

Express law fast track information for clients

7 June 2010

Human Rights (Parliamentary Scrutiny) Bill 2010

On 2 June 2010, the [Human Rights \(Parliamentary Scrutiny\) Bill 2010](#) was introduced into the House of Representatives.

Parliamentary Joint Committee on Human Rights

The Bill provides for the establishment of a Parliamentary Joint Committee on Human Rights (JCHR) (clause 4), which will be made up of 5 members of the Senate and 5 members of the House of Representatives (clause 5(1)), and which will examine and report on bills, legislative instruments and Acts for compatibility with human rights (clause 7). 'Human rights' means the rights and freedoms recognised or declared by key international human rights instruments as they apply in Australia (clauses 3(1) and (2)).

Statements of compatibility

The Bill also requires that a member of Parliament who proposes to introduce a bill must cause a statement of compatibility to be prepared, and a member who introduces a bill, or another member on their behalf, must cause the statement of compatibility to be presented to the House (clauses 8(1) and (2)). Further, a rule maker in relation to a legislative instrument which is subject to disallowance under s 42 of the *Legislative Instruments Act 2003* must cause a statement of compatibility to be prepared in relation to the instrument (clause 9(1)). This statement will need to be in the explanatory statement for the legislative instrument ([Human Rights \(Parliamentary Scrutiny\) \(Consequential Provisions\) Bill 2010](#), Schedule 1, item 4). A statement of compatibility will assess whether that bill or legislative instrument is compatible with human rights (clauses 8(3) and 9(2)). However, it will not be binding on any tribunal or court (clauses 8(4) and 9(3)), and failure to prepare a statement will not affect the validity, operation or enforcement of the Act or legislative instrument (clauses 8(5) and 9(4)).

Human Rights Framework

The Bill is part of [Australia's Human Rights Framework](#), announced on 21 April 2010 by the Attorney General. The Framework is the government response to the recommendations contained in the [National Human Rights Consultation Report](#), which was released on 8 October 2009.

Other recommendations of the Report for a Human Rights Act, and relevant amendments of the *Administrative Decisions (Judicial Review) Act 1977* and the *Acts Interpretation Act 1901* will not be pursued at this time. However, as the Attorney-General mentioned in announcing the Framework and in the Second Reading Speech for the Bill, the statements of compatibility and any report of the JCHR will be extrinsic material which can be considered in interpreting legislation (see s 15AB of the *Acts Interpretation Act 1901*).

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