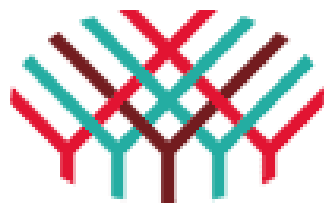


HUMAN RIGHTS ACT 1993



Human Rights
Commission

Te Kāhui Tika Tangata

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Human Rights Commission

Structure of Human Rights Act

- Part 1 lists functions and powers of the Commission;
- Part 1A applies to discrimination by the public sector including legislation & policy;
- Part 2 applies to services offered to the public by the private sector;
- Part 3 deals with resolution of disputes about compliance with Parts 1A & 2;
- Part 4 deals with the Human Rights Review Tribunal

Prohibited Grounds of Discrimination:

s.21 HRA

- **Sex** which includes pregnancy & childbirth
- **Martial status** which means being single; married or in a civil union or defacto relationship; the survivor of such a relationship; separated from a spouse or civil union partner or party to a relationship that is now dissolved;
- **Religious or ethical belief**
- **Colour**
- **Race**
- **Ethnic or national origin** including nationality or citizenship
- **Disability**
- **Age**
- **Political opinion**
- **Employment status**
- **Family Status** which means having responsibility for care of dependants; or not having responsibility; being married to, or being in a civil union or defacto relationship with a particular person; or being a relative of a particular person
- **Sexual Orientation**

Discrimination

- discrimination is not defined in either the HRA or the Bill of Rights
- not all discrimination is illegal
- there must be different treatment
- involving one of the prohibited grounds
- that results in material disadvantage

Different standards apply to Part 1A & Part 2

- Under Part 1A an action will be discriminatory if it cannot be justified under s.5 of the Bill of Rights, i.e. the restriction cannot be justified as a reasonable limitation
- Under Part 2 an action will be discriminatory if a specific exception does not apply
- Because the issue of pensions relates to the application of the law the relevant provision of the HRA is Part 1A.

S.70 Social Security Act

- If a person is entitled to receive NZS and they (or their spouse or partner) is entitled to a benefit, pension or allowance elsewhere than NZ; and
- the benefit or any part of it is in the nature of a payment which, in the opinion of the Chief Executive, forms part of a program providing benefits for the contingencies for which NZS is paid; and
- is administered by or on behalf of the country from which the benefits or allowance is received
- then the rate of the NZS shall be reduced by the amount for the overseas benefit

Complaints Process

- Complaint received by the Commission
- Part 3 alternative disputes resolution process available if the matter falls within jurisdiction
- If mediation unsuccessful, case closed and complainant advised they can go to the Human Rights Review Tribunal

Human Rights Review Tribunal

Can apply to the Office of Human Rights Proceedings for representation;

Representation may be refused but can represent yourself or retain other counsel;

Designed to be accessible to lay people;

Variety of remedies available to tribunal – if the decision relates to an enactment then only remedy is a declaration of inconsistency;

If unsuccessful can appeal to High Court on a point of law.

