

Report snapshot¹

1.1 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 5 to 8 September 2022	17
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Bills commented on in report ²	2
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Chapter 2: Concluded

Bills committee has concluded its examination of following receipt of ministerial response	0
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Anti-Money Laundering and Counter-Terrorism Financing Amendment (Making Gambling Businesses Accountable) Bill 2022

No comment

Atomic Energy Amendment (Mine Rehabilitation and Closure) Bill 2022

No comment

1 This section can be cited as Parliamentary Joint Committee on Human Rights, Report snapshot, *Report 4 of 2022*; [2022] AUPJCHR 32.

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.

Counter-Terrorism Legislation Amendment (AFP Powers and Other Matters) Bill 2022

<i>Advice to Parliament</i>	Extension of counter-terrorism powers
	<i>Multiple rights</i>
<i>pp. 7-11</i>	<p>This bill seeks to extend by a further 12 months the operation of a number of counter-terrorism related provisions which are due to sunset on 7 December 2022, in particular the operation of the control order regime, the preventative detention order regime and stop, search and seizure powers relating to counter-terrorism.</p> <p>These powers are intended to protect Australia's national security interests and protect against the possibility of terrorist acts in Australia, and if capable of assisting in achieving these objectives, extending these powers would promote the rights to life and security of the person. However, the extended powers also engage and limit numerous human rights.</p> <p>The committee has previously considered the human rights compatibility of all of these provisions and has previously found that while all of the measures likely sought to achieve a legitimate objective (namely, that of seeking to prevent terrorist acts), there were questions whether the measures would be effective to achieve this and were necessary, and, in particular, the measures did not appear to be proportionate. As a result, the committee previously found the measures were likely to be incompatible with a range of human rights.</p> <p>The committee notes that the Parliamentary Joint Committee on Intelligence and Security (PJCIS) conducted a statutory review of the provisions being extended by this bill and reported in October 2021. The committee also notes the Attorney-General's statement that extending the relevant sunset dates will provide sufficient time to consult on, and then implement, the government's response to the PJCIS report.</p> <p>The committee notes its previous conclusion that these provisions do not contain sufficient safeguards to constitute a proportionate limit on rights, and that the legislation to be extended has not been relevantly amended since the committee previously examined it. Whilst the committee remains concerned as to the compatibility of extending these provisions for a further 12 months with a range of human rights, it supports the Attorney-General in using this extension to consider the recommendations of the PJCIS and undertake appropriate consultations with stakeholders.</p>

Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022

No comment

Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022

No comment

Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 [No. 2]

No comment

Financial Accountability Regime Bill 2022

No comment

Financial Sector Reform Bill 2022

No comment

Financial Services Compensation Scheme of Last Resort Levy Bill 2022

No comment

Financial Services Compensation Scheme of Last Resort Levy (Collection) Bill 2022

No comment

Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2022

No comment

High Speed Rail Authority Bill 2022

No comment

Income Tax Amendment (Labour Mobility Program) Bill 2022

No comment

National Health Amendment (General Co-payment) Bill 2022

No comment

Parliamentary Privileges Amendment (Royal Commission Response) Bill 2022

No comment

Social Services and Other Legislation Amendment (Incentivising Pensioners to Downsize) Bill 2022

No comment

Treasury Laws Amendment (2022 Measures No. 3) Bill 2022

<i>Advice to Parliament</i>	Doubling financial penalties relating to foreign ownership of property <i>Criminal process rights, right to equality and non-discrimination, and housing</i>
<i>pp. 12-15</i>	<p>Schedule 1 of the bill seeks to amend the <i>Foreign Acquisitions and Takeovers Act 1975</i> to double the maximum civil penalties for contraventions of provisions relating to the acquisition of residential land by foreign persons. This is to regulate some investments in the interests of national security, and to protect the affordability of Australian residential housing.</p> <p>Civil penalties may be construed as criminal penalties for the purposes of international human rights law, depending on their potential severity. The statement of compatibility states that these penalties are to be considered 'criminal' for the purposes of international human rights law. As such, they engage the criminal process rights, including the right to be presumed innocent until proven guilty according to law. This right requires that the case be demonstrated to the criminal standard of proof (beyond all reasonable doubt). The committee considers that because the standard of proof applicable in civil penalty proceedings requires proof only on the balance of probabilities, there is a risk that increasing the civil penalties may not be consistent with this criminal process right.</p> <p>Further, as these provisions would primarily apply to non-citizens, they engage the right to equality and non-discrimination. The committee considers that whether the measures would constitute a proportionate limit on this right would depend on whether (and to what extent) there is a current problem with non-compliance with the Act, and whether there are sufficient safeguards in the Act in practice as regards the treatment of non-nationals.</p> <p>The committee considers that to the extent that this measure could protect Australia's housing stock and the affordability of Australian residential housing this would promote the right to an adequate standard of living in respect of housing.</p> <p>The committee draws these human rights concerns to the attention of the Assistant Treasurer and Minister for Financial Services and the Parliament.</p>

Legislative instruments

Chapter 1: New and continuing matters

Legislative instruments registered on the [Federal Register of Legislation](#) between 25 August and 1 September 2022³ 48

Legislative instruments commented on in report⁴ 0

Chapter 2: Concluded

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

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- 3 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>.
 - 4 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.

