

# Chapter 1

## Introduction

### Reference

1.1 The Fair Work Amendment (Repeal of 4 Yearly Reviews and other Measures) Bill 2017 (the bill), was introduced into the House of Representatives on 1 March 2017 by the Hon. Mr Dutton MP, Minister for Immigration and Border Protection.<sup>1</sup>

1.2 On 23 March 2017, the provisions of the bill were referred to the Senate Education and Employment Legislation Committee (the committee) for inquiry and report by 22 May 2017.<sup>2</sup>

### Conduct of the inquiry

1.3 Details of the inquiry were made available on the committee's website.<sup>3</sup> The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from 14 organisations, as detailed at Appendix 1.

1.4 A public hearing was held on 12 April 2017. The witness list is included at Appendix 2.

### Structure of the report

1.5 This introductory chapter sets out the background to the inquiry. Chapter 2 examines the background and detail of the bill.

1.6 Chapter 3 considers the key issues identified by submitters in relation to the bill, including:

- removing the requirement for four yearly reviews;
- allowing the Fair Work Commission to overlook minor procedural or technical errors; and
- applying the *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012* to all Fair Work Commission members and enabling

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1 *Votes and Proceedings*, No. 37, 1 March 2017, p. 587.

2 *Journals of the Senate*, No 34, 23 March 2017, p. 1147.

3 Senate Standing Committee on Education and Employment, Fair Work Amendment (Repeal of 4 Yearly Reviews and other Measures) Bill 2017, [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/Four-YearlyReviews](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Four-YearlyReviews), (accessed 27 April 2017).

a Commission to be established to investigate a Fair Work Commission member.

### **Compatibility with human rights**

1.7 The bill's Statement of Compatibility with Human Rights states that the bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>4</sup>

### **Scrutiny of Bills Committee**

1.8 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) has considered the bill.<sup>5</sup> The Scrutiny of Bills Committee directed the attention of Senators to previous comments on the *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012*.<sup>6</sup>

1.9 This Act enables parliamentary commissions to be established following a resolution by each House of the parliament to investigate specified allegations of misbehaviour or incapacity of a specified Commonwealth judicial officer (including a Justice of the High Court of Australia).

1.10 The Scrutiny of Bills Committee's comments related to the potential for trespass on personal rights and liberties in the context of:

- the parliamentary commission issuing a search warrant;
- protecting the personal reputation of the judicial officer being investigated; and
- the judicial officer having to provide documents which may result in self-incrimination.<sup>7</sup>

### **Financial Impact Statement**

1.11 A financial impact statement was not provided.

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4 Fair Work Amendment (Repeal of 4 Yearly Reviews and other Measures) Bill 2017, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. i.

5 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 3 of 2017*, 27 March 2017, pp. 23–24.

6 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 4/12*, 21 March 2012, p. 8.

7 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest 4/12*, 21 March 2012, pp. 8–11.

## **Hansard transcripts**

1.12 In this report, references to the most recent Committee Hansard are to the proof transcripts. Page numbers may vary between the transcripts of the Proof Hansard and the Official Hansard.

## **Acknowledgement**

1.13 The committee thanks those organisations who contributed to the inquiry by preparing written submissions and giving evidence at the hearing.

