

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 153

FRIDAY, 30 JUNE 1995

1 The House met, at 10 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

**2 MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS**

A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:

28 June 1995—Message No. 290—

Overseas Missions (Privileges and Immunities) 1995.

Overseas Missions (Privileges and Immunities) (Consequential Amendments) 1995.

Human Rights Legislation Amendment 1995.

**3 MESSAGE FROM THE SENATE**

A message from the Senate was reported returning the following Bill without requests:

29 June 1995—Message No. 503—Income Tax Rates Amendment 1995.

**4 MESSAGE FROM THE SENATE—SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) MODIFICATION (EXCISE) BILL 1995**

The following message from the Senate was reported:

Message No. 496

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act relating to sales tax*", and requests the House to amend the bill as indicated by the annexed schedule.

MICHAEL BEAHAN  
President

The Senate

Canberra, 28 June 1995

Ordered—That the amendments requested by the Senate be considered forthwith.

**SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS**

No. 1—Schedule 2, page 9, items 1 to 11, omit the items.

No. 2—Schedule 2, pages 10 and 11, items 13 to 16, omit the items.

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), the requested amendments were made, after debate.

**5 MESSAGE FROM THE SENATE—SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) MODIFICATION (CUSTOMS) BILL 1995**

The following message from the Senate was reported:

Message No. 497

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act relating to sales tax*", and requests the House to amend the bill as indicated by the annexed schedule.

MICHAEL BEAHAN  
President

The Senate

Canberra, 28 June 1995

Ordered—That the amendments requested by the Senate be considered forthwith.

**SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS**

No. 1—Schedule 2, page 9, items 1 to 11, omit the items.

No. 2—Schedule 2, pages 10 and 11, items 13 to 16, omit the items.

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), the requested amendments were made, after debate.

**6 MESSAGE FROM THE SENATE—SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) MODIFICATION (GENERAL) BILL 1995**

The following message from the Senate was reported:

Message No. 498

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act relating to sales tax*", and requests the House to amend the bill as indicated by the annexed schedule.

MICHAEL BEAHAN  
President

The Senate

Canberra, 28 June 1995

Ordered—That the amendments requested by the Senate be considered forthwith.

**SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS**

No. 1—Schedule 2, page 9, items 1 to 11, omit the items.

No. 2—Schedule 2, pages 10 and 11, items 13 to 16, omit the items.

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), the requested amendments were made, after debate.

**7 MESSAGE FROM THE SENATE—INDUSTRY RESEARCH AND DEVELOPMENT AMENDMENT BILL 1995**

Message No. 501, dated 28 June 1995, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend the 'Industry Research and Development Act 1986', and for related purposes*".

Bill read a first time.

*Paper:* Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented an explanatory memorandum to the Bill.

Mr Lindsay, by leave, moved—That the Bill be now read a second time.

Debate ensued.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Lindsay, the Bill was read a third time.

**8 MESSAGE FROM THE SENATE—LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) BILL 1995**

The following message from the Senate was reported:

Message No. 504

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to provide for financial assistance for local government purposes by means of grants to the States, the Australian Capital Territory and the Northern Territory, and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendment indicated by the annexed schedule, in which amendment the Senate requests the concurrence of the House of Representatives.

MICHAEL BEAHAN  
President

The Senate

Canberra, 30 June 1995

Ordered—That the amendment be considered forthwith.

**SCHEDULE OF THE AMENDMENT MADE BY THE SENATE**

Clause 6, page 6, at end of clause add the following subclauses:

"(6) National principles formulated under subsection (1), and revocations or variations of national principles under subsection (4), are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

"(7) If there are no national principles in force under this section, paragraph 11(2)(d) is to be read as requiring the Commission to make the recommendations on the same basis as the basis on which the Minister is, under subsection (2) of this section, required to act in formulating national principles (see paragraphs (2)(a) and (b))."

On the motion of Ms Crawford (Parliamentary Secretary to the Minister for Housing and Regional Development), the amendment was agreed to.

**9 MESSAGE FROM THE SENATE—COMPETITION POLICY REFORM BILL 1995**

Message No. 505, dated 29 June 1995, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend the 'Trade Practices Act 1974' and the 'Prices Surveillance Act 1983', and for related purposes*".

Bill read a first time.

*Paper:* Mr Gear (Assistant Treasurer) presented an explanatory memorandum to the Bill.

Mr Gear, by leave, moved—That the Bill be now read a second time.

*Paper:* Mr Gear presented the following paper:

Inter-governmental agreements, April 1995—

Conduct code agreement.

Competition principles agreement.

Agreement to implement the National Competition Policy and related reforms.

Debate adjourned (Mr K. J. Andrews), and the resumption of the debate made an order of the day for a later hour this day.

**10 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT (BUDGET MEASURES) BILL 1995**

The following message from the Senate was reported:

Message No. 502

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the law relating to taxation*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

MICHAEL BEAHAN  
President

The Senate

Canberra, 29 June 1995

Ordered—That the amendments be considered forthwith.

**SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE**

No. 1—Clause 2, page 1, at end of clause add the following subclause:

“(3) Schedule 9A commences on the day on which this Act receives the Royal Assent.”.

No. 2—Schedule 9, pages 12 to 14, omit the Schedule.

No. 3—After Schedule 9, page 14, insert the following Schedule:

**“SCHEDULE 9A**

Section 3

**AMENDMENTS OF THE SALES TAX ASSESSMENT ACT 1992  
RELATING TO INFORMATION FOR THE PROTECTION  
OF TAXPAYERS**

**1. After section 130:**

Insert:

**Information for the protection of taxpayers**

‘130B. Where a Minister makes a public statement which announces that it is the intention of the Government to introduce into a House of the Parliament a bill relating to a sales tax law to operate from a date before the enactment of the bill, the Commissioner must, within 7 days of that Minister making the

statement, publish, for the information of taxpayers in each State and Territory, a public notice, in plain English, in at least 2 newspapers circulating generally in that State or Territory, as the case may be, which shall include the following:

- (a) a statement of the intention of the Commonwealth Government to introduce the bill;
- (b) details of what the bill will contain and how and when its provisions will be applied, if and when it comes into force;
- (c) a warning that the bill is subject to enactment by both Houses of the Parliament and, if enacted, is to operate retrospectively from a date or dates specified in the bill;
- (d) an explanation of why it is necessary that the bill be enacted retrospectively; and
- (e) details of hotlines, addresses or other sources from which taxpayers may obtain further information.

**Taxpayers protection not be repealed except by express words**

'130C. It is the intention of the Parliament that section 130B is not to be amended or repealed other than by the express words of an Act of the Parliament.'"

No. 4—Schedule 10, page 15, item 1, proposed definition of *provisional tax uplift factor*, paragraph (a), omit "8%", substitute "6%".

No. 5—Schedule 10, page 15, after item 1 insert the following items:

**"1A. Subsection 221AZK(2):**

Table 1: omit '\$8,000' (wherever occurring), substitute '\$10,000'.

**1B. Application**

The amendment made by item 1A of this Schedule applies in relation to liability to pay instalments payable for the 1995-96 year of income and for all later years of income."

No. 6—Schedule 10, page 15, item 2, omit "made by this Schedule", substitute "made by item 1 of this Schedule".

On the motion of Mr Gear (Assistant Treasurer), amendments Nos. 1 to 3 were agreed to.

Mr Gear moved—That amendments Nos. 4 to 6 be disagreed to.

Debate ensued.

Question—put and passed.

Mr Gear moved—That Mr Sawford, Mr Griffiths and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 4 to 6 of the Senate.

Question—put and passed.

Mr Gear, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to amendments Nos. 4 to 6 of the Senate*

The House of Representatives does not agree with Senate amendments to this Bill Nos. 4 to 6 for the following reasons:

Amendment No. 4—

- This would reduce the provisional tax uplift factor from 8% to 6%.
- Treasury estimates are that provisional incomes are likely to grow by at least 8% in 1995-96, and the House therefore considers 8% to be the appropriate uplift factor.

Amendment No. 5—

- This would change the small company threshold from \$8,000 to \$10,000.
- The House considers that the lower threshold is appropriate as it matches the threshold at which provisional taxpayers must make quarterly payments.
- The House will consider the recommendations of the Senate Committee report on the tax treatment of small business before making any adjustments to this threshold.

Amendment No. 6—

- This is an amendment consequential to amendment No. 5, and is therefore not accepted by the House.

On the motion of Mr Gear, the committee's reasons were adopted.

## 11 COMPETITION POLICY REFORM BILL 1995

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr Costello (Deputy Leader of the Opposition) who moved, as an amendment—That all words after "That" be omitted with a view to substituting the following words: "whilst not declining to give the Bill a second reading, the House:

- (1) notes that the imperative of competition policy reform has assumed even greater priority, in light of Australia's disastrous current account deficit situation, with the May deficit of \$2.9b. being the highest on record;
- (2) calls on the Prime Minister to provide today an outline of additional measures to enhance Australia's competitiveness in response to the record May current account deficit; and
- (3) although welcoming State and Commonwealth co-operation to enhance competition in Australia, notes that the Bill fails to deal with some areas requiring enhanced competition and deliberately omits any application of competition rules to the labour market, an area requiring substantial reform and improvement in Australia".

Debate continued.

Mrs Bishop rising to address the House—

*Closure:* Mr McLeay (Chief Government Whip) moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Deputy Speaker, Mr Vaile, in the Chair)—

AYES, 70

Mr Adams	Mrs Easson	Mr Jenkins	Mr O'Keefe
Mr Baldwin	Mr Elliott	Mr Johns	Mr Price
Mr Beazley	Mr M. J. Evans	Mr Jones	Mr Quick
Mr Beddall	Ms Fatin	Mr Kerr	Mr Sawford*
Mr Bevis	Mr Ferguson	Mr Knott	Mr Sciacca
Mr Bilney	Mr Fitzgibbon	Mr Langmore	Mr L. J. Scott
Mr Brereton	Mr Free	Mr Latham	Mr Simmons
Mr Brown	Mr Gear	Mr Lavarch	Mrs S. J. Smith
Mr Campbell	Mr Gibson	Dr Lawrence	Mr S. F. Smith
Mr Cleeland	Mr Gorman	Mr Lee	Mr Snow
Ms Crawford	Mr Grace*	Mr Lindsay	Mr Staples
Mr Crean	Mr Griffin	Ms McHugh	Mr Tanner
Mrs Crosio	Mr Griffiths	Mr McLeay	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr Melham	Mr Walker
Ms Deahm	Ms Henzell	Mr A. A. Morris	Mr Willis
Mr Dodd	Mr Holding	Mr P. F. Morris	Mr Woods
Mr Duffy	Mr Hollis	Mr Newell	
Mr Duncan	Mr Horne	Mr O'Connor	

NOES, 52

Mr Anderson	Mr Dobie	Mr McGauran	Mr B. C. Scott
Mr J. N. Andrew	Mr R. D. C. Evans	Mr McLachlan	Mr Sinclair
Mr K. J. Andrews	Mr Filing	Mr Miles	Mr B. M. Smyth
Mr Atkinson	Mr Fischer	Mrs Moylan	Mr Somlyay
Mrs Bishop	Mr Forrest	Mr Nehl	Mrs Sullivan*
Mr Bradford	Mr Georgiou	Mr Neville	Mr Taylor
Mr Braithwaite	Mr Halverson	Mr Nugent	Mr Thomson
Mr Cadman	Mr Hicks*	Mr Pyne	Mr Truss
Mr Cameron	Mr Jull	Mr Reid	Mr Tuckey
Mr Charles	Dr Kemp	Mr Reith	Mr Wakelin
Mr Cobb	Mr Lieberman	Mr Rocher	Mr Williams
Mr Connolly	Mr Lloyd	Mr Ronaldson	Dr Woodbridge
Mr Costello	Mr McArthur	Mr Ruddock	Ms Worth

\* Tellers

And so it was resolved in the affirmative.

And the question—That the words proposed to be omitted stand part of the question—being accordingly put—

The House divided (the Deputy Speaker, Mr Vaile, in the Chair)—

AYES, 70

Mr Adams	Mrs Easson	Mr Jenkins	Mr O'Keefe
Mr Baldwin	Mr Elliott	Mr Johns	Mr Price
Mr Beazley	Mr M. J. Evans	Mr Jones	Mr Quick
Mr Beddall	Ms Fatin	Mr Kerr	Mr Sawford*
Mr Bevis	Mr Ferguson	Mr Knott	Mr Sciacca
Mr Bilney	Mr Fitzgibbon	Mr Langmore	Mr L. J. Scott
Mr Brereton	Mr Free	Mr Latham	Mr Simmons
Mr Brown	Mr Gear	Mr Lavarch	Mrs S. J. Smith
Mr Campbell	Mr Gibson	Dr Lawrence	Mr S. F. Smith
Mr Cleeland	Mr Gorman	Mr Lee	Mr Snow
Ms Crawford	Mr Grace*	Mr Lindsay	Mr Staples
Mr Crean	Mr Griffin	Ms McHugh	Mr Tanner
Mrs Crosio	Mr Griffiths	Mr McLeay	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr Melham	Mr Walker
Ms Deahm	Ms Henzell	Mr A. A. Morris	Mr Willis
Mr Dodd	Mr Holding	Mr P. F. Morris	Mr Woods
Mr Duffy	Mr Hollis	Mr Newell	
Mr Duncan	Mr Horne	Mr O'Connor	

## NOES, 52

Mr Anderson	Mr Dobie	Mr McGauran	Mr B. C. Scott
Mr J. N. Andrew	Mr R. D. C. Evans	Mr McLachlan	Mr Sinclair
Mr K. J. Andrews	Mr Filing	Mr Miles	Mr B. M. Smyth
Mr Atkinson	Mr Fischer	Mrs Moylan	Mr Somlyay
Mrs Bishop	Mr Forrest	Mr Nehl	Mrs Sullivan*
Mr Bradford	Mr Georgiou	Mr Neville	Mr Taylor
Mr Braithwaite	Mr Halverson	Mr Nugent	Mr Thomson
Mr Cadman	Mr Hicks*	Mr Pyne	Mr Truss
Mr Cameron	Mr Jull	Mr Reid	Mr Tuckey
Mr Charles	Dr Kemp	Mr Reith	Mr Wakelin
Mr Cobb	Mr Lieberman	Mr Rocher	Mr Williams
Mr Connolly	Mr Lloyd	Mr Ronaldson	Dr Wooldridge
Mr Costello	Mr McArthur	Mr Ruddock	Ms Worth

\* Tellers

And so it was resolved in the affirmative.

Question—That the Bill be now read a second time—put.

Mrs Bishop rising to address the House—

*Closure:* Mr McLeay moved—That the question be now put.

Question—That the question be now put—put and passed.

And the question—That the Bill be now read a second time—was put accordingly and passed—Bill read a second time.

*Consideration in detail*

Bill, by leave, taken as a whole.

*Proposed new clauses—*

Mr K. J. Andrews, by leave, moved—That the following new clauses be inserted in the Bill:

Page 3, after clause 6 insert the following new clause:

**Terms and conditions of appointment**

“6A. Section 8 of the Principal Act is amended by omitting from subsection (1) ‘, but is eligible for re-appointment’.”.

Page 4, after clause 12 add the following new clause:

**Repeal and substitution of section**

“12A. Section 45D of the Principal Act is repealed and the following section is substituted:

**Boycotts**

‘45D.(1) Subject to this section, a person shall not, in concert with a second person, engage in conduct that hinders or prevents the supply of goods or services by a third person to a fourth person (not being an employer of the first-mentioned person), or the acquisition of goods or services by a third person from a fourth person (not being an employer of the first-mentioned person), where:

(a) the third person is, and the fourth person is not, a corporation and:

(i) the conduct would have to be likely to have the effect of causing:

(A) substantial loss or damage to the business of the third person or of a body corporate that is related to that person; or

(B) a substantial lessening of competition in any market in which the third person or a body corporate that is related to that person supplies or acquires goods or services; and



- (ii) the conduct is engaged in for the purpose, and would have to be likely to have the effect, of causing:
  - (A) substantial loss or damage to the business of the fourth person;  
or
  - (B) a substantial lessening of competition in any market in which the fourth person acquires goods or services; or
- (b) the fourth person is a corporation and the conduct is engaged in for the purpose, and would have or be likely to have the effect, of causing:
  - (i) substantial loss or damage to the business of the fourth person or of a body corporate that is related to that person; or
  - (ii) a substantial lessening of competition in any market in which the fourth person or a body corporate that is related to that person supplies or acquires goods and services.

‘(1A) Subject to this section, a person shall not, in concert with another person, engage in conduct for the purpose, and having or likely to have the effect, of preventing or substantially hindering a third person (not being an employer of the first-mentioned person) from engaging in trade or commerce:

- (a) between Australia and places outside Australia;
- (b) among the States; or
- (c) within a Territory, between a State and a Territory or between two Territories.

‘(1B) In a proceeding under this Act in relation to a contravention of subsection (1A), it is a defence if the defendant proves:

- (a) that the conduct concerned is the subject of an authorisation in force under section 88;
- (b) that a notice in respect of the conduct has been duly given to the Commission under subsection 93(1) and the Commission has not given a notice in respect of the conduct under subsection 93(3); or
- (c) that the dominant purpose for which the defendant engaged in the conduct concerned was to preserve or further a business carried on by him.

‘(1C) The application of subsection (1A) in relation to a person in respect of his engaging in conduct in concert with another person is not affected by reason that the other person proves any of the matters mentioned in subsection (1B) in respect of that conduct.

‘(2) Paragraph 4F (b) does not apply in relation to subsection (1) or (1A) of this section but a person shall be deemed to engage in conduct for a purpose mentioned in that subsection if he engages in that conduct for purposes that include that purpose.

‘(3) A person shall not be taken to contravene, or to be involved in a contravention of, subsection (1) or (1A) by engaging in conduct where:

- (a) the dominant purpose for which the conduct is engaged in is substantially related to:
  - (i) the remuneration, conditions of employment, hours of work or working conditions of that person or of another person employed by an employer of that person; or
  - (ii) an employer of that person having terminated, or taken action to terminate, the employment of that person or of another person employed by that employer; or

(b) in the case of conduct engaged in by the following persons in concert with each other (and not in concert with any other person), that is to say:

- (i) an organisation or organisations of employees, or an officer or officers of such an organisation, or both such an organisation or organisations and such an officer or officers; and
- (ii) an employee, or 2 or more employees who are employed by the one employer;

the dominant purpose for which the conduct is engaged in is substantially related to:

- (iii) the remuneration, conditions of employment, hours of work or working conditions of the employee, or of any of the employees, referred to in subparagraph (ii); or
- (iv) the employer of the employee, or of the employees, referred to in subparagraph (ii) having terminated, or taken action to terminate, the employment of any of his employees.

‘(4) The application of subsection (1) or (1A) in relation to a person in respect of his engaging in conduct in concert with another person is not affected by reason that subsection (3) operates to preclude the other person from being taken to contravene, or to be involved in a contravention of, subsection (1) or (1A) in respect of that conduct.

‘(5) If two or more persons (in this subsection referred to as the “**participants**”) each of whom is a member or officer of the same organisation of employees (being an organisation that exists or is carried on for the purpose, or for purposes that include the purpose, of furthering the interests of its members in relation to their employment) engage in conduct in concert with one another, whether or not the conduct is also engaged in in concert with other persons, the organisation shall be deemed for the purposes of this Act to engage in that conduct in concert with the participants, and so to engage in that conduct for the purpose or purposes for which that conduct is engaged in by the participants, unless the organisation establishes that it took all reasonable steps to prevent the participants from engaging in that conduct.

‘(6) Where an organisation of employees engages, or is deemed by subsection (5) to engage, in conduct in concert with members or officers of the organisation in contravention of subsection (1) or (1A):

- (a) any loss or damage suffered by a person as a result of the conduct shall be deemed to have been caused by the conduct of the organisation;
- (b) if the organisation is a body corporate, no action under section 82 to recover the amount of the loss or damage may be brought against any of the members or officers of the organisation; and
- (c) if the organisation is not a body corporate:
  - (i) a proceeding in respect of the conduct may be instituted under section 77, 80 or 82 against an officer or officers of the organisation as a representative or representatives of the members of the organisation and a proceeding so instituted shall be deemed to be a proceeding against all the persons who were members of the organisation at the time when the conduct was engaged in;
  - (ii) subsection 76(2) does not prevent an order being made in a proceeding mentioned in subparagraph (i) that was instituted under section 77;

- (iii) the maximum pecuniary penalty that may be imposed in a proceeding mentioned in subparagraph (ii) is the penalty applicable under section 76 in relation to a body corporate;
- (iv) except as provided by subparagraph (i), a proceeding in respect of the conduct shall not be instituted under section 77 or 82 against any of the members or officers of the organisation; and
- (v) for the purpose of enforcing any judgment or order given or made in a proceeding mentioned in subparagraph (i) that is instituted under section 77 or 82, process may be issued and executed against any property of the organisation or of any branch or part of the organisation, or any property in which the organisation or any branch or part of the organisation has, or any members of the organisation or of a branch or part of the organisation have in their capacity as such members, a beneficial interest, whether vested in trustees or however otherwise held, as if the organisation were a body corporate and the absolute owner of the property or interest but no process shall be issued or executed against any other property of members, or against any property of officers, of the organisation or of a branch or part of the organisation.

‘(7) Nothing in this section affects the operation of any other provision of this Part.’.

Page 4, after proposed section 12A insert the following new clause:

**Insertion of new section**

“**12AB.** After section 45D of the Principal Act the following section is inserted:

**Prohibition of contracts, arrangements or understandings affecting supply or acquisition of goods or services**

‘45E.(1) Subject to this section, a person who has been accustomed, or is under an obligation, to supply goods or services to, or acquire goods or services from, a second person shall not make a contract or arrangement, or arrive at an understanding, with a third person (being an organisation of employees, an officer of such an organisation, or another person acting for or on behalf of such an organisation or officer) if the proposed contract, arrangement or understanding contains a provision that:

- (a) has the purpose of preventing or hindering the first-mentioned person from supplying or continuing to supply any such goods or services to the second person or, as the case may be, from acquiring or continuing to acquire any such goods or services from the second person;
- (b) has the purpose of preventing or hindering the first-mentioned person from supplying or continuing to supply any such goods or services to the second person except subject to a condition (not being a condition to which the supply of such goods or services by the first-mentioned person to the second person has previously been subject by reason of a provision of a contract existing between those persons) as to the persons to whom, as to the manner in which or as to the terms on which, the second person may supply any goods or services; or
- (c) has the purpose of preventing or hindering the first-mentioned person from acquiring or continuing to acquire any such goods or services from the second person except subject to a condition (not being a condition to

which the acquisition of such goods or services by the first-mentioned person from the second person has previously been subject by reason of a contract existing between those persons) as to the persons to whom, as to the manner in which, or as to the terms on which, the second person may supply any goods or services.

‘(2) Subsection (1) does not apply in relation to a contract, arrangement or understanding that is in writing if the second person mentioned in that subsection is a party to the contract, arrangement or understanding or has consented in writing to the contract or arrangement being made or the understanding being arrived at.

‘(3) In a case where the person first mentioned in subsection (1) is not a corporation, that subsection applies only if the second person mentioned in that subsection is a corporation.

‘(4) Paragraph 4F(a) applies in relation to subsection (1) of this section as if subparagraph 4F(a)(ii) were omitted.

‘(5) Subject to subsection (6), a reference in this section to a person who has been accustomed to supply goods or services to a second person shall be construed as including a reference to:

- (a) a regular supplier of any such goods or services to the second person;
- (b) the latest supplier of any such goods or services to the second person; and
- (c) a person who at any time during the immediately preceding period of 3 months supplied any such goods or services to the second person.

‘(6) Where:

- (a) goods or services have been supplied by a person to a second person pursuant to a contract between those persons under which the first-mentioned person was required over a particular period to supply such goods or services;
- (b) that period has expired; and
- (c) after the expiration of that period the second person has been supplied with such goods or services by another person or other persons and has not been supplied with such goods or services by the first-mentioned person;

then, for the purposes of the application of this section in relation to anything done after the second person has been supplied with goods or services as mentioned in paragraph (c), the first-mentioned person shall be deemed not to be a person who has been accustomed to supply such goods or services to the second person.

‘(7) Subject to subsection (8), a reference in this section to a person who has been accustomed to acquire goods or services from a second person shall be construed as including a reference to:

- (a) a regular acquirer of any such goods or services from the second person;
- (b) a person who, when he last acquired such goods or services, acquired them from the second person; and
- (c) a person who at any time during the immediately preceding period of 3 months acquired any such goods or services from the second person.

‘(8) Where:

- (a) goods or services have been acquired by a person from a second person pursuant to a contract between those persons under which the first-mentioned person was required over a particular period to acquire such goods or services;
- (b) that period has expired; and
- (c) after the expiration of that period the second person has refused to supply such goods or services to the first-mentioned person;

then, for the purposes of the application of this section in relation to anything done after the second person has refused to supply goods or services as mentioned in paragraph (c), the first-mentioned person shall be deemed not to be a person who has been accustomed to acquire such goods or services from the second person.

‘(9) If:

- (a) a person has, whether before or after the commencement of this section, made a contract or arrangement, or arrived at an understanding, with another person; and
- (b) by reason of a provision included in the contract, arrangement or understanding, the making of the contract or arrangement, or the arriving at the understanding, by the first-mentioned person contravened subsection (1) or would have contravened that subsection if this section had been in force at the time when the contract or arrangement was made, or the understanding was arrived at;

a person shall not give effect to that provision of the contract, arrangement or understanding.

‘(10) In determining for the purposes of paragraph (9)(b) whether a contract or arrangement made, or understanding arrived at, before the commencement of this section would have contravened subsection (1) if this section had been in force at the time when the contract or arrangement was made, or the understanding was arrived at, subsection (2) shall be read as if the words “that is in writing” and the words “in writing” were omitted.

‘(11) Nothing in this section affects the operation of any other provision of this Part.’.”

Mr Cadman rising to address the House—

*Closure of Member:* Mr McLeay moved—That the Member be not further heard.

Question—put and passed.

Debate continued.

*Closure:* Mr Gear (Assistant Treasurer) moved—That the question be now put.

Question—That the question be now put—put and passed.

And the question—That the proposed new clauses be inserted in the Bill—was put accordingly and negatived.

Bill agreed to.

Consideration in detail concluded.

On the motion of Mr Gear, by leave, the Bill was read a third time.

## 12 POSTPONEMENT OF NOTICE

Ordered—That notice No. 1, government business, be postponed until a later hour this day.

**13 HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 2) 1995**

Dr Theophanous (Parliamentary Secretary to the Prime Minister), for Mr Crean (Minister for Employment, Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Higher Education Funding Act 1988*.

Bill read a first time.

*Paper:* Dr Theophanous presented an explanatory memorandum to the Bill.

Ordered—That the second reading be made an order of the day for the next sitting.

**14 SYDNEY AIRPORT CURFEW (AIR NAVIGATION AMENDMENT) BILL 1995**

The order of the day having been read for the second reading—Mr Howard (Leader of the Opposition) moved—That the Bill be now read a second time.

Debate ensued.

Debate adjourned (Mr McLeay), and the resumption of the debate made an order of the day for the next sitting Monday.

**15 SUSPENSION OF STANDING AND SESSIONAL ORDERS—SYDNEY AIRPORT CURFEW (AIR NAVIGATION AMENDMENT) BILL 1995—REFERENCE TO COMMITTEE**

Mr McLeay (Chief Government Whip), pursuant to notice, moved—That so much of the standing and sessional orders be suspended as would prevent the Sydney Airport Curfew (Air Navigation Amendment) Bill 1995 and the following additional and specific matters:

- (a) what measures could be considered to reduce the number of jet aircraft movements at Sydney (Kingsford-Smith) Airport between the hours of 11 p.m. and 12 midnight and 5 a.m. and 6 a.m.;
- (b) the appropriateness and quantum of the penalties contained in clause 25K of the Bill in light of current Commonwealth criminal law policy; and
- (c) measures to improve community consultation prior to any changes to the curfew at Sydney (Kingsford-Smith) Airport—

being referred to the Standing Committee on Transport, Communications and Infrastructure for consideration and an advisory report to the House by 31 August 1995.

Mr Ruddock addressing the House—

*Closure of Member:* Mr McLeay moved—That the Member be not further heard.

Question—put and passed.

Question—That the motion be agreed to—put and passed.

**16 SYDNEY AIRPORT CURFEW (AIR NAVIGATION AMENDMENT) BILL 1995—REFERENCE TO COMMITTEE**

Mr McLeay (Chief Government Whip) moved—That the Sydney Airport Curfew (Air Navigation Amendment) Bill 1995 and the following additional and specific matters:

- (a) what measures could be considered to reduce the number of jet aircraft movements at Sydney (Kingsford-Smith) Airport between the hours of 11 p.m. and 12 midnight and 5 a.m. and 6 a.m.;

- (b) the appropriateness and quantum of the penalties contained in clause 25K of the Bill in light of current Commonwealth criminal law policy; and
- (c) measures to improve community consultation prior to any changes to the curfew at Sydney (Kingsford-Smith) Airport—

be referred to the Standing Committee on Transport, Communications and Infrastructure for consideration and an advisory report to the House by 31 August 1995.

Mr Ruddock addressing the House—

*Closure of Member:* Mr McLeay moved—That the Member be not further heard.

Question—put and passed.

Question—That the motion be agreed to—put.

The House divided (the Speaker, Mr Martin, in the Chair)—

AYES, 69

Mr Adams	Mrs Easson	Mr Jenkins	Mr Price
Mr Baldwin	Mr Elliott	Mr Johns	Mr Quick
Mr Beazley	Mr M. J. Evans	Mr Jones	Mr Sawford*
Mr Beddall	Ms Fatin	Mr Kerr	Mr Sciacca
Mr Bevis	Mr Ferguson	Mr Knott	Mr L. J. Scott
Mr Bilney	Mr Fitzgibbon	Mr Langmore	Mr Simmons
Mr Brereton	Mr Free	Mr Latham	Mrs S. J. Smith
Mr Brown	Mr Gear	Mr Lavarch	Mr S. F. Smith
Mr Campbell	Mr Gibson	Dr Lawrence	Mr Snow
Mr Cleeland	Mr Gorman	Mr Lindsay	Mr Staples
Ms Crawford	Mr Grace*	Ms McHugh	Mr Tanner
Mr Crean	Mr Griffin	Mr McLeay	Dr Theophanous
Mrs Crosio	Mr Griffiths	Mr Melham	Mr Walker
Mr Cunningham	Mr Haviland	Mr A. A. Morris	Mr Willis
Ms Deahm	Ms Henzell	Mr P. F. Morris	Mr Woods
Mr Dodd	Mr Holding	Mr Newell	
Mr Duffy	Mr Hollis	Mr O'Connor	
Mr Duncan	Mr Horne	Mr O'Keefe	

NOES, 53

Mr Aldred	Mr R.D.C. Evans	Mr McGauran	Mr Somlyay
Mr Anderson	Mr Fischer	Mr McLachlan	Mrs Sullivan*
Mr J. N. Andrew	Mr Forrest	Mr Miles	Mr Taylor
Mr K. J. Andrews	Mrs Gallus	Mrs Moylan	Mr Thomson
Mr Atkinson	Mr Georgiou	Mr Nehl	Mr Truss
Mrs Bishop	Mr Hall	Mr Neville	Mr Tuckey
Mr Bradford	Mr Halverson	Mr Nugent	Mr Vaile
Mr Braithwaite	Mr Hicks*	Mr Reid	Mr Wakelin
Mr Cadman	Mr Howard	Mr Reith	Mr Williams
Mr Cameron	Mr Jull	Mr Ronaldson	Dr Wooldridge
Mr Charles	Dr Kemp	Mr Ruddock	Ms Worth
Mr Cobb	Mr Lieberman	Mr B. C. Scott	
Mr Dobie	Mr Lloyd	Mr Sinclair	
Mr Downer	Mr McArthur	Mr B. M. Smyth	

\* Tellers

And so it was resolved in the affirmative.

17 MESSAGE FROM THE SENATE—TRANSPORT LEGISLATION AMENDMENT BILL 1995

The following message from the Senate was reported:

Message No. 506

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend legislation relating to transport, and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

MICHAEL BEAHAN  
President

The Senate

Canberra, 30 June 1995

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 2, page 2, subclause (1), line 2, omit "subsections (2), (3), (4), (5) and (6)", substitute "this section".

No. 2—Clause 2, page 2, after subclause (1) insert the following subclauses:

"(1A) Part AA of Schedule 1 commences immediately before the commencement of the *Audit (Transitional and Miscellaneous) Amendment Act 1995*.

"(1B) The following provisions commence on the day on which this Act receives the Royal Assent or 1 July 1995, whichever is later:

(a) Part B of Schedule 1 (except items 2A, 2B and 4);

(b) Parts C and E of Schedule 1.

"(1C) Items 2A, 2B and 4 of Part B of Schedule 1 commence on the same day as the *Financial Management and Accountability Act 1995*."

No. 3—Clause 2, page 2, subclause (3), lines 6 to 11, omit the subclause.

No. 4—After clause 3, page 2, insert the following clause:

**Application—Australian Maritime Safety Authority dividend for 1994-95**

"3A. Section 38 of the *Australian Maritime Safety Authority Act 1990* applies in relation to the financial year ending on 30 June 1995 as if that section had not been repealed, and section 27 of that Act had not been amended, by this Act."

No. 5—After clause 3, page 2, insert the following clause:

**Application—Australian Maritime Safety Authority annual report for 1994-95**

"3B. The amendment of section 44 of the *Australian Maritime Safety Authority Act 1990* made by item 8F of Part B of Schedule 1 to this Act does not apply in relation to the annual report for the year ending on 30 June 1995."

No. 6—After clause 3, page 2, insert the following clause:

**Application—Chief Executive Officer of Australian Maritime Safety Authority**

"3C. The amendment made by item 8G of Part B of Schedule 1 applies in relation to Chief Executive Officers of the Australian Maritime Safety Authority appointed after the commencement of the amendment."



No. 7—Clause 8, page 4, subclause (1), lines 12 to 15, omit the subclause.

No. 8—Clause 9, page 4, subclause (1), lines 24 to 30, omit the subclause.

No. 9—Schedule 1, page 6, after Part A, insert the following Part:

**“PART AA**

**AMENDMENTS OF THE AUDIT (TRANSITIONAL AND  
MISCELLANEOUS) AMENDMENT ACT 1995**

**1. Item 197 of Schedule:**

Omit ‘Subsection 19(3)’, substitute ‘Subsection 18(3)’.

**2. Items 201, 202 and 204 of Schedule:**

Omit the items.”

No. 10—Schedule 1, page 6, Part B, item 1, omit the item, substitute the following items:

**“1. After section 2:**

Insert:

**Main objects of this Act**

‘2A. The main objects of this Act are:

(a) to promote maritime safety; and

(b) to protect the marine environment from:

(i) pollution from ships; and

(ii) other environmental damage caused by shipping; and

(c) to promote the efficient provision of services by the Authority.’

**1A. Subsection 9(3):**

Omit the subsection.”

No. 11—Schedule 1, page 6, Part B, item 2, proposed subsection 9A(3), note, omit the note.

No. 12—Schedule 1, page 7, Part B, item 2, proposed subsection 9A(4), omit “The members must include in the annual report”, substitute “The Authority must include in its annual report under section 63H of the *Audit Act 1901*”.

No. 13—Schedule 1, page 7, Part B, item 2, proposed subsection 9A(4), note, omit the note.

No. 14—Schedule 1, page 7, Part B, item 2, proposed subsection 9B(4), omit “The members must include in the annual report”, substitute “The Authority must include in its annual report under section 63H of the *Audit Act 1901*”.

No. 15—Schedule 1, page 7, Part B, item 2, proposed subsection 9B(4), note, omit the note.

No. 16—Schedule 1, page 7, Part B, after item 2 insert the following items:

**“2A. Subsection 9A(4):**

Omit ‘The Authority must include in its annual report under section 63H of the *Audit Act 1901*’, substitute ‘The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1995*’.

**2B. Subsection 9B(4):**

Omit ‘The Authority must include in its annual report under section 63H of the *Audit Act 1901*’, substitute ‘The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1995*’.”

No. 17—Schedule 1, page 7, Part B, item 3, proposed subsection 21(3A), omit the subsection, substitute the following subsection:

“(3A) If the Minister is of the opinion that:

- (a) the Authority has failed to comply with subsection 9B(3); or
- (b) the members have failed to comply with subsection 25(4);

the Minister may terminate the appointment of all members or specified members.’”.

No. 18—Schedule 1, pages 7 and 8, Part B, items 4 to 8, omit the items, substitute the following items:

**“4. Subsection 21(3A):**

Omit the subsection, substitute:

‘(3A) If the Minister is of the opinion that:

- (a) the Authority has failed to comply with section 9B of this Act; or
- (b) the members have failed to comply with:
  - (i) subsection 25(4) of this Act; or
  - (ii) subsection 13(2) or 15(1) of the *Commonwealth Authorities and Companies Act 1995*; or
  - (iii) paragraph 16(1)(a) or (b) of the *Commonwealth Authorities and Companies Act 1995*;

the Minister may terminate the appointment of all members or specified members.’”.

**5. Sections 25 and 26:**

Repeal the sections, substitute:

**Corporate plan**

‘25.(1) The members must prepare a corporate plan at least once a year and give it to the Minister.

‘(2) If the Minister asks the members to give the plan to the Minister by a specified day, the members must give the plan to the Minister by that day.

‘(3) The plan must cover a period of at least 3 years.

‘(4) The members must keep the Minister informed about:

- (a) significant changes to the plan; and
- (b) matters that arise that might significantly affect the achievement of the objectives of the plan.

‘(5) The plan must include details of the following matters:

- (a) assumptions about the Authority’s operational environment;
- (b) the Authority’s strategies;
- (c) performance indicators for the Authority;
- (d) review of performance against previous corporate plans;
- (e) analysis of risk factors likely to affect safety in the maritime industry;
- (f) human resource strategies and industrial relations strategies.

‘(6) The plan must also cover any other matters required by the Minister, which may include further details about the matters in subsection (5).

‘(7) In preparing the plan, the members must take account of notices given under section 9A.

**Minister's response to corporate plan**

'26.(1) The Minister must respond to a corporate plan within 60 days of being given the plan.

'(2) The Minister's response may include a direction to the members to vary the plan.

'(3) A direction under subsection (2) must be in writing and must set out its reasons.

'(4) If directing a variation of the corporate plan, the Minister must consider:

- (a) the objectives and policies of the Commonwealth Government; and
- (b) the objects of this Act; and
- (c) any other considerations the Minister thinks appropriate.

'(5) If the Minister's response includes a direction to vary the corporate plan, the members must prepare a revised plan and give it to the Minister within 28 days of being given the response.'

**6. Section 27:**

Omit 'preparing the financial plan, the Authority', substitute 'including details of the performance indicators for the Authority in the corporate plan, the members'.

Note: The heading to section 27 is altered by omitting 'Financial targets and performance' and substituting 'Performance'.

**7. Paragraph 27(e):**

Omit the paragraph, substitute:

'(e) the performance of functions of the Authority that are directly funded by the Commonwealth; and'.

**8. Paragraphs 27(h) and (j):**

Omit the paragraphs.

**8A. Paragraph 27(k):**

Omit the paragraph, substitute:

'(k) any other consideration affecting the performance of the Authority that the members think appropriate.'

**8B. Section 29:**

Repeal the section.

**8C. Paragraph 37(2)(b):**

Omit 'tax; or', substitute 'tax.'

**8D. Paragraph 37(2)(c):**

Omit the paragraph.

**8E. Section 38:**

Repeal the section.

**8F. Subsection 44(2):**

Omit 'financial targets and'.

**8G. Section 51:**

Repeal the section, substitute:

### Remuneration and allowances of Chief Executive Officer

‘51.(1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. However, if no determination of that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed by the regulations.

‘(2) The Chief Executive Officer is to be paid the allowances that are prescribed by the regulations.

‘(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### Leave of absence

‘51A.(1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.

‘(2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.’.

No. 19—Schedule 1, page 9, Part B, item 10, omit the item, substitute the following item:

#### “10. Section 60:

Omit ‘29 or 38,’.

On the motion of Mr O’Keefe (Parliamentary Secretary to the Minister for Transport), the amendments were agreed to.

### 18 MESSAGE FROM THE SENATE—TRANSPORT LEGISLATION AMENDMENT BILL (NO. 2) 1995

Message No. 507, dated 30 June 1995, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend various Acts relating to transport*”.

Bill read a first time.

*Paper:* Mr O’Keefe (Parliamentary Secretary to the Minister for Transport) presented an explanatory memorandum to the Bill.

Mr O’Keefe, by leave, moved—That the Bill be now read a second time.

Debate ensued.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Duncan (Parliamentary Secretary to the Attorney-General), the Bill was read a third time.

### 19 AN AUSTRALIAN REPUBLIC—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 7 June 1995*), viz.:

An Australian Republic—Ministerial statement, 7 June 1995—

Debate resumed.

Ordered—That Ms Henzell be granted an extension of time.

Debate adjourned (Mr Miles), and the resumption of the debate made an order of the day for a later hour this day.

**20 SPECIAL ADJOURNMENT**

Mr Beazley (Leader of the House) moved—That the House, at its rising, adjourn until Tuesday, 22 August 1995, at 12.30 p.m., unless otherwise called together by the Speaker or, in the event of the Speaker being unavailable, by the Deputy Speaker.

Question—put and passed.

**21 LEAVE OF ABSENCE TO ALL MEMBERS**

Mr Beazley (Leader of the House) moved—That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question—put and passed.

**22 MESSAGE FROM THE SENATE—CUSTOMS, EXCISE AND BOUNTY LEGISLATION AMENDMENT BILL 1995**

Message No. 508, dated 30 June 1995, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend legislation relating to Customs and Excise and to Bounties, and for related purposes*".

Bill read a first time.

*Paper:* Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented a replacement explanatory memorandum to the Bill.

Mr Lindsay, by leave, moved—That the Bill be now read a second time.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Lindsay, the Bill was read a third time.

**23 AN AUSTRALIAN REPUBLIC—MINISTERIAL STATEMENT—PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 7 June 1995*), viz.:

An Australian Republic—Ministerial statement, 7 June 1995—

Debate resumed.

Ordered—That Ms Deahm be granted an extension of time.

Debate continued.

Ordered—That Dr Theophanous (Parliamentary Secretary to the Prime Minister) be granted an extension of time.

Debate continued.

Ordered—That Mr Neville be granted an extension of time.

Debated continued.

Ordered—That Mrs Crosio (Parliamentary Secretary to the Minister for Social Security) be granted an extension of time.

Debated continued.

Ordered—That Mr Thomson be granted an extension of time.

Debated continued.

Ordered—That Mr Price be granted an extension of time.

Debated continued.

Mr Latham, by leave, again addressed the House.

Debate continued.

Ordered—That Mr A. A. Morris be granted an extension of time.

Debate continued.

Mr Cobb, by leave, again addressed the House.

Question—put and passed.

**24 MESSAGE FROM THE SENATE—CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL 1995**

The following message from the Senate was reported:

Message No. 514

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend legislation relating to Customs and Excise, and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

MARGARET REID  
Deputy President

The Senate

Canberra, 30 June 1995

Ordered—That the amendments be considered forthwith.

**SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE**

No. 1—Clause 2, page 2, subclause (2), lines 1 and 2, omit the subclause, substitute the following subclause:

“(2) Items 4, 7 (only insofar as that item refers to water) and items 8 and 10 of Schedule 1 are taken to have commenced on 1 August 1986.”.

No. 2—Clause 2, page 2, subclause 3, lines 3 and 4, omit the subclause, substitute the following subclause:

“(3) Items 1, 5, 6, 7 (insofar as that item refers to sand, sandstone, soil, slate, clay (other than bentonite and kaolin), basalt, granite, gravel and limestone) and item 9 of Schedule 1, and Schedule 2, commence on 1 July 1995.”.

No. 3—Clause 5, page 2, subclause (3), after “subparagraph 2(a)(i), (ii) or (iii)” insert “for the purposes of the definition of minerals in item 7 (excluding water)”.

No. 4—Clause 5, page 3, subparagraph (3)(iii), omit the subparagraph, substitute the following subparagraph:

“(iii) the amendments set out in items 1, 5, 6, 7 (insofar as that item refers to sand, sandstone, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel and limestone) and item 9 of Schedule 1, and Schedule 2, had not been made; and”.

No. 5—Schedule 1, page 5, item 1, omit the item, substitute the following items:

**“1. Paragraph 164(1)(b):**

Omit ‘at residential premises’, substitute ‘at residential premises to generate electricity for use in’.”.

No. 6—Schedule 1, page 5, item 2, omit the item.

No. 7—Schedule 1, page 5, item 3, omit the item.

No. 8—Schedule 1, page 5, item 4, definition of “**agriculture**”, paragraph (g), omit the paragraph, substitute the following paragraphs:

- “(g) the transporting of live-stock to an agricultural property:
  - (i) for the purpose of rearing; or
  - (ii) for the purpose of agistment; or
- (ga) the return journey from a place referred to in paragraph (g) of the vehicles or equipment used in transporting the live-stock, if that journey is for the purpose of later carrying out the transportation referred to in paragraph (g) or for the backloading of raw materials or consumables for use in a core agricultural activity; or
- (gb) the mustering of live-stock undertaken:
  - (i) by a person who carries on a core agricultural activity; or
  - (ii) by a person contracted by that person to carry out the mustering; on the agricultural property where the core agricultural activity is carried on; or”.

No. 9—Schedule 1, page 5, item 4, definition of “**agriculture**”, paragraph (h), omit “bailing”, substitute “baling”.

No. 10—Schedule 1, page 5, item 4, definition of “**agriculture**”, paragraph (i), omit “for the purpose of soil or water conservation and not”, substitute “otherwise than”.

No. 11—Schedule 1, page 6, item 4, definition of “**agriculture**”, paragraph (j), omit “any other”, substitute “any”.

No. 12—Schedule 1, page 6, item 4, definition of “**agriculture**”, subparagraph (j)(ii), omit “that other”, substitute “the first-mentioned agricultural”.

No. 13—Schedule 1, page 6, item 4, definition of “**agriculture**”, after paragraph (j) insert the following paragraphs:

- “(ja) the construction or maintenance of fences undertaken:
  - (i) by a person who carries on a core agricultural activity; or
  - (ii) by a person contracted by that person to carry out the construction or maintenance;on the agricultural property where the core agricultural activity is carried on; or
- (jb) the construction or maintenance of firebreaks undertaken:
  - (i) by a person who carries on a core agricultural activity; or
  - (ii) by a person contracted by that person to carry out the construction or maintenance;on the agricultural property where the core agricultural activity is carried on or at a place adjacent to that place; or
- (jc) the service, maintenance or repair of vehicles or equipment for use in an agricultural activity if the service, maintenance or repair:
  - (i) is carried out on an agricultural property where a core agricultural activity is carried on; and
  - (ii) is carried out by the person who carries on the first-mentioned agricultural activity or by a person contracted by that person to carry out the service, maintenance or repair; or

- (jd) the construction or maintenance of sheds, pens, silos and silage pits for use in an agricultural activity if the construction or maintenance:
  - (i) is carried out on an agricultural property where a core agricultural activity is carried on; and
  - (ii) is carried out by the person who carries on the first-mentioned agricultural activity or by a person contracted by that person to carry out the construction or maintenance; or
- (je) the construction or maintenance of dams, water tanks, water troughs, water channels, irrigation systems or drainage systems including, without limiting the generality of the foregoing, water pipes and water piping for use in a core agricultural activity if the construction or maintenance:
  - (i) is carried out on the agricultural property where the core agricultural activity is carried on; and
  - (ii) is carried out by the person who carries on the core agricultural activity or by a person contracted by that person to carry out the construction or maintenance; or
- (jf) the carrying out of earthworks for use in a core agricultural activity if the earthworks:
  - (i) are carried out on the agricultural property where the core agricultural activity is carried on; and
  - (ii) are carried out by the person who carries on the core agricultural activity or by a person contracted by that person to carry out the earthworks; or
- (jg) searching for ground water solely for use in an agricultural activity, or the construction or maintenance of facilities for the extraction of such water, solely for that use, if the searching, construction or maintenance:
  - (i) is carried out on an agricultural property where a core agricultural activity is carried on, or at a place adjacent to that property; and
  - (ii) is carried out by the person who carries on the first-mentioned agricultural activity or by a person contracted by that person to carry out the searching, construction or maintenance; or”.

No. 14—Schedule 1, page 6, item 4, definition of “**agriculture**”, after paragraph (j) insert the following paragraph:

- “(jh) any activity undertaken for the purposes of soil or water conservation:
- (i) by a person who carries on a core agricultural activity within an approved catchment area; or
  - (ii) by a person contracted by that person to carry out the first-mentioned activity;
- within the approved catchment area; or”.

No. 15—Schedule 1, page 6, item 4, definition of “**agriculture**”, paragraph (k), omit the paragraph, substitute the following paragraphs:

- “(k) the pumping of water solely for use in an agricultural activity if the pumping:
- (i) is carried out on an agricultural property where a core agricultural activity is carried on, or at a place adjacent to that property; and



- (ii) is carried out by the person who carries on the first-mentioned agricultural activity or by a person contracted by that person to carry out the pumping, other than a person so contracted that is a Commonwealth authority or a State or Territory authority; or
- (ka) the supply of water solely for use in an agricultural activity if:
  - (i) the supply is to an agricultural property where a core agricultural activity is carried on; and
  - (ii) the water comes from that property or a place adjacent to that property; and
  - (iii) the supply is carried out by the person who carries on the first-mentioned agricultural activity or by a person contracted by that person to carry out the supply, other than a person so contracted that is a Commonwealth authority or a State or Territory authority; or”.

No. 16—Schedule 1, page 6, item 4, definition of “**agriculture**”, paragraph (l), omit “the agricultural property where the produce was produced”, substitute “an agricultural property where a core agricultural activity is carried on”.

No. 17—Schedule 1, page 6, item 4, definition of “**agriculture**”, subparagraph (m)(i), omit “the agricultural property where the produce was produced”, substitute “an agricultural property where a core agricultural activity is carried on”.

No. 18—Schedule 1, page 6, item 4, definition of “**agriculture**”, after paragraph (n) insert the following paragraphs:

- “(na) the removal of waste products of an agricultural activity from the agricultural property where the activity is carried on; or
- (nb) the disposal of waste products of an agricultural activity on the agricultural property where the activity is carried on; or”.

No. 19—Schedule 1, pages 6 and 7, item 4, definition of “**agriculture**”, paragraphs (q) and (r), omit the paragraphs, substitute the following paragraph:

- “(q) an activity referred to in any one of paragraphs (a) to (nb) unless the activity is carried out for the purposes of, or for purposes that will directly benefit, a business undertaken to obtain produce for sale;”.

No. 20—Schedule 1, page 7, item 4, at end of definition of “**agriculture**” add the following note:

“Note: The agricultural activities referred to in paragraph (ga), (j), (ja), (jb), (jc), (jd), (je), (jf), (jg), (k), (ka) or (n) are given an expanded meaning by subsection (8).”.

No. 21—Schedule 1, page 7, after item 4 insert the following item:

**“4A. Subsection 164(7) (after paragraph (j) of the definition of ‘agriculture’):**

Insert the following word and paragraph:

- ‘or (ji) the carrying out of firefighting activities:
  - (i) by a person who carries on a core agricultural activity; or
  - (ii) by a person contracted by that person to carry out the first-mentioned activity;

on the agricultural property where the core agricultural activity is carried on or at a place adjacent to that place; or”.

No. 22—Schedule 1, page 7, item 8, definition of “**mining operations**”, paragraph (a), after “prospecting” insert “the removal of overburden and other activities undertaken in the preparation of a site to enable mining to commence”.

No. 23—Schedule 1, page 7, item 8, definition of “**mining operations**”, paragraph (c), omit “—the transporting of the minerals or ores from the mining site to that place”, substitute the following subparagraphs:

- “(i) the transporting of the minerals or ores from the mining site to that place; and
- (ii) the return journey from that place to the mining site of the vehicles or equipment used in transporting the minerals or ores, if that journey is for the purpose of later carrying out the mining operation referred to in subparagraph (i) or for the backloading of raw materials or consumables for use in a mining operation referred to in paragraph (a) or (b)”.

No. 24—Schedule 1, page 8, item 8, definition of “**mining operations**”, after paragraph (g) insert the following paragraphs:

- “(ga) the reactivation of carbon for use in the beneficiation of ores bearing gold; or
- (gb) coal stockpile management for the prevention of the spontaneous combustion of coal if the management is carried out:
  - (i) by a person who carries on a mining operation referred to in paragraph (a) or (b); or
  - (ii) by a person contracted by that person to carry out the management; at the place where the mining operation is carried on; or”.

No. 25—Schedule 1, page 8, item 8, definition of “**mining operations**”, paragraph (h), omit the paragraph, substitute the following paragraph:

- “(h) the generation of electricity solely for, or the provision of electricity solely to, a mining town if:
  - (i) the existence of the town is necessary to enable a mining operation referred to in paragraph (a) or (b) to be undertaken; and
  - (ii) the generation or provision is carried out by the person who carries on the mining operation; or”.

No. 26—Schedule 1, page 8, item 8, definition of “**mining operations**”, paragraph (i), after “(a)” insert “or (b)”.

No. 27—Schedule 1, page 8, item 8, definition of “**mining operations**”, after paragraph (i) insert the following paragraph:

- “(ia) searching for ground water solely for use in a mining operation referred to in paragraph (a) or (b), or the construction or maintenance of facilities for the extraction of such water, solely for that use, if the searching, construction or maintenance:
  - (i) occurs at the place where the mining operation is carried on or at a place adjacent to that place; and
  - (ii) is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the searching, construction or maintenance; or”.

No. 28—Schedule 1, page 8, item 8, definition of “**mining operations**”, paragraph (j), omit the paragraph, substitute the following paragraphs:

- “(j) the pumping of water solely for use in a mining operation referred to in paragraph (a) or (b) if the pumping:

- (i) occurs at the place where the mining operation is carried on or at a place adjacent to that place; and
  - (ii) is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the pumping; or
- (ja) the supply of water solely for use in a mining operation referred to in paragraph (a) or (b) if:
- (i) the supply is to the place where the mining operation is carried on; and
  - (ii) the water comes from that place or a place adjacent to that place; and
  - (iii) the supply is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the supply; or”.

No. 29—Schedule 1, page 8, item 8, definition of “**mining operations**”, paragraph (k), omit “access roads, storage dams or tailings dams”, substitute “private access roads”.

No. 30—Schedule 1, page 8, item 8, definition of “**mining operations**”, after paragraph (k) insert the following paragraphs:

- “(ka) the construction or maintenance of storage dams or tailings dams for use in a mining operation referred to in paragraph (a) or (b) if the construction or maintenance:
- (i) occurs at the place where the mining operation is carried on or at a place adjacent to that place; and
  - (ii) is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the construction or maintenance; or
- (kb) the construction or maintenance of private airstrips, buildings, plant or equipment for use in a mining operation referred to in paragraph (a) or (b) if the construction or maintenance:
- (i) occurs at the place where the mining operation is carried on; and
  - (ii) is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the construction or maintenance; or
- (kc) the construction or maintenance of power stations or power lines solely for use in a mining operation referred to in paragraph (a) or (b) if the construction or maintenance:
- (i) occurs at the place where the mining operation is carried on; and
  - (ii) is carried out by the person who carries on the mining operation or by a person contracted by that person to carry out the construction or maintenance; or
- (kd) the removal of waste products of a mining operation referred to in paragraph (a) or (b) from the place where the mining operation is carried on; or
- (ke) the disposal of waste products of a mining operation referred to in paragraph (a) or (b) at the place where the mining operation is carried on; or”.

No. 31—Schedule 1, pages 8 and 9, item 8, definition of **“mining operations”**, after paragraph (l) insert the following word and paragraph:

“; or (la) the service, maintenance or repair of transport networks, vehicles or equipment solely for use in a mining operation referred to in paragraph (c) if the service, maintenance or repair is carried out by:

(i) the person who carries on the mining operation; or

(ii) by a person contracted by that person to carry out the service, maintenance or repair;”

No. 32—Schedule 1, page 9, item 8, at end of definition of **“mining operations”** add the following note:

“Note: The mining operations referred to in paragraph (gb), (i), (ia), (j), (ja), (k), (ka), (kb), (kc), (l) or (la) are given an expanded meaning by subsection (9).”

No. 33—Schedule 1, page 9, after item 8 insert the following item:

**“8A. Subsection 164(7) (paragraph (i) of the definition of ‘mining operations’):**

Omit ‘the rehabilitation of a place at which’, substitute ‘rehabilitation at places affected by’.”

No. 34—Schedule 1, page 9, item 9, proposed subparagraph (m)(v), omit “adjoining”, substitute “adjacent to”.

No. 35—Schedule 1, page 9, item 10, before definition of **“core agricultural activity”** insert the following definition:

**“‘agricultural activity’** means an activity referred to in any one of paragraphs (a) to (nb) of the definition of **‘agriculture’** if that activity is carried out for the purposes of, or for purposes that will directly benefit, a business undertaken to obtain produce for sale;”

No. 36—Schedule 1, page 9, item 10, definition of **“core agricultural activity”**, omit **“‘agriculture’** if that activity is carried on for the purposes of”, substitute **“‘agriculture’** if that activity is carried out for the purposes of, or for purposes that will directly benefit.”

No. 37—Schedule 1, page 9, item 10, after definition of **“core agricultural activity”** insert the following definition:

**“‘earthworks’** means:

(a) the forming or maintenance of levee banks or windbreaks; or

(b) contour banking; or

(c) land levelling or land grading;”

No. 38—Schedule 1, page 9, item 10, definition of **“mining town”**, omit “, in an area where there was previously no town,”, substitute “, in an area where immediately prior to its construction there was no town,”.

No. 39—Schedule 1, page 9, item 10, definition of **“mining town”**, after “town” (third occurring) insert “principally”.

No. 40—Schedule 1, page 9, item 10, definition of **“mining town”**, omit “situated within an area”.

No. 41—Schedule 1, page 9, item 10, after definition of **“mining town”** insert the following definitions:

**“‘State or Territory authority’** means:

(a) an instrumentality of a State or Territory; or

- (b) an authority or body established for the purpose of a State or Territory by or under a law of the State or Territory;

**‘transport networks’** includes conveyor belts, pipelines and railway lines;”.

No. 42—Schedule 1, page 9, at end of Schedule add the following item:

**“11. Section 164:**

Add at the end:

‘(8) For the purposes of determining whether an activity is an agricultural activity, the activity referred to in paragraph (ga), (j), (ja), (jb), (jc), (jd), (je), (jf), (jg), (k), (ka) or (n) of the definition of **“agriculture”** includes such an activity when it is carried out by a subcontractor of a person contracted to carry out the activity.

‘(9) For the purposes of determining whether an operation is a mining operation, the operation referred to in paragraph (gb), (i), (ia), (j), (ja), (k), (ka), (kb), (kc), (l) or (la) of the definition of **“mining operations”** includes such an operation when it is carried out by a subcontractor of a person contracted to carry out the operation.’”.

No. 43—Schedule 2, page 10, item 1, omit the item, substitute the following item:

**“1. Paragraph 78A(1)(b):**

Omit ‘at residential premises’, substitute ‘at residential premises to generate electricity for use in’.”.

No. 44—Schedule 2, page 10, item 2, omit the item.

No. 45—Schedule 2, page 10, item 3, omit the item.

No. 46—Schedule 2, page 10, item 4, omit the item.

On the motion of Mr Beazley (Minister for Finance), the amendments were agreed to.

## 25 MESSAGES FROM THE SENATE

Messages from the Senate, dated 30 June 1995, were reported:

- (a) returning the Taxation Laws Amendment (Budget Measures) Bill 1995 and acquainting the House that the Senate does not insist upon its amendments Nos. 4, 5 and 6 disagreed to by the House—Message No. 510.

- (b) returning the following Bills and acquainting the House that the Senate has agreed to the Bills as amended by the House at the request of the Senate:

Sales Tax (Exemptions and Classifications) Modification (Excise) 1995—Message No. 511.

Sales Tax (Exemptions and Classifications) Modification (General) 1995—Message No. 512.

Sales Tax (Exemptions and Classifications) Modification (Customs) 1995—Message No. 513.

## 26 ADJOURNMENT

Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 9.07 p.m., adjourned until Tuesday, 22 August 1995, at 12.30 p.m., in accordance with the resolution agreed to this day.

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**PAPERS**

The following papers were deemed to have been presented on 30 June 1995:

Defence Act—Defence Force Remuneration Tribunal—Determinations 1995 Nos. 11, 12, 13.

Endangered Species Protection Act—Declaration under section 18, 4 May 1995.

Public Service Act—Determinations 1995 Nos. 125, 127, LES 18, LES 19.

Social Security Act—Social Security (Loan Fringe Benefits Valuation) Determination No. 1.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Mr Abbott, Mr Beale, Mr Chynoweth, Mr Hawker, Mr Howe, Mr Humphreys, Mr Katter, Mr Keating, Mr Mack, Mr Moore, Mr Prosser, Mr Punch, Mr Slipper, Mr Snowdon, Mr Swan and Mr Tickner.

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**L. M. BARLIN**

Clerk of the House of Representatives