



## PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

### CHAIR'S STATEMENT TO THE HOUSE OF REPRESENTATIVES

#### Third Report of 2012

19 September 2012

This third report of the Parliamentary Joint Committee on Human Rights reflects the committee's consideration of 12 bills and 113 legislative instruments introduced during the period 10 September to 14 September 2012.

The committee has decided that eight of the bills considered do not require further scrutiny as they do not appear to give rise to any human rights concerns and has decided to seek further information in relation to three bills before forming a view with regard to their compatibility with human rights.

The committee notes that one bill appears to have been introduced without a statement of compatibility. The committee considers that this bill does not appear to raise any human rights concerns. However, the committee will draw the Minister's attention to the requirement in *the Human Rights (Parliamentary Scrutiny) Act 2011* that each bill and legislative instrument introduced into the Parliament must be accompanied by a statement of compatibility.

Statements of compatibility must be provided for all bills and all legislative instruments regardless of whether the proposed legislation is considered to raise human rights issues or not.

The majority of instruments considered by the committee in this report do not appear to raise any human rights concerns and are accompanied by statements of compatibility that are adequate. The committee will seek further information in relation to one legislative instrument and will send advisory letters in relation to the adequacy of a number of statements of compatibility.

The committee observes that there is a tendency to provide similar or generic statements of compatibility for instruments that are very similar in purpose.

The committee has no concerns with the use of generic statements of compatibility *per se* and notes that some largely generic statements, such as those accompanying the set of Vocational Education and Training Provider Notices of Approval considered by the committee in this report, appear to adequately meet the committee's requirements.

On behalf of the Committee I stress the importance of the statement providing information that is specific to the instrument in question. The statement should clearly state the purpose of the instrument and, where rights are engaged, the analysis of the engagement should relate to the effect of the instrument. The committee has observed that some statements have discussed the engagement of rights in terms of the overarching policy or program without reference to the impact of the instrument itself. In such circumstances the committee will

continue to write to the relevant Ministers in an advisory capacity to offer guidance with regard to the preparation of future statements.

Similarly, the committee has no concerns with brief statements of compatibility in circumstances where no rights are engaged. The committee notes that a significant number of the instruments considered by the committee to date make technical or machinery changes which do not engage rights. Many of these, such as the Currency (Royal Australian Mint) Determinations considered in this report, have been accompanied by very brief statements that still manage to address the committee's requirements.

However, the committee has considered a number of brief statements of compatibility that have fallen short of its expectations. I therefore emphasise that where no rights are engaged, the committee still expects that reasons should be given to support this conclusion. This is particularly important where such a conclusion may not be self-evident from the description of the objective provided in the statement of compatibility.

In my first statement to the House in June this year, I noted the very comprehensive and useful source material prepared by the Attorney-General's Department and available on the Department's website and indicated that the committee intended to provide guidance material of its own to compliment this material. I therefore draw the attention of the House to the committee's Practice Note 1 in Appendix 3 to this Third Report and available on the committee's website.

This first practice note is intended to assist people to understand the way in which the committee is approaching the task of scrutinising bills and legislative instruments and to provide guidance on the committee's expectations with regard to the information that should be provided in statements of compatibility.

The committee intends to publish further practice notes in due course on other aspects of its work.

In closing I would like to take this opportunity to thank Ministers, Members and Senators for the cooperative way in which they have responded to the committee's requests for clarification and further information during the course of its examination of specific bills and instruments. These timely and often comprehensive responses have greatly assisted the committee in its work.

I thank the House.