



Human Rights (Parliamentary Scrutiny) Act 2011

No. 186, 2011

Compilation No. 3

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Includes amendments up to:	Act No. 10, 2015
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Human Rights (Parliamentary Scrutiny) Act 2011* that shows the text of the law as amended and in force on 5 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish a Parliamentary Joint Committee on Human Rights, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Human Rights (Parliamentary Scrutiny) Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	7 December 2011
2. Parts 2, 3 and 4	The later of: (a) 1 January 2011; and (b) the 28th day after this Act receives the Royal Assent.	4 January 2012
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

Section 3

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Definitions

- (1) In this Act:

human rights means the rights and freedoms recognised or declared by the following international instruments:

- (a) the International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40);
- (b) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5);
- (c) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23);
- (d) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9);
- (e) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 10 December 1984 ([1989] ATS 21);
- (f) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4);
- (g) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12).

Note: In 2011, the text of an international agreement in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

member means a member of the Committee.

rule-maker has the same meaning as in the *Legislation Act 2003*.

the Committee means the Parliamentary Joint Committee on Human Rights for the time being constituted under this Act.

- (2) In the definition of *human rights* in subsection (1), the reference to the rights and freedoms recognised or declared by an international instrument is to be read as a reference to the rights and freedoms recognised or declared by the instrument as it applies to Australia.

Part 2—Parliamentary Joint Committee on Human Rights

4 Parliamentary Joint Committee on Human Rights

As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Human Rights, is to be appointed according to the practice of the Parliament.

5 Membership of the Committee

- (1) The Committee is to consist of 10 members:
 - (a) 5 members of the Senate appointed by the Senate; and
 - (b) 5 members of the House of Representatives appointed by that House.
- (2) A member of the Parliament is not eligible for appointment as a member of the Committee if he or she is:
 - (a) a Minister; or
 - (b) the President of the Senate; or
 - (c) the Speaker of the House of Representatives; or
 - (d) the Deputy-President and Chair of Committees of the Senate; or
 - (e) the Deputy Speaker of the House of Representatives.
- (3) A member ceases to hold office:
 - (a) when the House of Representatives expires by effluxion of time or is dissolved; or
 - (b) if he or she becomes the holder of an office specified in any of the paragraphs of subsection (2); or
 - (c) if he or she ceases to be a member of the House of the Parliament by which he or she was appointed; or

- (d) if he or she resigns his or her office as provided by subsection (4) or (5).
- (4) A member appointed by the Senate may resign his or her office by writing signed by him or her and delivered to the President of the Senate.
- (5) A member appointed by the House of Representatives may resign his or her office by writing signed by him or her and delivered to the Speaker of that House.
- (6) Either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

6 Powers and proceedings of the Committee

All matters relating to the powers and proceedings of the Committee are to be determined by resolution of both Houses of the Parliament.

7 Functions of the Committee

The Committee has the following functions:

- (a) to examine Bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- (b) to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- (c) to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter.

Part 3—Statements of compatibility

8 Statements of compatibility in relation to Bills

- (1) A member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must cause a statement of compatibility to be prepared in respect of that Bill.
- (2) A member of Parliament who introduces a Bill for an Act into a House of the Parliament, or another member acting on his or her behalf, must cause the statement of compatibility prepared under subsection (1) to be presented to the House.
- (3) A statement of compatibility must include an assessment of whether the Bill is compatible with human rights.
- (4) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal.
- (5) A failure to comply with this section in relation to a Bill that becomes an Act does not affect the validity, operation or enforcement of the Act or any other provision of a law of the Commonwealth.

9 Statements of compatibility in relation to certain legislative instruments

- (1) The rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislation Act 2003* applies must cause a statement of compatibility to be prepared in respect of that legislative instrument.

Note: The statement of compatibility must be included in the explanatory statement relating to the legislative instrument (see section 15J of the *Legislation Act 2003*).

- (2) A statement of compatibility must include an assessment of whether the legislative instrument is compatible with human rights.

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- (3) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal.
- (4) A failure to comply with this section in relation to a legislative instrument does not affect the validity, operation or enforcement of the instrument or any other provision of a law of the Commonwealth.

Part 4—Regulations

10 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted to be prescribed by this Act; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Human Rights (Parliamentary Scrutiny) Act 2011	186, 2011	7 Dec 2011	s 4–10: 4 Jan 2012 (s 2(1) item 2) Remainder: 7 Dec 2011 (s 2(1) item 1)	
Legislative Instruments Amendment (Sunsetting Measures) Act 2012	135, 2012	22 Sept 2012	Sch 2: 23 Sept 2012 (s 2)	—
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 1 (item 67): 22 Sept 2012 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 1 (items 149–151, 166–179): 5 Mar 2016 (s 2(1) item 2)	Sch 1 (items 166–179)
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 3 (items 1, 6): 5 Mar 2016 (s 2(1) item 8)	Sch 3 (item 6)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3	am No 10, 2015
Part 2	
s 5	am No 136, 2012
Part 3	
s 9	am No 135, 2012; No 10, 2015