

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

TUESDAY 4 MARCH 2014

This Third Report of the Parliamentary Joint Committee on Human Rights in the 44th Parliament sets out the committee's consideration of seventeen bills introduced during the period 11 to 27 February 2014, 87 legislative instruments received between 1 and 21 February 2014 and seven responses relating to 20 bills and legislative instruments on which the committee had commented in its First Report of the 44th Parliament.

The committee considers that seven of the bills and 81 of the legislative instruments it has considered do not give rise to human rights concerns.

The committee has identified nine bills, two legislative instruments and a number of responses for which it will seek further information before forming a view on compatibility with human rights.

In considering the legislation that comes before it, the committee strives to provide advice to the Parliament in as timely a matter as possible so as to inform the consideration of legislation.

At a recent symposium on the *Human Rights (Parliamentary Scrutiny) Act 2011*, I had the opportunity to reflect on the role of the committee and its work to date. In the course of my address, I noted expectations that the committee, together with the requirement for statements of compatibility, would play a significant role in ensuring

that human rights are explicitly and systematically taken into account in the legislative process. A key element of the committee's work is the dialogue it maintains with executive agencies regarding the consideration of human rights in the development of policies and legislation. The committee's concern is to ensure that statements of compatibility provide adequate analysis and explanation of any proposed limitations on rights.

At the same time, the committee's work is squarely focussed on the consideration of legislation by the Parliament. The committee not only aims to complete its work while legislation is still under active consideration by the Parliament, but seeks to draw its work to the attention of other Parliamentary committees charged with examining particular bills and instruments at the earliest opportunity.

The committee's comments on legislation are intended to draw the Parliament's attention to any potential conflicts with Australia's human rights obligations and to contribute to the effective identification and consideration of human rights implications throughout the legislative process.

I noted the committee's efforts to ensure that its reports are clearly expressed, not overly legalistic and are reasonably accessible. I also observed that there is some considerable scope for enhancing Parliament's consideration of human rights and stated that in the 44th Parliament the committee intends to focus greater attention on

enhancing the Parliament's awareness and understanding of human rights.

With this in mind, I would like to take this opportunity to advise the Senate that of the bills considered in this report, those which are scheduled for debate during this current sitting week include:

- the Tax and Superannuation Laws Amendment (2014 Measures No. 1) Bill 2014;
- the Tertiary Education Quality and Standards Agency Amendment Bill 2014;
- the Environment Legislation Amendment Bill 2013; and
- the Higher Education Support Amendment (Savings and Other Measures) Bill 2013.

I can also advise that the committee has decided to defer its consideration of the Fair Work Amendment Bill 2014, which was introduced on 27 February 2014, to enable closer consideration of the human rights implications of the bill.

The committee is mindful that not all parliamentarians are familiar with human rights and that most of us are not legally trained. The committee has therefore given some thought to how it can assist parliamentarians to develop their understanding of human rights issues and make effective use of the committee's reports in their work within the parliament.

The committee has developed a plain-English Guide to Human Rights which it intends to publish on its website. This Guide focuses on 25 of

the key rights found in the seven treaties against which the committee considers questions of human rights compatibility.

The Guide is not intended to be comprehensive or legalistic. It is intended to complement other human rights sources, in particular guidance and resource material available on the Attorney-General's Department's website and the Australian Human Rights Commission's website. It is intended to provide a short and accessible overview of the key rights that the committee considers when examining legislation, includes examples to illustrate how each right can be applied in practice and points to other information and sources that may assist those seeking a more comprehensive analysis of the rights discussed.

A further way in which the committee is able to contribute to the consideration of human rights within the Parliament is through its ability to undertake thematic inquiries into legislation that raises significant or complex human rights questions. The committee's ability to look at Acts has provided it with the flexibility to give careful consideration to key human rights concepts, even after legislation has been passed by the Parliament, while at the same time retaining a strong practical focus for its work.

In the 43rd Parliament, our predecessor committee applied this approach to its examination of the Stronger Futures package of legislation and used its *Eleventh Report of 2013* to set out its understanding of the concept of "special measures" and the

circumstances in which "special measures" may be permitted, or required, under human rights law.

In considering those measures described as "special measures" in the Stronger Futures legislation, the committee noted the importance of continuing close evaluation of such measures and concluded that the committee could usefully perform an ongoing oversight role in this regard. The committee recommended that in the 44th Parliament the committee should undertake a 12 month-review to evaluate the latest evidence in order to evaluate the continuing necessity for the Stronger Futures measures.

I am pleased to advise the Senate that the committee has given careful consideration to our predecessor committee's recommendation and has decided to undertake a review of the Stronger Futures package of legislation commencing in June 2014. In preparation for this review, the committee proposes to write to the Minister advising him of its intention to undertake this review, invite him to respond to the conclusions drawn by our predecessor committee in its *Eleventh Report of 2013* and alert him to the range of information the committee will seek from him and his Department as part of the review. The committee proposes to report the conclusions of this review in 2015.

I commend the committee's Third Report of the 44th Parliament to the Senate.