

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

TUESDAY 25 MARCH 2014

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Fifth Report of the 44th Parliament.

This report examines 22 bills introduced in the period 17 to 20 March, three of which have been deferred for further consideration, and 42 legislative instruments received in the period 1 to 7 March. The report also includes the committee's consideration of 7 responses to matters raised in previous committee reports.

Of the bills considered in this report, I note that the following bills are scheduled for debate during this week:

- the Marriage (Celebrant Registration Charge) Bill 2014 and Marriage Amendment (Celebrant Administration and Fees) Bill 2014
- the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014
- the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014
- the Omnibus Repeal Day (Autumn 2014) Bill 2014
- and the Clean Energy Finance Corporation (Abolition) Bill 2013
[No.2]

The report outlines the committee's assessment of the compatibility of these bills with human rights, and I encourage my fellow senators to

look to the committee's report to inform your deliberations on the merits of this proposed legislation.

I would like to draw senators' attention to a point of particular interest which arises in relation to a number of bills considered in the report, and which highlight the committee's approach to undertaking its assessments of the compatibility of legislation with human rights.

As senators would be aware, a number of bills introduced in this period of sittings are intended to further the government's deregulation agenda by the removal of spent and redundant legislation, as well as the removal of regulation considered to be burdensome, unnecessary or as duplicating other regulatory arrangements. These bills include:

- the Omnibus Repeal Day (Autumn 2014) Bill 2014
- the Statute Law Revision (No 1) Bill 2014
- the Independent National Security Legislation Monitor Repeal Bill 2014
- and the Australian Charities and Not-for-profit Commission (Repeal) (No 1) Bill 2014

From the perspective of the committee's assessment of legislation for compatibility with human rights, bills seeking strictly to repeal spent and redundant legislation, by definition, lack any substantive or practical effect that might engage, promote or limit human rights. However, where a bill seeks to repeal existing arrangements, the

committee's assessment must take into account the extent to which the repeal of those arrangements may reduce or remove human rights protections. To determine this, the committee looks at the extent to which any arrangements that will remain or are proposed in place of the repealed measure offer equivalent or greater protection of human rights.

For the benefit of those involved in the development of repeal measures of this type, I note that it is therefore important that statements of compatibility address the question of whether the removal of regulation will reduce or remove human rights protections. Where existing or new arrangements will remain or take the place of repealed regulation, statements of compatibility should also provide sufficient information to support the committee's assessment of whether those remaining or proposed measures will offer equivalent or greater human rights protections.

In relation to legislative instruments, the committee examined 42 instruments for this report, and will seek further information in relation to two instruments.

One of these instruments amends a Marine Order made under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, and the committee has taken the opportunity to draw attention to its concerns regarding uniform national schemes, such as those routinely negotiated through COAG and other intergovernmental forums. The committee's concerns relate to the potential for such schemes to be

developed and agreed on without formal human rights consideration, and to restrict the capacity of jurisdictions to ensure that, once enacted, such legislation is or remains compatible with human rights. In addition to re-stating its concerns with national scheme legislation, the committee has sought an update on the progress of consultations to amend the Protocol on Drafting National Uniform Legislation to ensure that human rights considerations are addressed in the development of such legislation.

Finally, in relation to responses to matters previously raised by the committee, the report contains consideration of 7 such responses, and the committee's concluding remarks on these matters.

With these comments, I commend the committee's Fifth Report of the 44th Parliament to the Senate.

Senator Dean Smith

Chair

Parliamentary Joint Committee on Human Rights