



**National Council of
Women of New Zealand**

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Wahine O Aotearoa

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S01.65

**Further Submission to the Justice and Electoral Committee
on the Human Rights Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) thanks the Select Committee for the opportunity to comment further on the Human Rights Amendment Bill, specifically the criteria for appointment of Commissioners.

Executive Summary

NCWNZ supports the appointment of high-calibre leaders who will act as role models and attract quality staff but reiterates comments about the proposed role of the Race Relations Commissioner as proposed in the Bill. If this full-time Commissioner, along with up to 5 part-time Commissioners, is ultimately answerable to the Chief Human Rights Commissioner, NCWNZ is concerned that the function of the Race Relations Commissioner may be weakened. New Zealand's unique cultural history demands a robust and independent Race Relations Commissioner who plays a conjoint role rather than deferring to the Chief Commissioner. Race is an increasingly common thread in human rights issues in our expanding multicultural society and the role of the Commissioner should reflect this.

“11 Criteria for appointment”

Presumably these very broad criteria allow a wide pool of expertise to be drawn upon at minimum cost by providing for the appointment of up to 5 part-time commissioners whose skills fall within these areas. As we stated in S01.63, there is no substitute for a full-time committed advocate in any given field and NCWNZ is concerned that all human rights, not just the most vocal, be protected.

NCWNZ is concerned that this section does not specifically address equal employment opportunity principles as required under Employment legislation. We would support the rigorous application of these principles so that the “best person for the job” is appointed. At the same time, we believe there is a balance to be found between Commissioners representing the breadth of society and avoiding politically correct appointments. The appointment of up to seven women commissioners, for example, would not adequately reflect the needs and views of potential clients, despite the (remote) possibility of those women being the best candidates for the positions.

“11

“1(1)(a)(ii) New Zealand law, OR the law of another country...”





We would like the use of “or” clarified in this clause. There does not appear to us to be any situation where knowledge of, or experience in, New Zealand law would not be pivotal to a Commissioner meeting criteria for appointment. Even if the human rights concerned related to refugees, the Commissioner would require knowledge of New Zealand law so that national law could be applied and compared.

“11, “12 and “13 Criteria for appointment

We recommend that the legislation charges the Chief Commissioner with the responsibility of selecting persons who meet the criteria and will complement his/her own abilities and form part of a strong team.

We are concerned that the Minister has ultimate responsibility for recommending persons to the Governor-General for appointment as Commissioners, alternate Commissioners, Chief Commissioner and Race Relations Commissioner.

If the Minister is responsible for choosing Commissioners, NCNZ considers that political bias may influence the choice and that Commissioners might be drawn from a very narrow Wellington-based pool of candidates. We strongly recommend that candidates be chosen following consultation with all party leaders. We are interested in the selection process, the objective rigour of EEO requirements and who is responsible if appointees do not measure up. Does ultimate responsibility rest with the Governor-General or the Minister?

The criteria for appointment as Commissioners or alternate Commissioners, as found in clause 11, places no emphasis on the ethics, strength of character and leadership qualities of individuals who may qualify under one or more of the broad and general criteria of clause 11. NCNZ believes that the above qualities are a prerequisite and should be included in the legislative criteria for the appointment of all Commissioners. They are partially addressed in clauses “12 and “13 in relation to the appointment of Chief Commissioner and Race Relations Commissioner. A person may have all the qualifications in the world but fail to inspire and lead a team.

“12 (b)

Because the Chief Commissioner and Race Relations Commissioners need to closely liaise, emphasis should be placed on a need for an harmonious working relationship between the two offices, and that the two Commissioners complement each other and offer exemplary role models. In the event that such a working relationship is not achieved we ask whether clear alternatives are available to the Minister under the Act.

“14, “15 Functions

“15(a), (b) We note that the Race Relations Commissioner is to provide leadership and advice on matters of race relations. Yet clauses “14(d), “15(c) and (d) appear to dilute the independence and authority of the Race Relations Commissioner by ensuring she/he acts jointly with the Chief Commissioner, that he/she is “consulted” on matters of race relations by the Chief Commissioner. We consider this could, on the one hand, be a reasonable check on the power of the Race Relations Commissioner or could, on the other hand, impose an unreasonable fetter on the authority of the office.



“20A Appointment of Judge as Human Rights Commissioner

“(1) We note that the appointment of a Judge as Human Rights Commissioner carries legislative protection for privileges such as rank, title, salary. This differs from other appointees who are given no such protection. We therefore recommend that no Commissioner be adversely affected in relation to future employment prospects and protection as a result of serving as a Commissioner.

We consider that the work of the Commission could be compromised if the Judge were to be part-time, given that Judges in New Zealand are seriously over-worked.

“(2) We agree with this section which allows a Judge to withdraw or decline to participate in any aspect of the Commission where there is a potential conflict of interest.

Summary

NCWNZ is concerned that the proposed amendments allow for only two full-time Commissioners. We suggest provision be made so that the short-term appointments of full-time Commissioners be possible when the need arises. (see S01.63)

The criteria for appointment need to be strengthened to include qualities of leadership and strength of character so that all Commissioners, not just the Chief Commissioner and Race Relations Commissioner, will lead by example in areas of human rights and race relations.

The role of the Race Relations Commissioner is becoming increasingly important as New Zealand becomes more diverse. It is critical that this Office be given adequate funding, recognition and support to help ring about greater harmony in our nation. We stress the importance of equal opportunity in appointing Commissioners so that our diversity of culture be addressed with wisdom, understanding and openness of vision.

NCWNZ thanks the Committee for this opportunity to comment on the Human Rights Amendment Bill which we consider an important step forward in our human rights' history.

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National President

Mary Tallon
Parliamentary Watch Committee