

# PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

## CHAIR'S TABLING STATEMENT

**Tuesday 3 May 2016**

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirty-eighth Report of the 44<sup>th</sup> Parliament.

The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations. This report considers bills introduced into the Parliament from 18 to 19 April 2016 and legislative instruments received from 18 March to 14 April 2016. The report also includes the committee's consideration of three responses to matters raised in previous reports.

One new bill is assessed as not raising human rights concerns and the committee will seek a further response from the legislation proponent in relation to one bill. The committee has also concluded its examination of one bill and two regulations.

This report includes consideration of the Road Safety Remuneration Repeal Bill 2016. The bill sought to repeal the *Road Safety Remuneration Act 2012* in order to abolish the Road Safety Remuneration Tribunal and all orders made by the tribunal. By abolishing the tribunal and repealing its orders, the bill engages and limits the right to just and favourable conditions of work by removing the minimum protections provided by the tribunal and its orders. The statement of compatibility for the bill acknowledges that the bill may

limit the right to just and favourable conditions of work and states that the bill was necessary to prevent any unnecessary and irreversible negative impact on the road transport industry caused by the tribunal and its orders.

The committee considered that removing a negative economic impact on owner drivers and small transport operators may be a legitimate objective for the purposes of international human rights law. However, more information as to the nature and extent of the negative economic impact is required and, accordingly, the committee will write to the Minister for Employment for more information.

This report also concludes the committee's consideration of the Building Code (Fitness for Work/Alcohol and Other Drugs in the Workplace) Amendment Instrument 2015. The instrument requires building contractors on certain building projects, to which the Commonwealth is making a significant contribution, to have a policy to manage alcohol and drugs in their workplace.

The committee recognises the importance of ensuring that building and construction workplaces are drug and alcohol-free, and that random drug and alcohol testing is an important deterrent. The committee, however, sought more information as to the safeguards that exist as part of the alcohol and drug testing regime to protect the right to privacy. The Minister's response did not provide information on this point. The committee's report notes that the Australian Border

Force (Alcohol and Drug Tests) Rule 2015, which sets out the rules for alcohol and drug testing of officers of the Australian Border Force and the Department of Immigration and Border Protection, includes a suite of safeguards including that:

(a) the alcohol or drug test must be conducted in a respectful manner and in circumstances affording reasonable privacy;

(b) the test must not be conducted in the presence or view of a person whose presence is not necessary and must not involve the removal of more clothing than is necessary for the conduct of the test;

(c) if a hair sample is required, it must be collected in the least painful manner and not from an intimate area of the body;

(d) a body sample collected for an alcohol or drug test must be kept in a secure location and destroyed after a prescribed period; and

(e) information revealed by the drug and alcohol test must only be shared with individuals authorised by the legislative instrument.

In the absence of advice or reasoning from the Minister for Employment as to safeguards which are in currently place, the committee has concluded that the instrument provides insufficient safeguards to ensure that the requirement that construction workers undergo drug and alcohol testing is a proportionate limitation on the right to privacy.

## ***Annual Report 2013-2014***

I also rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Annual Report 2013-2014 which provides information about the work of the committee during 2013-2014, including the major themes and scrutiny issues arising from the legislation examined by the committee.

I encourage my fellow Members and others to examine the committee's reports to better inform their understanding of the committee's deliberations.

With these comments, I commend the committee's Thirty-eighth Report of the 44<sup>th</sup> Parliament to the chamber.