

**Senate Standing Committee  
for the  
Scrutiny of Bills**



**Alert Digest**

**No. 6 of 2006**

**21 June 2006**



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# Senate Standing Committee for the Scrutiny of Bills

## Members of the Committee

Senator R Ray (Chair)  
Senator B Mason (Deputy Chair)  
Senator G Barnett  
Senator D Johnston  
Senator A McEwen  
Senator A Murray

## Terms of Reference

Extract from **Standing Order 24**

- (1) (a) At the commencement of each Parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
- (i) trespass unduly on personal rights and liberties;
  - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
  - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
  - (iv) inappropriately delegate legislative powers; or
  - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.



## TABLE OF CONTENTS

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### Commentary on bills

Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006	5
• Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006	6
• Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006	7
• Same-Sex Marriages Bill 2006	8
Scrutiny of standing appropriations	9

- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.  
Any Senator who wishes to draw matters to the attention of the  
Committee under its terms of reference is invited to do so.



## **Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006**

Introduced into the House of Representatives on 15 June 2006  
Portfolio: Agriculture, Fisheries and Forestry

### **Background**

This bill amends the *Quarantine Act 1908* and the *Export Control Act 1982* to:

- provide a legal basis for the recovery of fees for quarantine services provided under the Quarantine Act to other Commonwealth bodies;
- clarify the Commonwealth's authority to regulate the sourcing of fish intended for export;
- clarify the use of certain terms;
- create four new offences in the Export Control Act, including two strict liability offences, in relation to the preparation of goods for export; and
- amend the regulation-making power within the Export Control Act to allow fees to be charged for services provided by the Secretary or the Secretary's delegate.

*The Committee has no comment on this bill.*

## **Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006**

Introduced into the Senate on 15 June 2006  
By Senator Bartlett as a Private Senator's bill

### **Background**

Introduced with the Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006, this bill amends the *Migration Act 1958* to provide for the return of certain places, excised by the *Migration Amendment (Excision from the Migration Zone) Act 2001*, to Australia's migration zone.

### **Explanatory memorandum**

The Committee notes that this bill, introduced as a private Senator's bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the parliament is assisted if they are accompanied by explanatory memoranda. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this context, the Committee notes that the Department of the Senate has developed a set of guidelines to assist Senators with the preparation of private bills and explanatory material, *Preparing Private Senator's Bills, Explanatory Memoranda and Second Reading Speeches: A Guide for Senators*. This guide is available from the Clerk Assistant (Procedure) and on the Senate's intranet site.

*In the circumstances, the Committee makes no further comment on this bill.*

# **Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006**

Introduced into the Senate on 15 June 2006  
By Senator Bartlett as a Private Senator's bill

## **Background**

Introduced with the (Migration Zone Excision Repeal) Bill 2006, this bill proposes consequential amendments to the *Migration Act 1958* to provide for the return of certain places, excised by the *Migration Amendment (Excision from the Migration Zone) Act 2001*, to Australia's migration zone.

## **Explanatory memorandum**

The Committee notes that this bill, introduced as a private Senator's bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the parliament is assisted if they are accompanied by explanatory memoranda. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this context, the Committee notes that the Department of the Senate has developed a set of guidelines to assist Senators with the preparation of private bills and explanatory material, *Preparing Private Senator's Bills, Explanatory Memoranda and Second Reading Speeches: A Guide for Senators*. This guide is available from the Clerk Assistant (Procedure) and on the Senate's intranet site.

*In the circumstances, the Committee makes no further comment on this bill.*

## Same-Sex Marriages Bill 2006

Introduced into the Senate on 15 June 2006

By Senators Stott Despoja and Bartlett as a Private Senator's bill

### Background

This bill amends the *Marriage Act 1961* to allow for same-sex unions in Australia. The bill repeals the definition of marriage and provides for the recognition of same-sex unions solemnised in a foreign country to be recognised in Australia.

### Explanatory memorandum

The Committee notes that this bill, introduced as a private Senator's bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the parliament is assisted if they are accompanied by explanatory memoranda. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this context, the Committee notes that the Department of the Senate has developed a set of guidelines to assist Senators with the preparation of private bills and explanatory material, *Preparing Private Senator's Bills, Explanatory Memoranda and Second Reading Speeches: A Guide for Senators*. This guide is available from the Clerk Assistant (Procedure) and on the Senate's intranet site.

*In the circumstances, the Committee makes no further comment on this bill.*

## SCRUTINY OF STANDING APPROPRIATIONS

The committee has determined that, as part of its standard procedures for reporting on bills, it should draw senators' attention to the presence in bills of standing appropriations. It will do so under provisions 1(a)(iv) and (v) of its terms of reference, which require the committee to report on whether bills:

- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Further details of the Committee's approach to scrutiny of standing appropriations are set out in the committee's *Fourteenth Report of 2005*. The following is a list of the bills containing standing appropriations that have been introduced since the beginning of the 41<sup>st</sup> Parliament.

### Bills introduced with standing appropriation clauses - 41<sup>st</sup> Parliament

*Indicates passed by Senate	Bills and Clauses
*	<b>Appropriation (Regional Telecommunications Services) Bill 2005-2006</b> – clause 13
*	<b>Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005</b> – subclause 8(2)
*	<b>Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005</b> – subclause 5(3)
*	<b>Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Bill 2005</b> – clause 23
*	<b>Financial Framework Legislation Amendment Bill 2004</b> – Schedule 1, item 397, paragraphs 124(1)(b) and (c) and item 422, subsection 235(2)  [also Schedule 1, items 58, 63, 82, 86, 95, 99, 114, 135, 136, 145, 153, 164, 169, 182, 197, 205, 218, 261, 293, 317, 324, 370, 419, 437, 448, 484 and 493 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i> ]
*	<b>Human Services Legislation Amendment Bill 2005</b> – Schedule 2, subitem 720(4)
	<b>Indigenous Education (Targeted Assistance) Amendment Bill 2004</b> – Schedule 1, item 3, subsection 14A(1)
*	<b>National Water Commission Bill 2004</b> – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>

	<b>Offshore Petroleum Bill 2005</b> – clause 56
*	<b>Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004</b> – clause 133
*	<b>Skilling Australia’s Workforce Bill 2005</b> – clause 40
*	<b>Superannuation Bill 2005</b> – subclause 29(4)
*	<b>Superannuation (Consequential Amendments) Bill 2005</b> – Schedule 5, item 1, subsection 4AA(5) and Schedule 6, item 1, subsection 12A(5)
*	<b>Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005</b> – Schedule 1, item 1, subsections 158ZO(4), 158ZP(7) and 158ZQ(5) and Schedule 3, item 1, subsection 136C(4)
*	<b>Textile Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Bill 2004</b> – Schedule 1, item 12, section 37ZH and subsection 37ZJ(3)
*	<b>Water Efficiency Labelling and Standards Bill 2004</b> – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>

### Other relevant appropriation clauses

*Indicates Passed by Senate	Bills and Clauses
*	<b>AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004</b> – Schedule 2, item 3: special appropriation clause – for a finite amount and a finite period of time.
*	<b>Social Security Legislation Amendment (One-off Payments for Carers) Bill 2005</b> – Schedule 2, item 1: special appropriation clause – for a finite period of time (i.e. for circumstances arising in a particular financial year).

## STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2005/2006

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
<b>Bills dealt with in 2005</b>							
Australian Citizenship Bill 2005	14(30.11.05)	9.11.05		Citizenship and Multicultural Affairs	1.12.05	13.2.06	1(1.3.06)
Corporations (Aboriginal and Torres Strait Islander) Bill 2005	8(10.8.05) 9(17.8.05)	23.6.05		Immigration and Multicultural and Indigenous Affairs	11.8.05		
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2005	11(14.9.05)	5.9.05		Mr Katter	15.9.05		
Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2005	11(14.9.05)	5.9.05		Mr Kerr	15.9.05		
Workplace Relations Amendment (Work Choices) Bill 2005	13(9.11.05)	2.11.05	10.11.05	Employment and Workplace Relations	10.11.05	28.3.06	2(29.3.06)
<b>Bills dealt with in 2006</b>							
Aboriginal Land Rights (Northern Territory) Amendment Bill 2006	5(14.6.06)	31.5.06		Families, Community Services and Indigenous Affairs	15.6.06	20.6.06	6(21.6.06)
Aged Care (Bond Security) Bill 2005	1(8.2.06)	8.12.05	9.2.06	Ageing	9.2.06	23.3.06	2(29.3.06)
Airport Development and Aviation Noise Ombudsman Bill 2006	4(10.5.06)	27.3.06		Mr Georganus	11.5.06		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
ASIO Legislation Amendment Bill 2006 Noise Ombudsman Bill 2006	4(10.5.06)	29.3.06	13.6.06	Attorney-General	11.5.06	8.6.06	5(14.6.06)
Australian Sports Anti-Doping Authority Bill 2005	1(8.2.06)	7.12.05	9.2.06	Arts and Sport	9.2.06	27.2.06	1(1.3.06)
Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005	1(8.2.06)	13.2.06	7.12.05	Defence	9.2.06	27.3.06	2(29.3.06)
Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006	5(14.6.06)	31.5.06		Education, Science and Training	15.6.06		
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006	5(14.6.06)	25.5.06	13.6.06	Families, Community Services and Indigenous Affairs	15.6.06	20.6.06	6(21.6.06)
Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006	4(10.5.06)	10.5.06		Attorney-General	11.5.06	20.6.06	6(21.6.06)
Law Enforcement Integrity Commissioner Bill 2006	4(10.5.06)	29.3.06		Attorney-General	11.5.06	20.6.06	6(21.6.06)
Migration Amendment (Designated Unauthorised Arrivals) Bill 2006	5(14.6.06)	11.5.06		Immigration and Multicultural Affairs	15.6.06		
Renewable Energy (Electricity) Amendment Bill 2006	3(29.3.06)	2.3.06		Environment and Heritage	30.3.06	18.5.06	6(21.6.06)
Telecommunications (Interception) Amendment Bill 2006	2(1.3.06)	16.2.06	1.3.06	Attorney-General	2.3.06	17.3.06	2(29.3.06)