



Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Act 2022

No. 48, 2022

**An Act to amend the law relating to the
appointment of members of the Australian Human
Rights Commission, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the law relating to the
appointment of members of the Australian Human
Rights Commission, and for related purposes**

[Assented to 9 November 2022]

The Parliament of Australia enacts:

No. 48, 2022

*Australian Human Rights Commission Legislation Amendment
(Selection and Appointment) Act 2022*

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1 Short title

This Act is the *Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Act 2022*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	10 November 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Age Discrimination Act 2004

1 Subsection 53A(1) (note)

Repeal the note, substitute:

Note: Subject to subsection 53B(1A), the Age Discrimination Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

2 Subsection 53A(2)

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Age Discrimination Commissioner unless the Minister is satisfied that:
 - (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Age Discrimination Commissioner under a previous appointment under subsection (1).

3 Subsection 53B(1)

Omit the second sentence.

4 After subsection 53B(1)

Insert:

- (1A) A person must not be appointed as the Age Discrimination Commissioner under section 53A for a period if the sum of the following exceeds 7 years:
 - (a) that period;

- (b) any periods of previous appointment of the person as the Age Discrimination Commissioner under that section.

Australian Human Rights Commission Act 1986

5 After subsection 8A(1)

Insert:

- (1A) A person must not be appointed under subsection (1) as the President unless the Minister is satisfied that:
 - (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (1B) Paragraph (1A)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the President under a previous appointment under subsection (1).

6 Subsection 8B(2)

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Human Rights Commissioner unless the Minister is satisfied that:
 - (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Human Rights Commissioner under a previous appointment under subsection (1).

7 Subsection 37(1)

After “subsection (2)”, insert “or (3)”.

8 Subsection 37(1)

Omit “, not exceeding 7 years,”.

9 After subsection 37(1)

Insert:

- (2) A person must not be appointed as the President under section 8A for a period if the sum of the following exceeds 7 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as the President under that section.
- (3) A person must not be appointed as the Human Rights Commissioner under section 8B for a period if the sum of the following exceeds 7 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as the Human Rights Commissioner under that section.

10 Subsection 46B(2)

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Aboriginal and Torres Strait Islander Social Justice Commissioner unless the Minister is satisfied that:
 - (a) the person has significant experience in community life of Aboriginal persons or Torres Strait Islanders; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Aboriginal and Torres Strait

Islander Social Justice Commissioner under a previous appointment under subsection (1).

11 Subsection 46D(1)

Omit “, not exceeding 7 years,”.

12 After subsection 46D(1)

Insert:

(1A) A person must not be appointed as the Aboriginal and Torres Strait Islander Social Justice Commissioner under section 46B for a period if the sum of the following exceeds 7 years:

- (a) that period;
- (b) any periods of previous appointment of the person as the Aboriginal and Torres Strait Islander Social Justice Commissioner under that section.

13 Subsection 46MC(2)

Repeal the subsection, substitute:

(2) A person must not be appointed under subsection (1) as the National Children’s Commissioner unless the Minister is satisfied that:

- (a) the person has appropriate qualifications, knowledge or experience; and
- (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.

(3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the National Children’s Commissioner under a previous appointment under subsection (1).

14 Section 46MD

Before “The National”, insert “(1)”.

15 Section 46MD

Omit the second sentence.

16 At the end of section 46MD

Add:

- (2) A person must not be appointed as the National Children's Commissioner under section 46MC for a period if the sum of the following exceeds 7 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as the National Children's Commissioner under that section.

Disability Discrimination Act 1992**17 Subsection 113(2)**

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Disability Discrimination Commissioner unless the Minister is satisfied that:
 - (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Disability Discrimination Commissioner under a previous appointment under subsection (1).

18 Subsection 114(1)

Omit “, not exceeding 7 years,”.

19 After subsection 114(1)

Insert:

- (1A) A person must not be appointed as the Disability Discrimination Commissioner under section 113 for a period if the sum of the following exceeds 7 years:
- (a) that period;
 - (b) any periods of previous appointment of the person as the Disability Discrimination Commissioner under that section.

Racial Discrimination Act 1975

20 Subsection 29(2)

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Race Discrimination Commissioner unless the Minister is satisfied that:
- (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Race Discrimination Commissioner under a previous appointment under subsection (1).

21 Subsection 30(1)

Omit “, not exceeding 7 years,”.

22 After subsection 30(1)

Insert:

- (2) A person must not be appointed as the Race Discrimination Commissioner under section 29 for a period if the sum of the following exceeds 7 years:
- (a) that period;
 - (b) any periods of previous appointment of the person as the Race Discrimination Commissioner under that section.

Sex Discrimination Act 1984**23 Subsection 96(2)**

Repeal the subsection, substitute:

- (2) A person must not be appointed under subsection (1) as the Sex Discrimination Commissioner unless the Minister is satisfied that:
 - (a) the person has appropriate qualifications, knowledge or experience; and
 - (b) the selection of the person for the appointment is the result of a process that:
 - (i) was merit-based; and
 - (ii) included public advertising of the position.
- (3) Paragraph (2)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Sex Discrimination Commissioner under a previous appointment under subsection (1).

24 Subsection 97(1)

Omit “, not exceeding 7 years.”.

25 After subsection 97(1)

Insert:

- (2) A person must not be appointed as the Sex Discrimination Commissioner under section 96 for a period if the sum of the following exceeds 7 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as the Sex Discrimination Commissioner under that section.

26 Existing appointments

The amendments made by this Schedule do not affect:

- (a) the validity of an appointment that was made before the commencement of this item; or
- (b) a period of appointment that was specified in an instrument of appointment before that commencement.

*[Minister's second reading speech made in—
House of Representatives on 27 July 2022
Senate on 3 August 2022]*

(60/22)

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