



**National Council of
Women of New Zealand**

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S13.26

**Submission to the Justice and Electoral Committee Select Committee on the Human Rights
Amendment Bill 346-1**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 30 organisations affiliated at national level and a further 40 organisations affiliated at branch level. It has 22 branches throughout the country attended by representatives of these organisations, as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action.

This submission has been prepared by the NCWNZ Public Issues Standing Committee and the Parliamentary Watch Committee after limited consultation with the membership of NCWNZ. NCWNZ has a body of policy that supports the human rights of women, children, and persons with disabilities.

The stated purpose of this amending legislation is "to enable the establishment of the position of a full-time Disability Rights Commissioner within the Human Rights Commission (the Commission) and to make changes to the role and structure of the Commission to strengthen its performance". While NCWNZ supports the intent to create the position of a Commissioner to lead each of the three identified priority areas of disability rights, equal employment opportunities and race relations, there are concerns at the weakening of the roles with the transference of powers to the Chief Commissioner.

cl. 4 Interpretation

As cl. 6 amends s.8 of the Act to have a Commissioner appointed to lead the work in each of the priority areas of disability rights, equal employment opportunities and race relations, it is unrealistic to repeal the titles of Equal Employment Opportunities Commissioner and Race Relations Commissioner. It would be preferable to add the title of Disability Rights Commissioner. These roles have specific areas of responsibility and should not be downgraded to generalist roles.

cl. 5 Functions of Commission

NCWNZ supports the changes to s.5(1) of the Act whereby the Commission will promote racial equality and cultural diversity, promote equal employment opportunities (including equal pay), and promote and protect the full and equal enjoyment of human rights by persons with disabilities.

Such a move supports the recommendations in the 2012 report of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Monitoring Committee¹ covering the provision of information about CEDAW, promoting and increasing awareness of the Convention, eg:

To enhance awareness-raising initiatives for women on how to utilize available legal remedies against discrimination, including with regard to the Human Rights Commission, and to ensure that the Commission is adequately resourced.

Likewise, NCWNZ supports the amendment to s.5(2) as the Commissioners should be apolitical and able to speak about any matters that affect or infringe human rights, whether or not these are affirmed in New Zealand's legislation, and comment on the position of the Government in relation to that matter.

While cl. 5(5) goes some way to encompassing the development, promotion, and monitoring of compliance of international human rights instruments, the legislation needs to specify the human rights instruments to which New Zealand is a signatory, especially as there is a requirement for national machineries to report independently to their monitoring bodies. New Zealand has already ratified:

- Convention on the Elimination of All Forms of Racial Discrimination
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities

Further, these should be identified in the legislation in such a way as to allow for the addition of further treaties when they are ratified by New Zealand, perhaps by way of a schedule that can be amended more easily when the instruments are signed and ratified.

NCWNZ also supports cl 5(6) amending the Act by the inclusion of new s.5(2)(n) adding extra functions in relation to equal employment opportunities.

cl. 6 Membership of Commission

NCWNZ supports there being a Commissioner other than the Chief Commissioner to lead the work in each of the three areas: disability rights, equal employment opportunities (including pay equity), and race relations (new s.8(1A)). Each of these positions should be a full-time one, as identified in the existing legislation in s.8(1), and their title should reflect their area of responsibility.

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women, New Zealand. CEDAW/C/NZL/CO/7. para 15(c)

We are however concerned that the proposed changes seriously decrease the size of the Commission, which under the existing legislation included a full-time Chief Commissioner, two full-time Commissioners, and up to 5 other part-time Commissioners. The Bill indicates that the Commission will consist of a Chief Commissioner and between three and four other Commissioners, with no role being identified as full-time.

cl.7 Section 10(2) and (3) repealed

Rather than repealing this section of the Act, whereby the Race Relations Commissioner may, at any time, call a special meeting of the Commission, the provisions should be extended to the Commissioners for each of the priority areas. The Commissioners need the ability to call meetings of the Commission if there is a significant issue to be discussed.

cl. 9 New section 13 substituted

We accept the change in cl. 9 that makes the requirements generic rather than identifying each priority area. In addition to understanding the principles and practice and an appreciation of issues trends and developments, a Commissioner should have qualifications, skills and experience that are relevant to the priority area that they will lead.

cl. 10 Section 14 repealed

NCWNZ accepts that the criteria in the existing s.14 are now covered by the new s.13 as outlined in cl.9 of the Bill.

cl. 11 New section 15 substituted

NCWNZ is concerned that the changes proposed to s.15 increase the powers of the Chief Commissioner. Rather than repeal existing s.15(d) this should be made generic to encompass the Chief Commissioner working jointly with each of the Commissioners who are responsible for a priority area – the Chief Commissioner cannot be expected to have expertise in all priority areas and needs to work closely with the other Commissioners.

cl. 12 New section 16 substituted

New s.16 identifies the leadership role of the Commissioner responsible for a priority area. The requirement for a Commissioner to act jointly with the Chief Commissioner should be retained (see existing s.16(c and d) and s.17(g)) in relation to the performance and management of the Commission's functions.

cl. 13 Section 17 repealed

We note that the existing s.17 is now covered under the new s.16 (cl. 12) and new s.5(2)(n) in cl.5 of the Bill.

Other points of concern

There needs to be a clear delineation between the roles of the Commissioners and those of management. Under s.8(2) of the Act, The Commissioners are the board for the purposes of the Crown Entities Act 2004. It must be remembered that the Commissioners are appointed to promote and advocate for human rights. The general manager is appointed under s.18 of the Act, but there is nothing in the Act that identifies the size of the administrative staff, or the

requirements for their qualifications, skills and experience. It is important that the support staff are well versed in the priority area that they support and also have the confidence of the sector that is aligned with that priority area.

Conclusion

NCWNZ supports the inclusion of a full-time Disability Rights Commissioner. We believe that instead of repealing the titles of the Race Relations and Equal Opportunities Commissioner roles, that an additional title is added to represent disability rights. We have also expressed concern in relation to the new functions of the Commission and would like to see greater resourcing and clearer lines of accountability than is currently provided for in this amendment. Specifically, NCWNZ would like to see the bill encompass the international human rights instruments to which New Zealand is a signatory. This suggestion is supported by recommendations in the most recent report² from the CEDAW Monitoring Committee, urging greater integration of human rights into domestic law and machinery of government, stating:

The Committee urges the State party to consider establishing a Human Rights Select Committee in Parliament to strengthen Parliamentary oversight on human rights generally and especially on women's rights and gender equality.

Barbara Arnold
President

Beryl Anderson
Convener, Public Issues Standing Committee

² Ibid, para 9