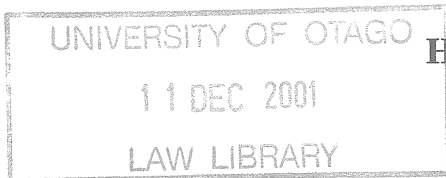


House of Representatives  
Supplementary Order Paper

Tuesday, 4 December 2001



Human Rights Amendment Bill

*Proposed amendments*

Hon Margaret Wilson, in Committee, to move the following amendments:

*Clause 2*

To add, as subclause (2) after line 6 on page 6, the following subclause:

- (2) Despite **subsection (1), sections 8(1)(ba), 13A, 14(1)(da), and 15A** of the principal Act (as inserted by **section 5** of this Act) and **section 141A(2)** of the principal Act (as inserted by **section 33A** of this Act) come into force on **1 July 2002**.

*Clause 3*

To insert in *proposed new section 2(1)* of the principal Act, after the definition of **employment contract** (after line 15 on page 7), the following definition:

**“Equal Employment Opportunities Commissioner** means the Commissioner appointed as the Equal Employment Opportunities Commissioner under **section 8(1)(ba)**

*Clause 5*

To insert in *proposed new section 5(2)(d)* of the principal Act, after the words “guidelines” (line 12 on page 10), the words “and voluntary codes of practice”.

To insert, after paragraph (b) of *proposed new section 8(1)* of the principal Act (after line 25 on page 12), the following paragraph:

**“(ba) a Commissioner appointed as the Equal Employment Opportunities Commissioner, whose office is also a full-time one:**

To insert, after *proposed new section 13* of the principal Act (after line 32 on page 16), the following section:

**“13A Further criteria for appointment of Equal Employment Opportunities Commissioner**

In recommending a person for appointment as the Equal Employment Opportunities Commissioner, the Minister must have regard not only to the criteria stated in **section 11** but also to the person’s—

- “(a) understanding of principles relating to equal employment opportunities:
- “(b) appreciation of issues, trends, and developments in the promotion of equal employment opportunities in other countries and internationally, and the relevance of those issues, trends, or developments in New Zealand:
- “(c) ability to perform the functions stated in **section 15A**.

To insert, after paragraph (d) in *proposed new section 14(1)* of the principal Act (after line 18 on page 17), the following paragraph:

- “(da) to act jointly with the Equal Employment Opportunities Commissioner on matters concerning equal employment opportunities arising in the course of activities undertaken in the performance of the Commission’s functions, and to carry out the functions conferred on the Chief Commissioner by **section 15A(g)**.

To insert in *proposed new section 14(2)* of the principal Act, after the expression “**Subsection (1)(d)**” (line 26 on page 17), the expression “**and (da)**”.

To insert, after *proposed new section 15* of the principal Act (after line 13 on page 18), the following section:

**“15A Functions of Equal Employment Opportunities Commissioner**

The Equal Employment Opportunities Commissioner has the following functions:

- “(a) to lead discussions of the Commission about equal employment opportunities (including pay equity):
- “(b) to provide advice and leadership on equal employment opportunities arising in the course of activities undertaken in the performance of the Commission’s functions, both when engaging in those activities and otherwise when consulted:
- “(c) to evaluate, through the use of benchmarks developed by the Commissioner, the role that legislation, guidelines, and voluntary codes of practice play in facilitating and promoting best practice in equal employment opportunities:
- “(d) to lead development of guidelines and voluntary codes of practice to facilitate and promote best practice in equal employment opportunities (including codes that identify related rights and obligations in legislation), in accordance with **section 5(2)(d)**:

- “(e) to monitor and analyse progress in improving equal employment opportunities in New Zealand, and to report to the Minister on the results of that monitoring and analysis:
- “(f) to liaise with, and complement the work of, any trust or body that has as 1 of its purposes the promotion of equal employment opportunities (including pay equity):
- “(g) to ensure, acting jointly with the Chief Commissioner, that activities undertaken in the performance of the Commission’s functions in matters of equal employment opportunities are consistent with the strategic direction and other determinations of the Commission under **section 7**:
- “(h) any other functions, powers, or duties conferred or imposed on him or her by or under this Act or any other enactment.

*Clause 9*

To insert in *proposed new section 79(4)(a)(ii)* of the principal Act, before the words “sections 65 and 67 to 74” (line 20 on page 29), the words “is unlawful under any of”.

To insert in *proposed new section 92(2)(d)* of the principal Act, after the word “whether” (line 27 on page 37), the word “the”.

To insert in *proposed new section 92B(1)(b)* of the principal Act, after the words “Attorney-General” (line 20 on page 39), the words “, or against a person or body referred to in section 3 of the New Zealand Bill of Rights Act 1990 alleged to be responsible for the breach”.

To insert in *proposed new section 92E(1)(b)* of the principal Act, after the words “Attorney-General” (line 20 on page 42), the words “, or against a person or body referred to in section 3 of the New Zealand Bill of Rights Act 1990 alleged to be responsible for the breach”.

*Clause 33A*

To add to *proposed new section 141A* of the principal Act, as subsection (2) (after line 5 on page 65), the following subsection:

- “(2) No action of the Chief Commissioner or the Equal Employment Opportunities Commissioner that is required by this Act to be undertaken jointly with the other may be questioned in any proceedings on the ground that it was not undertaken jointly.”

*Clause 87B*

To amend *proposed new section 31(4)(b)* of the Marriage Act 1955 by omitting the word “that” (line 27 on page 85), and substituting the word “of”.

*Clause 89*

To amend *proposed new section 32A(5)* of the Marriage Act 1955 by inserting, after the words “In this section” (line 1 on page 87), the words “and in **sections 32B to 32E**”.

*Schedule 1: new Schedule 1*

To omit from *clause 1(1)(b)* the words “**paragraphs (c) and (d) and in**” (lines 13 and 14 on page 94).

*Schedule 3*

To insert in Part 1, after the item relating to the **Accident Insurance Act 1998** (after line 7 on page 113), the following item:

**Broadcasting Act 1989** (1989 No 25)

Add to clause 7 of Schedule 1, as subclause 2, the following subclause:

“(2) For the purposes of subclause (1)(b), an employee makes a complaint when proceedings in relation to that complaint are commenced by the complainant or the Human Rights Commission.”

To insert in Part 1, after the item relating to the **Judicature Act 1908** (after line 3 on page 114), the following item:

**New Zealand Symphony Orchestra Act 1988** (1988 No 163)

Add to section 10, as subsection (2), the following subsection:

“(2) For the purposes of subsection (1)(b), an employee makes a complaint when proceedings in relation to that complaint are commenced by the complainant or the Commission.”

To omit from the item relating to the **Residential Tenancies Act 1986** the expression “subsection (1)” (line 17 on page 115), and substitute the expression “subsection (1)(b)”.

To add to Part 1, after the item relating to the **Residential Tenancies Act 1986** (after line 20 on page 115), the following item:

**State-Owned Enterprises Amendment Act (No 4) 1988**  
(1988 No 162)

Add to section 6, as subsection (2), the following subsection:

“(2) For the purposes of subsection (1)(b), an employee makes a complaint when proceedings in relation to that complaint are commenced by the complainant or the Commission.”

To insert, after the words “**Human Rights Regulations 1993** (SR 1993/394)” (after line 27 on page 115), the following item:

Omit from the definition of **Chief Commissioner** in regulation 2(1) the expression “**7(1)(a)**” and substitute the expression “**8(1)(a)**”.

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### Explanatory note

The main amendment made by this Supplementary Order Paper to the Human Rights Amendment Bill is the inclusion in the Bill of provisions for a new full-time Human Rights Commissioner, the Equal Employment Opportunities

Commissioner. The main functions of the Equal Employment Opportunities Commissioner will be—

- to lead discussions of the Human Rights Commission about equal employment opportunities;
- to provide advice and leadership on issues concerning equal employment opportunities.

The other changes made by the Supplementary Order Paper correct errors of expression and omissions, and make other changes of a technical nature.

The amendments to *clause 2* ensure that the provisions relating to the new Equal Employment Opportunities Commissioner come into force on **1 July 2002**, instead of on **1 January 2002**.

The amendment to *clause 3* inserts a definition of Equal Employment Opportunities Commissioner in section 2 of the principal Act.

The amendments to *clause 5* make provision for the appointment, qualifications, and functions of the new Equal Employment Opportunities Commissioner, and make a related amendment to the functions of the Chief Human Rights Commissioner.

The amendments to *clause 9* correct errors of expression and amend *new sections 92B and 92E* of the principal Act to provide that proceedings for a breach of *Part 1A* that is an enactment, or an act or omission authorised or required by an enactment or otherwise by law, may be brought against a person or body referred to in section 3 of the New Zealand Bill of Rights Act 1990 alleged to be responsible for the breach instead of the Attorney-General.

The amendment to *clause 33A* is consequential on the introduction of provisions for an Equal Employment Opportunities Commissioner.

The amendments to *clauses 87B and 89* make technical corrections.

The amendment to *Schedule 1* removes unnecessary words.

The amendments to *Schedule 3* include further consequential amendments in the Bill.