

RACE RELATIONS BILL

EXPLANATORY NOTE

THIS Bill is designed to affirm and promote racial equality in New Zealand and implements the International Convention on the Elimination of All Forms of Racial Discrimination.

Clause 1 relates to the Short Title and commencement of the Bill, which is to come into force on 1 January 1972.

Clause 2 provides that the Act shall bind the Crown.

Unlawful Discrimination

Clauses 3 to 6 define what constitutes unlawful discrimination, on the grounds of colour, race, or ethnic or national origins, in the fields of—

- (a) Access by the public to places, vehicles, and facilities;
- (b) Provision of goods and services;
- (c) Employment (including employment of independent contractors);
- (d) Land, housing, and other accommodation.

Clause 7 makes it unlawful to publish or display, or 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 *clauses 3 to 6*.

A breach of any of the provisions of *clauses 3 to 7* may—

- (a) Be the subject of an investigation by the Race Relations Conciliator;
- (b) Lead to a civil action at the suit of the Attorney-General under *clause 21* of the Bill;
- (c) Lead to the licensing or registration of any person, premises, or vehicle being cancelled or otherwise dealt with under *clause 23*;
- (d) Make a contract illegal in terms of the Illegal Contracts Act 1970.

Clause 8 ensures that, for the purposes of *clauses 3 to 7*, where a person commits a breach of any of the provisions of those clauses as the agent or employee of another person, that other person, as well as the agent or employee, is liable for the breach, unless it is committed without that other person's express or implied authority, precedent or subsequent.

Clause 9 is designed to enable measures to be undertaken, which would otherwise be regarded as constituting unlawful discrimination under the provisions of *clauses 4 to 7*, if—

- (a) Those measures are undertaken 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
- (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.

Conciliation

Clause 10 provides for the appointment of the Race Relations Conciliator.

Clause 11 enables a Deputy Race Relations Conciliator to be appointed.

Clause 12 prescribes the term of office of the Race Relations Conciliator and of the Deputy. In each case the appointment is to be for a term not exceeding 3 years, but any person may be reappointed.

Clause 13: Subclause (1) provides that the principal function of the Conciliator is to investigate any act or omission or any practice which is or appears to be a breach of any of the provisions of *clauses 3 to 7* and to take such further action as is contemplated by the Act.

Subclause (2) empowers the Conciliator to make any such investigation either on a complaint made to him by any person or of his own motion.

Clauses 14 to 20 prescribe the procedure to be followed by the Race Relations Conciliator in carrying out an investigation. The provisions are closely related to the corresponding provisions of the Parliamentary Commissioner (Ombudsman) Act 1962.

Civil Proceedings

Clause 21 enables civil proceedings to be taken in the Supreme Court at the suit of the Attorney-General, acting in each case on the recommendation of the Conciliator, for a breach of any of the provisions of *clauses 3 to 7*.

In any such proceedings the Court may, if satisfied on the balance of probabilities that any such breach has been committed, grant one or more of the following remedies:

- (a) A declaration that the defendant has committed a breach of the Act;
- (b) An injunction restraining the defendant from continuing or repeating the breach, or from engaging in, or causing or permitting others to engage in, conduct the same kind as that constituting the breach, or conduct of any similar kind specified in the injunction;
- (c) Damages in accordance with *clause 22*;
- (d) A declaration that any contract entered into or performed in contravention of any of the provisions of *clauses 3 to 7* is an illegal contract;
- (e) 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;
- (f) Such other relief as the Court thinks just.

Clause 22 provides that, in any proceedings taken under *clause 21*, the Court may award damages for a breach of any of the provisions of *clauses 3 to 7* in respect of any one or more of the following:

- (a) Pecuniary loss suffered and expenses reasonably incurred by the aggrieved person as a result of the breach:
- (b) Loss of any benefit 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:

Provided that the damages that may be awarded under *paragraph (c)* may not exceed \$500.

Any damages recovered are to be paid by the Attorney-General to the aggrieved person.

Licences and Registration

Clause 23: Subclauses (1) and (2) authorise the cancellation of the licensing or registration of any person, premises, or vehicle and the imposition of other penalties if a breach of any of the provisions of *clauses 3 to 7* occurs in the carrying on of an occupation or activity or in the use of the premises or vehicle. The person, premises, or vehicle must be licensed or registered under an enactment or bylaw and the procedural requirements of that enactment or bylaw must be observed.

Subclause (3) provides that where a person or authority exercises any of the powers conferred by *subclause (1)* it must state in its decision that it does so pursuant to that subclause.

Subclause (3) also provides that there shall be the same rights of appeal in respect of a decision made under *subclause (1)* as there would be if the decision were made on other grounds.

Criminal Proceedings

Clause 24 prescribes an offence relating to access by the public to places, vehicles, and facilities. The offence is defined in terms similar to *clause 3*. The penalty is a fine not exceeding \$400.

Clause 25 prescribes the more serious offence of inciting racial disharmony. The penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$500.

Clause 26 provides that no prosecution for an offence against *clause 24* or *clause 25* may be instituted without the consent of the Attorney-General.

Restraint of Marriage

Clause 27 renders void any condition which restrains or has the effect of restraining marriage and which identifies or defines, expressly or by implication, the person or class of person whom the person subject to the condition may or may not marry by reference to the colour, race, or ethnic or national origins of that person.

This clause does not effect deeds, wills, or other instruments executed before the commencement of the Act, but the will of any testator who dies after the 31st day of December 1973 is to be deemed (notwithstanding the actual date of the execution thereof) to have been executed after the commencement of this Act.

Miscellaneous Provisions

Clause 28 requires the Race Relations Conciliator to make an annual report to the Minister of Justice on the exercise of his functions under the Act. The report is to be laid before Parliament.

Clause 29 makes it an offence to obstruct or mislead the Conciliator or to fail to comply with any lawful requirement of the Conciliator. The penalty is a fine not exceeding \$200.

Clauses 30 to 34 contain miscellaneous provisions relating to the Conciliator and his staff and to the payment of their salaries and expenses. These are to be paid out of money appropriated by Parliament for the purpose.

Savings

Clause 35 provides that, except as expressly provided in this Act, nothing in the Bill is to limit or affect in any way the provisions of any other enactment.

Clause 36 provides that nothing in the Act is to affect certain charitable instruments and acts done pursuant to the provisions of such instruments. A similar provision appears in the Race Relations Act 1968 (U.K.).

Clause 37 is a savings provision.

Hon. Mr Riddiford

RACE RELATIONS

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A BILL INTITULED

An Act to affirm and promote racial equality in New Zealand and to implement the International Convention on the Elimination of All Forms of Racial Discrimination

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 Race Relations Act 1971. 5

(2) This Act shall come into force on the 1st day of January 1972.

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

Unlawful Discrimination

3. Access by the public to places, vehicles, and facilities— 10

(1) It shall be unlawful for any person—

(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 15

(c) To require any other person to leave or to cease to use that place or vehicle or those facilities—
by reason only of the colour, race, or ethnic or national origins 20
of that person or of any relative of that person.

(2) For the purposes of this Act, the term “relative”, in relation to any person, means any person who—

(a) Is related to him by blood, marriage, affinity, or adoption; or 25

(b) Is wholly or mainly dependent on him; or

(c) Is a member of his household.

4. 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— 30

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

(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 35
make them available—

by reason only of the colour, race, or ethnic or national origins of that person or of any relative of that person as defined in section 3 of this Act.

(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 facilities by way of banking or insurance or
5 for grants, loans, credit, or finance.

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

10 (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

(b) To refuse or omit to offer or afford any person the same terms of employment, conditions of work, and opportunities for training and promotion as are
15 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
20 other persons employed by that employer on work of that description are not or would not be dismissed—

by reason only of the colour, race, or ethnic or national origins of that person or of any relative of that person as defined in section 3 of this Act.

25 (2) Nothing in this section shall apply in respect of the employment of any person for any purpose for which persons of a particular colour, race, or ethnic or national origin have or may commonly be supposed to have a particular qualification or aptitude.

30 (3) Nothing in this section shall apply in respect of any restrictions on the employment of persons on work involving the national security of New Zealand by reference to their national origin or to the national origin of any relative (as defined in section 3 of this Act).

35 (4) 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.

40 (5) For the purposes of this section “employment” includes the employment of an independent contractor; and “employer” has a corresponding meaning.

6. 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 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—

by reason only of the colour, race, or ethnic or national origins of that person or of any relative of that person as defined in section 3 of this Act. 20

(2) For the purposes of this section—

“Dispose” includes sell, assign, lease, let, sublease, sublet, license, or mortgage, and agree to dispose: 25

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

7. Advertisements—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 sections 3 to 6 of this Act. 30

8. Liability of principals and employers—Anything which is done or omitted in contravention of any of the provisions of sections 3 to 7 of this Act by a person as the agent or employee of another person shall be treated for the purposes of sections 3 to 7 of this Act as done or omitted by that other person as well as by him, unless it is done or omitted without that other person’s express or implied authority, precedent or subsequent. 35 40

9. Special measures to ensure equality—Anything done or omitted which would otherwise constitute a breach of any of the provisions of sections 4 to 7 of this Act shall not constitute such a breach if—

- 5 (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
- 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.

Conciliation

10. Race Relations Conciliator—(1) There shall be ap-
15 pointed a Conciliator to be called the Race Relations Conciliator.

(2) The Conciliator shall be appointed by the Governor-General on the recommendation of the Minister of Justice.

11. Deputy Conciliator—(1) There may from time to time
20 be appointed by the Governor-General, on the recommendation of the Minister of Justice, a Deputy Race Relations Conciliator who, subject to the control of the Conciliator, shall have and may exercise all the powers, duties, and functions of the Conciliator.

25 (2) On the occurrence from any cause of a vacancy in the office of Conciliator (whether by reason of death, resignation, or otherwise) and in case of the absence from duty of the Conciliator (from whatever cause arising), and so long as any such vacancy or absence continues, the Deputy Race
30 Relations Conciliator shall have and may exercise all the powers, duties, and functions of the Conciliator.

(3) The fact that the Deputy Race Relations Conciliator exercises any power, duty, or function of the Conciliator shall be conclusive evidence of his authority to do so.

35 **12. Term of office**—(1) Except as otherwise provided in this Act, every person appointed as Conciliator or Deputy Conciliator shall be appointed for a term not exceeding 3 years, and every such person may from time to time be reappointed.

40 (2) Every person appointed as Conciliator or Deputy Conciliator, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold office until his successor comes into office.

(3) The Conciliator or the Deputy Conciliator may be at any time removed from office by the Governor-General for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister of Justice. 5

13. Functions of Conciliator—(1) The principal function of the Conciliator shall be to investigate any act or omission or any practice which is or appears to be a breach of any of the provisions of sections 3 to 7 of this Act and to take such further action as is contemplated by this Act. 10

(2) The Conciliator may make any such investigation either on a complaint made to him by any person or of his own motion.

14. Conciliator may refuse to investigate complaint— 15

(1) The Conciliator may in his 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 complainant has had knowledge for more than 12 months before the complaint is received by the Conciliator, or if in his opinion— 20

- (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 personal interest in the subject-matter of the complaint; or 25
- (d) 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 the Ombudsman, for the complainant (whether or not he has availed himself of it). 30

(2) In any case where the Conciliator decides not to investigate or further investigate a complaint he shall inform the complainant of that decision, and may if he thinks fit state his reasons therefor. 35

Cf. 1962, No. 10, s. 14

15. Proceedings of Conciliator—(1) Before investigating any matter under this Act, the Conciliator shall inform any person affected of the nature of the complaint and of his intention to make the investigation. 40

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

(3) The Conciliator may hear or obtain information from such persons as he thinks fit. It shall not be necessary for the Conciliator to hold any hearing, and no person shall be entitled as of right to be heard by the Conciliator: 45

Provided that the Conciliator shall not make any recommendation to the Attorney-General under section 17 of this Act unless he has given any person in respect of whom the recommendation is made the opportunity to be heard.

5 (4) Subject to the provisions of this Act, the Conciliator may regulate his procedure in such manner as he thinks fit.

Cf. 1962, No. 10, s. 15

10 **16. Evidence—**(1) The Conciliator may from time to time require any person who in his opinion is able to give any information relating to the matter which is being investigated by the Conciliator to furnish to him any such information, and to produce any documents or papers or things which in the Conciliator's opinion relate to any such matter as aforesaid and which may be in the possession
15 or under the control of that person.

(2) The Conciliator may summon before him and examine on oath any person who in the Conciliator's opinion is able to give any such information as aforesaid and for that purpose may administer an oath. Every such investigation
20 by the Conciliator shall be deemed to be a judicial proceeding 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
25 by the Conciliator but shall have the same privilege in 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 Conciliator
30 in relation to any matter, or to produce to the Conciliator 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—

35 (a) By the provisions of any Act, other than the Official Secrets Act 1951 or the State Services Act 1962;
or

(b) By the provisions of the Official Secrets Act 1951
40 or of the State Services Act 1962, if the Attorney-General certifies that the matter involves the national security of New Zealand.

(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
45 other person in the course of the inquiry by or any pro-

ceedings before the Conciliator shall be admissible in 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 Conciliator shall be given against any person.

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(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 Conciliator under this section.

(7) Where any person is required by the Conciliator to attend before him 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 Conciliator 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.

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Cf. 1962, No. 10, s. 16

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17. Procedure after investigation—(1) Where, after making any investigation under this Act, the Conciliator is of opinion that a breach of any of the provisions of sections 3 to 7 of this Act has occurred, he shall—

(a) Where the breach was committed against a particular person, use his best endeavours to secure a settlement between the parties concerned and, if he 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 his best endeavours to secure such an assurance as aforesaid.

(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 make a report on the matter to the Attorney-General and, except where the breach is considered to have been committed by the Crown or its servants or agents, recommend that civil proceedings should be brought under section 21 of this Act against the person considered to have committed the breach.

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(3) The Conciliator shall not, in any report or recommendation made under this section, make any comment that is adverse to any person unless the Conciliator has given that person an opportunity to be heard.

18. **Parties to be informed of result of investigation**—Where any investigation is made following a complaint, the Conciliator shall inform the parties concerned, in such manner and at such time as he thinks proper, of the result of the
5 investigation.

Cf. 1962, No. 10, s. 20 (2)

19. **Proceedings not to be questioned or subject to review**—No proceeding of the Conciliator or the Deputy Conciliator shall be held bad for want of form, and, except on the ground
10 of lack of jurisdiction, no proceeding or decision of the Conciliator or the Deputy Conciliator shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

Cf. 1962, No. 10, s. 21

20. **Proceedings privileged**—(1) Except in the case of pro-
15 ceedings for an offence against the Official Secrets Act 1951,—

(a) No proceedings, civil or criminal, shall lie against the Conciliator, the Deputy Conciliator, or any person holding any office or appointment under the Conciliator, for anything he may do or report or say in
20 the course of the exercise or intended exercise of his duties under this Act, unless it is shown that he acted in bad faith:

(b) The Conciliator, the Deputy Conciliator, and any such person as aforesaid, shall, subject to subsection (5)
25 of section 16 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.

(2) Anything said or any information supplied or any document, paper, or thing produced by any person in the
30 course of any inquiry by or proceedings before the Conciliator or the Deputy Conciliator under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.

(3) For the purpose of clause 5 of the First Schedule to the Defamation Act 1954, any report made by the Conciliator or the Deputy Conciliator under this Act shall be deemed to be an official report made by a person holding an inquiry
35 under the authority of the legislature of New Zealand.

40 Cf. 1962, No. 10, s. 22

Civil Proceedings

21. **Civil proceedings**—(1) Where the Conciliator has recommended that proceedings should be brought against any person under this section, civil proceedings in the Supreme Court shall lie against that person at the suit of the Attorney-General for a breach of any of the provisions of sections 3 to 7 of this Act, and in those proceedings the Attorney-General may seek such of the remedies described in subsection (3) of this section as he thinks fit. 5

(2) No person who is alleged to be aggrieved by the breach (hereinafter referred to as the aggrieved person) shall be an original party to, or, unless the Court otherwise orders, join or be joined in any such proceedings. 10

(3) If in any such proceedings the Court is satisfied on the balance of probabilities that the defendant has committed a breach of any of the provisions of sections 3 to 7 of this Act, it may grant one or more of the following remedies: 15

(a) A declaration that the defendant has committed a breach of this Act:

(b) An injunction 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: 20

(c) Damages in accordance with section 22 of this Act: 25

(d) A declaration that any contract entered into or performed in contravention of any of the provisions of sections 3 to 7 of this Act is an illegal contract:

(e) 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: 30

(f) Such other relief as the Court thinks just.

(4) In any proceedings under subsection (1) of this section the Court 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 Attorney-General, or may decline to award costs against either party. 35

(5) 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 Court may take the conduct of the defendant into account in granting a remedy. 40

22. Damages—(1) In any proceedings under section 21 of this Act the Court may award damages against the defendant for a breach of any of the provisions of sections 3 to 7 of this Act in respect of any one or more of the following:

- 5 (a) Pecuniary loss suffered and expenses reasonably incurred by the aggrieved person as a result of the breach:
- (b) Loss of any benefit which the aggrieved person might reasonably have been expected to obtain but for
- 10 the breach:
- (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 \$500.

15 (2) Damages recovered under this section shall be paid by the Attorney-General 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 Attorney-General to the Public Trustee.

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

- (a) Section 12 of the Minors' Contracts Act 1969 shall apply in the case of an unmarried minor; and
- 25 (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.

Cf. Race Relations Act 1968 s. 22 (U.K.)

Licences and Registration

23. Licences and registration—(1) Where any person is

30 licensed or registered under any enactment to carry on any occupation or activity or where any premises or vehicle are registered or licensed for any purpose under any enactment, and where the person or other authority authorised to renew, revoke, cancel, or review any such licence or

35 registration is satisfied—

- (a) That in the carrying on of the occupation or activity;
- or
- (b) That in the use of the premises or vehicle,—
- there has been a breach of any of the provisions of sections

3 to 7 of this Act, the person or authority, in addition to any other powers which that person or authority has, but subject to subsection (2) of this section, may refuse to renew or may revoke or cancel any such licence or registration, as the case may require, or may impose any other penalty authorised by the enactment, whether by way of censure, fine, or otherwise. 5

(2) Any procedural requirements of the enactment, including any whereby a complaint is a prerequisite to the exercise by the person or authority of its powers under the enactment, shall be observed. 10

(3) In any case in which any of the powers conferred by subsection (1) of this section are exercised—

(a) The person or authority shall in giving its decision state that the decision is being made pursuant to subsection (1) of this section; and 15

(b) Any person who would have been entitled to appeal against that decision if it had been made on other grounds shall be entitled to appeal against the decision made pursuant to subsection (1) of this section. 20

(4) In this section the term “enactment” means any provision of any Act, regulations, or bylaws.

Criminal Proceedings

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

(1) Every person commits an offence who— 25

(a) Refuses 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) Refuses any other person the use of any facilities in that place or vehicle which are available to members of the public; or 30

(c) Requires any other person to leave or to cease to use that place or vehicle or those facilities—

by reason only of the colour, race, or ethnic or national origins of that person or of any relative of that person as defined in section 3 of this Act. 35

(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$400.

25. Inciting racial disharmony—(1) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$500 who—

- 5 (a) Publishes or distributes written matter which is threatening, abusive, or insulting, or broadcasts by means of radio or television words which are threatening, abusive, or insulting; or
- 10 (b) Uses in any public place (as defined in section 40 of the Police Offences Act 1927), or within the hearing of persons in any such public place, or at any meeting to which the public are invited or have access, words which are threatening, abusive, or insulting,
- 15 being matter or words likely to excite hostility or ill-will against, or bring into contempt or ridicule, any group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons.

(2) For the purposes of this section—

- 20 “Publishes” or “distributes” mean publishes or distributes to the public at large or to any member or members of the public:

“Written matter” includes any writing, sign, visible representation, or sound recording.

26. No prosecution without Attorney-General’s consent—

25 No prosecution for an offence against section 24 or section 25 of this Act shall be instituted without the consent of the Attorney-General.

Restraint of Marriage

30 **27. Condition in restraint of marriage—**(1) A condition, whether oral or contained in a deed, will, or other instrument, which restrains or has the effect of restraining marriage shall be void if the person or class of person whom the person subject to the condition may or may not marry is identified or defined, expressly or by implication, by reference to the

35 colour, race, or ethnic or national origins of the person or class of person.

(2) Nothing in this section shall affect the construction of any deed, will, or other instrument executed before the commencement of this Act.

40 (3) For the purposes of this section, the will of any testator who dies after the 31st day of December 1973 shall (notwithstanding the actual date of the execution thereof) be deemed to have been executed after the 1st day of January 1972.

Miscellaneous Provisions

28. Annual report—(1) The Conciliator 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 of Justice, furnish to that Minister a report on the exercise of his functions under this Act during that year. 5

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

29. Offences—Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$200 who— 10

- (a) Without lawful justification or excuse, wilfully obstructs, hinders, or resists the Conciliator or any other person in the exercise of his powers under this Act:
- (b) Without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Conciliator or any other person under this Act: 15
- (c) Wilfully makes any false statement to or misleads or attempts to mislead the Conciliator or any other person in the exercise of his powers under this Act. 20

Cf. 1962, No. 10, s. 26

30. Staff of Conciliator—(1) Subject to the provisions of this section, the Conciliator may appoint such officers and employees as may be necessary for the efficient carrying out of his functions under this Act. 25

(2) The number of persons that may be appointed under this section, whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by the Minister of Justice.

31. Remuneration and administrative expenses—There shall be paid to the Conciliator, to the Deputy Conciliator, and to the officers and employees of the Conciliator, such remuneration by way of fees, salary, wages, or allowances, and such travelling allowances and expenses, as may from time to time be fixed, either generally or in respect of any particular person or persons, by the Minister of Finance. 30 35

32. 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. 40

33. **Superannuation or retiring allowances of Conciliator, Deputy Conciliator, and staff**—There may from time to time be paid sums by way of contributions or subsidies to the National Provident Fund or any Fund or scheme approved by the Minister of Finance for the purpose of providing superannuation or retiring allowances for the Conciliator, the Deputy Conciliator, and any officer or employee appointed under this Act.

34. **State Services Act 1962 and Superannuation Act 1956 not to apply**—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 the Conciliator, the Deputy Conciliator, or an officer or employee of the Conciliator.

15 *Savings*

35. **Other Acts not affected**—Except as expressly provided in this Act, nothing in this Act shall limit or affect in any way the provisions of any other Act.

36. **Charitable instruments**—(1) Nothing in this Act shall apply to any provision contained in an existing or future charitable instrument which confers benefits, or enables benefits to be conferred, on persons of a particular colour, race, or ethnic or national origin, or to any act done in order to comply with any such provision.

25 (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 Charitable Trusts Act 1957:

“Charitable instrument” means—

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

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

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

Cf. Race Relations Act 1968, s. 9 (U.K.)

37. 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 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. 5

(2) Subject to the Illegal Contracts Act 1970, no proceedings, civil or criminal, shall lie against any person, except as provided by this Act, in respect of any act or omission which is unlawful by virtue only of any of the provisions of sections 3 to 7 of this Act. 10

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

(4) For the purposes of subsection (3) of this section the term “enactment” means any provision of any Act, regulations, rules, bylaws, Order in Council, or Proclamation; and 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. 20