



# **Human Rights (Parliamentary Scrutiny) Act 2011**

**No. 186, 2011**

**An Act to establish a Parliamentary Joint  
Committee on Human Rights, and for related  
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to establish a Parliamentary Joint  
Committee on Human Rights, and for related  
purposes**

*[Assented to 7 December 2011]*

The Parliament of Australia enacts:

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*Human Rights (Parliamentary Scrutiny) Act 2011 No. 186, 2011 1*

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	7 December 2011
2. Parts 2, 3 and 4	The later of: (a) 1 January 2011; and (b) the 28th day after this Act receives the Royal Assent.	4 January 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Definitions

- (1) In this Act:

**human rights** means the rights and freedoms recognised or declared by the following international instruments:

- (a) the International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40);
- (b) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5);
- (c) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23);
- (d) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9);
- (e) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 10 December 1984 ([1989] ATS 21);
- (f) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4);
- (g) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12).

Note: In 2011, the text of an international agreement in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

**member** means a member of the Committee.

**rule-maker** has the same meaning as in the *Legislative Instruments Act 2003*.

**the Committee** means the Parliamentary Joint Committee on Human Rights for the time being constituted under this Act.

- (2) In the definition of **human rights** in subsection (1), the reference to the rights and freedoms recognised or declared by an international instrument is to be read as a reference to the rights and freedoms recognised or declared by the instrument as it applies to Australia.

## **Part 2—Parliamentary Joint Committee on Human Rights**

### **4 Parliamentary Joint Committee on Human Rights**

As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Human Rights, is to be appointed according to the practice of the Parliament.

### **5 Membership of the Committee**

- (1) The Committee is to consist of 10 members:
  - (a) 5 members of the Senate appointed by the Senate; and
  - (b) 5 members of the House of Representatives appointed by that House.
- (2) A member of the Parliament is not eligible for appointment as a member of the Committee if he or she is:
  - (a) a Minister; or
  - (b) the President of the Senate; or
  - (c) the Speaker of the House of Representatives; or
  - (d) the Deputy-President and Chair of Committees of the Senate; or
  - (e) the Chair of Committees of the House of Representatives.
- (3) A member ceases to hold office:
  - (a) when the House of Representatives expires by effluxion of time or is dissolved; or
  - (b) if he or she becomes the holder of an office specified in any of the paragraphs of subsection (2); or
  - (c) if he or she ceases to be a member of the House of the Parliament by which he or she was appointed; or



- (d) if he or she resigns his or her office as provided by subsection (4) or (5).
- (4) A member appointed by the Senate may resign his or her office by writing signed by him or her and delivered to the President of the Senate.
- (5) A member appointed by the House of Representatives may resign his or her office by writing signed by him or her and delivered to the Speaker of that House.
- (6) Either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

## **6 Powers and proceedings of the Committee**

All matters relating to the powers and proceedings of the Committee are to be determined by resolution of both Houses of the Parliament.

## **7 Functions of the Committee**

The Committee has the following functions:

- (a) to examine Bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- (b) to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- (c) to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and to report to both Houses of the Parliament on that matter.

## Part 3—Statements of compatibility

### 8 Statements of compatibility in relation to Bills

- (1) A member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must cause a statement of compatibility to be prepared in respect of that Bill.
- (2) A member of Parliament who introduces a Bill for an Act into a House of the Parliament, or another member acting on his or her behalf, must cause the statement of compatibility prepared under subsection (1) to be presented to the House.
- (3) A statement of compatibility must include an assessment of whether the Bill is compatible with human rights.
- (4) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal.
- (5) A failure to comply with this section in relation to a Bill that becomes an Act does not affect the validity, operation or enforcement of the Act or any other provision of a law of the Commonwealth.

### 9 Statements of compatibility in relation to certain legislative instruments

- (1) The rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislative Instruments Act 2003* applies must cause a statement of compatibility to be prepared in respect of that legislative instrument.  

Note: The statement of compatibility must be included in the explanatory statement relating to the legislative instrument (see the definition of *explanatory statement* in section 4 of the *Legislative Instruments Act 2003*).
- (2) A statement of compatibility must include an assessment of whether the legislative instrument is compatible with human rights.

Section 9

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- (3) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal.
- (4) A failure to comply with this section in relation to a legislative instrument does not affect the validity, operation or enforcement of the instrument or any other provision of a law of the Commonwealth.

**Part 4** Regulations

Section 10

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**Part 4—Regulations**

**10 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted to be prescribed by this Act; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*[Minister's second reading speech made in—  
House of Representatives on 30 September 2010  
Senate on 24 November 2010]*

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(194/10) *Human Rights (Parliamentary Scrutiny) Act 2011* No. 186, 2011