

Bills requiring further information to determine human rights compatibility

Adelaide Airport Curfew Amendment (Protecting Residents' Amenity) Bill 2014

Sponsor: Senator Wright

Introduced: Senate, 12 February 2014

Summary of committee concerns

1.1 The committee seeks clarification whether the bill is consistent with the right to work.

Overview

1.2 This bill seeks to strengthen the night-time curfew imposed by the *Adelaide Airport Curfew Act 2000*, which prohibits large passenger aircraft from taking off or landing at Adelaide Airport between 11pm and 6am.

1.3 The Act currently provides for a shoulder period between 11pm to midnight and between 5am and 6am, which, subject to approval by the Minister, permits certain international aircraft to take off and land during those periods.¹

1.4 This bill proposes to remove that discretion by repealing the relevant provisions in the Act. In other words, the bill seeks to ensure that the curfew period operates between 11pm and 6am without exception.

1.5 The new requirements will apply to all take-offs and landings which occur after the bill commences, regardless of whether the relevant Ministerial approval was granted prior to commencement.

Compatibility with human rights

Statement of compatibility

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

Committee view on compatibility

Right to privacy/right to health

1.7 The right to privacy encompasses the right to respect for one's home as well as one's private and family life.² The right to health recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health',

1 *Adelaide Airport Curfew Act 2000*, sections 7, 8 and 9.

2 Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

and extends to the underlying determinants of health, such as healthy environmental conditions.³

1.8 The committee notes the amendments may be viewed as promoting the right to privacy and the right to health, in so far as they seek to reduce noise pollution.

Right to work

1.9 The right to work is recognised in article 6 of the ICESCR. It includes the right of individuals to freely choose or accept work, and the right not to be deprived of work unfairly. States parties are obliged to adopt policies 'to achieve ... full and productive employment, under conditions safeguarding fundamental political and economic freedoms to the individual.'⁴ As the UN Committee on Economic, Social and Cultural Rights has commented:

The right to work requires formulation and implementation by States parties of an employment policy with a view to 'stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment.'⁵

1.10 The right to work is not absolute and may be subject to permissible limitations provided that such limitations are aimed at a legitimate objective, and are reasonable, necessary and proportionate to that objective.⁶

1.11 The statement of compatibility does not explain whether these changes are consistent with the right to work. In particular, no information is provided about the potential economic impact of these changes, and whether they could result in reduced employment opportunities.

1.12 The committee intends to write to Senator Wright to seek clarification whether the bill is compatible with the right to work, including information with regard to the nature and scope of any impact on the local economy and whether it may result in any job losses.

3 Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

4 Article 6(2) of the ICESCR.

5 UN Committee on Economic, Social and Cultural Rights, *General comment No 18: The right to work*, (2006), para 26.

6 Article 4 of the ICESCR.