

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

FOURTH AND FIFTH REPORTS OF 2013

CHAIR'S TABLING STATEMENT

WEDNESDAY 20 MARCH 2013

The Fourth Report of 2013 of the Parliamentary Joint Committee on Human Rights sets out the committee's consideration of 24 bills introduced during the last parliamentary week and four legislative instruments that the committee had previously deferred for further consideration.

The committee has identified 12 bills that do not appear to give rise to human rights concerns. The committee will seek further information in relation to the remaining 12 bills and the four legislative instruments.

This Fourth Report of 2013 includes the committee's examination of the six bills that make up a package of legislation on media reform. The committee noted that these bills are the subject of inquiry by three other parliamentary committees. The committee therefore decided to expedite publication of its comments on these bills to assist the work of those committees.

The committee has set out its expectation that the timetable for the consideration of legislation should allow sufficient time for the

parliament to examine draft legislation in some detail. The committee has noted that a fundamental premise of the *Human Rights (Parliamentary Scrutiny) Act 2011* is that the examination of draft legislation for human rights compatibility is an important component of Australia's Human Rights Framework and that the role of the committee is not a purely formal one and is not intended to provide after-the-event commentary on legislation.

The committee's Fifth Report of 2013 is its final report on the *Social Security Legislation Amendment (Fair Incentives to Work) Act 2012*.

Since the committee's interim report on this legislation was tabled in September 2012, additional material has become available to the committee. This fifth report of 2013 takes account of that additional information, confirms the committee's interim views where relevant, and presents the committee's final views on this legislation.

The completion of the examination of this legislation has been a long and formative journey for the committee. Members will appreciate that this matter came before the committee very early in its existence, before it had established work practices around the routine scrutiny of legislation.

I draw the attention of members to the analytical framework applied by the committee in its interpretation of the underlying human rights obligations and principles engaged by this legislation.

The committee has taken the view that there is considerable overlap between limitations on rights and retrogressive measures, particularly where such measures interfere with an existing enjoyment of a right.

Throughout its consideration of the measures in this legislation, the committee has focused on three key questions:

- whether the measures are aimed at achieving a legitimate objective;
- whether there is a rational connection between the measures and that objective; and
- whether the measures are proportionate to that objective.

The committee will continue to apply this approach consistently to its assessment of limitations of rights.

In closing, members will note that I avoid paraphrasing the committee's reports in my tabling statements, because it is not possible to do so and still capture the import of the committee's conclusions.

Therefore, I encourage members to read the committee's comments on legislation in their entirety. To not do so diminishes the work of the committee.

I am not so naive as to not expect that there are some who will seek to cherry pick the committee's comments on particular bills for political purposes. To act in such a manner detracts from the concerted efforts of members of this committee to set aside partisan positions when considering questions of human rights compatibility.

I would like to take this opportunity to thank my committee colleagues for their principled approach to the consideration of these complex and contentious issues.

On behalf of the committee I again emphasise our gratitude to the committee's secretariat for their diligence and professionalism in carrying out their work, and their contribution to the collegiate actions of the committee.

I commend the committee's Fourth and Fifth reports of 2013 to the House.