

## Report snapshot<sup>1</sup>

In this report the committee has examined the following bills and legislative instruments for compatibility with human rights. The committee's full consideration of legislation commented on in the report is set out in Chapters 1 and 2.

### Bills

#### Chapter 1: New and continuing matters

Bills introduced 6 February to 29 February 2024	32
Bills commented on in report <sup>2</sup>	3
Private members or senators' bills that may engage and limit human rights	1

#### Chapter 2: Concluded

Bills committee has concluded its examination of following receipt of ministerial response	0
--	---

#### Accountability of Grants, Investment Mandates and Use of Public Resources Amendment (End Pork Barrelling) Bill 2024

No comment

#### Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Bill 2024

*Advice to Parliament*

#### Review of preventative detention order decisions

##### *Effective remedy*

This bill seeks to remove administrative or merits review of decisions to make, extend or further extend preventative detention orders. A preventative detention order permits the detention of a person for up to 48 hours in order to prevent an imminent terrorist act. If a preventative detention order violated a person's right to liberty, they have a right to an effective remedy with respect to that violation. By removing the administrative review of preventative detention order

<sup>1</sup> This section can be cited as Parliamentary Joint Committee on Human Rights, Report snapshot, *Report 2 of 2024*; [2024] AUPJCHR 8.

<sup>2</sup> The committee makes no comment on the remaining bills on the basis that they do not engage, or only marginally engage, human rights; promote human rights; and/permissibly limit human rights. This is based on an assessment of the bill and relevant information provided in the statement of compatibility accompanying the bill. The committee may have determined not to comment on a bill notwithstanding that the statement of compatibility accompanying the bill may be inadequate.

decisions and thus reducing the availability of possible remedies, the measure may have implications for the right to an effective remedy.

While noting the importance of measures intended to prevent terrorist attacks, the committee notes it has previously raised concerns regarding preventative detention orders. The committee considers that while judicial review remains available, it represents a more limited form of review in that it allows a court to consider only whether the decision was lawful, not whether the decision was the correct or preferable decision (as is the case with merits review). The committee also notes that compensation is not an available remedy in judicial review proceedings, although compensation may be sought in proceedings for an alleged tortious act, such as false imprisonment. Such proceedings, however, are more costly and less timely. The committee notes that these access to justice challenges may, in practice, undermine the effectiveness of remedies available through the courts. The committee considers that the sufficiency of judicial review for the purposes of the right to an effective remedy will ultimately depend on the circumstances of the case and draws these human rights concerns to the attention of the Attorney-General and the Parliament.

---

#### **Agriculture (Biosecurity Protection) Charges Bill 2024**

---

No comment

---

#### **Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024**

---

No comment

---

#### **Agriculture (Biosecurity Protection) Levies Bill 2024**

---

No comment

---

#### **Agriculture Legislation Amendment (Modernising Administrative Processes) Bill 2024**

---

No comment

---

#### **Airline Passenger Protections (Pay on Delay) Bill 2024**

---

No comment

---

#### **Appropriation (Parliamentary Departments) Bill (No. 2) 2023-2024**

#### **Appropriation Bill (No. 3) 2023-2024**

#### **Appropriation Bill (No. 4) 2023-2024**

---

The committee reiterates its long-held view (set out most recently in [Report 8 of 2023](#)) that the appropriation of funds facilitates the taking of actions which may promote, or fail to fulfil, Australia's obligations under international human rights law, which is not recognised in the statements of compatibility accompanying these bills. The committee's expectation is that statements of compatibility accompanying appropriations bills should address the compatibility of measures which directly impact human rights. In particular, the committee expects that if appropriations bills

---

---

propose a real reduction in funds available for expenditure on certain portfolios or activities that may impact human rights, the statement of compatibility should identify this and explain why this is a permissible limit.

---

### **Autonomous Sanctions Amendment Bill 2024**

---

#### *Advice to Parliament*

#### **Retrospective validation of sanctions**

*Rights to fair hearing; privacy; protection of the family; adequate standard of living; freedom of movement*

This measure seeks to amend the *Autonomous Sanctions Act 2011* to confirm that individuals and/or entities can be validly sanctioned based on past conduct or status, and retrospectively seeks to validate sanctions that were made based on past conduct or status. It also seeks to confirm that sanctions are valid even where it is not explicitly clear that the minister considered their discretion, also with retrospective effect.

The committee acknowledges that sanctions regimes generally operate as important mechanisms for applying pressure to regimes and individuals with a view to ending the repression of human rights internationally and suppressing terrorism. However, the committee regards it as important to recognise that the sanctions regimes operate independently of the criminal justice system, and can be used regardless of whether a designated or declared person has been charged with or convicted of a criminal offence. The committee notes that the minister, in making a listing, is not required to hear from the affected person at any time; or provide reasons for the listing; and there is no provision for merits review of any of the minister's decision (including any decision to grant, or not grant, a permit allowing access to funds). The committee has previously found that there is a risk that the autonomous sanctions regime may be incompatible with the rights to a fair hearing, privacy, protection of the family, an adequate standard of living and freedom of movement. As such, this bill, by validating actions taken under the autonomous sanctions regime, also risks being incompatible with those rights.

The committee reiterates its long-held view that the compatibility of the sanctions regime may be assisted were the autonomous sanctions legislation amended to include the safeguards previously recommended by the committee. The committee otherwise draws its human rights concerns to the attention of the minister and the Parliament.

---

### **Broadcasting Services Amendment (Community Television) Bill 2024**

---

No comment

---

---

---

**Competition and Consumer Amendment (Fair Go for Consumers and Small Business) Bill 2024**

---

No comment

---

**Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024**

---

*Advice to Parliament*

**Strengthening protections for victim-survivors***Rights of persons with disability*

This measure seeks to amend the *Crimes Act 1914* to strengthen the protections afforded to victims and survivors of child sexual abuse and vulnerable persons in Commonwealth criminal proceedings, including by expanding the range of offences to which special rules for proceedings involving children and vulnerable adults apply in order to more comprehensively protect vulnerable persons. In doing so, it would promote a range of human rights.

However, the committee notes that one aspect of the bill would require an assessment of the decision-making capacity of a vulnerable adult person and their ability to give informed consent. Given that adults with a cognitive disability would likely be the only persons at risk of being found to lack decision-making capacity, this measure engages and may limit the rights of persons with disability to equal recognition before the law. The committee notes that the statement of compatibility does not identify the engagement and limitation of this right, and recommends that the statement of compatibility be updated in this respect.

In relation to whether the measure is compatible with the rights of persons with disability, the committee has concluded much will depend on the criteria by which the court determines if a person has 'decision-making capacity', and whether any assistance is made available to a person with a cognitive disability to support them in the exercise of their legal capacity.

---

**Criminal Code Amendment (Genocide, Crimes Against Humanity and War Crimes) Bill 2024**

---

No comment

---

**Criminal Code Amendment (Telecommunications Offences for Suicide Related Material—Exception for Lawful Voluntary Assisted Dying) Bill 2024**

---

No comment

---

**Environment Protection and Biodiversity Conservation Amendment (Protecting Environmental Heritage) Bill 2024**

---

No comment

---

---

**Fair Work (Registered Organisations) Amendment (Protecting Vulnerable Workers) Bill 2024**

---

No comment

---

**Fair Work Amendment Bill 2024**

---

No comment

---

**Financial Framework (Supplementary Powers) Amendment Bill 2024**

---

No comment

---

**Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2024**

---

No comment

---

**Legislate the Date to End Live Sheep Export Bill 2024**

---

No comment

---

**National Vocational Education and Training Regulator Amendment (Strengthening Quality and Integrity in Vocational Education and Training No. 1) Bill 2024**

---

No comment

---

**Offshore Petroleum and Greenhouse Gas Storage Amendment (Stop PEP11 Forever and Protect Our Coastal Waters) Bill 2024**

---

No comment

---

**Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Bill 2024**

---

No comment

---

**Passenger Movement Charge Amendment Bill 2024**

---

No comment

---

**Prohibition on the Purchase of Residential Property by Foreign Entities Bill 2024**

---

The committee notes that this non-government bill appears to engage and may limit human rights. Should this bill proceed to further stages of debate, the committee may request further information from the legislation proponent as to the human rights compatibility of the bill.

---

**Social Services and Other Legislation Amendment (Military Invalidation Payments Means Testing) Bill 2024**

---

No comment

---

**Social Services Legislation Amendment (Child Support and Family Assistance Technical Amendments) Bill 2024**

---

No comment

---

---

**Treasury Laws Amendment (Cost of Living Tax Cuts) Bill 2024**

---

No comment

---

**Treasury Laws Amendment (Cost of Living—Medicare Levy) Bill 2024**

---

No comment

---

**Treasury Laws Amendment (Foreign Investment) Bill 2024**

---

No comment

---

## Legislative instruments

### Chapter 1: New and continuing matters

Legislative instruments registered on the [Federal Register of Legislation](#) between 9 January to 16 February 2024<sup>3</sup> 104

Legislative instruments commented on in report<sup>4</sup> 0

### Chapter 2: Concluded

Legislative instruments committee has concluded its examination of following receipt of ministerial response 0

### Instruments imposing sanctions on individuals<sup>5</sup>

A number of legislative instruments impose sanctions on individuals. The committee has considered the human rights compatibility of similar instruments on a number of occasions, and retains scrutiny

<sup>3</sup> The committee examines all legislative instruments registered in the relevant period, as listed on the Federal Register of Legislation. To identify all of the legislative instruments scrutinised by the committee during this period, select 'legislative instruments' as the relevant type of legislation, select the event as 'assent/making', and input the relevant registration date range in the Federal Register of Legislation's [advanced search function](#).

<sup>4</sup> The committee makes no comment on the remaining legislative instruments on the basis that they do not engage, or only marginally engage, human rights; promote human rights; and/permissibly limit human rights. This is based on an assessment of the instrument and relevant information provided in the statement of compatibility (where applicable). The committee may have determined not to comment on an instrument notwithstanding that the statement of compatibility accompanying the instrument may be inadequate.

<sup>5</sup> See Autonomous Sanctions (Designated and Declared Persons—Former Federal Republic of Yugoslavia) Amendment (No. 1) Instrument 2023 [[F2024L00059](#)]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Iran) Amendment (No. 3) Instrument 2023 [[F2024L00063](#)]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Libya) Amendment (No. 1) Instrument 2023 [[F2024L00064](#)]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) Amendment (No. 1) Instrument 2023 [[F2024L00065](#)]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Thematic Sanctions) Amendment (No. 1) Instrument 2024 [[F2024L00099](#)]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Zimbabwe) Amendment (No. 1) Instrument 2023 [[F2024L00062](#)]; Charter of the United Nations (Listed Persons and Entities) Amendment (No. 1) Instrument 2024 [[F2024L00098](#)].

---

concerns about the compatibility of the sanctions regime with human rights.<sup>6</sup> However, as these legislative instruments do not appear to designate or declare any individuals who are currently within Australia's jurisdiction, the committee makes no comment in relation to these instruments at this stage.

---

---

<sup>6</sup> See, most recently, Parliamentary Joint Committee on Human Rights: this report relating to the Autonomous Sanctions Amendment Bill 2024, and [Report 15 of 2021](#) (8 December 2021), pp. 2–11; and [Report 1 of 2024](#) (7 February 2024) pp. and [Report 10 of 2021](#) (25 August 2021) pp. 117–128.