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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 **MEETING OF SENATE**

The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 **HOURS OF MEETING—VARIATION**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), at the request of the Minister for Revenue and Assistant Treasurer (Senator Coonan) and pursuant to notice, moved government business notice of motion no. 1—That, on Monday, 29 March 2004:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.30 pm; and

(b) the question for the adjournment of the Senate shall be proposed at 10.50 pm.

Debate ensued.

Senator Ian Campbell, by leave, amended the motion to read as follows:

That, on Monday, 29 March 2004:

(a) the hours of meeting shall be 12.30 pm to 10.30 pm; and

(b) the question for the adjournment of the Senate shall be proposed at 9.50 pm.

Question put and passed.

3 **GREATER SUNRISE UNITISATION AGREEMENT IMPLEMENTATION BILL 2004
CUSTOMS TARIFF AMENDMENT (GREATER SUNRISE) BILL 2004**

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

GREATER SUNRISE UNITISATION AGREEMENT IMPLEMENTATION BILL 2004—

Consideration resumed of the bill—and of the amendment moved by Senator Brown:

Page 3 (after line 24), after clause 4, add:

6 Cessation of operation of Act

This Act ceases to have effect on 31 December 2006 if a permanent maritime boundary between Australia and Timor-Leste is not agreed to by that date.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Bill agreed to.

CUSTOMS TARIFF AMENDMENT (GREATER SUNRISE) BILL 2004—

Bill, taken as a whole by leave, agreed to.

Bills to be reported without amendments.

The Acting Deputy President (Senator Ferguson) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Special Minister of State (Senator Abetz) the report from the committee was adopted.

Senator Abetz moved—That these bills be now read a third time.

Debate ensued.

Question put.

The Senate divided—

AYES, 49

Senators—

Abetz	Eggleston (Teller)	Ludwig	Scullion
Barnett	Evans	Lundy	Sherry
Bishop	Ferguson	Macdonald, Sandy	Stephens
Boswell	Ferris	Mackay	Tchen
Buckland	Forshaw	Mason	Tierney
Calvert	Harradine	McGauran	Troeth
Campbell, George	Hogg	McLucas	Vanstone
Chapman	Humphries	Moore	Watson
Colbeck	Hutchins	Murphy	Webber
Collins	Johnston	O'Brien	Wong
Cook	Kirk	Payne	
Crossin	Knowles	Ray	
Denman	Lightfoot	Santoro	

NOES, 11

Senators—

Allison (Teller)	Cherry	Lees	Ridgeway
Bartlett	Greig	Murray	Stott Despoja
Brown	Harris	Nettle	

Question agreed to.

Bills read a third time.

4 **MILITARY REHABILITATION AND COMPENSATION BILL 2003**
MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That these bills be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted while the Leader of the Australian Democrats (Senator Bartlett) was speaking.

5 **QUESTIONS**

Questions without notice were answered.

6 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATIONS

Senator Forshaw, pursuant to standing order 74, asked the Minister representing the Minister for Science (Senator Vanstone) for an explanation of an answer not being provided to question on notice no. 2453 (notice given 8 December 2003) relating to the Australian Nuclear Science and Technology Organisation.

Senator Vanstone indicated that an answer would be provided.

Senator Allison, pursuant to standing order 74, asked the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) for an explanation of answers not being provided to questions on notice nos 2117 (notice given 17 September 2003) and 2360 (notice given 5 November 2003).

Senator Vanstone indicated that answers would be provided.

7 FAMILY AND COMMUNITY SERVICES—ANSWERS TO QUESTIONS

Senator Collins moved—That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked today relating to family and community services.

Debate ensued.

Question put and passed.

8 HEALTH—PARKINSON'S DISEASE—ANSWER TO QUESTION

Senator Allison moved—That the Senate take note of the answer given by the Minister for Local Government, Territories and Roads (Senator Ian Campbell) to a question without notice asked by Senator Allison today relating to Parkinson's disease.

Question put and passed.

9 PETITION

The following petition, lodged with the Clerk by Senator Stott Despoja, was received:

From 1 529 petitioners, requesting that the Senate act to extend the Educational Textbook Subsidy Scheme indefinitely.

10 NOTICES

The Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell): To move on the next day of sitting—That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the exposure draft of the Building and Construction Industry Improvement Bill 2003 and the provisions of the Building and Construction Industry Improvement Bill 2003 and a related bill be extended to 15 June 2004. (*general business notice of motion no. 830*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins): To move on the next day of sitting—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 24 June 2004. (*general business notice of motion no. 831*)

Senator Cherry: To move on the next day of sitting—That the Senate calls on the Government to give consideration to adjusting the superannuation preservation age of 60 for workers born after 1964 if those workers have spent significant periods of their working lives in occupations such as policing which involve significant physical exertion, mental stress and necessitate earlier retirement. (*general business notice of motion no. 832*)

Senator Cherry: To move on the next day of sitting—That there be laid on the table, no later than the conclusion of question time on Thursday, 1 April 2004:

- (a) the documents described in paragraphs (b) and (c), relating to information produced as part of the 2000-2003 Commonwealth Scientific and Industrial Research Organisation (CSIRO) Biodiversity Division project, 'Ecological Implications of GMOs [genetically-modified organisms]';
- (b) all documents identified by CSIRO as outputs of the following projects:
 - (i) robust risk/benefit decision tools adapted for Australian conditions (2003), probabilistic/quantitative estimates of risk for GMOs (2003) and recommendations for policy makers on best practice in risk assessment (2001),
 - (ii) risk assessments, up to landscape scale, of direct and indirect ecological impacts of Bt cotton, legumes with high sulphur protein and herbicide tolerant canola (2003),
 - (iii) risk assessments, up to landscape scale, of ecological impacts of potential GMOs in eucalypts, rumen biota, oysters and mouse cytomegalovirus (2003),
 - (iv) reports on predicted risk and benefit scenarios resulting from different GMOs (2002),
 - (v) recommendations on how to mitigate undesirable impacts if they occur, and
 - (vi) methods for large scale monitoring of GMO benefits and impacts) (2001); and
- (c) all documents produced further to the 'Paths of adoption' commitments published on the CSIRO website at http://www.biodiversity.csiro.au/2nd_level/3rd_level/plan_gmos.htm. (*general business notice of motion no. 833*)

Senator Ridgeway: To move on the next day of sitting—That the Senate—

- (a) notes the vibrant and varied Parliament House art collection, which is valued at \$85.6 million and is spread throughout 4 000 rooms in 25 kilometres of corridors;
- (b) notes also that:
 - (i) the collection contains works from a range of Australian artists including Fred Williams, Arthur Boyd, Sidney Nolan, Tracey Moffatt, Howard Arkley and Fiona Foley,
 - (ii) the current policy of purchasing the work of emerging and living artists means the value of the collection has increased almost fivefold over the initial investment,
 - (iii) the review of the Parliament House art collection recommends that it should not, as a rule, collect the works of emerging artists, and
 - (iv) if this recommendation is accepted, the work of artists such as Patricia Piccinini, one of our most successful international artists, whose work *Psychogeography* was initially purchased for \$1 500 and is now worth \$160 000, would not have been purchased for the collection; and

- (c) calls on the Government to reject this recommendation and to retain this important aspect of the collection. (*general business notice of motion no. 834*)

Senators Cherry and Stott Despoja: To move on the next day of sitting—That the Senate—

- (a) notes escalating tensions between the Arab and Kurdish populations within Syria;
- (b) expresses concern at reports that recent spates of violence between the Syrian authorities and the Kurdish minority have resulted in multiple deaths and injuries; and
- (c) calls on the Minister for Foreign Affairs (Mr Downer) to make representations to the Syrian Government regarding the fundamental importance of adhering to the Universal Declaration for Human Rights in all its dealings with the Kurdish minority. (*general business notice of motion no. 835*)

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry): To move on the next day of sitting—That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

- (a) Australian telecommunications network—to 16 June 2004;
- (b) competition in broadband services—to 24 June 2004;
- (c) regulation, control and management of invasive species—to 25 November 2004; and
- (d) Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002—to 25 November 2004. (*general business notice of motion no. 836*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Commonwealth Electoral Amendment (Representation in House of Representatives) Bill 2004, allowing it to be considered during this period of sittings.

Document: Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Commonwealth Electoral Amendment (Representation in House of Representatives) Bill 2004 in the 2004 autumn sittings.

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Intelligence Services Amendment Bill 2003, allowing it to be considered during this period of sittings.

Document: Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Intelligence Services Amendment Bill 2003 in the 2004 autumn sittings.

11 LEAVE OF ABSENCE

Senator Allison, by leave, moved—That leave of absence be granted to Senator Stott Despoja for the period 30 March to the end of the 2004 autumn sittings, on account of parliamentary business overseas.

Question put and passed.

12 LINDBERG GRIEVANCE—PROPOSED SELECT COMMITTEE—STATEMENT BY LEAVE

Senator Harris, by leave, made a statement relating to general business notice of motion no. 827 standing in his name for today, relating to the establishment of a select committee on the Lindeberg Grievance.

Postponement: Senator Harris, by leave, moved—That general business notice of motion no. 827 be postponed till 1 April 2004.

Question put and passed.

13 HEALTH—RURAL COMMUNITIES

Senator Allison amended general business notice of motion no. 828 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) supports better health provision for rural communities;
- (b) notes that rural communities have articulated in a report ‘Good health to rural communities’, the following 10-point plan:
 - (i) small rural hospitals be utilised as centres for quality healthcare and training,
 - (ii) procedural rural medicine be sustained through the development of a national strategic approach,
 - (iii) the Medical Specialists Outreach Assistance Program and other initiatives be expanded to ensure integration with local healthcare services and support to sustain local healthcare capacity,
 - (iv) higher medical rebates be available to all Australians,
 - (v) the role of practice nurses be extended to allow them to provide other Medicare-funded services,
 - (vi) advanced nursing practice be supported in areas where access to healthcare is difficult,
 - (vii) a local government medical recruitment infrastructure fund be established for councils that have to acquire facilities,
 - (viii) high quality broadband services be provided for rural communities to give doctors and their patients access to on-line information,
 - (ix) bonded medical school places be made more attractive and effective by scholarships and other incentives, including higher education contribution scheme exemption, and
 - (x) overseas trained doctors be given access to suitable supervision, support mechanisms and mentoring, in order to remove unnecessary barriers to their contribution to rural health; and
- (c) encourages the Government to adopt these recommendations, particularly those relating to grants for walk-in, walk-out clinics, noting that this was recommended by the Australian Democrats in 2003 as one way of overcoming the barriers to doctors practising in country areas.

Question put and passed.

14 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 829—That the time for the presentation of the report of the Legal and Constitutional References Committee on the capacity of current legal aid and access to justice arrangements to meet the community need for legal assistance be extended to 11 May 2004.

Question put and passed.

15 NATIONAL SCHOOLS CONSTITUTIONAL CONVENTION 2004—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

National Schools Constitutional Convention 2004, Old Parliament House, 24 to 26 March 2004—Communiqué.

16 PROCEDURE—STANDING COMMITTEE—FIRST REPORT OF 2004

The Chair of the Procedure Committee (Senator Hogg) tabled the following report:

Procedure—Standing Committee—First report of 2004—Divisions on Thursdays; Consideration of government documents; Formal motions, dated March 2004.

Report ordered to be printed on the motion of Senator Hogg.

Senator Hogg, by leave, moved—That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

Question put and passed.

17 MIGRATION—JOINT STANDING COMMITTEE—REPORT—REVIEW OF SKILLED LABOUR MIGRATION PROGRAMS 2004

Senator Tchen, on behalf of the Joint Standing Committee on Migration, tabled the following report and documents:

Migration—Joint Standing Committee—To make a contribution: Review of skilled labour migration programs 2004—Report, dated March 2004, *Hansard* record of proceedings, minutes of proceedings and submissions [58].

Senator Tchen, by leave, moved—That the Senate take note of the report.

Debate ensued.

Question put and passed.

18 DOCUMENTS

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Amendment Order (No. 2) 2004.

Exemptions Nos CASA EX09/2004, CASA EX14/2004 and CASA EX17/2004.

Instrument No. CASA 114/04.

Class Rulings CR 2004/27-CR 2004/29.

Health Insurance Act—Health Insurance (Accredited Pathology Laboratories — Approval) Amendment Principles 2004 (No. 1).

Higher Education Funding Act—Determinations under section 15—Determinations Nos T9-2004 and T10-2004.

Product Rulings PR 2004/24 (Erratum) and PR 2004/32-PR 2004/34.

Quarantine Act—Regulations—Statutory Rules 2004 No. 40.

Taxation Ruling TR 96/14 (Addendum).

Telecommunications (Interception) Act—Declaration of eligible authority as agency — Corruption and Crime Commission of Western Australia.

Veterans' Entitlements Act—Instruments under section 196B—Instruments Nos 5-10 of 2004.

**19 SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004
TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL
(NO. 2) 2004**

VETERANS' ENTITLEMENTS AMENDMENT (ELECTRONIC DELIVERY) BILL 2004

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 544, dated 25 March 2004—A Bill for an Act to amend the *Sex Discrimination Act 1984*, and for related purposes.

Message no. 545, dated 25 March 2004—A Bill for an Act to amend the *Trade Practices Act 1974*, and for related purposes.

Message no. 546, dated 25 March 2004—A Bill for an Act to amend the *Veterans' Entitlements Act 1986* to facilitate electronic communications under that Act, and for related purposes.

The Special Minister of State (Senator Abetz) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Abetz moved—That these bills be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Abetz moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

20 ECONOMICS LEGISLATION COMMITTEE—REPORT—TAXATION LAWS (CLEARING AND SETTLEMENT FACILITY SUPPORT) BILL 2003

Pursuant to order, Senator Eggleston, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Taxation Laws (Clearing and Settlement Facility Support) Bill 2003—Report, dated March 2004, *Hansard* record of proceedings, additional information and submissions [4].

Report ordered to be printed on the motion of Senator Eggleston.

21 **MILITARY REHABILITATION AND COMPENSATION BILL 2003**
MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL 2003

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

The Senate resolved itself into committee for the consideration of the bills.

In the committee

MILITARY REHABILITATION AND COMPENSATION BILL 2003—

Bill taken as a whole by leave.

Explanatory memoranda: The Special Minister of State (Senator Abetz) tabled supplementary explanatory memoranda [2] relating to the government amendments and requests for amendments to be moved to the Military Rehabilitation and Compensation Bill 2003 and the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003.

On the motion of Senator Abetz the following amendments and requests for amendments, taken together by leave, were debated and agreed to:

Amendments:

Clause 93, page 86 (lines 12 to 17), omit all the words from and including “The ADF component” to and including “the onset of the incapacity.”, substitute:

- | |
|--|
| <p>For a Reservist who is incapacitated for both service and work:</p> <ul style="list-style-type: none">(a) the ADF component is based on how much the Reservist would have earned as a part-time Reservist if the Reservist were not incapacitated for service; and(b) the civilian component is based on how much the Reservist earned from civilian work during an example period taken from before the onset of the incapacity for work. |
|--|

Clause 110, page 99 (after line 17), at the end of the clause, add:

<p>However, for a Reservist whose service injury or disease occurred while a continuous full-time Reservist, the Commission may determine pre-CFTS earnings by looking back at the period before the onset date for the Reservist’s incapacity instead of the period before the Reservist began his or her last period of continuous full-time service.</p>

Clause 111, page 99 (line 21), omit the formula, substitute:

$$\begin{array}{ccc} \text{Reservist's pre-CFTS pay} & + & \text{Reservist's reserve pay} \\ \text{for the week} & & \text{for the week} \end{array}$$

Clause 117, page 106 (after line 24), insert:

Division 9 applies to a person who was a cadet or declared member.

Clause 165, page 147 (line 20), omit “ADF earnings”, substitute “full-time ADF earnings”.

Clause 169, page 150 (after line 15), at the end of the clause, add:

However, for a person whose service injury or disease occurred while a continuous full-time Reservist, the Commission may determine pre-CFTS earnings by looking back at the period before the person last ceased to be a member of the Defence Force instead of the period before the person began his or her last period of continuous full-time service.

Heading to Subdivision E, page 154 (lines 24 and 25), omit the heading, substitute:

Subdivision E—Working out normal weekly hours for persons who have chosen pre-CFTS earnings

Clause 197, page 172 (lines 15 to 18), omit all the words from and including “A person who stops” to and including “determined by the Commission.”, substitute:

A person who works more than 10 hours per week stops receiving the Special Rate Disability Pension. However, the person might still be eligible for assistance under the Return to Work Scheme determined by the Commission under section 210, or compensation worked out under Division 2 of Part 4.

Clause 198, page 172 (line 20), after “payment”, insert “(other than a payment under the Return to Work Scheme in section 210)”.

Clause 200, page 173 (after line 25), at the end of the clause, add:

- (3) However, a person to whom the Commonwealth is no longer liable to pay a Special Rate Disability Pension under section 209 is taken not to have chosen to receive the Pension.

Note: This means that the person might still be entitled to compensation worked out under Division 2 of Part 4 or under the Return to Work Scheme in section 210.

Clause 221, page 185 (lines 18 to 20), omit paragraph (1)(c), substitute:

- (c) the person’s telephone service is connected in Australia in the person’s name or jointly in the person’s name and someone else’s name.

Clause 221, page 185 (lines 31 to 33), omit paragraph (2)(c), substitute:

- (c) the person’s telephone service is connected in Australia in the person’s name or jointly in the person’s name and someone else’s name.

Clause 234, page 194 (line 24), before “whichever”, insert “in any case—”.

Clause 234, page 195 (line 1), omit “subparagraph (1)(a)(i)”, substitute “paragraph (1)(a)”.

Clause 234, page 195 (lines 6 to 10), omit subclause (3) and the notes.

Clause 234, page 195 (line 24), omit “subparagraphs (1)(a)(i) and (ii)”, substitute “paragraph (1)(a)”.

Clause 258, page 211 (lines 10 to 16), omit subparagraphs (1)(a)(i) and (ii), substitute:

- (i) a member or former member who satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or who has satisfied those criteria during some period of his or her life;

Clause 278, page 224 (line 21), omit “either”.

Heading to clause 282, page 226 (line 30), omit “**etc.**”.

Clause 286, page 229 (lines 26 and 27), omit “other than under arrangements made under section 285”.

Clause 286, page 229 (lines 30 and 31), omit “other than under arrangements made under section 285”.

Clause 286, page 230 (lines 3 and 4), omit “other than under arrangements made under section 285”.

Clause 287, page 231 (line 22), at the end of subclause (1), add:

- ; or (c) in accordance with the arrangements and the determination.

Clause 344, page 276 (line 15), omit “depending on the nature of the original determination”, substitute “depending on the type of reconsideration sought by the claimant”.

Clause 344, page 276 (lines 16 to 18), omit all words from and including “If an original determination” to and including “to review it.”, substitute “A claimant who has received notice of an original determination can ask the Commission to reconsider it or ask the Veterans’ Review Board to review it.”.

Clause 344, page 276 (lines 22 to 25), omit all words from and including “For other original determinations,” to and including “the reviewable determination.”.

Clause 345, page 277 (lines 16 and 17), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 345, page 277 (lines 19 to 21), omit the definition of *warlike or non-warlike service determination*.

Clause 346, page 279 (lines 24 to 32), omit subclause (5), substitute:

- (5) A notice under subsection (1) or (3) must include a statement to the effect that the claimant may, if dissatisfied with the original determination, request a reconsideration of the determination under section 349 or make an application to the Board under Part 4 for review of the determination.

Clause 348, page 282 (line 1), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 348, page 282 (lines 5 and 6), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 349, page 282 (lines 21 and 22), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Heading to Part 4, page 285 (lines 2 and 3), omit the heading, substitute:

Part 4—Review by the Board of original determinations

Clause 352, page 285 (lines 6 and 7), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 352, page 285 (line 9), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 352, page 285 (line 11), omit “Part 3”, substitute “section 349”.

Clause 353, page 286 (table item 6), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 354, page 288 (after line 8), after subclause (1), insert:

- (1A) The *Administrative Appeals Tribunal Act 1975* applies to an application for review of a reviewable determination by the Board under Part 4 as if references in section 37 of that Act to the person who made the decision the subject of the application were instead references to whichever of the Commission or the service chief made the original determination.

Note: Section 37 of the *Administrative Appeals Tribunal Act 1975* applies normally in respect of other kinds of reviewable determinations.

Clause 355, page 288 (table item 2), omit all words from and including “The Commission may only” to and including “non-warlike service determination”.

Clause 355, page 289 (table item 3), omit “on review of a warlike or non-warlike service determination”.

Clause 355, page 289 (table item 4), omit “a warlike or non-warlike service determination”, substitute “an original determination”.

Clause 355, page 289 (table item 5), omit “on the review of a warlike or non-warlike service determination”.

Clause 404, page 322 (line 15), omit “subsections 234(2) and (3)”, substitute “subsection 234(2)”.

Requests:

That the House of Representatives be requested to make the following amendments:

Clause 12, page 17 (lines 13 to 25), omit subclause (2), substitute:

Deceased members eligible for Special Rate Disability Pension

- (2) This section applies in respect of a deceased member if the member satisfied the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension) during some period of his or her life.

Page 103 (after line 26), at the end of Subdivision D, add:

114A Example periods for those injured as continuous full-time Reservists

- (1) For the purposes of the definition of *example period* in sections 113 and 114 for an incapacitated Reservist who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the end of the example period, a time before the onset date for the Reservist’s incapacity for service or work (instead of a time before the Reservist began his or her last period of continuous full-time service).

- (2) If the Commission does so, a reference in sections 112, 113 and 114 to a time before the Reservist began his or her last period of continuous full-time service is taken instead to be a reference to a time before the onset date for the Reservist's incapacity.

Page 154 (after line 23), at the end of Subdivision D, add:

173A Example periods for those injured as continuous full-time Reservists

- (1) For the purposes of the definition of *example period* in sections 172 and 173 for an incapacitated person who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the end of the example period, a time before the person last ceased to be a member of the Defence Force (instead of a time before the person began his or her last period of continuous full-time service).
- (2) If the Commission does so, a reference in sections 171, 172 and 173 to a time before the person began his or her last period of continuous full-time service is taken instead to be a reference to a time before the person last ceased to be a member of the Defence Force.

Clause 210, page 177 (line 31) to page 178 (line 6), omit subclause (2), substitute:

- (2) The compensation is a weekly payment of an amount:
- (a) worked out under the Return to Work Scheme; and
 - (b) worked out, at least in part, by reference to the number of hours per week of remunerative work that the person is able to undertake.

Clause 221, page 185 (lines 7 to 15), omit paragraph (1)(a), substitute:

- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and

Clause 234, page 194 (lines 14 to 23), omit paragraph (1)(a) and the note, substitute:

- (a) if the Commission has accepted liability for the member's death—the amount of the lump sum mentioned in subsection (2); and

Clause 282, page 226 (line 33) to page 227 (line 6), omit paragraph (a), substitute:

- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and

On the motion of the Leader of the Australian Democrats (Senator Bartlett) the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:

Clause 5, page 10 (line 29), omit "the opposite sex to the member", substitute "either sex".

Bill, as amended, agreed to, subject to requests.

MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003—

Bill taken as whole by leave.

On the motion of the Minister for the Arts and Sport (Senator Kemp) the following amendments and requests for amendments, taken together by leave, were debated and agreed to:

Amendments:

Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedules 1 and 2	At the same time as section 3 of the MRCA commences.
4. Schedule 3, items 1 to 7	At the same time as section 3 of the MRCA commences.
5. Schedule 3, items 7A and 7B	The later of: (a) the time when section 3 of the MRCA commences; and (b) the time when the <i>Age Discrimination Act 2004</i> commences.
6. Schedule 3, items 8 to 105	At the same time as section 3 of the MRCA commences.
7. Schedule 4	At the same time as section 3 of the MRCA commences.

Schedule 2, item 5, page 50 (line 29), omit “An employee”, substitute “For the purposes of this Act (other than this section), an employee”.

Schedule 2, item 5, page 50 (line 29), after “injury”, insert “, or an aggravation of an injury,”.

Schedule 2, item 5, page 51 (line 3), after “injury”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 5), after “injury”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 12), after “injury”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 14), after “disease,”, insert “or an aggravation of a disease,”.

Schedule 2, item 5, page 51 (line 17), after “disease”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 19), after “disease”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 26), after “disease”, insert “or aggravation”.

Schedule 2, item 5, page 51 (line 29), after “before and”, insert “on or”.

Schedule 2, item 5, page 51 (line 32), omit “, or aggravated or materially contributed to,”, substitute “or aggravated”.

Schedule 2, item 6, page 52 (line 2), after “6A(2A)”, insert “of this Act”.

Schedule 2, item 10, page 52 (line 12), omit “the commencement date for that Act”, substitute “the MRCA commencement date”.

Schedule 2, item 12, page 52 (line 25), after “injury”, insert “or aggravation”.

Schedule 2, item 12, page 52 (line 27), after “injury”, insert “or aggravation”.

Schedule 2, item 12, page 52 (line 33), after “before and”, insert “on or”.

Schedule 2, item 12, page 53 (line 3), after “injury”, insert “or aggravation”.

Schedule 2, item 14, page 53 (line 13), omit “Loss of or damage to”, substitute “Loss of, or damage to,”.

Schedule 2, item 14, page 53 (line 24), omit “such a loss”, substitute “such loss”.

Schedule 2, item 16, page 64 (lines 9 and 10), omit “a claim of a kind referred to in subsection (1) of this section”, substitute “a defence-related claim”.

Schedule 3, page 68 (after line 19), after item 7, insert:

Age Discrimination Act 2004

7A After paragraph 41(1)(f)

Insert:

- (fa) the *Military Rehabilitation and Compensation Act 2004*; or
- (fb) the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*; or
- (fc) Part XI of the *Safety, Rehabilitation and Compensation Act 1988*; or

7B After subsection 41(2A)

Insert:

- (2B) This Part does not make unlawful anything done by a person in direct compliance with a regulation, scheme or other instrument under the *Military Rehabilitation and Compensation Act 2004* or the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.

Schedule 3, page 77 (after line 28), after item 46, insert:

46A At the end of section 552

Add:

- (3) Youth allowance is not payable to a person if:
 - (a) the person is an armed services widow or an armed services widower; and
 - (b) the person has received a lump sum, or is receiving weekly amounts, mentioned in paragraph 234(1)(b) of the MRCA.

Note 1: For *armed services widow* and *armed services widower* see subsection 4(1).

Note 2: For *MRCA* see subsection 23(1).

Schedule 3, page 78 (before line 8), after item 51, insert:

51A At the end of section 578

Add:

- (4) An austudy payment is not payable to a person if:
 - (a) the person is an armed services widow or an armed services widower; and
 - (b) the person has received a lump sum, or is receiving weekly amounts, mentioned in paragraph 234(1)(b) of the MRCA.

Note 1: For *armed services widow* and *armed services widower* see subsection 4(1).

Note 2: For *MRC A* see subsection 23(1).

Schedule 3, page 86 (after line 29), after item 101, insert:

101A At the end of subsection 1130(3)

Add:

; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

101B At the end of subsection 1130C(3)

Add:

; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

101C At the end of subsection 1132(3)

Add:

; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

Schedule 3, page 87 (after line 19), after item 104, insert:

Superannuation Act 1976

104A After paragraph 51(2)(d)

Insert:

(da) a period of leave of absence because of a service injury or disease (within the meaning of the *Military Rehabilitation and Compensation Act 2004*) in respect of which the person is receiving compensation under section 86 (part-time Reservists) or 127 (former member maintained in hospital) of that Act;

104B Section 54A (after paragraph (a) of the definition of compensation leave)

Insert:

(aa) if the *Military Rehabilitation and Compensation Act 2004* applies in relation to the eligible employee—compensation is payable under section 86 (part-time Reservists) or 127 (former member maintained in hospital) of that Act; or

104C At the end of section 54G

Add:

(2) If the request to the Board was made in relation to a condition in respect of which the eligible employee is entitled to receive compensation under the *Military Rehabilitation and Compensation Act 2004*, the Board may, subject to subsection 54H(1), also ascertain the views of the Military Rehabilitation and Compensation Commission as to whether or not the employee be retired because he or she is totally and permanently incapacitated.

104D Subsection 54H(1)

After “a licensed administering authority”, insert “or the views of the Military Rehabilitation and Compensation Commission”.

104E Paragraph 54H(2)(a)

After “section 54G”, insert “and any views given to the Board under that section”.

104F After subsection 54JA(6)

Insert:

- (6A) If the matter under consideration relates to a condition in respect of which the person is, or was, entitled to receive compensation under the *Military Rehabilitation and Compensation Act 2004*, the Board may ascertain, in relation to that matter, the views of the Military Rehabilitation and Compensation Commission.

104G Subsection 78A(1)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “or the *Military Rehabilitation and Compensation Act 2004*”.

Requests:

That the House of Representatives be requested to make the following amendments:

Schedule 1, page 27 (after line 35), after item 16, insert:

16A Subsection 23(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{worked out under section 115D}} \right)$$

16B Subsection 24(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{worked out under section 115D}} \right)$$

16C Application of items 16A and 16B

The amendments made by items 16A and 16B apply from the pension period that begins after those items commence.

Schedule 1, page 33 (after line 18), after item 39, insert:

39A Section 115D

Repeal the section, substitute:

115D Reduced daily pension amount—pensions under Parts II and IV

Application and overview of this section

- (1) This section applies to a veteran who is engaged in remunerative work of more than 8 hours per week as a result of undertaking a vocational rehabilitation program under the Veterans’ Vocational Rehabilitation Program. The section sets out how to work out the veteran’s reduced daily pension amount. This amount is used to work out the rate of pension payable under sections 23 and 24.

Note: This section does not apply to certain veterans (see subsections (5) and (6)).

Reduced daily pension amount during the initial period

- (2) A veteran's **reduced daily pension amount** for a pension period that occurs within the initial period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \text{Veteran's taper amount} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount during the second period

- (3) A veteran's **reduced daily pension amount** for a pension period that occurs within the second period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \text{Veteran's taper amount} \right) \times \left(2 - \text{CPI amount} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount 5 years after the initial period

- (4) A veteran's **reduced daily pension amount** for a pension period that occurs more than 5 years after the end of the initial period is nil.

Note: The Commission can increase a reduced daily pension amount under section 115F.

Veteran who is unemployed for at least 2 weeks

- (5) This section does not apply to a veteran who is unemployed for a continuous period of at least 2 weeks in respect of the pension periods within that 2 week period.

Veteran who is blinded in both eyes

- (6) This section does not apply to a veteran for a pension period if the veteran is receiving a pension for the period at the special rate because of subsection 24(3).

Definitions

(7) In this section:

CPI amount means the amount worked out using the following formula:

$$\frac{20}{20 - \text{Number of CPI indexation days that have occurred since the beginning of the second period}}$$

daily above general rate for a veteran means the rate worked out using the following formula:

$$\frac{\text{Veteran's pension rate on commencement} - \text{General rate}}{14}$$

initial period for a veteran means the period:

- (a) that begins on the day after the day the veteran first commenced remunerative work as a result of undertaking a vocational rehabilitation program; and
- (b) that ends immediately before the first CPI indexation day that occurs more than 2 years after that day.

pension rate on commencement for a veteran means the rate of pension under this Act that was payable to the veteran on the day on which the veteran commenced his or her vocational rehabilitation program.

second period means the period:

- (a) that begins immediately after the initial period; and
- (b) runs for 5 years.

taper amount for a veteran means:

- (a) if the veteran's average weekly hours are 40 hours or more—nil; and
- (b) otherwise—the amount worked out using the following formula:

$$\frac{40 - \text{Veteran's average weekly hours}}{32}$$

39B Subsection 115E(1)

Omit “the application of the pension reduction amount to the rate”, substitute “the application of section 115D in respect of the rate”.

Note: The heading to section 115E is replaced by the heading “**Application for increase in reduced daily pension amount**”.

39C Subsection 115E(2)

Omit “to have the pension reduction amount reduced”, substitute “to have the reduced daily pension amount under section 115D increased”.

39D Subsection 115F(2)

Repeal the subsection, substitute:

- (2) If this section applies, the Commission may increase in writing the veteran's reduced daily pension amount under section 115D, for a past, present or future pension period, to the amount that the Commission is satisfied results in the work and pension income rate being equal to the unaffected pension rate.

Bill, as amended, agreed to, subject to requests.

Bills to be reported with amendments and requests.

The Acting Deputy President (Senator McLucas) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of Senator Kemp the report from the committee was adopted.

22 AGE DISCRIMINATION BILL 2003**AGE DISCRIMINATION (CONSEQUENTIAL PROVISIONS) BILL 2003**

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

AGE DISCRIMINATION BILL 2003—

Consideration resumed of the bill, as amended—and of the amendments moved by Senator Greig:

Clause 33, page 29 (line 13), after “intended”, insert “and reasonably required”.

Clause 33, page 29 (line 20), after “intended”, insert “and reasonably required”.

Debate ensued.

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

Senator Greig moved the following amendment:

Clause 37, page 31 (line 30) to page 32 (line 10), omit subclauses (4) and (5).

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Greig moved the following amendment:

Clause 39, page 33 (lines 22 to 30), omit subclause (8), substitute:

- (8) This Part does not make unlawful anything done by a person:
- (a) in direct compliance with any of the following:
 - (i) an order or award of a court or tribunal having power to fix minimum wages;
 - (ii) a certified agreement (within the meaning of the *Workplace Relations Act 1996*);
 - (iii) an Australian workplace agreement (within the meaning of the *Workplace Relations Act 1996*); and

- (b) during the period:
 - (i) beginning on the day on which this Act commences; and
 - (ii) ending 2 years after that day.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Greig moved the following amendment:

Page 46 (after line 5), after Part 6, insert:

Part 6A—Age Discrimination Commissioner

53A Age Discrimination Commissioner

- (1) There shall be an Age Discrimination Commissioner, who shall be appointed by the Governor-General.
- (2) A person is not qualified to be appointed as the Age Discrimination Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.

53B Terms and conditions of employment

- (1) Subject to this section, the Commissioner holds office for such period, not exceeding 7 years, as is specified in the instrument of the person's appointment, but is eligible for re-appointment.
- (2) The Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

53C Remuneration of Commissioner

- (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Remuneration Tribunal is in operation, the Commissioner shall be paid such remuneration as is prescribed.
- (2) The Commissioner shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

53D Leave of absence

- (1) The Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

53E Outside employment

The Commissioner shall not, except with the approval of the Minister, engage in paid employment outside the duties of the office of Commissioner.

53F Resignation

The Commissioner may resign from the office of Commissioner by writing delivered to the Governor-General.

53G Termination of employment

- (1) The Governor-General may terminate the appointment of the Commissioner by reason of misbehaviour or of physical or mental incapacity.
- (2) The Governor-General shall terminate the appointment of the Commissioner if the Commissioner:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or
 - (c) engages in paid employment outside the duties of the office of Commissioner otherwise than with the consent of the Minister.

53H Acting Commissioner

- (1) The Minister may appoint a person to act as Commissioner:
 - (a) during a vacancy in the office of Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Commissioner is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Commissioner.
- (2) The validity of anything done by a person purporting to act pursuant to an appointment made under subsection (1) shall not be called in question on the ground that the occasion for the person's appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

53I Delegation

- (1) The Commission may, by writing under its seal, delegate to a member of its staff, or to another person, all or any of the powers conferred on the Commission under this Act.
- (2) The Commissioner may, by writing signed by the Commissioner, delegate to a member of the staff of the Commission approved by the Commission, or to another person approved by the Commission, all or any of the powers exercisable by the Commissioner under this Act.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Bill, as amended, agreed to.

AGE DISCRIMINATION (CONSEQUENTIAL PROVISIONS) BILL 2003—

Bill, taken as a whole by leave, agreed to.

The Age Discrimination Bill 2003 to be reported with amendments and the Age Discrimination (Consequential Provisions) Bill 2003 to be reported without amendments.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the report from the committee was adopted and the bills read a third time.

23 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 5 (Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]).

Question put and passed.

24 TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003 [NO. 2]

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That this bill be now read a second time.

Debate resumed.

At 9.50 pm: Debate was interrupted while Senator Ludwig was speaking.

25 ADJOURNMENT

The Acting Deputy President (Senator Cherry) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.20 pm till Tuesday, 30 March 2004 at 12.30 pm.

26 ATTENDANCE

Present, all senators except Senator Heffernan.

HARRY EVANS
Clerk of the Senate