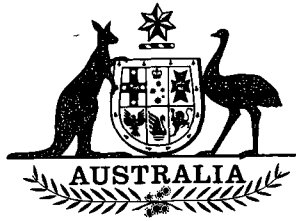




# **RACIAL DISCRIMINATION ACT 1975**

*Reprinted as at 10 December 1981*



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## SCHEDULE

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF  
RACIAL DISCRIMINATION



## RACIAL DISCRIMINATION ACT 1975

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An Act relating to the Elimination of Racial and other Discrimination

WHEREAS a Convention entitled the “International Convention on the Elimination of all Forms of Racial Discrimination” (being the Convention a copy of the English text of which is set out in the Schedule) was opened for signature on 21 December 1965:

AND WHEREAS the Convention entered into force on 2 January 1969:

AND WHEREAS it is desirable, in pursuance of all relevant powers of the Parliament, including, but not limited to, its power to make laws with respect to external affairs, with respect to the people of any race for whom it is deemed necessary to make special laws and with respect to immigration, to make the provisions contained in this Act for the prohibition of racial discrimination and certain other forms of discrimination and, in particular, to make provision for giving effect to the Convention:

BE IT THEREFORE ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:

### PART I—PRELIMINARY

1. This Act may be cited as the *Racial Discrimination Act 1975*.<sup>1</sup>

Short title

2.<sup>1</sup> (1) Sections 1, 2 and 7 shall come into operation on the day on which this Act receives the Royal Assent.

Commence-  
ment

(2) The remaining provisions of this Act shall come into operation on a day to be fixed by Proclamation, being a day not earlier than the day on which the Convention enters into force for Australia.

## s. 2

Amended by No.  
91, 1976, s. 3

(3) The power of the Governor-General to appoint the Commissioner or to make regulations under this Act and the power of the Minister to appoint members of the Council may be exercised at any time after the day on which this Act receives the Royal Assent but any appointment or regulations so made shall not take effect until the date fixed under sub-section (2).

Interpretation

Sub-section (1)  
amended by No.  
18, 1980, ss. 3 and  
17 (as amended  
by No. 25, 1981,  
s. 4)

3. (1) In this Act, unless the contrary intention appears—

“Aboriginal” means a person who is a descendant of an indigenous inhabitant of Australia but does not include a Torres Strait Islander;

“Chairman” means Chairman of the Council;

“Commissioner” means—

(a) subject to paragraph (b), the person holding office as the Commissioner for Community Relations; and

(b) in relation to the acquisition, holding or disposal of property—the corporation referred to in sub-section 29 (2);

“conciliation committee” means a conciliation committee established under the regulations;

“Convention” means the International Convention on the Elimination of All Forms of Racial Discrimination that was opened for signature on 21 December 1965 and entered into force on 2 January 1969, being the Convention a copy of the English text of which is set out in the Schedule;

“Council” means the Community Relations Council established by section 28;

“Deputy Chairman” means Deputy Chairman of the Council;

“dispose” includes sell, assign, lease, let, sub-lease, sub-let, license or mortgage, and also includes agree to dispose and grant consent to the disposal of;

“employment” includes work under a contract for services, and cognate expressions have corresponding meanings;

“Human Rights Commission” means the Human Rights Commission established by the *Human Rights Commission Act* 1981;

“member” means a member of the Council and includes the Chairman and the Deputy Chairman;

“relative”, in relation to a person, means a person who is related to the first-mentioned person by blood, marriage, affinity or adoption and includes a person who is wholly or mainly dependent on, or is a member of the household of, the first-mentioned person;

“residential accommodation” includes accommodation in a dwelling-house, flat, hotel, motel or boarding-house or on a camping ground;

s. 3

“services” includes services consisting of the provision of facilities by way of banking or insurance or of facilities for grants, loans, credit or finance;

“Torres Strait Islander” means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands;

“vehicle” includes a ship, an aircraft and a hovercraft.

(2) A reference in this Act to an Australian ship or aircraft shall be construed as a reference to a ship or aircraft registered in Australia or belonging to or in the possession of the Commonwealth or a State.

Amended by  
No 18, 1980,  
s 17

(3) For the purposes of this Act, refusing or failing to do an act shall be deemed to be the doing of an act and a reference to an act includes a reference to such a refusal or failure.

(4) A reference in this Act to the doing of an act by a person includes a reference to the doing of an act by a person in association with other persons.

4. This Act extends to every external Territory.

Extension to  
external  
Territories  
Amended by  
No 18, 1980,  
s 17

5. Without prejudice to its effect apart from this section, this Act also has, by force of this section, the effect it would have if—

Additional  
operation of  
Act

- (a) there were added at the end of sections 11 and 13 the words “or by reason that that other person or any relative or associate of that other person is or has been an immigrant”;
- (b) there were added at the end of sub-sections 12 (1) and 15 (1) the words “or by reason that that second person or any relative or associate of that second person is or has been an immigrant”;
- (c) there were inserted in sub-section 14 (1), before the words “is invalid”, the words “or by reason that that person is or has been an immigrant”;
- (d) there were added at the end of sub-section 14 (2) the words “or by reason that that other person is or has been an immigrant”;
- (e) there were added at the end of sub-section 15 (2) the words “or by reason that the person so seeking employment or any relative or associate of that person is or has been an immigrant”; and
- (f) there were inserted in section 18, after the word “person”, the words “or by reason that a person is or has been an immigrant”.

**s. 6**

Act binds the  
Common-  
wealth and  
the States

Amended by  
No. 18, 1980,  
s. 17

Ratification  
of  
Convention

**6.** This Act binds the Crown in right of the Commonwealth and of each State, but nothing in this Act renders the Crown in right of the Commonwealth or of a State liable to be prosecuted for an offence.

**7.** Approval is given to ratification by Australia of the Convention.

## **PART II—PROHIBITION OF RACIAL DISCRIMINATION**

Exceptions

**8.** (1) This Part does not apply to, or in relation to the application of, special measures to which paragraph 4 of Article 1 of the Convention applies except measures in relation to which sub-section 10 (1) applies by virtue of sub-section 10 (3).

(2) This Part does not apply to—

(a) any provision of a deed, will or other instrument, whether made before or after the commencement of this Part, that confers charitable benefits, or enables charitable benefits to be conferred, on persons of a particular race, colour or national or ethnic origin; or

(b) any act done in order to comply with such a provision.

(3) In this section, “charitable benefits” means benefits for purposes that are exclusively charitable according to the law in force in any State or Territory.

Racial  
discrimi-  
nation to be  
unlawful

**9.** (1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

(2) The reference in sub-section (1) to a human right or fundamental freedom in the political, economic, social, cultural or any other field of public life includes a reference to any right of a kind referred to in Article 5 of the Convention.

(3) Sub-section (1) does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

(4) The succeeding provisions of this Part do not limit the generality of sub-section (1).

**s. 10**

**10.** (1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.

Rights to equality before the law  
Sub-section (1) amended by No. 18, 1980, s. 17

(2) A reference in sub-section (1) to a right includes a reference to a right of a kind referred to in Article 5 of the Convention.

(3) Where a law contains a provision that—

- (a) authorizes property owned by an Aboriginal or a Torres Strait Islander to be managed by another person without the consent of the Aboriginal or Torres Strait Islander; or
- (b) prevents or restricts an Aboriginal or a Torres Strait Islander from terminating the management by another person of property owned by the Aboriginal or Torres Strait Islander,

not being a provision that applies to persons generally without regard to their race, colour or national or ethnic origin, that provision shall be deemed to be a provision in relation to which sub-section (1) applies and a reference in that sub-section to a right includes a reference to a right of a person to manage property owned by him.

**11.** It is unlawful for a person—

- (a) to refuse to allow another person access to or use of any place or vehicle that members of the public are, or a section of the public is, entitled or allowed to enter or use, or to refuse to allow another person access to or use of any such place or vehicle except on less favourable terms or conditions than those upon or subject to which he would otherwise allow access to or use of that place or vehicle;
- (b) to refuse to allow another person use of any facilities in any such place or vehicle that are available to members of the public or to a section of the public, or to refuse to allow another person use of any such facilities except on less favourable terms or conditions than those upon or subject to which he would otherwise allow use of those facilities; or
- (c) to require another person to leave or cease to use any such place or vehicle or any such facilities,

Access to places and facilities

by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.



**s. 12**

Land,  
housing and  
other  
accommo-  
dation

- 12.** (1) It is unlawful for a person, whether as a principal or agent—
- (a) to refuse or fail to dispose of any estate or interest in land, or any residential or business accommodation, to a second person;
  - (b) to dispose of such an estate or interest or such accommodation to a second person on less favourable terms and conditions than those which are or would otherwise be offered;
  - (c) to treat a second person who is seeking to acquire or has acquired such an estate or interest or such accommodation less favourably than other persons in the same circumstances;
  - (d) to refuse to permit a second person to occupy any land or any residential or business accommodation; or
  - (e) to terminate any estate or interest in land of a second person or the right of a second person to occupy any land or any residential or business accommodation,

by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person, whether as a principal or agent, to impose or seek to impose on another person any term or condition that limits, by reference to race, colour or national or ethnic origin, the persons or class of persons who may be the licensees or invitees of the occupier of any land or residential or business accommodation.

Provision of  
goods and  
services

**13.** It is unlawful for a person who supplies goods or services to the public or to any section of the public—

- (a) to refuse or fail on demand to supply those goods or services to another person; or
- (b) to refuse or fail on demand to supply those goods or services to another person except on less favourable terms or conditions than those upon or subject to which he would otherwise supply those goods or services,

by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

Right to join  
trade unions

**14.** (1) Any provision of the rules or other document constituting, or governing the activities of, a trade union that prevents or hinders a person from joining that trade union by reason of the race, colour or national or ethnic origin of that person is invalid.

(2) It is unlawful for a person to prevent or hinder another person from joining a trade union by reason of the race, colour or national or ethnic origin of that other person.

Employment

**15.** (1) It is unlawful for an employer or a person acting or purporting to act on behalf of an employer—

**s. 15**

- (a) to refuse or fail to employ a second person on work of any description which is available and for which that second person is qualified;
  - (b) to refuse or fail to offer or afford a second person the same terms of employment, conditions of work and opportunities for training and promotion as are made available for other persons having the same qualifications and employed in the same circumstances on work of the same description; or
  - (c) to dismiss a second person from his employment,
- by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person concerned with procuring employment for other persons or procuring employees for any employer to treat any person seeking employment less favourably than other persons in the same circumstances by reason of the race, colour or national or ethnic origin of the person so seeking employment or of any relative or associate of that person.

(3) It is unlawful for an organization of employers or employees, or a person acting or purporting to act on behalf of such an organization, to prevent, or to seek to prevent, another person from offering for employment or from continuing in employment by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

(4) This section does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

**16.** It is unlawful for a person to publish or display, or cause or permit to be published or displayed, an advertisement or notice that indicates, or could reasonably be understood as indicating, an intention to do an act that is unlawful by reason of a provision of this Part.

Advertisements

**17.** It is unlawful for a person—

- (a) to incite the doing of an act that is unlawful by reason of a provision of this Part; or
- (b) to assist or promote whether by financial assistance or otherwise the doing of such an act.

Unlawful to incite doing of unlawful acts

**18.** A reference in this Part to the doing of an act by reason of the race, colour or national or ethnic origin of a person includes a reference to the doing of an act for two or more reasons that include the first-mentioned reason, provided that reason is the dominant reason for the doing of the act.

Act done for more than one reason

## s. 19

## PART III—INQUIRIES AND CIVIL PROCEEDINGS

Com-  
missioner for  
Community  
Relations

**19.** For the purposes of this Act there shall be a Commissioner for Community Relations.

Functions of  
Human  
Rights Com-  
mission

**20.** In addition to the functions of the Human Rights Commission under the *Human Rights Commission Act* 1981, that Commission has the following functions:

Amended by  
No 18, 1980, s 4  
(as amended by  
No 25, 1981,  
s 5)

- (a) to inquire into alleged infringements of Part II, and endeavour to effect a settlement of the matters alleged to constitute those infringements, in accordance with section 21;
- (b) to promote an understanding and acceptance of, and compliance with, this Act; and
- (c) to develop, conduct and foster research and educational programs and other programs for the purpose of—
  - (i) combating racial discrimination and prejudices that lead to racial discrimination;
  - (ii) promoting understanding, tolerance and friendship among racial and ethnic groups; and
  - (iii) propagating the purposes and principles of the Convention.

Function of  
Commis-  
sioner

Inserted by  
No 18, 1980, s 5

**20A.** (1) Except where the office of Commissioner is vacant or the Commissioner is absent from duty or from Australia, the function of the Human Rights Commission under paragraph 20 (a) shall be performed by the Commissioner on behalf of that Commission.

(2) In the performance of a function on behalf of the Human Rights Commission, the Commissioner is subject to the directions of the Human Rights Commission.

(3) In relation to the performance of a function by the Commissioner on behalf of the Human Rights Commission in pursuance of this section—

- (a) in section 21, references to the Human Rights Commission other than the reference in paragraph (1) (a) and the reference first occurring in paragraph (2) (c) shall be construed as references to the Commissioner; and
- (b) in section 22—
  - (i) the reference to the Human Rights Commission first occurring in sub-section (1) and the reference to a member of that Commission in sub-section (1) shall be construed as including a reference to the Commissioner; and
  - (ii) the reference to a person appointed by that Commission in sub-section (1) shall be construed as including a reference to a person appointed by the Commissioner.

**s. 21**

**21. (1) Where—**

- (a) a complaint in writing is made to the Human Rights Commission that a person has done an act that is unlawful by reason of a provision of Part II; or
- (b) it appears to the Human Rights Commission that a person has done an act that is unlawful by reason of a provision of Part II,

Inquiries by  
the Com-  
mission  
Sub-section (1)  
amended by  
No 18, 1980, s 6

the Human Rights Commission shall, subject to sub-section (2), inquire into the act and endeavour to effect a settlement of the matter to which the act relates.

(2) The Human Rights Commission may decide not to inquire into an act, or, if the Human Rights Commission has commenced to inquire into an act, decide not to continue to inquire into the act, if—

Amended by  
No 18, 1980, s 6

- (a) a period of more than 12 months has elapsed since the act was done;
- (b) the Human Rights Commission is of the opinion that—
  - (i) the matter to which the act related was trivial; or
  - (ii) the person alleged to be aggrieved by the act does not desire that the inquiry be made or continued, as the case may be; or
- (c) in a case where the inquiry results from a complaint to the Human Rights Commission, the Human Rights Commission is of the opinion that—
  - (i) the complaint was frivolous or vexatious or was not made in good faith;
  - (ii) the complainant does not have a sufficient interest in the subject-matter of the complaint; or
  - (iii) there is some other remedy that is reasonably available to the complainant.

(3) Where the Human Rights Commission decides not to inquire into, or not to continue to inquire into, an act in respect of which a complaint was made, the Human Rights Commission shall inform the complainant of that decision and of the reasons for that decision.

Amended by  
No 18, 1980, s 6

**22. (1)** For the purpose of inquiring into an act, or endeavouring to settle the matter to which an act relates, in accordance with sub-section 21 (1), the Human Rights Commission may direct the persons referred to in sub-section (2) of this section to attend, at a time and place specified in the direction, at a conference presided over by a member of that Commission, by a member of the staff of that Commission or by a person appointed by that Commission.

Compulsory  
conferences  
Sub-section (1)  
substituted by  
No 18, 1980, s 7

(1A) In relation to the performance, in a particular case, by a conciliation committee of a function of the Human Rights Commission under

Inserted by  
No 18, 1980, s 7

**s. 22**

paragraph 20 (a), sub-section (1) of this section has effect as if the reference to a conference presided over by a member of that Commission, by a member of the staff of that Commission or by a person appointed by that Commission were a reference to a conference presided over by a member of that conciliation committee.

Amended by No  
18, 1980, s 7

(2) Directions under sub-section (1) shall be given to—

- (a) a person who made a complaint under this Act in relation to the act;
- (b) the person who is alleged to have done the act; and
- (c) any other person whose presence at the conference the person giving the direction thinks is likely to be conducive to the settlement of the matter to which the act relates.

Amended by  
No 18, 1980,  
s 17

(3) A person who has been given a direction under sub-section (1) to attend at a conference is entitled to be paid by the Commonwealth a reasonable sum for the expenses of his attendance at the conference.

(4) A person who has been given a direction under sub-section (1) to attend a conference shall not, without reasonable excuse—

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

Penalty: \$250.

(5) In any proceeding instituted under section 24, no evidence shall be given and no statements shall be made with respect to anything said or done at a conference held in pursuance of a direction given under this section.

Conciliation  
committees

**23.** (1) The regulations may make provision for and in relation to the establishment of conciliation committees for the purposes of this Act.

Amended by  
No 18, 1980, s 8

(2) The function of the Human Rights Commission of endeavouring to effect a settlement of a matter in accordance with sub-section 21 (1) may, with the consent of the Human Rights Commission, be performed by a conciliation committee and, when performed by such a committee, shall be deemed, for the purposes of the Act, to have been performed by the Human Rights Commission.

Civil  
proceedings

**24.** (1) A person aggrieved by an act that he considers to have been unlawful by reason of a provision of Part II may subject to this section institute a proceeding in relation to the act by way of civil action in a court of competent jurisdiction for any one or more of the remedies specified in section 25.

**s. 24**

(2) A proceeding may not be instituted under this section in respect of the doing of an act (other than an act that is unlawful by virtue of section 16) in relation to—

- (a) accommodation in a dwelling-house or flat, being accommodation shared or to be shared, in whole or in part, with the person who did the act or a person on whose behalf the act was done or with a relative of either of those persons; or
- (b) employment, or an application for employment, in a dwelling-house or flat occupied by the person who did the act or a person on whose behalf the act was done or by a relative of either of those persons.

(3) A proceeding shall not be instituted under this section in respect of an act unless the person aggrieved has received, before the institution of the proceeding, a certificate signed by a member of the Human Rights Commission or by the Commissioner stating that—

Substituted by  
No 18, 1980, s 9

- (a) a member of the Human Rights Commission, the Commissioner, a member of a conciliation committee, a member of the staff of the Human Rights Commission, an officer or employee of the Commissioner or a person appointed by the Human Rights Commission or by the Commissioner has presided over a conference under sub-section 22 (1) in respect of the act and has endeavoured to settle the matter to which the act relates; or
- (b) by reason of the failure of a person who has been given a direction under sub-section 22 (1) to comply with the direction, such a conference has not been able to be held,

and that at the date of the certificate the matter has not been settled.

**25.** Where, in a proceeding instituted under section 24, it is established to the reasonable satisfaction of the court that a person (in this section referred to as the “defendant”) has done an act (in this section referred to as the “relevant act”) that is unlawful by reason of a provision of Part II, the court may grant all or any of the following remedies:

Powers of  
court in civil  
proceedings

- (a) an injunction restraining the defendant from repeating the relevant act, from doing an act of a similar kind or from causing or permitting others to do acts of the same or a similar kind;
- (b) an order directing the defendant to do a specified act, being an act directed to—
  - (i) placing a person aggrieved by the doing of the relevant act as nearly as practicable in the position in which he would be if the relevant act had not been done; or
  - (ii) otherwise avoiding a detriment to such a person resulting from the doing of the relevant act;
- (c) if the doing of the relevant act resulted in the making of a contract or the relevant act was done in pursuance of a contract—an

**s. 25**

order cancelling the contract, varying any of the terms of the contract or requiring the repayment, in whole or in part, of an amount paid in pursuance of the contract;

- (d) damages against the defendant in respect of—
  - (i) loss suffered by a person aggrieved by the relevant act, including loss of any benefit that that person might reasonably have been expected to obtain if the relevant act had not been done; and
  - (ii) loss of dignity by, humiliation to, or injury to the feelings of, a person aggrieved by the relevant act; and
- (e) such other relief as the court thinks just.

**PART IV—OFFENCES**

Unlawful  
acts not  
offences  
unless  
expressly so  
provided

**26.** Except as expressly provided by this Part, nothing in this Act makes it an offence to do an act or agree with another person to do an act that is unlawful by reason of a provision of Part II.

Offences  
relating to  
adminis-  
tration of  
Act

Sub-section (1)  
substituted by  
No 18, 1980,  
s 10

**27. (1)** A person shall not insult, hinder, obstruct, molest or interfere with a person exercising or performing any of the powers or functions referred to in sections 21 and 22 of this Act.

Amended by  
No 18, 1980,  
s 10

- (2) A person shall not—
  - (a) refuse to employ another person;
  - (b) dismiss, or threaten to dismiss, another person from his employment;
  - (c) prejudice, or threaten to prejudice, another person in his employment; or
  - (d) intimidate or coerce, or impose any pecuniary or other penalty upon, another person,
 by reason that the other person—
  - (e) has made, or proposes to make, a complaint under this Act;
  - (f) has furnished, or proposes to furnish, any information or documents to a person exercising or performing any powers or functions under this Act; or
  - (g) has attended, or proposes to attend, a conference referred to in section 22.

Penalty: \$500.

## PART V—COMMUNITY RELATIONS COUNCIL

**28.** (1) For the purposes of this Act there is established a Community Relations Council.

Establishment and functions of Council

(2) It is the function of the Council to advise, and make recommendations to, the Minister and the Human Rights Commission, either of its own motion or upon request made to it by the Minister or the Human Rights Commission, as the case may be, concerning—

Amended by No 91, 1976, s 3 No 18, 1980 s 11

- (a) the observance and implementation of the Convention;
- (b) the promotion of educational programs with respect to the observance of the Convention;
- (c) the promotion of studies and research programs with respect to the observance and implementation of the convention;
- (d) the publication and dissemination of material to assist in the observance and implementation of the Convention;
- (e) the promotion of understanding, tolerance and friendship among racial and ethnic groups; and
- (f) any other matter related to the observance or implementation of the Convention.

## PART VI—ADMINISTRATIVE PROVISIONS

### *Division 1—Commissioner for Community Relations*

**29.** (1) The Commissioner shall be appointed by the Governor-General.

Appointment of Commissioner

- (2) The Commissioner—
  - (a) is a corporation sole by the name of the Commissioner for Community Relations;
  - (b) has perpetual succession;
  - (c) shall have an official seal; and
  - (d) is capable, in his corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commissioner affixed to a document and shall presume that it was duly affixed.

**30.** (1) Subject to this Part, the Commissioner holds office for such period not exceeding 7 years as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

Tenure of appointment



## s. 30

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Commissioner, and a person shall not be appointed or re-appointed as the Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

## Remuneration of Commissioner

**31.** (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) The Commissioner shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

Leave of absence  
Amended by No 91, 1976, s 3

**32.** The Minister may grant leave of absence to the Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

## Resignation

**33.** The Commissioner may resign his office by writing signed by him and delivered to the Governor-General.

## Termination of appointment

**34.** (1) The Governor-General may terminate the appointment of the Commissioner by reason of misbehaviour or of physical or mental incapacity.

## Amended by No 91, 1976, s 3

(2) The Governor-General shall terminate the appointment of the Commissioner if the Commissioner—

- (a) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

(3) The termination of the appointment of the Commissioner by reason of physical or mental incapacity shall be deemed, for the purposes of the *Superannuation Act 1922-1974*, to be retirement on the ground of invalidity.

Outside employment  
Amended by No 91, 1976, s 3

**35.** The Commissioner shall not, except with the approval of the Minister, engage in paid employment outside the duties of his office.

Acting Commissioner  
Sub-section (1) amended by No 91, 1976, s 3

**36.** (1) The Minister may appoint a person to act in the office of Commissioner during any period, or during all periods, when the Commissioner is absent from duty or from Australia or during a vacancy in that office, but a person so appointed to act during a vacancy shall not continue so to act for more than 12 months.

s. 36

(2) Subject to this section, the Minister may—

Amended by  
No 91, 1976, s 3

- (a) determine the terms and conditions of appointment of a person appointed to act in the office of Commissioner; and
- (b) at any time terminate such an appointment.

(3) Where a person is acting in the office of Commissioner in pursuance of an appointment under this section otherwise than during a vacancy in that office and that office becomes vacant while that person is so acting, that person may continue to act in that office until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

Amended by  
No 91, 1976, s 3

(4) Sections 32, 33 and 35 apply in relation to a person appointed to act in the office of Commissioner in like manner as they apply in relation to the Commissioner.

(5) While a person is acting in the office of Commissioner in pursuance of an appointment under this section, he has, and may exercise, all the powers and shall perform all the functions of the Commissioner under this Act or under any other law and, for the purposes of the exercise of those powers and the performance of those functions, this Act or that other law has effect as if a reference to the Commissioner included a reference to a person acting in the office of Commissioner.

(6) The validity of anything done by a person appointed to act in the office of Commissioner shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

37. For the purposes of sub-sections 4 (3A) and (4) of the *Superannuation Act* 1922-1974, the Commissioner shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

Super-  
annuation

\* \* \* \* \*

Section 38  
repealed by  
No 18, 1980,  
s 12

39. If a person appointed as Commissioner was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928-1973<sup>2</sup> applied—

Officers'  
Rights  
Declaration  
Act

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as Commissioner shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act* 1928-1973<sup>2</sup> applies as if this Act and this section had been specified in the Schedule to that Act.

## s. 40

Delegation  
Substituted by  
No 18, 1980,  
s 13

**40.** (1) The Human Rights Commission may, either generally or otherwise as provided by the instrument of delegation, by writing under its seal, delegate to a member of its staff, or to another person, all or any of the powers conferred on that Commission under this Act, except this power of delegation.

(2) The Commissioner may, either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to a member of the staff of the Human Rights Commission approved by the Commission, or to another person approved by that Commission, all or any of the powers exercisable by him under this Act, except this power of delegation.

(3) A power delegated by the Human Rights Commission under sub-section (1) or by the Commissioner under sub-section (2), when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Human Rights Commission or by the Commissioner, as the case may be.

(4) A delegation under this section by the Human Rights Commission or by the Commissioner does not prevent the exercise of a power by the Human Rights Commission or by the Commissioner.

*Division 2—Community Relations Council*

Constitution  
of Council  
Sub-section (1)  
amended by  
No 91, 1976, s 3

**41.** (1) The Council shall consist of such members (not being less than 10 or more than 20 in number) as the Minister appoints.

(2) One of the members shall be designated in the instrument of his appointment as the Chairman of the Council and another of the members shall be designated in the instrument of his appointment as the Deputy Chairman of the Council.

(3) The performance of the functions or the exercise of the powers of the Council is not affected by the number of members falling below 10 for a period not exceeding 3 months.

Remunera-  
tion of  
members

**42.** (1) Members shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, they shall be paid such remuneration as is prescribed.

(2) Members shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

Meetings of  
Council

**43.** (1) The Chairman, or, if the Chairman is unavailable, the Deputy Chairman, may convene meetings of the Council.

(2) At a meeting of the Council, 6 members constitute a quorum.

(3) The Chairman shall preside at all meetings of the Council at which he is present.

(4) If the Chairman is not present at a meeting of the Council but the Deputy Chairman is present, the Deputy Chairman shall preside at the meeting.

(5) If the Chairman and the Deputy Chairman are not present at a meeting of the Council, the members present shall appoint one of their number to preside at the meeting.

(6) Questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting.

(7) The member presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(8) The Council shall cause records to be kept of its meetings.

## PART VII—MISCELLANEOUS

**44.** (1) The several courts of the States are invested with federal jurisdiction, and jurisdiction is conferred on the several courts of the Territories, within the limits of their several jurisdictions, whether those limits are as to locality, subject-matter or otherwise, to hear and determine civil and criminal proceedings instituted in those courts under this Act.

Jurisdiction

(2) No proceedings under this Act shall be instituted in a court of a State or Territory before a day to be fixed by Proclamation as the day on which—

- (a) that court shall commence to exercise its jurisdiction under sub-section (1); or
- (b) a class of courts of that State or Territory in which that court is included shall commence to exercise their jurisdiction under that sub-section,

but nothing in this sub-section prevents a court from exercising jurisdiction in a matter arising under this Act in a proceeding instituted in that court otherwise than under this Act.

**44A.** Where a complaint has been made under this Act, a person is not liable to an action, suit or proceeding in respect of loss, damage or injury of any kind suffered by another person by reason only that the complaint was made.

Protection of complainants from civil actions

Inserted by  
No 18, 1980,  
s 14

**45.** (1) A person who—

- (a) has instituted or proposes to institute a proceeding in a court under section 24;

Legal and financial assistance

s. 45

- (b) has done or is alleged to have done an act in respect of which a proceeding has been instituted under section 24; or
- (c) is prosecuted for an offence under section 27,

may apply to the Attorney-General for the provision of assistance under this section in respect of the proceeding.

Amended by  
No. 18, 1980,  
s. 17

(2) Where an application is made by a person under sub-section (1), the Attorney-General may, if he is satisfied that it would involve hardship to that person to refuse the application and that, in all the circumstances, it is reasonable that the application should be granted, authorize the provision by the Commonwealth to that person, either unconditionally or subject to such conditions as the Attorney-General determines, of such legal or financial assistance in relation to the proceeding as the Attorney-General determines.

Commis-  
sioner to  
furnish  
information  
  
Inserted by  
No. 18, 1980,  
s. 15

45A. The Commissioner shall furnish to the Human Rights Commission such information relating to his operations under this Act as the Human Rights Commission from time to time requires.

Section 46  
repealed by  
No. 18, 1980,  
s. 16

\* \* \* \* \*

Regulations

47. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, prescribing the manner in which a member may resign his office and prescribing fees and allowances payable to members of conciliation committees.

SCHEDULE

Section 3 (1)

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

*The States Parties to this Convention,*

*Considering* that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

**SCHEDULE—continued**

*Considering* that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

*Considering* that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

*Considering* that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

*Convinced* that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

*Reaffirming* that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

*Convinced* that the existence of racial barriers is repugnant to the ideals of any human society,

*Alarmed* by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

*Resolved* to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

*Bearing in mind* the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

*Desiring* to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

*Have agreed* as follows:

**PART I**

*Article 1*

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

*Racial Discrimination Act 1975*

## SCHEDULE—continued

*Article 2*

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
- (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
- (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
- (e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

*Article 3*

States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

*Article 4*

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

*Article 5*

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;

**SCHEDULE—continued**

- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by an individual, group or institution;
- (c) Political rights, in particular the rights to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
  - (i) The right to freedom of movement and residence within the border of the State;
  - (ii) The right to leave any country, including one's own, and to return to one's country;
  - (iii) The right to nationality;
  - (iv) The right to marriage and choice of spouse;
  - (v) The right to own property alone as well as in association with others;
  - (vi) The right to inherit;
  - (vii) The right to freedom of thought, conscience and religion;
  - (viii) The right to freedom of opinion and expression;
  - (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
  - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
  - (ii) The right to form and join trade unions;
  - (iii) The right to housing;
  - (iv) The right to public health, medical care, social security and social services;
  - (v) The right to education and training;
  - (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafés, theatres and parks.

*Article 6*

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

*Article 7*

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

**PART II**

*Article 8*

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.



*Racial Discrimination Act 1975***SCHEDULE—continued**

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

*Article 9*

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

*Article 10*

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

*Article 11*

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

SCHEDULE—continued

4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an *ad hoc* Conciliation Commission (hereafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention.

(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.

2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction

**SCHEDULE—continued**

who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

*Article 15*

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the territories mentioned in sub-paragraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

**SCHEDULE—continued**

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

*Article 16*

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

**PART III**

*Article 17*

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 18*

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

*Article 19*

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

*Article 20*

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two-thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

*Article 21*

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

*Article 22*

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

*Racial Discrimination Act 1975*

## SCHEDULE—continued

*Article 23*

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

*Article 24*

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

*Article 25*

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

## NOTES

1. The *Racial Discrimination Act 1975* as shown in this reprint comprises Act No. 52, 1975 as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Racial Discrimination Act 1975</i>	52, 1975	11 June 1975	Ss. 1, 2 and 7: Royal Assent Remainder: 31 Oct 1975 (see <i>Gazette</i> 1975, No. S221, p. 1)	
<i>Administrative Changes (Consequential Provisions) Act 1976</i>	91, 1976	20 Sept 1976	20 Sept 1976(a)	S. 4
<i>Racial Discrimination (Amendment) Act 1980</i>	18, 1980 as amended by 25, 1981	23 Apr 1980 14 Apr 1981	10 Dec 1981 (see s. 2 and <i>Gazette</i> 1981, No. G 49, p. 2) 10 Dec 1981 (see s. 2 and <i>Gazette</i> 1981, No. G 49, p. 2)	— —

- (a) By virtue of sub-section 2 (7) of the *Administrative Changes (Consequential Provisions) Act 1976* the amendments made by that Act to the *Racial Discrimination Act 1975* are deemed to have come into operation on 22 December 1975.
2. S. 39—*The Officers' Rights Declaration Act 1928* was repealed by the *Public Service Amendment Act 1978* (No. 170, 1978).

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