

# Chapter 1

## Introduction

### Establishment of the committee

1.1 The committee was established under the *Human Rights (Parliamentary Scrutiny) Act 2011* (the Act) in March 2012. The establishment of the committee was a key element of Australia's Human Rights Framework, which was launched on 21 April 2010, and which was intended to enhance the understanding of, and respect for, human rights in Australia.<sup>1</sup>

### Role of the committee

1.2 The establishment of the committee builds on the Parliament's established traditions of legislative scrutiny. Accordingly, the committee undertakes its scrutiny function as a technical inquiry relating to Australia's international human rights obligations. The committee does not consider the broader policy merits of legislation when performing its technical scrutiny function.

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

### Functions and powers of the committee

1.4 The committee has the following functions under the Act:

- to examine bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue; and
- to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter.

1.5 The powers and proceedings of the committee are set out in the committee's resolution of appointment and the Act.<sup>2</sup>

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1 See, the then Attorney-General's second reading speech on the Human Rights (Parliamentary Scrutiny) Bill 2010: The Hon. Robert McClelland MP, Attorney-General, *House of Representatives Hansard*, 30 September 2010, p. 271:  
<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2010-09-30%2F0033%22>.

2 The committee's resolution of appointment is available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Human\\_Rights/](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/).

## **Definition of human rights and the Act**

1.6 Human rights are defined in the Act as those contained in the following seven human rights treaties to which Australia is a party:

- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- Convention on the Elimination of Discrimination against Women (CEDAW);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC); and
- Convention on the Rights of Persons with Disabilities (CRPD).

1.7 The committee's analysis of legislation is against the standards set out in these seven human rights treaties. The ICCPR and the ICESCR cover all the key civil and political and economic, social and cultural rights. For the most part, the five other treaties expand or elaborate on these rights in a more detailed way. This understanding is consistent with the approach the Attorney-General's Department has adopted in providing support to executive departments and agencies.

## **Committee membership**

1.8 The resolution of appointment governing the committee's operation provides that the committee consists of 10 members: three members of the House of Representatives drawn from the government party; two members of the House of Representatives drawn from the opposition or any other non-aligned member; two senators drawn from the government party; two senators drawn from the opposition; and one senator from a minority party or an independent Senator.

1.9 The committee elects as its Chair a government member from either the House of Representatives or the Senate. The Deputy Chair is elected from one of the non-government members of the committee.

## **Acknowledgements**

1.10 The committee wishes to acknowledge the work and assistance of its external legal adviser during the reporting period, Associate Professor Jacqueline Mowbray.

1.11 The committee also wishes to acknowledge the assistance of ministers and associated departments and agencies during the reporting period. The responsiveness of ministers, departments and agencies to the committee's inquiries is critical to ensuring that the committee can perform its scrutiny function effectively.

## **Structure of the annual report**

1.12 This report covers the period 1 January 2019 to 31 December 2019 (the reporting period). Mr Ian Goodenough MP was Chair of the committee during the reporting period until 16 October 2019, when Senator the Hon Sarah Henderson was elected as Chair.

1.13 Chapter 2 sets out the committee's mode of operation, its analytical framework and the scrutiny dialogue model. Chapter 3 reports on the work of the committee during the reporting period.

