

## Royal Commissions Amendment Bill 2013

*Introduced into the House of Representatives on 13 February 2013; passed both Houses on 20 March 2013*

*Portfolio: Prime Minister*

*PJCHR comments: [Report 3/13](#), tabled on 13 March 2013*

*Response dated: 13 May 2013*

### Summary of committee view

3.1 The committee thanks the Parliamentary Secretary to the Prime Minister for responding on behalf of the Prime Minister.

3.2 The committee welcomes the assurance that its concerns about section 60 of the *Royal Commissions Act 1902* will be considered as part of the government's consolidated response to the Australian Law Reform Commission's review of that Act. The committee looks forward to the government's response to the ALRC report.

3.3 The committee reiterates its concerns with regard to the compatibility of section 6B of the *Royal Commissions Act 1902* with the prohibition against arbitrary arrest and detention and trusts that these concerns will also be taken into account in the government's response to the ALRC report.

### Background

3.4 This bill made a number of amendments to the *Royal Commissions Act 1902* to facilitate the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). Among other things, the bill amended the principal Act to permit 'authorised member hearings' to enable one or two members of the Royal Commission to be able to hold a hearing. Previously, a quorum was required to hold such a hearing.

3.5 The statement of compatibility accompanying the bill addressed the specific amendments made by the bill but did not consider the compatibility of various existing powers in the *Royal Commissions Act 1902* which were relevant to the operation of the Royal Commission.

3.6 The committee sought clarification from the Prime Minister as to:

- the compatibility of the contempt powers in section 60 of the *Royal Commissions Act 1902* with the right to a fair hearing in article 14 of the International Covenant on Civil and Political Rights (ICCPR); and
- the compatibility of the arrest powers in section 6B of the *Royal Commissions Act 1902* with the prohibition against arbitrary detention in article 9(1) of the ICCPR.

3.7 The committee also asked whether there had been any progress with regard to implementing the recommendations contained in an Australian Law Reform Commission (ALRC) report on the *Royal Commissions Act 1902* submitted to the then

Attorney-General on 30 October 2009 and published in February 2010, in particular those recommendations relating to the human rights concerns identified by the ALRC.

3.8 The Parliamentary Secretary to the Prime Minister responded on behalf of the Prime Minister and his response is attached.

### **Committee's response**

3.9 In his response, the Parliamentary Secretary agreed to consider the committee's concerns with regard to section 60 of the *Royal Commissions Act 1902* as part of the government's response to the ALRC report. The committee welcomes this assurance.

3.10 The committee thanks the Parliamentary Secretary for clarifying that an 'authorised member hearing' will not be allowed to exercise powers of arrest under section 6B of the *Royal Commission Act 1902*. This restriction, while welcome, does not, however, satisfy the committee's concerns with regard to the compatibility of section 6B with the right against arbitrary arrest or detention. The committee notes the Parliamentary Secretary's acknowledgement of the committee's broader concerns with regard to this provision and trusts that they will be taken into account when the government responds to the ALRC's report.

3.11 While the committee is pleased to hear that the government is 'well advanced in its consideration of the ARLC's recommendations', it is concerned that three and a half years have elapsed since their submission to the Attorney-General and there is no indication of the target date for finalising a response. The committee looks forward to the government's consolidated response to this important report.

3.12 The committee notes that the bill has already been passed by the Parliament.



**The Hon Dr Andrew Leigh MP**  
**Parliamentary Secretary to the Prime Minister**

Reference: C13/16606

Mr Harry Jenkins MP  
Chair  
Parliamentary Joint Committee on Human Rights  
Parliament House  
CANBERRA ACT 2600

13 MAY 2013

Dear Mr <sup>Harry</sup>Jenkins

Thank you for your letter of 13 March 2013 to the Prime Minister regarding the compatibility of the *Royal Commission Amendment Bill 2013* (the Bill) with Australia's human rights obligations. I am replying on the Prime Minister's behalf. I apologise for the delay in doing so.

Clarification has been requested on the compatibility of provisions in the principle Act, the *Royal Commission Act 1902* (the Royal Commissions Act), specifically:

- (a) the compatibility of the contempt powers in section 6O of the Royal Commissions Act with the right to a fair hearing in article 14 of the International Covenant on Civil and Political Rights (ICCPR); and
- (b) the compatibility of the arrest powers in section 6B of the Royal Commissions Act with the prohibition against arbitrary detention in article 9(1) of the ICCPR.

The Bill did not amend section 6O of the Royal Commissions Act, but applied this provision to private sessions. The Government notes the issues raised by the Parliamentary Joint Committee on Human Rights, particularly the committee's observation that section 6O may violate the right to a hearing before an independent and impartial court or tribunal guaranteed by article 14(1) of the ICCPR. The Government will consider this issue in addition to recommendations relating to the human rights issues identified in the Australian Law Reform Commission (ALRC) in its 2009 report *Making Inquiries: A New Statutory Framework*.

Section 6B of the Royal Commission Act was amended by the Bill to ensure an authorised member hearing (a hearing of one or two members of a Commission, as opposed to a hearing of all Commissions members) cannot exercise powers of arrest. Nevertheless, the Government again notes the matters raised by the committee in relation to the broader application of this section.

Lastly, the committee has requested information about the stage at which the Government's consideration of the ALRC report has reached. The Government is well advanced in its

consideration of the ALRC's recommendations, including those issues raised in relation to sections 6O and 6B of the Royal Commissions Act. The Government considers it is desirable to deal with all 82 recommendation of the ALRC report on a consolidated basis.

Yours sincerely



Andrew Leigh