

**PARLIAMENTARY JOINT COMMITTEE ON HUMAN
RIGHTS**

TABLING STATEMENT

WEDNESDAY 15 MAY 2013

The Sixth Report of 2013 of the Parliamentary Joint Committee on Human Rights sets out the committee's consideration of 34 bills introduced during the last parliamentary sitting week, 492 legislative instruments registered with the Federal Register of Legislative Instruments (FRLI) during the period 16 February to 19 April 2013 and 29 responses from Ministers and private Members and Senators to comments made in various previous reports.

The committee has identified 18 bills that it considers require further examination and for which it will seek further information. The committee also considered the Native Title Amendment Bill 2012, which had been deferred from the committee's First Report of 2013, and will seek further information in relation to this bill. The remaining 16 bills do not appear to give rise to human rights concerns.

The committee has identified 14 legislative instruments for which it will seek further information before forming a view about their compatibility with human rights. The committee has decided to consider two instruments as part of its examination of the Stronger Futures package of legislation.

74 of the instruments considered do not appear to raise human rights concerns but are accompanied by statements of compatibility that do not fully meet the committee's expectations. The committee will write to the relevant Ministers in a purely advisory capacity providing guidance on the preparation of statements of compatibility. The remaining 403 instruments considered do not appear to raise any human rights concerns and are accompanied by statements of compatibility that are adequate.

The committee has concluded its examination of 26 bills and instruments for which it received responses. For the most part, the responses have addressed the concerns raised by the committee and have provided detail which could usefully have been included in the statement of compatibility. In a number of cases the committee has not been able to reach a concluded position on the compatibility of the bill or instrument with human rights as the response has not addressed the committee's questions. The committee has decided to seek further information in relation to three of the responses received.

A number of legislative instruments introduced during the period under examination in this report have the effect of expanding the operation of the primary enabling legislation. The committee has previously expressed its expectation that where a bill or legislative instrument expands the operation of existing legislation, or confers existing powers on new entities, the relevant statement of

compatibility will include an examination of the compatibility of the existing legislation with human rights.

The committee considers that an analysis of the legal effect and practical impact of legislative instruments requires consideration of the statutory framework of which they form part. The committee notes that this approach contributes to the committee's performance of its mandate under the *Human Rights (Parliamentary Scrutiny) Act 2011* to examine Acts for compatibility with human rights.

Four instruments considered in this report seek to expand or extend the operation of the *Extradition Act 1988* and the *Mutual Assistance in Criminal Matters Act 1987*. The committee has therefore taken the opportunity to ask the Attorney-General to provide the committee with an analysis of the compatibility of those Acts with human rights. The committee notes that it may be desirable for the committee to undertake a full examination of these Acts for compatibility with human rights in the future.

In the case of one other legislative instrument, the committee has underscored the significance of its concerns in relation to a range of human rights issues by noting that where the committee is not satisfied that human rights concerns have been adequately addressed within a legislative instrument, it may consider taking the precautionary step of giving a notice of motion to disallow the instrument.

This is not a step that the committee would take lightly. The committee remains optimistic that most of the concerns raised in its reports can be dealt with in a satisfactory and timely way to enable the committee to conclude its examination of the legislation while it is still before the parliament, in the case of bills, or before the expiry of the disallowance period for legislative instruments.

In this context, I would like to acknowledge receipt of responses from the Treasurer in relation to the Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2013, which the committee considered in its Fourth Report of 2013, and from the Minister for Health in relation to the Biosecurity Bill 2012, which was considered in the committee's First report of 2013. Both the Treasurer and the Minister have noted that the provisions in relation to which the committee had expressed human rights concerns are broader in scope than intended. The Treasurer has advised that he will progress a Government amendment to address the specific concerns the committee has raised and the Minister for Health has undertaken to review the scope of the relevant provision.

The committee will publish the Treasurer's response in its next report to the Parliament. In the meantime, I thank both the Treasurer and the Minister for Health for their timely and positive responses to the committee's concerns.

Finally, I acknowledge that by any standards this is a very large report. This is unavoidable given the volume of legislation and

correspondence considered in it. However, it does highlight that Members and Senators and others who follow the committee's work may have difficulty accessing the material contained in this report easily. The committee is cognisant of the need to continually improve the presentation of its work to increase efficiency and accessibility.

Fortunately, the reports on the committee's website facilitate direct access to the committee's comments on particular bills or legislative instruments. The index to the PDF version of the report includes hyperlinks to each individual bill and instrument considered and the HTML version of the report, which will be available shortly, provides an alternative means to access individual bills and instruments.

I commend the committee's Sixth Report of 2013 to the Senate.