

TEMPLATE 2: STATEMENT OF COMPATIBILITY FOR A BILL OR DISALLOWABLE LEGISLATIVE INSTRUMENT THAT RAISES HUMAN RIGHTS ISSUES

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

[Insert name of Bill/Disallowable Legislative Instrument]

This Bill/Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Disallowable Legislative Instrument

[Provide an overview of the Bill/Disallowable Legislative Instrument and the policy objective/s supporting the legislation. The [Parliamentary Joint Committee on Human Rights](#) has stated in its *Guidance Note 1: Drafting Statements of Compatibility* (December 2014) that it expects that Statements of Compatibility should be able to be read as stand-alone documents. This is because the Committee relies on the Statement of Compatibility as the primary document which sets out the analysis of compatibility of the Bill/Disallowable Legislative Instrument. This may require further utilising some of the material in the Explanatory Memorandum or Explanatory Statement.]

Human rights implications

This Bill/Disallowable Legislative Instrument engages the following rights:

- [Identify the rights engaged and list them in dot points – this flags for parliamentarians, including the Parliamentary Joint Committee on Human Rights, the rights which are going to be discussed in this section ie the right to privacy in Article 17 of the *International Covenant on Civil and Political Rights*.]

[Assess the likely impact on the rights engaged:

- Outline the right engaged and provide an overview of the scope of the right tailored to the policy to be discussed
- If rights are positively affected, explain how the Bill/Disallowable Legislative Instrument promotes human rights.
- Where rights are limited, explain why it is a [permissible limitation](#) by addressing the following:
 - a) *Legitimate objective*: Describe the policy problem that the Bill/Disallowable Legislative Instrument is seeking to address – and if the matter is already addressed by legislation, why the law does not sufficiently address this issue. The objective must be shown to be a pressing and substantial concern. Where

possible, provide empirical data that demonstrates that the objectives being sought are important.

- b) *Rational connection*: Explain how the measure, including the limitation imposed on rights, is likely to achieve the objective.
- c) *Reasonable, necessary and proportionate*: Explain why it is considered that the limitation on the right is reasonable, necessary and sufficiently precise to ensure that it addresses only those matters that it is intended to capture as well as any relevant safeguards. Further detail about making this assessment is contained in the text accompanying the [Flowchart](#) and includes considerations such as whether there are less restrictive alternatives for achieving the objective and whether they have been tried and whether sufficient regard been paid to the rights and interests of those affected.

In assessing the likely impact on the rights engaged, it is not necessary to list every human rights issue which could be raised in relation to the Bill/Disallowable Legislative Instrument. The Statement of Compatibility should describe, in general terms, the most significant human rights issues raised by the Bill/Disallowable Legislative Instrument, together with the conclusions on compatibility. In some cases, it may be sufficient simply to state that an issue has been considered and that a particular conclusion has been reached. In other cases, the policy justification for what is proposed will be central to an assessment of whether a possible limitation on a right is justified. Evidence will be central to demonstrating this assessment. The Parliamentary Joint Committee on Human Rights has stated that it does not expect an analysis of rights consequentially or tangentially engaged in a minor way (*Guidance Note 1* (December 2014)).

There is no particular structure to follow in drafting a Statement of Compatibility – and different structures may work for different types of legislation. However, keep in mind the importance of guiding the reader through the Statement of Compatibility and use headings to improve readability.]

Conclusion

The Bill/Disallowable Legislative Instrument is compatible with human rights because [for example, it promotes the protection of human rights/to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate].

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