

# PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

## CHAIR'S TABLING STATEMENT

**Tuesday 11 October 2016**

It gives me great pleasure to table this first report of the Parliamentary Joint Committee on Human Rights in the 45th Parliament.

Given this is the committee's first report of the new parliament, I would like to take a moment to remind the House of the important role that this committee plays in supporting the Parliament's legislative process and reporting on human rights. As the new committee chair, I would also like to acknowledge and welcome new and continuing members of the committee.

The Parliamentary Joint Committee on Human Rights is a scrutiny committee which examines and reports to the Parliament on the compatibility of bills and legislative instruments with Australia's international human rights obligations under the seven international human rights treaties ratified by Australia. This is in accordance with its legislative mandate under the *Human Rights (Parliamentary Scrutiny) Act 2011*. This is a technical examination and does not assess the broader merits or policy objectives of particular measures. The committee also has the ability to examine current Acts and to conduct broader inquiries into human rights matters referred to it by the Attorney-General.

The committee's purpose is to enhance understanding of and respect for human rights in Australia and to ensure appropriate consideration of human rights issues in legislative and policy development.

The committee seeks to achieve these outcomes through constructive engagement with proponents of legislation and the parliament more broadly. This is often undertaken through a dialogue model in which the committee corresponds with relevant ministers and officials to identify and explore questions of human rights compatibility. The committee also reports its findings and recommendations, and in doing so strives to provide reports that clearly signpost the committee's analytical framework and the content of various human rights. The reports are intended to clearly set out the human rights analysis of legislation, and ultimately provide clear assessments of the compatibility of legislation that are accessible to members of Parliament and to the public more broadly.

Most human rights are able to be limited if there is a proper justification for doing so in accordance with international human rights law. The committee's analytical framework therefore focuses primarily on identifying if a proposed measure might have the effect of limiting the enjoyment of a specific right and, second, whether any such limitation may be regarded as permissible or justified.

The vast majority of bills and instruments considered by the committee do not raise human rights concerns because they either do not engage any human rights or in fact promote rights.

Of the legislation that may or does limit human rights, the committee is often able to assess the limitation as justifiable under international human rights law. In these cases, the committee generally reports on the legislation simply by identifying it as not giving rise to human rights concerns.

The committee's approach generally focuses on those bills and instruments which raise human rights concerns and which have not been adequately addressed in the statement of compatibility.

These remarks I hope draw attention to the great importance of ensuring that statements of compatibility for bills and instruments provide considered and evidence-based assessments of how any potential limitations of human rights may be regarded as justified. Statements of compatibility are a critical tool for the committee for an adequate dialogue with legislation proponents and parliament more broadly.

For the benefit of those charged with the task of preparing statements of compatibility, I would emphasise the importance of clearly setting out the legitimate objective of the legislation and the manner in which human rights have been considered when framing the legislation. This is crucial when, in order to achieve a particular objective, certain rights are to be limited.

The committee expects that where rights are limited the statement of compatibility will demonstrate that the limitation is rationally connected to, which is to say will be effective to achieve, its stated objective, and explain whether the limitation is proportionate to that

objective. The statement should also set out any safeguards that will be applied to ensure that any limitations on human rights are implemented in the least restrictive form. In this respect, I note that a further aim of the requirement for a statement of compatibility is to ensure that human rights are considered throughout the entire policy development and implementation process.

In this new parliament, the committee will continue to build on its previous work by systematically reporting to parliament on the human rights compatibility of legislation. Clearly, parliamentary committees such as this one have an important role to play in informing parliamentarians about the human rights implications of legislation and ensuring better understanding of human rights more broadly.

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

This report considers bills introduced into the Parliament from 30 August to 15 September 2016 and legislative instruments received from 15 April 2016 to 18 August 2016. The report also includes the committee's consideration of two responses to matters raised in previous reports.

With these comments, I commend the committee's Report 7 of 2016 to the chamber.