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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

EXPLANATORY MEMORANDUM

TO AMENDMENTS OF HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

BILL 1985

(Circulated by the authority of the Minister Representing the
Attorney-General).

AMENDMENTS OF THE HUMAN RIGHTS AND EQUAL OPPORTUNITY
COMMISSION BILL 1985

These amendments affect a number of clauses in the Human Rights and Equal Opportunity Commission Bill 1985. The Explanatory Memorandum relating to the Bill should be read subject to the following amendments:

Page 6 - Paragraphs 6 and 7 - replace with:

"6. Sub-clause (1) provides that the Commission shall consist of a President, a Human Rights Commissioner, the Race Discrimination Commissioner appointed under the Racial Discrimination Act and the Sex Discrimination Commissioner appointed under the Sex Discrimination Act.

7. The President (who is to be a part-time member) and the Human Rights Commissioner (a full-time member with legal qualifications) are to be appointed by the Governor-General (sub-clauses 8 (2), (3) and (4)).

7A. The affairs of the Commission will be administered by the Human Rights Commissioner in accordance with the decisions and subject to directions of the Commission as a whole (sub-clause 8(5)).

7B. The investigation and, where appropriate, attempted conciliation of complaints under the Bill will be carried out by the Human Rights Commissioner (sub-clause 8(6)). These complaints would be those relating to the International Covenant on Civil and Political Rights, International Labour Organisation Convention No. 111 (Discrimination in Employment and Occupation), the Declaration of the Rights of the Child, the Declaration on the Rights of Mentally Retarded Persons and the Declaration on the Rights of Disabled Persons."

Page 11 - Paragraph 22 - replace with:

"22. This clause enables the Commission or a member of the Commission to delegate all or any of the powers of the Commission or the member (other than the power of delegation) to various persons. A power exercised by a delegate shall be deemed to have been exercised by the delegator."

Page 20 - Sub-heading preceding paragraph 50 and paragraph 50 - replace with:

"Clause 36 - Acting President and Human Rights Commissioner

50. Sub-clause (1) provides that the Human Rights Commissioner, if available, shall act as President during a vacancy in the office of President or during any period when the President is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office of President. If the Human Rights Commissioner is unavailable to act as President, the Minister may appoint another person to act as President (sub-clause (2)). Sub-clause (3) empowers the Minister to appoint a person to act as Human Rights Commissioner during a vacancy in the office of Human Rights Commissioner or during any period when the Human Rights Commissioner is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Human Rights Commissioner. Sub-clause (9) provides that, at any time when a person who is not a member of the Commission is acting as President or Human Rights Commissioner, the person shall be deemed to be a member of the Commission for certain purposes."

Page 21 - Paragraph 51 - replace "5 years" with "7 years".

Page 22 - Paragraph 56 - replace "President" with "Human Rights Commissioner".