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1999, No. 100

An Act to amend the Human Rights Act 1993

[8 September 1999]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Human Rights Amendment Act 1999, and is part of the Human Rights Act 1993 (“the principal Act”).

(2) This Act comes into force on 1 October 1999.

PART 1

AMENDMENTS AFFECTING PRINCIPAL ACT

2. Exception in relation to employment-related retirement benefits—The principal Act is amended by inserting, after section 30, the following section:

“30A. (1) Nothing in section 22 (1)(b) prevents different treatment based on age with respect to, or in any way related to, the payment of a benefit to an employee on retirement if—

“(a) The employee’s entitlement to that benefit (‘the retirement benefit’), or the calculation of that retirement benefit, is determined in whole or in part

(and whether directly or indirectly) by the employee's age; and

“(b) The retirement benefit is a term of a written employment contract that was in force on or before 1 February 1999; and

“(c) The employee was, on or before 1 February 1999, a party to that employment contract.

“(2) If a retirement benefit was a term of an employee's written employment contract on 1 February 1999, subsection (1) continues to apply in relation to the payment of that retirement benefit even if either or both of the following things occur after that date:

“(a) The employee and the employer enter into a new written employment contract under which the employee remains entitled to that retirement benefit:

“(b) A different person becomes the employee's employer as a result of a merger, takeover, restructuring, or reorganisation, but the employee remains entitled to that retirement benefit by virtue of any enactment or agreement.

“(3) This section does not limit section 149.”

3. Expiry of section 151—Section 152 of the principal Act is amended by omitting the expression “the 31st day of December 1999”, and substituting the expression “31 December 2001”.

4. Ministerial reports on changes to enactments—

(1) The Minister must, before each of the dates specified in subsection (3), present a report to the House of Representatives on progress made by or on behalf of the Government of New Zealand in remedying significant inconsistencies between existing legislation and Part II of the principal Act.

(2) For the purposes of this section, section 151 of the principal Act and section 126B of the Social Security Act 1964 must be disregarded in assessing whether there is an inconsistency between any legislation and Part II of the principal Act.

(3) The dates referred to in subsection (1) are—

(a) 30 June 2000:

(b) 31 December 2000:

(c) 30 June 2001:

(d) 31 December 2001.

(4) In this section,—

“Legislation” means any Act or regulations:

“Regulations” has the meaning given to that term by section 2 of the Regulations (Disallowance) Act 1989.

5. Contents of ministerial reports—(1) The report required to be presented before 30 June 2000 must provide information on progress to which section 4 (1) applies that is made during the period beginning on 1 January 1999 and ending with the close of 30 April 2000.

(2) The report required to be presented before 31 December 2000 must provide information on progress to which section 4 (1) applies that is made during the period beginning on 1 May 2000 and ending with the close of 31 October 2000.

(3) The report required to be presented before 30 June 2001 must provide information on progress to which section 4 (1) applies that is made during the period beginning on 1 November 2000 and ending with the close of 30 April 2001.

(4) The report required to be presented before 31 December 2001 must provide information on progress to which section 4 (1) applies that is made during the period beginning on 1 May 2001 and ending with the close of 31 October 2001.

6. Minister to consult with Commission—(1) Before presenting a report to the House of Representatives under section 4 (1), the Minister must give a copy of the report in draft form to the Commission.

(2) Within 21 days of the date on which it receives a report in draft form, or within such other period as may be agreed between the Minister and the Commission, the Commission must consider the draft report and provide such written comment on it to the Minister as the Commission considers appropriate.

(3) The Minister must include in each report presented to the House of Representatives under section 4 (1) any comment received by the Minister from the Commission that is provided in accordance with subsection (2), in an unedited form.

PART 2

RELATED AMENDMENTS TO OTHER ENACTMENTS

7. Amendments to Social Security Act 1964—Section 126B of the Social Security Act 1964 is amended—

(a) By omitting the expression “31 December 1999”, and substituting the expression “31 December 2001”:

- (b) By omitting from subparagraph (i) of paragraph (c) the expression “section 5(2)”, and substituting the expression “section 5”.

8. Amendment to Police Act 1958—Section 27 of the Police Act 1958 is amended by inserting, after subsection (5), the following new subsection:

“(5A) Nothing in the Human Rights Act 1993 prevents the Commissioner, when taking a decision on the deferment of a member’s retirement date under subsection (5), from acting in accordance with the purpose and principles of that Act as far as possible.”

This Act is administered in the Ministry of Justice.
