

Report snapshot¹

In this report the committee has examined the following bills and legislative instruments for compatibility with human rights. The committee's full consideration of legislation commented on in the report is set out at the page numbers indicated.

Bills

Chapter 1: New and continuing matters

Bills introduced or restored to <i>Notice Paper</i> between 26 July to 4 August 2022	39
Bills substantively commented on in report ²	2
Private members or senators' bills that may engage and limit human rights	3

Chapter 2: Concluded

Bills committee has concluded its examination of following receipt of ministerial response	1
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Aged Care Amendment (Implementing Care Reform) Bill 2022

No comment

Aged Care and Other Legislation Amendment (Royal Commission Response) Bill 2022

This bill is substantially the same as the Aged Care and Other Legislation Amendment (Royal Commission Response No. 2) 2021 which the committee previously considered. As such, the committee reiterates its previous comments as set out in Reports [11/21](#), [14/21](#) and [1/22](#).³

- 1 This section can be cited as Parliamentary Joint Committee on Human Rights, Report snapshot, *Report 3 of 2022*; [2022] AUPJCHR 23.
- 2 The committee makes no comment on the remaining bills on the basis that they do not engage, or only marginally engage, human rights; promote human rights; and/permissibly limit human rights. This is based on an assessment of the bill and relevant information provided in the statement of compatibility accompanying the bill. The committee may have determined not to comment on a bill notwithstanding that the statement of compatibility accompanying the bill may be inadequate.
- 3 See Parliamentary Joint Committee on Human Rights, *Report 11 of 2021* (16 September 2021) pp. 2-6; *Report 14 of 2021* (24 November 2021) pp. 2-8 and *Report 1 of 2022* (9 February 2022) pp. 23-39.

Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020

Restored to Notice Paper on 3 August 2022

The committee notes that the following private senator's bill appears to engage and may limit human rights. Should this bill proceed to further stages of debate, the committee may request further information from the legislation proponent as to the human rights compatibility of the bill.

Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Bill 2022

No comment

Broadcasting Services Amendment (Audio Description) Bill 2019

Restored to Notice Paper on 27 July 2022

No comment

Climate Change Bill 2022

No comment

Climate Change (Consequential Amendments) Bill 2022

No comment

Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2019

Restored to Notice Paper on 27 July 2022

No comment

Customs Amendment Bill 2022

No comment

Customs Legislation Amendment (Commercial Greyhound Export and Import Prohibition) Bill 2021

Restored to Notice Paper on 27 July 2022

No comment

Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2020

Restored to Notice Paper on 27 July 2022

No comment

Defence, Veterans' and Families' Acute Support Package Bill 2022

No comment

Electric Vehicles Accountability Bill 2021

Restored to Notice Paper on 27 July 2022

No comment

Ending Indefinite and Arbitrary Immigration Detention Bill 2022

No comment

Environment Protection and Biodiversity Conservation Amendment (Regional Forest Agreements) Bill 2020

Restored to Notice Paper on 28 July 2022

No comment

Environment Protection and Biodiversity Conservation Amendment (Save the Koala) Bill 2020

Restored to Notice Paper on 27 July 2022

No comment

Fair Work Amendment (Equal Pay for Equal Work) Bill 2022

Restored to Notice Paper on 27 July 2022

No comment

Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 2022

No comment

Federal Environment Watchdog Bill 2021

Restored to Notice Paper on 27 July 2022

The committee notes that the following private senator's bill appears to engage and may limit human rights. Should this bill proceed to further stages of debate, the committee may request further information from the legislation proponent as to the human rights compatibility of the bill.

Health Legislation Amendment (Medicare Compliance and Other Measures Bill 2022)

No comment

Jobs and Skills Australia Bill 2022

No comment

Jobs and Skills Australia (National Skills Commissioner Repeal) Bill 2022

No comment

Landholders' Right to Refuse (Gas and Coal) Bill 2015

Restored to Notice Paper on 27 July 2022

No comment

Live Performance Federal Insurance Guarantee Fund Bill 2021

Restored to Notice Paper on 27 July 2022

No comment

Military Rehabilitation and Compensation and Other Legislation Amendment (Incapacity Payments) Bill 2022

No comment

Narcotic Drugs (Licence Charges) Amendment Bill 2022

No comment

Offshore Petroleum and Greenhouse Gas Storage Amendment (Benefit to Australia) Bill 2020

Restored to Notice Paper on 3 August 2022

No comment

Offshore Petroleum and Greenhouse Gas Storage Amendment (Fight for Australia's Coastline) Bill 2022

No comment

Plebiscite (Future Migration Level) Bill 2018

Restored to Notice Paper on 3 August 2022, committee's comments in Report [9/18](#)

The committee notes that the following private senator's bill appears to engage and may limit human rights. Should this bill proceed to further stages of debate, the committee may request further information from the legislation proponent as to the human rights compatibility of the bill.

Public Sector Superannuation Salary Legislation Amendment Bill 2022

No comment

Restoring Territory Rights Bill 2022

Advice to Powers of territory governments to legislate for voluntary euthanasia

Parliament Rights to take part in public affairs, private life, and life

pp. 11-14 This bill seeks to remove existing prohibitions on the powers of the Northern Territory (NT) and the Australian Capital Territory (ACT) governments to legislate to permit the intentional killing of a person (euthanasia) or the assisting of a person to terminate their life.

By removing restrictions on the ability of the NT and ACT parliaments to legislate, the bill promotes the right of citizens to take part in public affairs. As the bill does not itself make voluntary euthanasia legal, the committee considers the bill does not directly engage any other human rights. Should the NT and ACT Parliaments choose to legalise voluntary euthanasia, this may promote the right to a private life and may limit the right to life. The committee notes that the right to life is not an absolute right and may be exceptionally limited if accompanied by effective institutional safeguards. The committee draws its human rights advice to the attention of the legislation proponents and the Parliament.

Snowy Hydro Corporatisation Amendment (No New Fossil Fuels) Bill 2021 [No. 2]

Restored to Notice Paper on 27 July 2022

No comment

Social Media (Anti-Trolling) Bill 2022

Publication of former Attorney-General's response Disclosure of poster's personal information

Attorney-General's response Rights to privacy and freedom of expression

pp. 39-43 This bill sought to provide a framework to regulate defamatory content on social media. The committee considered this bill may promote the right to privacy by facilitating resolution of defamation claims, but would also engage and limit this right and the right to freedom of expression by permitting the disclosure of personal information.

In the last Parliament the committee sought further information from the Attorney-General regarding the human rights compatibility of the bill. As the advice was provided a few days before the dissolution of the 46th Parliament the committee was unable to finalise its consideration of this bill. As the bill has now lapsed, the committee provides the former Attorney-General's advice but otherwise makes no further comment.

Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022

Seeking
information

pp. 15-26

Abolishing Cashless Debit Card program

Rights to social security, private life, adequate standard of living, equality and non-discrimination and rights of the child

The bill seeks to abolish the Cashless Debit Card (CDC) program and transition certain individuals to the income management regime following the closure of the CDC program. In particular, the bill would subject participants in the Northern Territory who are within a specified class of persons to mandatory income management.

Noting the committee's previous concerns regarding the compatibility of the CDC program with multiple human rights, the committee considers that abolishing this specific program would be a rights-enhancing measure. In particular, it considers the bill would address the human rights concerns previously raised by the committee in relation to the CDC program and, for those participants removed from any form of welfare restrictions, would alleviate the adverse impact of the program on their rights.

However, the committee notes that the bill, in transitioning certain CDC participants to mandatory income management, will limit a number of human rights, including the rights to social security, private life, adequate standard of living, equality and non-discrimination and the rights of the child (noting that the measure would apply to 'disengaged youth' aged between 15 and 17 years).

The committee seeks further information from the Minister for Social Services to assess the compatibility of this measure with multiple human rights.

Social Security and Other Legislation Amendment (Self-Employment Programs and Other Measures) Bill 2022

No comment

Social Security Legislation Amendment (Enhancing Pensioner and Veteran Workforce Participation) Bill 2022

No comment

Treasury Laws Amendment (2022 Measures No. 1) Bill 2022

No comment

Treasury Laws Amendment (2022 Measures No. 2) Bill 2022

No comment

Treasury Laws Amendment (Electric Car Discount) Bill 2022

No comment

United Nations Declaration on the Rights of Indigenous Peoples Bill 2022

Restored to Notice Paper on 27 July 2022

No comment

Legislative instruments

Chapter 1: New and continuing matters

Legislative instruments registered on the [Federal Register of Legislation](#) between 16 March and 24 August 2022⁴ 816

Legislative instruments commented on in report⁵ 3

Chapter 2: Concluded

Legislative instruments committee has concluded its examination of following receipt of ministerial response 0

Biosecurity (Exit Requirements) Determination 2022 [F2022L00500]

This determination, which came into force on 18 April 2022, required outgoing travellers from Australia to make a declaration as to their vaccination status before departure and to produce evidence of that declaration to a relevant official, where such a request was made. This appeared to limit the right to privacy and freedom of movement, but as no statement of compatibility with human rights accompanied the determination, no assessment was provided as to whether such limitations were permissible. However, the determination was repealed (and so ceased operation) on 6 July 2022 (see, Biosecurity Legislation Amendment (2022 Measures No. 1) Determination 2022 [F2022L00939]). As such, the committee makes no comment on either determination.

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- 4 The committee examines all legislative instruments registered in the relevant period, as listed on the Federal Register of Legislation. To identify all of the legislative instruments scrutinised by the committee during this period, select 'legislative instruments' as the relevant type of legislation, select the event as 'assent/making', and input the relevant registration date range in the Federal Register of Legislation's advanced search function, available at: <https://www.legislation.gov.au/AdvancedSearch>.
 - 5 The committee makes no comment on the remaining legislative instruments on the basis that they do not engage, or only marginally engage, human rights; promote human rights; and/permissibly limit human rights. This is based on an assessment of the instrument and relevant information provided in the statement of compatibility (where applicable). The committee may have determined not to comment on an instrument notwithstanding that the statement of compatibility accompanying the instrument may be inadequate.

Migration (Daily maintenance amount for persons in detention) Determination (LIN 22/031) [F2022L00877]

<i>Seeking information</i>	<p>Liability for costs of detention</p> <p><i>Right not to be punished twice, and right to humane treatment in detention</i></p>
<i>pp. 27-30</i>	<p>This legislative instrument increases the determined daily cost of maintaining a person in immigration detention. Persons convicted of people smuggling and illegal foreign fishing offences are liable to repay the Commonwealth for the cost of their immigration detention.</p> <p>Establishing such a liability, where a person is being detained in relation to conduct for which they have also been convicted of a criminal offence, may engage the right not to be punished twice if the debt is considered to be a penalty. It may also raise questions of compatibility with the right to humane treatment in detention. The committee is seeking further information from the Minister for Home Affairs in order to assess the compatibility of the measure with these rights.</p>

Migration Amendment (Protecting Australia's Critical Technology) Regulations [F2022L00541]

Migration Amendment (Postgraduate Research in Critical Technology–Student Visa Conditions) Regulations [F2022L00866]

<i>Seeking information</i>	<p>Restriction on visa holders relating to critical technologies</p> <p><i>Right to education, work, freedom of expression, equality and non-discrimination</i></p>
<i>pp. 31-37</i>	<p>These two legislative instruments regulate the ability for specified visa holders to undertake study or research, and may be liable to visa cancellation, where there is an 'unreasonable risk of unwanted transfer of critical technology by the visa holder'.</p> <p>By allowing for visa cancellations for people in Australia and establishing requirements for certain visa holders to gain the minister's approval to change their course of study or to communicate certain matters, these measures engage and may limit the rights to education, work, freedom of expression, and equality and non-discrimination. The committee seeks further information from the Minister for Home Affairs in order to assess the compatibility of the measures with these rights.</p>

Instruments imposing sanctions on individuals⁶

A number of legislative instruments impose sanctions on individuals. The committee has considered the human rights compatibility of similar instruments on a number of occasions, and retains scrutiny concerns about the compatibility of the sanctions regime with human rights.⁷ However, as these legislative instruments do not appear to designate or declare any individuals who are currently within Australia's jurisdiction, the committee makes no comment in relation to these instruments at this stage.

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- 6 See Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 7) Instrument 2022 [F2022L00334]; Legislation (Exemptions and Other Matters) Amendment (Autonomous Sanctions) Regulations 2022 [F2022L00341]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 9) Instrument 2022 [F2022L00378]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 10) Instrument 2022 [F2022L00379]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Thematic Sanctions) Instrument 2022 [F2022L00411]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 11) Instrument 2022 [F2022L00568]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 13) Instrument 2022 [F2022L00632]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 14) Instrument 2022 [F2022L00675]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 15) Instrument 2022 [F2022L00676]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 16) Instrument 2022 [F2022L00707]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 17) Instrument 2022 [F2022L00708]; Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Russia and Ukraine) Amendment (No. 18) Instrument 2022 [F2022L00918]; Charter of the United Nations (Listed Entities) Amendment (No. 3) Instrument 2022 [F2022L00982] and Charter of the United Nations (Listed Persons and Entities) Amendment (No. 1) Instrument 2022 [F2022L01074].
- 7 See, most recently, Parliamentary Joint Committee on Human Rights, Parliamentary Joint Committee on Human Rights, *Report 15 of 2021* (8 December 2021), pp. 2-11.

