

# **PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS**

## **CHAIR'S TABLING STATEMENT**

**WEDNESDAY 26 JUNE 2013**

The Tenth Report of 2013 of the Parliamentary Joint Committee on Human Rights sets out the committee's consideration of 13 bills introduced into the Parliament from 17 to 20 June 2013, 140 legislative instruments registered with the Federal Register of Legislative Instruments (FRLI) between 18 May and 7 June 2013 and 42 responses from the Prime Minister, Ministers and private Members and Senators.

The committee considers that none of the bills considered appear to give rise to human rights concerns. Some of these bills do not engage human rights, some engage and promote rights and a number engage and limit rights, but are accompanied by statements of compatibility that set out an adequate justification for each of these limitations.

The committee notes that that the Tax Laws Amendment (2013 Measures No. 3) Bill 2013 proposes a number of civil penalty provisions, however, the statement of compatibility does not assess whether these provisions are properly characterised as 'civil' or 'criminal' under human rights law. The committee will write to the Treasurer to draw his attention to the committee's recently issued Practice Note 2 (interim) that sets out the type of analysis it considers may be appropriate to include in statements of compatibility

accompanying bills that introduce or incorporate civil penalty regimes.

The committee has identified six instruments that do not appear to raise any human rights concerns but are accompanied by statements of compatibility that do not fully meet the committee's expectations. The committee will write to the relevant Ministers in a purely advisory capacity. The committee has decided to seek further information from the relevant Ministers in relation to two further instruments before forming a view about their compatibility with human rights.

The committee has considered 42 responses to comments made in various previous reports. The committee has concluded its consideration of 16 bills and 15 instruments as the responses relating to them appear to have adequately addressed the committee's concerns or further information is unlikely to be elicited. The committee has made comments in relation to a further 14 responses and in some cases has recommended that a more detailed review of the human rights compatibility of the relevant legislative regime be undertaken.

On behalf of the committee, I would like to thank all Ministers, Members and Senators who have responded to the committee's requests for further information over the course of the 13 months since the committee tabled its first report in June 2012. For the most part these responses have been prompt and detailed and, while the committee may have noted that it would have been helpful if the

information provided had been included in the statement of compatibility at the outset, the committee has been grateful for the cooperation shown to it.

The committee's Eleventh Report of 2013 sets out the committee's examination of the *Stronger Futures in the Northern Territory Act* and related legislation.

The consideration of the Stronger Futures package has been formative for the committee. The bills were introduced into the Parliament on 23 November 2011, before the establishment of the committee. On 15 June 2012, while the bills were before the Senate, and before the committee had tabled its first report, the National Congress of Australia's First Peoples wrote to the committee asking it to examine the bills.

This request came very early in the life of the committee and the committee took some time to determine how it would approach the examination of the complex issues and human rights principles that relate to this legislation. I would like to acknowledge the patience and goodwill extended to the committee by the National Congress while we have examined this complex package of legislation and the human rights principles it engages.

As the bills were introduced prior to the requirement for a statement of compatibility, the committee's first step was to write to the Minister for Families, Housing, Community Services and Indigenous Affairs and seek her advice on the compatibility of the bills with human

rights. The committee thanks the Minister for providing such a detailed and prompt response.

In examining this legislation, the committee is indebted to the Senate Community Affairs Legislation Committee for its inquiry into the Stronger Futures package of bills. The Community Affairs committee received over four hundred submissions and the committee has been able to draw extensively of this evidence in its own consideration of the legislation.

The committee has approached its consideration of the human rights implications of the policies implemented through this package of legislation using the same analytical framework that it consistently applies to the assessment of limitations of rights in any bill or instrument that comes before it.

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.

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

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

In closing, I would like to emphasise that this consensus report reflects a careful and considered response to the human rights issues raised by this legislation and as such I encourage honourable members to read the committee's comments on this legislation in their entirety. To not do so diminishes the work of the committee.

I would take this opportunity to thank my committee colleagues for their principled and collegiate approach to the consideration of these complex and contentious issues. I commend them for their concerted efforts to set aside partisan positions in considering questions of human rights compatibility, in the consideration of this legislation, and consistently in the consideration of all legislation that comes before the committee.

I commend the committee's Tenth and Eleventh Reports of 2013 to the House.

This Stronger Futures package of legislation implements a range of measures. The committee has focussed on three key measures: the tackling alcohol measures, the income management measure and the school attendance measure. The committee's Eleventh Report has not specifically addressed issues such as the food security measures relating to the licensing regimes for food stores in certain areas, land reform measures and amendment relating to customary law issues. However, the committee considers that any future monitoring of the implementation of this legislation by this committee would take these into account.