

# Chapter 1

## New and continuing matters

1.1 This report provides the Parliamentary Joint Committee on Human Rights' view on the compatibility with human rights of bills introduced into the Parliament from 15 to 17 March 2016, legislative instruments received from 4 to 17 March 2016, and legislation previously deferred by the committee.

1.2 The report also includes the committee's consideration of responses arising from previous reports.

1.3 The committee generally takes an exceptions based approach to its examination of legislation. The committee therefore comments on legislation where it considers the legislation raises human rights concerns, having regard to the information provided by the legislation proponent in the explanatory memorandum (EM) and statement of compatibility.

1.4 In such cases, the committee usually seeks further information from the proponent of the legislation. In other cases, the committee may draw matters to the attention of the relevant legislation proponent on an advice-only basis. Such matters do not generally require a formal response from the legislation proponent.

1.5 This chapter includes the committee's examination of new legislation, and continuing matters in relation to which the committee has received a response to matters raised in previous reports.

### **Bills not raising human rights concerns**

1.6 The committee has examined the following bills and concluded that they either do not raise human rights concerns; or they do not require additional comment as they promote human rights or contain justifiable limitations on human rights (and may include bills that contain both justifiable limitations on rights and promotion of human rights):

- Corporations Amendment (Auditor Registration) Bill 2016;
- Customs and Other Legislation Amendment Bill 2016;
- Fair Work Amendment (Protecting Australian Workers) Bill 2016;
- Financial System Legislation Amendment (Resilience and Collateral Protection) Bill 2016;
- Migration Amendment (Family Violence and Other Measures) Bill 2016;
- National Disability Insurance Scheme Amendment Bill 2016;
- National Disability Insurance Scheme Savings Fund Special Account Bill 2016;
- Northern Australia Infrastructure Facility (Consequential Amendments) Bill 2016;

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- Social Services Legislation Amendment (Consistent Treatment of Parental Leave Payments) Bill 2016;
- Statute Law Revision (No. 2) 2016 Bill 2016;
- Statute Update Bill 2016;
- Superannuation Legislation Amendment (Choice of Fund) Bill 2016;
- Superannuation Legislation Amendment (Transparency Measures) Bill 2016;
- Tax and Superannuation Laws Amendment (2016 Measures No. 2) Bill 2016; and
- Tax Laws Amendment (Tax Incentives for Innovation) Bill 2016.

### **Instruments not raising human rights concerns**

1.7 The committee has examined the legislative instruments received in the relevant period, as listed in the *Journals of the Senate*.<sup>1</sup> Instruments raising human rights concerns are identified in this chapter.

1.8 The committee has concluded that the remaining instruments do not raise human rights concerns, either because they do not engage human rights, they contain only justifiable (or marginal) limitations on human rights or because they promote human rights and do not require additional comment.

1.9 In light of the committee's concluding comments on the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015 at Chapter 2 of this report, the committee has also concluded its examination of the previously deferred Child Care Benefit (Vaccination Schedules) (Education) Determination 2015 [F2015L02101] and makes no further comment on the instrument.<sup>2</sup>

### **Previously considered measures**

1.10 The following instruments implement measures which the committee has previously considered limit human rights and the committee refers to its previous comments in the *2016 Review of Stronger Futures measures* report:

- Social Security (Administration) (Trial Area—East Kimberley) Determination 2016 [F2016L00307];
- Social Security (Administration) (Trial Area—Ceduna and Surrounding Region) Amendment Determination (No. 1) 2016 [F2016L00309]; and

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1 See Parliament of Australia website, 'Journals of the Senate', [http://www.aph.gov.au/Parliamentary\\_Business/Chamber\\_documents/Senate\\_chamber\\_documents/Journals\\_of\\_the\\_Senate](http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/Journals_of_the_Senate).

2 See Parliamentary Joint Committee on Human Rights, *Thirty-fourth Report of the 44th Parliament* (23 February 2016) 3.

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- Social Security (Administration) (Trial—Community Body—Ceduna Region Community Panel) Authorisation 2016 [F2016L00310].

1.11 In addition the following instruments, while machinery in nature, implement measures the committee has previously considered limit human rights and the committee refers to its previous comments in the *2016 Review of Stronger Futures measures* report:

- Social Security (Administration) (Trial—Variation of Percentage Amounts) Determination 2016 [F2016L00297];
- Social Security (Administration) (Trial—Excluded Voluntary Participants) Determination 2016 [F2016L00306];
- Social Security (Administration) (Welfare Restricted Bank Account) Determination 2016 [F2016L00311]; and
- Social Security (Administration) (Trial—Declinable Transactions) Determination 2016 [F2016L00312].<sup>3</sup>

### Deferred bills and instruments

1.12 The committee continues to defer its consideration of the following legislation:

- Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Iran) Amendment List 2016 (No. 1) [F2016L00047] (deferred 23 February 2016, pending a response from the Minister for Foreign Affairs regarding instruments made under the *Autonomous Sanctions Act 2011* and the *Charter of the United Nations Act 1945*);<sup>4</sup> and
- Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Iran) Amendment List 2016 (No. 2) [F2016L00117] (deferred 16 March 2016, pending a response from the Minister for Foreign Affairs regarding instruments made under the *Autonomous Sanctions Act 2011* and the *Charter of the United Nations Act 1945*).<sup>5</sup>

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3 For more information regarding the committee's previous comments see Parliamentary Joint Committee on Human Rights, *2016 Review of Stronger Futures measures* (16 March 2016) 37-61.

4 See Parliamentary Joint Committee on Human Rights, *Thirty-fourth Report of the 44th Parliament* (23 February 2016) 4.

5 See Parliamentary Joint Committee on Human Rights, *Thirty-fourth Report of the 44th Parliament* (23 February 2016) 3.

