

2006

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Human Rights Commission Amendment Bill 2006

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# Human Rights Commission Amendment Bill 2006

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## A Bill for

An Act to amend the *Human Rights Commission Act 2005*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Human Rights Commission Amendment Act 2006*.

3 **2 Commencement**

4 This Act commences on the commencement of the *Human Rights*  
5 *Commission Act 2005*, section 3.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Human Rights Commission Act 2005*.

10 **4 Members of commission**  
11 **Section 12 (1) (a)**

12 *omit*

13 **5 Section 12 (3)**

14 *omit*

15 **6 Commission president**  
16 **Division 3.2**

17 *omit*

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**7 Section 26**

*substitute*

**26 Appointment of human rights commissioner**

- (1) The Executive must appoint a person to be the Human Rights Commissioner.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) However, the Executive must not appoint a person as human rights commissioner unless satisfied that the person has the experience or expertise necessary to exercise the functions of the commissioner.

- (3) The human rights commissioner must not be appointed for a term of longer than 5 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

- (4) The conditions of appointment of the human rights commissioner are the conditions agreed between the Executive and the commissioner, subject to any determination under the *Remuneration Tribunal Act 1995*.

*Note* The human rights commissioner's appointment may be ended under s 29.

1 **8 Section 28**

2 *substitute*

3 **28 Application—div 3.7**

4 This division applies to each of the following positions:

- 5 (a) the children and young people commissioner;
- 6 (b) the disability and community services commissioner;
- 7 (c) the discrimination commissioner;
- 8 (d) the health services commissioner;
- 9 (e) the human rights commissioner.

10 **9 Time and place of commission meetings**  
11 **Section 30 (3) and (4)**

12 *substitute*

- 13 (3) Any member may, with the agreement of at least 1 other member,  
14 call a meeting of the commission.
- 15 (4) A member who calls a meeting under subsection (3) must give the  
16 other members reasonable notice of the time and place of the  
17 meeting.

18 **10 Presiding member at meetings**  
19 **Section 31**

20 *omit*

21 **11 Voting at meetings**  
22 **Section 33 (2)**

23 *omit*

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1 **12 Allocating complaints**  
2 **Section 50 (2)**

3 *omit*

4 **13 Section 55**

5 *substitute*

6 **55 What is conciliation?**

7 (1) For this Act, **conciliation** of a complaint involves the commission  
8 acting as an impartial third-party to help the parties to the  
9 conciliation to endeavour to resolve the matters raised by the  
10 complaint.

11 (2) Conciliation requires the parties' willing and informed agreement to  
12 take part in the conciliation.

13 *Note* The commission may require a party to attend conciliation, but may not  
14 require the party to take part.

15 (3) The parties to conciliation decide the outcome of the conciliation,  
16 usually with advice from the commission.

17 **14 Section 56**

18 *substitute*

19 **56 Delegation of commission's function of conciliation**

20 The commission may delegate the function of conciliation of a  
21 complaint to—

22 (a) a commissioner other than the commissioner who is  
23 considering the complaint; or

- 1 (b) a member of staff or a consultant engaged by the commission  
2 for this Act.

3 *Note 1* Consultants may be engaged for this Act under s 37.

4 *Note 2* For the making of delegations and the exercise of delegated functions,  
5 see the Legislation Act, pt 19.4.

6 **15 Relationship between conciliation and consideration**  
7 **Section 61 (2) (a)**

8 *substitute*

- 9 (a) the commission may use information from the consideration to  
10 help with conciliation; and

11 **16 Section 61 (2), note**

12 *omit*

13 **17 Conciliated agreements**  
14 **Section 62 (3)**

15 *substitute*

- 16 (3) The commission must—  
17 (a) give each party a copy of the conciliation agreement; and  
18 (b) if the complaint is a discrimination complaint—give the  
19 agreement to the discrimination tribunal.

20 **18 Section 63**

21 *substitute*

22 **63 Use of conciliation agreement by commission**

- 23 (1) This section applies if the parties to the conciliation make a  
24 conciliation agreement.



- 1 (2) The commission may use information in the conciliation agreement,  
2 whether for considering the complaint to which the agreement  
3 relates or otherwise, only if the parties agree to the use by the  
4 commission of the agreement or the part of the agreement  
5 containing the information.
- 6 (3) An agreement to allow the commission to use a conciliation  
7 agreement, or part of a conciliation agreement, may be in the  
8 conciliation agreement or elsewhere.
- 9 (4) If the parties agree to the use by the commission of the conciliation  
10 agreement, or a part of the agreement, the commission may use  
11 anything in the conciliation agreement, or the part of the agreement,  
12 as the commission considers appropriate.

13 **19 End of conciliation**  
14 **Section 65 (2)**

15 *substitute*

- 16 (2) If the conciliation ends, the commission must, as soon as  
17 practicable, tell the following people that the conciliation has ended  
18 and why it has ended:
- 19 (a) the complainant;
- 20 (b) the person complained about.

21 **20 Admissibility of evidence**  
22 **Section 66 (1) (a) (i)**

23 *substitute*

- 24 (i) a communication made between people attending a  
25 conciliation (including the commission); and

- 1 **21**      **Secrecy**  
2            **Section 99 (1), definition of *person to whom this section***  
3            ***applies*, paragraph (a) (i)**
- 4            *omit*
- 5 **22**      **Protection of officials from liability**  
6            **Section 100 (1), definition of *official*, paragraph (a)**
- 7            *omit*
- 8 **23**      **Dictionary, definition of *conciliator***
- 9            *omit*
- 10 **24**      **Dictionary, definition of *president***
- 11            *omit*
- 12 **25**      **Further amendments, mentions of *president***
- 13            *omit*
- 14            president
- 15            *substitute*
- 16            commission
- 17            *in*
- 18            • section 57 (2) and (3)
- 19            • section 58
- 20            • section 59 (1)
- 21            • section 60
- 22            • section 62 (1)
- 23            • section 64
- 24            • section 65 (1) (d)

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2006.

**2 Notification**

Notified under the Legislation Act on 2006.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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