



# **Human Rights Legislation Amendment Act (No. 1) 1999**

**No. 133, 1999**

**An Act to amend the law relating to human rights,  
and for related purposes**

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## **An Act to amend the law relating to human rights, and for related purposes**

*[Assented to 13 October 1999]*

The Parliament of Australia enacts:

### **Part 1—Preliminary**

#### **1 Short title**

This Act may be cited as the *Human Rights Legislation  
Amendment Act (No. 1) 1999*.

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## **2 Commencement**

- (1) Sections 1, 2, 3 and 21 commence on the day on which this Act receives the Royal Assent.
- (2) The remaining sections of this Act, and the items of Schedule 1, commence on a day or days to be fixed by Proclamation.
- (3) If a provision referred to in subsection (2) does not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

## **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Part 2—Transitional and application provisions

### Division 1—Interpretation

#### 4 Interpretation

In this Part:

**appropriate Commissioner** means:

- (a) in relation to a complaint lodged under the old DDA—the Disability Discrimination Commissioner; and
- (b) in relation to a complaint lodged under the old RDA—the Race Discrimination Commissioner; and
- (c) in relation to a complaint lodged under the old SDA—the Sex Discrimination Commissioner.

**Court** means the Federal Court of Australia.

**holding of an inquiry** means a holding of an inquiry referred to in a notice given under:

- (a) section 83 of the old DDA; or
- (b) section 25E of the old RDA; or
- (c) section 63 of the old SDA.

**new HREOCA** means the *Human Rights and Equal Opportunity Commission Act 1986* as amended by Schedule 1 to this Act.

**old DDA** means the *Disability Discrimination Act 1992* before being amended by Schedule 1 to this Act.

**old RDA** means the *Racial Discrimination Act 1975* before being amended by Schedule 1 to this Act.

**old SDA** means the *Sex Discrimination Act 1984* before being amended by Schedule 1 to this Act.

**purported complaint** means a document purporting to be a complaint.

**starting day** means the day on which this Part commences.

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## **Division 2—Treatment of complaints lodged before starting day**

### **Subdivision A—Treatment of complaint depends on the stage it has reached**

#### **5 Purported complaint lodged but no decision as to whether it is a complaint**

- (1) A purported complaint is treated in the way set out in subsection (2) if, before the starting day:
  - (a) it was lodged with the Commission; and
  - (b) the Commission had not decided whether it was a complaint within the meaning of the old DDA, old RDA or old SDA.
- (2) On the starting day:
  - (a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and
  - (b) the Commission must then decide whether it is a complaint within the meaning of the new HREOCA.

#### **6 Administrative appeal on Commission’s decision as to whether complaint**

- (1) A purported complaint is treated in the way set out in subsection (2) if:
  - (a) before the starting day, the Commission decided that it was, or was not, a complaint within the meaning of the old DDA, old RDA or old SDA; and
  - (b) on or after the starting day, the Court makes an order under the *Administrative Decisions (Judicial Review) Act 1977* to refer the matter to which the decision relates to the Commission for further consideration.
- (2) On the day on which the order is made:
  - (a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and
  - (b) the Commission must then decide whether it is a complaint within the meaning of the new HREOCA.



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## **7 Complaint lodged but Commissioner not notified of it**

- (1) A purported complaint is treated in the way set out in subsection (2) if, before the starting day:
  - (a) it was lodged with the Commission; and
  - (b) the Commission decided that it was a complaint within the meaning of the old DDA, old RDA or old SDA; and
  - (c) the Commission had not notified the appropriate Commissioner of it.
- (2) On the starting day:
  - (a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and
  - (b) the Commission is taken to have decided that it is a complaint within the meaning of the new HREOCA.

## **8 Commissioner notified of complaint but had not decided to dismiss or refer it**

- (1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
  - (a) the Commission had notified the appropriate Commissioner of the complaint; and
  - (b) the appropriate Commissioner had not made a decision not to inquire, or not to continue to inquire, into the complaint; and
  - (c) the appropriate Commissioner had not referred the complaint to the Commission.
- (2) On the starting day, the complaint is taken to have been referred to the President under section 46PD of the new HREOCA.

## **9 Commissioner decided to dismiss complaint**

- (1) A complaint is treated in the way set out in subsection (2) if:
  - (a) before the starting day, the appropriate Commissioner decided not to inquire, or not to continue to inquire, into the complaint; and
  - (b) on the starting day, the complainant could have required the appropriate Commissioner to:

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- (i) refer the complaint to the President under section 71 of the old DDA if that section had not been repealed by this Act; or
  - (ii) refer the Commissioner's decision to the President, or refer the complaint to the Commission, under section 24 of the old RDA if that section had not been repealed by this Act; or
  - (iii) refer the Commissioner's decision to the President, or refer the complaint to the Commission, under section 52 of the old SDA if that section had not been repealed by this Act.
- (2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

## **10 Presidential review of Commissioner's decision to dismiss complaint**

- (1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
- (a) the appropriate Commissioner decided not to inquire, or not to continue to inquire, into the complaint; and
  - (b) the complainant required the appropriate Commissioner to refer the complaint, or the Commissioner's decision, to the President; and
  - (c) the President had not made a decision under whichever of the following sections is applicable:
    - (i) section 101 of the old DDA;
    - (ii) section 24AA of the old RDA;
    - (iii) section 52A of the old SDA.
- (2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

## **11 Administrative review of President's decision**

- (1) A complaint is treated in the way set out in subsection (2) if:
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- (a) before the starting day, the President made a decision in relation to the complaint under:
- (i) section 101 of the old DDA; or
  - (ii) section 24AA of the old RDA; or
  - (iii) section 52A of the old SDA; and
- (b) on or after the starting day, the Court makes an order under the *Administrative Decisions (Judicial Review) Act 1977* to refer the matter to which the decision relates to the Commission for further consideration.
- (2) On the day the order is made, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

## **12 Complaint referred to Commission but inquiry not started**

- (1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
- (a) the appropriate Commissioner referred the complaint to the Commission; and
  - (b) a holding of an inquiry into the complaint had not started under the old DDA, old RDA or old SDA; and
  - (c) the complaint had not been withdrawn under whichever of the following sections is applicable:
    - (i) section 79 of the old DDA;
    - (ii) section 25A of the old RDA;
    - (iii) section 59 of the old SDA.
- (2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

## **13 Inquiry started**

- (1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
- (a) a holding of an inquiry into the complaint had started under the old DDA, old RDA or old SDA; and

- 
- (b) the complaint had not been withdrawn under whichever of the following sections is applicable:
    - (i) section 79 of the old DDA;
    - (ii) section 25A of the old RDA;
    - (iii) section 59 of the old SDA.
  - (2) The amendments made by Schedule 1 to this Act do not apply in relation to the complaint.

### **Subdivision B—Other rules about complaints lodged before starting day**

#### **14 Notice of termination**

- (1) If the President is taken to have terminated a complaint under section 9, 10, 11 or 12, then the President must notify the complainants in writing of the termination and the reasons for the termination.
- (2) Subsection (1) does not apply if all the complainants requested the appropriate Commissioner not to inquire into the complaint.
- (3) The President must give a person a copy of the notice that was given to the complainants under subsection (1) if:
  - (a) the person was a person on whose behalf the complaint was lodged; and
  - (b) the person requested the President for a copy of the notice.
- (4) The President is not required to notify any person under section 46PH of the new HREOCA.

#### **15 Work done by Commissioner is taken to have been done by President**

Any thing done, or information obtained, by the appropriate Commissioner in relation to a complaint that is referred to the President under section 8 is taken to have been done or obtained by the President.

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## **16 Special rules apply to proceedings to enforce a determination**

Sections 46PQ, 46PR and 46PT of the new HREOCA apply for the purposes of proceedings in the Court:

- (a) for an order to enforce a determination in relation to a complaint; or
  - (b) for an order directing a Commonwealth agency (or the principal executive of a Commonwealth agency) to comply;
- if the proceedings started on or after the starting day under:
- (c) section 105A or 106F of the old DDA; or
  - (d) section 25ZC or 25ZI of the old RDA; or
  - (e) section 83A or 84F of the old SDA.

## **Division 3—Other transitional and application provisions**

### **17 Protection from civil actions**

The amendments made by items 30, 31, 83, 84, 119 and 120 of Schedule 1 do not apply to a complaint lodged before the starting day under the old DDA, old RDA or old SDA.

### **18 Referrals under the old SDA**

The amendments made by items 1, 2, 85, 86, 97, 100, 122, 123, 124 and 125 of Schedule 1 do not apply to a complaint lodged before the starting day under section 50A, 50C or 50E of the old SDA.

### **19 Inquiries started by Human Rights Commissioner**

The amendment made by item 52 of Schedule 1 does not apply in relation to an inquiry that the Human Rights Commissioner started before the starting day.

### **20 When a person cannot lodge a complaint under the new HREOCA**

A person cannot lodge a complaint under section 46P of the new HREOCA if:

- (a) the person is a class member for a representative complaint in respect of the same subject matter; and

- 
- (b) a holding of an inquiry into the representative complaint had started under the old DDA, old RDA or old SDA.

## **21 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made in relation to matters of a transitional or saving nature arising out of the enactment of this Act.

## **22 Transitional—powers of a Secretary**

A thing done by the Commission before the commencement of this section in exercising powers referred to in subsection 43(2) of the *Human Rights and Equal Opportunity Commission Act 1986* has effect, for the purpose of the exercise by the President after the commencement of this section of powers referred to in that subsection, as if the thing had been done by the President.

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## **Schedule 1—Amendments**

### ***Defence Act 1903***

#### **1 Subsection 58HA(1)**

Omit “section 50E of the *Sex Discrimination Act 1984*”, substitute “section 46PY of the *Human Rights and Equal Opportunity Commission Act 1986*”.

#### **2 Section 58HB**

Omit “section 50E of the *Sex Discrimination Act 1984*” (wherever occurring), substitute “section 46PY of the *Human Rights and Equal Opportunity Commission Act 1986*”.

### ***Disability Discrimination Act 1992***

#### **3 Subsection 4(1) (definition of *class member*)**

Repeal the definition.

#### **4 Subsection 4(1) (definition of *complaint*)**

Repeal the definition.

#### **5 Subsection 4(1) (definition of *compulsory conference*)**

Repeal the definition.

#### **6 Subsection 4(1) (definition of *interim determination*)**

Repeal the definition.

#### **7 Subsection 4(1) (definition of *representative complaint*)**

Repeal the definition.

#### **8 Subsection 4(1) (definition of *respondent*)**

Repeal the definition.

#### **9 Paragraph 13(4)(b)**

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Omit “this Act”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part 2 of this Act”.

**10 Subsection 13(4)**

Omit all the words after “institute a proceeding under”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part 2 of this Act”.

**11 At the end of subsection 31(1)**

Add:

; and (f) the access to or the use of any premises, by persons with a disability, that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not).

**12 At the end of paragraph 42(2)(a)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**13 Paragraph 42(2)(b)**

After “this Act”, insert “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**14 At the end of paragraph 42(2)(c)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**15 Paragraph 42(2)(d)**

Omit all the words after “under”, substitute “this Act or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**16 Paragraph 42(2)(e)**

Omit all the words after “witness”, substitute “in a proceeding under this Act or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**17 At the end of paragraph 42(2)(f)**



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Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**18 Paragraph 47(1)(a)**

Repeal the paragraph.

**19 Part 4 (heading)**

Repeal the heading, substitute:

**Part 4—Functions of Human Rights and Equal Opportunity Commission**

**20 Section 66**

Repeal the section.

**21 Paragraphs 67(1)(a) and (b)**

Repeal the paragraphs.

**22 At the end of subsection 67(1)**

Add:

Note: For the provisions about inquiries into complaints of discrimination and conciliation of those complaints: see Part IIB of the *Human Rights and Equal Opportunity Commission Act 1986*.

**23 Subsection 67(3)**

Repeal the subsection.

**24 Sections 68, 69 and 70**

Repeal the sections.

**25 Divisions 2, 3, 3A and 4 of Part 4**

Repeal the Divisions.

**26 Section 107**

Omit “Commissioner” (wherever occurring), substitute “President”.

**27 Sections 108, 109, 110 and 111**

Repeal the sections.

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**28 Section 112**

Omit “to the Commissioner or to”, substitute “President, Commissioner or”.

**29 Subsection 123(6)**

Repeal the subsection.

**30 Subsection 126(2)**

Omit all the words from and including “If” to the end of paragraph (b), substitute “If a submission has been made, a document or information has been given, or evidence has been given, to the Commission or the Commissioner,”.

**31 Subsection 126(2)**

Omit “the complaint or”.

**32 Section 130**

Repeal the section.

***Federal Court of Australia Act 1976***

**33 Before subsection 18AB(3)**

Insert:

(2B) The Rules of Court may also delegate to Judicial Registrars, either generally or as otherwise provided by the Rules, any of the Court’s human rights legislation powers. For this purpose, ***human rights legislation powers*** means powers of the Court in relation to proceedings in the Court arising under Part IIB of the *Human Rights and Equal Opportunity Commission Act 1986*, but does not include the power to grant an interim injunction under that Part.

**34 Subsection 18AB(3)**

Before “, Rules”, insert “or (2B)”.

**35 Subsection 18AB(6)**

Before “, as if a reference”, insert “or (2B)”.

**36 Subsection 18AB(7)**

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Before “, the Judicial Registrars”, insert “or (2B)”.

***Human Rights and Equal Opportunity Commission Act 1986***

**37 Subsection 3(1)**

Insert:

*affected person*, in relation to a complaint, means a person on whose behalf the complaint was lodged.

**38 Subsection 3(1)**

Insert:

*alleged unlawful discrimination* means:

- (a) in relation to a complaint—the acts, omissions or practices that are alleged in the complaint and that would, if proven, constitute unlawful discrimination; and
- (b) in relation to an application to the Federal Court under Division 2 of Part IIB—the acts, omissions or practices that are alleged in the application and that would, if proven, constitute unlawful discrimination.

**39 Subsection 3(1)**

Insert:

*class member*, in relation to a representative complaint, means any of the persons on whose behalf the complaint was lodged, but does not include a person who has withdrawn under section 46PC.

**40 Subsection 3(1)**

Insert:

*complainant*, in relation to a complaint, means a person who lodged the complaint, whether on the person’s own behalf or on behalf of another person or persons.

**41 Subsection 3(1)**

Insert:

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*complaint*, except in Part IIC, means a complaint lodged under Division 1 of Part IIB.

**42 Subsection 3(1)**

Insert:

*compulsory conference* means a conference under section 46PJ.

**43 Subsection 3(1) (definition of *discrimination*)**

Omit “means”, substitute “, except in Part IIB, means”.

**44 Subsection 3(1)**

Insert:

*Federal Court* means the Federal Court of Australia.

**45 Subsection 3(1)**

Insert:

*representative complaint* means a complaint lodged on behalf of at least one person who is not a complainant.

**46 Subsection 3(1)**

Insert:

*respondent*, in relation to a complaint, means the person or persons against whom the complaint is made.

**47 Subsection 3(1)**

Insert:

*terminate*, in relation to a complaint, means decline to inquire into the complaint, or discontinue an inquiry into the complaint.

**48 Subsection 3(1)**

Insert:

*trade union* means:

- (a) an organization of employees that is a registered organization within the meaning of the *Workplace Relations Act 1996*; or

- 
- (b) a trade union within the meaning of any State Act or law of a Territory; or
  - (c) any other similar body.

**49 Subsection 3(1)**

Insert:

*unlawful discrimination* means any acts, omissions or practices that are unlawful under:

- (a) Part 2 of the *Disability Discrimination Act 1992*; or
  - (b) Part II or IIA of the *Racial Discrimination Act 1975*; or
  - (c) Part II of the *Sex Discrimination Act 1984*;
- and includes any conduct that is an offence under:
- (d) Division 4 of Part 2 of the *Disability Discrimination Act 1992*; or
  - (e) subsection 27(2) of the *Racial Discrimination Act 1975*; or
  - (f) section 94 of the *Sex Discrimination Act 1984*.

**50 Section 4**

Repeal the section, substitute:

**4 Operation of State and Territory laws**

- (1) This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.
- (2) If:
  - (a) a law of a State or Territory deals with a matter dealt with by this Act; and
  - (b) an act or omission by a person that constitutes an offence against that law also constitutes an offence against this Act;
 the person may be prosecuted and convicted either under that law of the State or Territory or under this Act, but nothing in this subsection renders a person liable to be punished more than once in respect of the same act or omission.

**51 Subsection 8(6)**

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Omit “paragraphs 11(1)(f)”, substitute “paragraphs 11(1)(aa), 11(1)(ab), 11(1)(f)”.

**52 Subsection 8(6)**

Omit “Human Rights Commissioner” (wherever occurring), substitute “President”.

**53 Subsections 8A(3) and (4)**

Repeal the subsections, substitute:

- (3) The President is responsible for managing the administrative affairs of the Commission.

**54 After paragraph 11(1)(a)**

Insert:

- (aa) to inquire into, and attempt to conciliate, complaints of unlawful discrimination;
- (ab) to deal with complaints lodged under Part IIC;

**55 Subsection 16(2A)**

Omit all the words after “been done”, substitute “by, or in relation to, the President”.

**56 After subsection 19(2)**

Insert:

- (2A) Subsection (2) does not allow the President to delegate to another member of the Commission any of the President’s powers under Part IIB or IIC.
- (2B) Subsection (2) does not allow the President to delegate any of the President’s powers relating to:
  - (a) functions of the Commission under paragraphs 11(1)(f) and 11(1)(p) that are to be performed by the President because of subsection 8(6); or
  - (b) functions of the Commission under paragraphs 31(b) and 31(k) that are to be performed by the President because of subsection 8(6);to a member of the Commission other than the Human Rights Commissioner.

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(2C) The requirement in subsection (2) for approval by the Commission does not apply to a delegation by the President.

**57 Subsections 19(3) and (4)**

Repeal the subsections.

**58 Paragraph 31(b)**

After “any act or practice”, insert “, including any systemic practice,”.

**59 Subsections 37(2) and (3)**

Repeal the subsections.

**60 Subsection 43(2)**

Omit “Commission”, substitute “President”.

**61 After Part IIA**

Insert:

**Part IIB—Redress for unlawful discrimination**

**Division 1—Conciliation by the President**

**46P Lodging a complaint**

- (1) A written complaint may be lodged with the Commission, alleging unlawful discrimination.
- (2) The complaint may be lodged:
  - (a) by a person aggrieved by the alleged unlawful discrimination:
    - (i) on that person’s own behalf; or
    - (ii) on behalf of that person and one or more other persons who are also aggrieved by the alleged unlawful discrimination; or
  - (b) by 2 or more persons aggrieved by the alleged unlawful discrimination:
    - (i) on their own behalf; or

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- (ii) on behalf of themselves and one or more other persons who are also aggrieved by the alleged unlawful discrimination; or
  - (c) by a person or trade union on behalf of one or more other persons aggrieved by the alleged unlawful discrimination.
- (3) A person who is a class member for a representative complaint is not entitled to lodge a separate complaint in respect of the same subject matter.
- (4) If it appears to the Commission that:
- (a) a person wishes to make a complaint under subsection (1); and
  - (b) the person requires assistance to formulate the complaint or to reduce it to writing;
- the Commission must take reasonable steps to provide appropriate assistance to the person.

**46PA Amendment of complaint**

- (1) Any complainant may at any time amend the complaint, with the leave of the President.
- (2) Subsection (1) does not, by implication, limit any other power to amend the complaint.

**46PB Conditions for lodging a representative complaint**

- (1) A representative complaint may be lodged under section 46P only if:
  - (a) the class members have complaints against the same person; and
  - (b) all the complaints are in respect of, or arise out of, the same, similar or related circumstances; and
  - (c) all the complaints give rise to a substantial common issue of law or fact.
- (2) A representative complaint under section 46P must:
  - (a) describe or otherwise identify the class members; and
  - (b) specify the nature of the complaints made on behalf of the class members; and



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(c) specify the nature of the relief sought.

- (3) In describing or otherwise identifying the class members, it is not necessary to name them or specify how many there are.
- (4) A representative complaint may be lodged without the consent of class members.

**46PC Additional rules applying to representative complaints**

- (1) A class member may, by notice in writing to the Commission, withdraw from a representative complaint at any time before the President terminates the complaint under section 46PH.
- (2) The President may, on application in writing by any affected person, replace any complainant with another person as complainant.
- (3) The President may at any stage direct that notice of any matter be given to a class member or class members.

**46PD Referral of complaint to President**

If a complaint is made to the Commission under section 46P, the Commission must refer the complaint to the President.

**46PE Complaints against the President, Commission or a Commissioner**

- (1) This section applies to a complaint if any of the respondents to the complaint is:
    - (a) the President; or
    - (b) the Commission; or
    - (c) a Commissioner.
  - (2) If any complainant makes a written request to the President for termination of the complaint, the President must terminate the complaint, if the President is satisfied that all the affected persons agree to the termination.
  - (3) If the President terminates the complaint under subsection (2), the President must comply with the notification requirements of subsections 46PH(2) and (3).
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- (4) The President cannot delegate any of his or her powers in relation to the complaint except under paragraph 19(2)(b).

#### **46PF Inquiry by President**

- (1) If a complaint is referred to the President under section 46PD, the President must inquire into the complaint and attempt to conciliate the complaint.
- (2) If the President thinks that 2 or more complaints arise out of the same or substantially the same circumstances or subject, the President may hold a single inquiry, or conduct a single conciliation, in relation to those complaints.
- (3) With the leave of the President, any complainant or respondent may amend the complaint to add, as a respondent, a person who is alleged to have done the alleged unlawful discrimination.

Note: In some cases, a person is regarded as having done unlawful discrimination by being treated as responsible for the acts and omissions of another person. See sections 122 and 123 of the *Disability Discrimination Act 1992*, sections 18A and 18E of the *Racial Discrimination Act 1975* and sections 105, 106 and 107 of the *Sex Discrimination Act 1984*.

- (4) A complaint cannot be amended after it is terminated by the President under section 46PH.

#### **46PG Withdrawal of complaint**

- (1) Any complainant to a complaint may withdraw the complaint, with the leave of the President.
- (2) The President must grant leave if the President is satisfied that all the affected persons agree to withdrawal of the complaint. The President cannot grant leave unless the President is satisfied that they all agree.

#### **46PH Termination of complaint**

- (1) The President may terminate a complaint on any of the following grounds:
- (a) the President is satisfied that the alleged unlawful discrimination is not unlawful discrimination;

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- (b) the complaint was lodged more than 12 months after the alleged unlawful discrimination took place;
  - (c) the President is satisfied that the complaint was trivial, vexatious, misconceived or lacking in substance;
  - (d) in a case where some other remedy has been sought in relation to the subject matter of the complaint—the President is satisfied that the subject matter of the complaint has been adequately dealt with;
  - (e) the President is satisfied that some other more appropriate remedy in relation to the subject matter of the complaint is reasonably available to each affected person;
  - (f) in a case where the subject matter of the complaint has already been dealt with by the Commission or by another statutory authority—the President is satisfied that the subject matter of the complaint has been adequately dealt with;
  - (g) the President is satisfied that the subject matter of the complaint could be more effectively or conveniently dealt with by another statutory authority;
  - (h) the President is satisfied that the subject matter of the complaint involves an issue of public importance that should be considered by the Federal Court;
  - (i) the President is satisfied that there is no reasonable prospect of the matter being settled by conciliation.
- (2) If the President decides to terminate a complaint, the President must notify the complainants in writing of that decision and of the reasons for that decision.
  - (3) On request by an affected person who is not a complainant, the President must give the affected person a copy of the notice that was given to the complainants under subsection (2).
  - (4) The President may revoke the termination of a complaint, but not after an application is made to the Federal Court under section 46PO in relation to the complaint.

#### **46PI President's power to obtain information**

- (1) This section applies if the President has reason to believe that a person is capable of providing information (*relevant information*)
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or producing documents (*relevant documents*) relevant to an inquiry under this Division.

- (2) The President may serve a written notice on the person, requiring the person to do either or both of the following within a reasonable period specified in the notice, or on a reasonable date and at a reasonable time specified in the notice:
  - (a) give the President a signed document containing relevant information required by the notice;
  - (b) produce to the President such relevant documents as are specified in the notice.
- (3) If the notice is served on a body corporate, the document referred to in paragraph (2)(a) must be signed by an officer of the body corporate.
- (4) If a document is produced to the President in accordance with a requirement under this section, the President:
  - (a) may take possession of the document; and
  - (b) may make copies of the document or take extracts from the document; and
  - (c) may retain possession of the document for as long as is necessary for the purposes of the inquiry to which the document relates.
- (5) While the President retains any document under this section, the President must allow the document to be inspected, at all reasonable times, by any person who would be entitled to inspect the document if it were not in the possession of the President.

#### **46PJ Directions to attend compulsory conference**

- (1) For the purpose of dealing with a complaint in accordance with section 46PF, the President may decide to hold a conference, to be presided over by the President or by a suitable person (other than a member) appointed by the President.
- (2) The conference must be at a reasonable time and at a reasonable place.

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- (3) If the President decides to hold a conference, the President must, by notice in writing, direct each complainant and each respondent to attend the conference.
  - (4) The President may also, by notice in writing, direct any of the following persons to attend the conference:
    - (a) any person who, in the opinion of the President, is likely to be able to provide information relevant to the inquiry;
    - (b) any person whose presence at the conference is, in the opinion of the President, likely to be conducive to the settlement of the matter to which the alleged unlawful discrimination relates.
  - (5) A person who is directed under this section to attend a conference is entitled to be paid by the Commonwealth a reasonable sum for the person's attendance at the conference.
  - (6) In a notice to a person under this section, the President may require the person to produce such documents at the conference as are specified in the notice.

#### **46PK Proceedings at compulsory conference**

- (1) The person presiding at a compulsory conference may require a person attending the conference to produce a document.
- (2) A compulsory conference is to be held in private and, subject to this Act, is to be conducted in such manner as the person presiding at the conference thinks fit.
- (3) The person presiding at the conference must ensure that the conduct of the conference does not disadvantage either the complainant or the respondent.
- (4) Subject to subsection (5), a body of persons, whether corporate or unincorporate, that is directed under section 46PJ to attend a conference is taken to attend if an officer or employee of that body attends on behalf of that body.
- (5) Unless the person presiding at a compulsory conference consents:
  - (a) an individual is not entitled to be represented at the conference by another person; and

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- (b) a body of persons, whether corporate or unincorporate, is not entitled to be represented at the conference by a person other than an officer or employee of that body.
- (6) Despite paragraph (5)(a), an individual who is unable to attend a compulsory conference because the individual has a disability is entitled to nominate another person to attend instead on his or her behalf.
- (7) If, in the opinion of the person presiding at the conference, an individual is unable to participate fully in the conference because the individual has a disability, the individual is entitled to nominate another person to assist him or her at the conference.
- (8) If a person attends a compulsory conference on behalf of a body of persons, whether corporate or unincorporate, any conduct by the person in attending or appearing is taken, for the purposes of this Act, to be conduct of the body.
- (9) In this section, *disability* has the same meaning as in the *Disability Discrimination Act 1992*.

**46PL Failure to attend compulsory conference**

A person who has been given a direction under section 46PJ to attend a conference must not, without reasonable excuse:

- (a) fail to attend as required by the direction; or
- (b) fail to attend and report from day to day unless excused, or released from further attendance, by the person presiding at the conference.

Penalty: 10 penalty units.

**46PM Failure to give information or produce documents**

- (1) A person must not, without reasonable excuse, refuse or fail:
- (a) to give information; or
  - (b) to produce a document;
- when so required under section 46PI, 46PJ or 46PK.

Penalty: 10 penalty units.

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- (2) Subsection 4K(2) of the *Crimes Act 1914* does not apply to this section.
  - (3) It is a reasonable excuse for the purposes of subsection (1) for an individual to refuse or fail to answer a question or produce a document on the ground that the answer or the production of the document might tend to incriminate the individual or to expose the individual to a penalty. This subsection does not limit what is a reasonable excuse for the purposes of subsection (1).

#### **46PN False or misleading information**

A person must not give information or make a statement to the Commission, to the President or to any other person exercising powers or performing functions under this Act, knowing that the information or statement is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

### **Division 2—Proceedings in the Federal Court**

#### **46PO Application to Court if complaint is terminated**

- (1) If:
  - (a) a complaint has been terminated by the President under section 46PE or 46PH; and
  - (b) the President has given a notice to any person under subsection 46PH(2) in relation to the termination;
 any person who was an affected person in relation to the complaint may make an application to the Federal Court, alleging unlawful discrimination by one or more of the respondents to the terminated complaint.

Note: Part IVA of the *Federal Court of Australia Act 1976* allows representative proceedings to be commenced in certain circumstances.

- (2) The application must be made within 28 days after the date of issue of the notice under subsection 46PH(2), or within such further time as the Court allows.
- (3) The unlawful discrimination alleged in the application:

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- (a) must be the same as (or the same in substance as) the unlawful discrimination that was the subject of the terminated complaint; or
  - (b) must arise out of the same (or substantially the same) acts, omissions or practices that were the subject of the terminated complaint.
- (4) If the Court is satisfied that there has been unlawful discrimination by any respondent, the Court may make such orders (including a declaration of right) as it thinks fit, including any of the following orders or any order to a similar effect:
- (a) an order declaring that the respondent has committed unlawful discrimination and directing the respondent not to repeat or continue such unlawful discrimination;
  - (b) an order requiring a respondent to perform any reasonable act or course of conduct to redress any loss or damage suffered by an applicant;
  - (c) an order requiring a respondent to employ or re-employ an applicant;
  - (d) an order requiring a respondent to pay to an applicant damages by way of compensation for any loss or damage suffered because of the conduct of the respondent;
  - (e) an order requiring a respondent to vary the termination of a contract or agreement to redress any loss or damage suffered by an applicant;
  - (f) an order declaring that it would be inappropriate for any further action to be taken in the matter.
- (5) In the case of a representative proceeding under Part IVA of the *Federal Court of Australia Act 1976*, subsection (4) of this section applies as if a reference to an applicant included a reference to each person who is a group member (within the meaning of Part IVA of the *Federal Court of Australia Act 1976*).
- (6) The Court may, if it thinks fit, grant an interim injunction pending the determination of the proceedings.
- (7) The Court may discharge or vary any order made under this section (including an injunction granted under subsection (6)).
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- (8) The Court cannot, as a condition of granting an interim injunction, require a person to give an undertaking as to damages.

**46PP Interim injunction to maintain status quo etc.**

- (1) At any time after a complaint is lodged with the Commission, the Federal Court may grant an interim injunction to maintain:
- (a) the status quo, as it existed immediately before the complaint was lodged; or
  - (b) the rights of any complainant, respondent or affected person.
- (2) The application for the injunction may be made by the Commission, a complainant, a respondent or an affected person.
- (3) The injunction cannot be granted after the complaint has been withdrawn under section 46PG or terminated under section 46PE or 46PH.
- (4) The Court may discharge or vary an injunction granted under this section.
- (5) The Court cannot, as a condition of granting the interim injunction, require a person to give an undertaking as to damages.

**46PQ Right of representation**

- (1) A party in proceedings under this Division:
- (a) may appear in person; or
  - (b) may be represented by a barrister or a solicitor; or
  - (c) may be represented by another person who is not a barrister or solicitor, unless the Court is of the opinion that it is inappropriate in the circumstances for the other person to appear.
- (2) A person, other than a barrister or solicitor, is not entitled to demand or receive any fee or reward, or any payment for expenses, for representing a party in proceedings under this Division.

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**46PR Court not bound by technicalities**

In proceedings under this Division, the Court is not bound by technicalities or legal forms. This section has effect subject to Chapter III of the Constitution.

**46PS Report by President to Court**

- (1) The President may provide the Federal Court with a written report on a complaint that has been terminated under section 46PH.
- (2) The report must not set out or describe anything said or done in the course of conciliation proceedings under this Part (including anything said or done at a conference held under this Part).
- (3) The President may give a copy of the report to the applicant and the respondent, and to any relevant member of the Commission.

**46PT Assistance by Commission**

The Commission may help a person to prepare the forms required for the person to make an application under this Division.

**46PU Assistance in proceedings before the Federal Court**

- (1) A person who:
  - (a) has commenced or proposes to commence proceedings in the Federal Court under this Division; or
  - (b) is a respondent in proceedings in the Federal Court under this Division;may apply to the Attorney-General for the provision of assistance under this section in respect of the proceedings.
- (2) If a person makes an application for assistance and the Attorney-General is satisfied that:
  - (a) it will involve hardship to that person to refuse the application; and
  - (b) in all the circumstances, it is reasonable to grant the application;the Attorney-General may authorise the provision by the Commonwealth to that person, on such conditions (if any) as the

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Attorney-General determines, of such legal or financial assistance in respect of the proceedings as the Attorney-General determines.

**46PV *Amicus curiae* function of Commission members**

- (1) A special-purpose Commissioner has the function of assisting the Court, as *amicus curiae*, in the following proceedings under this Division:
  - (a) proceedings in which the special-purpose Commissioner thinks that the orders sought, or likely to be sought, may affect to a significant extent the human rights of persons who are not parties to the proceedings;
  - (b) proceedings that, in the opinion of the special-purpose Commissioner, have significant implications for the administration of the relevant Act or Acts;
  - (c) proceedings that involve special circumstances that satisfy the special-purpose Commissioner that it would be in the public interest for the special-purpose Commissioner to assist the court as *amicus curiae*.
- (2) The function may only be exercised with the leave of the Court.
- (3) In this section, *special-purpose Commissioner* means:
  - (a) the Aboriginal and Torres Strait Islander Social Justice Commissioner; and
  - (b) the Disability Discrimination Commissioner; and
  - (c) the Human Rights Commissioner; and
  - (d) the Race Discrimination Commissioner; and
  - (e) the Sex Discrimination Commissioner.

**Part IIC—Referral of discriminatory awards and determinations to other bodies**

**46PW Referral of discriminatory awards to the Australian Industrial Relations Commission**

- (1) A complaint in writing alleging that a person has done a discriminatory act under an award may be lodged with the Commission by:

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- (a) a person aggrieved by the act, on that person's own behalf or on behalf of that person and one or more other persons aggrieved by the act; or
  - (b) 2 or more persons aggrieved by the act, on their own behalf or on behalf of themselves and one or more other persons aggrieved by the act; or
  - (c) a person or persons who are in a class of persons aggrieved by the act, on behalf of all the persons in the class; or
  - (d) a trade union, on behalf of one or more of its members aggrieved by the act or on behalf of a class of its members aggrieved by the act.
- (2) If the Commission receives a complaint under this section, the Commission must notify the President accordingly.
  - (3) If it appears to the President that the act is a discriminatory act, the President must refer the award to the Australian Industrial Relations Commission. However, the President need not refer the award if the President is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.
  - (4) If the President decides not to refer the award, the President must give notice in writing of that decision to the complainant or each of the complainants, together with notice of the reasons for the decision.
  - (5) If the President refers the award to the Australian Industrial Relations Commission, the President must give notice in writing of the outcome of the referral to the complainant or each of the complainants.
  - (6) The President may obtain documents or information under section 46PI for the purposes of this section.
  - (7) In this section:
    - award** means:
      - (a) an award made on or after 13 January 1993; or
      - (b) a variation on or after 13 January 1993 of an award made before 13 January 1993.
- For the purposes of this definition, **award** means an award within the meaning of the *Workplace Relations Act 1996*, and includes a
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certified agreement, and an enterprise flexibility agreement, within the meaning of that Act.

Note: The *Workplace Relations Act 1996* was originally enacted with the short title "*Industrial Relations Act 1988*". Under section 10 of the *Acts Interpretation Act 1901*, the reference to the *Workplace Relations Act 1996* includes a reference to that Act "as originally enacted and as amended from time to time".

***discriminatory act under an award*** means an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act was done in direct compliance with an award.

- (8) For the purposes of the definition of ***discriminatory act under an award*** in subsection (7), the fact that an act is done in direct compliance with the award does not of itself mean that the act is reasonable.

#### **46PX Referral of discriminatory determinations to the Remuneration Tribunal**

- (1) A complaint in writing alleging that a person has done a discriminatory act under a determination may be lodged with the Commission by:
- (a) a person aggrieved by the act, on that person's own behalf or on behalf of that person and one or more other persons aggrieved by the act; or
  - (b) 2 or more persons aggrieved by the act, on their own behalf or on behalf of themselves and one or more other persons aggrieved by the act; or
  - (c) a person or persons who are in a class of persons aggrieved by the act, on behalf of all the persons in the class.
- (2) If the Commission receives a complaint under this section, the Commission must notify the President accordingly.
- (3) If it appears to the President that the act is a discriminatory act, the President must refer the determination to the Remuneration Tribunal. However, the President need not refer the determination if the President is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

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- (4) If the President decides not to refer the determination, the President must give notice in writing of that decision to the complainant or each of the complainants, together with notice of the reasons for the decision.
- (5) If the President refers the determination to the Remuneration Tribunal, the President must give notice in writing of the outcome of the referral to the complainant or each of the complainants.
- (6) The President may obtain documents or information under section 46PI for the purposes of this section.
- (7) In this section:
- determination** means:
- (a) a determination made on or after 19 January 1994 by the Remuneration Tribunal under the *Remuneration Tribunal Act 1973*; or
  - (b) a variation made on or after 19 January 1994 by that Tribunal to a determination made by it under that Act before 19 January 1994.

**discriminatory act under a determination** means an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act was done in direct compliance with a determination.

- (8) For the purposes of the definition of **discriminatory act under a determination** in subsection (7), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

#### **46PY Referral of discriminatory determinations to the Defence Force Remuneration Tribunal**

- (1) A complaint in writing alleging that a person has done a discriminatory act under a determination may be lodged with the Commission by:
- (a) a person aggrieved by the act, on that person's own behalf or on behalf of that person and one or more other persons aggrieved by the act; or

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- (b) 2 or more persons aggrieved by the act, on their own behalf or on behalf of themselves and one or more other persons aggrieved by the act; or
  - (c) a person or persons who are in a class of persons aggrieved by the act, on behalf of all the persons in the class.
- (2) If the Commission receives a complaint under this section, the Commission must notify the President accordingly.
  - (3) If it appears to the President that the act is a discriminatory act, the President must refer the determination to the Defence Force Remuneration Tribunal. However, the President need not refer the determination if the President is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.
  - (4) If the President decides not to refer the determination, the President must give notice in writing of that decision to the complainant or each of the complainants, together with notice of the reasons for the decision.
  - (5) If the President refers the determination to the Defence Force Remuneration Tribunal, the President must give notice in writing of the outcome of the referral to the complainant or each of the complainants.
  - (6) The President may obtain documents or information under section 46PI for the purposes of this section.
  - (7) In this section:
    - determination** means:
      - (a) a determination made on or after 15 January 1996 by the Defence Force Remuneration Tribunal under section 58H of the *Defence Act 1903*; or
      - (b) a variation made on or after 15 January 1996 by that Tribunal to a determination made by it under that section before 15 January 1996.

**discriminatory act under a determination** means an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act was done in direct compliance with a determination.

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- (8) For the purposes of the definition of *discriminatory act under a determination* in subsection (7), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

**62 After section 49**

Insert:

**49A Information stored otherwise than in written form**

If information is recorded or stored by means of a mechanical, electronic or other device, any duty imposed by this Act to produce the document recording that information is to be construed as a duty to provide a document containing a clear reproduction in writing of the information.

**49B Jurisdiction of Federal Court**

The Federal Court has jurisdiction with respect to civil matters arising under Part IIB or IIC.

**49C Compensation for acquisition of property**

- (1) If the application of any of the provisions of this Act would result in an acquisition of property from any person having been made otherwise than on just terms, the person is entitled to such compensation from the Commonwealth as is necessary to ensure that the acquisition is made on just terms.
- (2) The Federal Court has jurisdiction with respect to matters arising under subsection (1) and that jurisdiction is exclusive of the jurisdiction of all other courts, other than jurisdiction of the High Court under section 75 of the Constitution.

***Racial Discrimination Act 1975***

**63 Subsection 3(1) (definition of *class member*)**

Repeal the definition.

**64 Subsection 3(1) (definition of *Federal Court*)**



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Repeal the definition.

**65 Subsection 3(1) (definition of *registered organisation*)**

Repeal the definition.

**66 Subsection 3(1) (definition of *representative complaint*)**

Repeal the definition.

**67 Paragraph 6A(2)(b)**

Omit “this Act”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II or IIA of this Act”.

**68 Subsection 6A(2)**

Omit “this Act in respect of that act or omission”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II or IIA of this Act”.

**69 Subsection 18C(1) (note)**

Omit “Section 22”, substitute “Section 46P of the *Human Rights and Equal Opportunity Commission Act 1986*”.

**70 Part III (heading)**

Repeal the heading, substitute:

**Part III—Race Discrimination Commissioner and  
functions of Commission**

**71 Section 19A**

Repeal the section.

**72 Paragraph 20(1)(a)**

Repeal the paragraph.

**73 At the end of subsection 20(1)**

Add:

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Note: For the provisions about inquiries into complaints of discrimination and conciliation of those complaints: see Part IIB of the *Human Rights and Equal Opportunity Commission Act 1986*.

**74 Subsection 20(2)**

Repeal the subsection.

**75 Sections 21, 22 and 23**

Repeal the sections.

**76 Divisions 2, 3, 3A and 4 of Part III**

Repeal the Divisions.

**77 At the end of paragraph 27(2)(e)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**78 At the end of paragraph 27(2)(f)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**79 Paragraph 27(2)(g)**

Omit all the words after “conference”, substitute “held under this Act or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**80 Sections 27A, 27B, 27C and 27D**

Repeal the sections.

**81 Section 27E**

Omit “to the Commissioner or to”, substitute “President, Commissioner or”.

**82 Subsection 30(2)**

Repeal the subsection.

**83 Subsection 45(2)**

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Omit all the words from and including “Where” to the end of paragraph (b), substitute “If a submission has been made, a document or information has been given, or evidence has been given, to the Commission or the Commissioner.”.

**84 Subsection 45(2)**

Omit “the complaint or”.

***Remuneration Tribunal Act 1973***

**85 Subsection 8B(1)**

Omit “section 50C of the *Sex Discrimination Act 1984*”, substitute “section 46PX of the *Human Rights and Equal Opportunity Commission Act 1986*”.

**86 Section 8C**

Omit “section 50C of the *Sex Discrimination Act 1984*” (wherever occurring), substitute “section 46PX of the *Human Rights and Equal Opportunity Commission Act 1986*”.

***Sex Discrimination Act 1984***

**87 Subsection 4(1) (definition of *class member*)**

Repeal the definition.

**88 Subsection 4(1) (definition of *Federal Court*)**

Repeal the definition.

**89 Subsection 4(1) (definition of *representative complaint*)**

Repeal the definition.

**90 Subsection 4(1) (definition of *respondent*)**

Repeal the definition.

**91 Paragraph 10(4)(b)**

Omit “this Act”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II of this Act”.

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**92 Subsection 10(4)**

Omit all the words after “institute a proceeding under”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II of this Act”.

**93 Paragraph 11(4)(b)**

Omit “this Act”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II of this Act”.

**94 Subsection 11(4)**

Omit all the words after “institute a proceeding under”, substitute “the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under a provision of Part II of this Act”.

**95 Part III (heading)**

Repeal the heading, substitute:

**Part III—Functions of Human Rights and Equal Opportunity Commission**

**96 Section 47A**

Repeal the section.

**97 Paragraphs 48(1)(a), (b) and (ca)**

Repeal the paragraphs.

**98 At the end of subsection 48(1)**

Add:

Note: For the provisions about inquiries into complaints of discrimination and conciliation of those complaints: see Part IIB of the *Human Rights and Equal Opportunity Commission Act 1986*.

**99 Subsection 48(3)**

Repeal the subsection.

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**100 Sections 49, 50, 50A, 50B, 50C, 50D, 50E, 50F and 51**

Repeal the sections.

**101 Divisions 2, 3, 3A and 4 of Part III**

Repeal the Divisions.

**102 Section 87**

Omit “Commissioner” (wherever occurring), substitute “President”.

**103 Sections 88, 89, 90 and 91**

Repeal the sections.

**104 Subsection 92(1)**

Omit “subsection 50(1)”, substitute “section 46P of the *Human Rights and Equal Opportunity Commission Act 1986*”.

**105 Paragraph 92(1)(a)**

Omit “Commissioner”, substitute “President”.

**106 Paragraph 92(1)(ab)**

Repeal the paragraph, substitute:

- (ab) the complaint is withdrawn under section 46PG of the *Human Rights and Equal Opportunity Commission Act 1986*;
- or

**107 Paragraph 92(1)(b)**

Repeal the paragraph, substitute:

- (b) the President terminates the complaint under section 46PE or 46PH of the *Human Rights and Equal Opportunity Commission Act 1986*.

**108 Paragraph 92(2)(a)**

Omit “Commissioner” (wherever occurring), substitute “President”.

**109 Section 93**

Omit “to the Commissioner or to”, substitute “President, Commissioner or”.

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**110 At the end of paragraph 94(2)(a)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**111 Paragraph 94(2)(b)**

After “this Act”, insert “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**112 At the end of paragraph 94(2)(c)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**113 Paragraph 94(2)(d)**

Omit all the words after “under”, substitute “this Act or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**114 Paragraph 94(2)(e)**

Omit all the words after “witness”, substitute “in a proceeding under this Act or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**115 At the end of paragraph 94(2)(f)**

Add “or the *Human Rights and Equal Opportunity Commission Act 1986*”.

**116 Subsection 97(2)**

Repeal the subsection.

**117 Subsection 104(1)**

Omit all the words after “this Act”.

**118 Subsection 107(2)**

Repeal the subsection.

**119 Subsection 111(2)**

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Omit all the words from and including “Where” to the end of paragraph (b), substitute “If a submission has been made, a document or information has been given, or evidence has been given, to the Commission or the Commissioner.”.

**120 Subsection 111(2)**

Omit “the complaint or”.

**121 Section 115**

Repeal the section.

***Workplace Relations Act 1996***

**122 Paragraph 45(1)(ed)**

Omit “section 50A of the *Sex Discrimination Act 1984*”, substitute “section 46PW of the *Human Rights and Equal Opportunity Commission Act 1986*”.

**123 Subsection 111A(1)**

Omit “section 50A of the *Sex Discrimination Act 1984*”, substitute “section 46PW of the *Human Rights and Equal Opportunity Commission Act 1986*”.

**124 Section 113**

Omit “section 50A of the *Sex Discrimination Act 1984*” (wherever occurring), substitute “section 46PW of the *Human Rights and Equal Opportunity Commission Act 1986*”.

***Workplace Relations and Other Legislation Amendment Act 1996***

**125 Subitem 2(9) of Schedule 9**

Omit “sections 40, 50A and 50B”, substitute “section 40”.

**Schedule 1** Amendments

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*[Minister's second reading speech made in—  
House of Representatives on 3 December 1998  
Senate on 22 March 1999]*

(197/98)



