

2004-07

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 136

THURSDAY, 22 MARCH 2007

**Contents**

1	Meeting of Senate .....	3581
2	Petitions .....	3581
3	Notices .....	3581
4	Order of Business—Rearrangement .....	3581
5	Leave of Absence .....	3582
6	Postponements .....	3582
7	Order of Business—Rearrangement .....	3582
8	Prime Ministers—The Honourable EG Whitlam, AC, QC .....	3582
9	Intelligence and Security—Joint Statutory Committee—Leave to Meet During Sitting .....	3583
10	National Capital and External Territories—Joint Standing Committee— Report—Review of the Griffin Legacy Amendments .....	3583
11	Legal and Constitutional Affairs—Standing Committee—Document— Migration Amendment (Review Provisions) Bill 2006 .....	3583
12	Australian Energy Market Amendment (Gas Legislation) Bill 2006 Tourism Australia Amendment Bill 2007 Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2007 .....	3583
13	Committees—Reports—Annual Reports .....	3584
14	Economics—Standing Committee—Report—Additional Estimates 2006-07 ..	3584
15	Order of Business—Rearrangement .....	3584
16	Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007 .....	3585
17	Aged Care Amendment (Security and Protection) Bill 2007 .....	3588
18	Bankruptcy Legislation Amendment (Debt Agreements) Bill 2007 Bankruptcy (Estate Charges) Amendment Bill 2007 .....	3588
19	Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007 .....	3588
20	Offshore Petroleum Amendment (Greater Sunrise) Bill 2007 Customs Tariff Amendment (Greater Sunrise) Bill 2007 .....	3588
21	Tourism Australia Amendment Bill 2007 .....	3589

22	Australian Energy Market Amendment (Gas Legislation) Bill 2006 .....	3589
23	Questions .....	3589
24	Foreign Affairs—Mr David Hicks—Personal Explanation.....	3589
25	Communications—Broadband—Answers to Questions .....	3589
26	Communications—Broadband—Personal Explanation.....	3590
27	Treaties—Joint Standing Committee—Government Response—80th Report..	3590
28	Documents.....	3590
29	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents .....	3591
30	Farm Household Support Amendment Bill 2007.....	3591
31	Public Works—Joint Statutory Committee—Leave to Meet During Sitting.....	3591
32	Climate Change Action Bill 2006.....	3591
33	Government Documents—Orders of the Day—Consideration .....	3592
34	Committee Reports and Government Responses—Orders of the Day— Consideration.....	3592
35	Aged Care Amendment (Security and Protection) Bill 2007 .....	3593
36	Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2007.....	3597
37	Adjournment .....	3597
38	Attendance.....	3598

**1 MEETING OF SENATE**

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

**2 PETITIONS**

The following 3 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Kirk, from 1 461 petitioners, requesting that the Senate take action to ensure that David Hicks' rights are met under the guidelines of the Geneva Convention, as it applies to prisoners of war.

Senator Stott Despoja, from 60 petitioners, requesting that the Senate take action to ensure that the Government supports calls for the closure of the military detention facility at Guantanamo Bay.

Senator Stott Despoja, from 27 petitioners, requesting that the Senate urge the Government to ensure Mr Hicks is granted a fair trial or repatriated to Australia.

**3 NOTICES**

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

- (a) notes the 'Bring David Hicks Home' campaign launched in Bennelong, Sydney, in the week beginning 18 March 2007 by GetUp; and
- (b) calls on the Government to bring Mr Hicks home. (*general business notice of motion no. 749*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate endorses the climate change action plan proposed by the Australian Council of Trade Unions, including its call for:

- (a) government subsidies for energy efficient retrofitting of buildings;
- (b) mandatory green building codes;
- (c) large-scale reuse of treated effluent;
- (d) improved vehicle fuel efficiency;
- (e) greater use of shipping to cut greenhouse gas emissions;
- (f) the right to reject work which harms the environment; and
- (g) a mandatory renewable energy target of 10 per cent, as called for by the Australian Greens in 2002. (*general business notice of motion no. 750*)

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

- (a) notes the recent death of Israeli linguist, author and peace activist Professor Tanya Reinhart;
- (b) sends its condolences to her family and friends; and
- (c) recognises the contribution that Professor Reinhart has made to achieving peace and justice in Palestine and Israel. (*general business notice of motion no. 751*)

**4 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

- No. 4 Bankruptcy Legislation Amendment (Debt Agreements) Bill 2007 and a related bill.

No. 5 Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007.

No. 6 Offshore Petroleum Amendment (Greater Sunrise) Bill 2007 and a related bill.

Tourism Australia Amendment Bill 2007.

Australian Energy Market Amendment (Gas Legislation) Bill 2006.

Question put and passed.

#### 5 LEAVE OF ABSENCE

Senator Parry, by leave, moved—That leave of absence be granted to Senator Vanstone from 20 March to 23 March 2007, for personal reasons.

Question put and passed.

#### 6 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 680 standing in the name of Senator Nettle for today, proposing the introduction of the Food Safety (Trans Fats) Bill 2007, postponed till 26 March 2007.

General business notice of motion no. 745 standing in the name of Senator Siewert for today, relating to World Day for Water, postponed till the next day of sitting.

General business notice of motion no. 746 standing in the name of Senator Siewert for today, relating to the Murray-Darling Basin, postponed till the next day of sitting.

General business notice of motion no. 747 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Lobbying and Ministerial Accountability Bill 2007, postponed till 28 March 2007.

#### 7 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) moved—That the order of general business for consideration today be as follows:

- (a) general business order of the day no. 78 (Climate Change Action Bill 2006); and
- (b) orders of the day relating to government documents.

Question put and passed.

#### 8 PRIME MINISTERS—THE HONOURABLE EG WHITLAM, AC, QC

Senator Faulkner, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 748—That the Senate—

- (a) notes that on 22 March 2007 Gough Whitlam becomes Australia's longest-lived elected Prime Minister;
- (b) congratulates Mr Whitlam on achieving this milestone; and
- (c) acknowledges his outstanding contribution to Australian public life.

Question put and passed.

**9 INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Parry, at the request of Senator Ferguson and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 744—That the Parliamentary Joint Committee on Intelligence and Security be authorised to hold two classified hearings during the sitting of the Senate on Friday, 23 March 2007, from 9.30 am, to take evidence for the committee's inquiries into the review of administration and expenditure: Australian Intelligence Organisations – No. 5, and the review of the re-listing of Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn (TQJBR) as a terrorist organisation under the *Criminal Code Act 1995*.

Question put and passed.

**10 NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING COMMITTEE—REPORT—REVIEW OF THE GRIFFIN LEGACY AMENDMENTS**

The Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Lightfoot) tabled the following report:

National Capital and External Territories—Joint Standing Committee—Review of the Griffin Legacy amendments—Report, dated March 2007.

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

Debate ensued.

Question put and passed.

**11 LEGAL AND CONSTITUTIONAL AFFAIRS—STANDING COMMITTEE—DOCUMENT—MIGRATION AMENDMENT (REVIEW PROVISIONS) BILL 2006**

Senator Parry, at the request of the Chair of the Legal and Constitutional Affairs Committee (Senator Payne), tabled the following document:

Legal and Constitutional Affairs—Standing Committee—Report—Migration Amendment (Review Provisions) Bill 2006—Corrigendum.

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

**12 AUSTRALIAN ENERGY MARKET AMENDMENT (GAS LEGISLATION) BILL 2006  
TOURISM AUSTRALIA AMENDMENT BILL 2007  
SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) AMENDMENT BILL 2007**

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

Message no. 517, dated 21 March 2007—A Bill for an Act to amend the law relating to gas, and for other purposes.

Message no. 518, dated 21 March 2007—A Bill for an Act to amend the *Tourism Australia Act 2004*, and for related purposes.

Message no. 519, dated 21 March 2007—A Bill for an Act to amend the law relating to the granting of financial assistance to the States for primary and secondary education, and for related purposes.

The Minister for Justice and Customs (Senator Johnston) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

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

*Consideration of legislation:* Senator Johnston moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

### 13 COMMITTEES—REPORTS—ANNUAL REPORTS

Pursuant to order, Senator Parry, at the request of the chairs of the respective committees, tabled the following reports:

Reports on annual reports referred to committees—No. 1 of 2007, dated March 2007—

Community Affairs Committee.

Economics Committee.

Employment, Workplace Relations and Education Committee.

Environment, Communications, Information Technology and the Arts Committee.

Finance and Public Administration Committee.

Foreign Affairs, Defence and Trade Committee.

Legal and Constitutional Affairs Committee.

Rural and Regional Affairs and Transport Committee.

Reports ordered to be printed on the motion of Senator Parry.

### 14 ECONOMICS—STANDING COMMITTEE—REPORT—ADDITIONAL ESTIMATES 2006-07

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

Economics—Standing Committee—2006-07 additional estimates—Report, dated March 2007, Hansard record of proceedings and documents presented to the committee.

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

### 15 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Johnston) moved—That government business notice of motion no. 1 standing in the name of the Minister for Fisheries, Forestry and Conservation (Senator Abetz) for today, relating to committee groupings for estimates hearings, be postponed till 26 March 2007.

Question put and passed.

**16 ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING AMENDMENT  
BILL 2007**

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—and of the amendments moved by the Minister for Justice and Customs (Senator Johnston):

No. 1—Clause 2, page 2 (table item 6), omit the table item, substitute:

6. Schedule 1, items 21 to 57	The day after this Act receives the Royal Assent.
----------------------------------	---

6A. Schedule 1, item 57A	Immediately after the commencement of item 56 of Schedule 1 to the <i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i> .	13 December 2006
-----------------------------	---	---------------------

6B. Schedule 1, item 58	The day after this Act receives the Royal Assent.
----------------------------	---

No. 2—Schedule 1, page 8 (after line 32), after item 23, insert:

**23A Paragraph 127(3)(b)**

Omit “or 133”, substitute “, 133 or 133A”.

No. 3—Schedule 1, page 11 (after line 22), after item 40, insert:

**40A At the end of Division 4 of Part 11**

Add:

**133A When the Director-General of ASIS may communicate AUSTRAC information to a foreign intelligence agency**

- (1) The Director-General of ASIS may communicate AUSTRAC information to a foreign intelligence agency if the Director-General is satisfied that:
  - (a) the foreign intelligence agency has given appropriate undertakings for:
    - (i) protecting the confidentiality of the information; and
    - (ii) controlling the use that will be made of it; and
    - (iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and
  - (b) it is appropriate, in all the circumstances of the case, to do so.
- (2) The Director-General of ASIS may, in writing, authorise an ASIS official to access the AUSTRAC information and communicate it to the foreign intelligence agency on the Director-General’s behalf.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

No. 4—Schedule 1, page 15 (after line 12), before item 58, insert:

**57A Subsection 3(1) (at the end of paragraph (c) of the definition of non-reportable cash transaction)**

Add “that occurred after the commencement of Division 3 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*”.

Debate resumed.

The question was divided—

Question—That amendments nos 1 and 4 be agreed to—put and passed.

Debate continued.

Question—That amendments nos 2 and 3 be agreed to—put and passed.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 3 to 6, 26, 27, 32, 35 and 36.

Schedule 1, items 3 to 6, 26, 27, 32, 35 and 36 debated and agreed to.

Senator Ludwig moved the following amendments together by leave:

Schedule 1, page 6 (after line 6), after item 13, insert:

**13A Subsection 6(7)**

Repeal the subsection.

Schedule 1, page 8 (after line 20), after item 19, insert:

**19A At the end of Part 6**

Add:

**79B Deregistration and register of deregistered providers**

- (1) The AUSTRAC CEO may, by written instrument, deregister a provider from the Register of Providers of Designated Remittance Services.
- (2) A provider may be deregistered if:
  - (a) the provider is found to be not of good character; or
  - (b) the provider is convicted of a criminal offence against the Commonwealth, a State or a Territory with a penalty of 2 years or longer; or
  - (c) the provider ceases to be able to provide the service.
- (3) A written instrument in accordance with subsection (1) is a legislative instrument.
- (4) The AUSTRAC CEO must maintain a register for the purposes of this Part, to be known as the Register of Deregistered Providers of Designated Remittance Services.
- (5) The register is not a legislative instrument.
- (6) The AML/CTF Rules may make provision for and in relation to either or both of the following:
  - (a) the correction of entries in the Register of Deregistered Providers of Designated Remittance Services;
  - (b) any other matter relating to the administration or operation of the Register of Deregistered Providers of Designated Remittance Services.



Schedule 1, page 14 (after line 5), after item 51, insert:

**51A Subsection 199(4)**

After “currency” (twice occurring), insert “or a thing”.

Schedule 1, page 14 (after line 5), after item 51, insert:

**51B Subsection 199(5)**

After “currency” (twice occurring), insert “or a thing”.

Schedule 1, page 14 (after line 5), after item 51, insert:

**51C After subsection 200(12)**

Insert:

*Officer may seize other evidence*

(12A) If a police officer or a customs officer has reasonable grounds to suspect that a thing found in the course of an examination under subsection (12) or (13) may afford evidence as to the commission of an offence against subsection 53(1) or 59(3), the officer may seize the thing.

Schedule 1, page 14 (after line 10), after item 52, insert:

**52A Subsection 251(1)**

Omit “7”, substitute “4”.

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, page 11 (after line 22), after item 40, insert:

**40AA After section 132**

Insert:

**132A United Nations deemed to be a foreign country**

For the purposes of this Subdivision, the United Nations is deemed to be a foreign country and its constituent bodies are deemed to be a foreign law enforcement agency.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

---

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

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

**17 AGED CARE AMENDMENT (SECURITY AND PROTECTION) BILL 2007**

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

Debate resumed.

*At 12.45 pm:* Debate was interrupted while the Leader of the Australian Democrats (Senator Allison) was speaking.

**18 BANKRUPTCY LEGISLATION AMENDMENT (DEBT AGREEMENTS) BILL 2007  
BANKRUPTCY (ESTATE CHARGES) AMENDMENT BILL 2007**

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

Question put and passed.

Bills read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the bills were read a third time.

**19 AVIATION TRANSPORT SECURITY AMENDMENT (ADDITIONAL SCREENING MEASURES) BILL 2007**

Order of the day read for the adjourned debate on the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the bill was read a third time.

**20 OFFSHORE PETROLEUM AMENDMENT (GREATER SUNRISE) BILL 2007  
CUSTOMS TARIFF AMENDMENT (GREATER SUNRISE) BILL 2007**

Order of the day read for the adjourned debate on the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the bills were read a third time.

**21 TOURISM AUSTRALIA AMENDMENT BILL 2007**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the bill was read a third time.

**22 AUSTRALIAN ENERGY MARKET AMENDMENT (GAS LEGISLATION) BILL 2006**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the bill was read a third time.

*Suspension of sitting:* On the motion of Senator Mason the sitting of the Senate was suspended at 1.27 pm till 2 pm.

—————

*At 2 pm—*

**23 QUESTIONS**

Questions without notice were answered.

**24 FOREIGN AFFAIRS—MR DAVID HICKS—PERSONAL EXPLANATION**

The Leader of the Family First Party (Senator Fielding), by leave, made a personal explanation relating to an article in the *Age* of 22 March 2007 concerning Mr David Hicks and the United States of America military commission process.

*Statement by leave:* Senator Stott Despoja, by leave, made a statement relating to the matter.

**25 COMMUNICATIONS—BROADBAND—ANSWERS TO QUESTIONS**

Senator Conroy moved—That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to questions without notice asked today relating to broadband telecommunications infrastructure.

Debate ensued.

Question put and passed.

**26 COMMUNICATIONS—BROADBAND—PERSONAL EXPLANATION**

The Leader of The Nationals in the Senate (Senator Boswell), by leave, made a personal explanation relating to comments made on the Australian Broadcasting Corporation news today concerning broadband telecommunications infrastructure.

**27 TREATIES—JOINT STANDING COMMITTEE—GOVERNMENT RESPONSE—80TH REPORT**

The Minister for Community Services (Senator Scullion) tabled the following document:

Treaties—Joint Standing Committee—80th report—Treaties tabled on 28 March (4) and 5 September (2) 2006—Government response.

**28 DOCUMENTS**

The following documents were tabled by the Clerk:

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

Australian Research Council Act—Variation to Funding Rules for funding commencing in 2008—Linkage International [F2007L00644]\*.

Census and Statistics Act—Statement No. 1 of 2007—Lists of Agricultural Farm Businesses for the Australian Bureau of Agricultural and Resource Economics.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/A320/187 Amdt 1—Nose Landing Gear Steering [F2007L00702]\*.

AD/B737/301—Spoiler Actuator Jamming [F2007L00692]\*.

AD/B737/301 Amdt 1—Spoiler Actuator Jamming [F2007L00718]\*.

Customs Act—Tariff Concession Revocation Instruments—

4/2007 [F2007L00139]\*.

5/2007 [F2007L00140]\*.

Health Insurance Act—Determinations—

HIB 4/2007 [F2007L00717]\*.

HIB 5/2007 [F2007L00719]\*.

HIB 6/2007 [F2007L00720]\*.

HIB 7/2007 [F2007L00721]\*.

HIB 8/2007 [F2007L00722]\*.

HIB 9/2007 [F2007L00723]\*.

HIB 10/2007 [F2007L00724]\*.

Higher Education Support Act—Higher Education Provider Approval (No. 4 of 2007)—Educational Enterprises Australia Pty Ltd [F2007L00715]\*.

National Health Act—Determination HIB 3/2007 [F2007L00716]\*.

Therapeutic Goods Act—Therapeutic Goods (Listing) Notice 2007 (No. 1) [F2007L00711]\*.

\* Explanatory statement tabled with legislative instrument.

**29 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS**

The following documents were 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 July to 31 December 2006—Statements of compliance—

Attorney-General's portfolio agencies.

Defence.

Department of Education, Science and Training.

Department of Foreign Affairs and Trade.

Department of the Prime Minister and Cabinet.

Industry, Tourism and Resources portfolio agencies.

**30 FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2007**

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

Message no. 520, dated 22 March 2007—A Bill for an Act to amend legislation in relation to exceptional circumstances relief payment, and for other purposes.

The Minister for Community Services (Senator Scullion) 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 Scullion moved—That this bill be now read a second time.

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

**31 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Parry, by leave, moved—That the Parliamentary Standing Committee on Public Works be authorised to hold a public meeting during the sitting of the Senate on Friday, 23 March 2007, from 9.30 am.

Question put and passed.

*General business was called on.*

**32 CLIMATE CHANGE ACTION BILL 2006**

Order of the day read for the adjourned debate on the motion of Senator Milne—That this bill be now read a second time.

Debate resumed.

*At 6 pm:* Debate was interrupted while Senator Ronaldson was speaking.

**33 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION**

The following orders of the day relating to government documents were considered:

Tourism Australia—Report for 2005-06. Motion of Senator Ian Macdonald to take note of document agreed to.

Sugar Research and Development Corporation—Report for 2005-06. Motion of Senator Ian Macdonald to take note of document debated and agreed to.

*General business concluded.*

**34 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—ORDERS OF THE DAY—CONSIDERATION**

The following orders of the day relating to committee reports and government responses were considered:

Economics—Standing Committee—Report—Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007. Motion of the Leader of the Family First Party (Senator Fielding) to take note of report agreed to.

National Capital and External Territories—Joint Standing Committee—Report—Antarctica: Australia's pristine frontier: The adequacy of funding for Australia's Antarctic Program—Government response. Motion of Senator George Campbell to take note of document debated. Debate adjourned till the next day of sitting, Senator Ian Macdonald in continuation.

Native Title and the Aboriginal and Torres Strait Islander Land Account—Joint Statutory Committee—Report—Operation of native title representative bodies—Government response. Motion of Senator Bartlett to take note of document agreed to.

Finance and Public Administration—Standing Committee—Report—Transparency and accountability of Commonwealth public funding and expenditure. Motion of Senator Nash to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Economics—Standing Committee—Report—Tax Laws Amendment (2006 Measures No. 7) Bill 2006—Hansard record of proceedings. Motion of Senator Ludwig to take note of document agreed to.

Finance and Public Administration—Standing Committee—Report—Departmental and agency contracts: Second report on the operation of the Senate order for the production of lists of departmental and agency contracts (2003-06). Motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Community Affairs—Standing Committee—Report—Breaking the silence: A national voice for gynaecological cancers—Government response. Motion of Senator Ferris to take note of document agreed to.

Legal and Constitutional Affairs—Standing Committee—Report—Unfinished business: Indigenous stolen wages. Motion of the chair of the committee (Senator Payne) to take note of report debated. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

---

At 7.30 pm—

**35 AGED CARE AMENDMENT (SECURITY AND PROTECTION) BILL 2007**

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

Debate resumed.

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

At the end of the motion, add “but the Senate condemns the Government for failing to:

- (a) develop a comprehensive evidence-based approach to elder abuse which includes strategies to protect older people from all forms of abuse in residential and community settings;
- (b) fund a comprehensive education campaign on elder abuse for professionals including residential and community care workers, older people, their families and carers and the broader community; and
- (c) provide more resources for community support and respite care for the elderly”.

Debate ensued.

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

Main question put and passed.

Bill read a second time.

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

---

*In the committee*

Bill, taken as a whole by leave, debated.

---

*Explanatory memorandum:* The Minister for Human Services (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendment to be moved to the bill.

---

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

Clause 2, page 1 (lines 7 and 8), omit the clause, substitute:

**2 Commencement**

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	1 May 2007.	1 May 2007
3. Schedule 2	1 July 2007.	1 July 2007

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

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

Senator Allison moved the following amendment:

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

**4 Independent review**

- (1) The Minister must cause an independent review of the operation of this Act to be undertaken two years after its commencement.
- (2) The person undertaking the review must consider:
  - (a) the extent to which the purposes of this Act have been attained; and
  - (b) the administration of the amendments made by this Act; and
  - (c) such other matters as the person considers to be relevant.
- (3) The person undertaking the review must:
  - (a) have appropriate qualifications and experience to conduct the review; and
  - (b) not within five years prior to the date of their appointment have been employed by an aged care provider or by a Department of the Commonwealth with responsibility for aged care.
- (4) The person undertaking the review must give the Minister a written report of the review.
- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving it.

Debate ensued.

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



Senator Allison moved the following amendment:

Schedule 1, item 5, page 7 (after line 19), after section 95A-3, insert:

**95A-3A Procedures for merit selection of appointments under this Act**

- (1) The Minister must by writing determine a code of practice for selecting and appointing the Aged Care Commissioner that sets out general principles on which the selection is to be made, including but not limited to:
  - (a) merit; and
  - (b) independent scrutiny of appointments; and
  - (c) probity; and
  - (d) openness and transparency.
- (2) After determining a code of practice under subsection (1), the Minister must publish the code in the *Gazette*.
- (3) The Minister must review a code of practice determined under subsection (1) not later than every fifth anniversary after the code has been determined.
- (4) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (5) A code of practice determined under subsection (1) is a disallowable instrument for the purposes of the *Legislative Instruments Act 2003*.

Debate ensued.

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

Senator Allison moved the following amendment:

Schedule 2, item 1, page 12 (line 19), omit paragraph 63-1AA(2)(b).

Debate ensued.

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

Senator Allison moved the following amendment:

Schedule 2, item 1, page 12 (after line 24), after subsection 63-1AA(3), insert:

- (3A) Subsection (2) does not apply if:
  - (a) the person against whom the reportable assault is alleged or suspected to have occurred makes an informed voluntary request that the approved provider not report the alleged or suspected reportable assault as required under subsection (2); and
  - (b) the person making the informed, voluntary request is capable of understanding the nature and consequences of that request.
- (3B) For the purposes of subsection (3A), a person is assumed to be capable of understanding the nature and consequences of a request under that subsection unless there is evidence to the contrary.
- (3C) In any matter before a court, the party asserting that a person is not or was not capable of understanding the nature or consequence of a request under subsection (3A) bears the burden of proving that assertion.

- (3D) Subsection (2) does not apply:
- (a) where a reportable assault is alleged or suspected to have been carried out by an adult person receiving residential care on another adult person receiving residential care; or
  - (b) where a reportable assault is alleged or suspected to have been carried out by an adult person receiving residential care on a staff member.
- (3E) To avoid doubt, an approved provider remains responsible for observing any reporting or recording obligations as set out in the Accountability Principles in relation to an alleged or suspected assault in the circumstances set out in subsection (3D).

Debate ensued.

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

Senator Allison moved the following amendments together by leave:

Schedule 2, item 2, page 15 (line 13), omit “and”, substitute “or”

Schedule 2, item 2, page 15 (after line 13), at the end of paragraph 96-8(1)(a), add:

- (iii) a person receiving residential care; or
- (iv) a family member or friend of a person receiving residential care; or
- (v) a person who, at any time during 2 years before the disclosure is made, has engaged in a series of activities in Australia or elsewhere as an advocate in the area of aged care policy; and

Debate ensued.

Senator Allison, by leave, withdrew the amendments.

Senator McLucas moved the following amendments together by leave:

Schedule 2, item 2, page 15 (line 13), omit “and”, substitute “or”.

Schedule 2, item 2, page 15 (after line 13), at the end of paragraph 96-8(1)(a), add:

- (iii) a person receiving residential care; or
- (iv) a family member of a person receiving residential care; or
- (v) an associate of a person receiving residential care; or
- (vi) a person who, at any time during 2 years before the disclosure is made, has engaged in a series of activities in Australia or elsewhere as an advocate in the area of aged care policy; and

Debate ensued.

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

Senator Allison moved the following amendment:

Schedule 2, item 2, page 15 (line 26), after “reportable assault”, insert “, or any other conduct amounting to neglect or abuse of any kind,”.

Debate ensued.

Senator Allison, by leave, withdrew the amendment.

Senator McLucas moved the following amendments together by leave:

Schedule 2, item 2, page 15 (line 26), after “reportable assault”, insert “or any other form of abuse”.

Schedule 2, item 2, page 15 (after line 28), after subclause 96-8(1), insert:

- (2) For the purposes of paragraph (1)(d), *any other form of abuse* may include, but is not limited to, the following:
  - (a) physical, sexual, emotional, psychological or financial abuse; or
  - (b) neglect.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with an amendment.

---

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

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

**36 SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) AMENDMENT BILL 2007**

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

Debate resumed.

Senator Carr moved the following amendment:

At the end of the motion, add “whilst the Senate welcomes the additional funding for the Investing in Our Schools program, it notes that when making the announcement the Minister was silent on the change of criteria for government schools halfway through the life of the program and condemns the Government for:

- (a) leaving many government schools ineligible to apply for additional funds by reducing the funding cap from \$150 000 to \$100 000; and
- (b) failing to guarantee the future of the Investing in Our Schools program beyond the current funding round”.

Debate ensued.

*At 11 pm:* Debate was interrupted while Senator Crossin was speaking.

**37 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 11.31 pm till Friday, 23 March 2007 at 9.30 am.

**38 ATTENDANCE**

Present, all senators except Senators Bernardi, Ferris\*, Sherry\*, Vanstone\* and Wong\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate