

## **Reserve Bank Amendment (Australian Reconstruction and Development Board) Bill 2013**

*Sponsor: Senators Xenophon and Madigan*

*Introduced: Senate, 5 December 2013*

### **Summary of committee concerns**

1.199 The committee seeks further information on how the power to terminate the appointment of the representative of the Reserve Bank on the Board is compatible with the right to work.

### **Overview**

1.200 This bill proposes to establish an Australian Reconstruction and Development Board (ARDB) under the Reserve Bank, with the task of forming and implementing rural reconstruction and development policy.

### **Compatibility with human rights**

#### ***Statement of compatibility***

1.201 The bill is accompanied by a statement of compatibility that states that the bill does not engage any human rights.

1.202 The committee, however, notes that the bill may give rise to human rights concerns with regard to the right to work. The committee's concerns are set out below.

#### ***Committee view on compatibility***

##### ***Right to work***

1.203 The bill provides for the appointment of members to the ARDB.<sup>105</sup> It specifies that a representative of the Reserve Bank is to be appointed to the Board by the Governor of the Bank.<sup>106</sup> The representative's appointment to the ARDB can be terminated by the Governor at any time.<sup>107</sup>

1.204 This is broader than the termination power that is proposed with regard to the appointment of the other ARDB members. The appointment of other ARDB members may only be terminated by the Treasurer in specified circumstances, including misbehaviour or where the member is unable to perform the duties of his or her office because of physical or mental incapacity.<sup>108</sup>

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105 Proposed new section 25NA.

106 Proposed new section 25NB.

107 Proposed new section 25NL(1)(a).

108 Proposed new sections 25NL(2) and 25NL(3).

1.205 Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) sets out the right to work, which provides for the right of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts. The UN Human Rights Committee has stated that the right to work includes the right not to be deprived of work unfairly.<sup>109</sup> The committee considers that the proposed new provision engages the right to work in article 6 of the ICESCR, as it is construed broadly and, on its face, could result in unfair deprivations of work. The right to work is not an absolute right and can be limited provided that the limitation is (i) aimed at achieving a purpose which is legitimate, and (ii) is reasonable, necessary and proportionate to that purpose. The statement of compatibility does not address these issues.

**1.206 The committee intends to write to Senators Xenophon and Madigan to seek clarification with regard to the necessity for such a broadly construed termination provision and how it is consistent with the right to work under article 6 of the ICESCR.**

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109 UN Human Rights Committee, *General Comment No. 18: The Right to Work*, 24 November 2005, paras 4 and 6.