

Chapter 1 – New and continuing matters

This chapter lists new matters identified by the committee at its meeting on 1 December 2014, and continuing matters in relation to which the committee has received recent correspondence. The committee will write to the relevant proponent of the bill or instrument maker in relation to substantive matters seeking further information.

Matters which the committee draws to the attention of the proponent of the bill or instrument maker are raised on an advice-only basis and do not require a response.

This chapter includes the committee's consideration of six bills introduced between 24 and 27 November 2014, in addition to two bills which have been previously deferred.

ACT Government Loan Bill 2014

Portfolio: Finance

Introduced: House of Representatives, 27 November 2014

Purpose

- 1.1 The ACT Government Loan Bill 2014 (the bill) seeks to:
- provide legislative authority for the entering into an agreement to make a loan to the ACT for an amount not exceeding \$1 billion, for the purpose of the ACT undertaking an asbestos remediation program and for purposes related to that program; and
 - propose an appropriation from the Consolidated Revenue Fund (CRF) of \$750 million for the loan of money to the ACT for the purposes of the above program and for purposes related to that program.

Committee view on compatibility

- 1.2 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Acts and Instruments (Framework Reform) Bill 2014

Portfolio: Attorney-General

Introduced: House of Representatives, 22 October 2014

Purpose

1.3 The Acts and Instruments (Framework Reform) Bill 2014 (the bill) seeks to amend the *Legislative Instruments Act 2003* to:

- amend the short title of the Act to the *Legislation Act 2003* to reflect the consolidation of the legislative frameworks of the publication of Commonwealth Acts and the registration of Commonwealth instruments;
- clarify the definition of 'legislative instrument' and 'legislative character';
- provide that certain instruments are notifiable instruments which are registrable but not subject to parliamentary scrutiny or sunseting;
- establish the Federal Register of Legislation; and
- allow the First Parliamentary Counsel to make editorial changes to Acts and instruments in the Register.

1.4 The bill would also amend the *Acts Interpretation Act 1901* to clarify references to ministers, departments and other government authorities; and confirm the continued validity of the exercise of powers, functions and duties under Commonwealth agreements following machinery of government changes.

Committee view on compatibility

1.5 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Australian Broadcasting Corporation Amendment (Local Content) Bill 2014

Sponsor: Senator Nick Xenophon

Introduced: Senate, 27 November 2014

Purpose

1.6 The Australian Broadcasting Corporation Amendment (Local Content) Bill 2014 (the bill) seeks to amend the *Australian Broadcasting Corporation Act 1983* to insert specific local content provisions into the Australian Broadcasting Corporation's Charter (the Charter). Under this bill, the ABC would be obligated under the Charter to have a distinct and discernible presence in each State and Territory across all platforms on which the Corporation disseminates content, including locally produced news programs.

Committee view on compatibility

1.7 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Freedom to Marry Bill 2014

Sponsor: Senator David Leyonhjelm

Introduced: Senate, 26 November 2014

Purpose

1.8 The Freedom to Marry Bill 2014 (the bill) seeks to amend the *Marriage Act 1961* (the Act) to:

- amend the words spoken by an authorised celebrant, inserting 'two people' to replace 'a husband and wife';
- ensure that authorised celebrants who are state employees must solemnise marriages that are in accordance with the Act, including marriages that are not between a man and a woman;
- introduce an avoidance of doubt provision to ensure that the amendments will not change or affect in any way the existing conditions in the Act relating to ministers of religion, or other authorised celebrants in order to protect all claims of conscience, not being bound to solemnise marriage;
- repeal section 88EA of the Act, which prohibits the recognition of marriages between same sex couples solemnised in a foreign country;
- insert 'or partner or spouse' into the choice of words that may be spoken by each of the parties in the presence of an authorised celebrant when solemnising a marriage; and
- replace 'a brother and a sister' with 'siblings' in relation to marriages of parties within a prohibited relationship.

Committee view on compatibility

1.9 The committee notes that the Statement of Compatibility for the bill states that it does not engage human rights. However, the committee is of the view that the bill does engage a number of rights protected by the International Covenant on Civil and Political Rights (ICCPR).

1.10 Firstly, the committee considers that the bill is compatible with the right to freedom of religion as contained in article 18 of the ICCPR, as the bill allows those opposed to same-sex marriage on religious grounds (or on the grounds of conscience) to refuse to solemnise (or conduct) such marriages.

1.11 At the same time, the bill also promotes rights to equality and non-discrimination in articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR), and the right to respect for the family in articles 23 and 17(1) of the ICCPR.

1.12 The committee therefore considers that the bill is compatible with human rights and has concluded its examination of the bill.

Parliamentary Service Amendment Bill 2014

Introduced: House of Representatives, 26 November 2014

Purpose

1.13 The Parliamentary Service Amendment Bill 2014 (the bill) seeks to amend the *Parliamentary Service Act 1999* (the Act) to provide that the Commissioner of the Australian Federal Police (AFP), or a Deputy Commissioner or a senior executive AFP employee who is nominated by the Presiding Officers, may be a member of the Security Management Board (established under section 65A of the Act). The bill would also amend the existing function of the Board to include the operation of security measures.

Committee view on compatibility

1.14 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Regulator of Medicinal Cannabis Bill 2014

Sponsors: Senator Richard Di Natale; Senator Ian Macdonald; Senator David Leyonhjelm; Senator Anne Urquhart

Introduced: Senate, 27 November 2014

Purpose

1.15 The Regulator of Medicinal Cannabis Bill 2014 (the bill) seeks to establish a Regulator of Medicinal Cannabis to formulate rules for licensing the production, manufacture, supply, use, experimental use and import and export of medicinal cannabis. Under this bill the Regulator would have powers to:

- monitor compliance and investigate breaches;
- approve medicinal cannabis products for inclusion in the register of regulated medicinal cannabis products; and
- regulate products included in the register under this bill, rather than under the *Therapeutic Goods Act 1989*.

Committee view on compatibility

1.16 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014

Sponsor: Senator Rachel Siewert

Introduced: House of Representatives, 22 October 2014

Purpose

1.17 The Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014 (the bill) seeks to:

- amend the *Social Security Act 1991* to enable single parents to access the parenting payment (single) until their youngest child has turned 16 years of age;
- amend the *Social Security (Administration) Act 1999* to provide for payments under this Act; and
- amend the *Fair Work Act 2009* to provide for an enforceable right to request flexible work arrangements for people with caring responsibilities, including single parents.

Committee view on compatibility

1.18 The committee agrees with the Statement of Compatibility which states that the bill engages and promotes the right to social security in article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the right to work under just and favourable conditions in articles 6 and 7 of the ICESCR.

1.19 The committee is of the view that the bill also engages and promotes rights to equality and non-discrimination in articles 2, 16 and 26 of the International Covenant on Civil and Political Rights; the right to family in article 8 of the ICESCR; women's right to non-discrimination in work in article 11 of the Convention on the Elimination of All Forms of Discrimination against Women; and children's rights to family and development in articles 18 and 20 of the Convention on the Rights of the Child.

1.20 **The committee considers that the bill promotes human rights and has concluded its examination of the bill.**

Tax Laws Amendment (Tax Transparency) Bill 2014

Sponsor: Dr Andrew Leigh MP

Introduced: House of Representatives, 24 November 2014

Purpose

1.21 The Tax Laws Amendment (Tax Transparency) Bill 2014 (the bill) seeks to amend the *Tax Laws Amendment (2013 Measures No. 2) Act 2013* to bring forward to 2012-13 the requirement for the tax commissioner to publish certain tax information for corporate entities with a total income of \$100 million or more.

Committee view on compatibility

1.22 **The committee considers that the bill is compatible with human rights and has concluded its examination of the bill.**

Deferred bills and instruments

The committee has deferred its consideration of the following bills and instruments:

Australian Citizenship and Other Legislation Amendment Bill 2014

Biosecurity Bill 2014

Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014

Fair Work Amendment (Bargaining Processes) Bill 2014

Family Tax Benefit (Tighter Income Test) Bill 2014

Federal Courts Legislation Amendment Bill 2014

Freedom of Information Amendment (New Arrangements) Bill 2014

Gambling Harm Reduction (Protecting Problem Gamblers and Other Measures) Bill 2014

Migration Amendment (Character and General Visa Cancellation) Bill 2014

Omnibus Repeal Day (Spring 2014) Bill 2014

Quarantine Charges (Imposition—General) Amendment Bill 2014

Quarantine Charges (Imposition—Customs) Amendment Bill 2014

Quarantine Charges (Imposition—Excise) Amendment Bill 2014

Racial Discrimination Amendment Bill 2014

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014

Autonomous Sanctions (Designated and Declared Persons - Former Federal Republic of Yugoslavia) Amendment List 2014 (No. 2) [F2014L00970]

Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Ukraine) Amendment List 2014 [F2014L01184]

Criminal Code (Terrorist Organisation—Islamic State) Regulation 2014 [F2014L00979]

