

# **Human Rights Amendment Act 2004**

Public Act 2004 No 88  
Date of assent 28 October 2004

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### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

- (1) This Act is the Human Rights Amendment Act 2004.
- (2) In this Act, the Human Rights Act 1993 is called “the principal Act”.

#### **2 Commencement**

This Act comes into force on 1 December 2004.

**3 Section 64 repealed**

Section 64 of the principal Act is repealed.

**4 New section 79A inserted**

The principal Act is amended by inserting, after section 79, the following section:

**“79A Choice of procedures**

- “(1) If the circumstances giving rise to a complaint under Part 2 are such that an employee would also be entitled to pursue a personal grievance under the Employment Relations Act 2000, the employee may take 1, but not both, of the following steps:
- “(a) the employee may make in relation to those circumstances a complaint under this Act:
  - “(b) the employee may, if the grievance is not otherwise resolved, apply to the Employment Relations Authority for the resolution of the grievance under the Employment Relations Act 2000.
- “(2) To avoid doubt, a complaint referred to in subsection (1) includes, but is not limited to, a complaint about sexual harassment or racial harassment.
- “(3) For the purposes of subsection (1)(a), an employee makes a complaint when proceedings about that complaint are commenced by the complainant or the Commission.
- “(4) If an employee makes a complaint under subsection (1)(a), the employee may not exercise or continue to exercise any rights relating to the subject matter of the complaint that the employee may have under the Employment Relations Act 2000.
- “(5) If an employee applies to the Employment Relations Authority for a resolution of the grievance under subsection (1)(b), the employee may not exercise or continue to exercise any rights relating to the subject matter of the grievance that the employee may have under this Act.”

**5 New section 92BA inserted**

The principal Act is amended by inserting, after section 92B, the following section:

**“92BA Lodging of applications**

Proceedings before the Tribunal are to be commenced by the lodging of an application in the prescribed form.”

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**Legislative history**

14 October 2004

Divided from Employment Relations Law Reform Bill (Bill 92-2) as Bill 92-3C

19 October 2004

Third reading

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