

2004-06

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 112

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

- Albury-Wodonga Development Corporation—Report for 2005-06.
- ASC Pty Ltd—Report for 2005-06.
- Australia Business Arts Foundation Ltd—Financial statements for 2005-06.
- Australia Council—Report for 2005-06.
- Australia-Japan Foundation—Report for 2005-06.
- Australian Postal Corporation (Australia Post)—Report for 2005-06.
- Australian Safeguards and Non-Proliferation Office—Report for 2005-06.
- Australian Security Intelligence Organisation—Report for 2005-06.
- Australian Wine and Brandy Corporation—Report for 2005-06.
- Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2005-06.
- Commissioner for Complaints [Aged care]—Report for 2005-06.
- Commissioner for Superannuation (ComSuper)—Report for 2005-06.
- Commissioner of Taxation—Report for 2005-06.
- Commonwealth Grants Commission—Report for 2005-06.
- Department of Immigration and Multicultural Affairs—Report for 2005-06.
- Film Finance Corporation Australia Limited—Report for 2005-06.
- Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 072/06 and 073/06—
 - Commonwealth Ombudsman's reports.
 - Commonwealth Ombudsman's reports—Government response.
- Migration Review Tribunal and Refugee Review Tribunal—Report for 2005-06.
- National Archives of Australia and National Archives of Australia Advisory Council—Reports for 2005-06.
- National Competition Council—Report for 2005-06.
- National Museum of Australia—Report for 2005-06.
- Office of Parliamentary Counsel—Report for 2005-06.
- Proceeds of Crime Act 2002*—Independent review of the operation of the Act—Report by Tom Sherman, AO, July 2006.
- Public Service Commissioner—Report for 2005-06, together with the report of the Merit Protection Commissioner.
- Telstra Corporation Limited—Report for 2005-06.
- The Carrick Institute for Learning and Teaching in Higher Education Limited—Report for 2005-06.

3 LONG SERVICE LEAVE (COMMONWEALTH EMPLOYEES) AMENDMENT BILL 2006

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald)—That this bill be now read a second time.

Debate resumed.

Senator Sherry moved the following amendment:

At the end of the motion, add “but while welcoming the fact that the Government has extended long service leave protections to Telstra employees for a period of 3 years following the time that the Commonwealth ceases to have a controlling interest in Telstra, the Senate:

- (a) regrets the fact that the Government has offered no such protections to approximately 1 800 existing Telstra employees who are currently members of the Commonwealth Superannuation Scheme (CSS) and who will have that membership terminated as a result of the Telstra 3 privatisation;
- (b) considers the fact that the cessation of CSS membership will mean the Government’s pension promise made to Telstra CSS members will not be kept;
- (c) notes that:
 - (i) no comparable provision has been made to ensure the pension promise is met, as occurred in the Qantas privatisation, and
 - (ii) no other compensation is provided for;
- (d) condemns the Government for its failure in this regard; and
- (e) calls on the Government to immediately rectify the position for these disadvantaged Telstra employees”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 31

Senators—

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

NOES, 35

Senators—

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

Question negatived.

Main question put and passed.

Bill read a second time.

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

On the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz) the bill was read a third time.

**4 CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) BILL 2006
CORPORATIONS AMENDMENT (ABORIGINAL AND TORRES STRAIT ISLANDER
CORPORATIONS) BILL 2006
CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) CONSEQUENTIAL,
TRANSITIONAL AND OTHER MEASURES BILL 2006**

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

Debate resumed.

The Leader of the Opposition in the Senate (Senator Evans) moved the following amendment in respect of the Corporations (Aboriginal and Torres Strait Islander) Bill 2006:

At the end of the motion, add “whilst welcoming many positive measures contained in this bill and the related bills, the Senate is of the opinion that:

- (a) the Government should respond immediately and comprehensively to a recent report commissioned by the Office of Indigenous Policy Co-ordination, which found red tape and short-term, ad hoc funding arrangements were severely debilitating the Indigenous corporate sector and this legislative reform will not address these external causes of instability to corporate governance;
- (b) the Government must ensure adequate funding for training and assistance for the Indigenous corporate sector to build their governance capacity and facilitate a smooth transition to the new regime, particularly as many Indigenous corporations deliver essential services—this was a unanimous recommendation of the Legal and Constitutional Affairs Committee’s inquiry into the bill;
- (c) there are significant outstanding concerns in relation to the level of regulation and extent of the Registrar’s powers in the bill, particularly given the lack of full independence of the Registrar from Ministerial and political interference;
- (d) for the next 3 financial years, the Office of Indigenous Policy Co-ordination should include in its annual report a review of the operation of the new legislation and results of a statistical survey of stakeholder satisfaction to ensure that the impact of the legislation is closely monitored and with appropriate transparency; and
- (e) the Government should ensure a review of the operation of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* by a parliamentary committee within 3 years, having particular regard to:
 - (i) the effective and proper use of the Registrar’s powers under the Act, and
 - (ii) the effectiveness and appropriateness of the Act as a regime of corporate law for Aboriginal and Torres Strait Islander people”.

Debate ensued.

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

Main question put and passed.

Bills read a second time.

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

In the committee

CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) BILL 2006—

Bill taken as a whole by leave.

Senator Evans moved the following amendment:

Clause 246-25, page 195 (line 20), omit “2 years”, substitute “3 years”.

Debate ensued.

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

Senator Evans moved the following amendment:

- Clause 487-10, page 392 (lines 7 to 11), omit paragraphs (1)(a) and (b), substitute:
- (a) give the corporation notice in writing including the particulars of the grounds that would justify such a determination; and
 - (b) invite the corporation to show cause, within a reasonable period specified in the notice, why the determination should not be made; and
 - (c) consider any representations the corporation makes to the Registrar within that period.

Debate ensued.

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

Senator Evans moved the following amendments together by leave:

- Clause 658-1, page 523 (after line 33), after paragraph (1)(i), insert:
- (ia) to inform the Minister about any issues affecting the independence of the office;

Clause 658-5, page 524 (line 28), at the end of clause 658-5, add:
; and (f) to maintain the independence and integrity of the office in the exercise of his or her functions.

Debate ensued.

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

Senator Evans moved the following amendment:

Page 524 (after line 28), after clause 658-5, insert:

658-6 Exemption orders to be responded to expeditiously

For the purposes of paragraph 658-5(b), the Registrar must provide a response within a reasonable period to any application for exemption from the operation of this Act to ensure that the applicant corporation is not unduly burdened by uncertainty or ongoing and inappropriate compliance requirements.

Debate ensued.

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

Bill agreed to.

CORPORATIONS AMENDMENT (ABORIGINAL AND TORRES STRAIT ISLANDER CORPORATIONS) BILL 2006
CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) CONSEQUENTIAL, TRANSITIONAL AND OTHER MEASURES BILL 2006

Bills, taken together and as a whole by leave, debated and agreed to.

Bills to be reported without amendments.

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

On the motion of the Minister for the Arts and Sport (Senator Kemp) the report from the committee was adopted and the bills read a third time.

5 CHILD SUPPORT LEGISLATION AMENDMENT (REFORM OF THE CHILD SUPPORT SCHEME—NEW FORMULA AND OTHER MEASURES) BILL 2006

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

Debate resumed.

The Leader of the Opposition in the Senate (Senator Evans) moved the following amendment:

At the end of the motion, add “but while welcoming the many positive measures in the bill, the Senate expresses its serious concern about:

- (a) the Government’s decision to proceed with the bill without providing any protection for low income families who may lose income as a result of changes to the child support scheme;
- (b) the failure of the Government to properly manage transitional issues in circumstances where parents are worse off under the bill, as recommended by the Ministerial Taskforce on Child Support;
- (c) the failure of the Government to make any attempt to quantify the financial impact of the bill on existing child support customers;
- (d) the failure of the Government to provide up-to-date demographic information about existing child support customers;
- (e) the unreasonably short timeframe imposed by the Government on the Community Affairs Committee’s inquiry into the bill, particularly given the extent of the changes to the child support scheme and the potential financial impact on low income families; and
- (f) the overly-complex nature of the changes in the bill”.

Debate ensued.

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

6 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald) the sitting of the Senate was suspended at 1.49 pm till 2 pm.

At 2 pm—

7 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from Denmark led by the Speaker of the Folketing, Mr Christian Mejdahl, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

Further questions without notice were answered.

8 ANSWERS TO QUESTIONS

Senator O'Brien moved—That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

Debate ensued.

Question put and passed.

9 FOREIGN AFFAIRS—RUSSIA—SALE OF URANIUM—ANSWER TO QUESTION

Senator Milne moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Milne today relating to the sale of uranium to Russia.

Question put and passed.

10 NOTICES

The Chair of the Finance and Public Administration Committee (Senator Mason): To move on the next day of sitting—That the time for the presentation of the report of the Finance and Public Administration Committee on the transparency and accountability of Commonwealth public funding and expenditure be extended to 7 December 2006. (*general business notice of motion no. 603*)

Senator Patterson: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* based on the Lockhart Review recommendations, and for related purposes. ***Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006.*** (*general business notice of motion no. 604*)

Senator Bartlett: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to remove unfair restrictions on applications for review of refugee visa decisions, and for related purposes. ***Migration Legislation Amendment (Appropriate Review) Bill 2006.*** (*general business notice of motion no. 605*)

Senator Bartlett: To move on 7 November 2006—That the Senate—

- (a) recalls its resolution of 25 March 1998 calling on all state and territory governments to ban the practice of recreational duck hunting;
- (b) notes that:
 - (i) since that time, the Australian Capital Territory has joined New South Wales and Western Australia in banning the practice, and
 - (ii) the Queensland Government has now introduced legislation to ban recreational duck and quail hunting in that state;
- (c) congratulates the Queensland Government on its action; and
- (d) reiterates its call for the remaining states and territory to follow suit. (*general business notice of motion no. 606*)

Senator Ludwig: To move on the next day of sitting—That there be laid on the table by the Minister for Justice and Customs and the Minister representing the Attorney-General, no later than 4 pm on 6 November 2006, the Organisation for Economic Co-operation and Development foreign bribery survey response by AWB Limited (then represented by Mr Cooper), to the Attorney-General's Department in reply to correspondence by the First Assistant Secretary, Criminal Justice Division, received by the department on 20 June 2005 as was not supplied by the department in answer to the Legal and Constitutional Legislation Committee estimates question no. 63 of 24 May 2006. (*general business notice of motion no. 607*)

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That—

- (1) In the week beginning Monday, 6 November 2006:
 - (a) the days and hours of meeting and routine of business be varied as set out in paragraphs (2) to (4);
 - (b) immediately after prayers on Monday, 6 November 2006, the general business order of the day relating to the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 be called on;
 - (c) consideration of the bill shall take precedence over all government and general business until proceedings on the bill are concluded; and
 - (d) in addition, the bill shall take precedence over all other business and be considered:
 - (i) on Monday and Tuesday, from 9.30 am to 2 pm and from 7.30 pm to 11 pm,
 - (ii) on Wednesday, from 9.30 am to 12.45 pm,
 - (iii) on Thursday, from not later than 4.30 pm to 6.30 pm and from 7.30 pm to 11 pm, and
 - (iv) on Friday, from 9 am to 3.30 pm.
- (2) On Monday, 6 November 2006 and Tuesday, 7 November 2006:
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm; and
 - (b) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (3) On Thursday, 9 November 2006:
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;

- (b) consideration of general business orders of the day relating to government documents and consideration of committee reports, government responses and Auditor-General's reports not be proceeded with;
 - (c) divisions may take place after 4.30 pm; and
 - (d) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (4) The Senate shall sit on Friday, 10 November 2006 and that:
- (a) the hours of meeting shall be 9 am to 4.10 pm;
 - (b) the routine of business shall be:
 - (i) notices of motion, and
 - (ii) general business only; and
 - (c) the question for the adjournment of the Senate shall be proposed at 3.30 pm.

Senators Siewert and Milne: To move on the next day of sitting—That the following matters be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 June 2007:

- (a) the long-term impacts on Australian primary producers, rural communities and the environment of reduced and increasingly variable rainfall, increased temperatures and higher evaporation rates as a result of climate change; and
- (b) potential adaptation strategies to mitigate these impacts to ensure the security of Australian food production and maintain the viability of rural communities.

**11 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 578—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on Australia's future oil supply be extended to 27 November 2006.

Question put and passed.

**12 FOREIGN AFFAIRS, DEFENCE AND TRADE—STANDING COMMITTEE—LEAVE TO
MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Foreign Affairs, Defence and Trade Committee (Senator Johnston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 595—That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 6 November 2006, to take evidence for the committee's inquiry into the provisions of the Australian Participants in British Nuclear Tests (Treatment) Bill 2006 and a related bill.

Question put and passed.

**13 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS—
STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Committee (Senator Eggleston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 596—That the Environment, Communications, Information Technology and the Arts Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 6 November 2006, to take evidence for the committee's inquiry into the provisions of the Environment and Heritage Legislation Amendment Bill (No. 1) 2006.

Question put and passed.

**14 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS—
STANDING COMMITTEE—EXTENSIONS OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Committee (Senator Eggleston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 597—That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts Committee be extended as follows:

- (a) provisions of the Environment and Heritage Legislation Amendment Bill (No. 1) 2006—to 21 November 2006;
- (b) Australia's national parks—to 28 February 2007; and
- (c) Australia's Indigenous visual arts and craft sector—to 22 March 2007.

Question put and passed.

15 TREATIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Ferris, at the request of Senator Mason and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 594—That the Joint Standing Committee on Treaties be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate.

Question put and passed.

16 FOREIGN AFFAIRS—HUNGARY

Senator Ferris, at the request of Senators Ian Macdonald and Ferguson and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 600—That the Senate—

- (a) commends the people of Hungary as they mark the 50th anniversary of the 1956 Hungarian Revolution, which set the stage for the ultimate collapse of communism in 1989 throughout Central and Eastern Europe, including Hungary, and 2 years later in the Soviet Union itself;
- (b) expresses condolences to the people of Hungary for those who lost their lives fighting for the cause of Hungarian freedom and independence in 1956, as well as for those individuals executed by the Soviet and Hungarian communist authorities in the 5 years following the revolution, including Prime Minister Imre Nagy;

- (c) welcomes the changes that have taken place in Hungary since 1989, believing that Hungary's integration into the North Atlantic Treaty Organisation and the European Union, together with similar developments in neighbouring countries, will ensure peace, stability and understanding among the great peoples of the Carpathian Basin;
- (d) reaffirms the friendship and cooperative relations between the governments of Hungary and Australia and between the Hungarian and Australian people; and
- (e) recognises the contribution of the people of Hungarian origin to this nation.

Question put and passed.

17 LEAVE OF ABSENCE

Senator Siewert, by leave, moved—That leave of absence be granted to Senator Bob Brown for 18 October and 19 October 2006, to enable him to receive an international award.

Question put and passed.

18 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 601 standing in the name of Senator Nettle for today, relating to the conflict in Iraq, postponed till 19 October 2006.

19 CRIMES AMENDMENT (VICTIM IMPACT STATEMENTS) BILL 2006

Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 598—That the following bill be introduced:

A Bill for an Act to provide for victims of crime to be heard as part of criminal proceedings, and for related purposes.

Question put and passed.

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

Question put and passed.

Bill read a first time.

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

Explanatory memorandum: Senator Ludwig, by leave, tabled an explanatory memorandum relating to the bill.

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

20 CHILDREN—CHILD PROTECTION

Senator Murray, also on behalf of Senator Heffernan, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 589—That the Senate—

- (a) notes the fundamental human rights and protections contained in the United Nations (UN) Convention on the Rights of the Child, and notes in that regard:

- (i) the release on 11 October 2006 of the UN Secretary-General's 'Study on violence against children' report, which sheds light on the scale and impact of violence done to children across cultures, classes and ethnic origins,
 - (ii) that the report states that the majority of violence perpetrated on vulnerable children around the world is carried out by people who are part of their daily lives, and
 - (iii) that the Human Rights and Equal Opportunity Commission urges the Federal Government to consider the report's recommendations to counter violence against children;
- (b) having regard to their respective areas of responsibility, calls on the Commonwealth, state and territory governments to invest heavily to protect children in Australia from violence, including:
- (i) investing in violence prevention programs that address immediate risk factors, such as lack of parent-child attachment, family breakdown, abuse of alcohol and/or drugs, and
 - (ii) developing economic and social policies that address in a substantial way significant economic and social circumstances such as poverty, income gaps and other forms of inequality that negatively affect children; and
- (c) calls on the governments concerned to keep progress under review through the Council of Australian Governments' processes.

Question put and passed.

21 SOCIAL ISSUES—GLOBAL POVERTY

Senator Siewert amended general business notice of motion no. 599 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that on 18 November and 19 November 2006, the Treasurer (Mr Costello) will host a meeting of the Group of Twenty (G-20) Finance Ministers and Central Bank Governors in Melbourne; and
- (b) calls on the Treasurer to ensure that the G-20 meeting discusses making progress toward ending global poverty and achieving the Millennium Development Goals.

Question put and passed.

22 IMMIGRATION—SIEV X—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS

Senator Siewert, at the request of Senator Nettle and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 602—That there be laid on the table by the Minister representing the Attorney-General, no later than 11 am on 19 October 2006, the three lists held by the Australian Federal Police which detail passengers purported to have boarded the vessel known as SIEV X, those that disembarked the vessel shortly after it commenced its journey and those that survived the tragedy.

Question put and negatived.

23 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—EMPLOYMENT—TRAINING

The Deputy President (Senator Hogg) informed the Senate that Senator Wong had proposed that the following matter of public importance be submitted to the Senate for discussion:

The Government's decade-long neglect of training, resulting in the failure to build a modern, competitive economy to ensure the prosperity of future generations of Australians.

The proposal was supported by four senators and the matter was discussed.

24 SCRUTINY OF BILLS—STANDING COMMITTEE—9TH REPORT AND ALERT DIGEST NO. 12 OF 2006

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Ray) tabled the following report and document:

Scrutiny of Bills—Standing Committee—

9th report of 2006, dated 18 October 2006.

Alert Digest No. 12 of 2006, dated 18 October 2006.

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

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

Debate ensued.

Question put and passed.

25 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—16TH, 17TH AND 18TH REPORTS OF 2006

Senator Troeth, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following reports:

Public Works—Joint Statutory Committee—

16th report of 2006—Proposed provision of facilities for Project Single Living Environment and Accommodation Precinct: Phase One, dated October 2006.

17th report of 2006—Proposed development of canine kennelling and training facilities for the Australian Federal Police at Majura, ACT, dated October 2006.

18th report of 2006—Proposed fit-out of new leased premises for the Department of Employment and Workplace Relations at 29-31 Brindabella Business Park, ACT, dated October 2006.

Senator Troeth moved—That the Senate take note of the reports.

Question put and passed.

26 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—REVIEW OF THE DEFENCE ANNUAL REPORT 2004-05

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

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of the Defence annual report 2004-05—Report, dated October 2006.

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

Question put and passed.

27 PARLIAMENTARY SERVICE COMMISSIONER—REPORT FOR 2005-06

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

Parliamentary Service Commissioner—Report for 2005-06.

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

28 AUDITOR-GENERAL—AUDIT REPORT NO. 8 OF 2006-07—DOCUMENT

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

Auditor-General—Audit report no. 8 of 2006-07—Performance audit—Airservices Australia's upper airspace management contracts with the Solomon Islands Government: Airservices Australia.

Senator O'Brien, by leave, moved—That the Senate take note of the document.

Debate ensued.

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

29 COMMONWEALTH OMBUDSMAN—REVIEW OF THE USE OF COMPLIANCE POWERS BY THE BUILDING INDUSTRY TASKFORCE—DOCUMENT

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

Commonwealth Ombudsman—Review of the use of compliance powers by the Building Industry Taskforce—Report for the period 13 January 2005 to 27 March 2006.

30 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSALS—DOCUMENTS

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) tabled the following documents:

Parliament Act—Parliamentary Zone—Proposals, together with supporting documentation, relating to—

Refurbishment of the podium surrounding the National Library of Australia.

Resurfacing the temporary car park on section 55, Parkes.

Notice of motion: Senator Abetz, by leave, gave a notice of motion as follows: To move on the next day of sitting—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 refurbishment of the podium that surrounds the National Library of Australia, and resurfacing the temporary carpark on section 55, Parkes.

31 DOCUMENTS

The following documents were tabled by the Clerk:

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

A New Tax System (Family Assistance) (Administration) Act—Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2006 (No. 2) [F2006L03342]*.

Banking Act—

Banking Exemption No. 2 of 2006 [F2006L03337]*.

Banking (Prudential Standard) Determination No. 12 of 2006—Prudential Standard APS 231 Outsourcing [F2006L03320]*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos—

CASA 392/06—Instructions – for approved use of P-RNAV procedures [F2006L03376]*.

CASA 393/06—Amendment of instrument CASA 321/06 [F2006L03381]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/CIRRUS/4 Amdt 1—Crew Seats [F2006L03363]*.

AD/S-PUMA/65—Main Servo-Control Attachment Bolts [F2006L03382]*.

Customs Act—Defence and Strategic Goods List Amendment 2006 [F2006L03230]*.

Environment Protection and Biodiversity Conservation Act—Threat Abatement Plan 2006 for the incidental catch (or bycatch) of seabirds during oceanic longline fishing operations [F2006L02855]*.

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

2006/65 – IP Australia Account Variation and Abolition 2006 [F2006L03370]*.

2006/68 – Australian Building Codes Board Special Account Establishment 2006 [F2006L03375]*.

Insurance Act—Insurance (Prudential Standard) Determination No. 9 of 2006—Prudential Standard GPS 231 Outsourcing [F2006L03334]*.

Life Insurance Act—Life Insurance (Prudential Standard) Determination No. 3 of 2006—Prudential Standard LPS 231 Outsourcing [F2006L03331]*.

National Health Act—Pharmaceutical Benefits Amendment Determination under paragraph 98B(1)(a) No. 2 [F2006L03386]*.

Taxation Administration Act—PAYG withholding – Special tax table for payments to individuals performing work or services in the Joint Petroleum Development Area (JPDA) as defined in the Timor Sea Treaty [F2006L03348]*.

Therapeutic Goods Act—Therapeutic Goods (Listing) Notice 2006 (No. 4) [F2006L03361]*.

Torres Strait Fisheries Act—Torres Strait Prawn Fishery—Torres Strait Fisheries Management Notice No. 72A—Prohibition on Taking Prawns (Time Allocation) [F2006L03372]*.

Veterans' Entitlements Act—Veterans' Entitlements (Veterans' Children Education Scheme) Eligible Child Amendment Instrument 2006 No. R27/2006 [F2006L03357]*.

* Explanatory statement tabled with legislative instrument.

32 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), by leave, moved—That senators be discharged from and appointed to committees as follows:

Corporations and Financial Services—Joint Statutory Committee—

Appointed—

Senator Forshaw upon the resignation of Senator Sherry—effective 8 am, 24 October 2006

Senator Sherry upon the resignation of Senator Forshaw—effective 8 am, 25 October 2006

**Environment, Communications, Information Technology and the Arts—
Standing Committee—**

Appointed—Substitute member: Senator Carr to replace Senator Lundy for the committee's inquiry into the provisions of the Environment and Heritage Legislation Amendment Bill (No. 1) 2006.

Question put and passed.

33 TRADE PRACTICES LEGISLATION AMENDMENT BILL (NO. 1) 2005

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

Message no. 419, dated 18 October 2006—Trade Practices Legislation Amendment Bill (No. 1) 2005, agreeing to amendments nos 2 to 6 made by the Senate, disagreeing to amendment no. 1, and making further amendments.

Ordered, on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz), that the message be considered in committee of the whole immediately.

In the committee

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

- (1) Schedule 1, page 3 (line 2) to page 43 (line 3), omit the Schedule.
-

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES

- (1) Schedule 1, item 6, page 4 (lines 1 and 2), omit the definition of *proceedings* in section 29P, substitute:

proceedings includes:

- (a) applications made to the Tribunal under Subdivision C of Division 3 of Part VII; and
- (b) applications made to the Tribunal under section 111 (about review of the Commission's decisions on merger clearances).

[procedure of Tribunal]

- (2) Schedule 1, items 7 and 8, page 4 (lines 3 to 13), omit the items, substitute:

7 Section 39

Before "The", insert "(1)".

Note: The heading to section 39 is replaced by the heading "**President may give directions**".

8 At the end of section 39

Add:

- (2) The President may give directions to the Deputy Presidents in relation to the exercise by the Deputy Presidents of powers with respect to matters of procedure in proceedings before the Tribunal.

Note: Subsection 103(2) provides that any presidential member may exercise powers with respect to matters of procedure in proceedings before the Tribunal.

[procedure of Tribunal]

- (3) Schedule 1, item 27, page 12 (line 34), omit “make”, substitute “give”.

[enforceable undertaking]

- (4) Schedule 1, item 27, page 15 (line 17), after “Commission”, insert “, within a specified period,”.

[timing of information]

- (5) Schedule 1, item 27, page 15 (lines 20 to 23), omit section 95AK, substitute:

95AK Commission may seek further information and consult others

- (1) The Commission may give a person a written notice requesting the person to give the Commission, within a specified period, particular information relevant to making its determination on the application.
- (2) The Commission may consult with such persons as it considers reasonable and appropriate for the purposes of making its determination on the application.

[timing of information]

- (6) Schedule 1, item 27, page 16 (lines 4 to 7), omit subsection 95AM(2), substitute:

- (2) In making its determination, the Commission must take into account:
 - (a) any submissions in relation to the application made to it by the applicant, the Commonwealth, a State, a Territory or any other person that are received within the period specified under paragraph 95AG(b); and
 - (b) any information received under section 95AJ within the period specified in the relevant notice under that section; and
 - (c) any information received under subsection 95AK(1) within the period specified in the relevant notice under that subsection; and
 - (d) any information obtained from consultations under subsection 95AK(2).

- (2A) In making its determination, the Commission may disregard:
 - (a) any submissions in relation to the application made to it by the applicant, the Commonwealth, a State, a Territory or any other person that are received after the period specified under paragraph 95AG(b); and
 - (b) any information received under section 95AJ after the period specified in the relevant notice under that section; and
 - (c) any information received under subsection 95AK(1) after the period specified in the relevant notice under that subsection.

[determination of clearance application]

- (7) Schedule 1, item 27, page 16 (line 22), omit “refused”, substitute “made a determination refusing”.

[deemed determination of Commission]

- (8) Schedule 1, item 27, page 18 (after line 12), after subsection 95AR(2), insert:
- (2A) The regulations may prescribe that the application form contain a requirement that the applicant give an undertaking under section 87B that the applicant will not make the acquisition while the application is being considered by the Commission.

[enforceable undertaking]

- (9) Schedule 1, item 27, page 18 (line 28) to page 19 (line 3), omit subsection 95AR(5), substitute:

Commission must make a determination on the application

- (5) The Commission must make a determination in writing:
- (a) varying the clearance; or
 - (b) refusing to vary the clearance.

The Commission must notify the applicant in writing of its determination and give written reasons for it.

- (5A) In making its determination, the Commission must take into account:
- (a) any submissions received within the period specified under subsection (4); and
 - (b) any information received under section 95AJ within the period specified in the relevant notice under that section (as that section applies because of subsection (11) of this section); and
 - (c) any information received under subsection 95AK(1) within the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (11) of this section); and
 - (d) any information obtained from consultations under subsection 95AK(2) (as that subsection applies because of subsection (11) of this section).
- (5B) In making its determination, the Commission may disregard:
- (a) any submissions received after the period specified under subsection (4); and
 - (b) any information received under section 95AJ after the period specified in the relevant notice under that section (as that section applies because of subsection (11) of this section); and
 - (c) any information received under subsection 95AK(1) after the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (11) of this section).

[determination of application for minor variation of clearance]

- (10) Schedule 1, item 27, page 19 (after line 9), after subsection 95AR(6), insert:

Determination varying clearance may also vary clearance conditions

- (6A) A determination varying a clearance may also vary the conditions (if any) of the clearance to take account of the variation of the clearance.

[clearance variations]

- (11) Schedule 1, item 27, page 19 (line 14), omit “refused”, substitute “made a determination refusing”.

[deemed determination of Commission]

- (12) Schedule 1, item 27, page 20 (after line 3), at the end of section 95AR, add:

Powers of Commission

- (11) The following sections apply in relation to an application for a minor variation of a clearance in the same way as they apply in relation to an application for a clearance:
- (a) section 95AJ (Commission may seek additional information from applicant);
 - (b) section 95AK (Commission may seek further information and consult others).

[powers of Commission]

- (13) Schedule 1, item 27, page 20 (after line 17), after subsection 95AS(2), insert:

- (2A) The regulations may prescribe that the application form contain a requirement that the applicant give an undertaking under section 87B that the applicant will not make the acquisition while the application is being considered by the Commission.

[enforceable undertaking]

- (14) Schedule 1, item 27, page 21 (lines 18 to 27), omit subsection 95AS(7), substitute:

Commission must make a determination

- (7) The Commission must make a determination in writing:
- (a) revoking the clearance, or revoking the clearance and substituting a new clearance for the one revoked; or
 - (b) refusing to revoke the clearance.

The Commission must notify, in writing, the person to whom the clearance was granted of its determination and give written reasons for it.

- (7A) In making its determination, the Commission must take into account:
- (a) any submissions invited under subsection (4) or (6) that are received within the period specified under that subsection; and
 - (b) any information received under section 95AJ within the period specified in the relevant notice under that section (as that section applies because of subsection (13) of this section); and
 - (c) any information received under subsection 95AK(1) within the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (13) of this section); and
 - (d) any information obtained from consultations under subsection 95AK(2) (as that subsection applies because of subsection (13) of this section).
- (7B) In making its determination, the Commission may disregard:
- (a) any submissions invited under subsection (4) or (6) that are received after the period specified under that subsection; and
 - (b) any information received under section 95AJ after the period specified in the relevant notice under that section (as that section applies because of subsection (13) of this section); and

- (c) any information received under subsection 95AK(1) after the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (13) of this section).

[determination of application for revocation of clearance]

- (15) Schedule 1, item 27, page 22 (line 15), omit “refused”, substitute “made a determination refusing”.

[deemed determination of Commission]

- (16) Schedule 1, item 27, page 22 (after line 25), at the end of section 95AS, add:

Powers of Commission

- (13) The following sections apply in relation to an application for a revocation, or a revocation and substitution, of a clearance in the same way as they apply in relation to an application for a clearance:
- (a) section 95AJ (Commission may seek additional information from applicant);
 - (b) section 95AK (Commission may seek further information and consult others).

Substituted clearances

- (14) The following sections apply in relation to a clearance substituted under this section in the same way as they apply in relation to a clearance granted under section 95AM:
- (a) section 95AP (Clearance subject to conditions);
 - (b) section 95AQ (When clearance is in force).

[powers of Commission; substituted clearances]

- (17) Schedule 1, item 27, page 22 (line 31), omit “Note”, substitute “Note 1”.

[procedure of Tribunal]

- (18) Schedule 1, item 27, page 22 (after line 34), at the end of subsection 95AT(1), add:

Note 2: Division 2 of Part IX contains provisions about procedure and evidence that relate to proceedings before the Tribunal.

[procedure of Tribunal]

- (19) Schedule 1, item 27, page 23 (line 26), omit “make”, substitute “give”.

[enforceable undertaking]

- (20) Schedule 1, item 27, page 26 (lines 12 to 23), omit section 95AZB.

[procedure of Tribunal]

- (21) Schedule 1, item 27, page 26 (line 26), after “Tribunal”, insert “, within a specified period,”.

[timing of information]

- (22) Schedule 1, item 27, page 26 (lines 28 to 31), omit section 95AZD, substitute:

95AZD Tribunal may seek further information and consult others etc.

- (1) The Tribunal may give a person a written notice requesting the person to give the Tribunal, within a specified period, particular information relevant to making its determination on the application.
- (2) The Tribunal may consult with such persons as it considers reasonable and appropriate for the purposes of making its determination on the application.

- (3) The Tribunal may disclose information excluded from the merger authorisation register under subsection 95AZA(3), (4) or (7) to such persons and on such terms as it considers reasonable and appropriate for the purposes of making its determination on the application.

[timing of information; disclosure of information]

- (23) Schedule 1, item 27, page 27 (after line 3), after section 95AZE, insert:

95AZE Tribunal must require Commission to give report

- (1) For the purposes of determining the application, the member of the Tribunal presiding on the application must require the Commission to give a report to the Tribunal. The report must be:
- (a) in relation to the matters specified by that member; and
 - (b) given within the period specified by that member.
- (2) The Commission may also include in the report any matter it considers relevant to the application.

[Tribunal must require Commission to give report]

- (24) Schedule 1, item 27, page 27 (lines 4 to 8), omit section 95AZF, substitute:

95AZF Commission to assist Tribunal

- (1) For the purposes of determining the application:
- (a) the Commission may call a witness to appear before the Tribunal and to give evidence in relation to the application; and
 - (b) the Commission may report on statements of fact put before the Tribunal in relation to the application; and
 - (c) the Commission may examine or cross-examine any witnesses appearing before the Tribunal in relation to the application; and
- Note: The Commission may be represented by a lawyer: see paragraph 110(d).
- (d) the Commission may make submissions to the Tribunal on any issue the Commission considers relevant to the application.
- (2) For the purposes of determining the application, the member of the Tribunal presiding on the application may require the Commission to give such information, make such reports and provide such other assistance to the Tribunal, as the member specifies.

[Commission to assist Tribunal]

- (25) Schedule 1, item 27, page 27 (before line 9), before section 95AZG, insert:

95AZFA Commission may make enquiries

The Commission may, for the purposes of section 95AZE or 95AZF, make such enquiries as it considers reasonable and appropriate.

[Commission may make enquiries]

- (26) Schedule 1, item 27, page 27 (lines 16 to 19), omit subsection 95AZG(2), substitute:

- (2) In making its determination, the Tribunal must take into account:
- (a) any submissions in relation to the application made to it by the applicant, the Commonwealth, a State, a Territory or any other person that are received within the period specified under paragraph 95AY(b); and
 - (b) any information received under section 95AZC within the period specified in the relevant notice under that section; and

- (c) any information received under subsection 95AZD(1) within the period specified in the relevant notice under that subsection; and
 - (d) any information obtained from consultations under subsection 95AZD(2); and
 - (e) the report given to it under section 95AZEa; and
 - (f) any thing done as mentioned in section 95AZF.
- (2A) In making its determination, the Tribunal may disregard:
- (a) any submissions in relation to the application made to it by the applicant, the Commonwealth, a State, a Territory or any other person that are received after the period specified under paragraph 95AY(b); and
 - (b) any information received under section 95AZC after the period specified in the relevant notice under that section; and
 - (c) any information received under subsection 95AZD(1) after the period specified in the relevant notice under that subsection.

[determination on authorisation application]

- (27) Schedule 1, item 27, page 29 (after line 24), after subsection 95AZL(2), insert:

- (2A) The regulations may prescribe that the application form contain a requirement that the applicant give an undertaking under section 87B that the applicant will not make the acquisition while the application is being considered by the Tribunal.

[enforceable undertaking]

- (28) Schedule 1, item 27, page 30 (lines 12 to 19), omit subsection 95AZL(6), substitute:

Tribunal must make a determination on the application

- (6) The Tribunal must make a determination in writing:
- (a) varying the authorisation; or
 - (b) refusing to vary the authorisation.

The Tribunal must notify the applicant in writing of its determination and give written reasons for it.

- (6A) In making its determination, the Tribunal must take into account:
- (a) any submissions received within the period specified under subsection (5); and
 - (b) any information received under section 95AZC within the period specified in the relevant notice under that section (as that section applies because of subsection (13) of this section); and
 - (c) any information received under subsection 95AZD(1) within the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (13) of this section); and
 - (d) any information obtained from consultations under subsection 95AZD(2) (as that subsection applies because of subsection (13) of this section); and
 - (e) the report given to it under section 95AZEa (as that section applies because of subsection (13) of this section); and
 - (f) any thing done as mentioned in section 95AZF (as that section applies because of subsection (13) of this section).

- (6B) In making its determination, the Tribunal may disregard:
- (a) any submissions received after the period specified under subsection (5); and
 - (b) any information received under section 95AZC after the period specified in the relevant notice under that section (as that section applies because of subsection (13) of this section); and
 - (c) any information received under subsection 95AZD(1) after the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (13) of this section).

[determination of application for minor variation of authorisation]

- (29) Schedule 1, item 27, page 30 (after line 25), after subsection 95AZL(7), insert:

Determination varying authorisation may also vary authorisation conditions

- (7A) A determination varying an authorisation may also vary the conditions (if any) of the authorisation to take account of the variation of the authorisation.

[authorisation variations]

- (30) Schedule 1, item 27, page 31 (line 29), omit paragraph 95AZL(13)(a).

[procedure of Tribunal]

- (31) Schedule 1, item 27, page 31 (line 32), omit “consult others”, substitute “seek further information and consult others etc.”.

[timing of information; disclosure of information]

- (32) Schedule 1, item 27, page 31 (after line 32), after paragraph 95AZL(13)(c), insert:

- (ca) section 95AZE (Tribunal must require Commission to give report);

[Tribunal must require Commission to give report]

- (33) Schedule 1, item 27, page 31 (after line 33), at the end of subsection 95AZL(13), add:

- ; (e) section 95AZFA (Commission may make enquiries).

[Commission may make enquiries]

- (34) Schedule 1, item 27, page 32 (after line 15), after subsection 95AZM(2), insert:

- (2A) The regulations may prescribe that the application form contain a requirement that the applicant give an undertaking under section 87B that the applicant will not make the acquisition while the application is being considered by the Tribunal.

[enforceable undertaking]

- (35) Schedule 1, item 27, page 33 (lines 24 to 33), omit subsection 95AZM(8), substitute:

Tribunal must make a determination

- (8) The Tribunal must make a determination in writing:
- (a) revoking the authorisation, or revoking the authorisation and substituting a new authorisation; or
 - (b) refusing to revoke the authorisation.

The Tribunal must notify, in writing, the person to whom the authorisation was granted of its determination and give written reasons for it.

- (8A) In making its determination, the Tribunal must take into account:
- (a) any submissions invited under subsection (5) or (7) that are received within the period specified under that subsection; and
 - (b) any information received under section 95AZC within the period specified in the relevant notice under that section (as that section applies because of subsection (15) of this section); and
 - (c) any information received under subsection 95AZD(1) within the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (15) of this section); and
 - (d) any information obtained from consultations under subsection 95AZD(2) (as that subsection applies because of subsection (15) of this section); and
 - (e) the report given to it under section 95AZE (as that section applies because of subsection (15) of this section); and
 - (f) any thing done as mentioned in section 95AZF (as that section applies because of subsection (15) of this section).
- (8B) In making its determination, the Tribunal may disregard:
- (a) any submissions invited under subsection (5) or (7) that are received after the period specified under that subsection; and
 - (b) any information received under section 95AZC after the period specified in the relevant notice under that section (as that section applies because of subsection (15) of this section); and
 - (c) any information received under subsection 95AZD(1) after the period specified in the relevant notice under that subsection (as that subsection applies because of subsection (15) of this section).

[determination of application for revocation of authorisation]

- (36) Schedule 1, item 27, page 35 (line 10), omit paragraph 95AZM(15)(a).

[procedure of Tribunal]

- (37) Schedule 1, item 27, page 35 (line 13), omit “consult others”, substitute “seek further information and consult others etc.”.

[timing of information; disclosure of information]

- (38) Schedule 1, item 27, page 35 (after line 13), after paragraph 95AZM(15)(c), insert:

- (ca) section 95AZE (Tribunal must require Commission to give report);

[Tribunal must require Commission to give report]

- (39) Schedule 1, item 27, page 35 (after line 14), at the end of subsection 95AZM(15), add:

- ; (e) section 95AZFA (Commission may make enquiries).

[Commission may make enquiries]

- (40) Schedule 1, item 27, page 35 (after line 14), at the end of section 95AZM, add:

Substituted authorisations

- (16) The following sections apply in relation to an authorisation substituted under this section in the same way as they apply in relation to an authorisation granted under section 95AZG:

- (a) section 95AZJ (Authorisation subject to conditions);
- (b) section 95AZK (When authorisation is in force).

[substituted authorisations]

- (41) Schedule 1, item 33, page 36 (lines 12 to 15), omit the item, substitute:

33 Before section 103

Insert:

102A Definition

In this Part:

proceedings includes:

- (a) applications made to the Tribunal under Subdivision C of Division 3 of Part VII; and
- (b) applications made to the Tribunal under section 111 (about review of Commission's decisions on merger clearances).

[procedure of Tribunal]

- (42) Schedule 1, item 34, page 36 (lines 16 to 20), omit the item, substitute:

34 Subsection 103(2)

Omit "the Tribunal constituted by a presidential member", substitute "a presidential member".

34A At the end of section 103

Add:

- (3) The powers mentioned in subsection (2) may be exercised by a presidential member:
 - (a) whether or not the Tribunal has been constituted under section 37 in relation to the proceedings; and
 - (b) once the Tribunal is so constituted—whether or not that member is part of the Division of the Tribunal so constituted.

[procedure of Tribunal]

- (43) Schedule 1, item 36, page 37 (after line 22), after subsection 111(2), insert:

- (2A) The regulations may make it a requirement that an applicant under subsection (1) or (2) give an undertaking under section 87B that the applicant will not make the acquisition while the application is being considered by the Tribunal.

[enforceable undertaking]

- (44) Schedule 1, item 36, page 37 (after line 24), at the end of subsection 111(3), add:

Note: Division 2 contains provisions about procedure and evidence that relate to proceedings before the Tribunal.

[procedure of Tribunal]

(45) Schedule 1, item 36, page 38 (lines 5 to 9), omit subsection 113(1), substitute:

(1) After being notified of the application for review, the Commission must, within 2 business days, give to the Tribunal all the information that the Commission took into account in connection with the making of the determination to which the review relates.

(1A) The Commission must identify which of that information (if any) the Commission excluded from the merger clearance register under subsection 95AI(3), (4) or (7).

[Commission to give information to Tribunal]

(46) Schedule 1, item 36, page 38 (after line 12), after the definition of *business day* in subsection 113(2), insert:

merger clearance register means the register kept under section 95AH.

[Commission to give information to Tribunal]

(47) Schedule 1, item 36, page 38 (lines 18 to 21), omit subsection 114(2), substitute:

(2) The Tribunal may disclose information identified under subsection 113(1A) to such persons and on such terms as it considers reasonable and appropriate for the purposes of clarifying the information.

[disclosure of information by Tribunal]

(48) Schedule 1, item 36, page 39 (after line 7), at the end of section 116, add:

; and (d) any information or report given to the Tribunal under section 115.

[Tribunal to consider information or reports provided by Commission]

(49) Schedule 1, item 36, page 39 (after line 22), after subsection 118(3), insert:

(3A) If the Tribunal has not made its decision on the review within the period applicable under subsection (1) or (2), the Tribunal is taken to have made a determination affirming the Commission's determination.

[deemed decision of Tribunal on review]

(50) Schedule 3, item 1, page 47 (lines 5 and 6), omit the item, substitute:

1 Subsection 8A(6)

After "or (3A)", insert "or 93AC(1) or (2)".

[consequential amendment]

(51) Schedule 3, item 11, page 56 (lines 23 and 24), omit the item, substitute:

11 Subsection 93A(1)

After "or (3A)", insert "or 93AC(1) or (2)".

[consequential amendment]

(52) Schedule 3, item 12, page 56 (lines 26 and 27), omit the item, substitute:

12 Subsections 93A(3), (4) and (10A)

After "or (3A)", insert "or 93AC(1) or (2)".

[consequential amendment]

- (53) Schedule 3, item 19, page 57 (lines 13 to 16), omit the item and the note, substitute:

19 Section 101A

After “or (3A)”, insert “or 93AC(1) or (2)”.

Note: The heading to section 101A is altered by inserting “or 93AC(1) or (2)” after “or (3A)”.

[consequential amendment]

- (54) Schedule 3, item 21, page 58 (lines 33 and 34), omit the item, substitute:

21 Subsection 109(1A)

After “or (3A)”, insert “or 93AC(1) or (2)”.

[consequential amendment]

- (55) Schedule 3, item 24, page 59 (lines 5 and 6), omit the item, substitute:

24 Paragraph 151AY(2)(c)

After “or (3A)”, insert “or 93AC(1) or (2)”.

[consequential amendment]

- (56) Schedule 3, item 25, page 59 (lines 7 and 8), omit the item, substitute:

25 Subsection 155(1)

After “or (3A)”, insert “or 93AC(1) or (2)”.

[consequential amendment]

- (57) Schedule 8, item 5, page 95 (lines 11 to 13), omit the item, substitute:

5 Subsection 155(1)

After “under subsection”, insert “91B(4), 91C(4),”.

[consequential amendment]

- (58) Schedule 8, page 95 (before line 14), before item 6, insert:

5A Subsection 155(1)

Before “, a member of the Commission may”, insert “or 95AS(7) or the making of an application under subsection 95AZM(6)”.

[consequential amendment]

Senator Abetz moved—That the committee does not insist on its amendment no. 1 to which the House of Representatives has disagreed and agrees to the further amendments made by the House.

Debate ensued.

At 6.50 pm: The Acting Deputy President (Senator Watson) resumed the chair and the Temporary Chair of Committees reported progress.

34 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government documents tabled earlier today (*see entry no. 2*) were considered:

Department of Immigration and Multicultural Affairs—Report for 2005-06.
Motion to take note of document moved by Senator Hurley and debated. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Commonwealth Grants Commission—Report for 2005-06. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Commissioner for Complaints [Aged care]—Report for 2005-06. Motion to take note of document moved by Senator McLucas. Debate adjourned till Thursday at general business, Senator McLucas in continuation.

Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 072/06 and 073/06—Commonwealth Ombudsman's reports and government response to the Commonwealth Ombudsman's reports. Motion to take note of documents moved, by leave, by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Australian Security Intelligence Organisation—Report for 2005-06. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

At 7.20 pm—

35 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.47 pm till Thursday, 19 October 2006 at 9.30 am.

36 ATTENDANCE

Present, all senators except Senators Bob Brown*, Ian Campbell*, Marshall* and Stott Despoja* (* on leave).

HARRY EVANS
Clerk of the Senate