

Chapter 1

Introduction

Referral of inquiry

1.1 On 22 October 2014, the Acts and Instruments (Framework Reform) Bill 2014 (the bill) was introduced into the House of Representatives by the Minister for Justice, the Hon Michael Keenan MP.¹ On 30 October 2014, on the recommendation of the Selection of Bills Committee, the Senate referred the provisions of the bill to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 25 November 2014.² The reasons for the referral of the bills cited by the Selection of Bills Committee were to 'ensure proper scrutiny of this Bill and its potential implications'.³ On 24 November 2014, the Senate extended the reporting date to 2 December 2014.⁴

Background

1.2 The bill makes amendments to the *Legislative Instruments Act 2003* (LIA) which provides a regime for the making, registration, publication, parliamentary scrutiny and sunseting of Commonwealth delegated legislation. In 2008, a statutory review of the LIA was conducted by Mr Anthony Blunn AO, Mr Ian Govey and Professor John McMillan (the 2008 Review). The 2008 review found that the LIA had 'substantially succeeded' in its objective of providing 'a comprehensive regime for the management of Commonwealth legislative instruments'. However, it also considered 'further work' was required and made a number of recommendations for reform and improvement.⁵

1.3 The Explanatory Memorandum (EM) states that the bill 'implements a number of outstanding recommendations' from the 2008 review and 'makes a number of other amendments to improve the operation and clarity of legislative frameworks for Commonwealth Acts and instruments and contribute to the Government's deregulation agenda by creating administrative efficiencies across government and enhancing the public accessibility of Commonwealth laws'.⁶

1.4 The introduction of the bill also follows recent reforms in relation to the drafting of Commonwealth legislation and delegated legislation. In particular, in 2012, amendments to the *Parliamentary Counsel Act 1970* transferred the functions of the

1 House of Representatives, *Votes and Proceedings*, 22 October 2014, p. 901.

2 *Journals of the Senate*, 30 October 2014, p. 1691.

3 Senate Selection of Bills Committee, *Report 14 of 2014*, 30 October 2014, Appendix 1.

4 *Journals of the Senate*, 24 November 2014, p. 1827.

5 Attorney-General's Department, *2008 Review of the Legislative Instruments Act 2003*, 2008, p. 3.

6 Explanatory Memorandum (EM), p. 2.

Office of Legislative Drafting and Publishing (OLDP) from the Attorney-General's Department (AGD) to the Office of Parliamentary Counsel (OPC).⁷

Overview of the bill

1.5 In his second reading speech, Minister Keenan stated that the bill 'seeks to simplify and consolidate legislative frameworks for the publication of Commonwealth acts and the registration of Commonwealth instruments into a single act'.⁸ Key changes which would be made by the bill include:

- amending the short title of the LIA to the 'Legislation Act 2003' to reflect the consolidation of the legislative frameworks;
- clarifying the definitions of 'legislative instrument' and 'legislative character';
- providing that certain instruments are notifiable instruments which are registrable but not subject to parliamentary scrutiny or sun-setting processes;
- establishing the Federal Register of Legislation (the Register) integrating the current Acts database and the Federal Register of Legislative Instruments (FRLI);
- empowering the First Parliamentary Counsel to make corrections and editorial changes to Acts and instruments on the Register;
- amending the *Acts Interpretation Act 1901* (Acts Interpretation Act) to: clarify references to ministers, departments and other government authorities; and confirm the continued validity of the exercise of powers, functions and duties under Commonwealth agreements following machinery of government changes; and
- making consequential amendments to a large number of Acts and repealing another four Acts, including the *Acts Publication Act 1905* (Acts Publication Act).

Conduct of inquiry

1.6 The committee advertised the inquiry on its website and in *The Australian* newspaper. The committee also wrote to individuals and organisations likely to have an interest in the bill, drawing their attention to the inquiry and inviting them to make written submissions.

1.7 The committee received three submissions to the inquiry. These submissions are listed at Appendix 1, and are available on the committee's website: www.aph.gov.au/senate/legalcon.

1.8 On 14 November 2014, the committee wrote to the Attorney-General, Senator the Hon George Brandis QC, seeking answers to questions relating to issues raised in

7 *Parliamentary Counsel and Other Legislation Amendment Act 2012*.

8 The Hon Michael Keenan MP, Minister for Justice, *House of Representatives Hansard*, 22 October 2014, p. 11666.

submissions. Responses to questions on notice were received by the committee on 21 November 2014.

1.9 The committee agreed not to hold a public hearing and to complete its inquiry 'on the papers'.

Structure of report

1.10 Chapter 2 provides an overview of the bill and summarises key provisions. Chapter 3 discusses key issues raised during the inquiry and contains the committee's view and recommendations.

Acknowledgements

1.11 The committee acknowledges the short period of time available for those who made submissions. The committee thanks all those who assisted with the inquiry.

