

LEGISLATIVE ASSEMBLY

Read 1° 27 October 1993

(Brought in by Mrs Wade and Mr Gude)

(No. 2)

A BILL

to make various amendments to the **Equal Opportunity Act 1984** and for other purposes.

Equal Opportunity (Amendment) Act 1993

The Parliament of Victoria enacts as follows:

PART 1—AMENDMENTS TO THE EQUAL OPPORTUNITY ACT 1984

1. Purpose

5 The purpose of this Act is to amend the **Equal Opportunity Act 1984**—

- 10 (a) to provide for the expedition of the hearing of some complaints; and
- (b) to establish an Equal Opportunity Commission and a position of Chief Conciliator; and
- (c) to make other miscellaneous amendments.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

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2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed. 5
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 10

Act No. 10095.
 R printed to
 No. 57/1989.
 Subsequently
 amended by
 No. 83/1992.

3. Principal Act

In this Act, the **Equal Opportunity Act 1984** is called the Principal Act.

4. Definitions 15

In section 4 of the Principal Act—

- (a) before the definition of “Board” **insert—**
 “appointed member of the Commission”
 means a member of the Commission appointed under section 7A (b);’; and 20
- (b) after the definition of “Brother” and “Sister” **insert—**
 “Chief Conciliator” means the Chief Conciliator of the Commission appointed under Part II;’; and 25
- (c) for the definition of “Commissioner” **substitute—**
 “Commission” means the Equal Opportunity Commission established under Part II;’; and
- (d) before the definition of “Document” **insert—** 30
 “complainant” means a person who has lodged a complaint with the Commissioner under section 44; and

“Deputy President” means a Deputy President of the Board and includes a person appointed to act as Deputy President; and

(e) in the definition of “Member”, after “the President” **insert** “and a Deputy President” and for “or President” **substitute** “, President or Deputy President”; and

(f) after the definition of “Registrar” **insert**—

“respondent” means a person about whom a complaint has been lodged under section 44;’.

5. Insertion of new Divisions 1 and 1A

For Division 1 of Part 11 of the Principal Act **substitute**—

“Division 1—The Commission

6. Establishment of Commission

(1) There is established a Commission to be called the Equal Opportunity Commission.

(2) The Commission—

(a) is a body corporate with perpetual succession; and

(b) has a common seal; and

(c) may sue and be sued in its corporate name; and

(d) may acquire, hold and dispose of real and personal property; and

(e) may do and suffer all acts and things that a body corporate may, by law, do and suffer.

(3) The common seal must be kept as directed by the Commission and must

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not be used except as authorised by the Commission.

- (4) All courts must take judicial notice of the seal of the Commission on a document and, until the contrary is proved, must presume that the document was properly sealed. 5

7. Powers and functions of the Commission—

- (1) The Commission has the following functions— 10
 - (a) to establish policies and issue guidelines and directions on the manner in which conciliation procedures under the Act should be conducted; and 15
 - (b) to receive and investigate complaints on the manner in which conciliation procedures under the Act should be conducted; and
 - (c) to establish and undertake information and education programmes; and 20
 - (d) any other functions conferred on it by or under this Act or any other enactment. 25
- (2) The Commission has all the powers necessary to enable it to perform its functions.

7A. Membership of the Commission

- The Commission consists of 5 members of whom— 30
 - (a) one is the Chief Conciliator; and
 - (b) the other 4 are persons appointed by the Governor in Council on the nomination of the Minister. 35

7B. *Terms of office*

- 5
- (1) An appointed member of the Commission holds office for the period, not exceeding 5 years, that is specified in his or her instrument of appointment.
- (2) An appointed member of the Commission is eligible for reappointment.
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- (3) An appointed member is, in respect of that appointment as member, subject to Part 9 of the **Public Sector Management Act 1992**, but is not otherwise, in respect of that appointment, subject to the Act.

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7C. *Resignation and removal*

- 20
- (1) An appointed member of the Commission ceases to be a member if he or she is absent, without leave first granted by the Commission, from 3 consecutive meetings of which reasonable notice has been given to that member, either personally or by post.
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- (2) An appointed member of the Commission may resign the office of member by writing signed by the member and addressed to the Governor in Council.
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- (3) The Governor in Council may at any time remove an appointed member of the Commission from office.
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- (4) If an appointed member of the Commission ceases to hold office, the Governor in Council may, in accordance with this Act on the recommendation of the Minister, fill the vacant office.

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- (5) A member appointed under sub-section (4) holds office for the rest of the term of appointment of the member whose place he or she fills.

7D. Chairperson

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- (1) The Governor in Council may appoint an appointed member of the Commission to be the chairperson of the Commission.

- (2) A person appointed under sub-section (1) holds office for the term specified in his or her instrument of appointment and is eligible for reappointment.

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- (3) A person appointed to an office under sub-section (1) may resign that office by writing signed by the person and addressed to the Governor in Council.

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- (4) The Governor in Council may at any time remove a person appointed under sub-section (1) from office.

- (5) A person appointed to an office under sub-section (1) ceases to hold that office on ceasing to be a member of the Commission.

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7E. Acting member

- (1) If an appointed member of the Commission is unable to perform the duties or functions of the office, the Governor in Council may appoint a person to act as the member during the period of inability.

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- (2) The Governor in Council—

- (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and

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(b) may at any time terminate the appointment.

- 5 (3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

7F. Payment of members

10 (1) A member or acting member of the Commission, other than a member who is an officer or employee of the public service, is entitled to receive the fees that are fixed from time to time by the Governor in Council for that member.

15 (2) Each member or acting member of the Commission is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

20 (3) The Governor in Council may fix these fees or allowances by reference to regulations or guidelines under the **Public Sector Management Act 1992**.

7G. Procedure of Commission

25 (1) The chairperson must preside at a meeting of the Commission at which he or she is present.

(2) If the chairperson is not present at a meeting the members present may elect a member to preside at the meeting.

30 (3) The person presiding at a meeting has a deliberative vote and a second or casting vote.

35 (4) A majority of the members of the Commission currently holding office constitutes a quorum.

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(5) Subject to this Act, the Commission may regulate its own proceedings.

7H. *Effect of vacancy or defect*

An act or decision by the Commission is not invalid only because— 5

(a) of a vacancy in its membership; or

(b) of a defect or irregularity in the appointment of any of its members; or

(c) in the case of a person appointed to act as a member of the Commission, the occasion for his or her so acting had not arisen or had ceased. 10

7I. *Delegation by Commission*

The Commission may, in writing, delegate to a member of the Commission, any of its powers or functions under this Act other than this power of delegation. 15

Division 1A—Chief Conciliator 20

7J. *Appointment of Chief Conciliator*

There is to be a Chief Conciliator of the Commission appointed by the Governor in Council.

7K. *Terms of office* 25

(1) The Chief Conciliator holds office for the period, not exceeding 5 years, specified in his or her instrument of appointment.

(2) The Chief Conciliator is eligible for reappointment. 30

7L. Resignation and removal

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- (1) The Chief Conciliator may resign that office by writing signed by him or her and addressed to the Governor in Council.
 - (2) The Governor in Council may at any time remove the Chief Conciliator from office.

7M. Payment of Chief Conciliator

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- (1) The Chief Conciliator is entitled to receive the remuneration as fixed from time to time by the Governor in Council.
 - (2) The Chief Conciliator is entitled to receive the allowances that are fixed from time to time by the Governor in Council.
 - (3) The Governor in Council may fix these fees or allowances by reference to regulations or guidelines made under the **Public Sector Management Act 1992**.

7N. Functions of Chief Conciliator

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The Chief Conciliator is to administer the affairs of the Commission in accordance with the policies and directions of the Commission.

7O. Delegation by Chief Conciliator

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The Chief Conciliator may, with the approval of the Commission, in writing, delegate to an officer of the Commission any of his or her powers or functions under this Act, other than this power of delegation.”.

6. Appointments to Board

- (1) In section 8 (1) of the Principal Act, after “President” **insert** “, the Deputy Presidents”.
- (2) In section 8 (1A) of the Principal Act, for “consisting of the President and two other members chosen by the President” **substitute** “consisting of 3 members of the Board chosen by the President, of whom one must be either the President or a Deputy President”.
- (3) After section 8 (1A) of the Principal Act **insert**—
“(1B) The President or Deputy President appointed to a panel must preside over the conduct of the affairs of that panel.”.
- (4) After section 8 (2) of the Principal Act **insert**—
“(3) The persons appointed to the positions of President and Deputy President must have the same qualifications as those required for a County Court Judge appointed under the **County Court Act 1958**.”.

7. Acting Appointments

- (1) In section 10 (1) of the Principal Act—
 - (a) after “the President” **insert** “or a Deputy President”; and
 - (b) for “the President’s office” **substitute** “his or her office”; and
 - (c) for “in the office of President” **substitute** “in the office of that person”; and
 - (d) after “as President” **insert** “or Deputy President”.
- (2) In section 10 (2) of the Principal Act, after “President” **insert** “or a Deputy President”.

8. Meetings

- (1) For section 13 (1) of the Principal Act **substitute**—
“(1) The President must preside at a meeting of the Board and, if the President is not present at a

meeting, a Deputy President must preside at the meeting.”.

(2) For section 13 (3) of the Principal Act **substitute—**

“**(3)** The person presiding at a meeting has a deliberative vote only.”.

9. Secrecy

In section 15 of the Principal Act, for sub-section (1) **substitute—**

“(1) This section applies to every person who is or has been—

(a) a member of the Board or the Commission;
or

(b) the Chief Conciliator; or

(c) the Registrar; or

(d) a member of the staff assisting the Commission or the Board; or

(e) the Commissioner for Equal Opportunity under this Act as in force before the commencement of section 29 of the **Equal Opportunity (Amendment) Act 1993** or any member of the staff of such a person.”.

10. Insertion of new Division 3 of Part 11

For Division 3 of Part 11 of the Principal Act **substitute—**

“**Division 3—Educational activities of Commission**

16. Educational activities

(1) The Commission must undertake programmes for the dissemination of information for the education of the public with respect to—

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(a) the elimination of discrimination on the ground of status or by reason of the private life of a person; and

(b) the promotion of equality of opportunity between persons of different status; and

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(c) any other matters relevant to the provisions of this Act.

(2) If, during the performance of its functions, the Commission becomes aware of any provisions of an Act which discriminate or have the effect of discriminating against persons, the Commission must notify the Minister responsible for the administration of that Act immediately.

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(3) The Commission may undertake research into any matter arising from or incidental to, the operation of this Act.

(4) The Commission may, at any time, submit to the Minister a report on any matter arising from the performance of the Commission's functions under this section.”.

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11. *Change of Commissioner to Commission*

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(1) In sections 41, 42 and 43 of the Principal Act, for “Commissioner” (wherever occurring) **substitute** “Commission”.

(2) In section 41 (2A) of the Principal Act, for “Commissioner’s” **substitute** “Commission’s”.

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12. *The making of complaints*

(1) In section 44 of the Principal Act, in sub-sections (1), (3), (3A), (4) and (6), for “Commissioner” (wherever occurring) **substitute** “Commission”.

(2) At the end of section 44 of the Principal Act **insert—**

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“(7) The Commission must assist a complainant in formulating his or her complaint.”.

13. Insertion of new sections 44A to 44C

After section 44 of the Principal Act **insert—**

5 **“44A. Minister’s power to refer matter to Board**

If the Minister is of the opinion that the subject-matter of a complaint is an issue of important public policy, the Minister may refer the matter to be heard by the Board under section 46 without the matter first being considered by the Commission.

44B. Expedited complaints

15 (1) The Commission, on the application in writing of the respondent, may determine that a complaint is to be an expedited complaint if—

20 (a) the Commission has formed the opinion under section 45 (2) that the subject matter of the complaint may be resolved by conciliation; and

25 (b) the complaint relates to a policy decision of the respondent, the implementation or proposed implementation of which is alleged to be discriminatory.

30 (2) Within 1 week of receiving an application under sub-section (1), the Commission must make a determination and give a copy of the determination to the complainant and the respondent.

(3) The respondent may apply in writing to the Board for a review of the

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- Commission’s determination under sub-section (1).
- (4) An application under sub-section (3) must be made within 1 week of the applicant being given a copy of the determination. 5
 - (5) In determining an application for review of the Commission’s determination, the Board may confirm, vary or rescind the Commission's determination. 10
 - (6) The Board must begin to hear the application within 1 week of receiving it, and must determine the application as expeditiously as possible.
 - (7) In determining an application for review under sub-section (3)— 15
 - (a) the Board must allow both the complainant and the respondent the opportunity to make both oral and written submissions; and 20
 - (b) in all other respects the procedure of the Board is at its own discretion; and
 - (c) the procedures of the Board in conducting an inquiry or proceedings before the Board set out in Division 3 of this Part do not apply. 25

44C. *Application to strike out a complaint*

- (1) A respondent may apply in writing to the Board to have a complaint struck out on the grounds that it is frivolous, vexatious, misconceived or lacking in substance at any time between the lodging of the complaint and the commencement of the hearing of the complaint by the Board, 30 35

other than at a time when the matter is in the process of being conciliated.

5 (2) The Board must begin to hear the application within 1 week of receiving it, and must determine the application as expeditiously as possible.

(3) In determining an application under this section—

10 (a) the Board must allow both the complainant and the respondent the opportunity to make both oral and written submissions; and

15 (b) in all other respects the procedure of the Board is at its own discretion; and

20 (c) the procedures of the Board in conducting an inquiry or proceedings before the Board set out in Division 3 of this Part do not apply.”.

14. Amendments to conciliation procedures

(1) In section 45 of the Principal Act, for sub-sections (1) and (2) **substitute**—

25 “(1) Where in the opinion of the Commission a complaint has been lodged with the Commission—

(a) which is frivolous, vexatious, misconceived or lacking in substance; or

30 (b) which is more appropriately dealt with by another tribunal or Court—

the Commission may, by notice in writing addressed to the complainant, and given to the complainant within 60 days of the lodging of the complaint, decline to entertain the complaint

35 (1A) Where the Commission has declined to entertain a complaint and the complainant has, by notice in writing required the Commission to refer the

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complaint to the Board, the Commission must refer the complaint to the Board.

(2) In the case of a complaint—

(a) which has not been referred to the Board under section 44A; or

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(b) which the Commission has not declined to entertain under sub-section (1)—

if the Commission is of the opinion that the subject matter of the complaint may be resolved by conciliation, the Commission must refer the complaint to the Chief Conciliator, and the Chief Conciliator must make all reasonable endeavours to resolve the matter by conciliation.”.

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(2) In sub-sections (3) and (4) of section 45 of the Principal Act, for “Commissioner” **substitute** “Chief Conciliator”.

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(3) For sub-section (5) of section 45 of the Principal Act **substitute**—

“(5) Where the Chief Conciliator—

(a) is of the opinion that the subject matter of a complaint cannot be resolved by conciliation; or

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(b) has attempted to resolve the matter by conciliation but has not been successful in that attempt—

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the Chief Conciliator must so notify the Commission, and if the complainant, by notice in writing, requires the Commission to refer the complaint to the Board, the Commission must refer the complaint to the Board.

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(5A) In the case of an expedited complaint in respect of which an application under section 45AB has not been made, the Chief Conciliator must commence conciliation as soon as practicable after the complaint has been lodged and, if the matter is not resolved within 30 days of the complaint having been lodged, must so notify the Commission, and if the complainant, by notice in writing, requires

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the Commission to refer the complaint to the Board, the Commission must refer the complaint to the Board.

5 (5B) In the case of an expedited complaint in respect of which an application under section 45AB has been made, upon receiving notice of the application, the Chief Conciliator must cease to deal with the complaint until the application has been determined.

10 (5C) In the case of an expedited complaint in respect of which an application under section 45AB to refer the matter has been refused, the Chief Conciliator must commence or continue with conciliation as soon as practicable after the refusal and if the matter has not been resolved within 30 days of that refusal, must so notify the Commission, and if the complainant, by notice in writing, requires the Commission to refer the complaint to the Board, the Commission must refer the complaint to the Board.

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20 (5D) Where an interim order has been made under section 45A, if conciliation has not already commenced, the Chief Conciliator must commence conciliation as soon as practicable after the making of the order and, if the matter is not resolved within 30 days of the making of the order, must so notify the Commission, and if the complainant, by notice in writing, requires the Commission to refer the complaint to the Board, the Commission must refer the complaint to the Board.”.

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15. Insertion of new sections 45AA and 45AB

After section 45 of the Principal Act **insert—**

35 **“45AA. Complaints about the way in which a conciliation is conducted**

(1) Any party to a conciliation may make a written complaint to the Commission

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about the method of conducting the conciliation, either during the course of the conciliation, or after the conciliation has been completed.

- (2) If the complaint is made during the course of the conciliation, the Commission may investigate the complaint and, if it sees fit, may issue a direction about how to proceed with the conciliation. 5
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- (3) If the complaint is made after the conciliation has been completed, the Commission may investigate the complaint and, if it sees fit, may issue a direction about how to conduct any future conciliation, but the Commission may not interfere with the outcome of the conciliation in respect of which the complaint was made. 15

45AB. *Application for referral to the Board without conciliation* 20

- (1) The respondent in an expedited complaint may apply to the Board to have the matter referred to the Board for hearing without the matter going to conciliation under section 45. 25
- (2) An application under this section must be made by the respondent within 1 week of the respondent being given notice to attend the Commission under section 45 (3). 30
- (3) The Board must begin to hear the application within 1 week of receiving it, and must determine the application as expeditiously as possible. 35
- (4) In determining an application under this section—

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- (a) the Board must allow both the complainant and the respondent the opportunity to make both oral and written submissions; and
- (b) in all other respects the procedure of the Board is at its own discretion; and
- 10 (c) the procedures of the Board in conducting an inquiry or proceedings before the Board set out in Division 3 of this Part do not apply.”.

16. Amendment of section 45A

15 (1) In section 45A (1) of the Principal Act, for “Commissioner” (wherever occurring) **substitute** “Commission”.

(2) In section 45A of the Principal Act, after sub-section (1) **insert**—

20 “(1A) In making an order under sub-section (1), the Board or the President (as the case requires) must have regard to the following matters—

- 25 (a) whether or not the complainant has established a prima facie case with respect to the complaint;
- (b) any possible detriment or advantage to the public interest in making the order;
- (c) any possible detriment to the complainant's case if the order is not made.”.

17. Preliminary Conferences

30 In section 45B (1) (c) of the Principal Act, for “Commissioner” **substitute** “Commission”.

18. Amendments to proceedings before the Board

(1) In section 46 (1) of the Principal Act—

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- (a) for “Commissioner” **substitute** “Commission”,
and
 - (b) after “to the Board under section 45” **insert** “or
by the Minister to the Board under section 44A”.
- (2) After section 46 (1) of the Principal Act **insert—** 5
- “(1A) In the case of an expedited complaint which has
been referred to the Board or a complaint which
has been referred to the Board by the Minister
under section 44A, the Board must begin to hear
that complaint within 30 days of the complaint 10
being referred to the Board.
 - (1B) Where the Board, upon application under section
45AB, has determined to hear a complaint without
conciliation, the Board must proceed to hear and
determine that complaint and must begin to hear 15
the complaint within 30 days of that
determination.
 - (1C) The President may extend the period of 30 days
required under sub-section (1A) or (1B) by a
period of up to 30 more days if the President 20
thinks fit.”.
- (3) In section 46 (2) (a) of the Principal Act, for ‘person
with respect to whom the complaint was made (in this
section and in section 47 called “**the respondent**”)
substitute “respondent”. 25
- (4) After section 46 (3) of the Principal Act **insert—**
- “(3AA) In making an order under sub-section (3) the
Board must have regard to the following
matters—
 - (a) whether or not the complainant has 30
established a prima facie case with
respect to the complaint;
 - (b) any possible detriment or advantage to
the public interest in making the order;
 - (c) any possible detriment to the 35
complainant's case if the order is not
made.

(3AB) The Board may, in the course of any proceedings before it, make any technical amendments to the complaint before it that it sees fit.”.

5 **19. Substitution of section 47**

For section 47 of the Principal Act **substitute—**

“47. Costs

(1) If the Board, after hearing a complaint considers that—

10 (a) it is frivolous, vexatious, misconceived or lacking in substance, the Board may order the complainant to pay to the respondent the costs fixed by the Board; or

15 (b) the respondent has behaved unreasonably, the Board may order the respondent to pay to the complainant the costs fixed by the Board.

20 (2) If the Board has struck out a complaint under section 44C on the grounds that it is frivolous, vexatious, misconceived or lacking in substance, the Board may order the complainant to pay the respondent the costs fixed by the Board.

25 (3) In any inquiry or proceeding before the Board the Board may order the payment of costs fixed by the Board.

30 (4) In making an order under sub-section (3), the Board must order the payment of costs in favour of the successful party to the proceedings unless the Board is of the opinion that there are exceptional circumstances which require the order to

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be made otherwise than in favour of that party.

(5) In making an order as to costs under this section the Board must fix a sum which reflects the costs expended by the person in favour of whom the order is made and any other pecuniary loss incurred by that person because of the proceedings. 5

(6) If the Board makes an order as to costs, the person to whom payment is to be made under the order may enforce the order by filing free of charge in the Magistrates' Court or the County Court or the Supreme Court— 10

(a) a copy of the order certified by the Registrar to be a true copy; and 15

(b) that person's affidavit as to the amount remaining unpaid under the order—

and on the filing of those documents an order is deemed to have been made by the Magistrates' Court or the County Court or the Supreme Court (as the case requires) requiring the payment of the sum mentioned in the affidavit as being unpaid and may be enforced accordingly." 20 25

20. Offences in relation to persons

In section 57 (3) of the Principal Act—

(a) in paragraph (a), for "the Commissioner or a person on the staff of the Commissioner" **substitute** " a member of the Commission, a person on the staff of the Commission or the Chief Conciliator"; and 30

(b) in paragraph (c), for "the Commissioner or a person on the staff of the Commissioner" **substitute** "a member of the Commission, a 35

person on the staff of the Commission or the Chief Conciliator”.

21. Annual Report

In section 58 (2) of the Principal Act—

- 5 (a) for “Commissioner” (wherever occurring) **substitute** “Commission”; and
(b) for “Commissioner’s” **substitute** “Commission’s”.

22. Advertising

10 In section 59 of the Principal Act, in sub-sections (5) and (6), for “Commissioner” (wherever occurring) **substitute** “Commission”.

23. Immunity from liability

In section 61A of the Principal Act—

- 15 (a) in sub-section (1)—
(i) for “the Commissioner or any person acting under the direction or authority of the Board or the Commissioner” **substitute** “the Commission, the Chief Conciliator or any person acting under the authority of the Board or the Commission”; and
20 (ii) in paragraph (a) for “the Board or the Commissioner” **substitute** “the Board, the Commission or the Chief Conciliator”; and
(b) in sub-section (2)—
25 (i) in paragraph (a) for “Commissioner” **substitute** “Commission”; and
(ii) in paragraph (b) for “to the Commissioner” **substitute** “to the Commission or the Chief Conciliator”.

30 **24. Insertion of new section 62A**

After section 62 of the Principal Act **insert**—

“62A. Supreme Court—Limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of actions or proceedings of the kind referred to in section 61A.”.

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25. Regulation making powers

In section 63 (a) of the Principal Act, for “by the Commissioner” **substitute** “by the Commission or the Chief Conciliator”.

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26. Statute law revision

In the Principal Act—

(a) section 3 is **repealed**;

(b) in section 15 (2) for “person office” **substitute** “person’s office”.

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PART 2—TRANSITIONAL

27. Definitions

In this Part—

“**Commission**” means the Equal Opportunity Commission established under the Principal Act as in force on and from the commencement of section 5;

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“**Commissioner**” means the Commissioner for Equal Opportunity appointed under the Principal Act as in force before the commencement of section 5.

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28. Transitional provision—Equal Opportunity Board

Despite the coming into operation of section 6, the Equal Opportunity Board as it is constituted on and from the coming into operation of that section is deemed to be the same body as the Equal Opportunity

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Board as it was constituted immediately before the coming into operation of that section.

29. Transitional provision—Commissioner

5 (1) On and from the commencement of this section, the office of Commissioner for Equal Opportunity is abolished and the holder of the office goes out of office.

(2) On and from the commencement of this section—

10 (a) the Commission is substituted as a party to any proceedings pending in any court or tribunal to which the Commissioner was a party immediately before that commencement; and

15 (b) the Commission is substituted as a party to any arrangement or contract entered into by the Commissioner as a party and in force immediately before that commencement; and

20 (c) the Commission is substituted for the Commissioner in any other proceedings under this Act begun but not completed by the Commissioner, other than proceedings to which sub-section (3) applies; and

(d) any reference to the Commissioner—

25 (i) in any Act other than the Principal Act or this Act; or

(ii) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or

(iii) any document whatever—

30 must, so far as it relates to any period on or after that commencement, and if not inconsistent with the context or subject matter, be taken to be a reference to the Commission.

35 (3) On and from the commencement of this section, in relation to a complaint which has been lodged with the Commissioner before that commencement and which

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the Commissioner has determined may be resolved by conciliation—

- (a) if the Commissioner has not begun to conciliate the complaint, the Commission must refer the complaint to the Chief Conciliator, and the complaint must be dealt with as if it had been made under the Principal Act as in force on and from the commencement of section 14 of this Act; and 5
- (b) if the Commissioner has begun to conciliate the complaint, the Chief Conciliator is to continue to conciliate the complaint as if the complaint had been made under the Principal Act as in force on and from the commencement of section 14 of this Act. 10 15