

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 65

TUESDAY, 6 DECEMBER 2005

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Aboriginal Land Commissioner—Report for 2004-05.

Anindilyakwa Land Council—Report for 2004-05.

Australia-Japan Foundation—Report for 2004-05.

Australian Customs Service—Report for 2004-05.

Australian Radiation Protection and Nuclear Safety Agency—Report for 2004-05—Erratum.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—

Covering statement by the Commonwealth Ombudsman.

Reports by the Commonwealth Ombudsman—

001/2005, 12 October 2005.

002/2005, 12 October 2005.

Government response to the Commonwealth Ombudsman's reports 001/2005 and 002/2005, 30 November 2005.

Native Title Act 1993—Native title representative bodies—Reports for 2004-05—

Aboriginal Legal Rights Movement Inc.

Carpentaria Land Council Aboriginal Corporation.

Central Land Council.

North Queensland Land Council Aboriginal Corporation.

Northern Land Council.

Office of the Renewable Energy Regulator—Financial report for 2004-05.

Tiwi Land Council—Report for 2004-05.

Torres Strait Regional Authority—Report for 2004-05.

3 ANTI-TERRORISM BILL (NO. 2) 2005

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.

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Bill debated.

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

Clause 2, page 2 (table item 10), omit “6 months”, substitute “12 months”.

Clause 2, page 3 (table item 14), omit “6 months”, substitute “12 months”.

Senator Stott Despoja moved the following amendments together by leave:

Page 4 (after line 14), after clause 4, add:

5 Sunset provision

The amendments made by the Schedules to this Act excluding the amendments made by Schedule 7 cease to have effect on the third anniversary of the day on which Act receives the Royal Assent.

Schedule 4, item 24, page 40 (lines 2 to 6), omit “10” (twice occurring), substitute “3”.

Schedule 4, item 24, page 90 (lines 6 to 11), omit “10” (twice occurring), substitute “3”.

Schedule 5, item 10, page 101 (lines 11 to 19), omit “10” (three times occurring), substitute “3”.

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Murray) reported progress.

4 QUESTIONS

Questions without notice were answered.

5 IMMIGRATION—MR ODAY ADNAN AL TEKIRTI—ANSWERS TO QUESTIONS

Senator Ludwig moved—That the Senate take note of the answers given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to questions without notice asked by Senators Kirk and Ludwig today relating to Mr Oday Adnan Al Tekriti.

Debate ensued.

Question put and passed.

6 PETITIONS

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Bartlett, from 1 980 petitioners, requesting that the Senate take action to end the export of live animals from Australia to the Middle East.

Senator Heffernan, from 1 106 petitioners, requesting that the Senate take action to restrict children’s exposure to Internet pornography.

7 NOTICES

Notices of motion:

The Chair of the Employment, Workplace Relations and Education References Committee (Senator Marshall): To move on the next day of sitting—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 20 June 2006:

The role and performance of the Commonwealth Scientific and Industrial Research Organisation (CSIRO) in the light of current Government policy, and the organisation's attempts at refocusing its research endeavours, taking into account the following:

- (a) the evolving role of the CSIRO as a public research institution, and the ability of the CSIRO to initiate and manage change;
- (b) the challenge of commercialisation, enhancement of the CSIRO 'brand', and the dilemma of choosing a national or global approach to research development;
- (c) intellectual property concerns, including the rewarding of researchers;
- (d) managing competition in the research sector, including competition between public research bodies, between the CSIRO and the private research sector, and the obligation of the CSIRO to cover the research spectrum; and
- (e) management culture within the CSIRO, including its corporate profile, communication performance and community engagement, and its capacity to instil a modern research culture and to recruit and retain research personnel.

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

- (a) notes that:
 - (i) 13 Australians face the death penalty in Vietnam, Kuwait and Indonesia,
 - (ii) Australia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty on 2 October 1990, and
 - (iii) the protocol gives effect to Article 6 of the ICCPR which refers to the abolition of the death penalty and gives effect to an international commitment to abolish the death penalty by ratifying states; and
- (b) calls on the Government to lead an international campaign for the ratification and implementation of the optional protocol by all remaining states, in particular, those states such as Singapore, Vietnam, China and Indonesia that continue to use the death penalty. (*general business notice of motion no. 350*)

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Fisheries Management Act 1991*, and for related purposes. ***Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005.***

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Family Law Act 1975*, and for related purposes. ***Jurisdiction of Courts (Family Law) Bill 2005.***

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to the jurisdiction of the Federal Magistrates Court, and for related purposes. ***Jurisdiction of the Federal Magistrates Court Legislation Amendment Bill 2005.***

The Minister for Defence (Senator Hill): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Defence Act 1903*, and for related purposes. ***Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005.***

The President: To move on the next day of sitting—

(1) That:

- (a) At the commencement of each Parliament, 6 Senators and 7 Members of the House of Representatives shall be appointed to meet together as a Joint Committee on the Parliamentary Library. The Senators and Members shall be appointed in accordance with the practice of their respective Houses and shall comprise: 3 Senators nominated by the Leader of the Government in the Senate, 2 Senators nominated by the Leader of the Opposition in the Senate, 1 Senator nominated by minority groups or independent Senators, 4 Members nominated by the Government whip or whips, and 3 Members nominated by the Opposition whip or whips or by any independent Member.
- (b) The nomination by the minority groups and independent Senators shall be determined by agreement between them, and, in the absence of agreement duly notified to the President, any question of the representation on the committee shall be determined by the Senate.
- (c) The members of the committee hold office as a joint committee until the House of Representatives is dissolved or expires by effluxion of time.
- (d) The committee shall:
 - (i) consider and report to the Presiding Officers on any matters relating to the Parliamentary Library referred to it by the President or the Speaker;
 - (ii) provide advice to the President and the Speaker on matters relating to the Parliamentary Library;
 - (iii) provide advice to the President and the Speaker on an annual resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services; and
 - (iv) receive advice and reports, including an annual report, directly from the Parliamentary Librarian on matters relating to the Parliamentary Library.
- (e) The committee shall elect 2 of its members to be joint chairs, 1 being a Senator or Member, on an alternating basis each Parliament, who is a member of the government parties and 1 being a Senator or Member, on an alternating basis each Parliament, who is a member of the non-government parties, provided that the joint chairs may not be members of the same House. The joint chair nominated by the government parties shall chair meetings of the committee, and the joint chair nominated by the non-government parties shall take the chair whenever the other joint chair is not present.
- (f) Each of the joint chairs shall have a deliberative vote only, regardless of who is chairing the meeting.

- (g) When votes on a question before the committee are equally divided, the question shall be resolved in the negative.
 - (h) Three members of the committee shall constitute a quorum of the committee, but in a deliberative meeting a quorum shall include 1 member of each House of the government parties and 1 member of either House of the non-government parties.
 - (i) The committee may appoint subcommittees, consisting of 3 or more of its members, and refer to any such subcommittee any of the matters which the committee is empowered to consider.
 - (j) The quorum of a subcommittee shall be 2 members.
 - (k) The committee shall appoint the chair of each subcommittee, who shall have a deliberative vote only, and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.
 - (l) Members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee, but shall not vote, move any motion or be counted for the purpose of a quorum.
 - (m) The committee and any subcommittee shall have power to meet in private or public session and to report from time to time.
 - (n) The President and the Speaker may attend any meeting of the committee as they see fit, but shall not be members of the committee and may not vote, move any motion or be counted for the purpose of a quorum.
- (2) That a message be sent to the House of Representatives seeking its concurrence in this resolution. (*general business notice of motion no. 351*)

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

- (a) notes that 7 December 2005 is the 30th anniversary of the invasion of East Timor by the Indonesian military;
- (b) expresses its sincere condolences to the families of the 200 000 victims that have died following this invasion;
- (c) notes:
 - (i) the New South Wales inquest into the deaths of the Australian and New Zealand journalists and camera operators in East Timor, known as the ‘Balibo 5’, will begin in 2006, and
 - (ii) that East Timor is still the poorest country in our region; and
- (d) calls on the Government to dramatically increase Australian aid to East Timor so it exceeds the United Nations recommended target of 0.7 per cent of gross national product. (*general business notice of motion no. 352*)

The Leader of the Australian Democrats (Senator Allison) and Senators Stott Despoja, Crossin, Troeth, Stephens, Kirk, Adams, Payne and Nash: To move on the next day of sitting—That petitions tabled in the Senate on 6 December 2005 relating to the management and prevention of gynaecological cancers and sexually transmitted infections be referred to the Community Affairs References Committee for response by the last sitting day in March 2006.

Senator Allison, by leave, tabled the following document:

Women—Gynaecological health issues—Petitioning document from 2 887 signatories relating to increased funding and support for gynaecological health issues.

Notice of motion withdrawn: The Minister for Justice and Customs (Senator Ellison) withdrew government business notice of motion no. 2 standing in his name for today, relating to the consideration of legislation.

8 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Siewert for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade References Committee, postponed till 7 December 2005.

Business of the Senate notice of motion no. 2 standing in the name of Senator Bartlett for today, proposing the disallowance of Schedule 7 of the Migration Amendment Regulations 2005 (No. 8), postponed till 7 December 2005.

Business of the Senate notice of motion no. 3 standing in the name of Senator Ludwig for today, proposing the disallowance of Schedule 7, item 2 of the Migration Amendment Regulations 2005 (No. 9), postponed till 7 December 2005.

Business of the Senate notice of motion no. 4 standing in the name of Senator McLucas for today, proposing the reference of a matter to the Community Affairs References Committee, postponed till 7 December 2005.

General business notice of motion no. 298 standing in the name of Senator Stott Despoja for today, proposing the introduction of the Privacy (Equality of Application) Amendment Bill 2005, postponed till 8 December 2005.

General business notice of motion no. 334 standing in the name of Senator Bartlett for today, relating to sexual assault on children in Australia, postponed till 7 December 2005.

General business notice of motion no. 346 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to sexual health education, postponed till 7 December 2005.

General business notice of motion no. 347 standing in the name of Senator Murray for today, relating to public appointments by the Government, postponed till 7 December 2005.

General business notice of motion no. 349 standing in the name of Senator Stott Despoja for today, relating to Radio Adelaide, postponed till 7 December 2005.

9 LEAVE OF ABSENCE

Senator Siewert, by leave, moved—That leave of absence be granted to Senator Milne for the period 6 December to 9 December 2005, on account of parliamentary business overseas.

Question put and passed.

10 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL

The Minister for Justice and Customs (Senator Ellison), at the request of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposals by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of kiosks, and the installation of artworks at Reconciliation Place.

Question put and passed.

11 SPORT—AUSTRALIAN HOCKEY—COMMONWEALTH SUPPORT

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for the Arts and Sport (Senator Kemp) and Senator Lundy, and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 3—That the Senate—

- (a) congratulates the Australian Hockeyroos for their outstanding performance in the Champions Trophy held in Canberra from 26 November to 4 December 2005, demonstrating that the Hockeyroos are well on their way to once again becoming world champions in women's hockey;
- (b) commends the hosts, Hockey Australia and Hockey ACT, and their many volunteers for facilitating such a tremendous event;
- (c) commends the Australian Capital Territory Government for contributing \$4.5 million towards the development of hockey facilities in the Australian Capital Territory allowing Hockey ACT to bid for and stage a magnificent event;
- (d) congratulates all those involved in ensuring that the profile of women's hockey in Australia continues to grow; and
- (e) acknowledges the important contribution of the Australian Sports Commission and the Australian Institute of Sport in developing the Australian Hockeyroos and in supporting Hockey Australia to implement successful hockey participation programs which provide increased opportunities for young Australians to participate in hockey.

Question put and passed.

12 HEALTH—WORLD AIDS DAY

Senator George Campbell, at the request of Senators Moore, Stott Despoja, Nettle and Payne, amended general business notice of motion no. 335 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) recognises that 1 December is World AIDS Day;
- (b) notes that:
 - (i) globally there are currently 40 million people living with HIV,
 - (ii) AIDS has taken 25 million lives to date, and
 - (iii) women make up almost half of all cases and are socially, biologically, economically and culturally more susceptible to infection;
- (c) acknowledges that the development of microbicides represents a highly significant and promising woman-centred and empowering prevention method;
- (d) notes that research and development of four potential microbicides have just commenced the final stages of clinical trials; and

- (e) commends the Government for committing increased resources towards fighting AIDS, especially in the developing world.

Question put and passed.

13 AUSTRALIAN TIME ZONES

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 317—That the Senate—

- (a) notes that:
 - (i) Senator Calvert, in his capacity as a senator for Tasmania, has written to the Prime Minister (Mr Howard) suggesting that the question of regularising daylight saving and examining time zones be listed for discussion at the next Council of Australian Governments (COAG) meeting, and
 - (ii) Australia's time zones date from the 1880s and that individual approaches by states and territories to daylight saving have a significant and continuing economic impact on Australian commerce and communications; and
- (b) supports the call for this matter to be discussed as an important step in examining this economic impact, and urges the Prime Minister to raise this issue with the Premiers and Chief Ministers of all the states and territories.

Question put and passed.

14 FOREIGN AFFAIRS—JAPAN—WHALING PROGRAM—FARLEY MOWAT

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 338—That the Senate—

- (a) notes that:
 - (i) the Sea Shepherd Conservation Society's ship, the *Farley Mowat*, will leave Melbourne in early December 2005 on its way to Antarctica to stop Japanese whalers slaughtering whales in Australian waters in the Antarctic Whale Sanctuary,
 - (ii) Japan plans to double its kill of minke whales and target, for the first time in 2 decades, the endangered humpback whale and fin whale,
 - (iii) the Government charged the *Farley Mowat* \$800 when it docked in Melbourne, arguing that it was a commercial vessel, despite the absence of cargo, and
 - (iv) the Department of Immigration and Multicultural and Indigenous Affairs threatened to impose a \$5 000 fine on one of the crew of the *Farley Mowat* for not having a visa, despite the fact that she had already been granted one;
- (b) questions why the Government has been so antagonistic to the *Farley Mowat* and why it did not itself send vessels to intervene in this kill;
- (c) urges the Government to return the erroneous \$800 charge imposed on the *Farley Mowat*; and
- (d) wishes the *Farley Mowat* a successful mission and thanks it for its efforts on behalf of whales.

Question put and negatived.

15 FINANCE—BOARD OF THE RESERVE BANK OF AUSTRALIA—APPOINTMENTS

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 348—That the Senate—

- (a) notes strong public concern that the checks on appointments to the Board of the Reserve Bank of Australia (RBA) may be inadequate; and
- (b) asks the Government, unless the matters are already on the public record, to ensure that any appointee to the Board of the RBA be required to declare whether the appointee has any personal, family, professional, business or entity involvement with tax havens, or material disputes with the Australian Taxation Office that are, or could be, the subject of administrative or judicial penalty.

Question put and negatived.

16 DEATH OF MR JOHN PATRICK DUCKER, AO

Senator Stephens, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 341—That the Senate—

- (a) notes with sincere regret the death of Mr John Patrick Ducker, AO, former member of the New South Wales Legislative Council, on 25 November 2005;
- (b) acknowledges the contribution made by Mr Ducker to the Australian Labor Party, the Australian Council of Trade Unions, the New South Wales Labor Council and to the wellbeing of people of Australia through his leadership of the trade union movement;
- (c) recognises his contribution to public life through his service to the New South Wales Public Service Board, many community organisations and public companies; and
- (d) expresses sincere sympathy to the Ducker family in their loss.

Question put and passed.

**17 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—
LEAVE TO MEET DURING SITTING**

Senator Eggleston, at the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 345—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 7 December 2005.

Question put and passed.

18 WOMEN WITH DISABILITIES AUSTRALIA

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 342—That the Senate—

- (a) notes:
 - (i) the release of the submission by Women With Disabilities Australia (WWDA) to the Government on the ‘Chairman’s text for a Comprehensive and Integral International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities’,

- (ii) that, according to this report, there are 1.9 million women with disabilities in Australia and that it is widely acknowledged that they are one of the most marginalised groups in society, suffering triple discrimination – female, poor and disabled,
 - (iii) that the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) does not explicitly refer to women with disabilities and is not considered to adequately address their needs, and
 - (iv) that the Government has not signed the Optional Protocol to the CEDAW which passed a general recommendation to ensure that it also covered the human rights of women with disabilities; and
- (b) supports the recommendation from the WWDA that a Comprehensive and Integral International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities must contain a substantive article on women with disabilities, in recognition of the need to acknowledge, emphasise and address the particular disadvantages faced by women the world over.

Question put and negatived.

19 DEATH PENALTY

Motion determined as not formal: The Leader of the Australian Greens (Senator Bob Brown) requested that general business notice of motion no. 343 standing in his name for today, relating to the death penalty, be taken as formal.

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

Proposed suspension of standing orders: Senator Bob Brown, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 343.

Debate ensued.

Closure: The Minister for Justice and Customs (Senator Ellison) moved—That the question be now put.

Question—That the question be now put—put.

The Senate divided—

AYES, 35

Senators—

Abetz	Ellison	Kemp	Patterson
Adams	Ferguson	Lightfoot	Ronaldson
Barnett	Fierravanti-Wells	Macdonald, Ian	Santoro
Boswell	Fifield	Macdonald, Sandy	Scullion
Brandis	Heffernan	Mason	Troeth
Calvert	Hill	McGauran	Trood
Chapman	Humphries	Minchin	Vanstone
Coonan	Johnston	Nash	Watson
Eggleston (Teller)	Joyce	Parry	

NOES, 33

Senators—

Allison	Faulkner	McEwen	Stephens
Bartlett	Fielding	McLucas	Sterle
Bishop	Forshaw	Moore	Stott Despoja
Brown, Bob	Hogg	Murray	Webber
Brown, Carol	Hurley	Nettle	Wong
Campbell, G (Teller)	Kirk	O'Brien	Wortley
Carr	Ludwig	Polley	
Conroy	Lundy	Sherry	
Crossin	Marshall	Siewert	

Question agreed to.

Question—That the motion to suspend standing orders be agreed to—put.

The Senate divided—

AYES, 30

Senators—

Bartlett	Fielding	McEwen	Siewert
Bishop	Forshaw	McLucas	Stephens
Brown, Bob	Hogg	Moore	Sterle
Brown, Carol	Hurley	Murray	Stott Despoja
Campbell, G (Teller)	Kirk	Nettle	Wong
Carr	Ludwig	O'Brien	Wortley
Crossin	Lundy	Polley	
Faulkner	Marshall	Sherry	

NOES, 32

Senators—

Abetz	Eggleston (Teller)	Joyce	Nash
Adams	Ellison	Kemp	Parry
Barnett	Ferguson	Lightfoot	Ronaldson
Boswell	Fierravanti-Wells	Macdonald, Ian	Santoro
Brandis	Fifield	Macdonald, Sandy	Scullion
Calvert	Heffernan	Mason	Troeth
Chapman	Humphries	McGauran	Trood
Colbeck	Johnston	Minchin	Watson

Question negatived.

20 TRADE

Senator Siewert, at the request of Senator Milne and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 333—
That the Senate—

(a) notes that:

- (i) Australia's trade balance has deteriorated from a surplus equal to 0.1 per cent of gross domestic product (GDP) in 2000-01 to a deficit equal to 3 per cent of GDP in 2004-05, despite a 22 per cent improvement in Australia's terms of trade over the same period,
- (ii) Australia's exports of manufactured exports have fallen from 33 per cent of total exports of goods in 1996 to 29 per cent of total exports of goods in 2004,
- (iii) the contribution by manufacturing to Australia's GDP has fallen from 13.5 per cent in 1990 to 10.9 per cent in 2004,

- (iv) there have been only 13 financial years since 1959-60 that Australian trade has been in balance, or has recorded a surplus, and that Australia's trade deficits currently make up approximately 40 per cent of Australia's record current account deficit of 6.7 per cent of GDP,
 - (v) Australia's exports of goods and services have fallen from a 1.18 per cent share of all world exports in 1996 to 0.98 per cent share in 2004 and that had Australia retained its 1996 trade share, imports and exports would roughly be in balance,
 - (vi) Australia's exports to Singapore have fallen by 15 per cent since the free trade agreement with that country was signed in 2003 and that Australia's exports to the United States of America have fallen by 5 per cent since the free trade agreement with that country was signed in January 2005, and
 - (vii) the 6th World Trade Organization Ministerial Conference will be held in Hong Kong from 13 December to 18 December 2005; and
- (b) calls on the Government to:
- (i) freeze all Australian import tariffs at their current level,
 - (ii) abandon all bilateral free trade agreement negotiations,
 - (iii) investigate ways of insulating strategic Australian industries, such as manufacturing industries, from gouging by free trade, and
 - (iv) abandon its current negotiating position in the Doha round and, instead, adopt an approach which seeks to protect key industries from undue import competition.

Question put and negatived. All Australian Greens senators, by leave, recorded their votes for the ayes.

21 FOREIGN AFFAIRS—CHINA—FALUN GONG PRACTITIONERS

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 344—That the Senate—

- (a) requests the Government to seek an end to the persecution of Falun Gong members in China; and
- (b) calls on the Government to lift restrictions on the Australian Falun Gong practitioners' peaceful appeal outside the Chinese Embassy in Canberra.

Question put.

The Senate divided—

AYES, 6

Senators—

Bartlett
Brown, Bob

Murray
Nettle

Siewert (Teller)
Stott Despoja

NOES, 52

Senators—

Abetz	Eggleston (Teller)	Kirk	Payne
Adams	Ellison	Lightfoot	Polley
Barnett	Faulkner	Ludwig	Ronaldson
Bishop	Fielding	Lundy	Santoro
Boswell	Fierravanti-Wells	Macdonald, Ian	Scullion
Brandis	Fifield	Marshall	Stephens
Brown, Carol	Forshaw	Mason	Sterle
Calvert	Hogg	McEwen	Troeth
Campbell, George	Humphries	McLucas	Trood
Carr	Hurley	Moore	Vanstone
Chapman	Johnston	Nash	Watson
Colbeck	Joyce	O'Brien	Webber
Crossin	Kemp	Parry	Wortley

Question negatived.

22 AUDITOR-GENERAL—AUDIT REPORT NO. 20 OF 2005-06—DOCUMENT

The President tabled the following document:

Auditor-General—Audit report no. 20 of 2005-06—Performance audit—Regulation of private health insurance by the Private Health Insurance Administration Council.

23 DOCUMENTS

The following documents were tabled by the Clerk:

[*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*]

Appropriation Act (No. 1) 2005-2006—Determination to Reduce Appropriation Upon Request—Determination No. 1 of 2005-2006 [F2005L03707]*.

Australian Workplace Safety Standards Act—Select Legislative Instrument 2005 No. 285—Australian Workplace Safety Standards Regulations 2005 [F2005L03863]*.

Aviation Transport Security Act—Select Legislative Instrument 2005 No. 289—Aviation Transport Security Amendment Regulations 2005 (No. 4) [F2005L03743]*.

Broadcasting Services Act—Children's Television Standards 2005 [F2005L03713]*.

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA EX53/05—Exemption – refuelling with passengers on board [F2005L03843]*.

Civil Aviation Safety Regulations—

Airworthiness Directives—Part—

105—

AD/BELL 206/158 Amdt 1—Fuel Distribution System [F2005L03870]*.

AD/HU 369/113 Amdt 1—Main Rotor Blade Torque Events and Life Limit [F2005L03888]*.

AD/S-PUMA/54 Amdt 1—Plug Doors [F2005L03871]*.

107—AD/PMC/48—Propeller Hub Socket Retention Threads [F2005L03889]*.

Instruments Nos—

CASA EX56/05—Exemption – participation in land and hold short operations [F2005L03855]*.

CASA EX57/05—Exemption – participation in land and hold short operations [F2005L03856]*.

Class Ruling 2005/105.

Corporations Act—ASIC Class Order [CO 05/1195] [F2005L03854]*.

Currency Act—

Currency (Perth Mint) Determination 2005 (No. 3) [F2005L03858]*.

Currency (Perth Mint) Determination 2005 (No. 4) Amendment Determination 2005 (No. 2) [F2005L03862]*.

Customs Act—

Tariff Concession Orders—

0510943 [F2005L03770]*.

0511525 [F2005L03772]*.

0511526 [F2005L03773]*.

0511816 [F2005L03778]*.

0511820 [F2005L03769]*.

0511962 [F2005L03834]*.

0511964 [F2005L03835]*.

0512082 [F2005L03837]*.

0512084 [F2005L03759]*.

0512092 [F2005L03761]*.

0512186 [F2005L03782]*.

0512188 [F2005L03783]*.

0512196 [F2005L03787]*.

0512263 [F2005L03790]*.

Tariff Concession Revocation Instrument 22/2005 [F2005L03730]*.

Select Legislative Instruments 2005 Nos—

278—Customs (Prohibited Exports) Amendment Regulations 2005 (No. 4) [F2005L03718]*.

279—Customs (Prohibited Imports) Amendment Regulations 2005 (No. 6) [F2005L03721]*.

Customs Administration Act—Select Legislative Instrument 2005 No. 277—Customs Administration Amendment Regulations 2005 (No. 1) [F2005L03701]*.

Defence Act—Determinations under section 58B—Defence Determinations—

2005/52—Members with dependants – amendment.

2005/53—Overseas conditions of service – member with dependants.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens, dated—

26 November 2005 [F2005L03830]*.

28 November 2005 [F2005L03824]*.

29 November 2005 [F2005L03844]*.

Federal Court of Australia Act—Select Legislative Instrument 2005 No. 291—Federal Court Amendment Rules 2005 (No. 2) [F2005L03791]*.

Financial Management and Accountability Act—Financial Management and Accountability Determinations—

2005/04 — Legal Practice Special Account Abolition 2005 [F2005L03794]*.

2005/05 — Other Trust Moneys Account Abolition 2005 – Aboriginal and Torres Strait Islander Commission [F2005L03799]*.

2005/06 — Services for Other Government and Non-Agency Bodies Account Abolition 2005 – Aboriginal and Torres Strait Islander Commission [F2005L03801]*.

2005/17 — National Film and Sound Archive Account Abolition 2005 [F2005L03803]*.

2005/18 — Nationally Funded Medical Specialty Centres Account Abolition 2005 [F2005L03804]*.

2005/19 — Law Enforcement Projects Account Abolition 2005 [F2005L03811]*.

2005/20 — Employment Entitlements Support Scheme Account Abolition 2005 [F2005L03840]*.

Fisheries Management Act—Heard Island and McDonald Islands Fishery Management Plan 2002—

Determination No. 2005/2006 HIMI TAC D4—Total Allowable Catch Determination – 2005/2006 season [F2005L03833]*.

Direction No. HIMIFD 9—Prohibition on the use of fishing methods other than trawling or longlining [F2005L03867]*.

Temporary Order, dated 25 November 2005 [F2005L03817]*.

Fisheries Management Act and Fishing Levy Act—Select Legislative Instrument 2005 No. 282—Fishing Levy Regulations 2005 [F2005L03861]*.

Health Insurance Act—Select Legislative Instruments 2005 Nos—

271—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2005 (No. 4) [F2005L03676]*.

272—Health Insurance (General Medical Services Table) Amendment Regulations 2005 (No. 4) [F2005L03679]*.

273—Health Insurance (Pathology Services Table) Amendment Regulations 2005 (No. 2) [F2005L03678]*.

286—Health Insurance Amendment Regulations 2005 (No. 6) [F2005L03869]*.

Higher Education Support Act—Higher Education Provider Approval (No. 14 of 2005)—Melbourne Institute of Technology Pty Ltd (trading as Melbourne Institute of Technology) [F2005L03849]*.

Migration Act—Migration Agents Regulations—MARA Notices—

MN49-05b of 2005—Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) [F2005L03876]*.

MN49-05c of 2005—Migration Agents (Continuing Professional Development – Attendance at a Seminar, Workshop, Conference or Lecture) [F2005L03880]*.

MN49-05f of 2005—Migration Agents (Continuing Professional Development – Miscellaneous Activities) [F2005L03879]*.

National Health Act—

Arrangements Nos—

PB 37 of 2005—Special Authority Program [F2005L03805]*.

PB 38 of 2005—IVF/Gift Program [F2005L03775]*.

PB 39 of 2005—Botulinum Toxin Program [F2005L03818]*.

Determination No. PB 31 of 2005 [F2005L03823]*.

Select Legislative Instrument 2005 No. 287—National Health Amendment Regulations 2005 (No. 1) [F2005L03868]*.

Primary Industries (Customs) Charges Act—Select Legislative Instrument 2005 No. 283—Primary Industries (Customs) Charges Amendment Regulations 2005 (No. 3) [F2005L03767]*.

Primary Industries (Excise) Levies Act—Select Legislative Instrument 2005 No. 284—Primary Industries (Excise) Levies Amendment Regulations 2005 (No. 5) [F2005L03764]*.

Product Rulings PR 2005/111-PR 2005/113.

Remuneration Tribunal Act—Select Legislative Instrument 2005 No. 290—Remuneration Tribunal (Miscellaneous Provisions) Amendment Regulations 2005 (No. 1) [F2005L03864]*.

Superannuation Guarantee Ruling SGR 2005/2.

Taxation Determinations TD 2005/48-TD 2005/51.

Telecommunications (Consumer Protection and Service Standards) Act—National Relay Service (Participating Persons) Determination 2005 (No. 1) [F2005L03809]*.

Trade Practices Act—Consumer Protection Notice No. 6 of 2005—Consumer Product Safety Standard: Children's Household Cots [F2005L03885]*.

* Explanatory statement tabled with legislative instrument.

24 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2005—Statement of compliance—Immigration and Multicultural and Indigenous Affairs portfolio agencies.

25 PRIVILEGES—STANDING COMMITTEE—124TH REPORT

The Chair of the Standing Committee of Privileges (Senator Faulkner) tabled the following report:

Privileges—Standing Committee—124th report—Person referred to in the Senate (Professor David Peetz), dated December 2005.

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

Senator Faulkner, by leave, moved—That the report be adopted.

Question put and passed.

Response as recommended by the committee incorporated in Hansard accordingly.

**26 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—REPORT—
GOVERNMENT ADVERTISING AND ACCOUNTABILITY**

The Chair of the Finance and Public Administration References Committee (Senator Forshaw) tabled the following report and documents:

Finance and Public Administration References Committee—Government advertising and accountability—Report, dated December 2005, Hansard record of proceedings, documents presented to the committee, additional information and submissions [13].

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

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

Debate ensued.

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

**27 MIGRATION—JOINT STANDING COMMITTEE—REPORT—DETENTION CENTRE
CONTRACTS**

Senator Kirk, on behalf of the Joint Standing Committee on Migration, tabled the following report:

Migration—Joint Standing Committee—Detention centre contracts: Review of audit report no. 1, 2005-06, *Management of the detention centre contracts: Part B*—Report, dated November 2005, Hansard record of proceedings, minutes of proceedings and submissions [2].

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

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

At 4.30 pm—

28 ANTI-TERRORISM BILL (NO. 2) 2005

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

In the committee

Consideration resumed of the bill, as amended—*and of the amendments moved by Senator Stott Despoja (see entry no. 3).*

Debate resumed.

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

Senator Ludwig moved the following amendments together by leave:

Page 4 (after line 14), after clause 4, add:

6 Sunset provision

- (1) The amendments made by the Schedules to this Act cease to have effect on the fifth anniversary of the day on which this Act receives the Royal Assent.

Schedule 4, item 24, page 40 (lines 2 to 6), omit “10” (twice occurring), substitute “5”.

Schedule 4, item 24, page 90 (lines 6 to 11), omit “10” (twice occurring), substitute “5”.

Schedule 5, item 10, page 101 (lines 11 to 19), omit “10” (three times occurring), substitute “5”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Allison	Crossin	Lundy	Polley
Bartlett	Faulkner	Marshall	Sherry
Bishop	Fielding	McEwen	Siewert
Brown, Bob	Forshaw	McLucas	Stephens
Brown, Carol	Hogg	Moore	Sterle
Campbell, George	Hurley	Murray	Stott Despoja
Carr	Kirk (Teller)	Nettle	Webber
Conroy	Ludwig	O’Brien	Wortley

NOES, 34

Senators—

Abetz	Ellison	Lightfoot	Ronaldson
Adams	Ferguson	Macdonald, Ian	Santoro
Barnett	Fierravanti-Wells	Macdonald, Sandy	Scullion
Boswell	Fifield	Mason	Troeth
Brandis	Heffernan	McGauran (Teller)	Trood
Calvert	Humphries	Minchin	Vanstone
Chapman	Johnston	Nash	Watson
Colbeck	Joyce	Parry	
Eggleston	Kemp	Payne	

Question negatived.

The Leader of the Australian Greens (Senator Bob Brown) moved the following amendment:

Page 4 (after line 14), after clause 4, add:

5 Application of the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- (1) This Act must be read and given effect to in a way which is consistent with the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- (2) If in any proceedings regarding any matter in relation to this Act a court is satisfied that a provision of the Act is inconsistent with a right arising under the International Covenant on Civil and Political Rights or the Convention on the Rights of the Child or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the court may make a declaration of that inconsistency and the provision of the Act shall be of no effect to the extent of that inconsistency.

Note: The text of the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is set out in Australian Treaty Series.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 8

Senators—

Allison	Brown, Bob	Murray	Siewert (Teller)
Bartlett	Fielding	Nettle	Stott Despoja

NOES, 45

Senators—

Adams	Evans	Ludwig	Polley
Barnett	Faulkner	Lundy	Ronaldson
Bishop	Ferguson	Macdonald, Sandy	Santoro
Brown, Carol	Fierravanti-Wells	Mason	Sherry
Calvert	Hogg	McEwen	Stephens
Campbell, George	Humphries	McGauran (Teller)	Troeth
Carr	Hurley	McLucas	Trood
Colbeck	Johnston	Moore	Watson
Conroy	Joyce	Nash	Wortley
Crossin	Kemp	O'Brien	
Eggleston	Kirk	Parry	
Ellison	Lightfoot	Payne	

Question negatived.

Senator Ludwig moved the following amendment:

Page 4 (after line 14), after clause 4, add:

5 Public and independent review of operation of Security Acts relating to terrorism

- (1) The Attorney-General must cause a review of the operation, effectiveness and implications of amendments made by Division 105 in Schedule 4 of this Act.
- (2) The review must be undertaken as soon as practicable after the fifth anniversary of the commencement of the amendments.
- (3) The review is to be undertaken by a committee consisting of:
 - (a) up to two persons appointed by the Attorney-General, one of whom must be a retired judicial officer who shall be the Chair of the Committee; and
 - (b) the Inspector-General of Intelligence and Security; and
 - (c) the Privacy Commissioner; and
 - (d) the Human Rights Commissioner; and
 - (e) the Commonwealth Ombudsman; and
 - (f) two persons (who must hold a legal practising certificate in an Australian jurisdiction) appointed by the Attorney-General on the nomination of the Law Council of Australia.

- (4) The Attorney-General may reject a nomination made under paragraph (3)(f). If the Attorney-General rejects a nomination, the Law Council of Australia may nominate another person.
- (5) The committee must provide for public submissions and public hearings as part of the review.
- (6) The committee must, within six months of commencing the review, give the Attorney-General and the Parliamentary Joint Committee on Intelligence and Security a written report of the review which includes an assessment of matters in subsection (1), and alternative approaches or mechanisms as appropriate.
- (7) The Attorney-General must cause a copy of the report to be tabled in each House of the Parliament within 5 sitting days of that House after its receipt by the Attorney-General.
- (8) Before the copy of the report is tabled in Parliament, the Attorney-General may remove information from the copy of the report if the Attorney-General is satisfied on advice from the Director-General of Security or the Commissioner of the Australian Federal Police that its inclusion may:
 - (a) endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or
 - (c) compromise the operational activities or methodologies of the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, the Defence Signals Directorate or the Australian Federal Police.
- (9) The Parliamentary Joint Committee on Intelligence and Security must take account of the report of the review given to the Committee, when the Committee conducts its review under paragraph 29(1)(ba) of the *Intelligence Services Act 2001*.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Page 4 (after line 14), at the end of clause 4, add:

- (3) The amendments made by Schedule 7 are to be reviewed by the Australian Law Reform Commission.
- (4) A copy of the report of the review required by subsection (3) is to be given to the Attorney-General one year after this Act receives the Royal Assent and the Attorney-General must cause a copy of the report to be laid before each House of the Parliament within 5 sitting days after the Attorney-General receives the copy of the report.
- (5) If a copy of the report required by subsection (3) is not laid before each House of the Parliament in accordance with subsection (4), Schedule 7 ceases to have effect the day after the day on which a copy of the report is required by subsection (4).

Debate ensued.

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

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

Schedule 1, item 9, page 6 (line 11), at the end of paragraph 102.1(1A)(c), add “in circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3) that the person might suffer) to engage in a terrorist act”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 9.

Schedule 1, item 9, as amended, debated.

Limitation of debate: The time allotted for the consideration of the bill expired.

Question—That Schedule 1, item 9, as amended, be agreed to—put and passed.

The following amendments circulated by the Australian Democrats were considered:

Schedule 4, item 24, page 72 (line 24), omit “but solely”, substitute “including”.

Schedule 4, item 24, page 74 (lines 8 to 27), omit subsections 105.38(1) to (4).

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Crossin	Lundy	Sherry
Bartlett	Evans	McEwen	Siewert
Bishop	Faulkner	McLucas	Stephens
Brown, Bob	Fielding	Moore	Stott Despoja
Brown, Carol	Hogg	Murray	Webber
Campbell, George	Hurley	Nettle	Wong
Carr	Kirk (Teller)	O'Brien	Wortley
Conroy	Ludwig	Polley	

NOES, 33

Senators—

Abetz	Ellison	Lightfoot	Santoro
Adams	Ferguson	Macdonald, Ian	Scullion
Barnett	Fierravanti-Wells	Mason	Troeth
Boswell	Fifield	McGauran (Teller)	Trood
Brandis	Heffernan	Minchin	Vanstone
Calvert	Humphries	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Payne	
Eggleston	Kemp	Ronaldson	

Question negatived.

The following amendments circulated by the Australian Democrats were considered:

Schedule 4, item 24, page 38 (lines 9 to 11), omit “16” (twice occurring), substitute “18”.

Schedule 4, item 24, page 38 (lines 12 to 19), omit subsections 104.28(2) and (3).

Schedule 4, item 24, page 38 (after line 19), at the end of section 104.28, add:

- (4) An independent child welfare and advocacy officer must oversee the health and welfare of a person of a class specified in subsection (1) from the time any control order is issued, for the duration of the order.

Schedule 4, item 24, page 42 (lines 30 to 33), omit “16” (twice occurring), substitute “18”.

Schedule 4, item 24, page 42 (lines 34 and 35), omit the note.

Schedule 4, item 24, page 43 (lines 1 to 21), omit subsections 105.5(2) and (3).

Schedule 4, item 24, page 43 (after line 21), after section 105.5, insert:

105.5A Treatment of persons aged 16 to 18

An independent child welfare and advocacy officer must oversee the health and welfare of all persons aged 16 to 18 from the time they are detained and for the duration of their detention.

Schedule 4, item 24, page 64 (after line 33), at the end of section 105.27, add:

- (4) If the subject is a person under 18 years of age, any person exercising authority in accordance with this section must ensure that the subject is segregated from adult detainees at all times.

Schedule 4, item 24, page 70 (after line 32), at the end of section 105.33, add:

- (2) If a person has been taken into custody, or has been detained under a preventative detention order, and the person is under 18 years of age, the treatment of the person must be consistent with the person's status as a minor.

Schedule 4, item 24, page 70 (after line 32), after section 105.33, insert:

105.33A Treatment of minors

A person who is under 18 years of age being taken into custody, or being detained, under a preventative detention order, in addition to the requirements of section 105.33 must be treated in accordance with the Convention on the Rights of the Child.

Note: The text of the Convention on the Rights of the Child is set out in the Australian Treaty Series.

105.33B Obligation to notify Ombudsman for child protection and welfare arrangements where minor detained

If a person who is under 18 years of age is the subject of an application for an interim or continued preventative detention order or taken into custody, or being detained, under a preventative detention order:

- (a) the police officer who is making the application or detaining the person under the order must immediately notify the Commonwealth Ombudsman of the application or detention;
- (b) on being notified in accordance with paragraph (a) the Commonwealth Ombudsman must refer a child welfare and advocacy officer for the person from the office of the Ombudsman;
- (c) the child welfare and advocacy officer referred in accordance with paragraph (b), must:
- (i) immediately visit the person;
 - (ii) explain to the person the basis of their detention;
 - (iii) advocate for and protect the interests of the child in accordance with sections 105.33 and 105.33A.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 8

Senators—

Allison	Brown, Bob	Murray	Siewert
Bartlett (Teller)	Fielding	Nettle	Stott Despoja

NOES, 54

Senators—

Abetz	Ellison	Ludwig	Ronaldson
Adams	Evans	Lundy	Santoro
Barnett	Ferguson	Macdonald, Ian	Scullion
Bishop	Fierravanti-Wells	Mason	Sherry
Boswell	Fifield	McEwen	Stephens
Brandis	Heffernan	McGauran (Teller)	Troeth
Brown, Carol	Hogg	McLucas	Trood
Calvert	Humphries	Minchin	Vanstone
Campbell, George	Hurley	Moore	Watson
Chapman	Johnston	Nash	Webber
Colbeck	Joyce	O'Brien	Wong
Conroy	Kemp	Parry	Wortley
Crossin	Kirk	Payne	
Eggleston	Lightfoot	Polley	

Question negatived.

The following amendments circulated by the Australian Democrats were negatived:

Schedule 1, page 7 (after line 27), after item 17, insert:

17A After section 102.1 of the Criminal Code

102.1AA Proscription

- (1) The Minister must, when considering whether an organisation should be listed as a terrorist organisation in accordance with this Act, consider the effect of any such proscription upon the following rights of individuals who are, have been, or may become, ordinary or other members of the organisation:
 - (a) freedom of opinion, conscience, belief and/or religion;
 - (b) freedom to manifest or practice their opinion, conscience, belief and/or religion;
 - (c) freedom of expression;
 - (d) freedom to associate with others.
- (2) The Minister must include with any regulation that proscribes an organisation as a terrorist organisation, a Human Rights Impact Statement that includes:
 - (a) the extent to which the human rights listed in subsection (1) are likely to be limited and the classes of individuals or groups likely to be affected by the proscription; and
 - (b) the purpose or purposes of any proposed limitation on the human rights listed in subsection (1); and
 - (c) a statement of why any proposed limitation on the human rights listed in subsection (1) is, in the Minister's opinion, necessary—the statement should include what alternative measures were considered and why such measures were rejected by the Minister; and

- (d) a summary of any information, evidence and other material upon which the Minister relied in forming the opinion that the proposed limitation is necessary; and
 - (e) a summary of the Minister's reasoning as to why the form of the proposed limitation is appropriate, the least intrusive and best adapted to achieve the purpose of the proposed limitation.
- (3) No regulation made by the Governor-General in relation to proscription under this section can take effect until the Parliament has considered and approved, by a process to be established by the Parliament, the Human Rights Impact Statement attached to the regulation that would proscribe an organisation as a terrorist organisation.

Schedule 4, item 24, page 20 (after line 28), after subsection 104.4(2), insert:

- (2A) When determining what is reasonably necessary, and reasonably appropriate and adapted, any person, police officer, issuing court or issuing authority exercising powers under this section must, when making, reviewing, confirming, implementing or otherwise acting consistent with powers in this section, have regard to the human rights standards contained in the scheduled international instruments. In particular, the person, police officer, issuing court or issuing authority must consider, and may require evidence to be provided as to:
- (a) the extent to which the human rights contained in the scheduled international instruments are likely to be limited and what classes of individuals or groups, if any, are likely to be affected; and
 - (b) the purpose or purposes for which any limitation is proposed to be made; and
 - (c) whether such a limitation of the human rights contained in the scheduled international instruments is necessary to achieve the purpose or purposes, including what alternative measures were considered and whether they were properly rejected; and
 - (d) whether the form of the limitation of human rights proposed to be made has the least severe impact on the human rights contained in the scheduled international instruments of affected classes of individuals or groups.
- (2B) For the purposes of this section, *scheduled international instrument* means the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

Note: The text of the treaties listed in subsection (2B) are set out in the Australian Treaty Series.

The following amendments circulated by the Opposition were considered:

- Paragraph 104.2(3)(f), after "summary", insert "of the primary facts and".
- Paragraph 104.5(1)(h), after "summary", insert "of the primary facts and".
- Paragraph 105.7(2)(g), after "summary", insert "of the primary facts and".
- Paragraph 105.8(6)(e), after "summary", insert "of the primary facts and".
- Paragraph 105.11(2)(g), after "summary", insert "of the primary facts and".

Paragraph 105.12(6)(d), after “summary”, insert “of the primary facts and”.

At the end of subsection 105.8(6) (before the note), add:

; and (f) the right of the person to reasonable assistance to choose a lawyer and contact the lawyer in relation to the order.

Schedule 4, item 24, page 18 (line 18), at the end of subsection 104.2(2), add:

; or (c) is satisfied that applying for an interim control order and the terms in which it is sought is the least restrictive means of achieving the purpose of the order.

Schedule 4, item 24, page 19 (after line 29), at the end of section 104.2, add:

(6) In giving consent in accordance with this section, the Attorney-General must be satisfied that an interim control order and the terms in which it is sought is the least restrictive means of achieving the purpose of the order.

Schedule 4, item 24, page 20 (line 22), at the end of subsection 104.4(1), add:

; and (e) the court is satisfied that making a control order and the terms in which it is sought is the least restrictive means of achieving the purpose of the order.

Schedule 4, item 24, page 29 (line 16), at the end of subsection 104.14(3), add:

; and (c) whether the making of a control order and the terms in which it is sought is the least restrictive means of achieving the purpose of the order.

Schedule 4, item 24, page 27 (after line 13), at the end of paragraph 104.12(1)(a), add:

(iii) the person shall be provided with a copy of the order and the reasons for the decision, including the materials on which the order is based; and

Schedule 4, item 24, page 27 (line 23), after “(ii)”, insert “or (iii)”.

Schedule 4, item 24, page 69 (line 1), at the end of subsection 105.32(1), add:

; and (c) a copy of the order and the reasons for the decision, including the materials on which the order is based.

Schedule 1, item 24, page 72 (line 24), omit “but solely”, substitute “including”.

Schedule 1, item 24, page 72 (after line 30), after paragraph 105.37(1)(a), insert:

(aa) obtaining at any time during the period of detention advice in relation to their detention; or

Schedule 1, item 24, page 74 (after line 7), before subsection 105.38(1), insert:

(1A) The provisions of this section apply only after the police officer exercising authority under the preventative detention order has first lodged with the issuing authority a written statement setting out the basis of the reasonable grounds on which it is believed that the consultation will interfere with the purpose of the order.

Schedule 4, item 24, page 82 (after line 9), at the end of section 105.42, add:

(4) Any questioning which occurs under this section must be videotaped and a copy of the videotape must be given to the detained person, or the detained person’s lawyer.

- (5) Any questioning which occurs under this section may only occur, subject to there being no prejudice to national security, in the presence of the detained person's lawyer.

Schedule 5, item 24, page 85 (line 26) to page 86 (line 17), omit section 105.47, substitute:

105.47 Biannual report

- (1) The Attorney-General must, as soon as practicable after each 30 June and each 31 December, cause to be prepared a report about the operation of this Division during the preceding 6 months.
- (2) Without limiting subsection (1), a report relating to a 6-month period must include the following matters:
- (a) the number of initial preventative detention orders made under section 105.8 during the year;
 - (b) the number of continued preventative detention orders made under section 105.12 during the year;
 - (c) whether a person was taken into custody under each of those orders and, if so, how long the person was detained for;
 - (d) particulars of any complaints in relation to the detention of a person under a preventative detention order made or referred during the year to:
 - (i) the Commonwealth Ombudsman; or
 - (ii) the Internal Investigation Division of the Australian Federal Police;
 - (e) the number of prohibited contact orders made under sections 105.15 and 105.16 during the preceding 6 months; or
 - (f) the number of interim control orders, urgent interim control orders, urgent control orders and control orders made under Division 104 during the preceding 6 months.
- (3) The Attorney-General must cause copies of the report to be laid before each House of the Parliament within 5 sitting days of that House after the report is completed.

Schedule 5, item 10, page 96 (after line 16), after subsection 3UD(2), insert:

- (2A) Any search of a person conducted under this section must be conducted:
- (a) in an area that provides adequate personal privacy to the person being searched; and
 - (b) be conducted by a person of the same sex as the person being searched.

Schedule 7, item 12, page 112 (after line 29), after section 80.2, insert:

80.2A Exemption or good faith defence

Sections 80.1 and 80.2 do not apply to anything said or done reasonably:

- (a) in the creation, performance, exhibition or distribution of an artistic work; or
- (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or

- (c) in making or publishing:
 - (i) a fair and accurate report of any event or matter of public interest; or
 - (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment.

Schedule 10, page 134 (after line 22), after item 12, insert:

12A After subsection 25(10)

Insert:

- (10A) A warrant may only be extended for more than 28 days in the case of any investigation relating to a suspected terrorist activity or a terrorism offence.

Schedule 10, page 135 (after line 10), after item 16, insert:

16A After subsection 27(4)

Insert:

- (4A) A warrant may only be extended for more than 28 days in the case of any investigation relating to a suspected terrorist activity or a terrorism offence.

Schedule 10, page 135 (after line 12), after item 17, insert:

17A After subsection 27AA(9)

Insert:

- (9A) A warrant may only be extended for more than 28 days in the case of any investigation relating to a suspected terrorist activity or a terrorism offence.

Schedule 10, page 135 (after line 19), after item 20, insert:

20A After subsection 27A(3)

Insert:

- (3A) A warrant may only be extended for more than 28 days in the case of any investigation relating to a suspected terrorist activity or a terrorism offence.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Crossin	Lundy	Sherry
Bartlett	Evans	McEwen	Siewert
Bishop	Faulkner	McLucas	Stephens
Brown, Bob	Fielding	Moore	Stott Despoja
Brown, Carol	Hogg	Murray	Webber
Campbell, George	Hurley	Nettle	Wong
Carr	Kirk (Teller)	O'Brien	Wortley
Conroy	Ludwig	Polley	

NOES, 33

Senators—

Abetz	Ellison	Lightfoot	Santoro
Adams	Ferguson	Macdonald, Ian	Scullion
Barnett	Fierravanti-Wells	Mason	Troeth
Boswell	Fifield	McGauran (Teller)	Trood
Brandis	Heffernan	Minchin	Vanstone
Calvert	Humphries	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Payne	
Eggleston	Kemp	Ronaldson	

Question negatived.

The following amendments circulated by the Australian Democrats were negatived:

Schedule 4, item 10, page 14 (line 28) to page 15 (line 4), omit the item, substitute:

10 Subsection 100.1(1) of the *Criminal Code*

Insert:

issuing authority means a judge of a State or Territory Supreme Court or a judge of the Federal Court.

Schedule 4, item 11, page 15 (line 10), omit paragraph (c).

Schedule 4, item 24, page 17 (after line 23), after section 104.1, insert:

104.1A No interim control orders until statement of procedures made and tabled

The Attorney-General must not consent to an interim control order request unless a statement of procedures required by section 104.1B has been made and tabled in each House of the Parliament.

104.1B Statement of procedures to be followed for the exercise of authority under an interim control order or a control order

- (1) Before an interim control order an urgent interim control order may be issued in accordance with this Act, a statement of procedures must be made in accordance with subsections (2) to (4).
- (2) The Attorney-General must cause a statement of procedures for the requesting and making of interim control orders or urgent interim control orders.
- (3) A statement of procedures made in accordance with subsection (2) must be made in consultation with the Australian Federal Police Commissioner, following consultation with:
 - (a) the Inspector General of Intelligence and Security; and
 - (b) the Human Rights and Equal Opportunity Commissioner; and
 - (c) the Commonwealth Ombudsman.
- (4) The Attorney-General must cause the statement of procedures to be tabled in each House of the Parliament.

Schedule 4, item 24, page 28 (lines 19 and 20), omit paragraph 104.13(1)(b), substitute:

- (b) a copy of all information and evidence that forms the basis of the application for the order.

Schedule 4, item 24, page 28 (lines 21 to 25), omit subsection 104.13(2).

Schedule 4, item 24, page 34 (lines 1 to 4), omit paragraph 104.21(1)(b), substitute:

- (b) a copy of all information and evidence that forms the basis of the additional obligations, prohibitions and restrictions to be imposed on the person.

Schedule 4, item 24, page 34 (lines 5 to 9), omit subsection 104.21(2).

Schedule 4, item 24, page 40 (after line 16), after section 105.1, insert:

1051A No preventative detention orders until statement of procedures made and tabled

The Attorney-General must not consent to a preventative detention order unless a statement of procedures required by section 105.1B has been made and tabled in each House of the Parliament.

Schedule 4, item 24, page 40 (after line 16), after section 105.1, insert:

105.1B Statement of procedures to be followed for the exercise of authority under a preventative detention order

- (1) Before a preventative detention order may be issued in accordance with this Act, a statement of procedures must be made in accordance with subsections (2) to (4).
- (2) The Attorney-General must cause a statement of procedures for the exercise of authority under a preventative detention order to be made.
- (3) A statement of procedures made in accordance with subsection (2) must be made in consultation with the Australian Federal Police Commissioner, following consultation with:
 - (a) the Inspector General of Intelligence and Security; and
 - (b) the Human Rights and Equal Opportunity Commissioner; and
 - (c) the Commonwealth Ombudsman.
- (4) The statement of procedures must include minimum conditions for the detention and standards of treatment applicable to any person who is the subject of a preventative detention order.
- (5) The Attorney-General must cause the statement of procedures to be tabled in both Houses of Parliament.

Schedule 4, item 24, page 40 (line 23) to page 41 (line 4), omit paragraphs 105.2(1)(c), (d) and (e) and subsection (2).

Schedule 4, item 24, page 51 (lines 12 to 15), omit the note, substitute:

Note: *Issuing authority* means a judge of a State or Territory Supreme Court or a judge of the Federal Court.

Schedule 4, item 24, page 69 (line 1), omit “summary”, substitute “the copy of all the information and evidence that forms the basis on which the order is made”.

Schedule 4, item 24, page 69 (lines 2 to 6), omit subsection 105.32(2).

Schedule 4, item 24, page 87 (line 1) to page 88 (line 16), omit section 105.51, substitute:

105.51 Legal proceedings in relation to preventative detention orders

- (1) Proceedings may be brought in a court for a remedy in relation to:
 - (a) a preventative detention order; or
 - (b) the treatment of a person in connection with the person’s detention under a preventative detention order.

- (2) An application may be made under the *Administrative Decisions (Judicial Review) Act 1977* in relation to a decision made under this Division.
- (3) The power of the Administrative Appeals Tribunal to review a decision referred to in subsection (2) may be exercised by the Tribunal only in the Security Appeals Division of the Tribunal.
- (4) The Administrative Appeals Tribunal may determine that the Commonwealth should compensate the person in relation to the person's detention under the order if the Tribunal declares the order to be void.
- (5) If the Administrative Appeals Tribunal makes a determination under subsection (4), the Commonwealth is liable to pay the compensation determined by the Tribunal.

Schedule 8, item 5, page 117 (line 14), after "may", insert " , subject to the *Privacy Act 1988*,".

The following amendments circulated by the Government were agreed to:

Schedule 4, item 24, page 19 (line 18), at the end of subsection 104.2(3) (before the notes), add:

; and (f) a summary of the grounds on which the order should be made.

Schedule 4, item 24, page 19 (after line 22), after subsection 104.2(3), insert:

- (3A) To avoid doubt, paragraph (3)(f) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 21 (line 19), at the end of subsection 104.5(1) (before the notes), add:

; and (h) set out a summary of the grounds on which the order is made.

Schedule 4, item 24, page 21 (after line 25), after subsection 104.5(1), insert:

- (1A) The day specified for the purposes of paragraph (1)(e) must be as soon as practicable, but at least 72 hours, after the order is made.

Schedule 4, item 24, page 21 (after line 27), after subsection 104.5(2), insert:

- (2A) To avoid doubt, paragraph (1)(h) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 27 (lines 10 to 13), omit paragraph 104.12(1)(a), substitute:

(a) must serve the order personally on the person; and

Schedule 4, item 24, page 27 (line 17), after "sections", insert "104.12A,".

Schedule 4, item 24, page 27 (lines 23 to 27), omit subsection 104.12(2).

Schedule 4, item 24, page 28 (lines 1 to 13), omit subsection 104.12(5), substitute:

Queensland public interest monitor to be given copy of interim control order

(5) If:

(a) the person in relation to whom the interim control order is made is a resident of Queensland; or

(b) the issuing court that made the interim control order did so in Queensland;

an AFP member must give to the Queensland public interest monitor a copy of the order.

Schedule 4, item 24, page 28 (after line 13), after section 104.12, insert:

104.12A Election to confirm control order

- (1) At least 48 hours before the day specified in an interim control order as mentioned in paragraph 104.5(1)(e), the senior AFP member who requested the order must:
 - (a) elect whether to confirm the order on the specified day; and
 - (b) give a written notification to the issuing court that made the order of the member's election.
- (2) If the senior AFP member elects to confirm the order, an AFP member must:
 - (a) serve personally on the person in relation to whom the order is made:
 - (i) a copy of the notification; and
 - (ii) a copy of the documents mentioned in paragraphs 104.2(3)(b) and (c); and
 - (iii) any other details required to enable the person to understand and respond to the substance of the facts, matters and circumstances which will form the basis of the confirmation of the order; and
 - (b) if the person is a resident of Queensland, or the court made the order in Queensland—give the Queensland public interest monitor a copy of the documents mentioned in paragraph (a).
- (3) To avoid doubt, subsection (2) does not require any information to be served or given if disclosure of that information is likely:
 - (a) to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*); or
 - (b) to be protected by public interest immunity; or
 - (c) to put at risk ongoing operations by law enforcement agencies or intelligence agencies; or
 - (d) to put at risk the safety of the community, law enforcement officers or intelligence officers.

The fact that information of a kind mentioned in this subsection is not required to be disclosed does not imply that such information is required to be disclosed in other provisions of this Part that relate to the disclosure of information.

- (4) If the senior AFP member elects not to confirm the order, and the order has already been served on the person, then:
 - (a) the order immediately ceases to be in force; and
 - (b) an AFP member must:
 - (i) annotate the order to indicate that it has ceased to be in force; and
 - (ii) cause the annotated order and a copy of the notification to be served personally on the person; and

- (iii) if the person is a resident of Queensland, or the court made the order in Queensland—give the Queensland public interest monitor a copy of the annotated order and the notification.

Schedule 4, item 24, page 28 (lines 14 to 25), omit section 104.13, substitute:

104.13 Lawyer may request a copy of an interim control order

- (1) A lawyer of the person in relation to whom an interim control order is made may attend the place specified in the order as mentioned in paragraph 104.5(1)(g) in order to obtain a copy of the order.
- (2) This section does not:
 - (a) require more than one person to give the lawyer a copy of the order; or
 - (b) entitle the lawyer to request, be given a copy of, or see, a document other than the order.

Schedule 4, item 24, page 28 (line 28), omit “On”, substitute “If an election has been made to confirm an interim control order, then, on”.

Schedule 4, item 24, page 28 (lines 31 and 32), omit “of an interim control order”, substitute “of the order”.

Schedule 4, item 24, page 29 (line 17), after “*representative*”, insert “*etc.*”.

Schedule 4, item 24, page 29 (lines 19 to 21), omit paragraph 104.14(4)(a), substitute:

- (a) none of the following persons attend the court on the specified day:
 - (i) the person in relation to whom the order is made;
 - (ii) a representative of the person;
 - (iii) if the person is a resident of Queensland, or the court made the order in Queensland—the Queensland public interest monitor; and

Schedule 4, item 24, page 29 (line 23), at the end of paragraph 104.14(4)(b), add “in relation to whom the order is made”.

Schedule 4, item 24, page 29 (lines 24 to 27), omit subsection 104.14(5), substitute:

Attendance of person or representative etc.

- (5) The court may take the action mentioned in subsection (6) or (7) if any of the following persons attend the court on the specified day:
 - (a) the person in relation to whom the order is made;
 - (b) a representative of the person;
 - (c) if the person is a resident of Queensland, or the court made the order in Queensland—the Queensland public interest monitor.

Schedule 4, item 24, page 33 (line 29) to page 34 (line 9), omit section 104.21, substitute:

104.21 Lawyer may request a copy of a control order

- (1) If a control order is confirmed or varied under section 104.14, 104.20 or 104.24, a lawyer of the person in relation to whom the control order is made may attend the place specified in the order as mentioned in paragraph 104.16(1)(e) or 104.25(d) in order to obtain a copy of the order.
- (2) This section does not:
 - (a) require more than one person to give the lawyer a copy of the order; or
 - (b) entitle the lawyer to request, be given a copy of, or see, a document other than the order.

Schedule 4, item 24, page 35 (lines 23 to 31), omit subsection 104.23(3), substitute:

- (3) The Commissioner must cause:
 - (a) written notice of the application and the grounds on which the variation is sought; and
 - (b) a copy of the documents mentioned in paragraph (2)(b); and
 - (c) any other details required to enable the person in relation to whom the order is made to understand and respond to the substance of the facts, matters and circumstances which will form the basis of the variation of the order;

to be given to the following persons:

- (d) the person in relation to whom the order is made;
 - (e) if the person is a resident of Queensland, or the court will hear the application in Queensland—the Queensland public interest monitor.
- (3A) To avoid doubt, subsection (3) does not require any information to be given if disclosure of that information is likely:
- (a) to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*); or
 - (b) to be protected by public interest immunity; or
 - (c) to put at risk ongoing operations by law enforcement agencies or intelligence agencies; or
 - (d) to put at risk the safety of the community, law enforcement officers or intelligence officers.

The fact that information of a kind mentioned in this subsection is not required to be disclosed does not imply that such information is required to be disclosed in other provisions of this Part that relate to the disclosure of information.

Schedule 4, item 24, page 37 (lines 9 to 13), omit paragraph 104.26(1)(a), substitute:

- (a) must serve the varied order personally on the person; and

Schedule 4, item 24, page 37 (lines 26 to 30), omit subsection 104.26(2).

Schedule 4, item 24, page 38 (after line 19), after section 104.28, insert:

104.28A Interlocutory proceedings

- (1) Proceedings in relation to a request under section 104.3, 104.6 or 104.8 to make an interim control order are taken to be interlocutory proceedings for all purposes (including for the purpose of section 75 of the *Evidence Act 1995*).
- (2) The following proceedings are taken not to be interlocutory proceedings for any purpose (including for the purpose of section 75 of the *Evidence Act 1995*):
 - (a) proceedings in relation to the confirmation under section 104.14 of an interim control order;
 - (b) proceedings in relation to an application under section 104.18, 104.19 or 104.23 to revoke or vary a confirmed control order.

Schedule 4, item 24, page 38 (after line 29), after paragraph 104.29(2)(a), insert:

- (aa) the number of interim control orders in respect of which an election was made under section 104.12A not to confirm the order;

Schedule 4, item 24, page 43 (after line 21), after section 105.5, insert:

105.5A Special assistance for person with inadequate knowledge of English language or disability

If the police officer who is detaining a person under a preventative detention order has reasonable grounds to believe that the person is unable, because of inadequate knowledge of the English language or a disability, to communicate with reasonable fluency in that language:

- (a) the police officer has an obligation under subsection 105.31(3) to arrange for the assistance of an interpreter in informing the person about:
 - (i) the effect of the order or any extension, or further extension, of the order; and
 - (ii) the person's rights in relation to the order; and
- (b) the police officer has an obligation under subsection 105.37(3A) to give the person reasonable assistance to:
 - (i) choose a lawyer to act for the person in relation to the order; and
 - (ii) contact the lawyer.

Schedule 4, item 24, page 46 (line 13), at the end of subsection 105.7(2) (before the note), add:

- ; and (g) set out a summary of the grounds on which the AFP member considers that the order should be made.

Schedule 4, item 24, page 46 (after line 15), after subsection 105.7(2), insert:

- (2A) To avoid doubt, paragraph (2)(g) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 48 (line 2), at the end of subsection 105.8(6) (before the note), add:

- ; and (e) a summary of the grounds on which the order is made.

Schedule 4, item 24, page 48 (after line 3), after subsection 105.8(6), insert:

- (6A) To avoid doubt, paragraph (6)(e) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 48 (after line 10), at the end of section 105.8, add:

- (8) The senior AFP member nominated under subsection 105.19(5) in relation to the initial preventative detention order must:
- (a) notify the Commonwealth Ombudsman in writing of the making of the order; and
 - (b) give the Commonwealth Ombudsman a copy of the order; and
 - (c) if the person in relation to whom the order is made is taken into custody under the order—notify the Commonwealth Ombudsman in writing that the person has been taken into custody under the order.

Schedule 4, item 24, page 49 (after line 30), after section 105.10, insert:

105.10A Notice of application for continued preventative detention order

An AFP member who proposes to apply for a continued preventative detention order in relation to a person under section 105.11 must, before applying for the order:

- (a) notify the person of the proposed application; and
- (b) inform the person that, when the proposed application is made, any material that the person gives the AFP member in relation to the proposed application will be put before the issuing authority for continued preventative detention orders to whom the application is made.

Note: The AFP member who applies for the order must put the material before the issuing authority—see subsection 105.11(5).

Schedule 4, item 24, page 50 (line 33), at the end of subsection 105.11(2) (before the note), add:

- ; and (g) set out a summary of the grounds on which the AFP member considers that the order should be made.

Schedule 4, item 24, page 50 (after line 39), after subsection 105.11(3), insert:

- (3A) To avoid doubt, paragraph (2)(g) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 51 (after line 2), at the end of section 105.11, add:

- (5) The AFP member applying for the continued preventative detention order in relation to the person must put before the issuing authority to whom the application is made any material in relation to the application that the person has given the AFP member.

Schedule 4, item 24, page 52 (line 3), at the end of subsection 105.12(6), add:

- ; and (d) a summary of the grounds on which the order is made.

Schedule 4, item 24, page 52 (after line 3), after subsection 105.12(6), insert:

- (6A) To avoid doubt, paragraph (6)(d) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

Schedule 4, item 24, page 52 (after line 10), at the end of section 105.12, add:

- (8) The senior AFP member nominated under subsection 105.19(5) in relation to the continued preventative detention order must:
- (a) notify the Commonwealth Ombudsman in writing of the making of the order; and
 - (b) give the Commonwealth Ombudsman a copy of the order.

Schedule 4, item 24, page 53 (after line 29), after section 105.14, insert:

105.14A Basis for applying for, and making, prohibited contact order

- (1) An AFP member may apply for a prohibited contact order in relation to a person only if the AFP member meets the requirements of subsection (4).
- (2) An issuing authority for initial preventative detention orders, or continued preventative detention orders, may make a prohibited contact order in relation to a person's detention under a preventative detention order only if the issuing authority meets the requirements of subsection (4).
- (3) The person in relation to whose detention the prohibited contact order is applied for, or made, is the *subject* for the purposes of this section.
- (4) A person meets the requirements of this subsection if the person is satisfied that making the prohibited contact order is reasonably necessary:
 - (a) to avoid a risk to action being taken to prevent a terrorist act occurring; or
 - (b) to prevent serious harm to a person; or
 - (c) to preserve evidence of, or relating to, a terrorist act; or
 - (d) to prevent interference with the gathering of information about:
 - (i) a terrorist act; or
 - (ii) the preparation for, or the planning of, a terrorist act; or
 - (e) to avoid a risk to:
 - (i) the arrest of a person who is suspected of having committed an offence against this Part; or
 - (ii) the taking into custody of a person in relation to whom a preventative detention order is in force, or in relation to whom a preventative detention order is likely to be made; or
 - (iii) the service on a person of a control order.
- (5) An issuing authority may refuse to make a prohibited contact order unless the AFP member applying for the order gives the issuing authority any further information that the issuing authority requests concerning the grounds on which the order is sought.

Schedule 4, item 24, page 54 (lines 8 to 18), omit subsection 105.15(4), substitute:

- (4) If the issuing authority makes the preventative detention order, the issuing authority may make a prohibited contact order under this section that the subject is not, while being detained under the preventative detention order, to contact the person specified in the prohibited contact order.

Note: Section 105.14A sets out the basis on which the order may be made.

Schedule 4, item 24, page 54 (after line 19), at the end of section 105.15, add:

- (6) The senior AFP member nominated under subsection 105.19(5) in relation to the preventative detention order must:
 - (a) notify the Commonwealth Ombudsman in writing of the making of the prohibited contact order; and
 - (b) give the Commonwealth Ombudsman a copy of the prohibited contact order.

Schedule 4, item 24, page 55 (lines 1 to 8), omit subsection 105.16(4), substitute:

- (4) The issuing authority may make a prohibited contact order under this section that the subject is not, while being detained under the preventative detention order, to contact the person specified in the prohibited contact order.

Note: Section 105.14A sets out the basis on which the order may be made.

Schedule 4, item 24, page 55 (after line 9), at the end of section 105.16, add:

- (6) The senior AFP member nominated under subsection 105.19(5) in relation to the preventative detention order must:
 - (a) notify the Commonwealth Ombudsman in writing of the making of the prohibited contact order; and
 - (b) give the Commonwealth Ombudsman a copy of the prohibited contact order.

Schedule 4, item 24, page 57 (after line 5), at the end of section 105.17, add:

Detainee's right to make representations about revocation of preventative detention order

- (7) A person being detained under a preventative detention order may make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked.

Schedule 4, item 24, page 65 (after line 23), after paragraph 105.28(2)(d), insert:

- (da) the person's entitlement under subsection 105.17(7) to make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked; and

Schedule 4, item 24, page 66 (after line 12), after subsection 105.28(2), insert:

- (2A) Without limiting paragraph (2)(c), the police officer detaining the person under the order must inform the person under that paragraph about the persons that he or she may contact under section 105.35 or 105.39.

Schedule 4, item 24, page 66 (after line 36), after paragraph 105.29(2)(c), insert:
 (ca) the person's entitlement under subsection 105.17(7) to make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked; and

Schedule 4, item 24, page 67 (after line 24), after subsection 105.29(2), insert:
 (2A) Without limiting paragraph (2)(c), the police officer detaining the person under the order must inform the person under that paragraph about the persons that he or she may contact under section 105.35 or 105.39.

Schedule 4, item 24, page 68 (line 22), omit "physical".

Schedule 4, item 24, page 68 (lines 30 and 31), omit "**and summary of grounds**".

Schedule 4, item 24, page 68 (line 32) to page 69 (line 1), omit subsection 105.32(1), substitute:

- (1) As soon as practicable after a person is first taken into custody under an initial preventative detention order, the police officer who is detaining the person under the order must give the person a copy of the order.

Schedule 4, item 24, page 69 (lines 2 to 6), omit subsection 105.32(2).

Schedule 4, item 24, page 69 (line 26), omit paragraph 105.32(6)(b).

Schedule 4, item 24, page 70 (line 2), omit "the summary".

Schedule 4, item 24, page 70 (lines 4 and 5), omit "the summary".

Schedule 4, item 24, page 70 (lines 7 and 8), omit "the summary".

Schedule 4, item 24, page 70 (after line 32), after section 105.33, insert:

105.33A Detention of persons under 18

- (1) Subject to subsection (2), the police officer detaining a person who is under 18 years of age under a preventative detention order must ensure that the person is not detained together with persons who are 18 years of age or older.

Note: A contravention of this subsection may be an offence under section 105.45.

- (2) Subsection (1) does not apply if a senior AFP member approves the person being detained together with persons who are 18 years of age or older.
- (3) The senior AFP member may give an approval under subsection (2) only if there are exceptional circumstances justifying the giving of the approval.
- (4) An approval under subsection (2) must:
 - (a) be given in writing; and
 - (b) set out the exceptional circumstances that justify the giving of the approval.

Schedule 4, item 24, page 73 (after line 34), after subsection 105.37(3), insert:

- (3A) If the police officer who is detaining a person under a preventative detention order has reasonable grounds to believe that:

- (a) the person is unable, because of inadequate knowledge of the English language, or a disability, to communicate with reasonable fluency in that language; and
- (b) the person may have difficulties in choosing or contacting a lawyer because of that inability;

the police officer must give the person reasonable assistance (including, if appropriate, by arranging for the assistance of an interpreter) to choose and contact a lawyer under subsection (1).

Schedule 4, item 24, page 73 (line 36), after “(3)”, insert “or (3A)”.

Schedule 4, item 24, page 79 (lines 1 to 3), omit paragraph 105.41(3)(c), substitute:

- (c) the other person is not a person the detainee is entitled to have contact with under section 105.39; and

Schedule 4, item 24, page 79 (after line 28), after subsection 105.41(4), insert:

- (4A) A person (the *parent/guardian*) commits an offence if:
 - (a) the parent/guardian is a parent or guardian of a person who is being detained under a preventative detention order (the *detainee*); and
 - (b) the detainee has contact with the parent/guardian under section 105.39; and
 - (c) while the detainee is being detained under the order, the parent/guardian discloses information of the kind referred to in paragraph (3)(b) to another parent or guardian of the detainee (the *other parent/guardian*); and
 - (d) when the disclosure is made, the detainee has not had contact with the other parent/guardian under section 105.39 while being detained under the order; and
 - (e) the parent/guardian does not, before making the disclosure, inform the senior AFP member nominated under subsection 105.19(5) in relation to the order that the parent/guardian is proposing to disclose information of that kind to the other parent/guardian.

Penalty: Imprisonment for 5 years.

(4B) If:

- (a) a person (the *parent/guardian*) is a parent or guardian of a person being detained under a preventative detention order (the *detainee*); and
- (b) the parent/guardian informs the senior AFP member nominated under subsection 105.19(5) in relation to the order that the parent/guardian proposes to disclose information of the kind referred to in paragraph (3)(b) to another parent or guardian of the detainee (the *other parent/guardian*);

that senior AFP member may inform the parent/guardian that the detainee is not entitled to contact the other parent/guardian under section 105.39.

Note: The parent/guardian may commit an offence against subsection (2) if the other parent/guardian is a person the detainee is not entitled to have contact with under section 105.39 and the parent/guardian does disclose information of that kind to the other parent/guardian. This is because of the operation of paragraph (3)(c).

Schedule 4, item 24, page 82 (after line 9), at the end of section 105.42, add:

- (4) If a police officer questions a person while the person is being detained under a preventative detention order, the police officer who is detaining the person must ensure that:
- (a) a video recording is made of the questioning if it is practicable to do so; or
 - (b) an audio recording is made of the questioning if it is not practicable for a video recording to be made of the questioning.

Note: A contravention of this subsection may be an offence under section 105.45.

- (5) Subsection (4) does not apply if:
- (a) the questioning occurs to:
 - (i) ensure the safety and well being of the person being detained; or
 - (ii) determine whether the person is the person specified in the order; and
 - (b) complying with subsection (4) is not practicable because of the seriousness and urgency of the circumstances in which the questioning occurs.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

- (6) A recording made under subsection (4) must be kept for the period of 12 months after the recording is made.

Schedule 4, item 24, page 85 (after line 8), after subparagraph 105.45(b)(iv), insert:
(iva) subsection 105.33A(1); or

Schedule 4, item 24, page 85 (line 9), omit “or (3)”, substitute “, (3) or (4)”.

Schedule 4, item 24, page 86 (line 14), at the end of subsection 105.47(2), add:

- ; (f) the number of preventative detention orders, and the number of prohibited contact orders, that a court has found not to have been validly made or that the Administrative Appeals Tribunal has declared to be void.

Schedule 6, item 1, page 105 (lines 4 to 12), omit subsection 3ZQO(2), substitute:

- (2) If the Magistrate is satisfied on the balance of probabilities, by information on oath or by affirmation, that:
- (a) the person has documents (including in electronic form) that are relevant to, and will assist, the investigation of a serious offence; and
 - (b) giving the person a notice under this section is reasonably necessary, and reasonably appropriate and adapted, for the purpose of investigating the offence;

the Magistrate may give the person a written notice requiring the person to produce documents that:

(c) relate to one or more of the matters set out in section 3ZQP, as specified in the notice; and

(d) are in the possession or under the control of the person.

Schedule 7, item 4, page 109 (line 14), after “an intention”, insert “to use force or violence”.

Schedule 7, item 12, page 111 (line 11), omit subsection 80.2(2), substitute:

(2) Recklessness applies to the element of the offence under subsection (1) that it is:

(a) the Constitution; or

(b) the Government of the Commonwealth, a State or a Territory; or

(c) the lawful authority of the Government of the Commonwealth;

that the first-mentioned person urges the other person to overthrow.

Schedule 7, item 12, page 112 (lines 6 and 7), omit “, by any means whatever,”.

Schedule 7, item 12, page 112 (lines 18 and 19), omit “, by any means whatever,”.

Schedule 7, item 12, page 113 (line 29), at the end of subsection 80.3(1) (before the note), add:

; or (f) publishes in good faith a report or commentary about a matter of public interest.

Schedule 10, item 4, page 133 (lines 25 to 31), omit the item, substitute:

4 After subsection 25(4B)

Insert:

Time period for retaining records and other things

(4C) A record or other thing retained as mentioned in paragraph (4)(d) or (4A)(c) may be retained:

(a) if returning the record or thing would be prejudicial to security—only until returning the record or thing would no longer be prejudicial to security; and

(b) otherwise—for only such time as is reasonable.

Schedule 10, item 24, page 136 (lines 1 to 6), omit the item, substitute:

24 At the end of section 34N

Add:

(3) A record or other thing, or an item, retained as mentioned in paragraph (1)(a) or (c) may be retained:

(a) if returning the record, thing or item would be prejudicial to security—only until returning the record, thing or item would no longer be prejudicial to security; and

(b) otherwise—for only such time as is reasonable.

Question—That Schedule 4, Part 2 stand as printed—put and passed.

Question—That Schedule 4, as amended, be agreed to—put.

The committee divided—

AYES, 55

Senators—

Abetz	Eggleston	Kirk	Payne
Adams	Ellison	Lightfoot	Polley
Barnett	Evans	Ludwig	Ronaldson
Bishop	Faulkner	Lundy	Santoro
Boswell	Ferguson	Macdonald, Ian	Scullion
Brandis	Fielding	Mason	Sherry
Brown, Carol	Fierravanti-Wells	McEwen	Stephens
Calvert	Fifield	McGauran (Teller)	Troeth
Campbell, George	Heffernan	McLucas	Trood
Carr	Hogg	Minchin	Vanstone
Chapman	Hurley	Moore	Watson
Colbeck	Johnston	Nash	Wong
Conroy	Joyce	O'Brien	Wortley
Crossin	Kemp	Parry	

NOES, 7

Senators—

Allison	Brown, Bob	Nettle	Stott Despoja
Bartlett (Teller)	Murray	Siewert	

Schedule agreed to.

Question—That Schedule 7, as amended, be agreed to—put.

The committee divided—

AYES, 33

Senators—

Abetz	Ellison	Lightfoot	Santoro
Adams	Ferguson	Macdonald, Ian	Scullion
Barnett	Fierravanti-Wells	Mason	Troeth
Boswell	Fifield	McGauran (Teller)	Trood
Brandis	Heffernan	Minchin	Vanstone
Calvert	Humphries	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Payne	
Eggleston	Kemp	Ronaldson	

NOES, 30

Senators—

Allison	Crossin	McEwen	Siewert
Bartlett	Evans	McLucas	Stephens
Bishop	Faulkner	Moore	Stott Despoja
Brown, Bob	Hogg	Murray	Webber
Brown, Carol	Hurley	Nettle	Wong
Campbell, G (Teller)	Kirk	O'Brien	Wortley
Carr	Ludwig	Polley	
Conroy	Lundy	Sherry	

Schedule agreed to.

Question—That Schedule 3, item 3 and Schedule 5 stand as printed; and Schedules 6 and 10, as amended, be agreed to—put and passed.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

Question—That the report from the committee be adopted—put and passed.

Question—That the bill be now read a third time—put.

The Senate divided—

AYES, 53

Senators—

Abetz	Eggleston	Lightfoot	Polley
Adams	Ellison	Ludwig	Ronaldson
Barnett	Evans	Lundy	Santoro
Bishop	Faulkner	Macdonald, Ian	Scullion
Boswell	Ferguson	Mason	Sherry
Brandis	Fielding	McEwen	Stephens
Brown, Carol	Fierravanti-Wells	McGauran (Teller)	Troeth
Calvert	Fifield	McLucas	Trood
Campbell, George	Heffernan	Minchin	Vanstone
Carr	Hogg	Moore	Watson
Chapman	Hurley	Nash	Wortley
Colbeck	Johnston	O'Brien	
Conroy	Joyce	Parry	
Crossin	Kemp	Payne	

NOES, 7

Senators—

Allison	Brown, Bob	Nettle	Stott Despoja
Bartlett (Teller)	Murray	Siewert	

Question agreed to.

Bill read a third time.

—————
At 7.30 pm—

29 EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005
FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (WELFARE TO WORK) BILL 2005

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

—————
In the committee

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005—

Bill, taken as a whole by leave, debated.

—————
Explanatory memorandum: The Special Minister of State (Senator Abetz) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bill.

Senator Siewert moved the following amendment:

Page 5 (after line 5), after clause 3, add:

4 Public and independent review of income support provisions for people with disabilities and for sole parents

- (1) The Minister must cause a review of the operation and effectiveness of the amendments made to Schedules 2 and 4 of this Act.
- (2) The review must be undertaken as soon as possible after the second anniversary of the commencement of the amendments.
- (3) The review is to be undertaken by a committee consisting of:
 - (a) a person nominated by the Australian Council of Social Services;
 - (b) a person with experience in disability support;
 - (c) a person with experience in crisis support;
 - (d) a person with experience in single parent advocacy;
 - (e) a person with experience in employment assistance.
- (4) The review must provide for public submissions and public hearings as part of the review.
- (5) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 5 sitting days of that House after its receipt by the Minister.

Debate ensued.

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

Senator Siewert moved the following amendment:

Schedule 1, item 4, page 9 (after line 26), after section 5B, insert:

5BA Registered and active family carers

- (1) A person is a *registered and active family carer* if the Secretary is satisfied that:
 - (a) the person meets the requirements (if any) of the law of the State or Territory in which the person resides that the person must meet in order to be permitted, under the law of that State or Territory, to provide family care in that State or Territory; and
 - (b) the person meets the requirements (if any) of the law of the State or Territory in which the person resides that the person must meet in order to be permitted, under the law of that State or Territory, to be in receipt of child care support payment as a family carer in that State or Territory; and
 - (c) the person is taken, in accordance with guidelines made under subsection (2), to be actively involved in providing family care in that State or Territory.
- (2) The Secretary may, by legislative instrument, make guidelines setting out the circumstances in which persons are taken, for the purposes of the social security law, to be actively involved in providing family care in that State or Territory.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Evans	McEwen	Siewert
Bartlett	Fielding	McLucas	Stephens
Bishop	Forshaw	Moore	Sterle
Brown, Bob	Hogg	Murray	Stott Despoja
Brown, Carol	Hurley	Nettle	Webber (Teller)
Carr	Kirk	O'Brien	Wong
Conroy	Ludwig	Polley	Wortley
Crossin	Lundy	Sherry	

NOES, 33

Senators—

Abetz	Eggleston	Macdonald, Ian	Ronaldson
Adams	Ellison	Macdonald, Sandy	Santoro
Barnett	Ferguson	Mason	Scullion
Boswell	Fierravanti-Wells	McGauran (Teller)	Troeth
Brandis	Fifield	Minchin	Trood
Calvert	Heffernan	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Patterson	
Coonan	Lightfoot	Payne	

Question negatived.

Senator Bartlett moved the following amendments together by leave:

Schedule 17, item 4, page 202 (lines 4 to 5), omit the item, substitute:

4 Subsection 556(1)

Repeal the subsection, substitute:

- (1) Subject to this section, the rate of a person's youth allowance is to be worked out in accordance with the Youth Allowance Rate Calculator in section 1067G.
- (1A) If a person is in receipt of a youth allowance and the person is a principal carer and the person is not a member of a couple, the person's youth allowance is to be worked out using the rate calculator at the end of section 1068A.
- (1B) If a person is in receipt of a youth allowance and the person is a principal carer and the person is a member of a couple, the person's youth allowance is to be worked out using the rate calculator at the end of section 1068B.
- (1C) If a person is in receipt of a youth allowance and the person is a person with a partial capacity to work and the person has not turned 21, the person's youth allowance is to be worked out using the rate calculator at the end of section 1066A.
- (1D) If a person is in receipt of a youth allowance and the person is a person with a partial capacity to work and the person has turned 21, the person's youth allowance is to be worked out using the rate calculator at the end of section 1064.

Note: For *partial capacity to work* see section 16B.
 For *principal carer* see subsections 5(15) to (24).
 For *member of a couple* see section 4.

Schedule 17, item 5, page 202 (lines 6 to 33), omit the item, substitute:

5 Subsection 1067G(1)

Repeal the subsection, substitute:

- (1A) The rate of youth allowance of a person referred to in subsection 556(1) is to be calculated in accordance with the Rate Calculator in this section.
- (1B) To avoid any doubt, this rate calculator does not apply to people to whom subsection 556(1A), (1B), (1C) or (1D) applies.

Schedule 10, item 54, page 165 (lines 4 to 13), omit the item, substitute:

54 Subsection 746(1)

Repeal the subsection, substitute:

- (1) Subject to this section, the rate of a person's special benefit is the fortnightly rate determined by the Secretary in his or her discretion.

55 At the end of section 746

Add:

- (3) If a person is in receipt of a special benefit and the person is a principal carer and the person is not a member of a couple, the person's special benefit is to be worked out using the rate calculator at the end of section 1068A.
- (4) If a person is in receipt of a special benefit and the person is a principal carer and the person is a member of a couple, the person's special benefit is to be worked out using the rate calculator at the end of section 1068B.
- (5) If a person is in receipt of a special benefit and the person is a person with a partial capacity to work, the person's special benefit is to be worked out using the rate calculator at the end of section 1064.

Note: For *partial capacity to work* see section 16B.
 For *principal carer* see subsections 5(15) to (24).
 For *member of a couple* see section 4.

Schedule 18, page 213 (after line 22), at the end of the Schedule, add:

Part 3—Rate of austudy payment

22 Subsection 581(1)

Repeal the subsection, substitute:

- (1) Subject to this section, the rate of a person's austudy payment is to be worked out in accordance with the austudy payment rate calculator in section 1067L.
- (1A) If a person is in receipt of an austudy payment and the person is a principal carer and the person is not a member of a couple, the person's austudy payment is to be worked out using the rate calculator at the end of section 1068A.
- (1B) If a person is in receipt of an austudy payment and the person is a principal carer and the person is a member of a couple, the person's austudy payment is to be worked out using the rate calculator at the end of section 1068B.

- (1C) If a person is in receipt of an austudy payment and the person is a person with a partial capacity to work, the person's austudy payment is to be worked out using the rate calculator at the end of section 1064.

Note: For *partial capacity to work* see section 16B.
 For *principal carer* see subsections 5(15) to (24).
 For *member of a couple* see section 4.

Schedule 19, page 215 (after line 4), before item 6, insert:

5A Subsection 1068(1)

Repeal the subsection, substitute:

- (1) Subject to this section, the rate of:
- (a) newstart allowance; or
 - (b) sickness allowance; or
 - (c) partner allowance; or
 - (ca) mature age allowance under Part 2.12B; or
 - (d) widow allowance;

is to be calculated in accordance with the Rate Calculator at the end of this section.

Note: Module A of the Rate Calculator establishes the overall rate calculation process and the remaining Modules provide for the calculation of the component amounts used in the overall rate calculation.

- (1A) If a person is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, or mature age allowance and the person is a principal carer and the person is not a member of a couple, the person's allowance is to be worked out using the rate calculator at the end of section 1068A.
- (1B) If a person is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, or mature age allowance and the person is a principal carer and the person is a member of a couple, the person's allowance is to be worked out using the rate calculator at the end of section 1068B.
- (1C) If a person is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, or mature age allowance and the person is a person with a partial capacity to work, the person's allowance is to be worked out using the rate calculator at the end of section 1064.

Note: For *partial capacity to work* see section 16B.
 For *principal carer* see subsections 5(15) to (24).
 For *member of a couple* see section 4.

Page 226 (after line 22), after Schedule 20, insert:

Schedule 20A—Consequential amendments to calculators

Social Security Act 1991

1 At the end of section 1064

Add:

- (8) The calculator at the end of this section applies to a person who is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, youth allowance (21 and over), special benefit, austudy payment or mature age allowance, and who is a person with a partial capacity to work.

Note: For *partial capacity to work* see section 16B.

2 At the end of section 1066A

Add:

- (6) The calculator at the end of this section applies to a person who is in receipt of a youth allowance and has not turned 21 and who is a person with a partial capacity to work.

Note: For *partial capacity to work* see section 16B.

3 After subsection 1068A(1)

Insert:

- (1A) The calculator at the end of this section applies to a person who is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, youth allowance (21 and over), special benefit, austudy payment or mature age allowance, and who is a principal carer and the person is not a member of a couple.

Note: For *principal carer* see subsections 5(15) to (24).

For *member of a couple* see section 4.

4 After subsection 1068B(1)

Insert:

- (1A) The calculator at the end of this section applies to a person who is in receipt of a widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, youth allowance (21 and over), special benefit, austudy payment or mature age allowance, and who is a principal carer and the person is a member of a couple.

Note: For *principal carer* see subsections 5(15) to (24).

For *member of a couple* see section 4.

Debate ensued.

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

Bill further debated.

The Leader of the Family First Party (Senator Fielding) moved the following amendment:

Schedule 19, page 215 (after line 4), before item 6, insert:

5A After section 643

Insert:

643A Level of newstart allowance—single person with children

Despite all other provisions of this Act relating to the level of payment of newstart allowance single with children and of parenting payment single allowance, all references to the level of fortnightly payment for a person on newstart allowance single with children are to be read as the same level of fortnightly payment as a person on parenting payment single.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Faulkner	McEwen	Siewert
Bartlett	Fielding	McLucas	Stephens
Bishop	Forshaw	Moore	Sterle
Brown, Bob	Hogg	Murray	Stott Despoja
Brown, Carol	Hurley	Nettle	Webber (Teller)
Carr	Kirk	O'Brien	Wong
Crossin	Ludwig	Polley	Wortley
Evans	Lundy	Sherry	

NOES, 33

Senators—

Abetz	Eggleston (Teller)	Macdonald, Ian	Ronaldson
Adams	Ellison	Macdonald, Sandy	Santoro
Barnett	Ferguson	Mason	Scullion
Boswell	Fierravanti-Wells	McGauran	Troeth
Brandis	Fifield	Minchin	Trood
Calvert	Heffernan	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Patterson	
Coonan	Lightfoot	Payne	

Question negatived.

Question—That the bill be agreed to—divided in respect of Schedules 2 and 4.

Schedules 2 and 4 debated.

Limitation of debate: The time allotted for the consideration of the bills expired.

Question—That Schedules 2 and 4 stand as printed—put.

The committee divided—

AYES, 34

Senators—

Abetz	Eggleston (Teller)	Lightfoot	Payne
Adams	Ellison	Macdonald, Ian	Ronaldson
Barnett	Ferguson	Macdonald, Sandy	Santoro
Boswell	Fielding	Mason	Scullion
Brandis	Fierravanti-Wells	McGauran	Troeth
Calvert	Fifield	Minchin	Trood
Chapman	Heffernan	Nash	Watson
Colbeck	Johnston	Parry	
Coonan	Joyce	Patterson	

NOES, 30

Senators—

Allison	Faulkner	McLucas	Stephens
Bartlett	Forshaw	Moore	Sterle
Bishop	Hogg	Murray	Stott Despoja
Brown, Bob	Hurley	Nettle	Webber (Teller)
Brown, Carol	Kirk	O'Brien	Wong
Carr	Ludwig	Polley	Wortley
Crossin	Lundy	Sherry	
Evans	McEwen	Siewert	

Schedules agreed to.

The following amendments circulated by the Australian Democrats were negated:

Page 5 (after line 5), after clause 3, add:

4 Public and independent review of amendments made by the Schedules to this Act

- (1) The Minister must cause a review of the operation and effectiveness of the amendments made by the Schedules of this Act.
- (2) The review must be undertaken as soon as possible after the first anniversary of the commencement of the amendments.
- (3) The review is to be undertaken by a committee consisting of:
 - (a) a person nominated by the Administrative Appeals Tribunal (AAT);
 - (b) a person nominated by the Commonwealth Ombudsman;
 - (c) a person nominated by the Human Rights Commissioner and Disability Discrimination Commissioner from the Human Rights and Equal Opportunity Commission;
 - (d) a person nominated by the President of the National Welfare Rights Network;
 - (e) a person nominated by the Director of the Australian Council of Social Services.
- (4) The review must provide for public submissions and public hearings as part of the review.
- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 5 sitting days of that House after its receipt by the Minister.

Schedule 1, item 6, page 11 (line 23), after “activities”, insert “available in the person’s locally accessible area”.

Schedule 2, item 10, page 24 (line 5), after “activities”, insert “available in the person’s locally accessible area”.

Schedule 4, item 7, page 38 (line 21), after “Agreement”, insert “written”.

Schedule 4, item 7, page 40 (after line 7), at the end of section 501A, add:

- (10) For the purposes of a Parenting Payment Activity Agreement, a suitable activity for the purposes of subsection (1) includes one or more of the following:
 - (a) job search;
 - (b) a vocational or pre-vocational training course;
 - (c) training that would help in searching for work;

- (d) paid work;
- (e) measures designed to eliminate or reduce any disadvantage the person has in relation to obtaining work;
- (f) participation in a labour market program;
- (g) a course of education;
- (h) another activity that the Secretary regards as suitable for the person, including voluntary work, and that is agreed to between the person and the Secretary.

Schedule 4, item 7, page 40 (lines 8 to 18), omit “appropriate” (four times occurring), substitute “maximum”.

Schedule 4, item 7, page 40 (line 17), omit “other”, substitute “lesser”.

Schedule 4, item 7, page 40 (lines 27 to 32), omit “appropriate” (twice occurring), substitute “maximum”.

Schedule 4, item 7, page 40 (line 31), omit “other”, substitute “lesser”.

Schedule 4, item 7, page 44 (line 39), at the end of subsection 502(5), add:

- ; and (d) for the purposes of this subsection, care is appropriate care where it is considered appropriate by the principal carer.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 4, item 7, page 47 (lines 11 to 22), omit subsection 502C(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person if the Secretary is notified that:
 - (a) the person was subjected to domestic violence; or
 - (b) there are special circumstances relating to the person’s family that make it appropriate to make the determination.

Schedule 4, item 7, page 48 (line 14), omit “may”, substitute “must”.

Schedule 4, item 7, page 48 (line 15), omit “satisfied”, substitute “notified”.

Schedule 4, item 7, page 48 (line 24), omit “satisfied”, substitute “notified”.

Schedule 4, item 7, page 49 (line 9), at the end of subsection 502D(5), add “and must specify and make a determination of a class, of persons with four or more children”.

Schedule 4, item 7, page 49 (lines 10 to 13), omit subsection 502D(6), substitute:

- (6) The period that the Secretary determines under this section must be a period that the Secretary considers to be appropriate considering all the circumstances of the case including whether the circumstances giving rise to the determination are likely to materially alter during the period and the period can be no less than 12 months.

Schedule 4, item 7, page 50 (after line 5), at the end of section 502F, add:

- (2) Special circumstances for the purposes of this section include acute family crises such as homelessness and the death of the partner, parent or child of the person.

Schedule 4, item 7, page 50 (lines 22 to 31), omit “6” (twice occurring), substitute “13”.

Schedule 5, item 25, page 72 (lines 8 to 21), omit subsection 542F(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person where the Secretary is notified that:

- (a) the person is the principal carer of one or more children and was subjected to domestic violence; or
- (b) there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 5, item 25, page 73 (line 33), at the end of subsection 542FA(3), add:

- ; or (d) the family is experiencing an acute family crisis such as homelessness or the death of the partner, parent or child of the principal carer.

Schedule 5, item 25, page 74 (lines 15 to 18), omit subsection 542FA(6), substitute:

- (6) The period that the Secretary determines under this section must be a period that the Secretary considers to be appropriate considering all the circumstances of the case including whether the circumstances giving rise to the determination are likely to materially alter during the period and the period cannot be less than 12 months.

Schedule 7, item 41, page 112 (lines 5 to 18), omit subsection 602B(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person if the Secretary is notified that:
 - (a) the person was subjected to domestic violence; or
 - (b) the person is the principal carer of one or more of the children, and there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 7, item 41, page 113 (after line 35), after subsection 602C(4), insert:

- (4A) Special circumstances for the purposes of this section include acute family crises such as homelessness or the death of the partner or parent or child of the person.

Schedule 7, item 41, page 114 (line 3), at the end of subsection 602C(5), add "and must specify and make a determination of a class, of persons with four or more children".

Schedule 7, item 41, page 114 (lines 4 to 7), omit subsection 602C(6), substitute:

- (6) The period that the Secretary determines under this section must be a period that the Secretary considers to be appropriate considering all the circumstances of the case including whether the circumstances giving rise to the determination are likely to materially alter during the period and the period cannot be less than 12 months.

Schedule 7, item 68, page 120 (lines 1 to 13), omit "appropriate" (three times occurring), substitute "maximum".

Schedule 7, item 68, page 120 (line 12), omit "other", substitute "lesser".

Schedule 7, item 68, page 120 (lines 14 to 27), omit "appropriate" (three times occurring), substitute "maximum".

Schedule 7, item 68, page 120 (line 26), omit "other", substitute "lesser".

Schedule 10, item 17, page 146 (lines 13 to 26), omit subsection 731DA(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person where the Secretary is notified that:

- (a) the person is the principal carer of one or more children and was subjected to domestic violence; or
- (b) there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 10, item 17, page 147 (line 35), at the end of subsection 731DB(3), add:
; or (d) the family is experiencing an acute family crisis such as homelessness or the death of the partner, parent or child of the principal carer.

Schedule 10, item 17, page 148 (lines 14 to 17), omit subsection 731DB(6), substitute:

- (6) The period that the Secretary determines under this section must be a period that the Secretary considers to be appropriate considering all the circumstances of the case including whether the circumstances giving rise to the determination are likely to materially alter during the period and the period cannot be less than 12 months.

Schedule 14, item 2, page 178 (line 14), at the end of subparagraph 1061Q(3C)(a)(ii), add:

- or (aa) the person is undertaking full time study or is a new apprentice;

Schedule 15, item 1, page 184 (lines 10 and 11), omit paragraph 1061ZA(2A)(b).

Schedule 15, item 1, page 184 (lines 16 and 17), omit notes 1 and 2.

Schedule 15, item 1, page 184 (line 22), after "newstart", insert "or austudy".

Schedule 15, item 1, page 184 (after line 30), after subsection 1061ZA(2B), insert:

- (2C) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if, on that day:
 - (a) the person is receiving an austudy payment; and
 - (b) the person:
 - (i) has a partial capacity to work; or
 - (ii) is the principal carer of at least one child and is not a member of a couple.

Note 1: For *partial capacity to work* see section 16B.

Note 2: For *principal carer* see subsections 5(15) to (24).

Schedule 15, item 2, page 184 (line 33), omit "and (2B)", substitute ", (2B) and (2C)".

Schedule 15, item 3, page 185 (line 3), omit "and (2B)", substitute ", (2B) and (2C)".

Schedule 15, item 6, page 185 (line 18), after paragraph 1061ZD(5A)(b), insert:

- or (c) an austudy payment while subsection 1061ZA(2C) applies to the person;

Schedule 15, item 9, page 185 (line 29), omit "and (2B)", substitute ", (2B) and (2C)".

Schedule 15, item 10, page 186 (line 1), omit "and (2B)", substitute ", (2B) and (2C)".

Schedule 15, item 11, page 186 (lines 11 to 13), omit "while the person was not undertaking full-time study and was not a new apprentice".

Schedule 15, item 11, page 186 (line 14), at the end of paragraph 1061ZEB(2)(a), add:

or (iii) the person has been receiving an austudy payment;

Schedule 15, item 11, page 186 (lines 23 and 24), omit notes 1 and 2.

Schedule 15, item 11, page 186 (line 34), after paragraph 1061ZEB(4)(c), insert:

or (d) an austudy payment while subsection 1061ZA(2C) applies to the person;

Schedule 15, item 13, page 187 (line 11), after “allowance” (second occurring), insert “or an austudy payment”.

Schedule 21, item 2, page 227 (lines 28 and 29), omit subparagraph 1228B(1)(c)(i).

Schedule 21, item 2, page 228 (lines 6 and 7), omit “refused or failed to provide the information or”, substitute “knowingly or recklessly”.

Schedule 21, item 3, page 228 (after line 13), after subsection 1228B(4), insert:

(4A) This section does not apply unless the Secretary is satisfied as indicated by a written statement of reasons that a person knowingly or recklessly provided false or misleading information about the person’s earnings.

(4B) If the Secretary is satisfied in accordance with subsection (4A), the penalty only applies to the portion of the debt directly related to the false or misleading information provided by the person.

Schedule 21, item 3, page 228 (lines 23 and 24), omit subparagraph (b)(i).

Schedule 4, item 4, page 33 (line 6), omit “6”, substitute “13”.

Schedule 4, item 4, page 33 (line 11), omit “8”, substitute “13”.

Schedule 23, page 250 (after line 8), at the end of the Schedule, add:

8 Subsection 634(3)

Repeal the subsection, substitute:

- (3) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if and only if the person:
- (a) moves to live with a family member who has already established his or her residence in that place of residence; or
 - (b) moves to live near a family member who has already established residence in the same area; or
 - (c) is a principal carer who has, within the previous 12 months, become a single person, or become a member of an illness separated couple or a person whose partner is in gaol; or
 - (d) has become a person with partial capacity within the previous 12 months; or
 - (e) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a physical disease or illness suffered by the person or by a family member; or
 - (f) satisfies the Secretary that the person has moved from his or her original place of residence because of an extreme circumstance which made it reasonable for the person to move to the new place of residence (for example, the person had been subjected to domestic or family violence in the original place of residence).

The following amendments circulated by the Australian Democrats were considered:

Schedule 13, item 1, page 175 (line 8), after “allowance” (second occurring), insert “or an austudy payment”.

Schedule 13, item 2, page 175 (lines 11 and 12), omit paragraphs 1061PJ(2)(da) and (db), substitute:

(da) subject to subsection (2A), a youth allowance, newstart allowance or an austudy payment;

Schedule 13, item 3, page 175 (line 15) to page 176 (line 21), omit subsection 1061PJ(2A), substitute:

(2A) Paragraph (2)(da) only applies if the person receiving the payment has a partial capacity to work or is a principal carer of at least one child and is not a member of a couple.

Note 1: For *partial capacity to work* see section 16B.

Note 2: For *principal carer* see subsections 5(15) to (24).

Schedule 13, item 4, page 177 (line 26), after “allowance” (second occurring), insert “or an austudy payment”.

Schedule 13, item 5, page 177 (line 31), after “allowance” (second occurring), insert “or an austudy payment”.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Faulkner	McEwen	Siewert
Bartlett	Fielding	McLucas	Stephens
Bishop	Forshaw	Moore	Sterle
Brown, Bob	Hogg	Murray	Stott Despoja
Brown, Carol	Hurley	Nettle	Webber (Teller)
Carr	Kirk	O'Brien	Wong
Crossin	Ludwig	Polley	Wortley
Evans	Lundy	Sherry	

NOES, 33

Senators—

Abetz	Eggleston (Teller)	Macdonald, Ian	Ronaldson
Adams	Ellison	Macdonald, Sandy	Santoro
Barnett	Ferguson	Mason	Scullion
Boswell	Fierravanti-Wells	McGauran	Troeth
Brandis	Fifield	Minchin	Trood
Calvert	Heffernan	Nash	Watson
Chapman	Johnston	Parry	
Colbeck	Joyce	Patterson	
Coonan	Lightfoot	Payne	

Question negatived.

The following amendments circulated by the Australian Greens were considered:

Schedule 4, item 7, page 47 (lines 11 to 22), omit subsection 502C(2), substitute:

(2) The Secretary must make a determination under this section in relation to the person if the Secretary is notified that:

(a) the person was subjected to domestic violence; or

- (b) the person was a principal carer of a child subjected to domestic violence or serious illness; or
- (c) there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 5, item 25, page 72 (lines 8 to 21), omit subsection 542F(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person if the Secretary is notified that:
 - (a) the person was subjected to domestic violence; or
 - (b) the person was a principal carer of a child subjected to domestic violence or serious illness; or
 - (c) there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 7, item 41, page 112 (lines 5 to 18), omit subsection 602B(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person if the Secretary is notified that:
 - (a) the person was subjected to domestic violence; or
 - (b) the person is the principal carer of a child subjected to domestic violence or serious illness; or
 - (c) the person is the principal carer of one or more of the children, and there are special circumstances relating to the person's family that make it appropriate to make the determination.

Schedule 10, item 17, page 146 (lines 13 to 26), omit subsection 731DA(2), substitute:

- (2) The Secretary must make a determination under this section in relation to the person where the Secretary is notified that:
 - (a) the person is the principal carer of one or more children and was subjected to domestic violence; or
 - (b) the person is the principal carer of a child subjected to domestic violence or serious illness; or
 - (c) there are special circumstances relating to the person's family that make it appropriate to make the determination.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 30

Senators—

Allison	Faulkner	McLucas	Stephens
Bartlett	Forshaw	Moore	Sterle
Bishop	Hogg	Murray	Stott Despoja
Brown, Bob	Hurley	Nettle	Webber (Teller)
Brown, Carol	Kirk	O'Brien	Wong
Carr	Ludwig	Polley	Wortley
Crossin	Lundy	Sherry	
Evans	McEwen	Siewert	

NOES, 34

Senators—

Abetz	Eggleston (Teller)	Lightfoot	Payne
Adams	Ellison	Macdonald, Ian	Ronaldson
Barnett	Ferguson	Macdonald, Sandy	Santoro
Boswell	Fielding	Mason	Scullion
Brandis	Fierravanti-Wells	McGauran	Troeth
Calvert	Fifield	Minchin	Trood
Chapman	Heffernan	Nash	Watson
Colbeck	Johnston	Parry	
Coonan	Joyce	Patterson	

Question negatived.

The following amendment circulated by the Australian Greens was negatived:

Schedule 7, item 41, page 113 (after line 35), after subsection 602C(4), insert:

- (4A) Special circumstances for the purposes of this section include acute family crises such as homelessness or the death of the partner or parent or child of the person.

The following amendments and requests for amendments circulated by the Government were agreed to:

Amendments:

Schedule 4, item 7, page 39 (line 7), omit “may”, substitute “must”.

Schedule 4, item 7, page 39 (after line 8), after subsection 501A(4), insert:

- (4A) To avoid doubt, a determination under subsection (4) does not limit the Secretary’s discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

Schedule 4, item 7, page 44 (after line 27), after subsection 502(4), insert:

- (4A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (4)(j), particular paid work is unsuitable for a person.
- (4B) To avoid doubt, a determination under subsection (4A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (4)(j), particular paid work is unsuitable for a person.

Schedule 4, item 7, page 47 (after line 22), after subsection 502C(2), insert:

- (2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person’s family that make it appropriate to make a determination under this section.
- (2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

Schedule 4, item 9, page 57 (after line 20), after subsection 500ZA(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a parenting payment participation failure.

- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the parenting payment participation failure referred to in subsection (1).

Schedule 4, item 9, page 58 (after line 29), after subsection 500ZB(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Schedule 4, item 9, page 60 (after line 11), after subsection 500ZE(1), insert:

- (1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.
- (1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

Schedule 5, item 16, page 70 (after line 8), after subsection 541D(1AB), insert:

- (1AC) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.
- (1AD) To avoid doubt, a determination under subsection (1AC) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.

Schedule 5, item 25, page 72 (after line 22), after subsection 542F(2), insert:

- (2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person's family that make it appropriate to make a determination under this section.
- (2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

Schedule 5, item 35, page 77 (line 20), omit "may", substitute "must".

Schedule 5, item 35, page 77 (after line 21), after subsection 544B(1B), insert:

- (1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary's discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

Schedule 5, item 46, page 82 (after line 33), after subsection 550(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a youth allowance participation failure.
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the youth allowance participation failure referred to in subsection (1).

Schedule 5, item 46, page 85 (after line 21), after subsection 550B(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Schedule 5, item 46, page 87 (after line 15), after subsection 551(1), insert:

- (1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.
- (1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

Schedule 6, item 2, page 94 (after line 5), after subsection 576(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure.
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the austudy participation failure referred to in subsection (1).

Schedule 6, item 2, page 95 (after line 12), after subsection 576A(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind mentioned in paragraph (1)(c).

- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Schedule 7, page 111 (after line 2), after item 30, insert:

30A After subsection 601(2AB)

Insert:

(2AC) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2A)(j), particular paid work is unsuitable for a person.

(2AD) To avoid doubt, a determination under subsection (2AC) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2A)(j), particular paid work is unsuitable for a person.

Schedule 7, item 41, page 112 (after line 19), after subsection 602B(2), insert:

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person's family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

Schedule 7, item 63, page 119 (line 11), omit "may", substitute "must".

Schedule 7, item 63, page 119 (after line 12), after subsection 606(1B), insert:

(1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary's discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

Schedule 7, item 73, page 124 (after line 15), after subsection 624(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a newstart participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the newstart participation failure referred to in subsection (1).

Schedule 7, item 73, page 126 (after line 8), after subsection 626(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Schedule 7, item 73, page 127 (after line 32), after subsection 629(1), insert:

- (1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.
- (1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

Schedule 10, item 12, page 145 (after line 22), after subsection 731B(1B), insert:

- (1C) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.
- (1D) To avoid doubt, a determination under subsection (1C) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.

Schedule 10, item 17, page 146 (after line 27), after subsection 731DA(2), insert:

- (2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person's family that make it appropriate to make a determination under this section.
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

Schedule 10, item 32, page 152 (line 1), omit "may", substitute "must".

Schedule 10, item 32, page 152 (after line 2), after subsection 731M(1B), insert:

- (1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary's discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

Schedule 10, item 43, page 156 (after line 18), after subsection 740(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a special benefit participation failure.
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the special benefit participation failure referred to in subsection (1).

Schedule 10, item 43, page 158 (after line 8), after subsection 742(2), insert:

- (2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).
- (2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Schedule 10, item 43, page 159 (after line 32), after subsection 745(1), insert:

- (1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.
- (1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

Requests:

Schedule 4, item 7, page 48 (after line 34), after subsection 502D(3), insert:

- (3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of 4 or more children.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 5, item 25, page 74 (after line 4), after subsection 542FA(3), insert:

- (3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of 4 or more children.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 7, item 41, page 113 (after line 29), after subsection 602C(3), insert:

- (3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of 4 or more children.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 10, item 17, page 148 (after line 4), after subsection 731DB(3), insert:

- (3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of 4 or more children.

Note: For *principal carer* see subsections 5(15) to (24).

Schedule 17, item 5, page 202 (line 14), after “542FA(3)”, insert “or (3A)”.

Schedule 19, item 7, page 215 (line 18), after “602C(3)”, insert “or (3A)”.

Question—That Schedule 4, Part 2; Schedule 5, item 35 and Part 3; Schedule 6, Part 1; Schedule 7, item 63 and Part 3; and Schedule 10, Part 2, as amended, be agreed to; and Schedule 2, items 3, 6 and 7; Schedule 5, item 26; Schedule 7, items 5, 11 and 35; Schedule 10, items 1, 5, 6, 40 and 41; Schedule 13, items 3 and 5; and Schedule 17, item 7 stand as printed—put and passed.

Question—That Schedule 21 stand as printed—put and passed.

Bill, as amended, agreed to subject to requests.

The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 to be reported with amendments and requests for amendments and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005 to be reported without amendments.

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

Question—That the report from the committee be adopted—put and passed.

Question—That the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005 be now read a third time—put.

The Senate divided—

AYES, 34

Senators—

Abetz	Eggleston (Teller)	Lightfoot	Payne
Adams	Ellison	Macdonald, Ian	Ronaldson
Barnett	Ferguson	Macdonald, Sandy	Santoro
Boswell	Fielding	Mason	Scullion
Brandis	Fierravanti-Wells	McGauran	Troeth
Calvert	Fifield	Minchin	Trood
Chapman	Heffernan	Nash	Watson
Colbeck	Johnston	Parry	
Coonan	Joyce	Patterson	

NOES, 30

Senators—

Allison	Faulkner	McLucas	Stephens
Bartlett	Forshaw	Moore	Sterle
Bishop	Hogg	Murray	Stott Despoja
Brown, Bob	Hurley	Nettle	Webber (Teller)
Brown, Carol	Kirk	O'Brien	Wong
Carr	Ludwig	Polley	Wortley
Crossin	Lundy	Sherry	
Evans	McEwen	Siewert	

Question agreed to.

Bill read a third time.

30 NOTICES

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Bartlett) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 30 November 2006:

The funding and resources available to meet the objectives of Australia's national parks, other conservation reserves and marine protected areas, with particular reference to:

- (a) the values and objectives of Australia's national parks, other conservation reserves and marine protected areas;
- (b) whether governments are providing sufficient resources to meet those objectives and their management requirements, with particular reference to climate change, biodiversity and sustainable tourism;
- (c) any threats to the objectives and management of our national parks, other conservation reserves and marine protected areas;
- (d) the responsibilities of governments with regard to the creation and management of national parks, other conservation reserves and marine protected areas, with particular reference to long-term plans; and
- (e) the record of governments with regard to the creation and management of national parks, other conservation reserves and marine protected areas.

The Chair of the Economics References Committee (Senator Stephens) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Economics References Committee for inquiry and report by 30 October 2006:

Fiscal and regulatory barriers to the deployment of competitive manufacturing technologies in Australia, with particular reference to:

- (a) Australia's competitive advantages with respect to the deployment of competitive manufacturing technologies;
- (b) Australia's competitive disadvantages with respect to the deployment of competitive manufacturing technologies in other countries;
- (c) whether the capital intensity and risk profile of deploying competitive and leading edge manufacturing technologies is a barrier to investment in Australia;
- (d) how the Australian fiscal and regulatory regime compares to other countries in this regard;
- (e) options available to address any barriers, including managerial capability and competency or competitive disincentive; and
- (f) any related matters.

The Chair of the Employment, Workplace Relations and Education References Committee (Senator Marshall) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 17 August 2006:

The viability of a contract labour scheme between Australia and countries in the Pacific region, for the purposes of providing labour for selected rural industries, taking into account the following:

- (a) labour shortages in rural and regional Australia;

- (b) the availability and mobility of domestic contract labour, and the likely effects of such a scheme on the current seasonal workforce;
- (c) social and economic effects of the scheme on local communities;
- (d) likely technical, legal and administrative considerations for such a scheme; and
- (e) the economic effects of the scheme on the economies of Pacific nations.

31 ADJOURNMENT

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.40 pm till Wednesday, 7 December 2005 at 9.30 am.

32 ATTENDANCE

Present, all senators except Senators Ian Campbell, Ferris*, Hutchins, Milne* and Ray* (* on leave).

HARRY EVANS
Clerk of the Senate