

**PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS
CHAIR'S TABLING STATEMENT**

Tuesday 26 June 2018

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' *Human Rights Scrutiny Report 6 of 2018*.

The committee's scrutiny reports provide parliament with a technical examination of the compatibility of bills and legislative instruments with Australia's obligations under international human rights law. The report does not assess the broader merits of particular measures.

A number of bills examined in the current report are scheduled for debate this week, including in relation to:

- counter-terrorism;
- the Australian Institute of Health and Welfare;
- mandatory comprehensive credit reporting;
- farm household support; and
- underwater cultural heritage.

Of the new bills in this report, six have been assessed as not raising human rights concerns as they promote, permissibly limit, or do not engage, human rights. The committee is also seeking further information in relation to four bills and legislative instruments.

Chapter 2 of the report contains the committee's concluded examination of seven bills and a number of legislative instruments. It includes the committee's concluded examination of the Underwater Cultural Heritage Bill 2018 which I would like particularly to highlight.

In relation to this bill, the committee sought further information from the minister as to whether certain penalties in the bill may be 'criminal' for the purposes of international human rights law and, if so, whether the provisions were compatible with criminal process guarantees. Following correspondence with the relevant minister, the committee considered that the civil penalty provisions may be considered 'criminal' for the purposes of human rights law. However, the further information usefully provided by the assistant minister allowed the committee to nevertheless conclude that the penalties may be compatible with criminal process rights such as the right to be presumed innocent. The committee's analysis highlights how, in the context of civil penalties, if a penalty meets the test of being 'criminal' under international human rights law this does not convert the relevant conduct into a criminal offence or mean that the civil penalty is illegitimate. Instead, it means the civil penalties must be compatible with criminal process rights, and the assistant minister's detailed and helpful response outlined how the penalties constitute permissible limitations on criminal process rights. This response from the assistant minister and the department is accordingly to be commended. It is also a strong example of the type of information that should be included in statements of compatibility in relation to civil penalty provisions.

I encourage my fellow Members and others to examine the committee's report to better inform their consideration of proposed legislation.

With these comments, I commend the committee's *Report 6 of 2018* to the House.