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Human Rights and Equal Opportunity Commission
Amendment Bill 2002

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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11 March 2002

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Human Rights and Equal Opportunity Commission Amendment Bill 2002

Date Introduced: 21 February 2002

House: House of Representatives

Portfolio: Attorney-General

Commencement: The Act is proposed to be given retrospective effect – it would be taken to have commenced on 13 April 2000.

Purpose

To bring State governments within the provisions regarding redress for unlawful discrimination in the *Human Rights and Equal Opportunity Commission Act 1986*.

Background

The *Human Rights Legislation Amendment Act (No. 1) 1999* introduced an anomaly into the *Human Rights and Equal Opportunity Commission Act 1986*. Prior to the introduction of those amendments, State governments had been included in the ambit of federal anti-discrimination provisions. Once the amending legislation came into effect (the relevant provisions came into operation on 13 April 2000), State governments were no longer covered by the Federal legislation. This became apparent in a case before a Federal Magistrates Court, *Rainsford v State of Victoria* [2001]FMCA 115.

This Bill, with a very simple provision stipulating that the ‘Crown in right of the States’ is covered by Part IIB (the part dealing with redress for unlawful discrimination – that is complaints before the President of the Commission or the Federal Court or Magistracy), changes the situation to reflect the original starting position, that is that the State governments are bound by the Federal anti-discrimination regime.

The Human Rights and Equal Opportunity Commission has welcomed the amendment, recognising the Attorney-General for his ‘swift action’ in addressing the possible problems that could arise from the drafting error and commenting that it has a number of complaints involving State governments before it.¹

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Main Provisions

The sole effective clause inserts into the *Human Rights and Equal Opportunity Commission Act 1986* a provision which binds the Crown in right of the States with respect to Part IIB – the Part of the Act which deals with redress for unlawful discrimination.

Endnotes

- 1 'Human Rights and Equal Opportunity Commission welcomes amendments to human rights legislation', *Press Release*, Human Rights and Equal Opportunity Commission, 21 February 2002.

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