



PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S STATEMENT TO THE HOUSE OF REPRESENTATIVES

On behalf of the Parliamentary Joint Committee on Human Rights I supply the House with a report on the committee's action. Members will recall that the committee is established under the *Human Rights (Parliamentary Scrutiny) Act 2011* and was appointed in March this year.

The committee has been established as part of a concerted effort to enhance the understanding of, and respect for, human rights issues and to ensure the appropriate recognition of human rights in the legislative process.

The role of the committee, set out in section 7 of the Act, is to examine and report to Parliament on the compatibility of bills and legislative instruments with Australia's human rights obligations under seven core human rights treaties specified in section 3 of the Act. The committee is able to examine existing legislation and conduct broad inquiries into matters relating to human rights as referred to it by the Attorney-General.

Members will appreciate the potentially huge task before the committee. Since its establishment the committee has been actively considering the scope and purpose of this task and how it will contribute meaningfully to the consideration of human rights by this parliament. This will be an evolutionary process and my statement today is intended to outline the committee's first tentative steps.

The committee is not completely stepping into the unknown and is mindful of the experience of similar committees in this and other parliaments. The committee is grateful for the input of a number of key individuals and organisations who have generously made time available to brief the committee on various practical aspects of its work. The committee has arranged further briefings and will continue to arrange briefings as required.

It is clear from the outset that the committee must prioritise its work. If the committee is to assist the consideration of legislation before this Parliament in a meaningful way it cannot possibly consider every bill and every instrument in detail. Therefore the committee is developing a triage process to assist it in this regard and will publish this process on its website in due course. Our understanding is that this is consistent with the practices of other similar committees.

It has been the experience of these committees that an appropriately qualified specialist legal adviser is a necessary resource. The committee has now agreed to a selection process to engage a legal adviser.

In the interim, the committee has begun to consider bills currently before the Parliament. There are a number of avenues open to the committee in considering the compatibility of a bill with human rights. Most of these turn on establishing an effective dialogue with the relevant ministers and departments. In some cases, the committee will decide in the first instance to write to the Minister seeking further detail in relation to a bill before deciding upon any further action. The committee may ask the Minister's department to provide the committee with a briefing. In some circumstances the committee will take evidence in public and may call for written public submissions. The committee will then report its conclusions to the Parliament and publish these reports on its website.

For the time being, the committee is approaching bills on a case by case basis and endeavouring to tailor its approach to suit the circumstances and, where possible, the legislative program of the

Parliament. The committee hopes that in due course, the Parliament will take account of the work of the committee by factoring time for the committee's deliberations into the legislative program.

In deciding whether to consider a bill further, the committee will have regard to the work of other parliamentary committees where this is relevant to the committee's work. The committee will also consider any correspondence received from Members or Senators or from key stakeholders. The committee will consider what, if any, specialist advice it will require. I encourage anyone who wishes to draw matters to the attention of the committee to write to the committee. However, I would like to emphasise that any matters raised will of course be considered by the committee as a whole and that the committee will decide what action, if any, it will take in response to such correspondence.

In this context, the committee has received two pieces of correspondence asking it to examine particular bills currently before the parliament.

The Australian Council of Social Service (ACOSS), together with a number of co-signatories, has asked the committee to examine the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012. The committee has decided, as a first step, to invite ACOSS and the Department of Education, Employment and Workplace Relations to attend a hearing on Thursday 21 June to provide evidence in relation to the concerns raised in the ACOSS letter.

Following that hearing, the committee will meet to consider the evidence raised and determine its next steps.

The second piece of correspondence is from the National Congress of Australia's First Peoples and asks the committee to examine the Stronger Futures in the Northern Territory Bills. Before determining how it will proceed with this request, the committee has written to the Minister for Families, Housing, Community Services and Indigenous Affairs seeking her advice on the compatibility of the bills with human rights. These bills were introduced prior to the requirement for a statement of compatibility. The committee would like to afford the Minister the opportunity to provide her assessment of the policy objectives of the bills against Australia's human rights obligations and clarify for the committee the justification for any limitations on rights that the bills will impose.

The committee views statements of compatibility as a key element in consideration of human rights in the legislative process. The requirement for each new bill and each legislative instrument to be accompanied by a statement of compatibility has the potential to significantly increase transparency and accountability in the development of policy and legislation. It is obviously also a significant starting point for the committee's consideration of a bill.

I would like to emphasise the importance of statements of compatibility including an actual assessment of whether the bill is compatible with human rights. The committee is guided by the Explanatory Memorandum to the *Human Rights (Parliamentary Scrutiny) Act 2011* in this. The EM states that "[a] statement of compatibility must include an assessment of whether the bill is compatible with human rights as defined [in the Act]. The EM goes on to confirm statements are intended to be succinct and should contain 'a level of analysis that is proportionate to the impact of the proposed legislation on human rights'.

It is early days in this process, but it is clear that, while most bills have been introduced with a statement of compatibility, not all statements of compatibility conform to these expectations. However, the committee is pleased to observe that the overall quality of statements appears to be improving as Ministers and their departments become more familiar with the requirement. The committee is grateful to the Attorney-General's Department for the training and support that it is

providing to departments to assist them to identify rights and draft statements of compatibility. In time, the committee intends to be able to support these efforts through the publication of guidance materials of its own.

I would like to acknowledge the work of the two Senate scrutiny committees in supporting the work of this committee to date. Since the introduction of the requirement for statements of compatibility commenced, the Senate Scrutiny of Bills Committee and the Regulations and Ordinances Committee have been considering statements within the context of their own terms of reference. These committees have written to Ministers to draw attention to concerns regarding the level of detail provided in the assessment of compatibility. The committee is grateful to the two scrutiny committees for taking the initiative in this regard and acknowledges the intersection of their work with that of the committee. The committee looks forward to working productively alongside them as it develops its own approach to the scrutiny of legislation.

As I said at the beginning of this statement, my purpose here today is to take this early opportunity to outline the approach the committee is taking to its role. I intend to make a similar statement at the end of this sitting year when I hope to provide greater clarity around the committee's approach and working practices.