



# Human Rights Amendment Act 2008

Public Act 2008 No 65  
Date of assent 9 September 2008  
Commencement see section 2

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### The Parliament of New Zealand enacts as follows:

- 1 Title**  
This Act is the Human Rights Amendment Act 2008.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Principal Act amended

This Act amends the Human Rights Act 1993.

### 4 Partnerships

(1) Section 36 is amended by inserting the following subsection after subsection (2):

“(2A) It is unlawful for a firm, or for persons jointly promoting the formation of a firm, to fail to provide special services or facilities that could reasonably be provided by the firm, or those persons, in the circumstances and that, if provided, would enable a person with a disability—

“(a) to be accepted as a partner and remain in partnership; or

“(b) to be offered the same terms and conditions as a partner (including terms and conditions as to status in the firm or entitlements to shares in capital or profits) that are made available to other members or prospective members of the firm.”

(2) Section 36 is amended by repealing subsection (3) and substituting the following subsections:

“(3) Nothing in this section prevents the fixing of reasonable terms and conditions in relation to a partner or prospective partner, who by reason of disability or age—

“(a) has a restricted capacity to participate or continue to participate in the partnership, that cannot be restored to normal by the provision of any special services or facilities required to be provided under subsection (2A); or

“(b) requires special conditions if he or she is to participate or continue to participate in the partnership, even if any special services or facilities required to be provided under subsection (2A) are provided.

“(4) Nothing in this section applies in respect of a person with a disability, if the disability of the person is such that—

“(a) there would be a risk of harm to that person or others, including the risk of infecting others with an illness if that person were to accept or remain in partnership or be given the same terms and conditions as a partner (including terms and conditions as to status in the firm or entitlement to shares in capital or profits) that were

made available to other members or prospective members of the firm; and

“(b) it is not reasonable to take that risk.

“(5) Subsection (4) does not apply if the firm, or persons jointly promoting the formation of a firm, could, without unreasonable disruption, take reasonable measures to reduce the risk to a normal level.”

## **5 Organisations of employees or employers and professional and trade associations**

(1) Section 37 is amended by inserting the following subsection after subsection (1):

“(1A) It is unlawful for an organisation to which this section applies, or for any person acting or purporting to act on behalf of any such organisation, to fail to provide special services or facilities that could reasonably be provided by the organisation in the circumstances and that, if provided, would enable a person with a disability to—

“(a) be accepted and remain in membership; or

“(b) be given equal access to benefits, facilities, or services provided by the organisation (including the right to stand for election and hold office).”

(2) Section 37 is amended by inserting the following subsections after subsection (2):

“(2A) Nothing in this section applies in respect of a person with a disability, if the disability of the person is such that—

“(a) there would be a risk of harm to that person or others, including the risk of infecting others with an illness if that person were to accept or remain in membership or be given equal access to benefits, facilities, or services provided by the organisation (including the right to stand for election and hold office); and

“(b) it is not reasonable to take that risk.

“(2B) Subsection (2A) does not apply if the organisation could, without unreasonable disruption, take reasonable measures to reduce the risk to a normal level.”

## 6 Exceptions in relation to qualifying bodies

Section 39 is amended by inserting the following subsection after subsection (2):

- “(2A) For the purposes of applying subsection (2)(a) and (b), an authority or body referred to in section 38 must,—
- “(a) in the case of subsection (2)(a), take account of whether a disabled person could perform the required duties if he or she was provided with special services or facilities that could reasonably be provided by an employer or by any other relevant person:
  - “(b) in the case of subsection (2)(b), take account of whether the risk of harm referred to in that paragraph could be reduced to a normal level, without unreasonable disruption to an employer or to any other relevant person.”

## 7 Exceptions in relation to vocational training bodies

Section 41 is amended by adding the following subsections:

- “(7) Nothing in section 40 makes it unlawful to fail to provide special services or facilities designed for a specified purpose if those special services or facilities cannot reasonably be provided in the circumstances.
- “(8) In subsection (7), a **specified purpose** means 1 or more of the following purposes:
- “(a) to enable a person with a disability to undergo and remain in training; or
  - “(b) to provide a person with a disability with facilities or opportunities for training; or
  - “(c) to provide a person with a disability with facilities or opportunities for training on no less favourable terms and conditions than would otherwise be made available.”

## 8 Further exception in relation to disability

Section 56 is amended by adding the following subsection:

- “(3) Nothing in section 53 makes it unlawful to fail to provide special services or facilities designed to make accommodation suitable for occupation by a person with a disability, if those special services or facilities cannot reasonably be provided in the circumstances.”

**9 Further exceptions in relation to disability**

Section 60(1) is amended by—

- (a) omitting “of this Act makes it unlawful to refuse admission to an educational establishment” and substituting “applies”; and
- (b) omitting “that establishment” and substituting “an establishment referred to in that section”.

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**Legislative history**

2 September 2008	Divided from Disability (United Nations Convention on the Rights of Persons with Disabilities) Bill (Bill 232–1) by committee of the whole House
2 September 2008	Third reading
9 September 2008	Royal assent

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This Act is administered by the Ministry of Justice.

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