

Appropriation Bill (No 1) 2014-2015

Appropriation Bill (No 2) 2014-2015

Appropriation Bill (No 5) 2013-2014

Appropriation Bill (No 6) 2013-2014

Appropriation (Parliamentary Departments) Bill (No. 1) 2014-2015

Portfolio: Finance

Introduced: House of Representatives, 13 May 2014

Purpose

1.19 Appropriation Bill (No. 1) 2014-2015 proposes appropriations from the Consolidated Revenue Fund (CRF) for the ordinary annual services of the Government.

1.20 Appropriation Bill (No. 2) 2014-2015 proposes appropriations from the CRF for services that are not the ordinary annual services of the Government.

1.21 Appropriation Bill (No. 5) 2013-2014 proposes appropriations from the CRF for the ordinary annual services of the Government in addition to amounts appropriated through the appropriations Acts that implemented the 2013-2014 Budget and the 2013-2014 Mid-Year Economic and Fiscal Outlook.

1.22 Appropriation Bill (No. 6) 2013-2014 proposes appropriations from the CRF for services that are not the ordinary annual services of the Government, in addition to amounts appropriated through the appropriations Acts that implemented the 2013-2014 Budget and the 2013-2014 Mid-Year Economic and Fiscal Outlook.

1.23 Appropriation (Parliamentary Departments) Bill (No. 1) 2014-2015 proposes appropriations from the CRF for expenditure in relation to the Parliamentary Departments.

1.24 Together these bills are referred to as 'the bills'.

Background

1.25 The committee has examined a number of appropriations bills and, in each case, the question of whether it is appropriate that such bills be accompanied by a statement of compatibility that addresses their potential impact on human rights, through their operation to permit the implementation of legislation and government policies and programs.

1.26 The committee acknowledges the assistance of the Minister for Finance (and previous finance ministers), and officials of the Department of Finance, who have

continued to engage with and assist the committee's examination of appropriations bills.

Committee view on compatibility

Multiple rights

1.27 The committee considers that appropriations bills are capable of engaging the broad range of rights provided for in the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) and the other treaties listed in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Human rights assessment of appropriations bills

1.28 The statement of compatibility for the bills states:

[A]s the High Court has emphasised ... the Appropriation Acts do not create rights and nor do they, importantly, impose any duties.

Given that the legal effect of Appropriation Bills is limited in this way, the Appropriation Bill is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the Human Rights (Parliamentary Scrutiny) Act 2011.

Detailed information on the relevant appropriations, however, is contained in the Portfolio Statements.

1.29 Accordingly, the statement of compatibility provides no further assessment of the bills' compatibility with human rights.

1.30 However, in the committee's view, while the authorising of government expenditure may not, in itself, create rights or obligations, its ultimate role in giving effect to policy means that it does in fact engage, and have implications for, both the promotion and limitation of human rights (noting that policy assessment processes and the committee's analytical framework are based around the concept of 'engagement' with human rights).

1.31 For example, specific appropriations may involve reductions in expenditure on social security payments which could amount to retrogression or limitations on the right to social security and the right to an adequate standard of living. Thus the appropriation of funds may facilitate the taking of actions which may involve the failure by Australia to fulfil its obligations under the treaties listed in the *Human Rights (Parliamentary Scrutiny) Act 2011*.¹

1 Parliamentary Joint Committee on Human Rights, *Seventh Report of 2012* (November 2012), pp 7-8 (comments on the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 and the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013).

1.32 The committee considers that, where there is a sufficiently close connection between a particular appropriations bill and the implementation of legislation, policy or programs that may give rise to human rights compatibility issues, the statement of compatibility for that bill should provide an assessment of human rights that may be engaged.² The committee notes also that the allocation of funds via appropriations bills may also be susceptible to a human rights analysis that takes into account broader questions of compatibility, such as their impacts on progressive realisation obligations and particular impact on vulnerable minorities or specific groups.

1.33 Notwithstanding the committee's view that appropriations bills may engage and potentially limit human rights, the committee acknowledges that the Minister for Finance holds the view that such bills present particular difficulties given their technical nature, and because they generally include appropriations for a wide range of programs and activities across many portfolios.

1.34 The committee therefore thanks the Minister for Finance for inviting the committee to meet with department officials to continue to progress this matter.³

2 See Parliamentary Joint Committee on Human Rights, *Seventh Report of 2012* (November 2012), pp 7-8; and *Third Report of 2013* (March 2013), p. 66.

3 See in this report, Appropriation (Parliamentary Departments) Bill (No. 2) 2013-2014, Appropriation Bill (No.3) 2013-2014 and Appropriation Bill (No. 4) 2013-2014.