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1 MEETING OF SENATE

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 PETITIONS

The following 10 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Bartlett, from 136 petitioners, requesting that the Senate support the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003.

Senator Faulkner, from 12 523 petitioners, requesting that the Senate take action to ensure priority funding to public schools to enable them to continue to provide high quality education to all, regardless of wealth, location, ethnicity, religion or special needs.

Senator Ridgeway, from 159 petitioners, requesting that the Senate oppose any legislation to abolish the Aboriginal and Torres Strait Islander Commission.

Senator Ridgeway, from 2 petitioners, requesting that the Senate adopt as its guiding principle the rule of natural law and spirituality.

Senator Ridgeway, from 2 petitioners, requesting that the Senate initiate an inquiry into the legal authority of the Federal Parliament.

Senator Stott Despoja, from 9 471 petitioners, requesting that the Senate act to extend the Educational Textbook Subsidy Scheme indefinitely.

Senator Stott Despoja, from 2 196 petitioners, requesting that the Senate pass legislation to provide a national system of Government-funded paid maternity leave which provides at least a 14-week payment for working women, with minimal exclusions.

Senator Wong, 3 petitions similar in wording, from 93, 148 and 278 petitioners, requesting that the Senate take action to ensure that the funding policies of the Commonwealth Government are reformed to provide increased and fairer funding for public schools.

3 NOTICE

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

(a) notes:

- (i) the proposed memorandum of understanding between Australia and the United States of America (US) on missile defence,
- (ii) the Senate resolutions of 29 June 2000, 1 March 2001, and 30 August 2001 on missile defence,
- (iii) that the use of nuclear weapons in space is prohibited by the Outer Space Treaty, signed by Australia in January 1967,
- (iv) Australia's support for the 13 steps in the final declaration of the 2000 Nuclear Non-Proliferation Treaty Review Conference, and
- (v) that the proliferation of weapons of mass destruction and missile delivery systems is a serious international security issue; and

(b) urges the Government not to sign the proposed 25-year missile defence research, development, trials and operation agreement with the US until and unless:

- (i) a public inquiry has been conducted by a Senate committee, and
- (ii) the agreement is approved by both the House of Representatives and the Senate. (*general business notice of motion no. 935*)

4 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 11 Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004.

Family and Community Services and Veterans' Affairs Legislation Amendment (Sugar Reform) Bill 2004.

No. 12 Health Legislation Amendment (Podiatric Surgery and Other Matters) Bill 2004.

No. 13 Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Bill 2004.

No. 15 Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004.

No. 14 Excise and Other Legislation Amendment (Compliance Measures) Bill 2004.

Customs Legislation Amendment (Airport, Port and Cargo Security) Bill 2004.

Question put and passed.

The Chair of the Economics References Committee (Senator Stephens), by leave, moved—That business of the Senate order of the day no. 1, relating to the presentation of the report of the committee on the structure and distributive effects of the Australian taxation system, be postponed till a later hour.

Question put and passed.

5 CORPORATE CODE OF CONDUCT BILL 2004—EXPOSURE DRAFT

Senator Stott Despoja, by leave, tabled the following documents:

Corporate Code of Conduct Bill 2004—

Explanatory statement.

Exposure draft.

6 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—PROPOSED REFERENCE

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—That the following matters be referred to the Community Affairs Legislation Committee for inquiry and report by 29 November 2004:

- (a) the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2];
- (b) the social and economic implications of increasing the co-payment for Pharmaceutical Benefits Scheme listed medicines, including the long-term implications for the health of Australians; and
- (c) any related matters.

Question put.

The Senate divided—

AYES, 12

Senators—

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

NOES, 43

Senators—

Barnett	Cook	Hutchins	Payne
Bishop	Coonan	Kirk	Ray
Buckland	Crossin	Knowles	Santoro
Calvert	Eggleston	Lightfoot	Sherry
Campbell, George	Evans	Ludwig	Stephens
Campbell, Ian	Ferguson	Macdonald, Sandy	Tchen
Carr	Ferris (Teller)	Marshall	Troeth
Chapman	Fifield	Mason	Watson
Colbeck	Forshaw	McLucas	Webber
Collins	Hogg	Moore	Wong
Conroy	Humphries	O'Brien	

Question negatived.

7 EDUCATION—EDUCATIONAL TEXTBOOK SUBSIDY SCHEME

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 928—That the Senate—

(a) notes that:

- (i) the University of New South Wales (UNSW) and Monash University bookshops were joint winners of the 2003 Australian Tertiary Bookshop of the Year award,
- (ii) being a winner, the UNSW bookshop also recognises that students will be losers when the Educational Textbook Subsidy Scheme ceases on 30 June 2004 and has been trying to meet the demand of students who wish to purchase textbooks before prices rise,
- (iii) the UNSW bookshop is concerned about the effect of the closure of the scheme on students' access to educational resources at a time of increasing higher education contribution scheme fees and is saddened by the discontinuation of a successful scheme, and
- (iv) booksellers will soon face the additional cost of updating or modifying their software, as they did 4 years ago, to accommodate the closure of the scheme;

(b) condemns the Government for effectively introducing a new tax from 1 July 2004, which will result in students paying price increases of up to 10 per cent; and

(c) urges the Government to extend the scheme.

Question put.

The Senate divided—

AYES, 11

Senators—

Allison (Teller)	Cherry	Murphy	Ridgeway
Bartlett	Greig	Murray	Stott Despoja
Brown	Harradine	Nettle	

NOES, 35

Senators—

Bishop	Collins	Hutchins	Payne
Boswell	Cook	Kirk	Ray
Brandis	Coonan	Knowles	Stephens
Buckland	Crossin	Ludwig	Tchen
Calvert	Ferguson	Marshall	Troeth
Campbell, George	Ferris (Teller)	Mason	Watson
Carr	Fifield	McLucas	Webber
Chapman	Forshaw	Moore	Wong
Colbeck	Humphries	Patterson	

Question negatived.

8 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—PROPOSED REFERENCE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the Australian Energy Market Bill 2004 and the Trade Practices Amendment (Australian Energy Market) Bill 2004 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 31 August 2004, with particular reference to the constitutional implications and legal precedents that will be established by giving the South Australian Parliament the ability to modify Commonwealth law, regulations and rules.

Question put.

The Senate divided—

AYES, 10

Senators—

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

NOES, 34

Senators—

Bishop	Collins	Hutchins	Ray
Boswell	Cook	Knowles	Stephens
Brandis	Coonan	Ludwig	Tchen
Buckland	Crossin	Marshall	Troeth
Calvert	Ferguson	Mason	Watson
Campbell, George	Ferris (Teller)	McLucas	Webber
Carr	Fifield	Moore	Wong
Chapman	Forshaw	Patterson	
Colbeck	Humphries	Payne	

Question negatived.

9 ENVIRONMENT—NATIONAL WATER INITIATIVE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 934—That the Senate—

- (a) notes that the Council of Australian Governments (COAG) agreed in August 2003 to develop a national water initiative which would:
 - (i) ‘ensure ecosystem health by implementing regimes to protect environmental assets at a whole-of-basin, aquifer or catchment scale’, and
 - (ii) include ‘firm pathways and open processes’ for returning over-allocated surface and groundwater systems to environmentally-sustainable levels of extraction; and
- (b) calls on COAG to reject any agreement on the national water initiative which fails to ensure ecosystem health or to provide firm pathways, including clear timelines, and open processes for reducing extraction from over-allocated surface and groundwater systems to environmentally-sustainable levels.

Question put and passed.

10 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—REFERENCE

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the budgetary and environmental implications of the Government’s Energy White Paper be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 2 September 2004.

Question put and passed.

11 FOREIGN AFFAIRS—PEOPLE’S MOJAHEDIN ORGANISATION OF IRAN

Senator Allison, at the request of Senator Cherry and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 911—That the Senate—

- (a) notes that:
 - (i) on 15 January 2004, 220 members of the British House of Commons and 85 members of the House of Lords issued a joint statement supporting the removal of the terrorist tag from the People’s Mojahedin Organisation of Iran (PMOI), recognising that the PMOI was ‘an essential part of the drive to halt the advance of fundamentalism in Iraq and the region’,
 - (ii) the British parliamentarians expressed the opinion that the deportation of any PMOI members from Iraq would be contrary to international law,
 - (iii) on 8 June 2004, the majority of the Belgian Senate, by way of a statement signed by 41 senators, called on the European Union to remove the PMOI from its list of terrorist organisations, and
 - (iv) on 10 June 2004, a majority of members of the Parliament of Luxembourg, in an all-party joint statement, called on the European Union to removed the PMOI from its list of terrorist organisations; and
- (b) calls on the Australian Government to:
 - (i) acknowledge the important role that the PMOI has to play in halting the advance of fundamentalism in Iraq and the region,

- (ii) call on the European Union, the United Kingdom and the United States of America to remove the PMOI from their terrorist lists,
- (iii) remove the PMOI and its affiliate organisations from the Charter of the United Nations (Anti-terrorism—Persons and Entities) List, and
- (iv) express its strong opposition to the decision of the Iraqi Governing Council to expel PMOI members from Iraq, which would constitute a breach of international law and the Fourth Geneva Convention.

Question put and negatived.

12 HEALTH—MIDWIVES

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 932—That the Senate—

- (a) acknowledges that midwives have a critical role to play in birthing services, especially given the shortage of obstetricians and an increase in invasive caesarean section procedures;
- (b) notes that:
 - (i) there is a chronic shortage of obstetricians, especially in rural, remote and outer suburban areas,
 - (ii) 60 per cent of births involve no complications and can be safely performed by midwives,
 - (iii) a 2002 report estimated a national shortage of more than 1 800 midwives,
 - (iv) 386 registered midwives are not currently practicing, primarily due to the lack of medical indemnity insurance,
 - (v) caesarean sections have been identified by the World Health Organization as occurring at twice the desirable level, and
 - (vi) increasingly, women are embracing non-medical and non-invasive births; and
- (c) calls on the Federal Government to:
 - (i) recognise the Victorian Government's decision to fund midwifery birthing units as positive,
 - (ii) include midwives in the 2002 Medical Indemnity package to increase the number of registered and practicing midwives, and
 - (iii) increase funding for training services for midwives, to address the current shortage.

Question put and passed.

13 LANDS ACQUISITION AMENDMENT REGULATIONS 2004—MOTION FOR DISALLOWANCE

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the Lands Acquisition Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 82 and made under the *Lands Acquisition Act 1989*, be disallowed.

Question put and negatived.

14 **POSTPONEMENT**

Senator Stott Despoja, by leave, moved—That general business notice of motion no. 927 standing in her name for today, relating to human rights in Colombia, be postponed till the next day of sitting.

Question put and passed.

15 **PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL**

Motion determined as not formal: The Minister for Local Government, Territories and Roads (Senator Ian Campbell), at the request of Minister for Defence (Senator Hill), asked that government business notice of motion no. 1 standing in the name of Senator Hill for today, relating to a proposal for capital works in the parliamentary zone, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

16 **CRIMES LEGISLATION AMENDMENT (TELECOMMUNICATIONS OFFENCES AND OTHER MEASURES) BILL 2004**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That the following bill be introduced:

A Bill for an Act to amend the *Criminal Code Act 1995*, and for related purposes.

Question put and passed.

Senator Ian Campbell presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Ian Campbell moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ian Campbell tabled an explanatory memorandum relating to the bill.

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.

17 **ENVIRONMENT—VIDEOPHONE FACILITIES—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 930—That there be laid on the table, by 3 pm on 30 June 2004, the following documents:

- (a) all correspondence between Environment Australia and Hutchison 3G in relation to the installation of videophone facilities in Oatley Park; and
- (b) all correspondence between Environment Australia and Telstra in relation to the installation of videophone facilities in Leichardt and Coogee.

Question put and passed.

18 CONSIDERATION OF LEGISLATION

Motion determined as not formal: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) requested that government business notice of motion no. 3 standing in his name for today, relating to consideration of legislation, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

Statement by leave: Senator Brown, by leave, made a statement relating to the motion.

19 HUMAN RIGHTS—CHILDREN

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 931—That the Senate—

- (a) notes that:
 - (i) it is estimated that at least 300 000 children under the age of 18 are currently taking part in armed conflicts around the world,
 - (ii) more than 2 million children have been killed in armed conflicts in the past decade, with a further 6 million seriously injured or permanently disabled,
 - (iii) an Optional Protocol to the Convention on the Rights of the Child has been developed that ‘prohibits governments that have signed up and armed groups from using children under the age of 18 in conflict’, and
 - (iv) Australia signed the Optional Protocol on the Involvement of Children in Armed Conflict on 21 October 2002, but has so far failed to ratify the Optional Protocol; and
- (b) calls on the Australian Government to ratify the Optional Protocol without further delay.

Question put and passed.

20 CONVENTIONAL WEAPONS TREATIES

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 929—That the Senate—

- (a) notes:
 - (i) the Senate resolution of 8 October 2003 that called on the Australian Government to support the development of a Protocol to the ‘Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects’ to prevent the creation of explosive remnants of war and reduce their impact on humanity,
 - (ii) that on Friday, 28 November 2003, the 92 nations that are signatories to this Convention adopted Protocol V to the Convention to deal with cleaning up explosive remnants of war after a conflict ends, and
 - (iii) that thousands of civilians continue to be killed and maimed by explosive remnants of war each year; and
- (b) calls on the Australian Government to sign and ratify Protocol V of the Convention without delay.

Question put and negatived.

21 PUBLICATIONS—STANDING COMMITTEE—18TH REPORT

Senator Ferris, at the request of the Chair of the Standing Committee on Publications (Senator Colbeck), tabled the following report:

PUBLICATIONS COMMITTEE

18TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the House of Representatives.

The Committee, having considered documents presented to Parliament since 13 May 2004, recommends that the following be printed:

Australian Competition and Consumer Commission—Telecommunications reports—2002-03—Report 1: Telecommunications competitive safeguards; Report 2: Changes in prices paid for telecommunications services in Australia; Report 3: Telstra's compliance with price control arrangements.

Australian Institute of Health and Welfare—Report—Australia's health 2004—Ninth biennial report.

Australian Law Reform Commission—Report—No. 98—Keeping secrets: The protection of classified and security sensitive information, June 2004.

Australian Maritime College—Report for 2003.

Australian National University—Report for 2003.

Department of Communications, Information Technology and the Arts—Report—Review of the operation of Schedule 5 to the *Broadcasting Services Act 1992* [Online content co-regulatory scheme], March 2004.

Human Rights and Equal Opportunity Commission—A last resort?—Report of the national inquiry into children in immigration detention, April 2004.

Judge Advocate General—Report for 2003.

National Health and Medical Research Council—Report for 2003.

Native Title Act 1993—Native title representative bodies—Carpentaria Land Council Aboriginal Corporation—Report for 2002-03.

Productivity Commission—Report—No. 28—First home ownership, 31 March 2004.

Senator Richard Colbeck

Chairman

24 June 2004.

Senator Ferris moved—That the report be adopted.

Question put and passed.

**22 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL
ESTIMATES 2003-04**

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled additional information received by the committee (Additional estimates 2003-04—vol. 1).

**23 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—
ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2003-04**

Senator Ferris, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald), tabled additional information received by the committee (Additional estimates 2003-04—vols 1 and 2).

**24 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—REPORT—
TRAFFICKING OF WOMEN FOR SEXUAL SERVITUDE**

Senator Ferris, on behalf of the Parliamentary Joint Committee on the Australian Crime Commission, tabled the following report and documents:

Australian Crime Commission—Joint Statutory Committee—Trafficking of women for sexual servitude—Report, dated June 2004, *Hansard* record of proceedings [4 vols] and submissions [39].

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

Senator Ferris moved—That the Senate take note of the report.

Debate adjourned till the next day of sitting, the Leader of the Australian Democrats (Senator Bartlett) in continuation.

**25 NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—
JOINT STATUTORY COMMITTEE—REPORT—EXAMINATION OF ANNUAL REPORTS
FOR 2002-2003**

Senator Ferris, at the request of the Chair of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (Senator Johnston), tabled the following report and documents:

Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—Examination of annual reports for 2002-2003—Report, dated June 2004 and *Hansard* record of proceedings [2 vols].

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

Debate adjourned till the next day of sitting, Senator Ferris in continuation.

**26 SUPERANNUATION LEGISLATION AMENDMENT (CHOICE OF SUPERANNUATION
FUNDS) BILL 2003**

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:

Message no. 627, dated 23 June 2004—Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2003.

27 SUPERANNUATION LAWS AMENDMENT (2004 MEASURES NO. 2) BILL 2004

A message from the House of Representatives was reported disagreeing to the amendments made by the Senate to the following bill:

Message no. 628, dated 23 June 2004—Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004.

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for a later hour.

28 TAXATION LAWS AMENDMENT BILL (NO. 7) 2003

A message from the House of Representatives was reported as follows:

Message no. 629, dated 23 June 2004—Taxation Laws Amendment Bill (No. 7) 2003, agreeing to the amendments made and insisted on by the Senate and disagreeing to a further amendment.

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for a later hour.

29 CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003

A message from the House of Representatives was reported as follows:

Message no. 630, dated 23 June 2004—Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003, agreeing to amendments nos 1 to 11, 21 to 27, 35, 37 to 42, 45 to 84, 87 to 90, 93 to 107, 111 to 113, 120 to 126, 128, 129, 131 to 133, 136, 148 to 153, 179 to 222 and 224 made by the Senate and disagreeing to amendments nos 12 to 20, 28 to 34, 36, 43, 44, 85, 86, 91, 92, 108 to 110, 114 to 119, 127, 130, 134, 135, 137 to 147, 154 to 178, 223 and 225.

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for a later hour.

30 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—REPORT—BUDGET ESTIMATES 2004-05

Pursuant to order, Senator Eggleston, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald), tabled the following report and documents:

Foreign Affairs, Defence and Trade Legislation Committee—2004-05 Budget estimates—Report, dated June 2004 and *Hansard* record of proceedings [5 vols].

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

31 FREE TRADE AGREEMENT—AUSTRALIA AND THE UNITED STATES OF AMERICA—SELECT COMMITTEE—INTERIM REPORT

Pursuant to order, the Chair of the Select Committee on the Free Trade Agreement between Australia and the United States of America (Senator Cook) tabled the following report:

Free Trade Agreement—Australia and the United States of America—Select Committee—Interim report, dated June 2004.

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

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

Debate ensued.

Debate adjourned, Senator Murphy in continuation.

32 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL

Statement by President: The President made a statement relating to proposed capital works in the parliamentary zone.

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Defence (Senator Hill) and pursuant to notice, moved government business notice of motion no. 1—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Department of Parliamentary Services to enhance the security around Parliament House.

Debate ensued.

Question put and passed.

33 CONSIDERATION OF LEGISLATION

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 3—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Australian Energy Market Bill 2004 and Trade Practices Amendment (Australian Energy Market) Bill 2004

Customs Legislation Amendment (Airport, Port and Cargo Security) Bill 2004

Family and Community Services and Veterans' Affairs Legislation Amendment (Sugar Reform) Bill 2004

Higher Education Legislation Amendment Bill (No. 2) 2004

Debate ensued.

Question put and passed.

34 CUSTOMS LEGISLATION AMENDMENT (AIRPORT, PORT AND CARGO SECURITY) BILL 2004

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 626, dated 23 June 2004—A Bill for an Act to amend customs legislation, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Ellison moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ellison tabled a revised explanatory memorandum relating to the bill.

On the motion of Senator Buckland the debate was adjourned.

On the motion of Senator Ellison the resumption of the debate was made an order of the day for a later hour.

**35 FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION
AMENDMENT (INCOME STREAMS) BILL 2004**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Family and Community Services (Senator Patterson) the bill was read a third time.

36 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Family and Community Services (Senator Patterson) moved—That intervening business be postponed till after consideration of the government business order of the day relating to the Higher Education Legislation Amendment Bill (No. 2) 2004.

Question put and passed.

37 HIGHER EDUCATION LEGISLATION AMENDMENT BILL (NO. 2) 2004

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Senator Stott Despoja moved the following amendment:

At the end of the motion, add “but the Senate:

(a) notes that:

- (i) to date, 23 universities have announced that they will increase their higher education contribution scheme (HECS) fees, most of them by the full 25 per cent across all disciplines,
- (ii) increasing HECS fees will further deter students from low socio-economic backgrounds, and
- (iii) by 2008, the Government’s policy ‘Backing Australia’s future: Our universities’ will have shifted more than \$1 billion of the costs of higher education to students through HECS fees increases and increases in domestic full-fee paying student numbers; and

(b) condemns the Commonwealth Government for:

- (i) the failure of ‘Backing Australia’s future: Our universities’ to produce a diverse level of HECS fees in 2005 across the higher education sector through the partial deregulation of HECS as stated by the Minister for Education, Science and Training (Mr Nelson), and
- (ii) under-funding universities for the past 8 years to such an extent that universities are now turning to students to provide a short-term increase in funding”.

Senator Stott Despoja, by leave, amended the amendment as follows:

Omit paragraph (b)(i).

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

Main question, as amended, put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) the bill was read a third time.

38 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) moved—That intervening business be postponed till after consideration of government business notice of motion no. 4 proposing the restoration of the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2] to the *Notice Paper*.

Question put and passed.

39 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]—RESTORATION TO NOTICE PAPER

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), at the request of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 4—That the second reading of the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2] be restored to the *Notice Paper* and be made an order of the day for a later hour.

Debate ensued.

At 12.45 pm: Debate was interrupted while Senator Nettle was speaking.

40 AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL) BILL 2004

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

The Leader of the Australian Democrats (Senator Bartlett) moved the following amendment:

At the end of the motion, add “but the Senate believes that the live animal export trade involves unacceptable levels of cruelty to animals and should be phased out over the next 5 years, by 31 December 2009”.

Debate ensued.

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

Main question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Brown moved the following amendments together by leave:

Schedule 1, item 2, page 5 (after line 7), before the definition of *associate*, insert:

animal means any member, alive or dead, of the animal kingdom, other than a human being.

Schedule 1, page 5 (after line 34), after item 3, insert:

3A At the end of subsection 10(1)

Add “, but not so as to permit an eligible live animal, including live-stock, to be delivered for slaughter at a place outside of Australia”.

Schedule 1, page 5 (after line 34), after item 3, insert:

3B At the end of subsection 12(1)

Add:

; and (f) the applicant will not deliver an eligible live animal, including live-stock, for slaughter at a place outside of Australia.

Debate ensued.

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

On the motion of Senator Forshaw the following amendment was debated and agreed to:

Page 17 (after line 3), at the end of the Schedule, add:

Part 4—Report to Parliament on live-stock mortality

Australian Meat and Live-stock Industry Act 1997

25 At the end of Part 2

Add:

Division 5—Report to Parliament

57AA Report to Parliament

- (1) Within one month after the end of each reporting period (see subsection (5)), the Secretary must give the Minister a report in accordance with subsection (2).
- (2) The report must contain the information set out in subsection (3) that has been provided to the Secretary during the reporting period in relation to the carriage of live-stock on any voyage to a port outside Australia (whether or not during the reporting period).
- (3) The information is to be based on reporting by the master of the ship under the Marine Orders (see subsection (5)) and is to set out the following:
 - (a) the name of the exporter;
 - (b) the month and year in which the completion of the loading of the live-stock occurred;
 - (c) the port or ports at which the loading took place;
 - (d) the port or ports at which the live-stock were discharged;
 - (e) the month and year in which the completion of the discharge of the live-stock occurred at each port;
 - (f) duration of the voyage;
 - (g) the type or types of live-stock;
 - (h) the number of each type of live-stock loaded;

- (i) the total mortality for each type of live-stock;
 - (j) the percentage mortality for each type of live-stock;
 - (k) any action taken by the Secretary in relation to the exporter as a result of the reporting by the master of the ship.
- (4) The Minister must arrange for a copy of the report to be tabled in each House of the Parliament within 15 sitting days of the House after the report is given to the Minister.
- (5) In this section:
- Marine Orders* means orders under subsection 425(1AA) of the *Navigation Act 1912*.
- reporting period* means:
- (a) the period of 6 months starting on 1 July or 1 January (whichever occurs first) after the commencement of this section; and
 - (b) each subsequent period of 6 months.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

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

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the report from the committee was adopted and the bill read a third time.

41 FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION AMENDMENT (SUGAR REFORM) BILL 2004

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

42 HEALTH LEGISLATION AMENDMENT (PODIATRIC SURGERY AND OTHER MATTERS) BILL 2004

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 this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

43 INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT (LOW REGULATORY CONCERN CHEMICALS) BILL 2004

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of Senator Troeth the bill was read a third time.

44 VETERANS' ENTITLEMENTS AMENDMENT (DIRECT DEDUCTIONS AND OTHER MEASURES) BILL 2004

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 this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

45 EXCISE AND OTHER LEGISLATION AMENDMENT (COMPLIANCE MEASURES) BILL 2004

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 this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

Suspension of sitting: On the motion of Senator Troeth the sitting of the Senate was suspended till 2 pm.

At 2 pm—

46 QUESTIONS

Questions without notice were answered.

47 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION

Senator Allison, pursuant to standing order 74, asked the Minister representing the Minister for Agriculture, Fisheries and Forestry and the Minister for the Environment and Heritage (Senator Ian Macdonald) for an explanation of answers not being provided to questions on notice nos 2853 and 2854 (notice given 19 April 2004) relating to government advertising.

Senator Ian Macdonald indicated that the answers would be provided.

Senator Allison moved—That the Senate take note of the minister's response.

Question put and passed.

Senator Allison, pursuant to standing order 74, asked the Minister representing the Minister for the Environment and Heritage (Senator Ian Macdonald) for an explanation of answers not being provided to questions on notice nos 2855, 2856, 2857 and 2858 (notice given 19 April 2004) relating to the Natural Heritage Trust.

Senator Ian Macdonald indicated that an explanation would be provided.

Senator Allison moved—That the Senate take note of the minister's response.

Question put and passed.

Statement by leave: Senator Ian Macdonald, by leave, made a statement relating to the matter.

48 FAMILY AND COMMUNITY SERVICES—FAMILY PAYMENT DEBTS—WOMEN—VIOLENCE—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 payment debts and to a booklet concerning violence against women.

Debate ensued.

Question put and passed.

49 PARLIAMENTARY COMMITTEE REPORTS—PRESIDENT'S REPORT—GOVERNMENT RESPONSES OUTSTANDING

The Acting Deputy President (Senator Knowles) tabled the following document:

President's report to the Senate on government responses outstanding to parliamentary committee reports as at 24 June 2004.

50 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION—DOCUMENT

Senator Brown, by leave, tabled the following document:

Foreign affairs—Iraq—Military action—Petitioning document from 7 659 signatories demanding the withdrawal of Australian troops from Iraq.

51 AUDITOR-GENERAL—AUDIT REPORTS NOS 56 AND 57 OF 2003-04—DOCUMENTS

The Acting Deputy President (Senator Knowles) tabled the following documents:

Auditor-General—Audit reports for 2003-04—

No. 56—Performance audit—Management of the processing of asylum seekers: Department of Immigration and Multicultural and Indigenous Affairs.

No. 57—Business support process audit—Administration of freedom of information requests.

The Leader of the Australian Democrats (Senator Bartlett), by leave, moved—That the Senate take note of report no. 56.

Question put and passed.

52 INDEPENDENT AUDIT—AUSTRALIAN NATIONAL AUDIT OFFICE—DOCUMENT

The Acting Deputy President (Senator Knowles) tabled the following document:

Independent Auditor [KPMG]—Performance audit—Australian National Audit Office: Results of a performance audit of “value for money” provided by the ANAO, dated June 2004.

53 HEALTH—MIDWIFE SERVICES—DOCUMENT

The Acting Deputy President (Senator Knowles) tabled the following document:

Health—Midwife services—Letter to the President of the Senate from the New South Wales Minister for Health (Mr Iemma) responding to the resolution of the Senate of 3 March 2004, dated 17 June 2004.

**54 PARLIAMENTARY COMMITTEE REPORTS—GOVERNMENT RESPONSE—
PRESIDENT’S REPORT ON GOVERNMENT RESPONSES**

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) tabled the following document:

Government response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 4 December 2003, dated 24 June 2004.

55 DEPARTMENT OF DEFENCE—SPECIAL PURPOSE FLIGHTS—DOCUMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) tabled the following document:

Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2003.

56 PARLIAMENTARIANS’ TRAVEL COSTS—DOCUMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) tabled the following document:

Parliamentarians’ travel paid by the Department of Finance and Administration—July to December 2003, dated June 2004.

57 FORMER PARLIAMENTARIANS’ TRAVEL COSTS—DOCUMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) tabled the following document:

Former parliamentarians’ travel paid by the Department of Finance and Administration—July to December 2003, dated June 2004.

58 FORMER GOVERNORS-GENERAL TRAVEL COSTS—DOCUMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) tabled the following document:

Expenditure on travel by former Governors-General paid by the Department of the Prime Minister and Cabinet—1 July to 31 December 2003.

**59 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
REPORT—HUMAN RIGHTS AND GOOD GOVERNANCE EDUCATION IN THE ASIA
PACIFIC REGION**

Senator Payne, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled the following report:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Human rights and good governance education in the Asia Pacific Region—Report, dated June 2004.

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

Question put and passed.

**60 DEFENCE—OFFICE OF NATIONAL ASSESSMENTS REPORT—ORDER FOR
PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Revenue and Assistant Treasurer (Senator Coonan), by leave, made a statement relating to the order of the Senate of 23 June 2004 for the production of documents concerning the Office of National Assessments' report on the humanitarian impact of the war in Iraq (*see entry no. 29, 23 June 2004*).

Statements by leave: The Leader of the Opposition in the Senate (Senator Faulkner) and Senator Ray, by leave, made statements relating to the matter.

—————
At 4.30 pm—

61 SUPERANNUATION LAWS AMENDMENT (2004 MEASURES NO. 2) BILL 2004

Order of the day read for the consideration of message no. 628 from the House of Representatives in committee of the whole (*see entry no. 27*).

—————
In the committee

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 29

Senators—

Boswell	Ferris	Macdonald, Ian	Scullion
Brandis	Fifield	Macdonald, Sandy	Tchen
Campbell, Ian	Heffernan	Mason	Troeth
Chapman	Humphries	McGauran (Teller)	Vanstone
Coonan	Johnston	Minchin	Watson
Eggleston	Kemp	Patterson	
Ellison	Knowles	Payne	
Ferguson	Lightfoot	Santoro	

NOES, 32

Senators—

Allison	Cherry	Hogg	Murphy
Bartlett	Collins	Hutchins	Murray
Bishop	Conroy	Kirk	Nettle
Bolkus	Cook	Lees	Ray
Brown	Crossin (Teller)	Ludwig	Ridgeway
Buckland	Faulkner	Lundy	Stott Despoja
Campbell, George	Forshaw	McLucas	Webber
Carr	Greig	Moore	Wong

Question negatived.

Resolution to be reported.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 628 from the House of Representatives relating to the Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004 and had resolved to insist on the amendments made by the Senate to which the House had disagreed.

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

62 TAXATION LAWS AMENDMENT BILL (NO. 7) 2003

Order of the day read for the consideration of message no. 629 from the House of Representatives in committee of the whole (*see entry no. 28*).

In the committee

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its further amendment to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 629 from the House of Representatives relating to the Taxation Laws Amendment Bill (No. 7) 2003 and had resolved not to insist on the further amendment made by the Senate to which the House had disagreed.

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

63 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]—RESTORATION TO NOTICE PAPER

Order read for the adjourned debate on the motion of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) (*see entry no. 39*).

Debate resumed.

Question put.

The Senate divided—

AYES, 42

Senators—

Bishop	Eggleston	Kirk	Payne
Boswell	Evans	Knowles	Ray
Brandis	Ferguson	Lightfoot	Santoro
Buckland	Ferris	Ludwig	Scullion
Campbell, George	Fifield	Lundy	Tchen
Campbell, Ian	Forshaw	Macdonald, Sandy	Troeth
Carr	Heffernan	Mason	Watson
Chapman	Hogg	McGauran (Teller)	Webber
Collins	Humphries	McLucas	Wong
Coonan	Hutchins	Moore	
Crossin	Johnston	Patterson	

NOES, 10

Senators—

Allison (Teller)	Cherry	Murphy	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown	Lees		

Question agreed to.

64 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That this bill be now read a second time.

Debate ensued.

Senator Nettle moved the following amendment:

Omit all words after “That”, substitute “the Senate rejects this bill for the following reasons:

- (a) it will increase by more than 20 per cent the cost of essential medicines, hitting the sickest and poorest in our society;
- (b) Australian pensioners and concession cardholders will go without almost five million prescriptions, and Australian families will also go without almost half a million prescriptions as a result of the proposed increase;
- (c) by depriving sick and elderly Australians of the medicines they need, there will be an increased need for greater medical interventions in public hospitals and nursing homes at even greater cost to taxpayers;
- (d) there are other, more effective, means by which the long-term sustainability of the Pharmaceutical Benefits Scheme (PBS) could be assured, means which would put appropriate responsibility on the pharmaceutical industry and the medical profession rather than on those least able to bear the burden, and on which the Government has been silent since the 2004-05 Budget reply; and
- (e) the true rationale for the bill is to restore the budget bottom line and has nothing to do with the long-term sustainability of the PBS or with genuine health outcomes for Australians”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murphy	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown	Lees		

NOES, 39

Senators—

Bishop	Eggleston (Teller)	Kirk	Patterson
Brandis	Evans	Knowles	Payne
Buckland	Ferguson	Lightfoot	Santoro
Campbell, George	Ferris	Ludwig	Scullion
Campbell, Ian	Fifield	Lundy	Tchen
Carr	Forshaw	Macdonald, Ian	Troeth
Chapman	Heffernan	Macdonald, Sandy	Watson
Collins	Humphries	Mason	Webber
Coonan	Hutchins	McLucas	Wong
Crossin	Johnston	Moore	

Question negatived.

Senator Allison moved the following amendment:

At the end of the motion, add “but the Senate is of the opinion that the bill should not come into effect until the Government has reviewed and reported on the efficacy of the following alternative measures for maintaining the long-term viability of the Pharmaceutical Benefits Scheme (PBS):

- (a) the greater use of price-volume agreements with manufacturers;
- (b) encouraging price competition between generic manufacturers;
- (c) the initiation of regular reviews of the cost-effectiveness of listed drugs to ensure that drug prices reflect the most up-to-date clinical and utilisation information;
- (d) the tendering out of the wholesaling distribution of PBS medications;
- (e) increasing measures to ensure that doctors, pharmacists and consumers are routinely informed about less expensive, non-brand alternative medications and encouraged to use them; and
- (f) increasing preventative non-pharmaceutical and non-medical measures to prevent the development of health conditions, so that the need for the ongoing use of expensive drugs is reduced”.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murphy	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown	Lees		

NOES, 31

Senators—			
Bishop	Evans	Ludwig	Payne
Buckland	Ferguson	Lundy	Santoro
Campbell, Ian	Ferris	Macdonald, Sandy	Scullion
Carr	Fifield	Mason	Tchen
Chapman	Heffernan	McGauran	Troeth
Coonan	Hutchins	McLucas	Watson
Crossin	Johnston	Moore	Webber
Eggleston (Teller)	Lightfoot	Patterson	

Question negatived.

Main question put.

The Senate divided—

AYES, 31

Senators—			
Bishop	Evans	Ludwig	Payne
Buckland	Ferguson	Lundy	Santoro
Campbell, Ian	Ferris	Macdonald, Sandy	Scullion
Carr	Fifield	Mason	Tchen
Chapman	Heffernan	McGauran	Troeth
Coonan	Hutchins	McLucas	Watson
Crossin	Johnston	Moore	Webber
Eggleston (Teller)	Lightfoot	Patterson	

NOES, 10

Senators—			
Allison (Teller)	Cherry	Murphy	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown	Lees		

Question agreed to.

Bill read a second time.

Senator Ian Campbell moved—That consideration of the bill in committee of the whole be made an order of the day for a later hour.

Debate ensued.

Question put and passed.

65 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Leave refused: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) sought leave to move a motion to authorise the Parliamentary Joint Committee on the Australian Crime Commission to meet during the sitting of the Senate today.

An objection was raised and leave was not granted.

66 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]

Order of the day read for the consideration of the bill in committee of the whole.

In the committee

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, items 16 and 25 to 28.

Schedule 1, items 16 and 25 to 28 debated and agreed to.

Explanatory memorandum: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

On the motion of Senator Ian Campbell the following amendments, taken together by leave, were debated and agreed to:

Clause 2, page 1 (line 7) to page 2 (line 6), omit the clause, substitute:

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	1 January 2005.	1 January 2005

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

Schedule 1, item 20, page 5 (line 2), omit “2003”, substitute “2005”.

Schedule 1, item 24, page 5 (lines 10 to 22), omit the item, substitute:

24 Transitional provision relating to section 99G

The indexed amount for an amount to be indexed under section 99G of the *National Health Act 1953* on 1 January 2006 is to be worked out as if:

- (a) the amount to be indexed were the current figure for the purposes of the formula in subsection (3) of that section; and
- (b) the index number for the September quarter in 2004 were the previous index number for the purposes of the formula in subsection (4) of that section.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 16.

Question—That Schedule 1, item 16 stand as printed—put and negatived.

Senator Nettle moved the following amendments together by leave:

Page 2 (after line 11), after clause 3, add:

4 Review of operation of Act

- (1) The Minister must initiate, at the expiration of eight months after the day on which this Act receives the Royal Assent, an independent review of the socio-economic and health impacts of this Act.
- (2) The review required by subsection (1) must be completed within 11 months of the day on which this Act receives the Royal Assent.
- (3) In initiating the review required by this section, the Minister must call for nominations only from academic or scientific research institutions and, by written instrument, appoint a three person panel from nominations received.
- (4) The Minister must cause the instrument appointing the panel in accordance with subsection (3) to be tabled in each House of the Parliament.
- (5) Either House may, following a motion upon notice, pass a resolution disallowing the appointment notified in the instrument described in subsection (4). To be effective, the resolution must be passed within 5 sitting days of the House after a copy of the instrument of appointment was tabled in that House.
- (6) If neither House passes such a resolution, the instrument of appointment takes effect on the day immediately after the last day upon which such a resolution could have been passed.
- (7) Where:
 - (a) a notice referred to in subsection (5) is given with respect to an appointment; and
 - (b) at the expiration of the period during which a resolution disallowing the appointment could have been passed:
 - (i) the notice has not been withdrawn and the relevant motion has not been called on; or
 - (ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
 the appointment is deemed to have not been made.
- (8) If an instrument of appointment is not tabled in each House of Parliament in accordance with this section, it cannot take effect.

- (9) The review panel may only be appointed if the provisions of this section have been complied with.
- (10) The Minister must cause to be tabled in both Houses of the Parliament a copy of the report of the review within 15 sitting days of receiving the report.

Page 2 (after line 11), after clause 3, add:

5 Cessation of operation of Act

This Act, unless sooner repealed, ceases to operate at the expiration of 12 months after its commencement.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murphy	Ridgeway
Bartlett	Greig	Murray	
Brown	Lees	Nettle	

NOES, 38

Senators—

Barnett	Eggleston (Teller)	Knowles	Ray
Bishop	Evans	Ludwig	Santoro
Boswell	Faulkner	Lundy	Stephens
Brandis	Ferguson	Marshall	Tchen
Buckland	Fifield	Mason	Troeth
Campbell, George	Forshaw	McGauran	Watson
Chapman	Hogg	McLucas	Webber
Collins	Humphries	Moore	Wong
Cook	Hutchins	Patterson	
Crossin	Kirk	Payne	

Question negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of Senator Ian Campbell the report from the committee was adopted.

Senator Ian Campbell moved—That this bill be now read a third time.

Debate ensued.

Question put.

The Senate divided—

AYES, 42

Senators—

Barnett	Coonan	Humphries	Patterson
Bishop	Crossin	Hutchins	Payne
Boswell	Eggleston	Kirk	Stephens
Brandis	Evans	Knowles	Tchen
Buckland	Faulkner	Ludwig	Troeth
Calvert	Ferguson	Lundy	Vanstone
Campbell, George	Ferris	Marshall	Watson
Carr	Fifield	Mason	Webber
Chapman	Forshaw	McGauran (Teller)	Wong
Collins	Hill	McLucas	
Cook	Hogg	Moore	

NOES, 10

Senators—

Allison (Teller)	Cherry	Murphy	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown	Lees		

Question agreed to.

Bill read a third time.

67 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave and on behalf of the Parliamentary Joint Committee on the Australian Crime Commission, moved—That the Parliamentary Joint Committee on the Australian Crime Commission be authorised to hold a public meeting during the sitting of the Senate today, to take evidence for the committee's examination of the Australian Crime Commission annual report 2002-03.

Question put and passed.

68 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. 3 (Appropriation (Parliamentary Departments) Bill (No. 1) 2004-2005 and four related bills).

Question put and passed.

69 **APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 1) 2004-2005**

APPROPRIATION BILL (NO. 1) 2004-2005

APPROPRIATION BILL (NO. 2) 2004-2005

APPROPRIATION BILL (NO. 5) 2003-2004

APPROPRIATION BILL (NO. 6) 2003-2004

Order of the day read for the further consideration of the bills.

The Senate resolved itself into committee for the consideration of Appropriation Bill (No. 1) 2004-2005 and Appropriation Bill (No. 2) 2004-2005, to which amendments and requests for amendments were circulated in the Senate.

In the committee

APPROPRIATION BILL (NO. 1) 2004-2005—

Bill taken as a whole by leave.

The Leader of the Australian Democrats (Senator Bartlett) moved the following requests for amendments together by leave:

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

Schedule 1, page 11, Department of Education, Science and Training, omit “2,283,346”, substitute “2,308,346”.

Schedule 1, page 13, Department of Education, Science and Training, omit “1,299,930”, substitute “1,324,930”.

Schedule 1, page 64, Department of Education, Science and Training, omit “1,299,930”, substitute “1,324,930”.

Schedule 1, page 65, Department of Education, Science and Training, outcome 2, omit “865,018”, substitute “890,018”.

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

Bill agreed to.

APPROPRIATION BILL (NO. 2) 2004-2005—

Bill taken as a whole by leave.

On the motion of Senator Murray, also on behalf of the Leader of the Opposition in the Senate (Senator Faulkner), the following amendment was debated and agreed to:

Page 10 (after line 8), after clause 14, insert:

14A Advertising expenditure

- (1) Expenditure must not be made from amounts issued under this Act, or any other Act, for the purposes of an advertising or public information project, where the estimated or contracted cost of the project is \$100,000 or more, unless a statement is provided setting out:
 - (a) the purpose and nature of the project;
 - (b) the intended recipients of the information to be communicated by the project;
 - (c) who authorised or is to authorise the project;
 - (d) the manner in which the project is to be carried out;

- (e) who is to carry out the project;
 - (f) whether the project is to be carried out under a contract;
 - (g) whether such contract was let by tender;
 - (h) the estimated or contracted cost of the project;
- and certifying that the project conforms with the Audit guidelines.
- (2) For the purpose of subsection (1), a statement is provided when a minister:
 - (a) presents the statement to the Senate; or
 - (b) presents the statement to the President of the Senate under procedures of the Senate providing for the presentation of documents when the Senate is not sitting.
 - (3) In subsection (1), *Audit guidelines* means the principles and guidelines set out in appendix 1 of Report No. 12 of 1998-99 of the Auditor-General.

Bill, as amended, agreed to.

Appropriation Bill (No. 1) 2004-2005 to be reported without requests for amendments and Appropriation Bill (No. 2) 2004-2005 to be reported with an amendment.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Sandy Macdonald) reported accordingly.

On the motion of the Minister for Finance and Administration (Senator Minchin) the report from the committee was adopted and Appropriation (Parliamentary Departments) Bill (No. 1) 2004-2005, Appropriation Bill (No. 1) 2004-2005, Appropriation Bill (No. 2) 2004-2005, Appropriation Bill (No. 5) 2003-2004 and Appropriation Bill (No. 6) 2003-2004 read a third time.

70 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Communications Authority Act—Telecommunications (Freephone and Local Rate Numbers Auctions – Registration Charge) Determination 2004.

Australian Research Council Act—Determinations under section 51, dated 7 and 14 June 2004.

Civil Aviation Act—Civil Aviation Regulations—

Exemptions Nos CASA EX20/2004, CASA EX22/2004 and CASA EX25/2004.

Instruments Nos CASA 148/04, CASA 218/04, CASA 301/04, CASA 302/04, CASA 357/04 and CASA 358/04.

Medical Indemnity Act—

Medical Indemnity Subsidy Amendment Scheme 2004.

Premium Support Scheme 2004.

National Health Act—Private Patients' Hospital Charter.

71 COMMITTEES—CHANGES IN MEMBERSHIP

The Deputy President (Senator Hogg) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Minister for Finance and Administration (Senator Minchin), by leave, moved—
That senators be discharged from and appointed to committees as follows:

Community Affairs References Committee—

Appointed—

Substitute members: Senator Allison to replace Senator Lees and Senator Forshaw to replace Senator Moore for the committee's inquiry into aged care facilities

Participating members: Senators Lees and Moore

Economics Legislation Committee—

Appointed—

Substitute member: Senator Ridgeway to replace Senator Murray for the committee's inquiry into the provisions of the Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 scheme) Bill 2004 and a related bill

Participating member: Senator Murray

Finance and Public Administration References Committee—

Appointed—

Substitute member: Senator Murray to replace Senator Ridgeway for the committee's inquiry into government advertising and accountability

Participating member: Senator Ridgeway

Scrutiny of Bills—Standing Committee—

Appointed—Senator Marshall

Discharged—Senator Crossin.

Question put and passed.

72 PRIVILEGES—STANDING COMMITTEE—STATEMENT BY PRESIDENT—REFERENCE

The President made a statement relating to a matter of privilege raised by the Chair of the Community Affairs References Committee (Senator McLucas) concerning the unauthorised disclosure of a draft report of the committee and indicated that the committee had investigated the matter in accordance with the order of the Senate of 20 June 1996.

The President informed the Senate that, pursuant to the procedures provided by standing order 81 and resolutions of the Senate of 25 February 1988, he had determined that a motion relating to the matter may have precedence of all other business today.

Document: The President tabled the following document:

Privileges—Standing Committee—Reference—Letter from the Chair of the Community Affairs References Committee (Senator McLucas) to the President, dated 23 June 2004 and attachments.

Senator McLucas moved—That the following matter be referred to the Committee of Privileges:

Having regard to the letter dated 23 June 2004 from the Community Affairs References Committee to the President, whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to Hepatitis C and blood supply in Australia, and whether any contempt was committed in that regard.

Question put and passed.

73 GOVERNOR-GENERAL'S MESSAGES—ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

22 June 2004—Message—

No. 26—*Australian Federal Police and Other Legislation Amendment Act 2004* (Act No. 64, 2004).

No. 27—

Customs Tariff Amendment (Fuels) Act 2004 (Act No. 65, 2004)

Excise Tariff Amendment (Fuels) Act 2004 (Act No. 66, 2004).

No. 28—

Tax Laws Amendment (Personal Income Tax Reduction) Act 2004 (Act No. 67, 2004)

Age Discrimination Act 2004 (Act No. 68, 2004)

Postal Services Legislation Amendment Act 2004 (Act No. 69, 2004).

23 June 2004—Message—

No. 29—

Farm Household Support Amendment Act 2004 (Act No. 70, 2004)

Export Market Development Grants Amendment Act 2004 (Act No. 71, 2004)

Parliamentary Superannuation Act 2004 (Act No. 72, 2004)

New International Tax Arrangements Act 2004 (Act No. 73, 2004).

No. 30—

Tourism Australia Act 2004 (Act No. 74, 2004)

Tourism Australia (Repeal and Transitional Provisions) Act 2004 (Act No. 75, 2004)

Medical Indemnity (Run-off Cover Support Payment) Act 2004 (Act No. 76, 2004)

Medical Indemnity Legislation Amendment (Run-off Cover Indemnity and Other Measures) Act 2004 (Act No. 77, 2004).

No. 31—

Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004 (Act No. 78, 2004)

Agricultural and Veterinary Chemicals Legislation Amendment (Name Change) Act 2004 (Act No. 79, 2004)

Bankruptcy Legislation Amendment Act 2004 (Act No. 80, 2004)

Bankruptcy (Estate Charges) Amendment Act 2004 (Act No. 81, 2004).

74 COMMUNITY AFFAIRS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Community Affairs References Committee (Senator McLucas), by leave, moved—That the time for the presentation of the report of the committee on children in institutional care be extended to 31 August 2004.

Question put and passed.

75 COMMUNITY AFFAIRS REFERENCES COMMITTEE—ADDITIONAL INFORMATION—HEPATITIS C AND THE BLOOD SUPPLY IN AUSTRALIA

The Chair of the Community Affairs References Committee (Senator McLucas) tabled the following document:

Community Affairs References Committee—Report—Hepatitis C and the blood supply in Australia—Additional information.

76 ECONOMICS LEGISLATION COMMITTEE—DOCUMENT—SUPERANNUATION BUDGET MEASURES BILL 2004 AND SUPERANNUATION LAWS AMENDMENT BILLS

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following document:

Economics Legislation Committee—Report—Superannuation Budget Measures Bill 2004, Superannuation Laws Amendment (2004 Measures No. 1) Bill 2004 and Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004—Corrigendum.

Document ordered to be printed on the motion of Senator Ferris.

77 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Finance and Administration (Senator Minchin) moved—That intervening business be postponed till after consideration of the following government business orders of the day:

No. 4 Superannuation Budget Measures Bill 2004.

Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004, consideration in committee of the whole of any messages from the House of Representatives.

Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003, consideration in committee of the whole of message no. 630 from the House of Representatives.

No. 5 Tax Laws Amendment (2004 Measures No. 3) Bill 2004.

Australian Energy Market Bill 2004 and a related bill.

No. 6 Treasury Legislation Amendment (Professional Standards) Bill 2004.

Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004, consideration in committee of the whole of message no. 618 from the House of Representatives.

Question put and passed.

78 SUPERANNUATION BUDGET MEASURES BILL 2004

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Murphy moved the following amendment:

Page 2 (after line 2), after clause 3, add:

4 Review

- (1) The Minister must initiate an independent review into the taxation aspects of the superannuation system to consider, propose and recommend alternatives which:
 - (a) simplify the current arrangements for superannuation taxation;
 - (b) improve the equity of the current arrangements for superannuation taxation;
 - (c) improve the security of retirement incomes for superannuation fund members;
 - (d) reduce the compliance burden on superannuation funds;
 and prepare a report of that review.
- (2) In initiating the review required by this section, the Minister must call for a nomination from each of:
 - (a) the superannuation industry;
 - (b) the banking industry;
 - (c) superannuation consumer interest groups;
 and appoint a three person panel from nominations received, to conduct the review.
- (3) The Minister must cause to be tabled in both Houses of the Parliament a copy of the report of the review no later than 30 June 2005.

Debate ensued.

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

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

Schedule 2, item 1, page 5 (lines 13 and 14), omit paragraph (d) of the definition of ***maximum surcharge percentage***.

Schedule 2, item 2, page 5 (lines 25 and 26), omit paragraph (d) of the definition of ***maximum surcharge percentage***.

Schedule 2, item 3, page 6 (lines 6 and 7), omit paragraph (d) of the definition of ***maximum surcharge percentage***.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, as amended.

Schedule 2, as amended, debated and agreed to.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the report from the committee was adopted.

Senator Coonan moved—That this bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time.

79 SUPERANNUATION LAWS AMENDMENT (2004 MEASURES NO. 2) BILL 2004

A message from the House of Representatives was reported as follows:

Message no. 636, dated 24 June 2004—Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004, insisting on disagreeing to the amendments made and insisted on by the Senate and making amendments in place of those amendments.

Ordered, on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan), that the message be considered in committee of the whole immediately.

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

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES IN PLACE OF SENATE AMENDMENTS DISAGREED TO

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

3. Schedule 1,	1 July 2008.	1 July 2008
items 5 to 7		

(2) Clause 4, page 3 (line 2), omit “2010”, substitute “2008”.

Senator Coonan moved—That the committee does not further insist on its amendments to which the House of Representatives has disagreed and agrees to the amendments made by the House in place of those amendments.

Senator Conroy moved the following amendments to the amendments made by the House together by leave:

Amendment no. 1, omit “2008” (twice occurring), substitute “2006”.

Amendment no. 2, omit “2008”, substitute “2006”.

Debate ensued.

Question—That Senate Conroy’s amendments be agreed to—put and negatived.

Main question put and passed.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported that the committee had considered message no. 636 from the House of Representatives relating to the Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004 and had resolved not to insist on the amendments made by the Senate to which the House had insisted on disagreeing and had agreed to the amendments made in place of those amendments.

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

80 CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003

Order of the day read for the consideration of message no. 630 from the House of Representatives in committee of the whole (*see entry no. 29*).

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE
TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

(12) Dem (1) [Sheet 4256] (As amended)

Schedule 1, item 14, page 6 (after line 32), after subsection 225(1), insert:

- (1A) In fulfilling its functions the FRC shall undertake public consultation on proposals within its functions and responsibilities which have a public interest element.

(13) Opp (1) [Sheet 4216 Revised]

Schedule 1, item 14, page 7 (line 5), omit “approving and monitoring”, substitute “providing feedback on”.

(14) Opp (2) [Sheet 4216 Revised]

Schedule 1, item 14, page 7 (line 11), omit paragraph 225(2)(c).

(15) Opp (3) [Sheet 4216 Revised]

Schedule 1, item 14, page 7 (line 12), omit “directions, advice or”.

(16) Opp (4) [Sheet 4216 Revised]

Schedule 1, item 14, page 8 (line 3), omit “approving and monitoring”, substitute “providing feedback on”.

(17) Opp (5) [Sheet 4216 Revised]

Schedule 1, item 14, page 8 (line 9), omit paragraph 225(2A)(c).

(18) Opp (6) [Sheet 4216 Revised]

Schedule 1, item 14, page 8 (line 10), omit “directions, advice or”.

(19) Opp (7) [Sheet 4216 Revised]

Schedule 1, page 10 (after line 2), after item 14, insert:

14A Subsection 225(5)

Repeal the subsection, substitute:

- (5) The FRC does not have the power to:
- (a) direct the AASB in relation to the development, or making of a particular standard; or
 - (b) veto a standard made, formulated or recommended by AASB; or
 - (c) determine the AASB’s broad strategic direction.

(20) Opp (8) [Sheet 4216 Revised]

Schedule 1, item 16, page 10 (lines 8 to 11), omit subsections 225(7) and (8), substitute:

- (7) The FRC does not have the power to:
 - (a) direct the AUASB in relation to the development, or making of a particular auditing standard; or
 - (b) veto a standard made, formulated or recommended by AUASB; or
 - (c) determine the AUASB's broad strategic direction.
- (8) The FRC shall hold its meetings in public except to the extent that a meeting considers:
 - (a) matters relating to the appointment or retirement or performance of members of the FRC, AASB or AUASB; or
 - (b) matters which are of such a sensitive nature that a public meeting would be inappropriate.

(28) Opp (9) [Sheet 4216 Revised]

Schedule 1, page 12 (after line 25), after item 17, insert:

17A At the end of subsection 227(1)

Add:

; and (f) to determine its broad strategic direction.

(29) Opp (10) [Sheet 4216 Revised]

Schedule 1, item 18, page 13 (after line 25), at the end of subsection 227B(1), add:

; and (f) to determine its broad strategic direction.

(30) Opp (11) [Sheet 4216 Revised]

Schedule 1, items 19 and 20, page 14 (lines 17 to 20), omit the items, substitute:

19 Paragraphs 232(a) and (b)

Repeal the paragraphs.

(31) Opp (13) [Sheet 4216 Revised]

Schedule 1, item 22, page 15 (lines 24 and 25), omit paragraph 234C(a).

(32) Opp (14) [Sheet 4216 Revised]

Schedule 1, item 26, page 17 (line 10), omit the item, substitute:

26 Paragraph 236A(3)(a)

Repeal the paragraph.

(33) Opp (15) [Sheet 4216 Revised]

Schedule 1, item 28, page 17 (lines 23 to 26), omit subsection 236E(2), substitute:

- (2) The AUASB shall hold its meetings in public except to the extent that a meeting considers:
 - (a) matters relating to the appointment or retirement or performance of members of a subcommittee of the AUASB; or
 - (b) matters which are of such a sensitive nature that a public meeting would be inappropriate.

(34) Dem (9) [Sheet 4256]

Schedule 1, item 28, page 17 (lines 28 and 29), omit paragraph 236E(3)(a).

(36) Opp (62) [Sheet 4216]

Schedule 1, page 23 (after line 13), after item 39, insert:

39A After subsection 249N(1A)

Insert:

- (1AB) A further requirement in subsection 136(3) must not modify the application of subsection (1) or (1A).
- (1AC) If a company constitution contains a further requirement which modifies the application of subsection (1) or (1A), this further requirement is void.
- (1AD) Subsections (1AB) and (1AC) are subject to the exceptions in the regulations.

(43) Opp (17) [Sheet 4216 Revised]

Schedule 1, item 91, page 43 (after line 14), after subsection (11A), insert:

Non-audit services not to be provided by auditor

- (11AA) A person contravenes this subsection if the person, as an auditor that performs for any company any audit required by this Act, provides to that company contemporaneously with the audit any non-audit service, including but not restricted to:
 - (a) bookkeeping or other services related to the accounting records or financial statements of the company; or
 - (b) financial information systems design and implementation; or
 - (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; or
 - (d) actuarial services; or
 - (e) internal audit outsourcing services; or
 - (f) management functions or human resources management functions; or
 - (g) broker or dealer, investment adviser, or investment banking services; or
 - (h) legal services and expert services unrelated to the audit; or
 - (i) any other service prescribed by regulations made for the purpose of this subsection.
- (11AB) A person does not commit an offence because of a contravention of subsection (11AA) if:
 - (a) the non-audit service is not described above and the activity is approved in advance by the audit committee of the company; or
 - (b) the company, auditor, or service is exempted by ASIC from the provisions of subsection (11AA).

(44) Opp (18) [Sheet 4216 Revised]

Schedule 1, item 91, page 43 (line 16), omit "The", substitute "Where subsection (11AB) applies, the".

(85) Opp (19) [Sheet 4216 Revised]

Schedule 1, item 95, page 82 (line 1), omit "2", substitute "4".

(86) Opp (20) [Sheet 4216 Revised]

Schedule 1, item 95, page 82 (line 20), omit "2", substitute "4".

(91) Opp (21) [Sheet 4216 Revised]

Schedule 1, page 100 (after line 23), after item 109, insert:

109A Schedule 3 (after table item 103)

Insert:

103AA	Subsection 300(11AA)	100 penalty units or imprisonment for 12 months, or both.
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(92) Opp (R22) [Sheet 4259 Revised]

Schedule 1, item 111, page 100 (line 26) to page 102, omit the item, substitute:

111 Schedule 3 (before table item 117)

Insert:

116BA	Section 324BA	100 penalty units or imprisonment for 12 months, or both.
116BB	Subsection 324BB(1)	100 penalty units or imprisonment for 12 months, or both.
116BC	Subsection 324BB(2)	40 penalty units.
116BD	Subsections 324BC(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116BE	Subsection 324BC(3)	40 penalty units.
116CA	Subsection 324CA(1)	100 penalty units or imprisonment for 12 months, or both.
116CB	Subsections 324CA(1A) and (2)	40 penalty units.
116CC	Subsection 324CB(1)	100 penalty units or imprisonment for 12 months, or both.
116CD	Subsections 324CB(1A), (2) and (4)	40 penalty units.
116CE	Subsection 324CC(1)	100 penalty units or imprisonment for 12 months, or both.
116CF	Subsections 324CC(1A), (2) and (4)	40 penalty units.
116DA	Subsection 324CE(1)	100 penalty units or imprisonment for 12 months, or both.
116DB	Subsections 324CE(1A) and (2)	40 penalty units.
116EA	Subsection 324CF(1)	100 penalty units or imprisonment for 12 months, or both.

116EB	Subsections 324CF(1A) and (2)	40 penalty units.
116FA	Subsection 324CG(1)	100 penalty units or imprisonment for 12 months, or both.
116FB	Subsections 324CG(1A) and (2)	40 penalty units.
116FC	Subsection 324CG(5)	100 penalty units or imprisonment for 12 months, or both.
116FD	Subsections 324CG(5A) and (6)	40 penalty units.
116GA	Section 324CI	100 penalty units or imprisonment for 12 months, or both.
116GB	Section 324CJ	100 penalty units or imprisonment for 12 months, or both.
116GC	Section 324CK	100 penalty units or imprisonment for 12 months, or both.
116H	Subsections 324CM(1), (2) and (3)	100 penalty units or imprisonment for 12 months, or both.
116I	Section 324DB	100 penalty units or imprisonment for 12 months, or both.
116JA	Subsection 324DC(1)	100 penalty units or imprisonment for 12 months, or both.
116JB	Subsection 324DC(2)	40 penalty units.
116KA	Subsections 324DD(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116KB	Subsection 324DD(3)	40 penalty units.
116LA	Subsection 327A(3)	100 penalty units or imprisonment for 12 months, or both.
116LB	Subsections 327B(1) and (3)	100 penalty units or imprisonment for 12 months, or both.
116LC	Subsection 327C(3)	100 penalty units or imprisonment for 12 months, or both.
116MA	Subsection 328A(4)	100 penalty units or imprisonment for 12 months, or both.
116MB	Subsection 328B(2)	100 penalty units or imprisonment for 12 months, or both.
116NA	Subsections 331AAA(1) and (3)	100 penalty units or imprisonment for 12 months, or both.

116NB	Subsections 331AAB(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116O	Subsection 342B(1)	20 penalty units.

(108) Dem (14) [Sheet 4256]

Schedule 1, item 117, page 113 (lines 12 to 15), omit paragraph (1)(a), substitute:

- (a) allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or their representative questions:
 - (i) relevant to the conduct of the audit and the preparation and content of the auditor's report; and
 - (ii) about critical accounting policies adopted by the directors of the company and the basis on which the financial statements of the company were prepared; and

(109) Dem (15) [Sheet 4256]

Schedule 1, item 117, page 113 (line 18), at the end of subsection (1), add:

- ; and (c) allow a reasonable opportunity for members present at the meeting to ask the auditor or their representative questions about the independence of the auditor.

(110) Dem (16) [Sheet 4256]

Schedule 1, item 117, page 113 (after line 18), after subsection (1), insert:

- (1A) Where a company's auditor or their representative is at the meeting and has prepared written answers to written questions which have been submitted under section 250PA, the Chair of the AGM may permit the auditor or their representative to table the written answers to questions.

(114) Opp (23) [Sheet 4216 Revised]

Schedule 2, item 2, page 137 (after line 31), after paragraph 295A(2)(c), insert:

- (ca) the company's risk management and internal compliance and control system implements the policies adopted by the board; and
- (cb) the company's risk management and internal compliance and control system is operating efficiently and effectively in all material respects; and

(115) Dem (18) [Sheet 4256]

Schedule 2, page 140 (after line 9), after item 3, insert:

3A At the end of section 297

Add:

- (2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.
- (3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.

- (4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

(116) Dem (19) [Sheet 4256]

Schedule 2, page 140 (after line 9), after item 3, insert:

3B After section 297

Insert:

297A Purpose of true and fair view

The purpose of a true and fair view is to ensure that the financial reports of a disclosing entity or consolidated entity represent a view that users of the reports (including investors, shareholders and creditors) would reasonably require to make an informed assessment of matters such as investment in the entity or the transaction of business with the entity.

(117) Dem (20) [Sheet 4256]

Schedule 2, page 140 (after line 9), after item 3, insert:

3C Section 297 (note)

Repeal the note.

(118) Dem (21) [Sheet 4256]

Schedule 2, page 141 (after line 12), after item 7, insert:

7A At the end of section 305

Add:

- (2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.
- (3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.
- (4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

(119) Dem (22) [Sheet 4256]

Schedule 2, page 141 (after line 12), after item 7, insert:

7B Section 305 (note)

Repeal the note.

(127) Opp (24) [Sheet 4216 Revised]

Schedule 4, item 1, page 179 (lines 5 and 6), omit the item, substitute:

1 Schedule 3 (table items 1, 30, 50, 51, 83, 90, 117, 138, 229A to 229C, 235, 240, 309B, 309C, 310A to 310C, 311A to 311C, 312A, 334 to 337)

Repeal the items, substitute:

1	Section 111AU	400 penalty units or imprisonment for 10 years, or both.
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30	Section 184	4,000 penalty units or imprisonment for 10 years, or both.
50	Subsection 209(3)	4,000 penalty units or imprisonment for 10 years, or both.
51	Section 224	400 penalty units or imprisonment for 10 years, or both.
83	Section 254T	200 penalty units or imprisonment for 5 years, or both.
90	Subsection 260D(3)	4,000 penalty units or imprisonment for 10 years, or both.
117	Subsection 344(2)	4,000 penalty units or imprisonment for 10 years, or both.
138	Subsection 588G(3)	4,000 penalty units or imprisonment for 10 years, or both.
229A	Subsection 674(2)	400 penalty units or imprisonment for 10 years or both.
229B	Subsection 674(5)	200 penalty units or imprisonment for 5 years, or both.
229C	Subsection 675(2)	400 penalty units or imprisonment for 10 years, or both.
229CA	Subsection 679(1)	100 penalty units.
235	Section 726	400 penalty units or imprisonment for 10 years, or both.
240	Subsection 728(3)	400 penalty units or imprisonment for 10 years, or both.
309B	Section 1041A	400 penalty units or imprisonment for 10 years, or both.
309C	Subsection 1041B(1)	400 penalty units or imprisonment for 10 years, or both.
310A	Subsection 1041C(1)	400 penalty units or imprisonment for 10 years, or both.
310B	Section 1041D	400 penalty units or imprisonment for 10 years, or both.
310C	Subsection 1041E(1)	400 penalty units or imprisonment for 10 years, or both.
311A	Subsection 1041F(1)	400 penalty units or imprisonment for 10 years, or both.
311B	Subsection 1041G(1)	400 penalty units or imprisonment for 10 years, or both.
311C	Subsection 1043A(1)	4,000 penalty units or imprisonment for 10 years, or both.

312A	Subsection 1043A(2)	4,000 penalty units or imprisonment for 10 years, or both.
334	Section 1307	200 penalty units or imprisonment for 5 years, or both.

1A Schedule 3 (after table item 273A)

Insert:

273AA	Subsection 950D(3)	1,000 penalty units or imprisonment for 1 year, or both.
273AB	Subsection 950E(1)	1,000 penalty units or imprisonment for 1 year, or both.
273AC	Subsection 950F(1)	1,000 penalty units or imprisonment for 1 year, or both.
273AD	Subsection 950F(2)	500 penalty units or imprisonment for 6 months, or both.

(130) Dem (R2A) [Sheet 4214 Revised]

Schedule 4, item 2, page 181 (line 4), omit “in good faith”, substitute “with an honest and reasonable belief”.

(134) Opp (25) [Sheet 4216 Revised]

Schedule 4, page 186 (after line 15), after item 11, insert:

11A Paragraph 1317E(1)(f)

After “601FC(5)”, insert “, (7) or (9)”.

(135) Opp (26) [Sheet 4216 Revised]

Schedule 5, heading, page 189 (lines 2 and 3), omit “**Remuneration of directors and executives**”, substitute “**Appointment and remuneration of directors and executives**”.

(137) Opp (29) [Sheet 4216 Revised]

Schedule 5, item 5, page 190 (lines 1 to 18), omit subsection 200F(2), substitute:

- (2) Subsection 200B(1) does not apply to a benefit given in connection with a person’s retirement from an office in relation to a company if:
 - (a) the benefit is:
 - (i) a genuine payment by way of damages for breach of contract; or
 - (ii) given to the person under an agreement made between the company and the person before the person became the holder of the office as the consideration, or part of the consideration, for the person agreeing to hold the office; and
 - (b) the value of the benefit, when added to the value of all other payments (if any) already made or payable in connection with the person’s retirement from the board or managerial offices in the company and related bodies corporate, does not exceed the lesser of:
 - (i) the amount worked out under subsection (3); and
 - (ii) the amount worked out under subsection (4).

In applying paragraph (b) disregard superannuation which is required by statute to be paid.

(138) Opp (29A) [Sheet 4216 Revised]

Schedule 5, page 191 (after line 13), after item 5, insert:

5A Subsection 200G(2)

Repeal the subsection, substitute:

- (2) The payment limit is whichever is the lesser of:
 - (a) the amount worked out under subsection (3); and
 - (b) the amount worked out under subsection (3A);if the person was an eligible employee in relation to the company when the person retired from office. In applying this subsection, disregard superannuation which is required by statute to be paid.

(139) Opp (29B) [Sheet 4216 Revised]

Schedule 5, page 191 (after line 13), after item 5, insert:

5B After subsection 200G(3)

Insert:

- (3A) The amount worked out under this subsection is:
 - (a) if the relevant period for the person is less than 12 months—a reasonable estimate of the total remuneration that the person would have received from the company and the related bodies corporate during the relevant period if the relevant period had been 12 months; or
 - (b) if the relevant period for the person is 12 months—the total remuneration that the person received from the company and related bodies corporate in the relevant period; or
 - (c) if the relevant period for the person is more than 12 months—the total remuneration that the person received from the company and related bodies corporate in the last 12 months of the relevant period.
- (3B) For the purposes of subsection (3A), if a person has held an office in relation to a company:
 - (a) throughout a period; or
 - (b) throughout a number of periods;the relevant period for that person is that period or the period consisting of the total of those periods.

(140) Opp (27) [Sheet 4216 Revised]

Schedule 5, page 191 (after line 13), after item 5, insert:

5C After section 201D

Insert:

201DA Special rules for the appointment of listed corporation directors

- (1) A notice of meeting of a listed corporation at which a person is standing for election as a director must contain the following information for each person standing for election, or re-election, as a director:

- (a) any relationship between that person and any director of the company which may affect the independent conduct of the duties of a director; and
 - (b) any relationship between that person and the company which may affect the independent conduct of that person's duties as a director; and
 - (c) all other public company directorships currently held by that person; and
 - (d) any other information required by the regulations.
- (2) A person standing for election or re-election must give the company any information the company needs to comply with subsection (1).

(141) Opp (28) [Sheet 4216 Revised] (As amended by Opp and Dem)

Schedule 5, page 191 (after line 13), after item 5, insert:

5D After section 202C

Insert:

202D Certain payments not to be made

A listed corporation must not pay or otherwise provide the following types of remuneration to a director who is not an executive of the listed corporation in consideration of the performance of duties by the director as a director of the listed corporation:

- (a) options that are granted over shares of the listed corporation;
- (b) bonus payments;
- (c) retirement benefits other than superannuation which is required by statute to be paid;
- (d) other forms of remuneration specified by the regulations.

202E Limited-recourse loans

- (1) A listed corporation must not provide limited-recourse loans to its directors, or senior managers or employees. For the purposes of this section, a *limited-recourse loan* is any loan where:
- (a) the loan is made by the listed corporation (or an associate of the listed corporation) to a director or senior manager or employee of the listed corporation;
 - (b) the loan is used to purchase shares or securities of the listed corporation; and
 - (c) the borrower's liability to repay the principal is limited to the sale price of the shares or securities purchased by the borrower.
- (2) Subsection (1) does not apply to a loan provided by a company if the company's ordinary business includes providing finance and the loan is provided in the ordinary course of that business and on ordinary commercial terms available to clients of the company.

202F Shareholder approval of securities to be issued to directors

- (1) A listed corporation must not issue a security of the listed corporation to a director of a listed corporation without member approval as set out in this section.
- (2) Where member approval is required by subsection (1), it must be approved by a special resolution passed at a general meeting of the listed corporation.

- (3) Details of the securities to be issued must be set out in or accompany the notice of meeting at which the resolution is to be considered.
- (4) Subsection (1) does not apply to an issue of a security if member approval is not required under the provisions of the listing rules of a listing market in relation to the listed corporation.

(142) Opp (30) [Sheet 4216 Revised]

Schedule 5, item 11, page 192 (after line 16), at the end of the item, add:

- (aa) the discussion of board policy in paragraph (a) must include:
 - (i) a discussion of the relationship between such policy and the company's performance;
 - (ii) a detailed summary of the performance conditions where any element of remuneration is subject to a performance condition;
 - (iii) an explanation as to why such performance conditions were chosen;
 - (iv) a summary of the methods used in assessing whether any such performance conditions are met and an explanation as to why those methods were chosen;
 - (v) if any such performance condition involves any comparison with factors external to the company:
 - (A) a summary of the factors to be used in making each comparison; and
 - (B) if any of the factors relates to the performance of another company, or two or more other companies, or of an index on which the securities of a company or companies are listed, the identity of that company, of each of those companies or of the index; and
 - (vi) in relation to persons described in paragraph (c), where any entitlement to securities is received which is not subject to performance conditions, an explanation as to why that is the case;
 - (vii) in relation to persons described in paragraph (c), an explanation of the relative importance of those elements which are related to performance and those elements which are not related to performance in respect of the terms and conditions of the person's remuneration; and
 - (viii) such other matters as may be prescribed by the regulations; and

(143) Opp (31) [Sheet 4216 Revised]

Schedule 5, item 12, page 192 (after line 30), at the end of the item, add:

- (d) the following details in relation to the remuneration of:
 - (i) each director of the company; and
 - (ii) each of the 5 named company executives who receive the highest remuneration for that year:
 - (A) the value of options granted, exercised and lapsed unexercised during the year and their aggregation;

- (B) the percentage of the person's remuneration for the financial year that is made up of options granted to the person in that year;
- (C) an explanation of the company's policy on the duration of the contract, the notice periods and termination payments under such contracts;
- (D) details of any equity value protection scheme entered into by them or on their behalf.

For the purposes of this paragraph, **equity value protection scheme** means any financial arrangement which results in the director or executive retaining legal ownership of unvested equity in the company the value of which to the director or executive remains fixed regardless of changing market values of the equity.

For the purposes of this paragraph, **unvested equity** means equity in the company which has been issued to the particular director or executive by the company pursuant to a director or employee equity scheme and where:

- (i) the equity was issued subject to vesting arrangements over time and the equity has yet to vest; or
 - (ii) the equity forms part of a minimum holding requirement imposed on the director or executive by the company.
- (e) a line graph which plots for each of the most recent 5 financial years the total shareholder return on:
- (i) the holding of shares of that class of the company's equity share capital whose listing, or admission to dealing, has resulted in the company falling within the definition of a listed company; and
 - (ii) a hypothetical holding of shares made up of shares of the same kind and number as those by reference to which a broad equity market index is calculated;
- and state the name of the index selected for the purposes of the graph and set out the reasons for selecting that index.

(144) Dem (5) [Sheet 4214 Revised]

Schedule 5, item 12, page 192 (after line 30), at the end of the item, add:

- (1A) The details in relation to remuneration prescribed in paragraph (1)(c) must include the total remuneration of each director and company officer where the value of the total remuneration is equal to or exceeds 20 times the full-time adult ordinary time earnings as periodically reported by the Australian Bureau of Statistics.

(145) Opp (32) [Sheet 4216 Revised]

Schedule 5, item 15, page 193, omit "5 penalty units", substitute "50 penalty units".

(146) Opp (33) [Sheet 4216 Revised]

Schedule 5, item 15, page 193, omit "5 penalty units", substitute "100 penalty units".

(147) Opp (34) [Sheet 4216 Revised]

Schedule 5, item 17, page 194, omit “5 penalty units”, substitute “100 penalty units”.

(154) Opp (40) [Sheet 4216 Revised]

Schedule 8, page 227 (after line 5), before item 1, insert:

1A Section 9

Insert:

voting authority means, in respect of an entity, that the entity:

- (a) is entitled to attend and cast a vote;
- (b) is entitled to appoint a proxy to attend and cast a vote for that entity; or
- (c) has the power to direct another entity to vote in the way in which the firstmentioned entity directs;

at a meeting of a listed corporation’s members where the corporation is listed on the Australian Stock Exchange. An entity does not have voting authority if the entitlement in paragraph (a) or (b) arises solely because another entity directs the firstmentioned entity to vote in the way in which the secondmentioned entity directs. An exercise of voting authority includes considering a resolution and not voting on that resolution but does not include not considering a resolution and not voting on that resolution.

(155) Opp (41) [Sheet 4216 Revised]

Schedule 8, page 227 (after line 5), before item 1, insert:

1B Section 9

Insert:

voting disclosure means, in respect of voting policies and voting records, making the policies and records publicly available in printed or electronic form where electronic form includes publishing on the Internet on the website of the relevant entity.

(156) Opp (42) [Sheet 4216 Revised]

Schedule 8, page 227 (after line 5), before item 1, insert:

1C Section 9

Insert:

voting policy means, in respect of an entity with voting authority, a clear, concise, effective and up-to-date statement of the basis on which the entity exercises or, if applicable, does not exercise, its voting authority, including, without limitation:

- (a) the circumstances in which the entity will exercise its voting authority for or against the management of listed corporations;
- (b) the manner in which the entity exercises its voting authority in relation to material resolutions (as defined in the regulations);
- (c) the currency date of the policy; and
- (d) any other matter prescribed by the regulations.

(157) Opp (43) [Sheet 4216 Revised]

Schedule 8, page 227 (after line 5), before item 1, insert:

1D Section 9

Insert:

voting record means a record, produced annually, that summarises the manner in which an entity exercised its voting authority for the relevant year and must include:

- (a) for each listed corporation for which the entity has exercised its voting authority in respect of at least one resolution during the relevant year:
 - (i) the corporation's name;
 - (ii) the symbol used in the prescribed financial market for the corporation;
 - (iii) the member meeting date;
 - (iv) a clear and concise description of each resolution that was voted on by members;
 - (v) whether the resolution was proposed by the management of the listed corporation or by a member;
 - (vi) whether the entity voted for or against the resolution;
 - (vii) if the entity did not vote for or against the resolution, whether the entity considered the resolution but did not vote or did not consider the resolution and did not vote;
 - (viii) whether the entity voted for or against the management of the listed corporation; and
- (b) for all the listed corporations in respect of which the entity has voting authority, the total number of resolutions for which the entity:
 - (i) exercised its voting authority;
 - (ii) did not exercise its voting authority;
 - (iii) voted for a resolution;
 - (iv) voted against a resolution;
 - (v) considered a resolution but did not vote;
 - (vi) did not consider a resolution and did not vote;
 - (vii) voted for the management of the listed corporation;
 - (viii) voted against the management of the listed corporation; and
- (c) any other matter prescribed by the regulations.

(158) Dem (6) [Sheet 4214 Revised]

Schedule 8, page 227 (before line 8), after item 1, insert:

2A At the end of paragraph 249D(1)(b)

Add “, being members who hold:

- (i) a minimum of 100 shares each; and
- (ii) the value of the shareholding per member is not less than \$500.”.

(159) Opp (36) [Sheet 4216 Revised]

Schedule 8, page 229 (after line 12), after item 9, insert:

9A Subsections 250A(4) and (5)

Repeal the subsections, substitute:

- (4) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
- (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and
 - (b) if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must not vote on a show of hands;
 - (c) if the proxy is the chair—the proxy must vote on a poll, and must vote as directed in respect of each appointment; and
 - (d) if the proxy votes on a poll and if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must vote on a poll as directed in respect of each appointment.

If a proxy is also a member, this subsection does not affect the way that person can cast any votes he or she holds as a member.

- (5) A person who contravenes subsection (4) is guilty of an offence.

(160) Opp (37) [Sheet 4216 Revised]

Schedule 8, page 230 (after line 16), after item 14, insert:

14A After section 250T

Insert:

250U Confirmation of appointment of Chair

- (1) At the first AGM following the appointment of a new person as chair of a listed corporation's board of directors where that corporation was at the date that the notice convening the AGM (the *notice date*) one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation, a resolution confirming the appointment of that person as chair of that listed corporation's board of directors must be put to the vote where that person (at the notice date) was also the chair of another company which was one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation.

Note: Under subsection 249L(2), the notice of the AGM must inform members that this resolution will be put at the AGM.

- (2) The vote on the resolution is advisory only and does not bind the directors or the listed corporation.

(161) Opp (38) [Sheet 4216 Revised]

Schedule 8, page 230 (after line 16), after item 14, insert:

14B At the end of the subsection 251AA(1)

Add:

- ; and (c) if a resolution is withdrawn prior to the meeting, the nature of the resolution and a statement that it was withdrawn.

(162) Opp (39) [Sheet 4216 Revised]

Schedule 8, page 230 (after line 16), after item 14, insert:

14C At the end of subsection 300(10)

Add:

; and (d) the qualifications and experience of each person who is a company secretary of the company as at the end of the year.

(163) Opp (R58) [Sheet 4280]

Schedule 8, page 230 (after line 22), after item 15, insert:

15A At the end of section 300

Add:

- (16) Where the listing rules of a listed market operator require the disclosure of substantial shareholding information in the annual report, the list of substantial shareholders in the annual report must include the name of a person which is disclosed to the listed company or responsible entity under section 672A or 672C and is kept in the register in accordance with 672DA.

(164) Opp (44) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 9), after item 16, insert:

16A At the end of section 601FC

Insert:

- (7) If a responsible entity has voting authority, then the responsible entity:
- (a) should exercise that voting authority in every case where the responsible entity has voting authority; and
 - (b) subject to subsection (8), must maintain a voting record; and
 - (c) must establish a voting policy.
- (8) A responsible entity is not required to maintain a voting record if the entity does not exercise its voting authority over the period that would otherwise be covered by the voting record.
- (9) If a responsible entity is required by subsection (7) to establish a voting policy then the responsible entity must make voting disclosure.

(165) Opp (46) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

Life Insurance Act 1995

18 At the end of section 43

Add:

- (8) If a life company has voting authority, then the life company:
- (a) should exercise that voting authority in every case where the life company has voting authority; and
 - (b) subject to subsection (9), must maintain a voting record; and
 - (c) must establish a voting policy.
- (9) A life company is not required to maintain a voting record if the life company does not exercise its voting authority over the period that would otherwise be covered by the voting record.
- (10) If a life company is required by subsection (8) to establish a voting policy then the life company must make voting disclosure.
- (11) A contravention of subsection (8), (9) or (10) is prohibited by the regulations.

(166) Opp (47) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

19 At the end of the Schedule

Add:

voting authority has the same meaning as in the *Corporations Act 2001*.

voting disclosure has the same meaning as in the *Corporations Act 2001*.

voting policy has the same meaning as in the *Corporations Act 2001*.

voting record has the same meaning as in the *Corporations Act 2001*.

(167) Opp (49) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

Superannuation Industry (Supervision) Act 1993**20 Section 10**

Insert:

voting authority has the same meaning as in the *Corporations Act 2001*.

(168) Opp (50) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

21 Section 10

Insert:

voting disclosure has the same meaning as in the *Corporations Act 2001*.

(169) Opp (51) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

22 Section 10

Insert:

voting policy has:

- (a) the same meaning as in the *Corporations Act 2001*; or
- (b) where any part of a voting policy relates to the voting records of an investment manager, that part of the voting policy will be a clear, concise, effective and up-to-date statement of the basis on which the entity is influenced by the voting records of an investment manager in choosing an investment manager and such a statement will include:
 - (i) the extent to which the choice of investment manager is influenced by this paragraph; and
 - (ii) the currency date of that part of the policy; and
 - (iii) any other matter prescribed by the regulations.

(170) Opp (52) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

23 Section 10

Insert:

voting record has the same meaning as in the *Corporations Act 2001*.

(171) Opp (53) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

24 At the end of paragraph 52(2)(f)

Add:

- (v) if applicable, the voting records and voting policy of the entity and, if the entity has engaged an investment manager, the voting records of entity's investment manager that relate to investments made on behalf of the entity;

(172) Opp (54) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

25 At the end of paragraph 102(1)(a)

Add:

- (iii) to provide the voting records of the investment manager, or that part of the voting records of the investment manager, that relate to investments made on behalf of the entity; and

(173) Opp (55) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

26 After section 105

Insert:

105A Duty to exercise voting authority

- (1) If the trustee of a superannuation entity, other than a self-managed superannuation fund, has voting authority, then the trustee:
 - (a) must exercise that voting authority in every case where the trustee has voting authority in relation to material resolutions; and
 - (b) should exercise that voting authority in every other case where the trustee has voting authority; and
 - (c) must maintain a voting record.
- (2) If an investment manager has voting authority, then the investment manager:
 - (a) must exercise that voting authority in every case where the investment manager has voting authority in relation to material resolutions; and
 - (b) should exercise that voting authority in every other case where the investment manager has voting authority; and
 - (c) must maintain a voting record.
- (3) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of ordinary liability.

Maximum penalty: 100 penalty units.

- (4) The investment manager is guilty of an offence if the investment manager contravenes subsection (2). This is an offence of ordinary liability.

Maximum penalty: 100 penalty units.

- (5) In this section, *material resolution* has the same meaning as in the *Corporations Regulations 2001*.

(174) Opp (56) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

27 After section 105

Insert:

105B Duty to establish a voting policy

- (1) If the trustee of a superannuation entity is:
- (a) required by section 105A to maintain voting records; or
 - (b) engages an investment manager and that investment manager is required by section 105A to maintain voting records;
- then the trustee must establish a voting policy.

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of ordinary liability.

Maximum penalty: 100 penalty units.

(175) Opp (57) [Sheet 4216 Revised]

Schedule 8, page 231 (after line 22), at the end of the Schedule, add:

28 After section 105

Insert:

105C Duty to disclose voting records and voting policies

- (1) If a trustee of a superannuation entity is required by sections 105A and 105B to maintain voting records and establish voting policies then the trustee must make voting disclosure at least annually.

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of ordinary liability.

Maximum penalty: 100 penalty units.

(176) Opp (59) [Sheet 4216 Revised]

Schedule 10, page 241 (after line 13), at the end of the Schedule, add:

2 At the end of Chapter 6CA

Add:

678A Other disclosures

- (1) Presentations given by a listed corporation during an analyst briefing shall be made generally available to all members of that corporation as prescribed by the regulations.

- (2) For the purposes of subsection (1), an analyst briefing is a briefing provided to a representative or representatives of financial institutions regarding the performance or operation of a listed corporation.

(177) Opp (60) [Sheet 4216 Revised]

Schedule 10, page 241 (after line 13), at the end of the Schedule, add:

3 Section 9

Insert:

analyst means the employee or authorised representative of the financial services licensee who prepares a research report.

4 Section 9

Insert:

research report has a meaning as defined in the regulations.

5 After Division 4 of Part 7.7

Insert:

Division 4A—Analyst independence**950D Disclosures required in research report**

- (1) Subject to subsection (2), a research report which is provided to a retail client must include the following:
 - (a) information about the remuneration or other benefits that the analyst may receive that might reasonably be expected to be capable of influencing the analyst in preparing the research report; and
 - (b) information about:
 - (i) any other interests of which the analyst is aware, whether pecuniary or not and whether direct or indirect, of the analyst or the financial services licensee who employs the analyst or for whom the analyst is an authorised representative that might reasonably be expected to be capable of influencing the analyst in preparing the research report; and
 - (ii) any associations or relationships of which the analyst is aware between the analyst or the financial services licensee who employs the analyst or for whom the analyst is an authorised representative, and the listed corporation that is the subject of the research report, that might reasonably be expected to be capable of influencing the analyst in preparing the research report; and
 - (c) any other information required by the regulations.
- (2) The requirements set out in subsection (1) do not apply in the situations set out in the regulations.
- (3) A more detailed statement of the information required by one or more provisions of subsection (1) may be provided in the regulations.

950E Restrictions on issue of research reports

- (1) A financial services licensee must not issue a research report to a retail client regarding a listed corporation for which the analyst or the employer of the analyst acted as manager or co-manager of an initial public offering of securities for that corporation within the period prescribed by the regulations.

- (2) A financial services licensee must not issue a research report to a retail client regarding a listed corporation for which the analyst or the employer of the analyst acted as manager or co-manager of any offering of securities (other than an initial public offering of securities) for that corporation within the period prescribed by the regulations.
- (3) Notwithstanding subsections (1) and (2), a financial services licensee may issue a research report to a retail client that is issued due to significant news and events.

950F Current reports

- (1) An analyst must not trade in securities that are the subject of the latest research report, prepared by the analyst and published within the period prescribed in the regulations.
- (2) Except as prescribed in the regulations, an analyst must not trade in securities in a manner that is inconsistent with a recommendation or opinion contained in the latest research report prepared by that analyst and published in the period prescribed in the regulations.

950G Trading in company securities

- (1) A listed corporation must establish a policy concerning trading in the company's securities by directors, officers and employees.
- (2) The policy must be made publicly available in printed or electronic form (where electronic form includes publishing on the Internet on the website of the relevant entity).

(178) Opp (61) [Sheet 4216 Revised]

Schedule 11, page 242 (after line 14), after item 3, insert:

3A After subsection 136(3)

Insert:

- (3A) Any further requirement specified in the constitution must not be inconsistent with this Act.
- (3B) If a company has an existing further requirement in the constitution which is inconsistent with this Act, it is void.
- (3C) Subsections (3A) and (3B) are subject to the exceptions in the regulations.

(223) Opp (R63) [Sheet 4261]

Schedule 12, item 2, page 251 (after line 30), at the end of section 1468, add:

- (4) The amendments made by section 201DA of item 5C and section 202F of item 5D of Schedule 5 to the amending Act apply after 1 October 2004.

(225) Opp (64) [Sheet 4216 Revised]

Schedule 12, item 2, page 253 (after line 8), after subsection 1471(2), insert:

- (2A) The amendments made by item 14A of Schedule 8 to the amending Act apply to an AGM held on or after 1 October 2004.

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That the committee does not insist on its amendments nos 12 to 20, 28 to 34, 36, 43, 44, 85, 86, 91, 92, 108 to 110, 114 to 119, 127, 130, 134, 135, 137 to 147, 154 to 178, 223 and 225 to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

On the motion of Senator Murray, also on behalf of Senator Conroy, the following amendments, taken together by leave, were debated and agreed to:

Schedule 5, page 192 (after line 16), after item 11, insert:

11A After paragraph 300A(1)(b)

Insert:

- (ba) if an element of the remuneration of a director, secretary or senior manager is dependent on the satisfaction of a performance condition:
 - (i) a detailed summary of the performance condition; and
 - (ii) an explanation of why the performance condition was chosen; and
 - (iii) a summary of the methods used in assessing whether the performance condition is satisfied and an explanation of why those methods were chosen; and
 - (iv) if the performance condition involves a comparison with factors external to the company:
 - (A) a summary of the factors to be used in making the comparison; and
 - (B) if any of the factors relates to the performance of another company, of 2 or more other companies or of an index in which the securities of a company or companies are included—the identity of that company, of each of those companies or of the index; and

Schedule 5, item 12, page 192 (line 25), omit “year.”, substitute “year; and”.

Schedule 5, item 12, page 192 (after line 25), after paragraph (c), insert:

- (d) if an element of the remuneration of a person referred to in paragraph (c) consists of securities of a body and that element is not dependent on the satisfaction of a performance condition—an explanation of why that element of the remuneration is not dependent on the satisfaction of a performance condition; and
- (e) for each person referred to in paragraph (c):
 - (i) an explanation of the relative proportions of those elements of the person’s remuneration that are related to performance and those elements of the person’s remuneration that are not; and
 - (ii) the value (worked out as at the time they are granted and in accordance with any applicable accounting standards) of options that are granted to the person during the year as part of their remuneration; and
 - (iii) the value (worked out as at the time they are exercised) of options that were granted to the person as part of their remuneration and that are exercised by the person during the year; and
 - (iv) the value (worked out as at the time they lapse) of options that were granted to the person as part of their remuneration and that lapse during the year; and

- (v) the aggregate of the values referred to in subparagraphs (ii), (iii) and (iv); and
 - (vi) the percentage of the value of the person's remuneration for the financial year that consists of options; and
 - (vii) if the person is employed by the company under a contract—the duration of the contract, the periods of notice required to terminate the contract and the termination payments provided for under the contract; and
- (f) such other matters related to the policy or policies referred to in paragraph (a) as are prescribed by the regulations.

Schedule 5, item 13, page 192 (before line 33), before subsection (1A), insert:

(1AA) Without limiting paragraph (1)(b), the discussion under that paragraph of the company's performance must specifically deal with:

- (a) the company's earnings; and
- (b) the consequences of the company's performance on shareholder wealth;

in the financial year to which the report relates and in the previous 4 financial years.

(1AB) In determining, for the purposes of subsection (1AA), the consequences of the company's performance on shareholder wealth in a financial year, have regard to:

- (a) dividends paid by the company to its shareholders during that year; and
- (b) changes in the price at which shares in the company are traded between the beginning and the end of that year; and
- (c) any return of capital by the company to its shareholders during that year that involves:
 - (i) the cancellation of shares in the company; and
 - (ii) a payment to the holders of those shares that exceeds the price at which shares in that class are being traded at the time when the shares are cancelled; and
- (d) any other relevant matter.

Schedule 1, item 117, page 113 (lines 12 to 15), omit paragraph (a), substitute:

- (a) allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or the auditor's representative questions relevant to:
 - (i) the conduct of the audit; and
 - (ii) the preparation and content of the auditor's report; and
 - (iii) the accounting policies adopted by the company in relation to the preparation of the financial statements; and
 - (iv) the independence of the auditor in relation to the conduct of the audit; and

Schedule 1, item 117, page 113 (after line 20), after subsection (2), insert:

- (3) If:
 - (a) the company's auditor or their representative is at the meeting; and
 - (b) the auditor has prepared a written answer to a written question submitted to the auditor under section 250PA;

the Chair of the AGM may permit the auditor or their representative to table the written answer to the written question.

- (4) The listed company must make the written answer tabled under subsection (3) reasonably available to members as soon as practicable after the AGM.

Schedule 1, item 120, page 114 (table item 70, cell at column 2), omit the cell, substitute:

Subsections 250T(1)
and (4)

Clause 2, page 2 (before table item 3), insert:

- 2D. Schedule 2A The later of:
(a) 1 July 2004; and
(b) the day after this Act receives the Royal Assent.

Page 164 (before line 2), before Schedule 3, insert:

Schedule 2A—Financial reporting (true and fair view)

Corporations Act 2001

1 After subsection 298(1)

Insert:

- (1A) If the financial report for a financial year includes additional information under paragraph 295(3)(c) (information included to give true and fair view of financial position and performance), the directors' report for the financial year must also:
- (a) set out the directors' reasons for forming the opinion that the inclusion of that additional information was necessary to give the true and fair view required by section 297; and
 - (b) specify where that additional information can be found in the financial report.

2 At the end of section 306

Add:

- (2) If the financial report for a half-year includes additional information under paragraph 303(3)(c) (information included to give true and fair view of financial position and performance), the directors' report for the half-year must also:
- (a) set out the directors' reasons for forming the opinion that the inclusion of that additional information was necessary to give the true and fair view required by section 305; and
 - (b) specify where that information can be found in the financial report.

3 After paragraph 307(a)

Insert:

- (aa) if the financial report includes additional information under paragraph 295(3)(c) or 303(3)(c) (information included to give true and fair view of financial position and performance)—whether the inclusion of that additional information was necessary to give the true and fair view required by section 297 or 305; and

4 Before subsection 308(4)

Insert:

- (3B) If the financial report includes additional information under paragraph 295(3)(c) (information included to give true and fair view of financial position and performance), the auditor's report must also include a statement of the auditor's opinion on whether the inclusion of that additional information was necessary to give the true and fair view required by section 297.

5 Before subsection 309(6)

Insert:

- (5B) If the financial report includes additional information under paragraph 303(3)(c) (information included to give true and fair view of financial position and performance), the auditor's report must also include a statement of the auditor's opinion on whether the inclusion of that additional information was necessary to give the true and fair view required by section 305.

Schedule 12, item 2, page 251 (before line 4), before section 1466, insert:

1466A Schedule 2A to the amending Act (true and fair view)

The amendments made by Schedule 2A to the amending Act apply to directors' reports for periods that start on or after 1 July 2004.

Schedule 8, page 230 (after line 16), after item 14, insert:

14A At the end of subsection 300(10)

Add:

- ; and (d) the qualifications and experience of each person who is a company secretary of the company as at the end of the year.

Schedule 12, item 2, page 253 (after line 8), after subsection 1471(2), insert:

- (2A) The amendment made by item 14A of Schedule 8 to the amending Act applies to reports for financial years that start on or after 1 July 2004.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported that the committee had considered message no. 630 from the House of Representatives relating to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 and had resolved not to insist on amendments nos 12 to 20, 28 to 34, 36, 43, 44, 85, 86, 91, 92, 108 to 110, 114 to 119, 127, 130, 134, 135, 137 to 147, 154 to 178, 223 and 225 made by the Senate to which the House had disagreed, and had agreed to further amendments.

On the motion of Senator Ian Campbell the report from the committee was adopted.

Suspension of sitting: At midnight the sitting of the Senate was suspended till 9 am on Friday, 25 June 2004.

FRIDAY, 25 JUNE 2004

At 9 am—

The sitting of the Senate resumed.

81 PRAYERS

The President read prayers.

82 ECONOMICS REFERENCES COMMITTEE—REPORT—STRUCTURE AND DISTRIBUTIVE EFFECTS OF THE AUSTRALIAN TAXATION SYSTEM

The Chair of the Economics References Committee (Senator Stephens) tabled the following report and documents:

Economics References Committee—The structure and distributive effects of the Australian taxation system—Report, dated June 2004, *Hansard* record of proceedings [4 vols], additional information and submissions [112].

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

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

Debate adjourned till the next day of sitting, Senator Stephens in continuation.

83 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—400TH REPORT

Senator Ferris, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

Public Accounts and Audit—Joint Statutory Committee—400th report—Review of aviation security in Australia, dated June 2004.

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

Question put and passed.

84 TAX LAWS AMENDMENT (2004 MEASURES NO. 3) BILL 2004

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the bill was read a third time.

85 AUSTRALIAN ENERGY MARKET BILL 2004**TRADE PRACTICES AMENDMENT (AUSTRALIAN ENERGY MARKET) BILL 2004**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That these bills be now read a second time.

Debate resumed.

Senator Brown moved the following amendment in respect of the Australian Energy Market Bill 2004:

At the end of the motion, add “but the Senate is of the view that:

- (a) the mechanism of recognising a South Australian Act in Commonwealth law, rather than introducing it as a Commonwealth Act, may insufficiently subject the exercise of legislative power to parliamentary scrutiny in accordance with Standing Order 24(1)(a)(v);
- (b) this bill should proceed no further until the National Electricity Law in Schedule 1 to the *National Electricity (South Australia) Act 1996* of South Australia is incorporated in legislation of the Commonwealth of Australia; and
- (c) the commencement of the *Australian Energy Market Act 2004* is contingent on increasing the Mandatory Renewable Energy Scheme targets”.

Debate ensued.

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

Debate resumed.

Main question put and passed.

Bills read a second time.

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

—————
In the committee

AUSTRALIAN ENERGY MARKET BILL 2004—

Bill taken as a whole by leave.

Senator Cherry moved the following amendment:

Page 6 (after line 20), after clause 10, insert:

**10A Appointment of Commissioners to Australian Energy Market
Commission when applying National Electricity Law**

- (1) Where the Australian Energy Market Commission (AEMC) exercises power in accordance with this Act, its Commissioners shall be appointed in accordance with this section.
- (2) One of the persons to be appointed as a Commissioner of the AEMC must have a knowledge and understanding of environmental and greenhouse gas emissions issues related to the supply and use of electricity.
- (3) One of the persons to be appointed as a Commissioner of the AEMC must have a knowledge and understanding of low-income consumer and demand-side participation issues.

Debate ensued.

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

Senator Brown moved the following amendment:

Clause 2, page 1 (line 8) to page 2 (line 9), omit the clause, substitute:

2 Commencement

This Act commences the day after section 40 of the *Renewable Energy (Electricity) Act 2000* is amended to provide that the required GWh of renewable source electricity for the year 2010 is at least 25 000 GWh and for the year 2020 is at least 50 000 GWh.

Debate ensued.

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

Senator Brown moved the following amendment:

Page 5 (after line 24), after clause 7, insert:

7A Addition to the National Electricity Rules

- (1) The Australian Energy Regulator, in consultation with the Australian Energy Market Commission, shall, in addition to the objectives set out in section 7B, establish a joint set of Commonwealth environmental and social objectives for inclusion in the National Electricity Rules (including the National Electricity Code) in accordance with the National Electricity Law set out in subsection 6(1) of the *National Electricity (South Australia) Act 1996* and with sections 51AE and 88 of the *Trade Practices Act 1974*.
- (2) It is a condition of participation under subsection 9(1) of the *National Electricity (South Australia) Act 1996* that a participant agrees, in writing to the Australian Energy Regulator, to abide by the Commonwealth environmental and social objectives included in the National Electricity Rules.

7B Commonwealth environmental and social objectives

- (1) National Electricity Rules (including the National Electricity Code), as in force from time to time, made under the National Electricity Law set out in Schedule 1 to the *National Electricity (South Australia) Act 1996* must include the following Commonwealth environmental and social objectives:
 - (a) compliance with the principles of ecologically sustainable development in section 3A of the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (b) establishment of targets and timetables for the reduction in greenhouse gas emissions from generation, transmission, distribution and consumption of energy;
 - (c) equal consideration of energy conservation measures with energy sources and technologies;
 - (d) provision of fair access to energy services, in particular for low-income consumers.

- (2) The Australian Energy Regulator will be responsible for administering adherence to the Commonwealth environmental and social objectives contained within the National Electricity Rules, in accordance with sections 44AE and 44AG of the *Trade Practices Act 1974* and will prosecute any breaches by participants when exercising Commonwealth powers under this Act.

Debate ensued.

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

Bill agreed to.

TRADE PRACTICES AMENDMENT (AUSTRALIAN ENERGY MARKET) BILL 2004—

Bill taken as a whole by leave.

Senator Cherry moved the following amendment:

Schedule 1, page 6 (after line 31), after item 44AG, insert:

44AGA Objectives of the AER

- (1) The AER, when exercising the functions and powers conferred on it by section 9, has the objectives set out in this section.
- (2) The AER must have regard to the need to maintain ecologically sustainable development (within the meaning of the principles of ecologically sustainable development set out in section 3A of the *Environment Protection and Biodiversity Conservation Act 1999*) by the development of appropriate policies that take account of all the feasible options available to protect the environment.
- (3) The AER must actively encourage, and intervene in the market to achieve, diversification of electricity suppliers.
- (4) The AER must actively promote all possible means of electricity production.
- (5) The AER must have regard to the need for efficient and equitable participation by consumers with the aim of achieving lower costs of electricity.
- (6) The AER must recognise the need for Australia's electricity supply system to reduce greenhouse gas emissions by:
 - (a) seeking to internalise into the electricity market the long-term environmental and economic cost of greenhouse emissions; and
 - (b) providing for the calculation of the impact of the operation of the National Electricity Market under the National Electricity Code on Australia's greenhouse emissions; and
 - (c) encouraging activities relating to the reduction of greenhouse gas emissions; and
 - (d) encouraging the reduction of greenhouse gas emissions associated with the production and use of electricity; and
 - (e) encouraging participation in activities to offset the production of greenhouse gas emissions.
- (7) The AER must, in regulating the market, have regard to the impact of the market on low-income consumers.

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

Senator Cherry moved the following amendments together by leave:

Schedule 1, item 9, page 7 (after line 7), at the end of section 44AH, add:

- (2) The functions of the AER include those set out in section 44AHA.

Schedule 1, item 9, page 7 (after line 7), after section 44AH, insert:

44AHA Investigations conducted by AER

- (1) The AER may request an investigation and report to be made by the AEMC in accordance with this section, and may:
- (a) specify a period within which the report is required to be made public;
 - (b) require a draft report to be made available to any specified persons or bodies, during the investigation;
 - (c) require the AEMC to consider specified matters when making its investigations.
- (2) The AEMC is required to give notice of any investigation and of the terms of reference of an investigation under this section, for the purpose of obtaining public comment, in a newspaper circulating in the State or Territory and on the AEMC's website.
- (3) The AEMC is required, after considering any public comments on any such terms of reference, to within a reasonable time, settle the final terms of reference in the matter in consultation with the AER.
- (4) The AEMC may also report to the AER on any matter it considers relevant that arises from an investigation into a matter under this section. Any such report may be part of the principal report to the AER or may be a separate report.
- (5) The AER must arrange for a copy of a report of an investigation by the AEMC to be tabled in each House of the Parliament within 5 sitting days of the AER receiving the report.

Debate ensued.

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

Senator Murray moved the following amendment:

Schedule 1, page 22 (after line 12), after item 13, insert:

13A Subsection 46(1)

After “take advantage”, insert “, in that or any other market,”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Senators—

Allison (Teller)
Bartlett
Brown

Cherry
Greig

Lees
Murray

Nettle
Ridgeway

NOES, 46

Senators—

Barnett	Crossin	Kirk	Payne
Bishop	Eggleston	Knowles	Ray
Boswell	Evans	Ludwig	Santoro
Brandis	Faulkner	Lundy	Scullion
Buckland	Ferguson	Macdonald, Sandy	Stephens
Calvert	Ferris	Marshall	Tchen
Campbell, George	Fifield	Mason	Troeth
Carr	Forshaw	McGauran (Teller)	Watson
Chapman	Hogg	McLucas	Webber
Conroy	Humphries	Minchin	Wong
Cook	Johnston	Moore	
Coonan	Kemp	Patterson	

Question negatived.

Senator Murray moved the following amendment:

Schedule 1, page 22 (after line 12), after item 13, insert:

13B After subsection 46(2)

Insert:

- (2A) In determining for the purposes of this section whether a corporation has a substantial degree of power in a market, the Court may consider the corporation's degree of power in a market to include any market power arising from any contracts, arrangements, understandings or covenants, whether formal or informal, which the corporation has entered into with other entities.

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

Senator Murray moved the following amendment:

Schedule 1, page 22 (after line 12), after item 13, insert:

13C After subsection 46(3)

Insert:

- (3A) In determining for the purposes of this section whether a corporation:
- (a) has a substantial degree of power in a market; or
 - (b) has taken advantage of that power for a purpose described in paragraph (1)(a), (b) or (c);
- the Court may have regard to the capacity of the corporation, relative to other corporations in that or any other market, to sell in that or any other market a good or service at a price below the cost to the corporation of producing or acquiring the good or supplying the service.

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

Bill agreed to.

Bills to be reported without amendments.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Sandy Macdonald) reported accordingly.

On the motion of the Minister for Finance and Administration (Senator Minchin) the report from the committee was adopted.

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

Debate ensued.

Question put.

The Senate divided—

AYES, 42

Senators—

Barnett	Crossin	Kirk	Ray
Bishop	Eggleston	Ludwig	Santoro
Boswell	Faulkner	Lundy	Scullion
Buckland	Ferguson	Macdonald, Sandy	Stephens
Calvert	Ferris	Marshall	Tchen
Campbell, George	Fifield	McGauran (Teller)	Troeth
Campbell, Ian	Forshaw	McLucas	Watson
Carr	Heffernan	Minchin	Webber
Chapman	Hogg	Moore	Wong
Conroy	Johnston	Patterson	
Cook	Kemp	Payne	

NOES, 9

Senators—

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

Question agreed to.

Bills read a third time.

86 **APPROPRIATION BILL (NO. 2) 2004-2005**

A message from the House of Representatives was reported disagreeing to the amendment made by the Senate to the following bill:

Message no. 639, dated 25 June 2004—Appropriation Bill (No. 2) 2004-2005.

Ordered, on the motion of the Minister for Finance and Administration (Senator Minchin), that the message be considered in committee of the whole immediately.

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

In the committee

Senator Minchin moved—That the committee does not insist on its amendment to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Watson) resumed the chair and the Temporary Chair of Committees (Senator Sandy Macdonald) reported that the committee had considered message no. 639 from the House of Representatives relating to the Appropriation Bill (No. 2) 2004-2005 and had resolved not to insist on the amendment made by the Senate to which the House had disagreed.

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

87 TREASURY LEGISLATION AMENDMENT (PROFESSIONAL STANDARDS) BILL 2004

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Conroy moved the following amendments together by leave:

Schedule 1, item 3, page 4 (after line 20), after subsection (2), insert:

- (2A) A scheme must not be prescribed by regulations unless the scheme permits members of the scheme to voluntarily accept caps higher than those contained in the scheme in each or all of the following situations:
- (a) for particular kinds of work;
 - (b) for particular specified transactions or classes of transaction;
 - (c) for a particular client or clients;
 - (d) for work of a particular value;
 - (e) in any other case determined by the scheme member.

Schedule 1, item 7, page 6 (after line 13), after subsection (2), insert

- (2A) A scheme must not be prescribed by regulations unless the scheme permits members of the scheme to voluntarily accept caps higher than those contained in the scheme in each or all of the following situations:
- (a) for particular kinds of work;
 - (b) for particular specified transactions or classes of transaction;
 - (c) for a particular client or clients;
 - (d) for work of a particular value;
 - (e) in any other case determined by the scheme member.

Schedule 1, item 11, page 8 (after line 23), after subsection (2), insert:

- (2A) A scheme must not be prescribed by regulations unless the scheme permits members of the scheme to voluntarily accept caps higher than those contained in the scheme in each or all of the following situations:
- (a) for particular kinds of work;
 - (b) for particular specified transactions or classes of transaction;
 - (c) for a particular client or clients;

- (d) for work of a particular value;
- (e) in any other case determined by the scheme member.

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

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the report from the committee was adopted and the bill read a third time.

88 TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL (NO. 2) 2004

Order of the day read for the consideration of message no. 618 from the House of Representatives in committee of the whole (*see entry no. 28, 22 June 2004*).

In the committee

Explanatory memorandum: The Minister for Revenue and Assistant Treasurer (Senator Coonan) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Senator Coonan moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

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

Schedule 1, item 9, page 6 (after line 6), after the definition of *quarter*, insert:

smoking has the same meaning as in the *Tobacco Advertising Prohibition Act 1992*.

tobacco product has the same meaning as in the *Tobacco Advertising Prohibition Act 1992*.

Schedule 1, item 9, page 6 (lines 7 to 12), omit section 87E, substitute:

87E Proceedings to which this Part applies

- (1) This Part applies to proceedings taken under this Act:
 - (a) that relate to Part IVA, to Division 1A or 2A of Part V or to Part VA; and
 - (b) in which the plaintiff is seeking an award of personal injury damages; and

(c) that are not proceedings in respect of the death of or personal injury to a person resulting from smoking or other use of tobacco products.

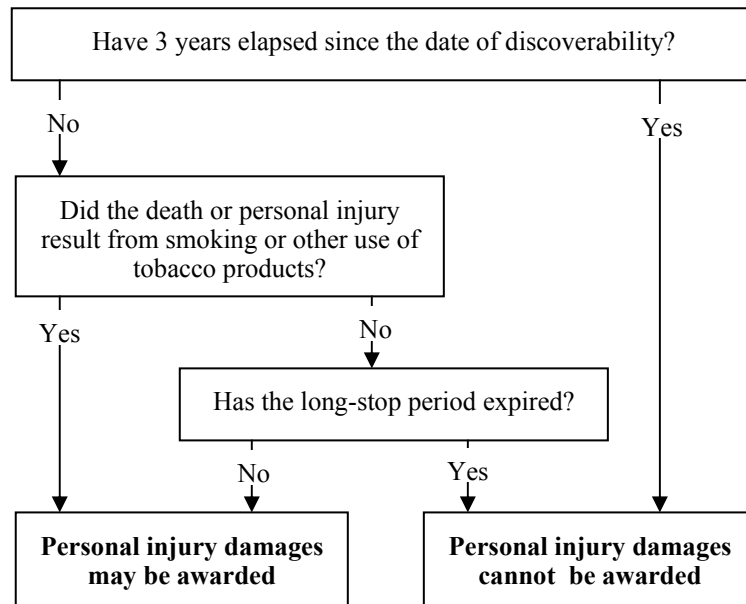
(2) However, for the purposes of Divisions 2 and 7, paragraph (1)(c) does not apply.

Schedule 1, item 9, page 6 (after line 20), after subsection 87F(1), insert:

(1A) However, paragraph (1)(b) does not apply in relation to a proceeding in respect of the death of or personal injury to a person resulting from smoking or other use of tobacco products.

Schedule 1, item 9, page 6 (line 21) to page 7 (line 2), omit subsection 87F(2), substitute:

(2) This diagram shows when this Division prevents an award of personal injury damages.



Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 618 from the House of Representatives relating to the Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004 and had resolved not to insist on the amendments made by the Senate to which the House had disagreed and had agreed to amendments made in place of those amendments.

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

89 EXTENSION OF CHARITABLE PURPOSE BILL 2004

A message from the House of Representatives was reported disagreeing to the amendment made by the Senate to the following bill:

Message no. 634, dated 24 June 2004—Extension of Charitable Purpose Bill 2004.

Ordered, on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan), that the message be considered in committee of the whole immediately.

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

In the committee

Senator Coonan moved—That the committee does not insist on its amendment to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 634 from the House of Representatives relating to the Extension of Charitable Purpose Bill 2004 and had resolved not to insist on the amendment made by the Senate to which the House had disagreed.

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

90 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the order of consideration of government business orders of the day for the remainder of today be as follows:

No. 10 Anti-terrorism Bill 2004, consideration in committee of the whole of message no. 620 from the House of Representatives.

Customs Legislation Amendment (Airport, Port and Cargo Security) Bill 2004.

No. 9 Sex Discrimination Amendment (Teaching Profession) Bill 2004.

No. 8 Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004.

No. 2 Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003.

Marriage Amendment Bill 2004, subject to introduction.

Surveillance Devices Bill (No. 2) 2004, subject to introduction.

Question put and passed.

91 ANTI-TERRORISM BILL 2004

Order of the day read for the consideration of message no. 620 from the House of Representatives in committee of the whole (*see entry no. 44, 23 June 2004*).

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE
TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

(9) Opp (6) [Sheet 4248]

Schedule 1, item 24, page 11 (lines 19 and 20), omit the item.

(10) Opp (7) [Sheet 4248]

Schedule 1, item 26, page 12 (line 40) to page 13 (line 6), omit subsection 337A(3).

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its amendments nos 9 and 10 to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 44

Senators—

Barnett	Crossin	Johnston	Patterson
Bishop	Eggleston (Teller)	Kemp	Payne
Boswell	Ellison	Kirk	Ray
Brandis	Evans	Lightfoot	Santoro
Buckland	Faulkner	Ludwig	Scullion
Calvert	Ferris	Macdonald, Ian	Stephens
Campbell, George	Fifield	Macdonald, Sandy	Tchen
Campbell, Ian	Forshaw	Marshall	Troeth
Carr	Heffernan	Mason	Watson
Cook	Hogg	McGauran	Webber
Coonan	Humphries	McLucas	Wong

NOES, 9

Senators—

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

Question agreed to.

Resolution to be reported.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Temporary Chair of Committees (Senator McLucas) reported that the committee had considered message no. 620 from the House of Representatives relating to the Anti-terrorism Bill 2004 and had resolved not to insist on amendments nos 9 and 10 made by the Senate to which the House had disagreed.

On the motion of the Minister for Justice and Customs (Senator Ellison) the report from the committee was adopted.

92 CUSTOMS LEGISLATION AMENDMENT (AIRPORT, PORT AND CARGO SECURITY) BILL 2004

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

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

Schedule 1, item 1, page 7 (after line 26), at the end of section 219ZJB, add:

- (5) Subject to subsection (7), if a person is detained under this section for a period of greater than 45 minutes, an officer who is detaining the person under this section must inform the person of the right of the person to have a family member or another person notified of the person's detention.
- (6) Where a person detained under this section wishes to have a family member or another person notified of the person's detention, the officer must take all reasonable steps to notify the family member or another person.
- (7) An officer who is detaining the person under this section may refuse to notify a family member or another person of the person's detention if the officer believes on reasonable grounds that such notification should not be made in order to:
 - (a) safeguard the processes of law enforcement; or
 - (b) protect the life and safety of any person.

Schedule 1, item 1, page 8 (after line 12), at the end of section 219ZJC, add:

- (4) Subject to subsection (6), if a person is detained under this section for a period of greater than 45 minutes, an officer who is detaining the person under this section must inform the person of the right of the person to have a family member or another person notified of the person's detention.
- (5) Where a person detained under this section wishes to have a family member or another person notified of the person's detention, the officer must take all reasonable steps to notify the family member or another person.
- (6) An officer who is detaining the person under this section may refuse to notify a family member or another person of the person's detention if the officer believes on reasonable grounds that such notification should not be made in order to:
 - (a) safeguard the processes of law enforcement; or
 - (b) protect the life and safety of any person.

On the motion of Senator Murray the following amendment was agreed to:

Schedule 1, item 1, page 9 (line 12), omit "**may**", substitute "**must**".

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

Schedule 1, item 1, page 9 (line 15), omit "may", substitute "must".

Schedule 1, item 1, page 10 (after line 32), at the end of Subdivision C, add:

219ZJJ Detention of minors

- (1) Subject to subsection (2), an officer who under this Division detains a person who is known or believed to be a minor must:

- (a) inform the minor of the right for a parent or guardian or person described in paragraph (c) to be notified of the minor's detention; and
 - (b) upon the request of the minor, take all reasonable steps to notify such person and inform them of:
 - (i) the fact that the minor has been detained; and
 - (ii) the place in which the minor is being held; and
 - (iii) the place to which the minor is to be transferred by police, if that place is known at the time of contacting the minor's parent or guardian; and
 - (iv) the reason for the minor's detention; and
 - (c) if a parent or guardian is not acceptable to the detained minor under this subsection, the detained minor may request that another person who is capable of representing the interests of the minor be notified.
- (2) An officer who under this Division detains a person who is known or believed to be a minor may refuse to notify a parent or guardian or person described in paragraph (1)(c) of the person's detention if the officer believes on reasonable grounds that such notification should not be made in order to:
- (a) safeguard the processes of law enforcement; or
 - (b) protect the life and safety of any person.
- (3) If at the time of notifying the parent or guardian, the officer is not aware of the place referred to in subparagraph (1)(b)(iii), the officer must:
- (a) contact the parent or guardian or other person described in paragraph (1)(c) immediately after that place becomes known to the officer; and
 - (b) inform the parent or guardian of that place.
- (4) An officer who under this Division detains a person who is known or believed to be a minor must, at the time of advising a police officer of the minor's detention in accordance with subsection 219ZJB(2) or 219ZJC(2), advise the police officer of the fact that the detained person is a minor, or is believed to be a minor.
- (5) For the purposes of this section, a minor is considered to be any person under the age of 18 years.

Senator Murray moved the following amendments together by leave:

Schedule 3, item 1, page 14 (lines 15 and 16), omit subsection 106B(4) and the note.

Schedule 3, item 1, page 15 (lines 7 and 8), omit subsection 106C(4) and the note.

Schedule 3, item 1, page 15 (lines 29 and 30), omit subsection 106D(4) and the note.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of Senator Ellison the report from the committee was adopted and the bill read a third time.

93 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of government business order of the day no. 8 (Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004).

Question put and passed.

94 ELECTORAL AND REFERENDUM AMENDMENT (ENROLMENT INTEGRITY AND OTHER MEASURES) BILL 2004

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Document: The Leader of the Opposition in the Senate (Senator Faulkner), by leave, tabled the following document:

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004—Extract from submission by the Australian Electoral Commission to the Joint Standing Committee on Electoral Matters inquiry into the conduct of the 1993 election.

Debate continued.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Faulkner moved the following amendment:

Page 4 (after line 6), after clause 2, insert:

2A Sunset and review of provisions for evidentiary requirements for enrolment

- (1) Schedule 1, items 9, 12, 16, 18A, 19 and 42 concerning the evidentiary requirements for enrolment shall cease to have effect on the third anniversary of the day on which this Act receives the Royal Assent.
- (2) On the first business day after the second anniversary of the day on which this Act receives the Royal Assent, the Electoral Commission

shall commence a review to assess the provisions of this Act concerning the evidentiary requirements for enrolment, particularly as they relate to the integrity of the electoral roll and the effect, if any, the provisions have had on enrolment and enrolment procedures. The Electoral Commission shall forward a copy of its report and any recommendations it makes simultaneously to the Minister and the Joint Standing Committee on Electoral Matters within six months after commencement of the review.

Debate ensued.

Senator Faulkner, by leave, amended the amendment to read as follows:

Page 29 (after line 2), before item 133, insert:

132A Sunset and review of provisions for evidentiary requirements for enrolment

- (1) Schedule 1, items 9, 12, 16, 18A, 19 and 42 concerning the evidentiary requirements for enrolment shall cease to have effect on the third anniversary of the day on which the Schedule items are proclaimed.
- (2) On the first business day after the second anniversary of the day on which the Schedule items are proclaimed, the Electoral Commission shall commence a review to assess the provisions of this Act concerning the evidentiary requirements for enrolment, particularly as they relate to the integrity of the electoral roll and the effect, if any, the provisions have had on enrolment and enrolment procedures. The Electoral Commission shall forward a copy of its report and any recommendations it makes simultaneously to the Minister and the Joint Standing Committee on Electoral Matters within six months after commencement of the review.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 9, 12 and 16.

Schedule 1, items 9, 12 and 16 debated.

Question—That Schedule 1, items 9, 12 and 16 stand as printed—put and negatived.

On the motion of Senator Faulkner the following amendment was debated and agreed to:

Schedule 1, page 9 (after line 2), after item 18, insert:

18A Before section 98

Insert:

98AA Regulations

- (1) Where regulations are made to implement a requirement of this Part or Part VII in relation to identification for enrolment:
 - (a) the regulations must require the applicant for enrolment to provide documentary evidence of their name and address by providing their driver's licence number;
provided that:
 - (b) where the applicant does not possess a driver's licence, the application must be countersigned by two persons on the electoral roll who can confirm the applicant's identity and

current residential address. The counter-signatories must have known the applicant for at least one month or have sighted identification showing the applicant's name and address.

- (2) Regulations must not be made in accordance with subsection (1) until after 1 July 2005.

On the motion of Senator Faulkner the following amendment was agreed to:

Schedule 1, item 19, page 9 (line 13), after paragraph (d), insert:

- ; and (e) the requirement in paragraph (c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 78 and 116.

Question—That Schedule 1, items 78 and 116 stand as printed—put and negatived.

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

Schedule 1, item 6, page 6 (lines 16 and 17), omit the item, substitute:

6 Paragraph 93(8)(b)

Repeal the paragraph, substitute:

- (b) is serving a sentence of imprisonment which:

- (i) commenced on or before the return of the writs for an election for the House of Representatives or Senate; and
- (ii) continues at the issuing of writs for any succeeding election for the House of Representatives or Senate; or

Schedule 1, item 7, page 6 (lines 18 to 24), omit the item, substitute:

7 After subsection 93(8)

Insert:

(8AA) For the purposes of paragraph (8)(b), a person is *serving a sentence of imprisonment* only if:

- (a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and
- (b) that detention is attributable to the sentence of imprisonment concerned.

All Australian Democrat senators, by leave, recorded their vote for the noes.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 6, as amended and item 7, as amended.

Schedule 1, item 6, as amended, and item 7, as amended, agreed to. Senators Brown and Nettle, by leave, recorded their votes for the noes.

Senator Murray moved the following amendment:

Schedule 1, page 6 (after line 17), after item 6, insert:

6A Paragraph 93(8)(b)

Repeal the paragraph.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 18 and 26.

Question—That Schedule 1, items 18 and 26 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 46 and 71.

Schedule 1, items 46 and 71 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 95.

Schedule 1, item 95 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 10, 13, 17, 37, 45, 62, 63, 106 and 109.

Schedule 1, items 10, 13, 17, 37, 45, 62, 63, 106 and 109 debated.

Question—That Schedule 1, items 10, 13, 17, 37, 45, 62, 63, 106 and 109 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 79 to 84, 86 and 87.

Question—That Schedule 1, items 79 to 84, 86 and 87 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 75 and 113.

Question—That Schedule 1, items 75 and 113 stand as printed—put and negatived.

Senator Murray moved the following amendments together by leave:

Schedule 1, item 92, page 20 (line 8), omit “Imprisonment for 12 months”, substitute “30 penalty units or imprisonment for 6 months”.

Schedule 1, item 93, page 20 (line 13), omit “60 penalty units or imprisonment for 12 months, or both”, substitute “A maximum of 60 penalty units or a maximum term of imprisonment for two years, or both”.

Schedule 1, item 93, page 20 (line 17), at the end of subsection (1D), add “, except that the maximum term of imprisonment shall be two years regardless of the number of offences”.

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

On the motion of Senator Murray the following amendment was agreed to:

Schedule 1, page 20 (after line 8), after item 92, insert:

92A At the end of section 337

Add:

Note: The *Criminal Code Act 1995* contains defences for offences involving mistake or ignorance.

Senator Murray moved the following amendment:

Schedule 1, page 19 (after line 17), after item 84, insert:

84A At the end of section 308

Add:

- (4) For the purposes of this Division, an *advertisement* relating to an election includes the public notification, whether visual or audible or both, whether in the form of written or spoken words or other sounds and whether in a book, paper, magazine, poster, photograph, sketch, pamphlet, email or electronic communication program, film or slide or in any other form, which relates to the election, a candidate for the election, a political party or any policy associated with the election.

Debate ensued.

Senator Murray, by leave, withdrew the amendment.

Bill, as amended, further debated.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 85, 118 and 136 to 138.

Schedule 1, items 85, 118 and 136 to 138 debated.

Question—That Schedule 1, items 85, 118 and 136 to 138 stand as printed—put and negatived.

On the motion of Senator Faulkner the following amendment was debated and agreed to:

Schedule 1, item 59, page 16 (after line 12), at the end of the item, add:

(iii) the second party was registered after the commencement of this section; and

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Minister for Finance and Administration (Senator Minchin) the report from the committee was adopted.

Senator Minchin moved—That this bill be now read a third time.

Debate ensued.

Question put.

The Senate divided—

AYES, 49

Senators—

Allison	Cook	Johnston	Patterson
Barnett	Coonan	Kemp	Ray
Bartlett	Crossin	Kirk	Santoro
Bishop	Eggleston (Teller)	Lightfoot	Scullion
Boswell	Evans	Ludwig	Stephens
Brandis	Faulkner	Lundy	Tchen
Buckland	Ferguson	Marshall	Troeth
Calvert	Ferris	Mason	Watson
Campbell, George	Fifield	McGauran	Webber
Campbell, Ian	Forshaw	McLucas	Wong
Carr	Greig	Minchin	
Collins	Hogg	Moore	
Conroy	Humphries	Murray	

NOES, 3

Senators—

Brown	Murphy	Nettle (Teller)
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Question agreed to.

Bill read a third time.

95 SUPERANNUATION BUDGET MEASURES BILL 2004

A message from the House of Representatives was reported disagreeing to the amendments made by the Senate to the following bill:

Message no. 644, dated 25 June 2004—Superannuation Budget Measures Bill 2004.

Ordered, on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan), that the message be considered in committee of the whole immediately.

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

In the committee

Senator Coonan moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Senator Murphy moved the following amendment:

At the end of the motion, add “but agrees to the following amendments in place of those amendments:

Schedule 2, item 1, page 5 (line 12), omit ‘—10%; and’, substitute ‘and later financial years—10%.’.

Schedule 2, item 1, page 5 (lines 13 and 14), omit paragraph (d) of the definition of **maximum surcharge percentage**.

Schedule 2, item 2, page 5 (line 24), omit ‘—10%; and’, substitute ‘and later financial years—10%.’.

Schedule 2, item 2, page 5 (lines 25 and 26), omit paragraph (d) of the definition of **maximum surcharge percentage**.

Schedule 2, item 3, page 6 (line 5), omit ‘—10%; and’, substitute ‘and later financial years—10%.’.

Schedule 2, item 3, page 6 (lines 6 and 7), omit paragraph (d) of the definition of **maximum surcharge percentage**.

Schedule 2, item 4, page 7 (lines 10 to 15), omit paragraphs (d) and (e), substitute:
(d) 10% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

Schedule 2, item 5, page 7 (lines 22 to 27), omit paragraphs (d) and (e), substitute:
(d) 10% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.

Schedule 2, item 6, page 8 (lines 4 to 9), omit paragraphs (d) and (e), substitute:
(d) 10% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.

Schedule 2, item 7, page 8 (lines 17 to 22), omit paragraphs (d) and (e), substitute:
(d) 10% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

Schedule 2, item 8, page 8 (line 31) to page 9 (line 3), omit subparagraphs (iv) and (v), substitute:

- (iv) 10% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

Schedule 2, item 9, page 9 (lines 10 to 17), omit subparagraphs (iv) and (v), substitute:

- (iv) 10% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued after 30 June 2005.

Schedule 2, item 10, page 9 (lines 25 to 34), omit subparagraphs (iv) and (v), substitute:

- (iv) 10% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued after 30 June 2005.”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 30

Senators—

Barnett	Ellison	Lees	Patterson
Boswell	Ferguson	Lightfoot	Santoro
Brandis	Ferris	Macdonald, Ian	Scullion
Calvert	Fifield	Macdonald, Sandy	Tchen
Campbell, Ian	Heffernan	Mason	Troeth
Chapman	Humphries	McGauran (Teller)	Watson
Coonan	Johnston	Minchin	
Eggleston	Kemp	Murphy	

NOES, 25

Senators—

Allison	Cook	Ludwig	Ray
Bartlett	Crossin (Teller)	Lundy	Stephens
Bishop	Evans	Marshall	Webber
Brown	Faulkner	McLucas	Wong
Campbell, George	Forshaw	Moore	
Carr	Greig	Murray	
Conroy	Kirk	Nettle	

Question agreed to.

Main question, as amended, put and passed.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Lightfoot) reported that the committee had considered message no. 644 from the House of Representatives relating to the Superannuation Budget Measures Bill 2004 and had resolved not to insist on the amendments made by the Senate to which the House had disagreed, and had made amendments in place of those amendments.

Senator Coonan moved—That the report from the committee be adopted.

Debate ensued.

Question put and passed.

96 SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Senator Allison moved the following amendment:

At the end of the motion, add “but the Senate:

- (a) notes the Australia Institute’s finding in its report, *Public Attitudes to Discrimination in Private Schools*, that different treatment of public and private schools under anti-discrimination laws, and distinction between types of discrimination, creates a hierarchy of rights;
- (b) condemns the extension of exemptions in state-based anti-discrimination legislation to private schools on the grounds of sexuality and gender identity, and the alleged links between homosexuality and paedophilia often used to justify their existence; and
- (c) calls on the Federal Government to enact Federal anti-discrimination legislation prohibiting discrimination on the grounds of sexuality and gender identity, without religious exemption, as has occurred in Tasmania”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 7

Senators—

Allison (Teller)	Brown	Lees	Nettle
Bartlett	Greig	Murray	

NOES, 43

Senators—

Barnett	Conroy	Johnston	Patterson
Bishop	Cook	Kemp	Ray
Boswell	Coonan	Lightfoot	Santoro
Brandis	Ellison	Ludwig	Scullion
Buckland	Evans	Lundy	Stephens
Calvert	Ferguson	Marshall	Tchen
Campbell, George	Fifield	Mason	Troeth
Campbell, Ian	Forshaw	McGauran (Teller)	Watson
Carr	Heffernan	McLucas	Webber
Chapman	Hogg	Minchin	Wong
Collins	Humphries	Moore	

Question negatived.

Main question put.

The Senate divided—

AYES, 27

Senators—

Barnett	Eggleston	Johnston	Patterson
Boswell	Ellison	Kemp	Santoro
Brandis	Ferguson	Lightfoot	Scullion
Calvert	Ferris	Macdonald, Sandy	Tchen
Campbell, Ian	Fifield	Mason	Troeth
Chapman	Heffernan	McGauran (Teller)	Watson
Coonan	Humphries	Minchin	

NOES, 28

Senators—

Allison	Collins	Hogg	Murphy
Bartlett	Conroy	Lees	Murray
Bishop	Cook	Ludwig	Nettle
Brown	Evans	Lundy	Ray
Buckland (Teller)	Faulkner	Marshall	Stephens
Campbell, George	Forshaw	McLucas	Webber
Carr	Greig	Moore	Wong

Question negatived.

97 MARRIAGE AMENDMENT BILL 2004

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 631, dated 24 June 2004—A Bill for an Act to amend the *Marriage Act 1961*, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) moved—That this bill may proceed without formalities and be now read a first time.

Question put.

The Senate divided—

AYES, 25

Senators—

Barnett	Ferguson	Lightfoot	Santoro
Boswell	Ferris	Macdonald, Ian	Scullion
Brandis	Fifield	Macdonald, Sandy	Troeth
Calvert	Heffernan	Mason	Watson
Campbell, Ian	Humphries	McGauran (Teller)	
Coonan	Johnston	Minchin	
Ellison	Kemp	Patterson	

NOES, 27

Senators—

Allison	Collins	Lees	Murray
Bartlett	Conroy	Ludwig	Nettle
Bishop	Cook	Lundy	Ray
Brown	Evans	Marshall	Stephens
Buckland (Teller)	Forshaw	McLucas	Webber
Campbell, George	Greig	Moore	Wong
Carr	Hogg	Murphy	

Question negatived.

98 **WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES)**
BILL 2003

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

In the committee

Bill, as previously amended, taken as a whole by leave.

Bill, as amended, further debated.

Explanatory memorandum: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

On the motion of Senator Ian Campbell the following amendment was debated and agreed to:

Clause 2, page 2 (at the end of the table), add:

- | | |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. Schedule 3 | The 28th day after the day on which this Act receives the Royal Assent |
| <hr/> | |
| 4. Schedule 4 | A single day to be fixed by Proclamation |
| | However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period |
| <hr/> | |
| 5. Schedule 5 | The day on which this Act receives the Royal Assent |

On the motion of Senator Ian Campbell the following amendment was debated and agreed to:

Page 8 (after line 5), at the end of the bill, add:

Schedule 5—Disqualification from office of person serving suspended sentence

Part 1—Amendments

Workplace Relations Act 1996

1 Paragraph 213(c) of Schedule 1B

Repeal the paragraph, substitute:

- (c) is not convicted of a prescribed offence referred to in paragraph 212(d) unless the person was sentenced to a term of imprisonment for the offence and either:
- (i) the person has served, or is serving, a term of imprisonment for the offence; or
 - (ii) the sentence is suspended for a period.

2 After section 213 of Schedule 1B

Insert:

213A Meaning of *exclusion period* and *reduced exclusion period*

- (1) For the purposes of this Division, the *exclusion period* in relation to a person who has been convicted of a prescribed offence means a period of 5 years beginning on the latest of the following days:
 - (a) the day on which the person was convicted of the prescribed offence;
 - (b) if the person was sentenced to a term of imprisonment for the offence, the sentence was suspended for a period, and the person is not imprisoned for the offence during the period—the day immediately after the end of the period;
 - (c) if the person serves a term of imprisonment for the offence—the day on which the person is released from prison.
- (2) For the purposes of this Division, a *reduced exclusion period* means a period specified by the Federal Court for the purposes of subparagraph 215(1)(a)(ii) under paragraph 216(2)(b) or 217(2)(b).

3 At the end of section 214 of Schedule 1B

Add:

- (4) A certificate purporting to be signed by the registrar or other proper officer of a federal court, a court of a State or Territory, or a court of another country, stating that the sentence of a person who was convicted of a specified offence has been suspended for a specified period is, for the purpose of an application made under section 215, 216 or 217, evidence that the sentence was suspended for that period.

4 Subparagraph 215(1)(a)(ii) of Schedule 1B

Repeal the subparagraph, substitute:

- (ii) the person was refused leave to hold office in organisations but, under paragraph 216(2)(b) or 217(2)(b), the Federal Court specified a reduced exclusion period, and that period has elapsed; or

5 Paragraph 215(1)(b) of Schedule 1B

Repeal the paragraph, substitute:

- (b) in any other case—the exclusion period has elapsed.

6 Subsection 216(1) of Schedule 1B

Repeal the subsection, substitute:

- (1) A person who:
 - (a) wants to be a candidate for election, or to be appointed, to an office in an organisation; and
 - (b) within the immediately preceding 5 years:
 - (i) has been convicted of a prescribed offence; or
 - (ii) has been released from prison after serving a term of imprisonment in relation to a conviction for a prescribed offence; or
 - (iii) has completed a suspended sentence in relation to a conviction for a prescribed offence;

may, subject to subsection (4), apply to the Federal Court for leave to hold office in organisations.

7 Paragraph 216(2)(b) of Schedule 1B

Repeal the paragraph, substitute:

- (b) refuse the person leave to hold office in organisations and specify, for the purposes of subsection 215(1), a period of less than 5 years beginning on the latest of the following days:
 - (i) the day on which the person was convicted of the prescribed offence;
 - (ii) if the person was sentenced to a term of imprisonment for the offence, the sentence was suspended for a period, and the person is not imprisoned for the offence during the period—the day immediately after the end of the period;
 - (iii) if the person serves a term of imprisonment for the offence—the day on which the person is released from prison.

8 Paragraph 217(2)(b) of Schedule 1B

Repeal the paragraph, substitute:

- (b) refuse the person leave to hold office in organisations and specify, for the purposes of subsection 215(1), a period of less than 5 years beginning on the latest of the following days:
 - (i) the day on which the person was convicted of the prescribed offence;
 - (ii) if the person was sentenced to a term of imprisonment for the offence, the sentence was suspended for a period, and the person is not imprisoned for the offence during the period—the day immediately after the end of the period;
 - (iii) if the person serves a term of imprisonment for the offence—the day on which the person is released from prison.

Part 2—Application, transitional and savings provisions

9 Application

The amendments made by Part 1 of this Schedule apply to persons convicted of a prescribed offence, whether the person is convicted before or after the commencement of that Part.

10 Transitional

- (1) This item applies where:
 - (a) a person was convicted of a prescribed offence before the commencement of Part 1 of this Schedule; and
 - (b) the person was sentenced to a term of imprisonment for the offence; and
 - (c) the sentence was suspended for a period; and
 - (d) the person holds an office in an organisation when Part 1 of this Schedule commences.
- (2) Despite subsection 215(2) of Schedule 1B to the Principal Act:

- (a) the person does not cease to hold the office until the end of the period of 28 days after the commencement of Part 1 of this Schedule; and
 - (b) nothing done by the person before the commencement of that Part in fulfilment of that office is affected by the amendments made by that Part.
- (3) Despite subsection 217(1) of Schedule 1B to the Principal Act, the person may, subject to subsection 217(4) of that Schedule, within 28 days after the commencement of Part 1 of this Schedule, apply to the Federal Court under section 217 of that Schedule for leave to hold office in organisations.

11 Savings—applications and orders under section 216 of Schedule 1B to the Principal Act

- (1) If, before the commencement of Part 1 of this Schedule, a person makes an application to the Federal Court under section 216 of Schedule 1B to the Principal Act, that application is to be dealt with as if that Schedule had not been amended by Part 1 of this Schedule.
- (2) If:
 - (a) the Federal Court makes an order under section 216 of Schedule 1B to the Principal Act before the commencement of Part 1 of this Schedule; or
 - (b) the Federal Court makes an order in reliance on subitem (1);that order has effect after the commencement of Part 1 of this Schedule as if Schedule 1B to the Principal Act had not been amended by that Part.

12 Savings—applications and orders under section 217 of Schedule 1B to the Principal Act

- (1) If, before the commencement of Part 1 of this Schedule, a person makes an application to the Federal Court under section 217 of Schedule 1B to the Principal Act, that application is to be dealt with as if Schedule 1B to the Principal Act had not been amended by that Part.
- (2) If:
 - (a) the Federal Court makes an order under section 217 of Schedule 1B to the Principal Act before the commencement of Part 1 of this Schedule; or
 - (b) the Federal Court makes an order in reliance on subitem (1);that order has effect after the commencement of Part 1 of this Schedule as if Schedule 1B to the Principal Act had not been amended by that Part.

13 Definition

In this Part:

Schedule 1B to the Principal Act means Schedule 1B to the *Workplace Relations Act 1996*.

Senator Ian Campbell moved the following amendment:

Page 8 (after line 5), at the end of the bill, add:

Schedule 3—Increasing civil penalties

Workplace Relations Act 1996

1 Subsection 4(1)

Insert:

penalty unit has the same meaning as in the *Crimes Act 1914*.

2 Subsection 170NF(2)

Omit “\$10,000”, substitute “300 penalty units”.

3 Subsection 170NF(2)

Omit “\$2,000”, substitute “60 penalty units”.

4 Subsection 170VV(2)

Omit “\$10,000”, substitute “300 penalty units”.

5 Subsection 170VV(2)

Omit “\$2,000”, substitute “60 penalty units”.

6 Subparagraph 178(4)(a)(i)

Omit “\$5,000”, substitute “150 penalty units”.

7 Subparagraph 178(4)(a)(i)

Omit “\$1,000”, substitute “30 penalty units”.

8 Sub-subparagraph 178(4)(a)(iia)(A)

Omit “\$10,000”, substitute “300 penalty units”.

9 Sub-subparagraph 178(4)(a)(iia)(A)

Omit “\$2,000”, substitute “60 penalty units”.

10 Sub-subparagraph 178(4)(a)(iia)(B)

Omit “\$5,000”, substitute “150 penalty units”.

11 Sub-subparagraph 178(4)(a)(iia)(B)

Omit “\$1,000”, substitute “30 penalty units”.

12 Subparagraph 178(4)(a)(iib)

Omit “\$10,000”, substitute “300 penalty units”.

13 Subparagraph 178(4)(a)(iib)

Omit “\$2,000”, substitute “60 penalty units”.

14 Subparagraph 178(4)(a)(ii)

Omit “\$10,000”, substitute “300 penalty units”.

15 Subparagraph 178(4)(a)(ii)

Omit “\$2,000”, substitute “60 penalty units”.

16 Paragraph 178(4)(b)

Omit “\$10,000”, substitute “300 penalty units”.

17 Paragraph 178(4)(b)

Omit “\$2,000”, substitute “60 penalty units”.

18 Subsection 178(4A)

Omit “\$5,000”, substitute “150 penalty units”.

19 Subsection 178(4A)

Omit “\$1,000”, substitute “30 penalty units”.

20 Paragraph 187AD(1)(a)

Omit “\$10,000”, substitute “300 penalty units”.

21 Subsection 285F(3)

Omit “\$10,000”, substitute “300 penalty units”.

22 Subsection 285F(3)

Omit “\$2,000”, substitute “60 penalty units”.

23 Subparagraph 298U(a)(i)

Omit “\$10,000”, substitute “300 penalty units”.

24 Subparagraph 298U(a)(ii)

Omit “\$2,000”, substitute “60 penalty units”.

25 Application of amendments

The amendments made by this Schedule apply in relation to contraventions occurring after the commencement of the amendments.

Schedule 4—Compliance etc. powers***Workplace Relations Act 1996*****1 After Part V**

Insert:

Part VA—Compliance etc. powers**88AA Secretary’s powers to obtain information etc.**

Secretary may require information, documents etc.

- (1) Subject to subsections (2) and (3), if the Secretary of the Department believes on reasonable grounds that a person (the **relevant person**):
 - (a) has information or documents relevant to a building industry investigation; or
 - (b) is capable of giving evidence that is relevant to a building industry investigation;
 the Secretary may, by written notice given within 3 years of the commencement of this Part to the relevant person, require the relevant person:
 - (c) to give the information to the Secretary, or to an assistant, by the time, and in the manner and form, specified in the notice; or
 - (d) to produce the documents to the Secretary, or to an assistant, by the time, and in the manner, specified in the notice; or
 - (e) to attend before the Secretary, or an assistant, at the time and place specified in the notice, and answer questions relevant to the investigation.
- (2) The time specified under paragraph (1)(c), (d) or (e) must be at least 14 days after the notice is given.

- (3) The power given by subsection (1) must not be used for the purposes of an investigation that is trivial.

Legal representation

- (4) A person attending before the Secretary of the Department, or before an assistant, as mentioned in paragraph (1)(e) may, if the person so chooses, be represented by a person who, under the *Judiciary Act 1903*, is entitled to practise as a barrister or solicitor, or both, in a federal court.

Oath or affirmation

- (5) The Secretary of the Department, or an assistant, may require the information or answers to be verified by, or given on, oath or affirmation, and either orally or in writing. For that purpose, the Secretary, or an assistant, may administer the oath or affirmation.
- (6) The oath or affirmation is an oath or affirmation that the information or answers are or will be true.

Offence

- (7) A person commits an offence if:
- (a) the person has been given a notice under subsection (1); and
 - (b) the person fails:
 - (i) to give the required information by the time, and in the manner and form, specified in the notice; or
 - (ii) to produce the required documents by the time, and in the manner, specified in the notice; or
 - (iii) to attend to answer questions at the time and place specified in the notice; or
 - (iv) to take an oath or make an affirmation, when required to do so under subsection (5); or
 - (v) to answer questions relevant to the investigation while attending as required by the notice.

Penalty: Imprisonment for 6 months.

Effect of secrecy provisions

- (8) The operation of this section is not limited by any secrecy provision of any other law (whether enacted before or after the commencement of this section), except to the extent that the secrecy provision expressly excludes the operation of this section. For this purpose, **secrecy provision** means a provision that prohibits the communication or divulging of information.

Definitions

- (9) In this section:

assistant means:

- (a) the person occupying the position in the Department known as the director of the Building Industry Taskforce; or
- (b) a building industry authorised officer; or
- (c) a building industry inspector.

building industry authorised officer means an authorised officer exercising or performing powers or functions as part of, or for the purpose of assisting, the Building Industry Taskforce.

building industry inspector means an inspector exercising or performing powers or functions as part of, or for the purpose of assisting, the Building Industry Taskforce.

building industry investigation means an investigation in relation to which the following paragraphs are satisfied:

- (a) the investigation is:
 - (i) by a building industry authorised officer for a purpose referred to in subsection 83BH(1) (which is about authorised officers ascertaining whether the terms of an AWA, or certain provisions of this Act, are being, or have been, complied with); or
 - (ii) by a building industry inspector for a purpose referred to in subsection 86(1) (which is about inspectors ascertaining whether the terms of an award or certified agreement, or certain provisions of this Act, are being, or have been, complied with); and
- (b) the subject matter of the investigation involves, or is related to, the building and construction industry.

Building Industry Taskforce means the Taskforce of that name established within the Department.

88AB Certain excuses not available in relation to section 88AA requirements

Excuses that are not available

- (1) A person is not excused from giving information, producing a document, or answering a question, under section 88AA on the ground that to do so:
 - (a) would contravene any other law; or
 - (b) might tend to incriminate the person or otherwise expose the person to a penalty or other liability; or
 - (c) would be otherwise contrary to the public interest.

Use/derivative use indemnity

- (2) However, neither:
 - (a) the information or answer given or the document produced; nor
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or answer or producing the document;
 is admissible in evidence against the person in proceedings, other than:
 - (c) proceedings for an offence against subsection 88AA(7); or
 - (d) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act; or
 - (e) proceedings for an offence against section 149.1 of the *Criminal Code* that relates to this Act.

88AC Protection from liability

A person who, in good faith:

- (a) gives information; or
- (b) produces a document; or
- (c) answers a question;

when requested or required to do so under section 88AA is not liable to:

- (d) any proceedings for contravening any other law because of that conduct; or
- (e) civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.

88AD Retention and copying etc. of documents

Secretary or assistant may keep documents

- (1) The Secretary of the Department, or an assistant, may take possession of a document produced under section 88AA and keep it for as long as is necessary for the purposes of the conduct of the investigation to which the document is relevant.

Certified copy to be supplied to person entitled to document

- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy that is certified, by one of the following persons, to be a true copy:
 - (a) the Secretary of the Department;
 - (b) an assistant.

Certified copy to be treated as original

- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

Right to inspect and copy the original

- (4) Until a certified copy is supplied, the Secretary of the Department, or an assistant, must, at such times and places as the Secretary or assistant considers appropriate, permit the person otherwise entitled to possession of the document (or a person authorised by that person) to inspect and make copies of all or part of the document.

Definition

- (5) In this section:
assistant has the same meaning as in section 88AA.

88AE Secretary or assistant may make and keep copies of documents

- (1) The Secretary of the Department, or an assistant, may make and keep copies of all or part of any documents produced under section 88AA.
- (2) In this section:
assistant has the same meaning as in section 88AA.

88AF Protection of confidentiality of information

- (1) This section restricts what a person (the *entrusted person*) may do with protected information that the person has obtained in the course of official employment.

Note: Although this section applies only to information that a person obtained in the course of official employment, the obligations under this section continue to apply after the person ceases to be in official employment.

Recording or disclosing

- (2) The entrusted person must not:

- (a) make a record of protected information; or
- (b) disclose protected information.

Penalty: Imprisonment for 12 months.

Permitted recording or disclosure by designated officials

- (3) If the entrusted person is a designated official at the time of the recording or disclosure, then each of the following is an exception to the offence in subsection (2):
 - (a) the recording or disclosure is for the purposes of this Act;
 - (b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person's official employment;
 - (c) in the case of a disclosure—the disclosure is to a person appointed or employed by:
 - (i) the Commonwealth, a State or Territory; or
 - (ii) an authority of the Commonwealth, a State or Territory; for the purpose of assisting in relevant law enforcement;
 - (d) the recording or disclosure is in accordance with regulations made for the purposes of this paragraph.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

Permitted recording or disclosure by other persons

- (4) If the entrusted person is not a designated official at the time of the recording or disclosure, then each of the following is an exception to the offence in subsection (2):
 - (a) the recording or disclosure is for the purposes of this Act;
 - (b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person's official employment, being duties relating to relevant law enforcement;
 - (c) the recording or disclosure is in accordance with regulations made for the purposes of this paragraph.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

Authorisation for purposes of Privacy Act

- (5) A disclosure of personal information is taken to be authorised by law for the purposes of paragraph (1)(d) of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988* if the information is protected information and the disclosure is made in accordance with subsection (3) or (4) of this section.

Definitions

- (6) In this section:

designated official means any of the following:

- (a) the Secretary of the Department;
- (b) a Registrar;
- (c) the person occupying the position in the Department known as the director of the Building Industry Taskforce;
- (d) an inspector;
- (e) an authorised officer;

- (f) a person acting under a delegation under this Act from a person covered by any of the above paragraphs.

disclose means divulge or communicate.

industrial association means:

- (a) an organisation; or
- (b) any other association covered by any of the following subparagraphs:
 - (i) an association of employees and/or independent contractors, or an association of employers, that is registered or recognised as such an association (however described) under an industrial law; or
 - (ii) an association of employees and/or independent contractors a principal purpose of which is the protection and promotion of their interests in matters concerning their employment, or their interests as independent contractors, as the case requires; or
 - (iii) an association of employers a principal purpose of which is the protection and promotion of their interests in matters concerning employment and/or independent contractors;

and includes a branch of an organisation, or of an association referred to in paragraph (b).

industrial law means this Act, the Registration and Accountability of Organisations Schedule or a law, however designated, of a State or Territory that regulates the relationships between employers and employees or provides for the prevention or settlement of disputes between employers and employees.

official employment means:

- (a) appointment or employment by, or the performance of services for:
 - (i) the Commonwealth, a State or Territory; or
 - (ii) an authority of the Commonwealth, a State or Territory;or
- (b) appointment as an inspector or an authorised officer.

protected information means information that:

- (a) was disclosed or obtained under this Part; and
- (b) was obtained by the entrusted person, or by any other person, in the course of official employment; and
- (c) relates to a person other than the entrusted person.

relevant law enforcement means enforcement of a law of the Commonwealth, or of a State or Territory, where the enforcement is in respect of conduct by, or in relation to, a person or body in the person's or body's capacity as any of the following:

- (a) an employee;
- (b) an employer;
- (c) an independent contractor;
- (d) the other party to a contract entered into by a person as an independent contractor;

- (e) an industrial association;
- (f) an officer, delegate or other representative of an industrial association;
- (g) an employee of an industrial association.

88AG Delegation by Secretary

- (1) The Secretary of the Department may, in writing, delegate all or any of his or her powers and functions under this Part to the person occupying the position in the Department known as the director of the Building Industry Taskforce.
- (2) In exercising or performing powers or functions under a delegation, the delegate must comply with any directions of the Secretary of the Department.

88AH Relationship with other provisions about authorised officers and inspectors

- (1) Subject to this section, nothing in this Part limits, or is limited by:
 - (a) Division 2 of Part IVA (which is about authorised officers); or
 - (b) Part V (which is about inspectors).
- (2) In particular (but without otherwise limiting subsection (1)):
 - (a) an authorised officer or inspector is not subject to directions under subsection 83BG(2) or 84(5) when exercising or performing powers or functions under this Part; and
 - (b) despite subsection 84(4A), an inspector appointed under paragraph 84(2)(b) may exercise or perform powers or functions under this Part whether or not those powers or functions are specified in his or her instrument of appointment.
- (3) However, the requirements of subsections 83BG(6) and 85(2) (relating to the carrying of identity cards) do apply to an authorised officer or inspector when exercising or performing functions or powers under this Part.

Debate ensued.

Suspension of sitting: On the motion of Senator Ian Campbell the sitting of the committee was suspended till 7.30 pm.

At 7.30 pm—

Debate continued.

Document: Senator Ian Campbell tabled the following document:

Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003—
Australian Competition and Consumer Commission—Guidelines—Section 155 of
the *Trade Practices Act 1974*.

Debate continued.

Senator Cook moved the following amendments to Senator Ian Campbell's proposed amendment together by leave:

Schedule 4, item 1, omit, subsection 88AA(1), substitute:

Secretary may require information, documents etc.

- (1) If the Secretary of the Department believes on reasonable grounds that:
- (a) a person (the **relevant person**) has information or documents relevant to an investigation or is capable of giving evidence that is relevant to an investigation; and
 - (b) either of the following circumstances applies:
 - (i) the information or documents will assist another law enforcement authority in relation to a criminal offence; or
 - (ii) the information or documents relate to offences under sections 299, 301, 302, 303, 305, 305A, 307, 308, 317, 338 or 339 of this Act, or sections 51, 72, 104, 105, 185, 190, 193, 194, 195, 199, 202, 337, 350 or 351 of Schedule 1B.

the Secretary or an assistant may, by written notice given within 3 years of the commencement of this Part to the relevant person, apply to a judge of the Federal Court for a warrant requiring the relevant person:

- (c) to give the information to the Secretary, or to an assistant, by the time, and in the manner and form, specified in the warrant; or
 - (d) to produce the documents to the Secretary, or to an assistant, by the time, and in the manner, specified in the warrant; or
 - (e) to attend before the Secretary, or an assistant, at the time and place specified in the warrant, and answer questions relevant to the investigation.
- (1A) A judge of the Federal Court may issue a warrant referred to in subsection (1) if the criteria in paragraphs (1)(a) and (b) are satisfied.

Schedule 4, item 1, at the end of subsection 88AA(3), add "on the proviso that this limitation is not intended to exclude any other limitation on the exercise of the power given by subsection (1) which might otherwise apply".

Schedule 4, item 1, omit subparagraphs 88AA(7)(b)(i) to (iii), substitute:

- (i) to comply with a warrant issued under this section; or

Schedule 4, item 1 after subsection 88AA(7), insert:

- (7A) Information obtained from the use of a warrant issued under this section cannot be used as evidence in a prosecution for an offence under this Act, other than an offence referred to in subparagraph (1)(b)(ii).

Schedule 4, item 1, omit section 88AB.

Debate ensued.

The Senate continued to sit till midnight—
SATURDAY, 26 JUNE 2004 AM

Debate continued.

Question—That Senator Cook's amendments to Senator Ian Campbell's proposed amendment be agreed to—put.

The committee divided—

AYES, 23

Senators—

Brown	Cook	Kirk	Nettle
Buckland	Crossin (Teller)	Lundy	Ray
Campbell, George	Evans	Marshall	Stephens
Carr	Faulkner	McLucas	Webber
Collins	Forshaw	Moore	Wong
Conroy	Hogg	Murphy	

NOES, 36

Senators—

Allison	Coonan	Humphries	Minchin
Barnett	Eggleston	Johnston	Murray
Bartlett	Ellison	Kemp	Patterson
Boswell	Ferguson	Knowles	Payne
Brandis	Ferris	Lightfoot	Santoro
Calvert	Fifield	Macdonald, Ian	Scullion
Campbell, Ian	Greig	Macdonald, Sandy	Tchen
Chapman	Heffernan	Mason	Troeth
Colbeck	Hill	McGauran (Teller)	Watson

Question negatived.

Senator Murray moved the following amendments to Senator Ian Campbell's proposed amendment together by leave:

No. 1—Schedule 4, item 1, omit subsection 88AA(7), substitute:

Offence

- (7) A person commits an offence if:
- (a) the person has been given a notice under subsection (1); and
 - (b) the person fails:
 - (i) to give the required information by the time, and in the manner and form, specified in the notice; or
 - (ii) to produce the required documents by the time, and in the manner, specified in the notice; or
 - (iii) to attend to answer questions at the time and place specified in the notice; or
 - (iv) to take an oath or make an affirmation, when required to do so under subsection (5); or
 - (v) to answer questions relevant to the investigation while attending as required by the notice.

Penalty:

- (c) for a first offence—30 penalty units; or
- (d) for a second or subsequent offence—imprisonment for 6 months or a fine of 60 penalty units.

No. 2—Schedule 4, item 1, omit subsection 88AA(3), substitute:

- (3) The power given by subsection (1) must not be used for the purposes of an investigation that is minor or petty.

No. 3—Schedule 4, item 1, after subsection 88AA(3), insert:

Exercise of powers or functions by assistants

- (3A) An assistant cannot exercise or perform powers or functions as mentioned in paragraph (1)(c), (d) or (e) unless guidelines that have been made and tabled as required by section 88AGA are in force.
- (3B) In exercising or performing powers or functions as mentioned in paragraph (1)(c), (d) or (e), an assistant must comply with the guidelines.

No. 4—Schedule 4, item 1, omit subsection 88AG, substitute:

88AG Delegation by Secretary

- (1) The Secretary of the Department may, in writing, delegate all or any of his or her powers and functions under this Part to the person (the *director*) occupying the position in the Department known as the director of the Building Industry Taskforce.
- (2) The director cannot exercise or perform powers or functions under a delegation unless guidelines that have been made and tabled as required by section 88AGA are in force.
- (3) In exercising or performing powers or functions under a delegation, the director:
 - (a) must comply with the guidelines; and
 - (b) must comply with any directions of the Secretary of the Department.

No. 5—Schedule 4, item 1, after section 88AG, insert:

88AGA Guidelines for the exercise or performance of powers or functions

- (1) The Secretary of the Department must, in writing, determine guidelines relating to:
 - (a) the exercise or performance of powers or functions by the director (within the meaning of section 88AG) under a delegation; and
 - (b) the exercise or performance of powers or functions by an assistant (within the meaning of section 88AA) as mentioned in paragraphs 88AA(1)(c), (d) and (e).
- (2) The Secretary of the Department must cause the guidelines to be tabled in each House of the Parliament.

No. 6—Schedule 4, item 1, after section 88AH, insert:

88AI Annual review by Ombudsman of exercise of section 88AA power

- (1) As soon as practicable after the end of each year to which section 88AA applies, the Ombudsman must conduct a review of the use of the power given by section 88AA in that year.

Note: Under the *Ombudsman Act 1976*, a person may complain to the Commonwealth Ombudsman about activities of the Building Industry Taskforce.

- (2) For the purposes of conducting a review, the Secretary must provide the Ombudsman with such information and access to documents as the Ombudsman requires.
- (3) The Ombudsman must cause a copy of each report to be tabled in each House of the Parliament.
- (4) In this section:

Ombudsman means the Commonwealth Ombudsman.

year to which section 88AA applies means each period of 12 months that starts on the day on which this Part commences, or on an anniversary of that day, and that is wholly or partly within the period during which the power given by subsection 88AA(1) can be used.

Debate ensued.

The question was divided—

Question—That Senator Murray's amendments nos 1 to 4 and 6 to Senator Ian Campbell's proposed amendment be agreed to—put and passed.

Senator Murray, by leave, amended amendment no. 5 to read as follows:

No. 5—Schedule 4, item 1, after section 88AG, insert:

88AGA Guidelines for the exercise or performance of powers or functions

- (1) The Secretary of the Department must, in writing, determine guidelines relating to:
 - (a) the exercise or performance of powers or functions by the director (within the meaning of section 88AG) under a delegation; and
 - (b) the exercise or performance of powers or functions by an assistant (within the meaning of section 88AA) as mentioned in paragraphs 88AA(1)(c), (d) and (e).
- (2) The Secretary of the Department must cause the guidelines to be tabled in each House of the Parliament.
- (3) Guidelines tabled in accordance with subsection (2) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) Guidelines determined in accordance with subsection (1) do not take effect until after the expiration of the time within which the guidelines may be disallowed by either House of the Parliament.

Debate ensued.

Question—That Senator Murray's amendment no. 5 to Senator Ian Campbell's proposed amendment be agreed to—put and passed.

Question—That the amendment, as amended, be agreed to—put.

The committee divided—

AYES, 36

Senators—

Allison	Coonan	Humphries	Minchin
Barnett	Eggleston	Johnston	Murray
Bartlett	Ellison	Kemp	Patterson
Boswell	Ferguson	Knowles	Payne
Brandis	Ferris	Lightfoot	Santoro
Calvert	Fifield	Macdonald, Ian	Scullion
Campbell, Ian	Greig	Macdonald, Sandy	Tchen
Chapman	Heffernan	Mason	Troeth
Colbeck	Hill	McGauran (Teller)	Watson

NOES, 23

Senators—

Bishop	Cook	Ludwig	Nettle
Brown	Crossin (Teller)	Lundy	Ray
Campbell, George	Evans	Marshall	Stephens
Carr	Faulkner	McLucas	Webber
Collins	Hogg	Moore	Wong
Conroy	Kirk	Murphy	

Question agreed to.

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

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

2. Schedule 1 The 28th day after the day on which this Act
receives the Royal Assent

2A. Schedule 1A A single day to be fixed by Proclamation
However, if any of the provision(s) do not
commence within the period of 6 months
beginning on the day on which this Act receives
the Royal Assent, they commence on the first
day after the end of that period

2B. Schedule 2 The 28th day after the day on which this Act
receives the Royal Assent

Page 5 (after line 29), after Schedule 1, insert:

Schedule 1A—Whistleblowers

Workplace Relations Act 1996

1 Section 317 of Schedule 1B

After:

Part 4 provides for a Registrar to make inquiries as to compliance with financial accountability requirements and civil penalty provisions. The Registrar may also conduct investigations.

insert:

Part 4A provides protection for officers, employees and members of organisations who disclose information about contraventions of this Schedule or this Act.

2 After Part 4 of Chapter 11 of Schedule 1B

Insert:

Part 4A—Protection for whistleblowers

337A Disclosures qualifying for protection under this Part

A disclosure of information by a person (the *discloser*) qualifies for protection under this Part if:

- (a) the discloser is one of the following:
 - (i) an officer of an organisation, or of a branch of an organisation;
 - (ii) an employee of an organisation, or of a branch of an organisation;
 - (iii) a member of an organisation, or of a branch of an organisation; and
- (b) the disclosure is made to one of the following:
 - (i) a Registrar;
 - (ii) the Employment Advocate;
 - (iii) the person occupying the position in the Department known as the director of the Building Industry Taskforce;
 - (iv) an inspector;
 - (v) an authorised officer; and
- (c) the discloser informs the person to whom the disclosure is made of the discloser's name before making the disclosure; and
- (d) the discloser has reasonable grounds to suspect that the information indicates that:
 - (i) the organisation, or a branch of the organisation, has, or may have, contravened a provision of this Schedule or this Act; or
 - (ii) an officer or employee of the organisation, or of a branch of the organisation, has, or may have, contravened a provision of this Schedule or this Act; and
- (e) the discloser makes the disclosure in good faith.

337B Disclosure that qualifies for protection not actionable etc.

- (1) If a person makes a disclosure that qualifies for protection under this Part:
 - (a) the person is not subject to any civil or criminal liability for making the disclosure; and
 - (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure.

Note: This subsection does not provide that the person is not subject to any civil or criminal liability for conduct of the person that is revealed by the disclosure.

- (2) Without limiting subsection (1):
 - (a) the person has qualified privilege (see subsection (3)) in respect of the disclosure; and
 - (b) a contract to which the person is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract.
- (3) For the purpose of paragraph (2)(a), *qualified privilege*, in respect of the disclosure, means that the person:
 - (a) has qualified privilege in proceedings for defamation; and
 - (b) is not, in the absence of malice on the person's part, liable to an action for defamation at the suit of a person;in respect of the disclosure.
- (4) For the purpose of paragraph (3)(b), *malice* includes ill will to the person concerned or any other improper motive.
- (5) This section does not limit or affect any right, privilege or immunity that a person has, apart from this section, as a defendant in proceedings, or an action, for defamation.

337C Victimisation prohibited

Actually causing detriment to another person

- (1) A person (the *first person*) contravenes this subsection if:
 - (a) the first person engages in conduct; and
 - (b) the first person's conduct causes any detriment to another person (the *second person*); and
 - (c) the first person intends that his or her conduct cause detriment to the second person; and
 - (d) the first person engages in his or her conduct because the second person or a third person made a disclosure that qualifies for protection under this Part.

Threatening to cause detriment to another person

- (2) A person (the *first person*) contravenes this subsection if:
 - (a) the first person makes to another person (the *second person*) a threat to cause any detriment to the second person or to a third person; and
 - (b) the first person:
 - (i) intends the second person to fear that the threat will be carried out; or
 - (ii) is reckless as to causing the second person to fear that the threat will be carried out; and
 - (c) the first person makes the threat because a person:
 - (i) makes a disclosure that qualifies for protection under this Part; or
 - (ii) may make a disclosure that would qualify for protection under this Part.

Officers and employees involved in contravention

- (3) If an organisation, or a branch of an organisation, contravenes subsection (1) or (2), any officer or employee of the organisation, or a branch of the organisation, who is involved in that contravention contravenes this subsection.

Threats

- (4) For the purpose of subsection (2), a threat may be:
- (a) express or implied; or
 - (b) conditional or unconditional.

Involvement in a contravention

- (5) For the purpose of subsection (3), a person is *involved* in a contravention if, and only if, the person:
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced, whether by threats or promises, the contravention; or
 - (c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with others to effect the contravention.

Offence for contravening subsection (1), (2) or (3)

- (6) A person commits an offence if the person contravenes subsection (1), (2) or (3).
Maximum penalty: 25 penalty units or imprisonment for 6 months, or both.
- (7) In a prosecution for an offence that relates to a contravention of subsection (2), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

337D Right to compensation

If:

- (a) a person (the *person in contravention*) contravenes subsection 337C(1), (2) or (3); and
- (b) a person (the *victim*) suffers damage because of the contravention;

the person in contravention is liable to compensate the victim for the damage.

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

Schedule 1, item 5, page 4 (line 29), after “false”, insert “sworn or affirmed”.

Schedule 1, item 5, page 5 (after line 6), at the end of subsection (3), add:

Note: Section 10.2 of the *Criminal Code Act 1995* states that a person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence under duress.

Schedule 1, item 6, page 5 (line 23), omit all words from and including “of that subsection” to the end of subitem (1).

Schedule 1, item 6, page 5 (line 27), omit all words from and including “of that subsection” to the end of subitem (2).

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of Senator Ian Campbell the report from the committee was adopted.

Senator Ian Campbell moved—That this bill be now read a third time.

Debate ensued.

Reference to committee: Senator Murray, by leave, moved the following amendment:

At the end of the motion, add “and that proposed Schedule 1B as contained in amendment (2) circulated by Senator Murray on sheet [4266], be referred to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 30 November 2004”.

Debate ensued.

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

Main question, as amended, put.

The Senate divided—

AYES, 36

Senators—

Allison	Coonan	Humphries	Minchin
Barnett	Eggleston	Johnston	Murray
Bartlett	Ellison	Kemp	Patterson
Boswell	Ferguson	Knowles	Payne
Brandis	Ferris	Lightfoot	Santoro
Calvert	Fifield	Macdonald, Ian	Scullion
Campbell, Ian	Greig	Macdonald, Sandy	Tchen
Chapman	Heffernan	Mason	Troeth
Colbeck	Hill	McGauran (Teller)	Watson

NOES, 23

Senators—

Bishop	Conroy	Kirk	Nettle
Brown	Cook	Ludwig	Ray
Buckland	Crossin (Teller)	Lundy	Stephens
Campbell, George	Evans	Marshall	Webber
Carr	Faulkner	McLucas	Wong
Collins	Forshaw	Murphy	

Question agreed to.

Bill read a third time.

99 VETERANS' ENTITLEMENTS (CLARKE REVIEW) BILL 2004
AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL) BILL 2004
NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [No. 2]
CUSTOMS LEGISLATION AMENDMENT (AIRPORT, PORT AND CARGO SECURITY) BILL 2004

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:

Message no. 632, dated 24 June 2004—Veterans' Entitlements (Clarke Review) Bill 2004.

Message no. 633, dated 24 June 2004—Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004.

Message no. 641, dated 25 June 2004—National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2].

Message no. 648, dated 25 June 2004—Customs Legislation Amendment (Airport, Port and Cargo Security) Bill 2004.

100 CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003

A message from the House of Representatives was reported agreeing to the further amendments made by the Senate to the following bill:

Message no. 640, dated 25 June 2004—Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003.

**101 TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL (NO. 2) 2004
SUPERANNUATION BUDGET MEASURES BILL 2004**

Messages from the House of Representatives were reported as follows:

Message no. 645, dated 25 June 2004—Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004, agreeing to the amendments made by the Senate in place of the amendments to which the House had disagreed.

Message no. 647, dated 25 June 2004—Superannuation Budget Measures Bill 2004, agreeing to the amendments made by the Senate in place of the amendments to which the House had disagreed.

102 SCIENCE AND TECHNOLOGY—SYNTHETIC APERTURE RADAR—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 23 June 2004 for the production of documents concerning synthetic aperture radar work (*see entry no. 26, 23 June 2004*).

103 SCIENCE AND TECHNOLOGY—GENE TECHNOLOGY—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 23 June 2004 for the production of documents concerning applications for commercial release of GE canola (*see entry no. 25, 23 June 2004*).

104 ADMINISTRATION—SALE OF COMLAND LIMITED—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 16 June 2004 for the production of documents concerning the sale of Comland Limited to Lend Lease Corporation Limited (*see entry no. 29, 16 June 2004*).

105 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Community Affairs Legislation Committee (Senator Knowles), by leave, moved—That the time for the presentation of the report of the committee on the provisions of the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004 and related matters be extended to 30 September 2004.

Question put and passed.

106 LEAVE OF ABSENCE

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That leave of absence be granted to every member of the Senate from the termination of the sitting today to the day on which the Senate next meets.

Question put and passed.

107 ADJOURNMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 1.57 am till Tuesday, 3 August 2004 at 12.30 pm.

108 ATTENDANCE

Present, all senators except Senators Denman*, Harris, Mackay and Tierney* (* on leave).

HARRY EVANS
Clerk of the Senate