

Chapter 1

Introduction

1.1 On 30 March 2017 the Senate referred the provisions of the Civil Law and Justice Legislation Amendment Bill 2017 (the bill) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 10 May 2017.¹

1.2 The Selection of Bills Committee recommended that the bill be referred to the committee because it proposes to amend the *Family Law Act 1975*, commenting:

Family law has a significant and wide-ranging impact on Australian families, particularly in the context of relationship breakdown. The family law system plays an important role in the resolution of property settlements and the care of children.

It is appropriate and responsible for the Senate to properly examine the impact of proposed changes to family law.²

1.3 Concerns about the proposed provisions of the bill were also noted by the Senate's Scrutiny of Bills Committee, which will be discussed in chapter 2, alongside matters raised by submissions received by the committee.³

Background and overview of the bill

1.4 The Explanatory Memorandum states that the bill is an omnibus bill that is intended to make a number of 'minor, technical and uncontroversial' amendments to improve the operation and clarity of civil justice legislation administered by the Attorney-General.⁴

1.5 It consists of 10 schedules that would amend the following acts:

- *Acts Interpretation Act 1901*;
- *Archives Act 1983*;
- *Bankruptcy Act 1966*;
- *Domicile Act 1982*;
- *Evidence Act 1995*;
- *Family Law Act 1975*;
- *International Arbitration Act 1974*;
- *Legislation Act 2003*;

1 *Journals of the Senate*, No. 38, 30 March 2017, p. 1244.

2 Selection of Bills Committee, *Report No. 4 of 2017*, March 2017, p. 1 and Appendix 2.

3 Senate Scrutiny of Bills Committee, *Scrutiny Digest No 4*, March 2017, pp. 6–10.

4 *Explanatory Memorandum*, p. 4. See also p. 2.

- *Marriage Act 1961*; and the
- *Sex Discrimination Act 1984*.⁵

1.6 The bill would also make consequential amendments to the:

- *Defence Force Retirement and Death Benefits Act 1973*;
- *Defence Forces Retirement Benefits Act 1948*;
- *Governor-General Act 1974*;
- *Income Tax Assessment Act 1997*;
- *Judges Pensions Act 1968*;
- *Parliamentary Contributory Superannuation Act 1948*;
- *Superannuation Act 1922*;
- *Superannuation Act 1976*; and
- *Superannuation (Unclaimed Money and Lost Members) Act 1999*.⁶

1.7 More detail about the nature and purpose of each of the proposed amendments can be found in the following chapter of this report, alongside the discussion of relevant matters raised by submissions.

Financial implications

1.8 The Explanatory Memorandum includes a financial impact statement noting the bill would have no financial impact on Commonwealth Government departments and agencies.⁷

Compatibility with human rights

1.9 The Explanatory Memorandum 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*.⁸

Conduct of the inquiry

1.10 Details of the inquiry were advertised on the committee's website, including a call for submissions to be received by 13 April 2017.⁹

1.11 The committee received six submissions, which are listed at appendix 1 of this report. These submissions are available in full on the committee's website.

5 *Explanatory Memorandum*, p. 2.

6 *Explanatory Memorandum*, p. 2.

7 *Explanatory Memorandum*, p. 4.

8 *Explanatory Memorandum*, p. 4.

9 The committee's website can be found at www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs

Structure of this report

1.12 This report consists of two chapters:

- This chapter provides a brief background and overview of the bill, as well as the administrative details of the inquiry.
- Chapter 2 sets out the provisions of the bill in greater detail, and discusses support for and concerns raised by submitters about the proposed amendments.

Acknowledgements

1.13 The committee thanks all organisations and individuals that participated in this inquiry by making submissions.

