

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 29 November 1983

HUMAN RIGHTS COMMISSION AMENDMENT BILL

Proposed Amendments

Hon. Mr MCLAY, in Committee, to move the following amendments:

Clause 1: To omit subclause (2) (all the words in lines 11 and 12 on page 1), and substitute the following subclause:

(2) This Act shall come into force on the 1st day of February 1984.

Clause 4: To insert, as subclause (1), the following subclause:

(1) Section 7 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) Not more than 4 other Human Rights Commissioners.”

To renumber the existing subclause (1) as subclause (1A) by omitting from line 36 on page 2 the expression “(1)”, and substituting the expression “(1A)”.

Clause 12A: To omit paragraph (b) of subsection (1) of the new section 38A (all the words in lines 2 to 9 on page 7), and substitute the following paragraph:

“(b) In any proceedings in—

“(i) A District Court; or

“(ii) The High Court; or

“(iii) The Court of Appeal,—

in relation to any proceedings that are or have been before the Equal Opportunities Tribunal,—

whether or not the Proceedings Commissioner is or was a party to the proceedings before the Equal Opportunities Tribunal.

Clause 15: To insert, after the expression “section 38 (7)” in line 8 on page 8, the words “or section 38A (3)”.

Clause 16: To omit subsection (2) of the new section 70 (all the words in lines 18 to 23 on page 8), and substitute the following subsections:

“(2) If the Commission is unable to secure such a settlement or if it appears to the Commission that any term of such a settlement has not been complied with, it may refer the matter to the Proceedings Commissioner.

“(3) If the Proceedings Commissioner is satisfied—

“(a) That the complaint has substance; and

“(b) That every endeavour has been made by the Commission to secure a settlement between the parties concerned,—

he shall, if the complainant so requests, issue to the complainant a certificate to that effect.

“(4) If the Proceedings Commissioner is satisfied that any term of a settlement between the parties concerned has not been complied with, he shall, if the complainant so requests, issue to the complainant a certificate to that effect.

“(5) The complainant, having obtained a certificate under subsection (3) or subsection (4) of this section in respect of any matter, may take proceedings in respect of that matter before the Arbitration Court.

EXPLANATORY NOTE

Clause 1: The proposed amendment brings the Bill into force on 1 February 1984.

Clause 4: The proposed amendment increases from 6 to 7 the maximum number of Human Rights Commissioners.

Clause 12A: The new section 38A (1) (b) makes it clear that the Proceedings Commissioner may appear and be heard in any proceedings in—

(a) A District Court; or

(b) The High Court; or

(c) The Court of Appeal,—

that are in relation to any proceedings that have been before the Equal Opportunities Tribunal.

Clause 15: The proposed amendment is consequential on the new section 38A (3) (as set out in clause 12).

Clause 16 (as introduced) enacts new sections 70 and 71. The new section 70 (in the Bill as introduced) provides that if the Human Rights Commission is unable to secure a settlement (after investigating a matter under Part VI of the principal Act), or if it appears that any term of such a settlement has not been complied with, the complainant, having obtained a certificate to that effect from the Commission, may take proceedings in respect of the matter before the Arbitration Court. Under the amendment now proposed, the issue of the necessary certificate will be a matter for the Proceedings Commissioner and not for the Human Rights Commission. The Commission's role will be to decide whether to refer the matter to the Proceedings Commissioner.
