



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

COMMITTEES

**Parliamentary Joint
Committee on Human Rights**

Report

SPEECH

Thursday, 1 December 2016

BY AUTHORITY OF THE SENATE

SPEECH

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Speaker	Fawcett, Sen David	Question No.	

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:52): On behalf of the Chair of the Parliamentary Joint Committee on Human Rights, I present the 10th report of 2016, *Human Rights Scrutiny* report.

Ordered that the report be printed.

Senator FAWCETT: I seek leave to have the tabling statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Report 10 of 2016.

The committee's report examines the compatibility of recent bills and legislative instruments with Australia's human rights obligations. Eight new bills are assessed as not raising human rights concerns and the committee has also concluded its consideration of a number of matters, two of which I will speak to today.

However, before I do so, I would like to take this opportunity to speak a little about the role of the committee and its statutory mandate.

The committee is one of three parliamentary committees established or administered by the Federal Parliament specifically tasked to scrutinise legislation against specified principles. Legislative scrutiny committees undertake technical assessments of bills and legislation against scrutiny criteria or, in the case of this committee, established international human rights norms. It is a different role to other joint, House and Senate committees which focus on policy merits.

The role of committee members has been and is to ensure that committee reports are legally and technically credible, as well as consistent with past practice. However, scrutiny committee members are not and have never been bound by the contents or conclusions of scrutiny committee reports and, like all parliamentarians, are free to otherwise engage in debates over the policy merits of legislation according to the dictates of party, conscience, belief or outlook.

In performing its function the committee receives legal advice in relation to the human rights compatibility of legislation. The committee is served by an external legal adviser to the committee, Dr Aruna Sathanapally, and secretariat staff.

Clearly, parliamentary committees such as this one have an important role to play in informing parliamentarians about the human rights implications of legislation and ensuring better understanding of human rights more broadly.

Two of the concluded entries in today's report are strong examples of positive engagement, with the committee, and its mandate.

In the committee's previous consideration of the Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016, the committee sought advice from the Minister for Social Services as to the compatibility of the bill with the right to equality and non-discrimination on the basis of age relating to ceasing a mobility allowance for people aged over 65.

The information provided by the Minister indicated that there is a range of programs in place, including transitional arrangements, to assist in providing appropriate ongoing support even after the mobility allowance

is discontinued under the bill. The committee therefore concluded, in light of this information, that ceasing the mobility allowance is likely to be compatible with the right to equality and non-discrimination on the basis of age.

In respect of the Australian Public Service Commissioner's Directions 2016, which provide that decisions to terminate the employment of an ongoing APS employee for breach of the Code of Conduct must be published in the Gazette, the committee sought further advice from the Commissioner in relation to the human rights compatibility of this measure with the right to privacy.

In his response, the Commissioner noted that the committee raised valid questions about whether the limitation on the right to privacy is a reasonable or proportionate measure, and has undertaken to review the publication of termination decisions in light of these concerns.

I encourage my fellow Senators and others to examine the committee's report to better inform their understanding of the committee's work.

With these comments, I commend the committee's Report 10 of 2016 to the Senate.