



PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S STATEMENT TO THE HOUSE OF REPRESENTATIVES

Fifth Report of 2012

10 October 2012

On behalf of the Parliamentary Joint Committee on Human Rights I draw the attention of the House to the committee's Fifth Report of 2012.

This report reflects the committee's consideration of 22 bills and 34 instruments introduced during the period 17-20 September 2012.

In considering these bills and instruments, the committee has relied significantly on the statement of compatibility that is required to accompany each bill and instrument.

The committee has requested further clarification in relation to 15 bills and one instrument. In a number of cases this reflects the fact that the statement of compatibility has not provided sufficient information regarding the engagement of human rights to enable the committee to undertake its assessment of the compatibility of the legislation.

On behalf of the committee I would like to reiterate the committee's expectation that statements of compatibility should provide sufficient detail to allow the committee to undertake its scrutiny tasks efficiently.

The committee expects statements of compatibility to be capable of being read as stand-alone documents. They should also be able to be located easily, particularly if included as part of the Explanatory Memorandum or Statement.

The committee expects statements to clearly specify the particular provisions of the bill or instrument that are being discussed and provide sufficient detail to enable the committee to understand the practical effect of the provisions. Where relevant explanation is provided in the Explanatory Memorandum, clear and explicit references to the relevant paragraphs should be provided in the statement of compatibility.

Where a bill or instrument limits human rights, the committee expects a clear justification to be provided in the statement of compatibility. In particular, the committee would prefer for statements to provide information that addresses the following three criteria:

1. whether and how the limitation is aimed at achieving a legitimate objective;
2. whether and how there is a rational connection between the limitation and the objective; and
3. whether and how the limitation is proportionate to that objective.

Where no rights are engaged, the committee still expects that reasons should be given to support this conclusion where appropriate.

Where the committee determines that the statement of compatibility does not provide sufficient information to enable the committee to undertake an assessment of the legislation's compatibility with human rights it will write to the proponent of the legislation seeking further information.

To date the committee has not stipulated a date by which such responses should be provided, but has indicated that its preference is for responses be provided to enable the committee to finalise its work prior to the conclusion of Parliament's consideration of the bill or instrument.

I would like to take this opportunity to thank those Ministers, Members and Senators who have provided timely and appropriately comprehensive responses to the committee's requests for clarification and further information. The additional information provided in these responses has greatly assisted the committee in its work.

To date the committee has requested further clarification in relation to 16 bills and seven instruments considered in its First, Second and Third reports. The committee has received responses to six of these requests and is therefore waiting for responses in relation to 12 bills and five instruments considered in its First, Second and Third Reports. This falls well short of the committee's expectations and I urge the Ministers, Members and Senators concerned to take urgent action in respect of any outstanding responses.

I would like to emphasise the desirability of the committee considering such responses prior to the conclusion of the Parliament's consideration of the legislation. It is a source of disappointment to the committee that two of the bills for which it has sought further information have now been passed by the Parliament.

Notwithstanding the passage of these bills, the committee still expects the relevant Ministers to provide a response to the committee's request and will be writing to them accordingly.

I commend the report to the House.