

HUMAN RIGHTS COMMISSION BILL

EXPLANATORY NOTE

THE objects of this Bill are to establish a Human Rights Commission and to promote equality of opportunity among the people of New Zealand. The Bill also has certain other purposes related to human rights.

The Human Rights Commission will consist of the following Human Rights Commissioners—

- (a) A Chief Human Rights Commissioner, who shall be the Chairman of the Commission;
- (b) The Chief Ombudsman appointed under the Ombudsmen Act 1975;
- (c) The Race Relations Conciliator appointed under the Race Relations Act 1971;
- (d) Not more than 3 other Human Rights Commissioners.

In addition to the specific functions conferred on the Commission in relation to unlawful discrimination, privacy, and industrial unions and professional and trade associations by Parts III, V, and VI of the Bill respectively, the Commission will have general powers to promote the observance of human rights in New Zealand.

The powers and functions of the Race Relations Conciliator under the Race Relations Act 1971 are vested in the Commission but, except where the Commission otherwise decides, those powers and functions shall be exercised by the Race Relations Conciliator and his Deputy and officers and employees.

Provision is made under Part IV for the establishment of an Equal Opportunities Tribunal. Cases may be taken to this Tribunal when conciliation and settlement fail.

The amendments set out in the First and Second Schedules to the Bill eliminate the distinctions that are made between men and women in a number of enactments.

Clause 1 relates to the Short Title and commencement. The Bill is to come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

Clause 2 defines terms used in the Bill.

Clause 3 provides that the Act shall bind the Crown.

PART I

HUMAN RIGHTS COMMISSION

Clause 4 establishes the Human Rights Commission.

Clause 5 sets out the functions and powers of the Commission.

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Clause 6 deals with the membership of the Commission. The Commissioners are to be appointed by the Governor-General on the recommendation of the Minister of Justice. The Chief Human Rights Commissioner is to be responsible for matters of administration in relation to the Commission and for the allocation of spheres of responsibility between the Commissioners.

Clause 7 authorises the Chief Ombudsman to appoint an Ombudsman to act in his place at any meeting of the Commission.

Clause 8 deals with the term of office of appointed Commissioners. Each such Commissioner is to be appointed for a term not exceeding 5 years, but may from time to time be reappointed.

Clause 9 relates to vacation of office by appointed Commissioners.

Clause 10 deals with meetings of the Commission.

Clause 11 provides for the appointment of the Commission's staff. The Commission is to have its own staff but the number of officers and employees appointed is to be determined from time to time by the Minister of Justice and their salaries and terms and conditions of appointment are to be determined from time to time by the Minister of Finance.

Clause 12 provides that the remuneration, allowances, and expenses of Commissioners are to be fixed from time to time by the Minister of Finance.

Clause 13 makes provision for superannuation or retiring allowances of the Commissioners and their staff.

PART II

UNLAWFUL DISCRIMINATION

This Part (which comprises *clauses 14 to 30*) makes discrimination in a number of different areas of activity unlawful.

The type of discrimination which is unlawful is primarily discrimination against any person by reason of the sex, marital status, or religious or ethical belief of that person. In addition discrimination by reason of the colour, race, or ethnic or national origins of any person is rendered unlawful in respect of a number of areas of activity (being areas of activity not already covered by the Race Relations Act 1971).

The principal provisions of this Part are those relating to employment (*clause 14*), partnerships (*clause 16*), industrial unions and professional and trade associations (*clause 17*), qualifying bodies (*clause 18*), vocational training bodies (*clause 19*), access by the public to places, vehicles, and facilities (*clause 21*), provision of goods and services (*clause 22*), land, housing, and other accommodation (*clause 23*), educational establishments (*clause 24*), victimisation (*clause 28*), and advertisements (*clause 29*).

Qualifications and exceptions are included in a number of cases.

PART III

REMEDIES AGAINST UNLAWFUL DISCRIMINATION

The procedure is based on that applicable under the Race Relations Act 1971.

The Human Rights Commission is authorised to investigate complaints and act as Conciliator.

If the Commission is unable to settle a complaint, or if the act or omission complained of was done in contravention of an assurance given on a previous occasion, the Commission may take proceedings under *clause 35* against the person considered to have committed the breach.

Clause 35 provides that civil proceedings before the Equal Opportunities Tribunal (established by *clause 37* of this Bill) lie at the suit of the Commission for breach of any of the provisions of *Part II* of this Bill.

Such proceedings may be taken by the aggrieved person himself if he wishes to do so and the Commission—

- (a) Agrees to his so doing; or
- (b) Declines to take proceedings; or
- (c) Is of the opinion, after investigation, that no breach of any of the provisions of *Part II* of the Act has occurred.

The remedies that may be sought in such proceedings are:

- (a) A declaration that the defendant has committed a breach of the Act;
- (b) An order restraining the defendant from continuing or repeating the breach, or from engaging in, or causing or permitting others to engage in, conduct of the same kind as that constituting the breach, or conduct of any similar kind specified in the injunction;
- (c) Damages in accordance with *clause 36* of the Bill;
- (d) An order that the defendant perform any acts specified in the order with a view to redressing any loss or damage suffered by the aggrieved person as a result of the breach;
- (e) A declaration that any contract entered into or performed in contravention of any of the provisions of *Part II* of the Bill is an illegal contract;
- (f) Relief in accordance with the Illegal Contracts Act 1970 in respect of any such contract to which the defendant and the aggrieved person are parties;
- (g) Such other relief as the Tribunal thinks fit.

Clause 36 sets out that damages may be awarded in respect of any one or more of the following:

- (a) Pecuniary loss suffered and expenses reasonably incurred by the aggrieved person for the purpose of the transaction or activity out of which the breach arose;
- (b) Loss of any benefit, whether or not of a monetary kind, which the aggrieved person might reasonably have been expected to obtain but for the breach;
- (c) Humiliation, loss of dignity, and injury to the feelings of the aggrieved person:

Damages awarded under *paragraph (c)* may not exceed \$1,000.

PART IV

EQUAL OPPORTUNITIES TRIBUNAL

Clause 37 establishes the Equal Opportunities Tribunal.

Clause 38 sets out the functions and powers of the Tribunal. Its prime function is to consider and adjudicate upon proceedings brought pursuant to *clause 35* of the Bill.

Clause 39 deals with the membership of the Tribunal. Its Chairman is to be a barrister or solicitor of the Supreme Court of not less than 7 years' practice. The other 2 members are to be appointed by the Chairman for the purpose of each hearing from a panel of 12 members maintained by the Minister of Justice.

Clause 40 provides for the appointment of a Deputy Chairman.

Clause 41 deals with vacation of office by the Chairman and Deputy Chairman.

Clause 42 sets out the provisions relating to sittings of the Tribunal.

Clause 43 relates to the evidence that the Tribunal may receive. The Tribunal may receive evidence that would not otherwise be admissible in a Court of law and it is enjoined to act according to equity, good conscience, and the substantial merits of the case without regard to technicalities.

Clause 44 applies the Commissions of Inquiry Act 1908 to the Tribunal.

Clause 45 provides that sittings of the Tribunal are to be held in public except in special circumstances. The Tribunal is authorised to make orders prohibiting the publication of evidence. Breach of any such order will be an offence.

Clause 46 authorises the Tribunal to dismiss any proceedings brought under *clause 35* of the Bill if it is satisfied that they are frivolous or vexatious.

Clause 47 relates to the seal of the Tribunal.

Clause 48 exempts the members of the Tribunal from personal liability for acts done or omitted in good faith as members of the Tribunal.

Clause 49 declares the Tribunal to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

Clause 50 provides that the Tribunal is to be serviced by the Department of Justice.

Clause 51: Subclause (1) deals with the enforcement of orders for the award of damages made by the Tribunal. Certified copies of such orders may, on being registered in a Magistrate's Court, be enforced as if they were orders of that Court.

Subclause (2) makes it an offence punishable on summary conviction by a fine not exceeding \$2,000 to contravene or refuse to comply with any other order of the Tribunal made under *clause 35* of the Bill.

Clause 52 authorises the Tribunal to state a case for the opinion of the Supreme Court on a question of law.

Clauses 53 to 57 provide for appeals to the Supreme Court on questions of law. Decisions of the Tribunal are final and conclusive as to any question of fact.

PART V

PRIVACY

Clause 58 confers on the Human Rights Commission general powers to inquire into matters relating to privacy and to recommend action to protect privacy. Individual complaints may not be inquired into under this Part of the Bill.

PART VI

INDUSTRIAL UNIONS AND PROFESSIONAL AND TRADE ASSOCIATIONS

Clause 59 confers a right to complain to the Commission on any member of an organisation of workers, of an organisation of employers, or of any other organisation which exists for the purposes of members who carry on a particular profession, trade, or calling.

A complaint may be made on the ground that the organisation of which he is a member, or any officer or agent of that organisation, or any other person connected with that organisation, has, in carrying on or purporting to carry on the affairs of the organisation—

- (a) Refused or failed without reasonable cause to comply with any rule or procedure of the organisation;
- (b) Threatened him or any other member of the organisation with the use of violence, or with any loss or detriment, or otherwise indulged in an intimidatory course of action, in order to induce him or that other member to agree to a particular course of action;
- (c) Has directly or indirectly caused him or that other member to suffer any loss or detriment, in order to induce him or that other member to agree to a particular course of action.

Any person who has applied unsuccessfully for membership of an organisation to which this clause applies may complain to the Commission on the ground that he has been improperly refused membership for reasons other than those specified in *clause 17* of the Bill.

Clause 60 sets out the functions of the Commission under this Part of the Bill. The prime function of the Commission under this Part of the Bill is to investigate any complaint made to it under *clause 59* and to act as a conciliator in relation to any such complaint.

Clause 61 deals with the procedure to be followed by the Commission in respect of a complaint under this Part of this Act.

The Commission is required to endeavour to secure a settlement between the parties concerned. If it is unable to do so, or if it appears that any term of a settlement has not been complied with, the Commission may refer the matter in writing to the Industrial Court.

Clause 62 gives the Industrial Court jurisdiction to hear and determine any matter referred to it under *clause 61*.

PART VII

PROCEEDINGS OF COMMISSION

The clauses comprising this Part (*clauses 63 to 67*) are based to a large degree on the corresponding provisions of the Race Relations Act 1971 and the Ombudsmen Act 1975.

PART VIII

MISCELLANEOUS PROVISIONS

Many of the provisions of this Part are based on corresponding provisions of the Race Relations Act 1971 or the Ombudsmen Act 1975 or are formal provisions.

Provisions which do not fall into this category include *clause 74* (relating to the publication of reports made by the Commission to the Prime Minister) and *clauses 78 and 79* (which effect related amendments to the Acts and regulations set out in the First and Second Schedules to the Bill).

Some of these amendments (which include amendments to the Income Tax Act 1976 eliminating different treatment of men and women), are of considerable significance.

Amendments to the Race Relations Act 1971 are also included in the First Schedule. The procedures applicable under that Act (including those applicable where a complaint is against the Crown) are aligned to a considerable degree with those proposed under the Bill.

Hon. Mr Thomson

HUMAN RIGHTS COMMISSION

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A BILL INTITULED

An Act to establish a Human Rights Commission and to promote equality of opportunity among the people of New Zealand; and for certain other purposes related to human rights

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BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Human Rights Commission Act 1976.

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(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Commission” means the Human Rights Commission established under this Act:

5 “Commissioner” means a member of the Commission:

“Equal Opportunities Tribunal” or “Tribunal” means the Equal Opportunities Tribunal established under section 37 of this Act:

10 “Industrial Court” means the Industrial Court established under section 32 of the Industrial Relations Act 1973:

“Marital status” means the status of being single, married, married but separated, divorced, widowed, or living in a de facto marriage:

15 “Minister” means the Minister of Justice.

3. Act to bind the Crown—This Act shall bind the Crown.

PART I

HUMAN RIGHTS COMMISSION

20 **4. Establishment of Human Rights Commission**—There is hereby established a Commission to be known as the Human Rights Commission.

5. Functions and powers of Commission—(1) The functions of the Commission shall be—

25 (a) Those conferred on it—

(i) By Part III of this Act in relation to unlawful discrimination:

(ii) By Part V of this Act in relation to privacy:

30 (iii) By Part VI of this Act in relation to industrial unions and professional and trade associations:

(b) To promote, by education and publicity, respect for and observance of human rights:

(c) To encourage and co-ordinate programmes and activities in the field of human rights:

35 (d) To report to the Prime Minister from time to time upon—

(i) Any matter affecting human rights, including the desirability of legislative, administrative, or other action to give better protection to human

rights and to ensure better compliance with standards laid down in international instruments on human rights:

(ii) The desirability of accession by the Government of New Zealand to any international instrument on human rights: 5

(iii) The implications of any proposed legislation (including subordinate legislation) or proposed policy of the Government which it considers may affect human rights: 10

(e) To work towards—

(i) The repeal or amendment of provisions in any Act which conflict with the provisions of Part II of this Act; and

(ii) The elimination of discriminatory laws and of discriminatory practices, being laws and practices which infringe the spirit and intention of this Act. 15

(2) The Commission may make public statements in relation to any matter affecting human rights.

(3) The powers and functions of the Race Relations Conciliator under the Race Relations Act 1971 shall be vested in the Commission but, except where the Commission otherwise decides, shall be exercised by the Race Relations Conciliator and his Deputy and officers and employees. 20

(4) The Commission shall have such other powers as may be reasonably necessary to enable it to carry out its functions. 25

(5) The Commission shall have such other functions and powers as may be conferred upon it by any other enactment.

6. Membership of Commission—(1) The Commission shall consist of the following Human Rights Commissioners— 30

(a) A Chief Human Rights Commissioner, who shall be the Chairman of the Commission:

(b) The Chief Ombudsman appointed under the Ombudsmen Act 1975:

(c) The Race Relations Conciliator appointed under the Race Relations Act 1971: 35

(d) Not more than 3 other Human Rights Commissioners.

(2) The Commissioners appointed under paragraph (a) or paragraph (d) of subsection (1) of this section shall be appointed by the Governor-General on the recommendation of the Minister. 40

(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his appointment as a Commissioner.

- 5 (4) The Chief Human Rights Commissioner shall be responsible for matters of administration in relation to the Commission and for the allocation of spheres of responsibility between the Commissioners.

7. **Deputy of Chief Ombudsman**—(1) The Chief Ombudsman may from time to time authorise an Ombudsman to act in his place at any meeting of the Commission from which he is absent.

- 15 (2) While any Ombudsman so authorised acts in the place of the Chief Ombudsman at any meeting of the Commission, he shall himself be deemed for all purposes to be a Human Rights Commissioner.

8. **Terms of office of appointed Commissioners**—(1) Except as otherwise provided by this Act, every appointed Commissioner shall hold office for such term as the Governor-General on the recommendation of the Minister shall specify in his appointment, being a term not exceeding 5 years, but may from time to time be reappointed.

- 20 (2) Every appointed Commissioner, unless he sooner vacates or is removed from his office under section 9 of this Act, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

9. **Vacation of office**—(1) An appointed Commissioner may at any time resign his office by delivering a notice in writing to that effect to the Minister.

- 30 (2) An appointed Commissioner shall be deemed to have vacated his office if he dies, or, within the meaning of section 2 of the Mental Health Act 1969, becomes a committed patient or a special patient, or is, under the Insolvency Act 1967, adjudged bankrupt.

35 (3) An appointed Commissioner may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

- 40 (4) The powers and functions of the Commission shall not be affected by any vacancy in its membership.

10. Meetings of Commission—(1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman may from time to time appoint.

(2) The Chairman, or any 3 Commissioners, may at any time call a special meeting of the Commission. 5

(3) At any meeting of the Commission the quorum necessary for the transaction of business shall be 3 Commissioners.

(4) The Chairman shall preside at all meetings of the Commission at which he is present. In the absence of the Chairman from any meeting the Commissioners present shall appoint one of their number to be the Chairman for the purposes of that meeting. 10

(5) At any meeting of the Commission the presiding member shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote. 15

(6) All questions arising at any meeting of the Commission shall be decided by a majority of the valid votes recorded thereon.

(7) Subject to the provisions of this Act and of any regulations made under this Act, the Commission may regulate its procedure in such manner as it thinks fit and may prescribe or approve forms for the purposes of this Act. 20

11. Staff—(1) Subject to the provisions of this section, the Commission may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient carrying out of its functions, powers, and duties under this Act or any other Act. 25

(2) The Commission may at any time remove any of its officers or employees from his office or appointment. 30

(3) The number of officers and employees who may be appointed under subsection (1) of this section, whether generally or in respect of any specified duties, shall from time to time be determined by the Minister. 35

(4) The salaries of officers and employees appointed under subsection (1) of this section, and the terms and conditions of their appointments, shall be such as are determined from time to time by the Minister of Finance.

(5) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his appointment under this section.

5 (6) Any determination under subsection (4) of this section shall take effect on such date (whether the date thereof or any earlier or later date) as may be specified therein. If no date is so specified the determination shall take effect on the date thereof.

10 **12. Remuneration, allowances, and expenses of Commissioners**—There shall be paid to the Commissioners such remuneration by way of fees, salary, wages, or allowances, and such travelling allowances and expenses, as may from
15 particular Commissioner or Commissioners, by the Minister of Finance.

13. Superannuation or retiring allowances of Commissioners and staff—There may from time to time be paid sums by way of contributions or subsidies to the National
20 Provident Fund or any fund or scheme approved by the Governor-General in Council for the purpose of providing superannuation or retiring allowances for any Commissioner or any officer or employee appointed under this Act.

PART II

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UNLAWFUL DISCRIMINATION

Matters Relating to Employment

14. Employment—(1) It shall be unlawful for any employer, or any person acting or purporting to act on behalf of any employer,—

30 (a) To refuse or omit to employ any person on work of any description which is available and for which that person is qualified; or

35 (b) To refuse or omit to offer or afford any person the same terms of employment, conditions of work, fringe benefits, and opportunities for training, promotion, and transfer as are made available for persons of the same qualifications employed in the same circumstances on work of that description; or

(c) To dismiss any person in circumstances in which other persons employed by that employer on work of that description are not or would not be dismissed—
by reason of the sex, marital status, or religious or ethical belief of that person. 5

(2) It shall be unlawful for any person concerned with procuring employment for other persons or procuring employees for any employer to treat any person seeking employment differently from other persons in the same circumstances by reason of the sex, marital status, or religious or ethical belief of that person. 10

(3) Nothing in this section shall apply to preferential treatment based on sex where—

(a) For reasons of authenticity, sex is a bona fide occupational qualification for the position or employment: 15

(b) The position needs to be held by one sex to preserve reasonable standards of decency or privacy:

(c) The position is that of a housekeeper or domestic employed for the purposes of a private household: 20

(d) The nature or location of the employment makes it impracticable for the employee to live elsewhere than in premises provided by the employer, and—

(i) The only premises available are not equipped with separate sleeping accommodation and separate sanitary facilities for each sex; and 25

(ii) It is not reasonable to expect the employer to equip those premises with separate accommodation and facilities, or to provide separate premises for each sex. 30

(4) No employer shall be entitled, by virtue of subsection (3) of this section, to accord to any person in respect of any position preferential treatment based on sex even though some of the duties of that position would be better carried out by a person of a particular sex if, with some adjustment of the activities of the employer (not being an adjustment involving unreasonable disruption of the activities of the employer), some other employee could carry out those particular duties. 35

(5) Nothing in this section shall apply to preferential treatment based on sex or marital status where the position requires a married couple.

5 (6) Nothing in this section shall apply to preferential treatment based on sex or religious belief where the position is for the purposes of an organised religion and is limited to one sex or to persons of that religious belief so as to comply with the doctrines or rules of the religion or to avoid offending the religious susceptibilities of its adherents.

10 (7) Nothing in this section shall apply to the employment or an application for employment of a person on a ship or aircraft, not being a New Zealand ship or aircraft, if the person employed or seeking employment was engaged or applied for it outside New Zealand.

15 (8) Nothing in this section shall apply to requirements that differ in their application to each sex and which concern height, weight, uniform, or equipment for members of the Police, members of the Armed Forces, or officers of penal institutions.

20 (9) Where the Commission is satisfied that a complaint under this section relates solely to equal pay it shall refer the complaint to the Secretary of Labour unless the complaint is made against the Crown.

25 (10) For the purposes of this section “employer” includes—
(a) The employer of an independent contractor; and
(b) The person for whom work is done by contract workers pursuant to a contract between that person and the person who supplies those contract workers; and “employment” has a corresponding meaning.

30 Cf. 1971, No. 150, s. 5

15. Application forms—It shall be unlawful for any person to use or circulate any form of application for employment which indicates, or could reasonably be understood as indicating, an intention to commit a breach of section 14 of this Act or of section 5 of the Race Relations Act 1971.

16. Partnerships—It shall be unlawful for a firm consisting of 6 or more partners, in relation to a position as partner in the firm,—

40 (a) To refuse or omit to offer the position, being a position that is for the time being available, to any person who is qualified for it; or

- (b) To refuse or omit to offer or afford any person the same terms and conditions in relation to the position as are made available to other members of the firm; or
- (c) To remove any person from the position or to subject him to any other detriment—
- by reason of the colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief of that person. 5

17. Industrial unions and professional and trade associations—(1) It shall be unlawful for an organisation to which this section applies— 10

- (a) To refuse or omit to accept any person for membership; or
- (b) To refuse or omit to offer any person the same terms of membership and the same access to any benefits, facilities or services, including the right to stand for and hold office in the organisation, as would otherwise be made available; or 15
- (c) To deprive a person of membership, or suspend him, in circumstances in which other persons would not be deprived of membership or suspended— 20
- by reason of the colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief of that person.

(2) This section applies to an organisation of workers, an organisation of employers, or any other organisation which exists for the purposes of members who carry on a particular profession, trade, or calling. 25

18. Qualifying bodies—(1) It shall be unlawful for an authority or body empowered to confer an approval, authorisation, or qualification that is needed for, or facilitates, engagement in a profession, trade, or calling to— 30

- (a) Refuse or omit to confer that approval, authorisation, or qualification on a person; or
- (b) Confer that approval, authorisation, or qualification on less favourable terms and conditions than would otherwise be made available; or 35
- (c) Withdraw that approval, authorisation, or qualification or vary the terms on which it is held, in circumstances in which it would not otherwise be withdrawn or varied,— 40
- by reason of the colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief of that person.

(2) Nothing in subsection (1) of this section shall apply where the authorisation or qualification is needed for, or facilitates engagement in, a profession or calling for the purposes of an organised religion and is limited to one sex or to persons of that religious belief so as to comply with the doctrines or rules of that religion or to avoid offending the religious susceptibilities of its adherents.

(3) For the purposes of this section “confer” includes renew or extend.

10 **19. Vocational training bodies**—(1) It shall be unlawful for any organisation or association which has as its function or one of its principal functions the provision of training, or facilities or opportunities for training (including facilities or opportunities by way of financial grants), that would help
15 to fit a person for any employment,—

(a) To refuse or omit to provide training, or facilities or opportunities for training; or

(b) To provide training, or facilities or opportunities for training, on less favourable terms and conditions than would otherwise be made available; or

20 (c) To terminate training, or facilities or opportunities for training—

by reason of the colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief of that person.

25 (2) An educational establishment maintained wholly or principally for students of one sex, race, colour, or religious belief, or the authority responsible for the control of any such establishment, does not commit a breach of this section by refusing to admit students of a different sex, race, colour,
30 or religious belief.

(3) Nothing in subsection (1) of this section shall prevent an organisation or association from affording persons preferential access to facilities for training that would help to fit them for employment where it appears to that organisation or association that those persons are in special need of training by reason of the period for which they have been discharging domestic or family responsibilities to the exclusion of regular full-time employment.

20. Commission may approve special programmes—Notwithstanding sections 14 and 19 of this Act, the Commission may, upon such conditions as it thinks fit and subject to revocation or suspension at any time, approve in writing any special plan or programme submitted to it by any person if it considers that— 5

- (a) The plan or programme will assist or advance particular persons or groups of persons or persons of a particular colour, race, ethnic or national origin, sex, marital status, or religious or ethical belief; and 10
- (b) Those groups or persons need or may reasonably be supposed to need assistance or advancement in order to achieve an equal place with other members of the community in relation to employment matters. 15

Cf. 1971, No. 150, s. 9

Discrimination in Other Matters

21. Access by the public to places, vehicles, and facilities—

(1) It shall be unlawful for any person— 20

- (a) To refuse to allow any other person access to or use of any place or vehicle which members of the public are entitled or allowed to enter or use; or
- (b) To refuse any other person the use of any facilities in that place or vehicle which are available to members of the public; or 25
- (c) To require any other person to leave or cease to use that place or vehicle or those facilities—

by reason of the sex, marital status, or religious or ethical belief of that person. 30

(2) Subsection (1) of this section shall not apply to the maintenance of separate facilities for each sex on the ground of public decency.

(3) In this section the term “vehicle” includes a vessel, an aircraft, or a hovercraft. 35

Cf. 1971, No. 150, s. 3

22. Provision of goods and services—(1) It shall be unlawful for any person who supplies goods, facilities, or services to the public or to any section of the public—

- (a) To refuse or fail on demand to provide any other person with those goods, facilities, or services; or 40

(b) To provide any other person with those goods, facilities, or services on less favourable terms or conditions than those upon or subject to which he would otherwise make them available—

5 by reason of the sex, marital status, or religious or ethical belief of that person.

(2) For the purposes of subsection (1) of this section, but without limiting the meaning of the terms goods, facilities, and services in that subsection, the term “facilities” includes
10 facilities by way of banking or insurance or for grants, loans, credit, or finance.

(3) Where any club, or any branch or affiliate of any club, that grants privileges to members of any other club, branch, or affiliate refuses or fails on demand to provide
15 those privileges to any of those members, or provides them on less favourable terms or conditions than would otherwise be made available, by reason of the colour, race, ethnic or national origin, sex, marital status, or religious or ethical belief of those members, that club, branch, or affiliate shall
20 be deemed to have committed a breach of this section, or of section 4 of the Race Relations Act 1971, as the case may require.

(4) Subsection (1) of this section shall not apply to the maintenance or provision of separate facilities or services
25 for each sex on the ground of public decency.

(5) Where the nature of a skill varies according to whether it is exercised in relation to men or women, a person does not commit a breach of subsection (1) of this section by exercising the skill in relation to one sex only, in accordance
30 with his normal practice.

(6) It shall not be a breach of subsection (1) of this section to offer or provide annuities, life assurance policies, accident insurance policies, or other policies of insurance on different terms or conditions for each sex so long as the differential
35 treatment—

(a) Is based on recent actuarial or statistical data, upon which it is reasonable to rely, relating to life-expectancy or to the risks involved in pregnancy and childbirth; and

40 (b) Is reasonable having regard to the data and to any other relevant factors.

(7) Nothing in this section shall prevent the exclusion of persons of one sex from participation in any competitive sporting event or activity in which persons of one sex would
45 customarily excel persons of the other.

Cf. 1971, No. 150, s. 4

23. Land, housing, and other accommodation—(1) It shall be unlawful for any person, on his own behalf or on behalf or purported behalf of any principal,—

- (a) To refuse or fail to dispose of any estate or interest in land or any residential or business accommodation to any other person; or 5
 - (b) To dispose of such an estate or interest or such accommodation to any person on less favourable terms and conditions than are or would be offered to other persons; or 10
 - (c) To treat any person who is seeking to acquire or has acquired such an estate or interest or such accommodation differently from other persons in the same circumstances; or
 - (d) To deny any person, directly or indirectly, the right to occupy any land or any residential or business accommodation; or 15
 - (e) To terminate any estate or interest in land or the right of any person to occupy any land or any residential or business accommodation— 20
- by reason of the sex, marital status, or religious or ethical belief of that person.

(2) It shall be unlawful for any person, on his own behalf or on behalf or purported behalf of any principal, to impose or seek to impose on any other person any term or condition which limits, by reference to sex, marital status, or religious or ethical belief, the persons or class of persons who may be the licensees or invitees of the occupier of any land or any residential or business accommodation. 25

(3) Nothing in this section shall apply to residential accommodation in any institution (including a hospital, hostel, educational institution or religious institution) or in any part of an institution where accommodation is provided only for persons of the same sex, marital status, or religious or ethical belief. 30 35

(4) Nothing in this section shall apply to residential accommodation which is to be shared with the person disposing of the accommodation, or on whose behalf it is disposed of.

(5) Nothing in this section shall apply to residential accommodation where the person who is seeking to acquire or has acquired such accommodation is living in a de facto marriage. 40

(6) For the purposes of this section—

“Dispose” includes sell, assign, lease, let, sublease, sublet, licence, or mortgage, and agree to dispose:

5 “Residential accommodation” includes accommodation in a dwellinghouse, flat, hotel, motel, boarding-house, or camping ground.

Cf. 1971, No. 150, s. 6

24. **Educational establishments**—(1) It shall be unlawful for an educational establishment or the authority responsible
10 for the control of an educational establishment,—

(a) To refuse or fail to admit a person as a pupil or student; or

(b) To admit him on less favourable terms and conditions than would otherwise be made available; or

15 (c) To deny or restrict access to any benefits or services provided by the establishment; or

(d) To exclude him or subject him to any other detriment—

20 by reason of the colour, race, ethnic or national origin, sex, marital status, or religious or ethical belief of that person.

(2) An educational establishment maintained wholly or principally for students of one sex, race, colour, or religious belief, or the authority responsible for the control of any such establishment, does not commit a breach of this section
25 by refusing to admit students of a different sex, race, colour, or religious belief.

(3) In this section “educational establishment” includes an establishment offering any form of technical training or instruction.

30 **25. Conditions that need to be justified**—For the purposes of this Part of this Act, it shall be unlawful for a person to apply to another person a requirement or condition which he applies or would apply equally to any other person, but
35 which is such that the proportion of persons of a particular sex or marital status who can comply with it is considerably smaller than the proportion of other persons who can comply with it, unless the first-mentioned person shows that it is justifiable irrespective of the person to whom it is applied.

26. Measures to ensure equality—Anything done or omitted which would otherwise constitute a breach of any of the provisions of sections 16, 17, 18, 19, and 24 of this Act shall not constitute such a breach if—

- (a) It is done or omitted in good faith for the purpose of assisting or advancing particular persons or groups of persons or persons of a particular colour, race, or ethnic or national origin; and 5
- (b) Those groups or persons need or may reasonably be supposed to need assistance or advancement in order to achieve an equal place with other members of the community. 10

Cf. 1971, No. 150, s. 9

27. Measures relating to pregnancy or childbirth—For the avoidance of doubt it is hereby declared that preferential treatment granted to a woman by reason of pregnancy or childbirth shall not constitute a breach of this Part of this Act. 15

Victimisation, Advertisements, and Agency

28. Victimisation—(1) It shall be unlawful for any person to treat any other person less favourably than he would treat other persons in the same circumstances— 20

(a) On the ground that that person—

(i) Has made use of his rights, or promoted the rights of some other person, under this Act, or the Race Relations Act 1971; or 25

(ii) Has given information or evidence in relation to any complaint, investigation, or proceeding under this Act, or the Race Relations Act 1971; or

(iii) Has otherwise done anything under or by reference to this Act, or the Race Relations Act 1971; or 30

(b) On the ground that he knows that that person intends to do any of the things mentioned in subparagraphs (i) to (iii) of paragraph (a) of this subsection or that he suspects that that person has done, or intends to do, any of those things. 35

(2) Subsection (1) of this section shall not apply where a person is treated less favourably because he has knowingly made a false allegation or otherwise acted in bad faith. 40

29. **Advertisements**—(1) It shall be unlawful for any person to publish or display, or to cause or allow to be published or displayed, any advertisement or notice which indicates, or could reasonably be understood as indicating, an intention to commit a breach of any of the provisions of this Part of this Act.

(2) Nothing in subsection (1) of this section shall prevent the use, in an advertisement for employment, of any term which, in its generally accepted usage, is not taken to refer exclusively to one sex.

Cf. 1971, No. 150, s. 7

30. **Liability of principals and employers**—Anything done or omitted in contravention of any of the provisions of this Part of this Act by a person as the agent or employee of another person shall be treated for the purposes of this Part of this Act as done or omitted by that other person as well as by him, unless it is done or omitted without the other person's express or implied authority, precedent or subsequent.

Cf. 1971, No. 150, s. 8

PART III

REMEDIES AGAINST UNLAWFUL DISCRIMINATION

31. **Functions of Commission**—The functions of the Commission under this Part of this Act shall be—

- (a) To investigate, either on complaint made to it by any person or of its own motion, any act or omission, or any practice, which is or appears to be a breach of any of the provisions of Part II of this Act:
- (b) To act as conciliator in relation to any such act or omission or practice:
- (c) To take such further action as is contemplated by this Part of this Act.

Cf. 1971, No. 150, s. 13

32. **Commission may refuse to investigate complaint**—(1) The Commission may in its discretion decide not to investigate, or, as the case may require, not to investigate further, any complaint if it relates to a matter of which the

person alleged to be aggrieved has had knowledge for more than 12 months before the complaint is received by the Commission, or if in its opinion—

- (a) The subject-matter of the complaint is trivial; or
- (b) The complaint is frivolous or vexatious or is not made in good faith; or
- (c) The complainant has not a sufficient interest in the subject-matter of the complaint; or
- (d) The person alleged to be aggrieved does not desire that the investigation be made or, as the case may be, continued; or
- (e) There is in all the circumstances an adequate remedy or right of appeal, other than the right to petition Parliament or to make a complaint to an Ombudsman, which it would be reasonable for the person alleged to be aggrieved to exercise.

(2) In any case where the Commission decides not to investigate or further investigate a complaint it shall inform the complainant of that decision, and shall, unless it thinks it undesirable, state its reasons therefor.

Cf. 1971, No. 150, s. 14

33. Parties to be informed of result of investigation—Where any investigation is made following a complaint, the Commission shall inform the parties concerned, in such manner and at such time as it thinks proper, of the result of the investigation.

Cf. 1971, No. 150, s. 18

34. Procedure after investigation—(1) Where, after making any investigation under this Part of this Act, the Commission is of the opinion that a breach of any of the provisions of Part II of this Act has occurred, it shall—

- (a) Where the breach was committed against a particular person use its best endeavours to secure a settlement between the parties concerned and, if it considers it appropriate, a satisfactory assurance against the repetition of the act or omission constituting the breach or the doing of further acts or omissions of a similar kind by the person considered to have committed the breach; and
- (b) In any other case, use its best endeavours to secure such an assurance as aforesaid.

(2) If the Commission is unable to secure such a settlement and assurance, or, as the case may be, such an assurance as aforesaid, or if it appears that the act or omission was done in contravention of such an assurance given on a previous
5 occasion, or that any term of such a settlement has not been complied with, it may take proceedings under section 35 of this Act against the person considered to have committed the breach.

(3) The Commission shall not take proceedings against a
10 person referred to in subsection (2) of this section unless it has given that person an opportunity to be heard.

Cf. 1971, No. 150, s. 17 (1), (2), (4)

35. Civil proceedings—(1) Civil proceedings before the Equal Opportunities Tribunal shall lie at the suit of the
15 Commission against the person referred to in section 34 (2) of this Act for a breach of any of the provisions of Part II of this Act.

(2) The Commission may, under subsection (1) of this section, bring proceedings on behalf of a class of persons,
20 and may seek on behalf of persons who belong to the class any of the remedies described in subsection (6) of this section, where it considers that the person referred to in section 34 (2) of this Act is carrying on a discriminatory practice which affects that class and which is in breach of Part II of this
25 Act.

(3) Where proceedings are commenced by the Commission under subsection (1) of this section, the aggrieved person (if any) shall not be an original party to, or, unless the Tribunal otherwise orders, join or be joined in, any such proceedings.

(4) Notwithstanding subsection (1) of this section, the
30 aggrieved person (if any) may himself bring proceedings before the Equal Opportunities Tribunal if he wishes to do so and the Commission—

- (a) Agrees to his so doing; or
- 35 (b) Declines to take proceedings; or
- (c) Is of the opinion, after investigation, that no breach of any of the provisions of Part II of this Act has occurred.

(5) In any proceedings before the Equal Opportunities
40 Tribunal the Commission or the aggrieved person (as the case may be) may seek such of the remedies described in subsection (6) of this section as it or he thinks fit.

(6) If in any such proceedings the Tribunal is satisfied on the balance of probabilities that the defendant has committed a breach of any of the provisions of Part 11 of this Act, it may grant one or more of the following remedies:

- (a) A declaration that the defendant has committed a breach of this Act: 5
- (b) An order restraining the defendant from continuing or repeating the breach, or from engaging in, or causing or permitting others to engage in, conduct of the same kind as that constituting the breach, or conduct of any similar kind specified in the order: 10
- (c) Damages in accordance with section 36 of this Act:
- (d) An order that the defendant perform any acts specified in the order with a view to redressing any loss or damage suffered by the aggrieved person as a result of the breach: 15
- (e) A declaration that any contract entered into or performed in contravention of any of the provisions of Part II of this Act is an illegal contract:
- (f) Relief in accordance with the Illegal Contracts Act 1970 in respect of any such contract to which the defendant and the aggrieved person are parties: 20
- (g) Such other relief as the Tribunal thinks fit.
- (7) In any proceedings under this section the Tribunal may award such costs against the defendant as it thinks fit, whether or not it makes any other order, or may award costs against the plaintiff, or may decline to award costs against either party. Where the Commission is the plaintiff any costs awarded against it shall be paid by it and it shall not be entitled to be indemnified by the aggrieved person (if any). 25 30
- (8) It shall not be a defence to proceedings under this section that the breach was unintentional or without negligence on the part of the defendant, but the Tribunal may take the conduct of the defendant into account in granting a remedy. 35

Cf. 1971, No. 150, s. 21

36. Damages—(1) In any proceedings under section 35 of this Act the Tribunal may award damages against the defendant for a breach of any of the provisions of Part II of this Act in respect of any one or more of the following: 40

- (a) Pecuniary loss suffered and expenses reasonably incurred by the aggrieved person for the purpose of the transaction or activity out of which the breach arose:

(b) Loss of any benefit, whether or not of a monetary kind, which the aggrieved person might reasonably have been expected to obtain but for the breach:

5 (c) Humiliation, loss of dignity, and injury to the feelings of the aggrieved person:

Provided that damages awarded under paragraph (c) of this subsection shall not exceed \$1,000.

10 (2) Damages recovered by the Commission under this section shall be paid by it to the aggrieved person on whose behalf the proceedings were brought or, if that person is an unmarried minor or is not of full mental capacity, in the discretion of the Commission to the Public Trustee.

(3) Where money is paid to the Public Trustee under subsection (2) of this section—

15 (a) Section 12 of the Minors' Contracts Act 1969 shall apply in the case of an unmarried minor; and

(b) Section 66 of the Public Trust Office Act 1957 shall apply in the case of a person who is not of full mental capacity.

20 Cf. 1971, No. 150, s. 22

PART IV

EQUAL OPPORTUNITIES TRIBUNAL

25 **37. Equal Opportunities Tribunal**—There is hereby constituted a Tribunal to be known as the Equal Opportunities Tribunal.

38. Functions and powers of Tribunal—The general functions of the Tribunal shall be—

30 (a) To consider and adjudicate upon proceedings brought pursuant to section 35 of this Act:

(b) To exercise and perform such other functions, powers, and duties as are conferred or imposed on it by or under this Act or any other enactment.

35 **39. Membership of Tribunal**—(1) The Tribunal shall consist of a barrister or solicitor of the Supreme Court of not less than 7 years' practice (whether or not he holds or has held judicial office), who shall be the Chairman, and 2 other persons appointed by the Chairman for the purposes of each hearing from a panel maintained by the Minister under subsection (4) of this section.

(2) The Chairman of the Tribunal shall be appointed by the Governor-General on the recommendation of the Minister and shall hold office for a term of 5 years. Any person appointed as Chairman may hold that office concurrently with any other office held by him and may from time to time be reappointed. 5

(3) Unless he sooner vacates office or is removed from office under section 41 of this Act, the Chairman shall continue to hold office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired. 10

(4) The Minister shall maintain a panel of not more than 12 persons who may be appointed pursuant to subsection (1) of this section.

(5) In considering the suitability of any person for inclusion on the panel, the Minister shall have regard not only to his personal attributes but also to his knowledge of and experience in matters likely to come before the Tribunal. 15

(6) The name of a person shall be removed from the panel if— 20

- (a) The person dies, or within the meaning of section 2 of the Mental Health Act 1969, becomes a committed patient or a special patient, or is, under the Insolvency Act 1967, adjudged bankrupt; or
- (b) The Minister directs that the name of the person be removed from the panel for disability, neglect of duty, or misconduct, proved to the satisfaction of the Minister; or 25
- (c) A period of 5 years has elapsed since the date on which the Minister last approved the entry of the person's name; or 30
- (d) The person requests by writing addressed to the Minister that his name be removed.

40. Deputy Chairman—(1) In any case in which the Chairman of the Tribunal becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the Chairman deems it not proper or desirable that he should adjudicate on any specified matter, the Governor-General may appoint a suitable person to be the deputy of the Chairman to act for the Chairman for the period or purpose stated in the appointment. 35 40

(2) No person shall be appointed as Deputy Chairman unless he is eligible for appointment as Chairman.

(3) Every Deputy Chairman appointed under this section shall, while acting for the Chairman, be deemed to be the Chairman of the Tribunal.

5 (4) No appointment of a Deputy Chairman, and no act done by him as such, and no act done by the Tribunal while he is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

41. Vacation of office by Chairman and Deputy Chairman—(1) The Chairman and any Deputy Chairman of the Tribunal may at any time resign his office by delivering a notice in writing to that effect to the Minister.

15 (2) The Chairman and any Deputy Chairman of the Tribunal shall be deemed to have vacated his office if he dies or, within the meaning of section 2 of the Mental Health Act 1969, becomes a committed patient or a special patient, or is, under the Insolvency Act 1967, adjudged bankrupt.

20 (3) The Chairman and any Deputy Chairman of the Tribunal may at any time be removed from office by the Governor-General for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

42. Sittings of Tribunal—(1) Sittings of the Tribunal shall be held at such times and places as the Tribunal or the Chairman from time to time appoints.

25 (2) Any sitting may be adjourned from time to time and from place to place by the Tribunal or the Chairman.

(3) No sitting of the Tribunal shall take place unless all the members are present, but the decision of a majority of the members shall be the decision of the Tribunal.

30 (4) The Chairman shall preside at all sittings of the Tribunal.

35 (5) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal may regulate its procedure in such manner as it thinks fit and may prescribe or approve forms for the purposes of this Act.

43. Evidence in proceedings before Tribunal—(1) The Tribunal may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not it would be otherwise admissible in a Court of law, and shall act according to equity, good conscience, and the substantial merits of the case, without regard to technicalities.

(2) Subject to subsection (1) of this section, the Evidence Act 1908 shall apply to the Tribunal in the same manner as if the Tribunal were a Court within the meaning of that Act.

44. Tribunal to be a Commission of Inquiry—The Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act, all the provisions of that Act, except sections 10 to 12, shall apply accordingly. 5

45. Sittings to be held in public except in special circumstances—(1) Except as provided by subsections (2) to (4) of this section, every hearing of the Tribunal shall be held in public. 10

(2) The Tribunal may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it. 15

(3) Where the Tribunal is satisfied that it is desirable to do so, the Tribunal may, of its own motion or on the application of any party to the proceedings,—

(a) Order that any hearing held by it be heard in private, 20 either as to the whole or any portion thereof:

(b) Make an order prohibiting the publication of any report or account of the evidence or other proceedings in any proceedings before it (whether heard in public or in private) either as to the whole or any 25 portion thereof:

(c) Make an order prohibiting the publication of the whole or part of any books or documents produced at any hearing of the Tribunal.

(4) Every application under subsection (3) of this section shall be heard in private by the Tribunal but the other parties to the proceedings shall be entitled to be present during the hearing of the application and to make submissions with regard to it. 30

(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who acts in contravention of any order made by the Tribunal under paragraph (b) or paragraph (c) of subsection (3) of this section. 35

46. Frivolous or vexatious proceedings—The Tribunal may at any time dismiss any proceedings brought under section 35 of this Act if it is satisfied that they are frivolous or vexatious. 40

47. **Seal of the Tribunal**—The Tribunal shall have a seal, which shall be judicially noticed in all Courts and for all purposes.

48. **Members of Tribunal not personally liable**—No member of the Tribunal shall be personally liable for any act done or omitted to be done by the Tribunal or any member thereof in good faith in pursuance or intended pursuance of the powers and authorities of the Tribunal.

49. **Remuneration and travelling allowances**—(1) The Tribunal is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Tribunal, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

50. **Services for Tribunal**—(1) The Department of Justice shall furnish such secretarial, recording, and clerical services as may be necessary to enable the Tribunal to discharge its functions.

(2) The cost of any services provided by the Department of Justice pursuant to this section shall be paid from the Consolidated Revenue Account out of money appropriated by Parliament for the purpose.

51. **Enforcement**—(1) An order for the award of damages made by the Tribunal under section 36 of this Act may, upon registration of a certified copy in a Magistrate's Court, be enforced in all respects as if it were an order of that Court.

(2) Every person commits an offence who contravenes or refuses to comply with any other order of the Tribunal made under section 35 of this Act and is liable on summary conviction to a fine not exceeding \$2,000.

52. **Stating case for Supreme Court**—(1) The Tribunal may, at any time, before or during the hearing or before delivering its decision, on the application of any party to the proceedings or of its own motion, state a case for the opinion of the Supreme Court on any question of law arising in any proceedings before the Tribunal.

(2) The Tribunal shall give notice to the parties to the proceedings of the Tribunal's intention to state a case under this section, specifying the registry of the Supreme Court in which the case is to be filed.

(3) Except where the Tribunal intends to state the case of its own motion, section 55 of this Act shall apply to a case stated under this section as if the case were an appeal to the Supreme Court on a question of law by the party on whose application the Tribunal intends to state the case, save that the time for submitting a case to the Tribunal shall be within 30 days after the date of the giving by the Tribunal of notice under subsection (1) of this section, or within such further time as the Tribunal may allow.

(4) Where the Tribunal intends to state the case of its own motion, it shall itself state and sign a case setting forth the facts and questions of law arising for the determination of the Supreme Court.

(5) The Supreme Court shall hear and determine any question submitted to it under this section, and shall remit the case with its opinion to the Tribunal.

53. Appeals to Supreme Court—(1) The determination of the Tribunal on any proceedings brought under section 35 of this Act shall be subject to appeal to the Supreme Court on any question of law, but shall be final and conclusive as to any question of fact.

(2) Notice of appeal shall not operate as a stay of proceedings in respect of the determination appealed from unless the Tribunal or the Supreme Court so orders.

54. Notice of appeal to Supreme Court—In the case of any such appeal the appellant shall, within 30 days after the date of the giving by the Tribunal of its decision in writing in relation to the determination appealed from, file with the Tribunal a notice of appeal specifying the registry of the Supreme Court in which the appellant intends to file the case on appeal, and, except in the case of an appeal by the Commission, shall give security for the costs of the appeal to such amount and in such form as may be fixed by the Tribunal.

55. **Preparation of case stated**—(1) The appellant shall prepare a case setting forth the facts and the questions of law arising for the determination of the Supreme Court, and shall, within 2 months after the date of the giving by
5 the Tribunal of its decision in writing relating to the determination appealed from, submit the case to the Tribunal whose determination is appealed from.

(2) The Tribunal may return to an appellant a case submitted to the Tribunal under subsection (1) of this
10 section or further submitted under this subsection for such amendment as the Tribunal shall direct, and the appellant shall further submit the case to the Tribunal within such time as the Tribunal shall allow.

(3) Where the Tribunal accepts a case submitted or
15 further submitted to it under subsection (1) or subsection (2) of this section the Chairman shall sign the case, and shall deliver the case so signed to the appellant.

(4) The appellant shall, within 14 days after the date of receipt of the case delivered by the Tribunal pursuant
20 to subsection (3) of this section, transmit it to the Registrar of the Supreme Court in the registry specified in the notice of appeal, and the Registrar shall thereupon enter the appeal for hearing at the first practicable sitting of the Court.

(5) On the hearing of the appeal the Supreme Court
25 may, if it thinks fit, cause the case so stated to be sent back to the Tribunal for amendment, and subsections (2) to (4) of this section shall, with any necessary modifications, apply as if the case had been submitted to the Tribunal under subsection (1) of this section.

30 **56. Decision of Supreme Court to be final**—The determination of the Supreme Court on any such appeal shall be final.

57. Costs of appeal—In respect of any proceedings before
35 the Supreme Court on an appeal from a determination of the Tribunal, the Court may award such costs to or against either party as it thinks just.

PART V

PRIVACY

58. Functions of Commission in relation to privacy—

(1) The functions of the Commission in relation to privacy shall be— 5

(a) To inquire generally into any matter, including any enactment or law, or any practice or procedure, whether governmental or non-governmental, or any technical development, if it appears to the Commission that the privacy of the individual is being, or may be, unduly infringed thereby: 10

(b) To report to the Prime Minister from time to time on the need for or desirability of taking legislative, administrative, or other action to give protection or better protection to the privacy of the individual: 15

(c) To report to the Prime Minister on any other matter relating to privacy that, in the Commission's opinion, should be drawn to the Prime Minister's attention:

(d) To make suggestions to any person in relation to any matter that concerns the need for or the desirability of action by that person in the interests of the privacy of the individual: 20

(e) To gather such information as in the Commission's opinion will assist it in carrying out its functions under this section: 25

(f) To receive and invite representations from members of the public on any matter affecting the privacy of the individual:

(g) To make public statements in relation to any matter affecting the privacy of the individual or of any class of individuals. 30

(2) The Commission shall report to the Prime Minister on any matter relating to privacy on which the Prime Minister has requested a report. 35

(3) Subsection (1) of this section shall not empower the Commission to investigate a complaint by any person that his privacy has been infringed but the fact that a person has made such a complaint about a particular matter shall not limit or affect the power of the Commission to carry out the kind of inquiry permitted under subsection (1) (a) of this section. 40

PART VI

INDUSTRIAL UNIONS AND PROFESSIONAL AND TRADE
ASSOCIATIONS

5 **59. Industrial unions and professional and trade associa-**
tions—(1) Any member of an organisation to which this
section applies may complain to the Commission on the
ground that the organisation of which he is a member, or
any officer or agent of that organisation, or any other person
connected with that organisation, has, in carrying on or
10 purporting to carry on the affairs of the organisation—

(a) Refused or failed without reasonable cause to comply
with any rule or procedure of the organisation:

15 (b) Threatened him or any other member of the organis-
ation with the use of violence, or with any loss or
detriment, or otherwise indulged in an intimidatory
course of action, in order to induce him or that
other member to agree to a particular course of
action:

20 (c) Has directly or indirectly caused him or that other
member to suffer any loss or detriment, in order
to induce him or that other member to agree to a
particular course of action.

(2) Any person who has applied unsuccessfully for mem-
bership of an organisation to which this section applies may
25 complain to the Commission on the ground that he has been
improperly refused membership for reasons other than those
specified in section 17 of this Act.

(3) This section applies to an organisation of workers,
an organisation of employers, or any other organisation which
30 exists for the purposes of members who carry on a particular
profession, trade, or calling.

60. Functions of Commission—(1) The functions of the
Commission under this Part of this Act shall be—

35 (a) To investigate any complaint made to it under section
59 of this Act and to act as conciliator in relation
to any such complaint:

(b) To take such further action as is contemplated by
this Part of this Act.

40 (2) If the Commission is of the opinion that the rules or
procedures of an organisation provide remedies for the com-
plainant it may, before investigating the complaint or at any
time thereafter, direct that those remedies be pursued.

61. Procedure after investigation—(1) Subject to section 60 (2) of this Act, where, after making any investigation under this Part of this Act, the Commission is of the opinion that the complaint has substance, it shall use its best endeavours to secure a settlement between the parties concerned. 5

(2) If the Commission is unable to secure such a settlement, or if it appears that any term of such a settlement has not been complied with, it may refer the matter in writing to the Industrial Court. 10

(3) The Commission shall not refer a matter to the Industrial Court unless it has given the organisation concerned, or an authorised representative of that organisation, an opportunity to be heard.

62. Jurisdiction of Industrial Court—The Industrial Court shall have jurisdiction to hear and determine any matter referred to it under section 61 of this Act and the provisions of the Industrial Relations Act 1973 shall have effect accordingly, notwithstanding that the organisation in respect of which the complaint is made is not registered, or is not eligible to register, under the Industrial Relations Act 1973. 15 20

PART VII

PROCEEDINGS OF COMMISSION

63. Proceedings of Commission—(1) Before investigating any matter under this Act, the Commission shall inform any person affected of the nature of the complaint (if any) and of its intention to make the investigation. 25

(2) Every investigation by the Commission under this Act shall be conducted in private.

(3) The Commission may hear or obtain information from such persons as it thinks fit. It shall not be necessary for the Commission to hold any hearing, and no person shall be entitled as of right to be heard by the Commission. 30

Cf. 1971, No. 150, s. 15 (1)–(3)

64. Evidence—(1) The Commission may from time to time require any person who in its opinion is able to give any information relating to the matter which is being investigated or inquired into by the Commission to furnish to it any such 35

information and to produce any documents or papers or things which in the Commission's opinion relate to any such matter as aforesaid and which may be in the possession or under the control of that person.

5 (2) The Commission may summon before it and examine on oath any person who in the Commission's opinion is able to give any such information as aforesaid and for that purpose may administer an oath. Every such investigation by the Commission shall be deemed to be a judicial proceeding
10 within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

(3) Subject to the provisions of this section, every such person shall be obliged to answer any questions put to him by the Commission but shall have the same privilege in
15 relation to the production of documents and papers and things as witnesses have in any Court.

(4) No person shall be required to supply any information to or to answer any question put by the Commission in relation to any matter, or to produce to the Commission
20 any document or paper or thing relating to any matter, in any case where compliance with that requirement would be in breach of an obligation of secrecy or non-disclosure imposed on that person by the provisions of any Act, other than the Official Secrets Act 1951 or the State Services Act
25 1962.

(5) Except on the trial of any person for perjury within the meaning of the Crimes Act 1961 in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of the inquiry by or any proceedings before the Commission shall be admissible in
30 evidence against any person in any Court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commission shall be given against any person.

35 (6) No person shall be liable to prosecution for an offence against the Official Secrets Act 1951 or any enactment, other than this Act, by reason of his compliance with any requirement of the Commission under this section.

(7) Where any person is required by the Commission to
40 attend before it for the purposes of this section, the person shall be entitled to the same fees, allowances, and expenses as if he were a witness in a Court, and the provisions of any regulations in that behalf under the Summary Proceedings Act 1957 and for the time being in force shall apply

accordingly. For the purposes of this subsection the Commission shall have the powers of a Court under any such regulations to fix or disallow, in whole or in part, or increase the amounts payable thereunder.

Cf. 1971, No. 150, s. 16

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65. Disclosure of certain matters not to be required—

(1) Where—

- (a) The Prime Minister certifies that the giving of any information or the answering of any question or the production of any document or paper or thing might prejudice the security, defence, or international relations of New Zealand (including New Zealand's relations with the Government of any other country or with any international organisation); or
- (b) The Attorney-General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing—
- (i) Might prejudice the investigation or detection of offences; or
 - (ii) Might involve the disclosure of the deliberations of Cabinet; or
 - (iii) Might involve the disclosure of proceedings of Cabinet, or any committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest—

the Commission shall not require the information or answer to be given, or, as the case may be, the document or paper or thing to be produced.

(2) Subject to the provisions of subsection (1) of this section, the rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall not apply in respect of any investigation by or proceedings before the Commission.

Cf. 1975, No. 9, s. 20.

66. Proceedings not to be questioned or subject to review—

No proceeding of the Commission shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no

proceeding or decision of the Commission shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

Cf. 1971, No. 150, s. 19; 1975, No. 9, s. 25

- 5 **67. Proceedings privileged**—(1) Except in the case of proceedings for an offence against the Official Secrets Act 1951,—
- 10 (a) No proceedings, civil or criminal, shall lie against any Commissioner or any person holding office or appointment on the staff of the Commission, for anything he may do or report or say in the course of the exercise or intended exercise of his duties under this Act, unless it is shown that he acted in bad faith:
- 15 (b) A Commissioner and any such person as aforesaid, shall, subject to section 64 (5) of this Act, not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.
- 20 (2) Anything said or any information supplied or any document, paper, or thing produced by any person in the course of any inquiry by or proceedings before the Commission under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.
- 25 (3) For the purposes of clause 5 of the First Schedule to the Defamation Act 1954, any report made by the Commission under this Act shall be deemed to be an official report made by a person holding an inquiry under the authority of the legislature of New Zealand.
- 30 Cf. 1971, No. 150, s. 20; 1975, No. 9, s. 26

PART VIII

MISCELLANEOUS PROVISIONS

- 68. Commissioners and staff to maintain secrecy**—
- 35 (1) Every Commissioner and every officer or employee of the Commission shall be deemed for the purposes of the Official Secrets Act 1951 to be persons holding office under Her Majesty.
- 40 (2) Every Commissioner and every such officer and employee shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions

or duties under this Act and shall not communicate any such matters to any person except for the purpose of giving effect to this Act or any other enactment that confers powers and functions on the Commission.

Cf. 1975, No. 9, s. 21

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69. Reports, etc.—(1) The Commission may from time to time, in the public interest or in the interests of any person or Department or organisation, publish reports relating generally to the exercise of its functions under this Act or to any particular case or cases investigated by it, whether or not the matters to be dealt with in any such report have been the subject of a report to the Minister or the Prime Minister.

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(2) The Commission shall not, in any report or statement made pursuant to this Act, make any comment that is adverse to any person unless that person has been given an opportunity to be heard.

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(3) If any matter of the kind referred to in section 65 of this Act comes to the knowledge of the Commission, the Commission shall not disclose it except in a report to the Prime Minister made pursuant to this Act.

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Cf. 1971, No. 150, s. 17 (4); 1975, No. 9, s. 22 (7); S.R. 1962/208

70. Delegation of functions or powers by Commission—

(1) The Commission may from time to time by writing under the hand of the Chief Commissioner delegate to any Commissioner any of the functions or powers of the Commission under this Act except the functions set out in paragraphs (b) to (e) of subsection (1) or in subsection (2) of section 5 of this Act and this power of delegation. Until any such delegation is revoked, it shall continue in force according to its tenor.

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(2) Every delegation under this section shall be revocable at will and no such delegation shall prevent the exercise of any function by the Commission.

71. Delegation of powers by Commissioner—(1) With the prior approval of the Minister, any Commissioner may from time to time, by writing under his hand, delegate to any officer or employee of the Commission any of the Commissioner's powers under this Act, except this power of delegation and the power to make any report under this Act.

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(2) Any delegation under this section may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.

(3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by a Commissioner.

(4) Any such delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(5) Until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Commissioner by whom it was made ceasing to hold office, it shall continue to have effect as if made by his successor.

(6) Any person purporting to exercise any power of a Commissioner by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.

Cf. 1975, No. 9, s. 28

20 **72. Annual report**—(1) Without limiting the right of the Commission to report at any other time, but subject to section 69 (2) of this Act, the Commission shall, within 3 months after the expiration of each year ending with the 31st day of March or such other date as may from time to time be directed by the Minister, furnish to the Minister a report on the exercise of its functions under this Act during that year.

(2) A copy of the report shall be laid before Parliament.

30 **73. Money to be appropriated by Parliament for purposes of this Act**—All fees, salaries, allowances, and other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by Parliament for the purpose.

35 **74. Reports to Prime Minister**—(1) Where the Commission makes a report to the Prime Minister pursuant to this Act it may thereafter, subject to this Act, publish the report or such parts of the report as it thinks fit.

(2) This section shall not apply to a report made under section 5 (1) (d) (iii) or section 58 (2) of this Act.

75. Service of notices—(1) Any notice or other document required or authorised to be served on or given to any person for the purposes of this Act may be served or given by delivering it to that person, and may be delivered to him either personally or by leaving it at his usual or last known place of abode or business or at the address specified by him in any application or other document received from him or by posting it in a letter addressed to him at that place of abode or business or at that address. 5

(2) If any such notice or other document is sent to any person by registered letter it shall be deemed to have been delivered to him on the fourth day after the day on which it was posted, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted. 10

(3) If the person is absent from New Zealand, the notice or other document may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice or other document may be delivered as aforesaid to his personal representatives. 15

(4) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no known personal representatives, or if for any other reason it is not practicable to deliver the notice or other document personally the notice or other document shall be delivered in such manner as may be directed by the Commission or the Tribunal. 20 25

(5) Notwithstanding anything in the foregoing provisions of this section, the Commission or the Tribunal may in any case direct the manner in which any notice or other document is to be served or given, or dispensing with the service or giving thereof. 30

76. Offences—Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$500 who—

(a) Without lawful justification or excuse, wilfully obstructs, hinders, or resists the Commission or a Commissioner or any other person in the exercise of its or his powers under this Act: 35

(b) Without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commission or a Commissioner or any other person under this Act: 40

- (c) Knowingly makes any false statement to or misleads or attempts to mislead the Commission or a Commissioner or any other person in the exercise of his powers under this Act.

5 **77. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes—

- 10 (a) Prescribing the procedure to be followed under this Act in respect of complaints to and proceedings before the Commission or in respect of proceedings before the Tribunal;
- (b) Prescribing forms for the purposes of this Act, and requiring the use of such forms;
- 15 (c) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

78. Related amendments to other Acts—(1) The Acts specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

20 (2) The amendments to the Income Tax Act 1976 effected by subsection (1) of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1977 and in every subsequent year.

25 (3) The amendments to the Land Tax Act 1976 effected by subsection (1) of this section shall apply with respect to the tax for the year of assessment that commenced on the 1st day of April 1977 and for every subsequent year.

79. Related amendments to regulations—(1) The regulations specified in the Second Schedule to this Act are hereby
30 amended in the manner indicated in that Schedule.

 (2) The amendment by this section of the regulations specified in the Second Schedule to this Act shall be without prejudice to any power of amending or revoking those regulations.

35 (3) The Governor-General may from time to time, by Order in Council, consequentially revoke the Second Schedule to this Act or any part of that Schedule.

*Savings***80. Superannuation schemes and provident funds—**

(1) Nothing in this Act shall prevent any superannuation scheme or any provident fund from conferring different benefits according to sex or marital status, so long as— 5

(a) That scheme or fund was in existence at the date of commencement of this Act and was conferring those different benefits at that date; and

(b) The person in respect of whom benefits are conferred was a member of that scheme or fund at that date. 10

(2) For the purposes of this section, the terms “superannuation scheme” and “provident fund” mean any group superannuation or pension scheme or plan, or any provident fund, set up to confer benefits in respect of the retirement, accident, disability, sickness, or death, of a member of 15 the scheme, plan, or fund.

81. Charitable instruments—(1) Nothing in this Act shall apply to any provision contained in an existing or future charitable instrument where that provision confers benefits, or enables benefits to be conferred, on persons or a particular 20 sex, marital status, or religious or ethical belief, or to any act done in order to comply with any such provision.

(2) For the purposes of this section,—

“Instrument” means a deed, a will, or any scheme prepared or approved under Part III or Part IV of the 25 Charitable Trusts Act 1957:

“Charitable instrument” means—

(a) An instrument the purposes of which are exclusively charitable in accordance with the law of 30 New Zealand; or

(b) Any imperfect trust provision as defined in section 61B of the Charitable Trusts Act 1957; or

(c) Any scheme prepared or approved under Part III or Part IV of the Charitable Trusts Act 1957.

Cf. 1971, No. 150, s. 36 35

82. Other Acts not affected—(1) Nothing in this Act shall limit or affect section 9 of the Race Relations Act 1971.

(2) Except as expressly provided in this Act, nothing in this Act shall limit or affect the provisions of any other Act.

Cf. 1971, No. 150, s. 35 40

83. **Savings**—(1) Nothing in this Act shall affect the right to bring any proceedings, whether civil or criminal, which might have been brought if this Act had not been passed, but, in assessing any damages to be awarded to or on behalf
5 of any person under this Act or otherwise, a Court shall take account of any damages already awarded to or on behalf of that person in respect of the same cause of action.

(2) Subject to the Illegal Contracts Act 1970, no proceedings, civil or criminal, shall lie against any person, except
10 as provided by this Act, in respect of any act or omission which is unlawful by virtue only of any of the provisions of Part II of this Act.

(3) Nothing in this Act shall affect any enactment or rule of law, or any administrative practice, which distinguishes
15 between New Zealand citizens and other persons, or between British subjects or Commonwealth citizens (including citizens of the Republic of Ireland) and aliens.

(4) For the purposes of subsection (3) of this section the term “enactment” means any provision of any Act, regulation, rules, bylaws, Order in Council, or Proclamation; and
20 includes any provision of any notice, consent, approval, or direction which is given by any person pursuant to a power conferred by any Act, regulations, rules, bylaws, Order in Council, or Proclamation.

25 Cf. 1971, No. 150, s. 37

SCHEDULES

Section 78 (1)

FIRST SCHEDULE

ACTS AMENDED

Act Amended	Amendment
1962, No. 137—The Agricultural Workers Act 1962	By repealing paragraph (c) of section 9 (3), and substituting the following paragraph: “(c) Is a married person accompanied by his or her spouse or family.”
1968, No. 35—The Estate and Gift Duties Act 1968	By repealing section 25. By inserting in section 26 (3), after the word “widow”, the words “or widower”. By omitting from section 74 the words “his death”, and substituting the words “his or her death”. By omitting from section 74 the words “other dependant, his”, and substituting the words “her widower or any dependant, the”. By inserting in section 75 (1) (c), after the words “to the widow”, the words “or the widower”. By omitting from section 75 (1) (c) (ii) the words “and the relatives of or within the second degree of relationship of the widow or of her deceased husband”, and substituting the words “or the widower and the relatives of or within the second degree of relationship of the widow or widower or of her or his deceased spouse”. By omitting from section 75 (1) (c) (iii) the words “is not, and her deceased husband”, and substituting the words “or widower is not, and her or his deceased spouse”.
1946, No. 43—The Factories Act 1946 (1957 Reprint, Vol. 4, p. 775)	By omitting from section 34 (1) the words “boy or of any woman”, and substituting the word “person”.
1969, No. 37—The General Wage Orders Act 1969	By omitting from section 64 (1) the words “female workers”, and substituting the word “persons”. By omitting from section 8 (1) the words “female workers and junior workers respectively”, and substituting the words “junior workers”.

FIRST SCHEDULE—*continued*

ACTS AMENDED—*continued*

Act Amended	Amendment
1976, No. 65—The Income Tax Act 1976	<p>By omitting from section 37 (3) the words “wife of any such person if she is absent from New Zealand with him”, and substituting the words “spouse of any such person if he or she is absent from New Zealand with that person”.</p> <p>By omitting from the definition of “house-keeper” in section 54 (1) the words “woman” and “married woman” wherever they appear, and substituting the words “person” and “married person” respectively.</p> <p>By omitting from section 55 (1) the word “wife” wherever it appears (other than in the first place where it appears), and substituting in each case the word “spouse”.</p> <p>By omitting from paragraph (a) of the proviso to section 55 (1) the word “him”, and substituting the words “the taxpayer he or”.</p> <p>By inserting in paragraph (b) of the proviso to section 55 (1), after the word “his”, the words “or her”.</p> <p>By omitting from paragraph (c) of the proviso to section 55 (1) the word “him” in both places where it occurs, and substituting in each case the words “the taxpayer”.</p> <p>By inserting in paragraph (c) of the proviso to section 55 (1), after the words “satisfied that”, the words “he or”.</p> <p>By omitting from the definition of “sick, accident, or death benefit fund” in section 60 (1) the words “the widows”, and substituting the words “surviving spouses”.</p> <p>By repealing paragraph (15) of section 61, and substituting the following paragraph: “(15) Income derived by a person in the form of payments in the nature of alimony or maintenance made to that person by the spouse or former spouse of that person out of money belonging to the spouse or former spouse:”.</p> <p>By inserting in section 151 (1), after the word “widow” in both places where it appears, the words “or widower”.</p> <p>By inserting in section 151 (1) (a) after the word “she”, the words “or he”.</p>

FIRST SCHEDULE—continued

ACTS AMENDED—continued

Act Amended	Amendment
1976, No. 65—The Income Tax Act 1976— <i>continued</i>	By repealing clause 8 in the Second Schedule, and substituting the following clause: “8. Payment to casual agricultural employees —From every payment of salary or wages for employment as a casual agricultural employee, the basic tax deduction rate shall be 1c for every 10c of the salary or wages.”
1976, No. 64—The Land Tax Act 1976	By omitting from the second proviso to section 26 (1) the words “wife of any such person if she is absent from New Zealand with him”, and substituting the words “spouse of any such person if he or she is absent from New Zealand with that person”.
1926, No. 64—The Maori Land Amendment and Maori Land Claims Adjustment Act 1926 (1957 Reprint, Vol. 9, p. 30)	By omitting from section 14 (9) (d) the words “or sex”.
1971, No. 150—The Race Relations Act 1971	By omitting from section 5 (1) (b) the words “and opportunities for training and promotion”, and substituting the words “fringe benefits, and opportunities for training, promotion, and transfer”. By adding to section 11 (1) the words “under this Act or any other Act”. By repealing the proviso to subsection (3) of section 15. By repealing subsections (2) to (4) of section 17, and substituting the following subsections: “(2) If the Conciliator is unable to secure such a settlement and assurance, or, as the case may be, such an assurance as aforesaid, or if it appears to him that the act or omission was done in contravention of such an assurance given on a previous occasion, or that any term of such a settlement has not been complied with, he may, as if the breach were a breach of <u>Part II</u> of the Human Rights Commission Act 1976, take proceedings under section 35 of the Human Rights Commission Act 1976 against the person

FIRST SCHEDULE—*continued*ACTS AMENDED—*continued*

Act Amended	Amendment
<p>1971, No. 150—The Race Relations Act 1971—<i>continued</i></p>	<p>considered to have committed the breach, and the provisions of that section (including <u>subsection (3)</u>) and of <u>section 36</u> shall apply accordingly with all necessary modifications.</p> <p>“(3) The Conciliator shall not take proceedings against a person referred to in <u>subsection (2)</u> of this section unless he has given that person an opportunity to be heard.”</p> <p>By repealing sections 21 and 22.</p> <p>By inserting, after section 28, the following section:</p> <p>“28A. Publication of reports—The Conciliator may from time to time, in the public interest or in the interests of any person or Department or organisation, publish reports relating generally to the exercise of his functions under this Act, whether or not the matters to be dealt with in any such report have been mentioned in any of his annual reports.”</p>
<p>1962, No. 139—The Sale of Liquor Act 1962 (Reprinted 1975, Vol. 4, p. 2639)</p>	<p>By inserting in section 199 (1), after the word “nationality,” the word “sex,”.</p>
<p>1955, No. 32—The Shops and Offices Act 1955 (1957 Reprint, Vol. 14, p. 431)</p>	<p>By omitting from paragraph (c) of the definition of “shop assistant” in section 2 (1) (as amended by section 7 of the Decimal Currency Act 1964) the words “and whose wages do not exceed twenty-four dollars a week in the case of males, or sixteen dollars a week in the case of females, or such other rate of wages as may from time to time be prescribed”.</p> <p>By omitting from clause 17 (1) of the First Schedule the word “female”.</p>

Section 79 (1)

SECOND SCHEDULE

REGULATIONS AMENDED

Title	Amendment
The Agricultural Workers (Orchards and Vineyards) Order 1975 (S.R. 1975/142)	By revoking subclause (6) of clause 18 in the Schedule, and substituting the following subclause: “(6) <i>Ladders</i> —Ladders must be maintained to provide maximum safety. No worker shall be required to handle or carry ladders so heavy as to be likely to cause injury.”
The Government Railways (Staff) Regulations 1953 (<i>Reprinted with Amendments Nos. 1 to 33 incorporated: S.R. 1973/108</i>)	By omitting from regulation 4, and also from regulation 51 (as amended by regulation 4 (2) of the Government Railways (Staff) Regulations 1953, Amendment No. 27), the word “male” wherever it occurs. By revoking regulation 5.