



STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with the Thirteenth Assembly Sessional Orders (part 12.3) as adopted on 24 August 2017.

Courts Legislation Amendment Bill 2019

This Bill 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* (Cth) and the International Covenant of Civil and Political Rights (ICCPR).

OVERVIEW OF THE BILL

The purpose of this Bill is to amend a number of pieces of legislation to provide for electronic filing and case management in the Supreme Court and Local Courts.

HUMAN RIGHTS IMPLICATIONS

This Bill does engage some of the applicable rights or freedoms.

Article 14 – Equality before the courts and tribunals. Right to a fair trial.

Article 14 of the ICCPR provides that all persons shall be equal before courts and tribunals, and in particular specifies that all persons are to have ‘...adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing.’ (Article 14.3(b), ICCPR)

The proposed amendments could infringe upon Article 14, by requiring parties to provide and receive documents electronically to and from the courts in circumstances where that person may not have the capacity or means to do so. In particular indigent, homeless and transient persons may not have ready access to computers, scanners or similar equipment in order to enable them to comply with court processes requiring documents to be requested or provided via electronic means. This could result in an inequality for those persons before the court.

However, this has been considered and adequately addressed by the legislation, because the courts retain the ability to make individual orders on a case-by-case basis to dispense with particular filing and service requirements. In the event that a party might be unable to provide or receive documents electronically, the court may direct that the requirement be dispensed with for all or part of a particular matter or proceeding.

Overall, the transition to electronic filing and case management is expected to have a positive effect on access to justice, by speeding up the delivery of court papers, enhancing the recording, storage and retrieval of court documentation, and providing for contemporary, efficient access to court services in an increasingly digital world.

CONCLUSION

This Bill is compatible with human rights as it does raise some human rights issues, but which have been considered in the drafting, which adequately addresses those issues.