

Appendix 8

Special measures



A special measure is an exception to the general rule that all racial groups must be treated the same. Special measures are permitted by section 8(1) of the *Racial Discrimination Act 1975*. Section 8(1) implements Articles 1(4) and 2(2) of the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), as follows:

1(4) Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved;

2(2) States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Special measures have some essential characteristics. They must:

- provide a benefit to some or all members of a group who share a common race, colour, descent, national origin or ethnic origin;
- have the sole purpose of securing the advancement of the group so they can enjoy human rights and fundamental freedoms equally with others;
- be necessary for the group to achieve that purpose; and
- stop once its purpose has been achieved and not set up separate rights permanently for different racial groups.