



New South Wales

Interpretation Amendment (International Human Rights Obligations) Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Interpretation Act 1987* to provide that in the interpretation of a provision of an Act, statutory rule or other instrument consideration may, in certain circumstances, be given to Australia's obligations under the international human rights treaties to which Australia is a party.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 **Amendment of Interpretation Act 1987 No 15**

Schedule 1 provides that in the interpretation of a provision of an Act or instrument, consideration may be given to Australia's international human rights obligations:

- (a) if the provision is ambiguous or obscure—to determine the meaning of the provision, or
- (b) if the ordinary meaning of the provision leads to a result that is manifestly absurd or is unreasonable—to determine the meaning of the provision, or
- (c) in any other case—to confirm the ordinary meaning of the provision.

Australia's international human rights obligations are Australia's obligations under the following international human rights treaties:

- (a) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- (b) Convention on the Elimination of All Forms of Discrimination against Women,
- (c) Convention on the Rights of Persons with Disabilities,
- (d) Convention on the Rights of the Child,
- (e) International Covenant on Civil and Political Rights,
- (f) International Covenant on Economic, Social and Cultural Rights,
- (g) International Convention on the Elimination of All Forms of Racial Discrimination.

These treaties are available through the Australian Treaties Library at <http://www.austlii.edu.au/au/other/dfat/>.

The new provision is in addition to existing section 34 of the *Interpretation Act 1987*, which provides that treaties or international agreements that are referred to in an Act or a statutory rule may be used in the interpretation of the provisions of the Act or statutory rule. Because of section 5 of the *Interpretation Act 1987*, the new provision will apply to all Acts and instruments, whether made before or after the commencement of the proposed Act.



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Interpretation Amendment (International Human Rights Obligations) Bill 2012

No. , 2012

A Bill for

An Act to amend the *Interpretation Act 1987* to declare that the courts may have regard to Australia's international human rights obligations in the interpretation of NSW legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Interpretation Amendment (International Human Rights Obligations) Act 2012</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Interpretation Act 1987	1
	No 15	2
Section 33A		3
Insert after section 33:		4
33A	Consideration of Australia’s international human rights obligations in the interpretation of Acts and instruments	5
		6
(1)	In the interpretation of a provision of an Act or instrument, consideration may be given to Australia’s international human rights obligations:	7
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(a)	if the provision is ambiguous or obscure—to determine the meaning of the provision, or	10
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(b)	if the ordinary meaning of the provision leads to a result that is manifestly absurd or is unreasonable—to determine the meaning of the provision, or	12
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(c)	in any other case—to confirm the ordinary meaning of the provision.	15
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(2)	For the purposes of this section, <i>Australia’s international human rights obligations</i> are Australia’s obligations under the following international treaties:	17
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(a)	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,	20
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(b)	Convention on the Elimination of All Forms of Discrimination against Women,	22
		23
(c)	Convention on the Rights of Persons with Disabilities,	24
(d)	Convention on the Rights of the Child,	25
(e)	International Covenant on Civil and Political Rights,	26
(f)	International Covenant on Economic, Social and Cultural Rights,	27
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(g)	International Convention on the Elimination of All Forms of Racial Discrimination.	29
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