA(OOPC)A commences, if that Act has not already commenced when this Act commences. Subclauses (4) and (5) are necessary in order to coordinate the commencement of this Act and the PA(OOPC)A.

Clause 3 - Schedules

7. This is the operative clause which gives effect to the amendments set out in the Schedules to the Act.

SCHEDULE 1 - THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Part 1 - Human Rights and Equal Opportunity Commission Act 1986

8. This part of Schedule 1 contains amendments to the HREOCA.

Item 1 - Title

9. This item amends the title of the HREOCA by omitting the words 'Equal Opportunity' and substituting the words 'Responsibilities'. After this amendment, the HREOCA will be known as the *Human Rights and Responsibilities Commission Act 1986*.

Item 2 - Section 1

10. This item amends the short title of the HREOCA, consequential on the amendment made by item 1.

Item 3 - Subsection 3(1) (definition of *appointed member*)

11. With the abolition of the office of Human Rights Commissioner, and the creation of three Deputy President positions having common provisions relating to appointment, and terms and conditions, the definition of 'appointed member' is no longer required. This item repeals that definition.

Item 4 - Subsection 3(1) (definition of *Commission*)

12. This item amends the definition of 'Commission', consequential on the amendment made by item 11.

Item 5 - Subsection 3(1)

13. This item inserts in subsection 3(1) of the HREOCA a definition of 'Deputy President', consequential on the amendment made by item 12.

Item 6 - Subsection 3(1) (definition of *Disability Discrimination Commissioner*)

14. This item repeals the definition of 'Disability Discrimination Commissioner', consequential on the amendment made by item 83.

Item 7 - Subsection 3(1) (definition of *member*)

15. This item repeals the definition of 'member', as the term is no longer used anywhere in the Act. In order to remove any doubt, item 12 makes clear that the President and Deputy Presidents are members of the Commission.

Item 8 - Subsection 3(1) (definition of *Race Discrimination Commissioner*)

16. This item repeals the definition of 'Race Discrimination Commissioner', consequential on the amendment made by item 112.

Item 9 - Subsection 3(1) (definition of *Sex Discrimination Commissioner*)

17. This item repeals the definition of 'Sex Discrimination Commissioner', consequential on the amendment made by item 137.

Item 10 - Part II (heading)

18. This item replaces the heading to Part II of the HREOCA, consequential on the amendment made by item 11.

Item 11 - Subsection 7(1)

19. This item amends subsection 7(1) of the HREOCA (which establishes the Commission) to rename the Old Commission the Human Rights and Responsibilities Commission. The heading to section 7 of the HREOCA is altered accordingly.

Item 12 - Subsection 8(1)

20. This item amends subsection 8(1) of the HREOCA to prescribe the composition of the New Commission. The New Commission will comprise:

- a President;
- a Deputy President responsible for human rights and disability discrimination;
- a Deputy President responsible for racial discrimination and social justice; and
- a Deputy President responsible for sex discrimination and equal opportunity.

21. The item makes clear that the President and Deputy Presidents are members of the Commission. The designation of spheres of responsibility for each Deputy President in the New Commission is not intended to limit the ability of those Deputy Presidents to develop specialisations in other important areas of human rights, for example children's rights, age discrimination or other issues.

Item 13 - After subsection 8(1)

22. This item preserves the Privacy Commissioner as a member of the Commission until commencement of the PA(OOPC)A.

Item 14 - Subsection 8(6)

23. This item amends subsection 8(6) of the HREOCA to take into account the renumbering of section 31 which results from the insertion of a new subsection (2) into that section (see item 35).

Item 15 - Subsection 8(6)

24. This item amends subsection 8(6) of the HREOCA to take into account the renumbering of section 31 which results from the insertion of a new subsection (2) into that section (see item 35).

Item 16 - Subsection 8(7)

25. This item ensures continued reference to the Privacy Commissioner if the PA(OOPC)A has not commenced before commencement of this Act.

Item 17 - Subsection 8(7)

26. This item amends subsection 8(7) of the HREOCA, consequential on the amendment made by item 12.

Item 18 - Subsection 8B(1)

27. This item amends subsection 8B(1) of the HREOCA to provide for the appointment by the Governor-General of Deputy Presidents as full-time members of the New Commission.

Item 19 - Subsection 8B(2)

28. This item amends subsection 8B(2) of the HREOCA, consequential on the amendment made by item 18. The effect of this amendment is that the qualifications required for a person to be appointed as a Deputy President will be the same as those required for a person to be appointed as a Commissioner in the Old Commission.

29. It is intended that the designated spheres of responsibility of each Deputy President (see item 12) will be taken into account in assessing the appropriate qualifications, knowledge or experience required for a person to be appointed as that Deputy President. Thus, the person appointed as Deputy President responsible for human rights and disability discrimination would be expected to have relevant qualifications, knowledge or experience in those areas, or related areas.

Item 20 - Before paragraph 11(1)(a)

30. This item and item 23 amend subsection 11(1) of the HREOCA to make education, dissemination of information on human rights and assistance to business and the general community the central focus of the New Commission's functions, primarily by rearranging and re-ordering the existing functions set out in subsection 11(1).

31. This item inserts new paragraphs (aaa), (aab), (aac) and (aad) into subsection 11(1) of the HREOCA. Paragraphs 11(1)(aaa), (aac) and (aad) broadly reflect existing paragraphs 11(1)(g), (h) and (n), with the addition of references to the responsibility of persons and organisations to respect human rights, while paragraph 11(1)(aab) confers on the New Commission a function which was not conferred on the Old Commission.

32. These amendments are intended to focus the New Commission's attention on the following functions:

- promoting an understanding and acceptance, and public discussion, of human rights in Australia, and of the responsibility of persons and organisations in Australia to respect those rights (new paragraph 11(1)(aaa));

- disseminating information on human rights, and on the responsibility of persons and organisations to respect those rights (new paragraph 11(1)(aab));
- undertaking research and educational programs, on behalf of the Commonwealth, for the purpose of promoting human rights, and coordinating any such programs undertaken by any other person or authority on behalf of the Commonwealth (new paragraph 11(1)(aac)); and
- preparing, and publishing in a manner the New Commission considers appropriate, guidelines for avoiding acts or practices of a kind in respect of which a function is conferred by paragraph 11(1)(f) of the HREOCA (new paragraph 11(1)(aad)). Paragraph 11(1)(f) confers a function of inquiring into acts or practices inconsistent with or contrary to any 'human right' (as defined in subsection 3(1) of the HREOCA), done by or on behalf of the Commonwealth or a Commonwealth authority, under an enactment or within a Territory.

Item 21 - Paragraph 11(1)(a)

33. This item inserts into paragraph 11(1)(a) of the HREOCA a missing reference to functions under the DDA.

Item 22 - Paragraph 11(1)(d)

34. This item amends paragraph 11(1)(d) of the HREOCA to take into account the renumbering of section 31 which results from the insertion of a new subsection (2) into that section (see item 35).

Item 23 - Paragraphs 11(1)(g), (h) and (n)

35. This item repeals paragraphs 11(1)(g), (h) and (n) of the HREOCA, consequential on the amendments made by item 20.

Item 24 - At the end of section 11

36. This item inserts a new subsection 11(5) of the HREOCA to require that, before seeking leave to intervene in court proceedings which involve human rights issues, the New Commission shall give notice to the Attorney-General of its intention to do so and provide reasons for doing so. The Commission will be required to give this notice and provide reasons within a reasonable period before the intervention is to take place.

Item 25 - Section 17

37. This item repeals section 17. That section provides for the establishment of advisory committees to advise the Old Commission on the performance of its functions and, when requested by the Minister, to report on Australian compliance with certain human rights standards. The New Commission will retain the power - currently in section 15 of the HREOCA - to work with and consult appropriate persons, governmental organisations and non-governmental organisations.

Item 26- At the end of subsections 19(1) and (2)

38. This item amends subsections 19(1) and (2) of the HREOCA to ensure that the New Commission can delegate its powers under not only the *Human Rights and*

Responsibilities Commission Act 1986, but also under any other law which confers powers on the New Commission. As amended by this item, section 19 will provide the only source of power for the New Commission to delegate its powers to members or other persons or bodies. It replaces and consolidates the similar delegation powers in section 121 of the DDA, section 40 of the RDA and section 104 of the SDA.

Item 27 - Subsections 19(2A) and (2B)

39. This item amends section 19 of the HREOCA by repealing existing subsections (2A) and (2B) (inserted by the HRLAA (No. 1)) and replacing them with a new subsection (2A).

40. A key element of the Government's policy underlying the amendments made by the HRLAA (No. 1) was the decision to centralise *all* responsibility for complaint handling in the President of the Old Commission (and, after the amendments made by this Act, the President of the New Commission). Subsection 19(2A), as inserted by the HRLAA (No. 1), gives effect to this policy by prohibiting the President from delegating his or her powers under Parts IIB or IIC of the HREOCA (which deal, respectively, with the handling of complaints of unlawful discrimination under the DDA, the RDA and the SDA, and with the referral of discriminatory awards and determinations to other bodies). However, subsection 19(2B) permits the President to delegate to the Human Rights Commissioner (but not to any other member of the Old Commission) his or her powers in respect of complaints under sections 11 and 31 of the HREOCA (which deal, respectively, with breaches of human rights and with discrimination in employment or occupation).

41. New subsection 19(2A) removes this anomaly by extending the prohibition on the President's power of delegation to include his or her powers in respect of complaints under sections 11 and 31 of the HREOCA. This will ensure that the legislation fully reflects the Government's policy on Presidential responsibility for complaint handling.

Item 28 - After subsection 19(2C)

42. This item inserts in section 19 of the HREOCA a new subsection (3) which makes it clear that, despite the designation in new subsection 8(1) of spheres of responsibility for each Deputy President, the New Commission is not limited in its capacity to delegate any or all of its powers to any of the Deputy Presidents.

43. It is expected that the delegation of powers to the Deputy Presidents will generally accord with their designated spheres of responsibility. However, it is intended that the New Commission will have the flexibility to allocate powers - and the functions to which they relate - amongst its members as it sees fit. This will allow the New Commission to make the most efficient possible use of its resources.

Item 29 - Subsection 19(6)

44. This item repeals subsection 19(6) of the HREOCA, consequential on the amendment made by item 26.

Item 30 - Subsection 24(1A)

45. This item amends subsection 24(1A) of the HREOCA, consequential on the amendment made by item 48.

Item 31 - Subsection 24 (1A)

46. This item amends subsection 24(1A) of the HREOCA, consequential on the amendment made by item 48.

Item 32 - Paragraph 29(2)(c)

47. This item repeals paragraph 29(2)(c) of the HREOCA and substitutes a new paragraph 29(2)(c). Where the Old Commission has inquired into an act or practice engaged in by a person, and has found that the act or practice is inconsistent with, or contrary to, any human right, existing paragraph 29(2)(c) gives it the power to make recommendations, amongst other things, for the payment of compensation to a person who has suffered loss or damage as a result of the act or practice. These recommendations cannot currently be enforced in any way because, unlike in the case of discrimination under the DDA, the RDA and the SDA, the acts or practices to which these recommendations relate are not made unlawful under the HREOCA.

48. This item removes that power, leaving the New Commission with a power to recommend the taking of any action, *other than* the payment of compensation or damages, to remedy or reduce loss or damage suffered by a person as a result of the act or practice.

Item 33 - Before paragraph 31(a)

49. This item and item 34 amend section 31 of the HREOCA to make education, dissemination of information on equality of opportunity and treatment in employment and occupation, and assistance to business and the general community the central focus of the New Commission's functions, primarily by rearranging and re-ordering the existing functions set out in section 31. These amendments mirror those made by item 20 in relation to subsection 11(1) of the HREOCA.

50. This item inserts new paragraphs (aa), (ab), (ac) and (ad) into section 31 of the HREOCA. Paragraphs 31(aa), (ac) and (ad) broadly reflect existing paragraphs 31(c), (d) and (h), with the addition of references to the responsibility of persons and organisations to respect equality of opportunity and treatment in employment and occupation, while paragraph 31(ab) confers on the New Commission a function which was not conferred on the Old Commission.

51. These amendments are intended to focus the New Commission's attention on the following functions:

- promoting an understanding and acceptance, and public discussion, of equality of opportunity and treatment in employment and occupation, and of the responsibility of persons and organisations in Australia to respect that equality (new paragraph 31(aa));

- disseminating information on equality of opportunity and treatment in employment and occupation, and on the responsibility of persons and organisations to respect that equality (new paragraph 31(ab));
- undertaking research and educational programs, on behalf of the Commonwealth, for the purpose of promoting equality of opportunity and treatment in employment and occupation, and coordinating any such programs undertaken by any other person or authority on behalf of the Commonwealth (new paragraph 31(ac)); and
- preparing, and publishing in a manner the New Commission considers appropriate, guidelines for avoiding acts or practices of a kind in respect of which a function is conferred by paragraph 31(1)(b) of the HREOCA (new paragraph 31(ad)). Paragraph 31(1)(b) confers a function of inquiring into acts or practices which may constitute 'discrimination' (as defined in subsection 3(1) of the HREOCA), done by or on behalf of the Commonwealth or a State, or a Commonwealth or State authority, under a Commonwealth or State enactment or within a State or Territory.

Item 34 - Paragraphs 31(c), (d) and (h)

52. This item repeals paragraphs 31(c), (d) and (h) of the HREOCA, consequential on the amendments made by item 33.

Items 35 - At the end of section 31

53. This item inserts a new subsection 31(2) of the HREOCA to require that, before seeking leave to intervene in court proceedings which involve discrimination issues, the New Commission shall give notice to the Attorney-General of its intention to do so and to provide reasons for doing so. The Commission will be required to give this notice and provide reasons within a reasonable period before the intervention is to take place.

Item 36 - Subsection 32(1)

54. This item amends subsection 32(1) of the HREOCA to take into account the renumbering of section 31 which results from the insertion of a new subsection (2) into that section (see item 35).

Item 37 - Section 33

55. This item amends section 33 of the HREOCA to take into account the renumbering of section 31 which results from the insertion of a new subsection (2) into that section (see item 35).

Item 38 - Paragraph 35(2)(c)

56. This item repeals paragraph 35(2)(c) of the HREOCA and substitutes a new paragraph 35(2)(c). Where the Old Commission has inquired into an act or practice engaged in by a person, and has found that the act or practice constitutes 'discrimination' (as defined in subsection 3(1) of the HREOCA), existing paragraph 35(2)(c) gives it the power to make recommendations, amongst other things, for the payment of compensation to a person who has suffered loss or damage as a result of

the act or practice. These recommendations cannot currently be enforced in any way because, unlike in the case of discrimination under the DDA, the RDA and the SDA, the acts or practices to which these recommendations relate are not made unlawful under the HREOCA.

57. This item removes that power, leaving the New Commission with a power to recommend the taking of any action, *other than* the payment of compensation or damages, to remedy or reduce loss or damage suffered by a person as a result of the act or practice.

Item 39 - Subsections 36(3) and (9)

58. This item amends subsections 36(3) and (9) of the HREOCA, consequential on the amendment made by item 18. The heading to section 36 is altered accordingly.

Item 40 - Paragraph 36(3)(b)

59. This item amends paragraph 36(3)(b) of the HREOCA, consequential on the amendment made by item 39.

Item 41 - Subsection 37(1)

60. This item amends subsection 37(1) of the HREOCA, consequential on the amendments made by item 3.

Item 42 - Subsections 37(4) and 38(2) and section 40

61. This item amends subsections 37(4) and 38(2), and section 40 of the HREOCA, consequential on the amendment made by item 3.

Item 43 - Subsections 38(1) and 41(4)

62. This item amends subsections 38(1) and 41(4) of the HREOCA, consequential on the amendment made by item 3.

Item 44 - Subsection 41(3)

63. This item amends subsection 41(3) of the HREOCA, consequential on the amendment made by item 3.

Item 45 - Part IIA (heading)

64. This item amends the heading to Part IIA of the HREOCA, consequential on the amendment made by item 48.

Item 46 - Division 1 of Part IIA (heading)

65. This item repeals the heading to Division 1 of Part IIA of the HREOCA, consequential on the amendment made by item 48.

Item 47 - Section 46A (definition of *Commissioner*)

66. This item repeals the definition of 'Commissioner', consequential on the amendment made by item 48.

Item 48 - Section 46B

67. This item repeals section 46B of the HREOCA. The effect is to abolish the position of Aboriginal and Torres Strait Islander Social Justice Commissioner, in line with the abolition of all the special-purpose Commissioner positions (other than that of the Privacy Commissioner) which comprise the Old Commission.

68. There is no change to the substantive functions which the Aboriginal and Torres Strait Islander Social Justice Commissioner currently performs on behalf of the Old Commission. Section 19 of the *Human Rights and Responsibilities Commission Act 1986* (as amended by this Act) will allow the New Commission to delegate the performance of those functions, for example to the Deputy President responsible for racial discrimination and social justice.

Item 49 - At the end of subsection 46C(1)

69. This item adds a note at the end of subsection 46C(1) of the HREOCA simply to alert the reader to the functions conferred on the Commission by section 209 of the *Native Title Act 1993*.

Item 50 - Subsection 46C(2)

70. This item repeals subsection 46C(2) of the HREOCA, consequential on the amendment made by item 48. The heading to section 46C is altered accordingly.

Item 51 - Subsection 46C(3)

71. This item amends subsection 46C(3) of the HREOCA, consequential on the amendment made by item 48.

Item 52 - Paragraph 46C(3)(d)

72. This item amends paragraph 46C(3)(d) of the HREOCA, consequential on the amendment made by item 48.

Item 53 - Subsection 46C(4)

73. This item amends subsection 46C(4) of the HREOCA, consequential on the amendment made by item 48.

Item 54 - Division 2 of Part IIA

74. This item repeals Division 2 of Part IIA of the HREOCA, consequential on the amendment made by item 48.

Item 55 - Division 3 of Part IIA (heading)

75. This item repeals the heading to Division 3 of Part IIA. With the repeal of section 46B and Division 2, there is no longer a need to retain a divisional structure within Part IIA.

Item 56 - Section 46K

76. This item amends section 46K of the HREOCA, consequential on the amendment made by item 48. The heading to section 46K is altered accordingly.

Item 57 - Section 46L

77. This item repeals section 46L of the HREOCA, consequential on the amendment made by item 48.

78. The heading to section 46M of the HREOCA is also altered, consequential on the amendment made by item 48.

Item 58 - Paragraph 46PE(1)(c)

79. This item amends paragraph 46PE(1)(c) of the HREOCA (to be inserted by HRLAA (No. 1)), consequential on the amendment made by item 12. The heading to section 46PE is altered accordingly.

Item 59 - Subsection 46PV(1)

80. This item amends subsection 46PV(1) of the HREOCA (to be inserted by HRLAA (No. 1)) to omit references to 'special-purpose Commissioners' and to replace them with references to 'Deputy Presidents'. This ensures that the Deputy Presidents in the New Commission, and not the President, are responsible for performing the function of seeking leave to appear as *amicus curiae* in Federal Court proceedings under Division 2 of Part IIB of the HREOCA. The President has not been given any role under this section in order to avoid the possibility of a conflict of interest arising from the President's responsibility for investigating, and attempting to conciliate, complaints of unlawful discrimination.

81. The heading to section 46PV is altered accordingly.

Item 60 - Paragraph 46PV(1)(b)

82. This item repeals existing paragraph 46PV(1)(b) of the HREOCA (to be inserted by the HRLAA (No. 1)) and substitutes a new paragraph 46PV(1)(b). The purpose of this amendment is to clarify the uncertainty which may exist in the use of the phrase 'relevant Act or Acts' in the existing paragraph. The new paragraph makes it clear that *any* Deputy President may seek leave to appear as *amicus curiae* in Federal Court proceedings which may, in his or her opinion, have significant implications for the administration of *any one or more* of the Acts specified in the paragraph.

Item 61 - Subsection 46PV(3)

83. This item repeals existing subsection 46PV(3) of the HREOCA (to be inserted by the HRLAA (No. 1)) and substitutes a new subsection 46PV(3). The repeal of the

existing subsection is consequential on the abolition of the positions of special-purpose Commissioners in the Old Commission.

84. The new subsection introduces a requirement that the Deputy Presidents consult amongst themselves before exercising the function under subsection 46PV(1) of seeking leave to appear as *amicus curiae* in Federal Court proceedings. This requirement is intended to minimise the possibility of any disputes arising between the Deputy Presidents in relation to this function. The functions of the Deputy Presidents under subsection 46PV(1) are intended to be performed cooperatively, and in the interests of the New Commission as a whole. This requirement is consistent with the general requirement, in subsection 8(2) of the HREOCA, that the members of the Commission must act in a way which promotes the collegiate nature of the Commission.

Item 62 - Subsection 48(1)

85. This item, and items 63 and 64, amend section 48 of the HREOCA to ensure that its scope is sufficiently broad to protect from civil action those persons protected by existing section 126 of the DDA, section 45 of the RDA and section 111 of the SDA. This is because those latter sections are being repealed by this Act (see items 84, 122 and 138) and consolidated into section 48 of the HREOCA. With the amendments made by the HRLAA (No. 1) and this Act, there is no longer any need for the protection offered by these sections to be replicated in each Act.

86. This item substitutes, in subsection 48(1) of the HREOCA, the phrase 'for or on behalf of the Commission or a member' for the phrase 'on behalf of the Commission'. This is to ensure that persons acting for or on behalf of a *member* of the Commission, as opposed to the Commission itself, are protected against civil action. Before this amendment, such people would be protected by the similar provisions in the DDA, the RDA and the SDA.

87. In addition, this item will clarify the uncertainty surrounding the protection the section offers to contractors. There is some doubt, arising from the language of the existing section, as to whether contractors providing services *to* the Commission or a member are protected from civil action. This item will clarify that contractors acting *both* on behalf of the Commission or a member (for example, contractors delivering a public anti-discrimination education campaign developed by the Commission) *and* for the Commission or a member (for example, contractors providing support or administrative services to the Commission itself) are protected by the section.

Item 63 - At the end of subsection 48(1)

88. This item further amends subsection 48(1) of the HREOCA to ensure that persons acting for or on behalf of a *member* of the Commission, as opposed to the Commission itself, are protected against civil action.

Item 64 - Subsection 48(3)

89. This item amends subsection 48(3) of the HREOCA, along the same lines as item 62, by adding the words 'for or' after the words 'a person acting'. This will ensure that subsection 48(3) covers persons acting *both* 'for or on behalf of the Commission'.

Item 65 - Subsections 49(1), (2) and (4A)

90. This item amends subsections 49(1), (2) and (4A) of the HREOCA, along the same lines as item 62, by adding the words 'for or' before the words 'on behalf of'. This will ensure that section 49 covers persons acting *both* 'for or on behalf of the Commission'.

Item 66 - Subsection 49(1)

91. This item, and items 67 and 68, amend section 49 of the HREOCA to ensure that the scope of the offence it creates is sufficiently broad to cover those persons covered by existing section 127 of the DDA, section 27F of the RDA and section 112 of the SDA. This is because those latter sections are being repealed by this Act (see items 84, 120 and 138) and consolidated into section 49 of the HREOCA. With the amendments made by the HRLAA (No. 1) and this Act, there is no longer any need for the obligations imposed, and the offences created, by these sections to be replicated in each Act.

92. This item amends subsection 49(1) of the HREOCA to ensure that the exception to the prohibition on disclosure of private information is wide enough to cover the performance of a duty under or in connection with *any* law (other than the *Human Rights and Responsibilities Commission Act 1986*) which confers power on the Commission. Existing subsection 49(1) covers only duties under or in connection with the HREOCA.

Item 67 - At the end of paragraph 49(1)(c)

93. This item amends paragraph 49(1)(c) of the HREOCA along the same lines as item 66.

Item 68 - At the end of subsection 49(2)

94. This item amends subsection 49(2) of the HREOCA along the same lines as item 66.

Part 2 - Disability Discrimination Act 1992

95. This part of Schedule 1 contains amendments to the DDA.

Item 69 - Subsection 4(1) (definition of *Commission*)

96. This item repeals the definition of 'Commission' and substitutes a new definition, consequential on the amendments made by items 1 and 11.

Item 70 - Subsection 4(1) (definition of *Commissioner*)

97. This item repeals the definition of 'Commissioner', consequential on the amendment made by item 83.

Item 71 - Subsection 4(1) (definition of *Convention*)

98. This item amends the definition of 'Convention', consequential on the amendment made by item 1.

Item 72 - Subsection 4(1) (definition of *Covenant on Civil and Political Rights*)

99. This item amends the definition of 'Covenant on Civil and Political Rights', consequential on the amendment made by item 1.

Item 73 - Subsection 4(1)

100. This item inserts in subsection 4(1) of the DDA a definition of 'Deputy President', consequential on the amendment made by item 12.

Item 74 - Subsection 4(1) (definition of *enactment*)

101. This item amends the definition of 'enactment', consequential on the amendment made by item 1.

Item 75 - Subsection 4(1) (definition of *proposed enactment*)

102. This item amends the definition of 'proposed enactment', consequential on the amendment made by item 1.

Item 76 - Subsections 13(4) and 42(2)

103. This item amends subsections 13(4) and 42(2) of the DDA, consequential on the amendment made by item 1.

Item 77 - Part 4 (heading)

104. This item replaces the heading to Part 4 of the DDA, consequential on the amendment made by item 11.

Item 78 - Before paragraph 67(1)(c)

105. This item and item 79 amend subsection 67(1) of the DDA to make education, dissemination of information on discrimination on the ground of disability and assistance to business and the general community the central focus of the New Commission's functions, primarily by rearranging and re-ordering the existing functions set out in subsection 67(1). These amendments mirror those made by items 20 and 23 in relation to subsection 11(1) of the HREOCA.

106. This item inserts new paragraphs (a), (b), (ba) and (bb) into subsection 67(1) of the DDA. Paragraphs 67(1)(a), (ba) and (bb) broadly reflect existing paragraphs 67(1)(g), (h) and (k), with the addition of references to the responsibility of persons and organisations to avoid discrimination on the grounds of disability, while paragraph 67(1)(b) confers on the New Commission a function which was not conferred on the Old Commission.

107. These amendments are intended to focus the New Commission's attention on the following functions:

- promoting an understanding and acceptance of, and compliance with, the DDA (new paragraph 67(1)(a));
- disseminating information on discrimination on the ground of disability, and on the responsibility of persons and organisations to avoid such discrimination (new paragraph 67(1)(b));
- undertaking research and educational programs, and other programs, on behalf of the Commonwealth, for the purpose of promoting the objects of the DDA (new paragraph 67(1)(ba)); and
- preparing, and publishing in a manner the New Commission considers appropriate, guidelines for avoiding discrimination on the ground of disability (new paragraph 67(1)(bb)).

Item 79 - Paragraphs 67(1)(g), (h) and (k)

108. This item repeals paragraphs 67(1)(g), (h) and (k), consequential on the amendments made by item 78.

Item 80 - Subsection 67(1) (note)

109. This item alters the note to subsection 67(1) of the DDA, consequential on the amendment made by item 1.

Item 81 - At the end of section 67

110. This item inserts a new subsection 67(3) of the DDA to require that, before seeking leave to intervene in court proceedings which involve issues of discrimination on the ground of disability, the New Commission shall give notice to the Attorney-General of its intention to do so and provide reasons for doing so. The Commission will be required to give this notice and provide reasons within a reasonable period before the intervention is to take place.

Item 82 - Section 112

111. This item amends section 112 of the DDA, consequential on the amendment made by item 12.

Item 83 - Part 6

112. This item repeals Part 6 of the DDA, which provides for the appointment, and terms and conditions, of the Disability Discrimination Commissioner.

Item 84 - Sections 121, 126, 127 and 129

113. This item repeals:

- section 121 of the DDA, consequential on the amendment made by item 26;
- section 126 of the DDA, consequential on the amendments made by items 62 to 64;
- section 127 of the DDA, consequential on the amendments made by items 65 to 68; and
- section 129 of the DDA, consequential on the amendment made by item 83.

Part 3 - Privacy Act 1988

114. This part of Schedule 1 contains some amendments of the *Privacy Act 1988* ('Privacy Act'), consequential on the amendments made by Part 1 of Schedule 1.

Item 85 - Preamble

115. This item amends the preamble to the Privacy Act, consequential on the amendment made by item 1.

Item 86 - Paragraph 36(4)(a)

116. This item amends paragraph 36(4)(a) of the Privacy Act consequential on the amendment made by item 11.

Item 87 - Subsection 50(1) (definition of *Human Rights and Equal Opportunity Commission*)

117. This item repeals the definition of 'Human Rights and Equal Opportunity Commission', consequential on the amendment made by item 11.

Item 88 - Subsection 50(1)

118. This item inserts in subsection 50(1) of the Privacy Act a definition of 'Human Rights and Responsibilities Commission', which is defined to include a person performing functions of that Commission. This replaces the definition repealed by item 87.

Item 89 - Subsection 50(2) and subparagraph 50(3)(a)(i)

119. This item amends subsection 50(2) and subparagraph 50(3)(a)(i) of the Privacy Act, consequential on the amendment made by item 11.

Item 90 - Subparagraphs 50(2)(a)(i) and (3)(a)(i)

120. This item amends subparagraphs 50(2)(a)(i) and (3)(a)(i) of the Privacy Act, consequential on the amendment made by item 1.

Item 91 - Section 96

121. This item amends section 96 of the Privacy Act consequential on the amendment made by item 1.

Item 92 - Section 99

122. This item amends section 99 of the Privacy Act consequential on the amendment made by item 11.

Part 4 - Privacy Amendment (Office of the Privacy Commissioner) Act 1999

Item 93 - Item 5 of Schedule 1

123. This item repeals item 5 of Schedule 1 of the PA(OOPC)A and amends paragraph 36(4)(a) of the Privacy Act to impose a duty on the staff of the Privacy Commissioner to provide assistance to a complainant. This item will only commence if the PA(OOPC)A has not already commenced before this Act commences (see clause 2 subclauses (4) and (5)). This also applies to items 94 to 99.

Item 94 - Item 7 of Schedule 1

124. This item repeals item 7 of Schedule 1 of the PA(OOPC)A and amends section 96 of the Privacy Act to provide that the staff of the Privacy Commissioner shall not disclose private information acquired in the course of employment.

Item 95 - Item 10 of Schedule 1

125. This item repeals item 10 of Schedule 1 of the PA(OOPC)A and amends section 99 of the Privacy Act to provide that the Privacy Commissioner may delegate certain of his or her powers to a member of his or her staff.

Item 96 - Part 2 of Schedule 1 (heading)

126. This item repeals the heading of Part 2 of Schedule 1 of the PA(OOPC)A consequential on the amendment made by item 1.

Item 97 - Items 11, 12 and 13 of Schedule 1

127. This item repeals items 11, 12 and 13 of Schedule 1 of the PA(OOPC)A.

Item 98 - Item 15 of Schedule 1

128. This item amends item 15 of Schedule 1 of the PA(OOPC)A consequential on the amendment made by item 1.

Item 99 - Item 1 of Schedule 2

129. This item repeals item 1 of Schedule 2 of the PA(OOPC)A and amends subsection 85ZZA(3) of the *Crimes Act 1914* to impose a duty on the staff of the Privacy Commissioner to help a person who wishes to make a complaint about a possible breach of Division 2 or 3 of Part VIIC of the Crimes Act.

Part 5 - Racial Discrimination Act 1975

130. This part of Schedule 1 contains amendments to the RDA.

Item 100 - Subsection 3(1) (definition of *Chairman*)

131. This item repeals the definition of 'Chairman', consequential on the amendment made by item 121.

Item 101 - Subsection 3(1) (definition of *Commission*)

132. This item repeals the definition of 'Commission' and substitutes a new definition, consequential on the amendments made by items 1 and 11.

Item 102 - Subsection 3(1) (definition of *Commissioner*)

133. This item repeals the definition of 'Commissioner', consequential on the amendment made by item 112.

Item 103 - Subsection 3(1) (definition of *conciliation committee*)

134. This item repeals the definition of 'conciliation committee', which is no longer needed. The substantive provisions which made use of the definition were repealed by an earlier Act, and the failure to repeal the definition was merely an omission.

Item 104 - Subsection 3(1) (definition of *Council*)

135. This item repeals the definition of 'Council', consequential on the amendment made by item 121.

Item 105 - Subsection 3(1) (definition of *Deputy Chairman*)

136. This item repeals the definition of 'Deputy Chairman', consequential on the amendment made by item 120.

Item 106 - Subsection 3(1)

137. This item inserts in subsection 3(1) of the RDA a definition of 'Deputy President', consequential on the amendment made by item 12.

Item 107 - Subsection 3(1) (definition of *member*)

138. This item repeals the definition of 'member', consequential on the amendment made by item 121.

Item 108 - Subsection 6A(2)

139. This item amends subsection 6A(2) of the RDA, consequential on the amendment made by item 1.

Item 109 - Subsection 18C(1) (note)

140. This item amends the note following subsection 18C(1) of the RDA, consequential on the amendment made by item 1.

Item 110 - Subsection 18C(1) (note)

141. This item amends the note following subsection 18C(1) of the RDA, consequential on the amendment made by item 11.

Item 111 - Part III (heading)

142. This item alters the heading to Part III of the RDA, consequential on the amendment made by item 112.

Item 112 - Section 19

143. This item repeals section 19 of the RDA, which establishes the office of Race Discrimination Commissioner.

Item 113 - Paragraph 20(b)

144. This item and item 114 amend section 20 of the RDA to ensure that education, dissemination of information on racial discrimination and assistance to business and the general community are the central focus of the New Commission's functions.

145. This item simply re-letters paragraph 20(b) as paragraph (a). This is because the HRLAA (No. 1) repeals the previous paragraph 20(a).

Item 114 - Before paragraph 20(c)

146. This item inserts into section 20 of the RDA a new paragraph (b), which will confer on the New Commission the function of disseminating information on racial discrimination, and on the responsibility of persons and organisations to avoid such discrimination.

147. Together, this and the previous item are intended to focus the New Commission's attention on the following functions:

- promoting an understanding and acceptance of, and compliance with, the RDA (new paragraph 20(a));
- disseminating information on racial discrimination, and on the responsibility of persons and organisations to avoid such discrimination (new paragraph 20(b));
- developing, conducting and fostering research and educational programs and other programs for various purposes under the RDA (existing paragraph 20(c); and
- preparing, and publishing in a manner the New Commission considers appropriate, guidelines for avoiding racial discrimination (existing paragraph 20(d)).

Item 115 - Paragraph 20(f)

148. This item amends paragraph 20(f) of the RDA, consequential on the amendment made by item 112.

Item 116 - Section 20 (note)

149. This item alters the note following section 20 of the RDA, consequential on the amendment made by item 1.

Item 117 - At the end of section 20

150. This item inserts a new subsection 20(2) of the RDA to require that, before seeking leave to intervene in court proceedings which involve issues of discrimination on the ground of race, the New Commission shall give notice to the Attorney-General of its intention to do so and provide reasons for doing so. The Commission will be required to give this notice and provide reasons within a reasonable period before the intervention is to take place.

Item 118 - Paragraphs 27(2)(e), (f) and (g)

151. This item amends paragraphs 27(2)(e), (f) and (g) of the RDA, consequential on the amendment made by item 1.

Item 119 - Section 27E

152. This item amends section 27E of the RDA, consequential on the amendment made by item 12.

Item 120 - Section 27F

153. This item repeals section 27F of the RDA, consequential on the amendments made by items 65 to 68.

Item 121 - Parts V and VI

154. This item repeals Parts V and VI of the RDA. Part V provides for the establishment and functions of the Community Relations Council. Part VI provides for the appointment, and terms and conditions, of the Race Discrimination Commissioner and the members of the Community Relations Council, as well as administrative provisions relating to both. The effect is to abolish both the Community Relations Council and the position of Race Discrimination Commissioner.

155. No members have ever been appointed to the Community Relations Council, although some of its functions (for example, providing advice to the Commissioner for Community Relations - the predecessor of the Race Discrimination Commissioner - on the promotion of understanding, tolerance and friendship among racial and ethnic groups) were in the past performed by voluntary committees established on an *ad hoc* basis by the Commissioner. The New Commission will retain the power - currently in section 15 of the HREOCA - to work with and consult appropriate persons, governmental organisations and non-governmental organisations.

Item 122 - Sections 45 and 45A

156. This item repeals section 45 of the RDA, consequential on the amendments made by items 62 to 64, and section 45A of the RDA, consequential on the amendment made by item 112.

Item 123 - Section 47

157. This item amends section 47 of the RDA, consequential on the amendment made by item 103.

Part 6 - Sex Discrimination Act 1984

158. This part of Schedule 1 contains amendments to the SDA.

Item 124 - Subsection 4(1) (definition of *Commission*)

159. This item repeals the definition of 'Commission' and substitutes a new definition, consequential on the amendments made by items 1 and 11.

Item 125 - Subsection 4(1) (definition of *Commissioner*)

160. This item repeals the definition of 'Commissioner', consequential on the amendment made by item 137.

Item 126 - Subsection 4(1)

161. This item inserts in subsection 4(1) of the SDA a definition of 'Deputy President', consequential on the amendment made by item 12.

Item 127 - Subsection 4(1) (definition of *enactment*)

162. This item amends the definition of 'enactment', consequential on the amendment made by item 1.

Item 128 - Subsection 4(1) (definition of *proposed enactment*)

163. This item amends the definition of 'proposed enactment', consequential on the amendment made by item 1.

Item 129 - Subsections 10(4) and 11(4)

164. This item amends subsections 10(4) and 11(4) of the SDA, consequential on the amendment made by item 1.

Item 130 - Part III (heading)

165. This item replaces the heading to Part III of the SDA, consequential on the amendment made by item 11.

Item 131 - Before paragraph 48(1)(c)

166. This item and item 132 amend subsection 48(1) of the SDA to make education, dissemination of information on the various forms of discrimination made unlawful by the SDA and assistance to business and the general community the central focus of the New Commission's functions, primarily by rearranging and re-ordering the existing functions set out in subsection 48(1). These amendments mirror those made by items 20 and 23 in relation to subsection 11(1) of the HREOCA.

167. This item inserts new paragraphs (a), (b), (ba) and (bb) into subsection 48(1) of the SDA. Paragraphs 48(1)(a), (ba) and (bb) broadly reflect existing paragraphs 48(1)(d), (e) and (ga), with the addition of references to the responsibility of persons and organisations to avoid the various forms of discrimination made unlawful by the SDA, while paragraph 48(1)(b) confers on the New Commission a function which was not conferred on the Old Commission.

168. These amendments are intended to focus the New Commission's attention on the following functions:

- promoting an understanding and acceptance of, and compliance with, the SDA (new paragraph 48(1)(a));
- disseminating information on discrimination on the grounds of sex, marital status, pregnancy or potential pregnancy, and discrimination involving sexual harassment, and on the responsibility of persons and organisations to avoid such discrimination (new paragraph 48(1)(b));
- undertaking research and educational programs, and other programs, on behalf of the Commonwealth, for the purpose of promoting the objects of the SDA (new paragraph 48(1)(ba)); and
- preparing, and publishing in a manner the New Commission considers appropriate, guidelines for avoiding the various forms of discrimination made unlawful by the SDA (new paragraph 48(1)(bb)).

Item 132 - Paragraphs 48(1)(d), (e) and (ga)

169. This item repeals paragraphs 48(1)(d), (e) and (ga), consequential on the amendments made by item 131.

Item 133 - Subsection 48(1) (note)

170. This item alters the note to subsection 48(1) of the SDA, consequential on the amendment made by item 1.

Item 134 - At the end of section 48

171. This item inserts a new subsection 48(3) of the SDA to require that, before seeking leave to intervene in court proceedings which involve issues of discrimination on the ground of sex, the New Commission shall give notice to the Attorney-General of its intention to do so and provide reasons for doing so. The Commission will be required to give this notice and provide reasons within a reasonable period before the intervention is to take place.

Item 135 - Subsections 92(1) and 94(2) and paragraph 92(2)(b)

172. This item amends subsections 92(1) and 94(2) and paragraph 92(2)(b) of the SDA, consequential on the amendment made by item 1.

Item 136 - Section 93

173. This item amends section 93 of the SDA, consequential on the amendment made by item 12.

Item 137 - Part V

174. This item repeals Part V of the SDA, which provides for the appointment, and terms and conditions, of the Sex Discrimination Commissioner.

Item 138 - Sections 104, 111, 112 and 114

175. This item repeals:

- section 104 of the SDA, consequential on the amendment made by item 26;
- section 111 of the SDA, consequential on the amendments made by items 62 to 64;
- section 112 of the SDA, consequential on the amendments made by items 65 to 68; and
- section 114 of the SDA, consequential on the amendment made by item 137.

Part 7 - Application and transitional

176. This part of Schedule 1 contains a number of provisions which deal with arrangements for the transition from the Old Commission to the New Commission.

Item 139 - Continuity of Commission and President not affected

177. This item provides that, to avoid doubt, neither the continuity of the Commission's existence nor the continuity of the President's appointment are affected by the change to the Commission's name, or any other amendment, made by this Act.

Item 140 - Re-appointment of President as a full-time member

178. This item ensures the preservation of the benefits of a part-time President who is appointed full-time after the transition time.

179. This item provides that if a person, who was a part-time President of the Old Commission immediately before the transition time, ceases to be appointed as a part-time President and is re-appointed as a full-time President, that person is taken to have accrued an entitlement to benefits, in connection with the re-appointment, which is equivalent to the entitlement which he or she had accrued as a part-time President as at the transition time. This item ensures that a part-time President in the Old Commission who is re-appointed as a full-time President in the New Commission is

treated, for the purpose of calculating entitlements to benefits (for example, superannuation and leave), as if he or she had served continuously, without a break in his or her appointment.

Item 141 - Commissioners become Deputy Presidents

180. This item makes provision for the persons holding office as Commissioners of the Old Commission (other than the Privacy Commissioner) at the commencement of the Bill to become Deputy Presidents of the New Commission, provided that at that time there are no more than three such persons. The persons so appointed will hold office as Deputy Presidents for a period equivalent to the remaining period of the person's appointment as a Commissioner of the Old Commission, but will be eligible for reappointment. The Attorney-General will determine which of the Deputy President responsibilities is to be assigned to each person so appointed.

Item 142 - Pre-commencement delegations remain in effect

181. Subitem (1) provides that delegations made by the Old Commission, before the transition time, under section 121 of the DDA, section 40 of the RDA and section 104 of the SDA (which are repealed by items 84, 121 and 138 respectively), remain in force after the repeal of those sections as if the repeal had not happened. This is to ensure that the New Commission does not have to re-execute instruments of delegation made by the Old Commission which can continue in force unchanged.

182. Subitem (2) excludes from the operation of subitem (1) any delegations made by or to the special-purpose Commissioners whose positions are abolished by this Act. These delegations will cease to have any effect.

Item 143 - Repealed civil liability provisions continue to apply in relation to pre-commencement acts etc.

183. This item ensures that the repealed civil action protection provisions (section 126 of the DDA, section 45 of the RDA and section 111 of the SDA), and section 48 of the HREOCA in its unamended form, continue to apply to actions taken prior to the transition time. This item provides that although the provisions of the DDA, the RDA and the SDA are repealed, and section 48 of the HREOCA is amended, those sections continue to apply as if they had not been repealed or amended (as the case may be).

Item 144 - Repealed non-disclosure provisions continue to apply in relation to certain pre-commencement matters

184. This item ensures that the repealed non-disclosure provisions (section 127 of the DDA, section 27F of the RDA and section 112 of the SDA) continue to apply to certain people as if they had not been repealed. This item provides that, although the sections are repealed by Schedule 1 to this Act, they continue to apply, in relation to information a person acquired before the repeal, or documents a person had before the repeal, as if the repeal had not happened. Thus, the obligations of non-disclosure, along with the offences which provide the sanction for non-compliance with those obligations, continue to apply in relation to information and documents acquired before the transition time.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

Part 1 - References to the Human Rights and Equal Opportunity Commission Act 1986

Items 1 to 19 Amendment of Acts

185. This part of Schedule 2 contains amendments of provisions in other Acts to alter references to the HREOCA, consequential on the amendment made by item 1 of Schedule 1.

186. The following provisions are amended:

- subsection 3(1) of the *Crimes (Torture) Act 1988*;
- subsection 58HA(1) and section 58HB of the *Defence Act 1903*;
- subsection 138(3) of the *Evidence Act 1995*;
- paragraph 18AB(1A)(d) and subsection 18AB(2B) of the *Federal Court of Australia Act 1976*;
- the preamble to the *Housing Assistance Act 1996*;
- subsection 4(1) of the *Human Rights (Sexual Conduct) Act 1994*;
- subsection 3(1) of the *Inspector-General of Intelligence and Security Act 1986*;
- subsection 8B(1) and section 8C of the *Remuneration Tribunal Act 1973*;
- the preamble to the *Supported Accommodation Assistance Act 1994*; and
- subsections 4(1) and 111A(1), paragraphs 45(1)(ed) and 170CK(1)(a), and section 113 of the *Workplace Relations Act 1996*.

Part 2 - Other amendments

187. This part of Schedule 2 contains a number of other amendments consequential on the amendments made in Schedule 1.

Crimes Act 1914

Item 20 - Subsection 85ZZA(3)

188. This item amends a reference in subsection 85ZZA(3) of the *Crimes Act 1914*, consequential on the amendment made by item 11.

Defence Act 1903

Item 21 - Subsection 58HA(5)

189. This item amends subsection 58HA(5) of the *Defence Act 1903*, consequential on the amendment made by item 12 of Schedule 1.

Inspector-General of Intelligence and Security Act 1986

Item 22 - Subparagraphs 8(1)(a)(v), (2)(a)(iv) and (3)(b)(i)

190. This item amends subparagraphs 8(1)(a)(v), (2)(a)(iv) and (3)(b)(i) of the *Inspector-General of Intelligence and Security Act 1986*, consequential on the amendment made by item 11 of Schedule 1.

Native Title Act 1993

Item 23 - Subsection 209(1)

191. Subsection 209(1) of the *Native Title Act 1993* ('NTA') provides for an annual report to the 'Commonwealth Minister' (currently the Attorney-General) on the operation of the NTA and its effect on the exercise and enjoyment of human rights of Aboriginal people and Torres Strait Islanders.

192. This item amends subsection 209(1) of the NTA to confer the reporting function on the New Commission, rather than on the Aboriginal and Torres Strait Islander Social Justice Commissioner, as that position is abolished by item 48 of Schedule 1.

193. The heading to section 209 is altered accordingly.

Item 24 - Subsection 209(2)

194. This item amends subsection 209(2) of the NTA, consequential on the amendment made by item 48.

Item 25 - At the end of section 209

195. This item amends section 209 of the NTA to add a new subsection (3). The new subsection imposes on the Commonwealth Minister an obligation to table before each House of Parliament a report which he or she receives under subsection 209(1) or (2). The report must be tabled within 15 sitting days after the date on which the Minister receives the report.

Remuneration and Allowances Act 1990

Item 26 - Part 3 of Schedule 2 (table item relating to the Human Rights Commissioner)

196. This item repeals the table item relating to the Human Rights Commissioner in Part 3 of Schedule 2 to the *Remuneration and Allowances Act 1990*, consequential on the amendment made by item 12 of Schedule 1.

Remuneration Tribunal Act 1973

Item 27 - Subsection 8B(5)

197. This item amends subsection 8B(5) of the *Remuneration Tribunal Act 1973*, consequential on the amendment made by item 12 of Schedule 1.

Workplace Relations Act 1996

Item 28 - Paragraph 111A(2)(b)

198. This item amends paragraph 111A(2)(b) of the *Workplace Relations Act 1996*, consequential on the amendment made by item 12 of Schedule 1.

Item 29 - Paragraph 170BD(b)

199. This item amends paragraph 170BD(b) of the *Workplace Relations Act 1996*, consequential on the amendment made by item 12 of Schedule 1.

