

# PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

## CHAIR'S TABLING STATEMENT

**Tuesday 21 March 2017**

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' *Human Rights Scrutiny Report 2 of 2017*.

The committee's scrutiny report examines the compatibility of recent bills and legislative instruments with Australia's obligations under international human rights law. This is in accordance with the committee's legislative mandate under section 7(a) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The report is a technical examination and does not assess the broader merits or policy objectives of particular measures. A key purpose of the scrutiny report is to provide parliament with credible technical analysis about the human rights implications of legislation.

In performing its function the committee receives legal advice in relation to the human rights compatibility of legislation. The committee is served by an external legal adviser to the committee, Dr Aruna Sathanapally, and secretariat staff.

Committee members performing a scrutiny function are not, and have never been, bound by the contents or conclusions of scrutiny committee reports. Like all parliamentarians committee members are free to engage in debates over the policy merits of legislation according to the dictates of party, conscience, belief or outlook. Scrutiny committee members may, and often do, have different views

in relation to the policy merits of legislation. There are some matters in this current report where this may be the case.

Twelve new bills are assessed in the scrutiny report as not raising human rights concerns. The committee is also seeking further information in relation to seven bills and legislative instruments, and has also concluded its consideration of a number of matters.

A number of the concluding matters demonstrate that many Commonwealth agencies are positively engaging with the human rights scrutiny process. In relation to a number of bills and instruments, following constructive correspondence with the relevant minister to explore questions of human rights compatibility, the committee has been able to conclude that these bills and instruments are likely to be compatible with human rights. In exploring these questions the committee seeks to enhance understanding of, and respect for, human rights in Australia.

For example, in relation to the Narcotic Drugs Regulation 2016, the initial human rights analysis of this regulation identified that restricting the classes of people who could be employed by licence holders engaged and limited the right to work and the right to equality and non-discrimination. This limitation had not been addressed in the statement of compatibility. In accordance with its usual approach and its longstanding analytical framework, the committee sought further information from the minister as to whether these limitations were permissible under international human rights law including:

- whether the measure is aimed at achieving a legitimate objective;
- how the measure is effective to achieve (that is, rationally connected to) that objective; and
- whether the limitation is a reasonable and proportionate measure to achieve that objective.

The further information provided by the minister in response to these questions allowed the committee to conclude that the measure was a permissible limitation on human rights (or, in other words, was compatible with human rights.)

I encourage my fellow members and others to examine the committee's report to better inform their understanding of the committee's work.

With these comments, I commend the committee's Report 2 of 2017 to the chamber.