

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS
CHAIR'S TABLING STATEMENT

Tuesday 18 August 2015

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Twenty-Sixth Report of the 44th Parliament.

The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations, and this report considers bills introduced into the Parliament from 10 August to 13 August 2015, and legislative instruments received from 12 June to 6 August 2015.

The report also includes the committee's consideration of responses to matters raised in previous reports.

Of the 7 bills examined in this report, six are assessed as not raising human rights concerns and one has been deferred as it was introduced late last week. Accordingly, chapter one of the committee's report focuses on legislative instruments. It is often an area of the committee's mandate that is overlooked, however, much of the committee's work is scrutinising the large volume of regulations made each year.

In this report, the committee has examined 421 instruments and considered that 17 of those require further information from the relevant minister. This report covers eight instruments, while the remaining nine have been deferred. Looking at those statistics

indicates that less than 4% of the instruments made in the relevant period were assessed by the committee as requiring further comment by the committee. Expressed in another way, over 96% of the regulations made raised no human rights issues requiring further analysis and comment by the committee.

One of the regulations considered by the committee that has not found its way into the report is the Australian Sports Anti-Doping Authority Amendment (Prohibited Association) Regulation 2015. Australia's anti-doping legislation was changed in 2014 to bring it into line with the World Anti-Doping Code. That code introduced a number of new doping violations which raised human rights concerns, including a new offence of associating with a prohibited person. This new offence raised questions about its compatibility with the right to freedom of association (which the committee commented on in August 2014).

This new regulation further expands the prohibition on associating with prohibited persons by assessing prohibited conduct retrospectively. Prior to the committee examining the instrument, the Minister for Health wrote to the committee to explain the objective behind the regulation and all relevant safeguards. The statement of compatibility for the regulation also fully explained the rights engaged and enabled the committee to conclude that the measure, while engaging human rights, was nevertheless compatible with those rights.

The key element of the committee's work is the scrutiny dialogue it maintains with executive departments and agencies regarding the consideration of human rights in the development of policies and legislation. As this regulation demonstrates, the committee's ability to appropriately perform its scrutiny function in assessing bills and instruments for compatibility with human rights is greatly influenced by the quality of the dialogue it undertakes with the proponents of legislation and their willingness to fully explain and justify the human rights compatibility of legislation in the statement of compatibility.

As always, I encourage my fellow members and others to examine the committee's report to better inform their understanding of the committee's deliberations.

With these comments, I commend the committee's Twenty-sixth Report of the 44th Parliament to the House.