

Human Rights Amendment Bill

Government Bill

As reported from the committee of the whole House

Human Rights Amendment Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

Hon Amy Adams

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Human Rights Amendment Act **2011**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act amended

This Act amends the Human Rights Act 1993.

Part 1

Amendments to Human Rights Act 1993 10

3A New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms. 15

4 Interpretation

- (1) The definition of **Chief Commissioner** in section 2(1) is amended by omitting “under section 8(1)(a)”.
- (2) The definitions of **Equal Employment Opportunities Commissioner** and **Race Relations Commissioner** in section 2(1) are repealed. 20

5 Functions of Commission

- (1) Section 5(1)(b) is amended by omitting “society.” and substituting “society; and”.
- (2) Section 5(1) is amended by adding the following paragraphs:
 - (c) to promote racial equality and cultural diversity; and 25
 - (d) to promote equal employment opportunities (including pay equity); and

- (e) to promote and protect the full and equal enjoyment of human rights by persons with disabilities.
- (3) Section 5(2) is amended by repealing paragraph (c) and substituting the following paragraphs:
- (c) to make public statements in relation to any matter that may affect or infringe human rights (whether or not those human rights are affirmed in New Zealand domestic human rights law or international human rights law), including statements commenting on the position of the Government in relation to that matter: 5
- (ca) to make public statements promoting an understanding of, and compliance with, this Act or the New Zealand Bill of Rights Act 1990 (for example, statements promoting understanding of measures to ensure equality, of indirect discrimination, or of institutions and procedures under this Act for dealing with complaints of unlawful discrimination): 10
- (4) Section 5(2)(k)(iii) is repealed. 15
- (5) Section 5(2) is amended by inserting the following paragraphs after paragraph (k):
- (ka) to report to either or both of the Prime Minister and the Minister responsible on any existing or proposed legislation (including subordinate legislation), administrative provision, or policy of the Government that the Commission considers may affect human rights: 20
- (kb) to promote the development of new international instruments on human rights:
- (kc) to promote and monitor compliance by New Zealand with, and the reporting by New Zealand on, the implementation of international instruments on human rights ratified by New Zealand: 25
- (6) Section 5(2) is amended by inserting the following paragraph after paragraph (m):
- (n) to exercise the following functions in relation to equal employment opportunities: 30
- (i) to evaluate, through the use of benchmarks developed by the Commission, the roles that legislation, guidelines, and voluntary codes of practice play in facilitating and promoting best practice in equal employment opportunities:
- (ii) to lead the development of guidelines and voluntary codes of practice to facilitate and promote best practice in equal employment opportunities (including codes that identify related rights and obligations in legislation) in accordance with paragraph (e): 35
- (iii) to monitor and analyse progress in improving equal employment opportunities in New Zealand and to report to the Minister on the results of that monitoring and analysis: 40

- (iv) to liaise with, and complement the work of, any trust or body that has as one of its purposes the promotion of equal employment opportunities:

6 Membership of Commission

Section 8 is amended by repealing subsection (1) and substituting the following subsections: 5

- (1) The Commission consists of the following Human Rights Commissioners:
- (a) the Chief Commissioner; and
 - (b) not less than 3 and not more than 4 other Commissioners.
- (1A) There must be a Commissioner, other than the Chief Commissioner, appointed to lead the work of the Commission in each of the following priority areas: 10
- (a) disability rights (the Disability Rights Commissioner);
 - (b) equal employment opportunities (including pay equity) (the Equal Employment Opportunities Commissioner);
 - (c) race relations (the Race Relations Commissioner). 15
- (1B) A Commissioner must lead the work of the Commission in any other priority area that is designated by the Chief Commissioner, and the Chief Commissioner may designate an area of work as a priority area only in accordance with the strategic direction and the general nature of activities determined by the Commission under section 7(1) and after consultation with the Minister and the other Commissioners. 20

7 Section 10(2) and (3) repealed

Section 10(2) and (3) are repealed.

8 Criteria for appointment

Section 11(2) is amended by omitting “or section 14”. 25

9 New section 13 substituted

Section 13 is repealed and the following section substituted:

13 Further criteria for appointment of Commissioner appointed to lead Commission work in priority area

In recommending a person for appointment as a Commissioner appointed to lead the work of the Commission in a priority area under **section 8(1A)**, the Minister must have regard not only to the criteria stated in section 11 but also to the person’s— 30

- (a) understanding of the principles and practice of the priority area in question, including its origin and development in New Zealand: 35

- (b) appreciation of issues, trends, and developments, in other countries and internationally, affecting the priority area in question, and the relevance of those issues, trends, or developments for New Zealand:
- (c) ability to perform the functions stated in **section 16**.

10 Section 14 repealed 5
Section 14 is repealed.

11 New section 15 substituted
Section 15 is repealed and the following section substituted:

15 Functions of Chief Commissioner 10
The Chief Commissioner has the following functions:

- (a) to chair the Commission, and lead discussions of the Commission except when it is the function of a Commissioner to do so under **section 16(a)**: 10
- (b) to ensure that activities undertaken in the performance of the Commission's functions are consistent with the strategic direction and other determinations of the Commission under section 7: 15
- (c) to ensure that the Commission is effective and efficient in carrying out its functions:
- (d) to ensure that the Commission meets its obligations under the Crown Entities Act 2004, the Public Finance Act 1989, and the State Sector Act 1988: 20
- (e) to allocate spheres of responsibility (including responsibility for priority areas designated under **section 8(1B)**) among the Commissioners, and to determine the extent to which Commissioners engage in activities undertaken in the performance of the Commission's functions (except for those stated in section 76), but in each case only after consultation with the Minister: 25
- (f) to supervise and liaise with the general manager on matters of administration in relation to the Commission and on the activities undertaken in the performance of the Commission's functions: 30
- (g) any other functions, powers, or duties conferred or imposed on him or her by or under this Act or any other enactment.

12 New section 16 substituted
Section 16 is repealed and the following section substituted:

- 16 Additional functions of Commissioner appointed or designated to lead work of Commission in priority areas**
- (1) A Commissioner who is appointed or designated to lead the work of the Commission in a priority area under **section 8(1A) or (1B)** has the following additional functions: 5
- (a) to lead discussions of the Commission in relation to that priority area of work:
- (b) to provide advice and leadership on matters in that priority area of work that arise in the course of activities undertaken in the performance of the Commission’s functions, both when engaging in those activities and when consulted: 10
- (c) to contribute to the public debate on matters in that priority area of work:
- (d) any other functions or duties conferred or imposed upon him or her by or under this Act or any other enactment.
- (2) However, the exercise by a Commissioner of the functions stated in **subsection (1)** is subject to directions given by the Chief Commissioner in the exercise of his or her responsibilities under **section 15(b), (c), and (d)**. 15
- 13 Section 17 repealed**
- Section 17 is repealed.
- 14 Evidence order** 20
- Section 126A is amended by adding the following subsection:
- (5) For the avoidance of doubt, nothing in this section requires the Commission in the exercise of its inquiry function under section 5(2)(h) to obtain an order under subsection (1).
- 15 Delegation of powers by certain Commissioners** 25
- (1) The heading to section 140 is amended by omitting “**certain Commissioners**” and substituting “**Chief Commissioner**”.
- (2) Section 140(1) is amended by—
- (a) omitting “or the Race Relations Commissioner”; and
- (b) omitting “any of the Commissioner’s” and substituting “any of the Chief Commissioner’s”. 30
- (3) Section 140(2)(b) is amended by inserting “Chief” before “Commissioner”.
- (4) Section 140(4) is amended by inserting “Chief” before “Commissioner”.
- (5) Section 140(5) is amended by omitting “a Commissioner” and substituting “the Chief Commissioner”. 35
- 16 Section 141A repealed**
- (1) Section 141A is repealed.

- (2) However, section 141A continues to apply, as if had not been repealed by this section, in relation to action undertaken before this section comes into force.

Part 2 Miscellaneous

- 17 New Schedule 1AA inserted** 5
Before Schedule 1, insert the Schedule 1AA set out in the Schedule of this Act.

Schedule New Schedule 1AA inserted

s 17

Schedule 1AA Transitional, savings, and related provisions

10

s 2A

Human Rights Amendment Act 2014: transitional provisions

- 1 Human Rights Amendment Act 2014: transitional provisions**
- (1) The provisions in **subclauses (2) to (5)** are transitional provisions for the Human Rights Amendment Act **2014** (the **Amendment Act**). 15
- (2) On the commencement of the Amendment Act (**commencement**),—
- (a) the Commissioner who immediately before commencement was the Equal Employment Opportunities Commissioner is the Commissioner appointed, as required by **section 8(1A)(b)** of this Act, to lead the work of the Commission in the priority area of equal employment opportunities (including pay equity); and 20
- (b) the Commissioner who immediately before commencement was the Race Relations Commissioner is the Commissioner appointed, as required by **section 8(1A)(c)** of this Act, to lead the work of the Commission in the priority area of race relations. 25
- (3) The requirement in **section 8(1)(b)** of this Act that there must not be more than 4 other Commissioners does not affect the appointment of Commissioners holding office on the commencement of the Amendment Act and any such Commissioner continues to hold office until the end of his or her term or until he or she ceases to hold office under section 45 of the Crown Entities Act 2004. 30
- (4) The requirement in **section 8(1)(b)** of this Act that there must not be more than 4 other Commissioners—

- (a) does not apply to the exercise of the power to appoint the first person to lead the work of the Commission in the priority area of disability rights; but
- (b) does apply to any reappointment of the first person appointed, or any extension of his or her appointment. 5
- (5) A reference in any instrument, document, or notice to the Equal Employment Opportunities Commissioner or the Race Relations Commissioner must be read as a reference, respectively, to the person leading the work of the Commission in the priority area of equal employment opportunities (including pay equity) or the person leading the work of the Commission in the priority area of race relations, as the case may be. 10

Legislative history

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