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**1 MEETING OF SENATE**

The Senate met at 9.30 am.

**2 ABSENCE OF PRESIDENT**

The Clerk informed the Senate of the absence of the President (Senator the Honourable Paul Calvert). The Deputy President (Senator Hogg) took the chair and read prayers.

**3 NOTICES**

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

(a) notes:

- (i) the report by the Pentagon dated March 2007 on the situation in Iraq in the last quarter of 2006, which advises that:
  - (A) there were record levels of violence and hardening sectarian divisions,
  - (B) ‘sectarian cleansing’ was forcing 9 000 civilians to leave Iraq every month,
  - (C) weekly attacks rose to more than 1 000 in the quarter, and
  - (D) daily casualties increased to more than 140 with approximately 100 civilians killed or wounded a day,

- (ii) that these statistics were based on the violence observed by or reported to the United States of America (US) military and that these are likely to be out by a factor of two, and that the cited United Nations estimate, based on hospital reports, is that more than 6 000 Iraqi civilians were killed or wounded in December 2006 alone,

- (iii) the quote in the report that ‘Some elements of the situation in Iraq are properly descriptive of a “civil war”, including the hardening of ethno-sectarian identities and mobilization, the changing character of the violence, and population displacements’,

- (iv) the failure of the US military to meet its objective of handing over security responsibility to the Iraq provinces by the end of 2006,

- (v) that, although nearly 329 000 Iraqi police officers and soldiers had been trained as of February 2007, only a half or two-thirds of that total is on duty and that coalition forces remain hampered by militia infiltration, logistical deficiencies and corruption,

- (vi) that detention centres in Iraq have sub-standard facilities and do a poor job of tracking detainees, and

- (vii) that scores of Iraqi jails are overcrowded, with one jail housing three detainees for every bed; and

(b) calls on the Government, in the light of this report, to recognise that:

- (i) Australia’s involvement in training Iraqi troops is likely to be ineffectual,
- (ii) the military strategy put in place by the US Administration cannot succeed without political reconciliation, and
- (iii) Australia should withdraw its troops. (*general business notice of motion no. 752*)

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

- (a) recognises that 27 March 2007 marks the 10th anniversary of the enactment of the *Euthanasia Laws Act 1997*, which overturned the Northern Territory's *Rights of the Terminally Ill Act 1995*;
- (b) notes the results of a 2007 Newspoll, which found that 80 per cent of Australians thought that doctors should be allowed to provide a lethal dose to a patient experiencing unrelievable suffering and with no hope of recovery; and
- (c) calls on the Government to engage in a debate on end of life care, which includes the option of terminally ill and severely suffering people having choice about the timing and method of their death. (*general business notice of motion no. 753*)

Senator Milne: To move on the next day of sitting—

- (1) That the Senate notes that:
  - (a) the 4th assessment report of the Working Group I of the Intergovernmental Panel on Climate Change (IPCC), published in February 2007, indicates that sea levels will rise by between 0.18 metres to 0.59 metres by the end of the century and that these projections do not include the full effects of changes in ice sheet flow because a basis in published literature is lacking;
  - (b) the next IPCC report on impacts, adaptation and vulnerability, to be released in April 2007, is expected to conclude that there is a medium confidence, that is a 50 per cent chance, that the Greenland and Antarctic ice sheets would be committed to partial deglaciation for a global average temperature increase greater than 1° to 2°C, causing a sea level rise of 4 to 6 metres over centuries to millennia;
  - (c) recent scientific research, published too late for inclusion in the IPCC reports, suggest that sea levels are rising more quickly than previously thought and many scientists, including Dr James Hansen, head of Atmospheric Research for the National Aeronautics and Space Administration, warn that a warming of 2° to 3°C could melt the ice sheets of West Antarctica and parts of Greenland resulting in a sea level rise of 5 metres within a century;
  - (d) the assessment of the impact of even a moderate sea level rise in Australia remains inadequate for adaptation planning;
  - (e) assessing the vulnerability of low coastal and estuarine regions requires not only mapping height above sea level but must take into account factors such as coastal morphology, susceptibility to long-shore erosion, near shore bathymetry and storm surge frequency;
  - (f) delaying analysis of the risk of sea level rise exacerbates the likelihood that such information may affect property values and investment through disclosure of increased hazards and possible reduced or more expensive insurance cover; and
  - (g) an early response to the threat of a rise in sea level may include avoiding investment in long-lived infrastructure in high risk areas.
- (2) That the following matter be referred to the Environment, Communications, Information Technology and the Arts Committee for inquiry and report by 20 September 2007:

An assessment of the risks associated with projected rises in sea levels around Australia, including an appraisal of:

- (a) ecological, social and economic impacts;
- (b) adaptation and mitigation strategies;
- (c) knowledge gaps and research needs; and
- (d) options to communicate risks and vulnerabilities to the Australian community.

#### 4 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Human Services (Senator Ellison), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—**

Appointed—Senators Fierravanti-Wells and Parry

**Community Affairs—Standing Committee—**

Discharged—Participating member: Senator Mason

**Economics—Standing Committee—**

Discharged—Participating member: Senator Mason

**Employment, Workplace Relations and Education—Standing Committee—**

Discharged—Participating members: Senators Brandis, Johnston and Mason

Appointed—Participating member: Senator Parry

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

Discharged—Participating members: Senators Brandis, Mason and Scullion

Appointed—Participating member: Senator Parry

**Finance and Public Administration—Standing Committee—**

Discharged—

Senator Mason

Participating member: Senator Brandis

Appointed—Senator Ian Macdonald

**Foreign Affairs, Defence and Trade—Joint Standing Committee—**

Discharged—Senator Johnston

Appointed—Senator Trood

**Foreign Affairs, Defence and Trade—Standing Committee—**

Discharged—Senator Johnston

Appointed—

Senator Sandy Macdonald

Participating member: Senator Parry

**Legal and Constitutional Affairs—Standing Committee—**

Discharged—

Senator Sandy Macdonald

Participating members: Senators Johnston and Mason

Appointed—Senator Barnett

**Parliamentary Library—Joint Standing Committee—**

Appointed—Senator McGauran

**Privileges—Standing Committee—**

Discharged—Senator Johnston

Appointed—Senator Kemp

**Public Accounts and Audit—Joint Statutory Committee—**

Discharged—Senator Nash

Appointed—Senator Chapman

**Publications—Standing Committee—**

Discharged—Senator Johnston

Appointed—Senator Ian Campbell

**Regulations and Ordinances—Standing Committee—**

Discharged—Senator Mason

Appointed—Senator Patterson

**Rural and Regional Affairs and Transport—Standing Committee—**

Discharged—Participating members: Senators Brandis and Mason

Appointed—Participating member: Senator Parry

**Scrutiny of Bills—Standing Committee—**

Discharged—Senators Johnston and Mason

Appointed—Senators Adams and Parry

**Treaties—Joint Standing Committee—**

Discharged—Senator Mason

Appointed—Senator Ian Macdonald.

Question put and passed.

- 5 **PRIVATE HEALTH INSURANCE BILL 2006**  
**PRIVATE HEALTH INSURANCE (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2006**  
**PRIVATE HEALTH INSURANCE (PROSTHESES APPLICATION AND LISTING FEES) BILL 2006**  
**PRIVATE HEALTH INSURANCE (COLLAPSED ORGANIZATION LEVY) AMENDMENT BILL 2006**  
**PRIVATE HEALTH INSURANCE COMPLAINTS LEVY AMENDMENT BILL 2006**  
**PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) AMENDMENT BILL 2006**  
**PRIVATE HEALTH INSURANCE (REINSURANCE TRUST FUND LEVY) AMENDMENT BILL 2006**

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

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*In the committee*

**PRIVATE HEALTH INSURANCE BILL 2006—**

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Human Services (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the Private Health Insurance Bill 2006, the Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006 and the Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006.

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

Clause 23-10, page 10 (line 26), omit “policy to which subsection (1) applied”, substitute “\*complying health insurance policy”.

Clause 23-10, page 10 (line 28), omit “amount payable”, substitute “reduction”.

Clause 26-5, page 17 (line 6), omit “policy to which subsection (1) applied”, substitute “\*complying health insurance policy”.

Heading to clause 50-5, page 31 (lines 18 to 20), omit the heading, substitute:

**50-5 Private Health Insurance Rules relevant to this Chapter**

Clause 50-5, page 31 (line 23), after “Rules,”, insert “the Private Health Insurance (Benefit Requirements) Rules,”.

Clause 55-5, page 32 (line 26), omit “paragraph 66-10(2)(a)”, substitute “subsection 66-10(2)”.

Clause 63-1, page 35 (line 5), before “A private”, insert “(1)”.

Clause 63-1, page 35 (after line 7), at the end of the clause, add:

- (2) However, subsection (1) does not apply in relation to \*health insurance business of a kind that the Private Health Insurance (Complying Product) Rules specify is excluded from subsection (1).

Clause 63-5, page 35 (after line 16), after subclause (2), insert:

- (2A) A **product subgroup**, of a \*product, is all the insurance policies in the product:
- (a) under which the addresses of the people insured, as known to the private health insurer, are located in the same \*risk equalisation jurisdiction; and
  - (b) under which the same kind of insured group (within the meaning of the Private Health Insurance (Complying Product) Rules) is insured.
- (2B) The Private Health Insurance (Complying Product) Rules may specify insured groups for the purposes of paragraph (2A)(b). An insured group may be specified by reference to any or all of the number of people in the group, the kind of people in the group, or any other matter. A group may consist of only one person.

Clause 66-5, page 37 (lines 27 to 29), omit paragraph (1)(a), substitute:

- (a) is the amount specified for the \*product subgroup to which the policy belongs in the most recent approval under section 66-10; or

Clause 66-5, page 38 (line 3), omit subparagraph (1)(c)(ii), substitute:

- (ii) because of a discount or discounts allowed under subsection (2), if the total percentage discount (not counting discounts available for the reason in paragraph (3)(f)) does not exceed the percentage specified in the Private Health Insurance (Complying Product) Rules as the maximum percentage discount allowed; or

Clause 66-5, page 38 (lines 5 to 19), omit subclause (2), substitute:

- (2) A discount is allowed if:
  - (a) it is for a reason in subsection (3); and
  - (b) the discount is also available for that reason under every policy in the \*product; and
  - (c) if there are different percentage discounts available for that reason—the same percentage discount is available on the same basis under every policy in the product; and
  - (d) any other conditions set out in the Private Health Insurance (Complying Product) Rules are met.
- (3) A discount may be for any of these reasons:
  - (a) because premiums are paid at least 3 months in advance;
  - (b) because premiums are paid by payroll deduction;
  - (c) because premiums are paid by pre-arranged automatic transfer from an account at a bank or other financial institution;
  - (d) because the persons insured under the policy have agreed to communicate with the private health insurer, and make claims under the policy, by electronic means;
  - (e) because a person insured under the policy is, under the \*rules of the private health insurer, treated as belonging to a contribution group;
  - (f) because the insurer is not required to pay a levy in relation to the policy under a law of a State or Territory;
  - (g) for a reason set out in the Private Health Insurance (Complying Product) Rules.

Clause 66-10, page 38 (line 27) to page 39 (line 9), omit subclause (2), substitute:

- (2) The application may propose different changes for policies in the \*product, but the proposed changed amount must be the same for each policy in the product that belongs to the same \*product subgroup.

Clause 66-10, page 39 (lines 20 to 22), omit subclause (5).

Clause 69-1, page 41 (lines 4 to 10), omit subclause (1), substitute:

- (1) An insurance policy meets the coverage requirements in this Division if:
  - (a) the only treatments the policy \*covers are:
    - (i) specified treatments that are \*hospital treatment; or
    - (ii) specified treatments that are hospital treatment and specified treatments that are \*general treatment; or
    - (iii) specified treatments that are general treatment but none that are hospital-substitute treatment; and

- (b) if the policy provides a benefit for anything else—the provision of the benefit is authorised by the Private Health Insurance (Complying Product) Rules.

Clause 69-1, page 41 (line 11), omit “subsection (1)”, substitute “paragraph (1)(a)”.

Clause 69-1, page 41 (line 14), omit “subsection (1)”, substitute “paragraph (1)(a)”.

Page 41 (after line 27), at the end of Division 69, add:

**69-10 Meaning of *hospital-substitute treatment***

*Hospital-substitute treatment* means \*general treatment that:

- (a) substitutes for an episode of \*hospital treatment; and
- (b) is any of, or any combination of, nursing, medical, surgical, podiatric surgical, diagnostic, therapeutic, prosthetic, pharmacological, pathology or other services or goods intended to manage a disease, injury or condition; and
- (c) is not specified in the Private Health Insurance (Complying Product) Rules as a treatment that is excluded from this definition.

Clause 72-1, page 43 (cell at table item 1, 3rd column), omit the cell, substitute:

at least the amount set out, or worked out using the method set out, in the Private Health Insurance (Benefit Requirements) Rules as the minimum benefit, or method for working out the minimum benefit, for that treatment.

Clause 72-1, page 44 (cell at table item 4, 3rd column), omit the cell, substitute:

- (a) at least the amount set out, or worked out using the method set out, in the Private Health Insurance (Prostheses) Rules as the minimum benefit, or method for working out the minimum benefit, for the prosthesis; and
- (b) if the Private Health Insurance (Prostheses) Rules set out an amount, or a method for working out an amount, as the maximum benefit, or method for working out the maximum benefit, for the prosthesis—no more than that amount or the amount worked out using that method.



Clause 72-1, page 44 (table item 5), omit the table item, substitute:

5	any treatment for which the Private Health Insurance (Benefit Requirements) Rules specify there must be a benefit.	at least the amount set out, or worked out using the method set out, in the Private Health Insurance (Benefit Requirements) Rules as the minimum benefit, or method for working out the minimum benefit, for that treatment.
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Clause 72-1, page 44 (lines 1 and 2), omit “a policy holder with, or arranges for a policy holder”, substitute “an insured person with, or arranges for an insured person”.

Clause 72-15, page 46 (line 25), omit “14 days”, substitute “28 days”.

Page 46 (after line 30), at the end of Division 72, add:

**72-20 Other matters**

The Private Health Insurance (Prostheses) Rules may, in relation to application fees, initial listing fees or ongoing listing fees imposed under the *Private Health Insurance (Prostheses Application and Listing Fees) Act 2007*, provide for, or for matters relating to, any or all of the following:

- (a) methods for payment;
- (b) extending the time for payment;
- (c) refunding or otherwise applying overpayments.

Clause 75-1, page 47 (lines 23 and 24), omit “a policy holder with, or arranges for a policy holder”, substitute “an insured person with, or arranges for an insured person”.

Clause 78-1, page 51 (lines 18 and 19), omit “a policy holder with, or arranges for a policy holder”, substitute “an insured person with, or arranges for an insured person”.

Clause 84-1, page 53 (line 14), after “treatment”, insert “or provides a benefit for anything else”.

Clause 93-1, page 58 (line 6), after “each”, insert “\*product subgroup of each”.

Clause 93-1, page 58 (line 8), after “each”, insert “product subgroup of each”.

Clause 93-1, page 58 (after line 9), after subclause (1), insert:

- (1A) A single \*standard information statement may be the standard information statement for more than one \*product subgroup of a \*complying health insurance product if the premiums payable under policies in the subgroups the statement covers are the same.

Clause 93-1, page 58 (line 10), after “for a”, insert “\*product subgroup of a”.

Clause 93-1, page 58 (line 14), after “for a”, insert “\*product subgroup of a”.

Clause 93-1, page 58 (line 18), after “for a”, insert “\*product subgroup of a”.

Clause 93-5, page 58 (line 25), after “for a”, insert “\*product subgroup of a”.

Clause 93-5, page 58 (line 26), after “the product”, insert “subgroup”.

Clause 93-10, page 59 (line 10), omit “product”, substitute “\*product subgroup that is likely to apply to the person”.

Clause 93-10, page 59 (line 13), after “statement”, insert “for that subgroup”.

Clause 93-15, page 59 (line 19), omit “that the policy is in”, substitute “subgroup that the policy belongs to”.

Clause 93-20, page 60 (lines 4 and 5), omit “that the policy is in”, substitute “subgroup that the policy belongs to”.

Clause 93-20, page 60 (line 10), omit “statement”, substitute “statements”.

Clause 93-20, page 60 (line 16), after “statement”, insert “for the \*product subgroup that the policy belongs to”.

Clause 93-20, page 60 (lines 23 to 30), omit subclause (4) (including the note), substitute:

- (4) If a private health insurer changes the \*health benefits fund to which a \*complying health insurance policy of the insurer is \*referable, the insurer must ensure that:
  - (a) before the change takes effect, an \*adult insured under the policy is given a statement identifying the health benefits fund to which the policy will be referable as a result of the change; or
  - (b) within 2 weeks after the change takes effect, an adult insured under the policy is given a statement identifying the health benefits fund to which the policy is referable as a result of the change.

Note: The health benefits fund to which a policy is referable may change in accordance with Division 146.

Clause 96-1, page 62 (line 11), omit “statement”, substitute “statements”.

Clause 96-1, page 62 (lines 12 and 13), omit “an \*up to date copy of the statement”, substitute “\*up to date copies of the statements”.

Clause 96-5, page 62 (lines 16 to 18), omit “a copy of the \*standard information statement for a \*complying health insurance product of the insurer is”, substitute “copies of the \*standard information statements for a \*complying health insurance product of the insurer are”.

Clause 96-10, page 62 (lines 26 and 27), omit “statement for a \*complying health insurance product of the insurer is updated, a copy of the updated statement is”, substitute “statements for a \*complying health insurance product of the insurer are updated, copies of the updated statements are”.

Clause 99-1, page 65 (after line 24), after subclause (2), insert:

- (2A) A private health insurer must not request a certificate except in the circumstances set out in subsection (2).

Clause 121-5, page 75 (line 16), omit “\*policy holders of”, substitute “persons insured under \*complying health insurance products that are \*referable to”.

Clause 121-5, page 75 (after line 16), after paragraph (7)(e), insert:

- (ea) if the Minister is deciding whether to revoke such a declaration—any contravention of conditions to which the declaration is subject; and

Page 75 (after line 21), after clause 121-5, insert:

#### **121-7 Conditions on declarations of hospitals**

- (1) A declaration under paragraph 121-5(6)(a) that a facility is a hospital is subject to:
  - (a) any conditions specified under subsection (2); and

(b) any conditions that the Minister specifies under subsection (3) in relation to the facility.

Note: Decisions by the Minister to specify conditions in relation to particular facilities are reviewable under Part 6-9.

(2) The Private Health Insurance (Health Insurance Business) Rules may specify conditions to which declarations under paragraph 121-5(6)(a) are subject. Any conditions so specified apply to all such declarations, whether or not the declarations were made before the conditions were so specified.

(3) The Minister may specify:

- (a) in a declaration under paragraph 121-5(6)(a) relating to a facility;
- or
- (b) in a written notice given to a facility for which such a declaration is already in force;

conditions, or additional conditions, to which the declaration is subject.

(4) A contravention of a condition to which a declaration under paragraph 121-5(6)(a) is subject does not cause the declaration to cease to have effect.

Note: Contraventions are taken into consideration in deciding whether to revoke a declaration.

Clause 126-40, page 83 (line 30) to page 84 (line 7), omit subclause (2), substitute:

(2) If:

- (a) because of subsection (1) or otherwise, a private health insurer is not \*registered as a for profit insurer; and
- (b) the Council approves under section 126-42 an application by the insurer for the insurer to convert to being registered as a for profit insurer;

the insurer is taken, from the day specified in the Council's approval, to be registered as a for profit insurer for the purposes of this Act.

Page 84 (after line 34), after clause 126-40, insert:

**126-42 Conversion to for profit status**

(1) A private health insurer may apply to the Council for approval to convert to being \*registered as a for profit insurer.

(2) The application:

- (a) must be in the \*approved form; and
- (b) must include a conversion scheme that is:
  - (i) in the approved form; and
  - (ii) accompanied by such further information as is specified in the Private Health Insurance (Registration) Rules; and
- (c) must be given to the Council at least 90 days before the day specified in the application as the day on which the insurer proposes that it become \*registered as a for profit insurer.

(3) The Council must approve the application if the Council is satisfied, within 30 days after the application was made, that the conversion scheme would not in substance involve the demutualisation of the insurer.

- (4) If subsection (3) does not apply:
- (a) the Council must, at least 45 days before the day specified in the application, cause a notice of the application to be published in a national newspaper, or in a newspaper circulating in each jurisdiction where the insurer has its registered office or carries on business; and
  - (b) the Council may, within 90 days after the application is made, give the insurer written notice requiring the insurer to give the Council such further information relating to the application as is specified in the notice.
- (5) If subsection (3) does not apply, the Council must approve the application if:
- (a) the insurer has complied with subsection (2) in relation to the application, and given to the Council such further information as the Council has required under paragraph (4)(b); and
  - (b) the Council is satisfied that the conversion scheme would not result in a financial benefit to any person who is not a \*policy holder of, or another person insured through, a \*health benefits fund conducted by the insurer; and
  - (c) the Council is satisfied that the conversion scheme would not result in financial benefits from the scheme being distributed inequitably between such policy holders and insured persons.
- (6) The Private Health Insurance (Registration) Rules may provide for criteria for deciding, for the purposes of subsection (3), whether a conversion scheme would not in substance involve the demutualisation of the insurer.
- (7) The Council must cause the insurer to be notified in writing of the Council's decision on the application.

Note: Refusals of applications are reviewable under Part 6-9.

Clause 137-1, page 90 (after line 21), after subclause (4), insert:

- (4A) The *assets* of a \*health benefits fund:
- (a) include assets that, in accordance with a restructure or arrangement approved under Division 146, are to be assets of the fund; but
  - (b) do not include assets that, in accordance with such a restructure or arrangement, are no longer to be assets of the fund.

Clause 137-10, page 92 (lines 7 to 9), omit subparagraph (2)(a)(i), substitute:

- (i) meeting \*policy liabilities and other liabilities, or expenses, incurred for the purposes of the business of the fund (including policy liabilities and other liabilities that are treated, in accordance with a restructure or arrangement approved under Division 146, as policy liabilities and other liabilities incurred for the purposes of the fund); or

Clause 137-10, page 92 (after line 12), at the end of paragraph (2)(a), add:

- (iv) a purpose specified in the Private Health Insurance (Health Benefits Fund Policy) Rules for the purposes of this subparagraph; or

Clause 137-10, page 92 (line 19), omit “other” (second occurring).

Clause 140-20, page 99 (line 16), omit “organisation”, substitute “insurer”.

Clause 140-20, page 99 (line 26), omit “issuing”, substitute “giving”.

Clause 143-20, page 104 (line 18), omit “organisation”, substitute “insurer”.

Clause 143-20, page 104 (line 30), omit “issuing”, substitute “giving”.

Clause 146-1, page 106 (lines 5 to 15), omit subclause (1), substitute:

- (1) A private health insurer may restructure its \*health benefits funds so that insurance policies that are \*referable to a health benefits fund (a **transferring fund**) of the insurer become referable to one or more other health benefits funds (**receiving funds**) of the insurer (whether existing or proposed) if:
  - (a) the insurance policies concerned are all of the policies that, immediately before the restructure, were referable to the transferring fund and belonged to one or more \*policy groups of that fund; and
  - (b) the insurer applies to the Council, in the \*approved form, for approval of the restructure; and
  - (c) the Council approves the restructure in writing; and
  - (d) the insurer complies with any requirements that the Private Health Insurance (Health Benefits Fund Administration) Rules impose on the insurer in relation to the restructure.

Clause 146-1, page 106 (line 17), after “if”, insert “, and only if”.

Clause 146-1, page 106 (lines 18 and 19), omit paragraph (2)(a), substitute:

- (a) the \*assets and liabilities that would be transferred to the receiving fund or funds represent a reasonable estimate of what would, immediately before the restructure, be the \*net asset position of the transferring fund; and
- (aa) if there is more than one receiving fund—those assets and liabilities would be fairly distributed between the receiving funds; and

Clause 146-1, page 106 (after line 21), after subclause (2), insert:

- (2A) For the purposes of paragraph (2)(a), in working out the \*net asset position of the transferring fund, disregard the net asset position of the fund to the extent that it relates to insurance policies that do not belong to a \*policy group referred to in paragraph (1)(a).

Clause 146-1, page 106 (lines 25 and 26), omit “(a **transferring fund**)”.

Clause 146-1, page 106 (line 31), omit “(a **receiving fund**)”.

Clause 146-1, page 107 (after line 5), after paragraph (4)(a), insert:

- (aa) how to work out reasonable estimates of the kind referred to in paragraph (2)(a);
- (ab) criteria for deciding, for the purposes of paragraph (2)(aa), whether assets and liabilities would be fairly distributed;

Clause 146-1, page 107 (lines 12 and 13), omit subparagraph (4)(c)(ii), substitute:

- (ii) \*policy liabilities and other liabilities incurred for the purposes of a transferring fund becoming treated as policy liabilities and other liabilities incurred for the purposes of a receiving fund or funds;

Clause 146-5, page 108 (line 1) to page 109 (line 21), omit the clause, substitute:

**146-5 Merger and acquisition of health benefits funds**

- (1) A private health insurer (the *transferee insurer*) may enter into an arrangement with one or more other private health insurers (*transferor insurers*) under which:
  - (a) insurance policies that are \*referable to a \*health benefits fund or funds (*transferring funds*) of the transferor insurer or transferor insurers become referable to a health benefits fund or funds (*receiving funds*) of the transferee insurer; and
  - (b) in relation to each of the transferring funds, the insurance policies concerned are:
    - (i) all of the insurance policies that are referable to the transferring fund; or
    - (ii) all of the insurance policies that are referable to the transferring fund and that belong to one or more \*policy groups of the fund.
- (2) However, the arrangement must not take effect unless:
  - (a) the insurers referred to in subsection (1) apply jointly to the Council, in the \*approved form, for approval of the arrangement; and
  - (b) the Council approves the arrangement in writing; and
  - (c) the insurers comply with any requirements that the Private Health Insurance (Health Benefits Fund Administration) Rules impose on the insurers in relation to the arrangement.
- (3) The Council must approve the arrangement if, and only if, it is satisfied that:
  - (a) the \*assets and liabilities that would be transferred, under the arrangement, to the receiving fund or funds represent a reasonable estimate of what would, immediately before the restructure, be:
    - (i) if there is only one transferring fund—the \*net asset position of the fund; or
    - (ii) if there is more than one transferring fund—the sum of the net asset positions of each of the funds; and
  - (b) if, under the arrangement, there would be more than one receiving fund—those assets and liabilities would be fairly distributed between the receiving funds; and
  - (c) if subparagraph (1)(b)(i) applies to any transferring fund—the net asset position of the fund immediately after the arrangement takes effect will not be greater than zero; and
  - (d) the arrangement will not result in any breach of the \*solvency standard or the \*capital adequacy standard if it takes effect.

Note: Refusals to approve transfers are reviewable under Part 6-9.

- (4) For the purposes of paragraph (3)(a), in working out the \*net asset position of a transferring fund to which subparagraph (1)(b)(ii) applies, disregard the net asset position of the fund to the extent that it relates to insurance policies that do not belong to a \*policy group referred to in that subparagraph.
- (5) The Private Health Insurance (Health Benefits Fund Administration) Rules may provide for the following:
- (a) criteria for approving or refusing to approve applications under this section;
  - (b) how to work out reasonable estimates of the kind referred to in paragraph (3)(a);
  - (c) criteria for deciding, for the purposes of paragraph (3)(b), whether assets and liabilities would be fairly distributed;
  - (d) requirements to notify interested persons of the outcomes of such applications;
  - (e) matters connected with how arrangements take effect, including the following:
    - (i) insurance policies becoming \*referable to a \*health benefits fund or funds of the transferee insurer;
    - (ii) \*policy liabilities and other liabilities incurred for the purposes of a health benefits fund or funds of a transferor insurer becoming treated as policy liabilities and other liabilities incurred for the purposes of a health benefits fund or funds of the transferee insurer;
    - (iii) \*assets of a health benefits fund or funds of a transferor insurer becoming assets of a health benefits fund or funds of the transferee insurer;
    - (iv) the timing of arrangements;
  - (f) requirements for private health insurers to give the Council information following arrangements taking effect.
- (6) The transferee insurer must, within 28 days after the arrangement takes effect, notify the Council of the arrangement. The notice must comply with any requirements specified in the Private Health Insurance (Health Benefits Fund Administration) Rules.
- (7) For the purposes of this Act, an insurance policy that becomes \*referable to a \*health benefits fund of the transferee insurer as a result of the arrangement is treated, after the arrangement takes effect, as if it were an insurance policy issued by the transferee insurer.

Page 109 (after line 21), at the end of Division 146, add:

**146-10 Consent of policy holders not required**

The consent of the \*policy holders of a \*health benefits fund is not required for any:

- (a) restructuring health benefits funds as provided for in section 146-1; or
- (b) entering into arrangements of a kind referred to in section 146-5, or implementing such arrangements;

unless the constitution of the private health insurer conducting the fund provides otherwise.

Page 109 (after line 21), at the end of Division 146, add:

**146-15 Other laws not overridden**

This Division does not affect the operation of any other law of the Commonwealth, a State or a Territory in relation to:

- (a) restructuring \*health benefits funds as provided for in section 146-1; or
- (b) entering into arrangements of a kind referred to in section 146-5, or implementing such arrangements.

Clause 149-45, page 114 (line 26), omit “amount”, substitute “value”.

Clause 149-55, page 115 (lines 13 to 21), omit the clause, substitute:

**149-55 Report of terminating manager**

- (1) The \*terminating manager may, at any time, make a written report to the Council on the termination of the \*health benefits funds of a private health insurer, and must make such a report as soon as practicable after the termination of the funds.
- (2) The report may include a recommendation that an application be made under section 149-60 for the winding up of the insurer.

Clause 149-60, page 115 (lines 23 to 32), omit subclause (1), substitute:

- (1) If the \*terminating manager’s report under section 149-55 includes a recommendation that an application be made under this section for the winding up of a private health insurer, the Council, or the terminating manager, may apply to the Federal Court for an order that the insurer be wound up.

Clause 149-60, page 116 (after line 2), after subclause (2), insert:

- (2A) On an application under subsection (1), the Federal Court may make an order that the insurer be wound up if the Court is satisfied that it is in the financial interests of the \*policy holders of the \*health benefits funds conducted by the insurer that such an order be made.

Clause 163-10, page 127 (line 23), omit “\*policy holder of”, substitute “person insured under a \*complying health insurance product that is \*referable to”.

Clause 169-5, page 133 (line 19), omit “The report”, substitute “Any such accounts or statements”.

Clause 169-15, page 134 (line 24), omit “before”, substitute “not more than 28 days after”.

Clause 172-5, page 136 (after line 12), at the end of the clause, add:

Note: Medical practitioners may, in dealings with private health insurers, be able to take advantage of the collective bargaining provisions of Subdivision B of Division 2 of Part VII of the *Trade Practices Act 1974*.

Clause 172-10, page 136 (line 15), omit “\*policy holders of”, substitute “persons insured under \*complying health insurance products that are \*referable to”.

Clause 200-1, page 151 (line 10), omit “the insurer”, substitute “a private health insurer”.

Clause 217-10, page 172 (line 23), omit “the \*policy holder”, substitute “a \*policy holder”.



Clause 217-35, page 175 (line 14), omit “administrator”, substitute “\*external manager”.

Clause 217-35, page 175 (line 16), omit “administrator”, substitute “external manager”.

Page 181 (after line 25), at the end of Division 217, add:

**217-80 Application of provisions of Corporations Act**

*Regulations etc. under the Corporations Act*

- (1) A reference in an \*application provision to an \*applied Corporations Act provision includes (unless the contrary intention appears) a reference to any regulations or other instruments in force for the purposes of that provision, or any of those provisions, of the *Corporations Act 2001*.

Note: So, for example, a provision of this Act that applies a particular provision of the *Corporations Act 2001* also applies any regulations that have effect for the purposes of that provision (unless a contrary intention appears).

- (2) An **application provision** is a provision of this Division that:
- (a) provides for the application of a provision, or a group of provisions (including a Chapter, Part, Division or Subdivision), of the *Corporations Act 2001*; or
  - (b) refers to a provision, or group of provisions, of the *Corporations Act 2001* as so applied.
- (3) An **applied Corporations Act provision** is a provision, or a provision in a group of provisions, of the *Corporations Act 2001* that is applied as mentioned in paragraph (2)(a).

*Modifications under the Private Health Insurance (Health Benefits Fund Enforcement) Rules*

- (4) If an \*application provision contains a power for the Private Health Insurance (Health Benefits Fund Enforcement) Rules to modify an \*applied Corporations Act provision:
- (a) the power extends to modifying any regulations or other instruments, in force for the purposes of that provision of the *Corporations Act 2001*, that are applied as a result of subsection (1); and
  - (b) the modifications (whether of the applied Corporations Act provision or of regulations or instruments referred to in paragraph (a)) that may be made include omissions, additions and substitutions.
- (5) The fact that provision is made in this Act for a specific modification of one or more \*applied Corporations Act provisions does not imply that further modifications of that provision, or any of those provisions, consistent with that specific modification, should not be made by the Private Health Insurance (Health Benefits Fund Enforcement) Rules.

*Corporations Act definitions and interpretation principles*

- (6) The definitions and interpretation principles that have effect in or under the *Corporations Act 2001* have the same effect in relation to:
- (a) an \*applied Corporations Act provision; or

(b) a provision of regulations or another instrument that is applied as a result of subsection (1);

as that provision applies for the purposes of a provision of this Division, unless a contrary intention appears in an \*application provision or in a modification made by the Private Health Insurance (Health Benefits Fund Enforcement) Rules.

*Things that may be done under regulations under the Corporations Act*

- (7) If an \*applied Corporations Act provision allows something to be done in or by regulations, then:
- (a) the Private Health Insurance (Health Benefits Fund Enforcement) Rules may do that thing for the purposes of the applied Corporations Act provision; and
  - (b) if they do, any regulations or instruments that are applied as a result of subsection (1) are ineffective, for the purposes of this Division, to the extent that they are inconsistent with the provisions of the Private Health Insurance (Health Benefits Fund Enforcement) Rules that do that thing.

Clause 250-1, page 208 (line 15), after “subsection (1)”, insert “or (2)”.

Clause 261-5, page 218 (lines 11 and 12), omit “\*External management and \*terminating management of \*health benefits funds”, substitute “The Private Health Insurance Administration Council”.

Clause 290-10, page 252 (line 22), after “fund”, insert “power”.

Page 268 (after line 31), at the end of Division 307, add:

**307-30 Other matters**

The Private Health Insurance (Levy Administration) Rules may, in relation to \*private health insurance levy or \*late payment penalty, provide for, or for matters relating to, any or all of the following:

- (a) methods for payment;
- (b) extending the time for payment;
- (c) refunding or otherwise applying overpayments.

Clause 328-5, page 284 (after table item 4), insert:

- 4A To specify a condition, in relation to a particular facility, to which a declaration that a facility is a \*hospital is subject paragraph 121-7(1)(b)

Clause 328-5, page 284 (after table item 6), insert:

- 6A To refuse an application for approval for a private health insurer to convert to being \*registered as a for profit insurer subsection 126-42(5)

Clause 333-20, page 291 (line 8), before “The”, insert “(1)”.

Clause 333-20, page 291 (table item 3), omit “, section 188-1 and definition of *hospital-substitute treatment* in the Dictionary in Schedule 1”, substitute “and section 188-1”.

Clause 333-20, page 291 (after table item 3), insert:

3A Private Health Insurance (Benefit Requirements) Rules Part 3-3

Clause 333-20, page 292 (after line 1), at the end of the clause, add:

- (2) If, under this Act, Private Health Insurance Rules made by the Minister may modify a provision of this Act or another Act (including by modifying the effect, or the requirements, of such a provision), the Rules may do so by adding, omitting or substituting provisions (including effects or requirements of provisions).

Clause 333-25, page 293 (after line 6), at the end of the clause, add:

- (3) If, under this Act, Private Health Insurance Rules made by the Council may modify a provision of this Act or another Act (including by modifying the effect, or the requirements, of such a provision), the Rules may do so by adding, omitting or substituting provisions (including effects or requirements of provisions).

Schedule 1, page 294 (after line 12), after the definition of *applicable benefits arrangement*, insert:

*application provision* is defined in subsection 217-80(2).

Schedule 1, page 294 (after line 12), after the definition of *applicable benefits arrangement*, insert:

*applied Corporations Act provision* is defined in subsection 217-80(3).

Schedule 1, page 294 (lines 17 and 18), omit “subsections 137-1(3) and (4)”, substitute “subsections 137-1(3) to (4A)”.

Schedule 1, page 297 (lines 6 to 14), omit the definition of *hospital-substitute treatment*, substitute:

*hospital-substitute treatment* is defined in section 69-10.

Schedule 1, page 298 (after line 17), after the definition of *member*, insert:

*net asset position*, of a \*health benefits fund, means the difference between:

- (a) the \*assets of the fund; and  
 (b) the \*policy liabilities and other liabilities of the fund that the private health insurer conducting the fund has incurred for the purposes of the fund.

Schedule 1, page 301 (line 22), after “treatment”, insert “or provides a benefit for anything else”.

Schedule 1, page 301 (after line 24), after the definition of *product*, insert:

*product subgroup* is defined in subsection 63-5(2A).

Schedule 1, page 302 (line 27), omit the definition of *relevant amount*.

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

Page 4 (after line 10), after clause 3-30, insert:

**3-35 Review of operation of Act**

- (1) The Minister must cause an independent review of the operation of this Act to be completed by 1 April 2009.
- (2) In conducting the review, consideration must be given to:
  - (a) an examination of the extent to which broader health cover has eroded universalism in healthcare and contributed to inequity in access to services between those with private health insurance and those without; and
  - (b) an audit of health insurance products to identify any that provide financial or other incentives that are contrary to the principle of community rating; and
  - (c) an assessment of the adequacy of the standard information statements arrangements in assisting consumers to compare private health insurance products.
- (3) The person undertaking the review must give the Minister a written report of the review.
- (4) The Minister must cause a copy of the report of the review to be tabled in both Houses of the Parliament within 15 sitting days of receiving the report.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Divisions 34 to 40.

Divisions 34 to 40 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of clauses 152-1 and 152-20.

Clauses 152-1 and 152-20 debated.

Question—That clauses 152-1 and 152-20 stand as printed—put and negatived.

Senator McLucas moved the following amendment:

Clause 172-5, page 136 (lines 7 to 12), omit the clause, substitute:

**172-5 Agreements with medical practitioners**

*Medical purchaser-provider agreements*

- (1) If a private health insurer enters into an agreement with a \*medical practitioner for the provision of treatment to persons insured by the insurer, the agreement must not limit the medical practitioner's professional freedom, within the scope of accepted clinical practice, to identify and provide appropriate treatments.

*Practitioner agreements*

- (2) If a hospital or day hospital facility enters into an agreement with a \*medical practitioner, under which treatment is provided to persons insured by the insurer, the agreement must not limit the medical practitioner's professional freedom, within the scope of accepted clinical practice, to identify and provide appropriate treatments.

*Other purchaser-provider agreements*

- (3) If a private health insurer enters into any agreement for the provision of services or goods intended to manage a disease, injury or condition, the agreement must not limit the freedom of medical practitioners and/or other health professionals involved in the provision of the service or good, within the scope of accepted clinical practice, to identify and provide appropriate treatments.

Debate ensued.

The question for the amendment was divided—

Question—That the amendment in respect of subclause (1) and (2) be agreed to—put and passed.

Question—That the amendment in respect of subclause (3) be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Clause 253-1, page 211 (line 7), at the end of subclause (1), add “and section 253-2”.

Page 211 (after line 12), after clause 253-1, insert:

**253-2 Procedures for merit selection of appointments under this Act**

- (1) The Minister must by writing determine a code of practice for selecting and appointing a person to a position under section 253-1, 267-5 or 273-1 of this Act 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*.

Clause 267-5, page 224 (line 11), at the end of subclause (1), add “in accordance with a code of practice determined under section 253-2”.

Clause 273-1, page 231 (line 5), at the end of subclause (1), add “in accordance with a code of practice determined under section 253-2”.

Debate ensued.

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

Senator McLucas moved the following amendment:

Clause 264-5, page 220 (line 3), after paragraph (b), insert:

(ba) minimising the level of health insurance premiums;

Debate ensued.

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

Bill, as amended, agreed to.

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**PRIVATE HEALTH INSURANCE (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2006—**

Bill taken as a whole by leave.

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

Clause 2, page 2 (table item 8), omit “and 2”, substitute “to 9E”.

Clause 2, page 2 (table items 9, 10 and 11), omit the table items.

Clause 2, page 2 (at the end of the table), add:

13. Schedule 3,	1 July 2007.	1 July 2007
items 17 and 18		

Clause 10, page 9 (line 5), after “If,”, insert “more than 15 days”.

Clause 27, page 22 (after line 15), after the definition of *old Ombudsman*, insert:

***Ombudsman conversion time*** means 1 July 2007 or, if a later day is specified in Private Health Insurance (Transitional) Rules for the purposes of this definition, that later day.

Page 22 (after line 20), after Subdivision A, insert:

**Subdivision AA—Conversion of Ombudsman from CAC to FMA body**

**27A Conversion of Ombudsman from CAC to FMA body**

- (1) Section 238-1 and Division 253 of the new Act do not apply until the Ombudsman conversion time.
- (2) Despite item 53 of Schedule 1 to this Act, during the period starting at the commencement time and ending immediately before the Ombudsman conversion time:
  - (a) the Private Health Insurance Ombudsman established by section 82ZR of the *National Health Act 1953* is continued in existence; and
  - (b) staff employed or made available under section 82ZUG of the *National Health Act 1953* immediately before the commencement time continue to be employed or made available under that section on the same terms as had effect immediately before the commencement time; and
  - (c) the following provisions of the *National Health Act 1953* continue to apply in relation to that Ombudsman and those staff:
    - (i) section 82ZR;
    - (ii) section 82ZRAA;
    - (iii) section 82ZRA;
    - (iv) section 82ZRB;

- (v) Division 5 of Part VIC;
  - (vi) section 82ZVD;
  - (vii) section 82ZVE (with the reference to section 135A being taken to be a reference to Division 323 of the new Act).
- (3) During the period starting at the commencement time and ending immediately before the Ombudsman conversion time:
- (a) a reference in the new Act to the Private Health Insurance Ombudsman (other than a reference in a provision mentioned in subsection (1)) is taken to be a reference to the Private Health Insurance Ombudsman established by section 82ZR of the *National Health Act 1953*; and
  - (b) a reference in the new Act to an APS employee in, or a person holding or performing the duties of an office in, the Statutory Agency of the Private Health Insurance Ombudsman is taken to be a reference to a member of the staff employed or made available under section 82ZUG of the *National Health Act 1953* as continued in force by paragraph (2)(c).

Clause 28, page 22 (line 24), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 28, page 22 (line 25), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 29, page 23 (line 3), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 29, page 23 (line 4), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 32, page 24 (line 14), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 32, page 24 (line 15), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 33, page 24 (line 19), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 33, page 24 (line 23), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 33, page 24 (line 24), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 25 (line 8), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 25 (line 10), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 25 (line 15), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 25 (line 25), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 25 (line 28), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 34, page 26 (line 21), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 35, page 27 (line 4), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 35, page 27 (lines 9 to 18), omit subclauses (2) and (3), substitute:

- (2) A thing done before the commencement time under a provision of Part VIC of the *National Health Act 1953* has effect from the commencement time as if it had been done under the corresponding provision of the new Act:
  - (a) during the period starting at the commencement time and ending immediately before the Ombudsman conversion time—by the old Ombudsman; and
  - (b) at or after the Ombudsman conversion time—by the Private Health Insurance Ombudsman.

However, this is not taken to change the time at which the thing was actually done.

- (3) A complaint that the old Ombudsman had begun to handle before the commencement time may be handled:
  - (a) during the period starting at the commencement time and ending immediately before the Ombudsman conversion time—by the old Ombudsman; and
  - (b) at or after the Ombudsman conversion time—by the Private Health Insurance Ombudsman;

under the new Act as if the complaint had been made under the new Act, even if the ground for making the complaint does not exist under the new Act.

Clause 36, page 28 (line 12), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 36, page 28 (line 15), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 36, page 28 (line 18), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 36, page 28 (lines 30 and 31), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 36, page 29 (line 5), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 36, page 29 (line 6), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 37, page 29 (line 12), before “The person”, insert “(1)”.

Clause 37, page 29 (line 14), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 37, page 29 (line 18), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 37, page 29 (line 20), omit “commencement time”, substitute “Ombudsman conversion time”.



Clause 37, page 29 (after line 20), at the end of the clause, add:

- (2) If there is no person holding office as the Private Health Insurance Ombudsman under section 82ZR of the *National Health Act 1953* immediately before the Ombudsman conversion time, then the person who is, immediately before that time, acting as the Private Health Insurance Ombudsman under section 82ZUA of the *National Health Act 1953* is taken, from the Ombudsman conversion time, to have been appointed to act as the Private Health Insurance Ombudsman under section 253-10 of the new Act:
- (a) during the vacancy or during the period or periods for which the person was appointed to act under the *National Health Act 1953*; and
- (b) on the same terms and conditions as applied to the person immediately before the Ombudsman conversion time.

Clause 38, page 30 (line 14), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 38, page 30 (line 17), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 38, page 30 (line 21), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 38, page 30 (line 24), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 39, page 31 (line 4), omit “commencement time”, substitute “Ombudsman conversion time”.

Clause 39, page 31 (lines 8 and 9), omit “may be paid out of the Consolidated Revenue Fund, which is appropriated accordingly, for the purposes of the”, substitute “is appropriated out of the Consolidated Revenue Fund for the purpose of the performance of the functions of the”.

Schedule 1, page 43 (after line 17), after item 52, insert:

**52A Section 7**

Repeal the section.

Schedule 2, page 46 (after line 9), before item 3, insert:

**2A Section 195-1 (at the end of the definition of *hospital treatment*)**

Add “(as in force immediately before the commencement of the *Private Health Insurance Act 2007*)”.

Schedule 2, item 4, page 47 (line 7), omit “2004”, substitute “2000”.

Schedule 2, page 47 (after line 30), after item 8, insert:

***Australian Securities and Investments Commission Act 2001***

**8A Paragraphs 12BAA(7)(d) and (8)(b)**

Omit “subsection 67(4) of the *National Health Act 1953*”, substitute “Division 121 of the *Private Health Insurance Act 2007*”.

***Corporations Act 2001***

**8B Paragraph 765A(1)(c)**

Omit “subsection 67(4) of the *National Health Act 1953*”, substitute “Division 121 of the *Private Health Insurance Act 2007*”.

Schedule 2, item 75, page 58 (line 15), omit “2004”, substitute “2000”.

Schedule 3, item 2, page 63 (lines 13 to 16), omit the item, substitute:

**2 Subsection 159J(6) (paragraph (aac) of the definition of separate net income)**

Omit “*Private Health Insurance Incentives Act 1998*”, substitute “Division 26 of the *Private Health Insurance Act 2007*”.

Schedule 3, item 3, page 63 (lines 17 to 19), omit the item, substitute:

**3 Subsection 170(10AA) (table item 25)**

Repeal the table item, substitute:

25	Subdivision 61-G	Private health insurance offset complementary to Part 2-2 of the <i>Private Health Insurance Act 2007</i>
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Schedule 3, page 64 (after line 25), before item 8, insert:

**7A Section 13-1 (table item headed “private health insurance”)**

Omit “61-H”, substitute “61-G”.

Schedule 3, item 8, page 64 (lines 26 to 28), omit the item, substitute:

**8 Section 52-125**

Omit “Chapter 2 of the *Private Health Insurance Incentives Act 1998*”, substitute “Division 26 of the *Private Health Insurance Act 2007*”.

Schedule 3, item 9, page 64 (lines 29 to 31), omit the item, substitute:

**9 Subdivision 61-H of Division 61**

Repeal the Subdivision, substitute:

**Subdivision 61-G—Private health insurance offset complementary to Part 2-2 of the Private Health Insurance Act 2007**

**Guide to Subdivision 61-G**

**61-200 What this Subdivision is about**

You can choose to claim a tax offset for a premium, or an amount in respect of a premium, paid under a private health insurance policy instead of having the premium reduced under Division 23 of the *Private Health Insurance Act 2007* or receiving a payment under Division 26 of that Act.

**Table of sections**

**Operative provisions**

61-205	Entitlement to the private health insurance tax offset
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61-215	Tax offset after a person 65 years or over ceases to be covered by policy
61-220	How to work out the incentive amount

**Operative provisions**

**61-205 Entitlement to the private health insurance tax offset**

- (1) If you are an individual (other than an individual in the capacity of an employer), you are entitled to a \*tax offset for the 2007-08 income year or a later income year if:
  - (a) a premium, or an amount in respect of a premium, was paid by you, or by your employer as a \*fringe benefit for you, under a complying private health insurance policy (within the meaning of the *Private Health Insurance Act 2007*), on or after 1 July 2007; and
  - (b) the premium, or amount in respect of a premium, was paid during the income year; and
  - (c) each person insured under the complying health insurance policy during the period covered by the premium or amount is, for the whole of the time that he or she is insured under the policy during that period, an eligible person within the meaning of section 3 of the *Health Insurance Act 1973*, or treated as such because of section 6, 6A or 7 of that Act.
- (2) You are also entitled to the \*tax offset if:
  - (a) you are a trustee who is liable to be assessed under section 98 of the *Income Tax Assessment Act 1936* in respect of a share of the net income of a trust estate; and
  - (b) the beneficiary who is presently entitled to the share of the income of the trust estate would be entitled to the tax offset because of subsection (1).
- (3) However, you are not entitled to the \*tax offset in respect of the payment of any premium, or any amount in respect of a premium, if:
  - (a) you have received an amount under Division 26 of the *Private Health Insurance Act 2007* in relation to the payment; or
  - (b) the premium, or the amount in respect of a premium, was less than it would otherwise have been because of the operation of Division 23 of that Act.

Note: In certain circumstances you can get a refund of the tax offset under Division 67.

#### **61-210 Amount of the private health insurance tax offset**

- (1) The amount of the \*tax offset for an income year is the sum of:
  - (a) 30% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a \*fringe benefit for you, under the policy in respect of days in the income year on which no person covered by the policy was aged 65 years or over; and
  - (b) 35% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a fringe benefit for you, under the policy in respect of days in the income year on which:
    - (i) at least one person covered by the policy was aged 65 years or over; and
    - (ii) no person covered by the policy was aged 70 years or over; and

- (c) 40% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a fringe benefit for you, under the policy in respect of days in the income year on which at least one person covered by the policy was aged 70 years or over.
- (2) However, if, before 1 January 1999, a person was registered, or eligible to be registered, under the *Private Health Insurance Incentives Act 1997* in respect of the policy for the income year, the amount of the \*tax offset for the income year is the greater of:
  - (a) the amount worked out under subsection (1); and
  - (b) the \*incentive amount for the policy for the income year.
- (3) If, because of the operation of Division 23 of the *Private Health Insurance Act 2007*, an amount paid by you, or by your employer as a \*fringe benefit for you, under a policy was less than the amount that would otherwise have been payable, the \*tax offset in respect of the amount paid is reduced by the amount of the difference.

**61-215 Tax offset after a person 65 years or over ceases to be covered by policy**

- (1) If:
  - (a) at any time, the amount of a \*tax offset in respect of premiums payable under an insurance policy (the *original policy*) was 35% or 40% of the premiums payable under the policy because a person aged 65 years or over (the *entitling person*) was insured under the original policy; and
  - (b) at that time, another person (other than a dependent child) was insured under the original policy; and
  - (c) the entitling person subsequently ceases to be insured under the policy;
 subsections 61-210(1) and (2) apply in relation to a complying health insurance policy (whether or not the original policy) under which the other person is insured (other than for the purposes of working out the \*incentive amount) as if:
  - (d) the entitling person were also insured under that policy; and
  - (e) the entitling person were the same age as the age at which he or she ceased to be insured under the original policy.
- (2) Subsection (1) ceases to apply if a person (other than a dependent child) who was not insured under the original policy at the time the entitling person ceased to be insured under it becomes insured under the complying health insurance policy.
- (3) Subsection (1) does not apply if its application would result in the amount of the \*tax offset under subsection 61-210(1) or (2) being less than it would otherwise have been.

(4) Paragraph (1)(a) applies in relation to an amount of a \*tax offset that is 35% or 40% of the premiums payable under an insurance policy whether the tax offset was available under this Subdivision or Subdivision 61-H as in force before 1 July 2007.

(5) In this section:

**complying health insurance policy** has the same meaning as in the *Private Health Insurance Act 2007*.

**dependent child:**

(a) has the meaning given in the *Private Health Insurance Act 2007*; and

(b) in paragraph (1)(b), in relation to a time before 1 July 2007, includes a dependent child within the meaning of the *Private Health Insurance Incentives Act 1998*.

**61-220 How to work out the incentive amount**

(1) The **incentive amount** for a complying private health insurance policy (within the meaning of the *Private Health Insurance Act 2007*) for an income year is the amount worked out under this table:

<b>Incentive amount</b>				
<b>Item</b>	<b>Number and kinds of people covered by the policy</b>	<b>Policy covers *hospital treatment but not *general treatment</b>	<b>Policy covers *general treatment but not *hospital treatment</b>	<b>Policy covers *hospital treatment and *general treatment</b>
1	3 or more people	\$350	\$100	\$450
2	One dependent child and one other person	\$350	\$100	\$450
3	2 people neither of whom is a dependent child	\$200	\$50	\$250
4	One person	\$100	\$25	\$125

(2) If the amount of the premium, or the amount in respect of a premium, paid by you, or by your employer as a \*fringe benefit for you, under the policy is for part only of the income year, the **incentive amount** is worked out using this formula:

$$\text{Amount worked out under subsection (1)} \times \frac{\text{Number of days in that part of the income year}}{365}$$

**9A Application of item 9**

The repeal of Subdivision 61-H of the *Income Tax Assessment Act 1997* and the substitution of Subdivision 61-G by this Schedule apply in relation to the 2007-2008 income year and later income years.

**9B Subsection 67-25(2)**

Repeal the subsection (including the note), substitute:

*Private health insurance*

- (2) Private health insurance tax offsets under Subdivision 61-G, except those arising under subsection 61-205(2), are subject to the refundable tax offset rules.

Note: Subsection 61-205(2) deals with tax offsets for trustees who are assessed and liable to pay tax under section 98 of the *Income Tax Assessment Act 1936*.

**9C Subsection 995-1(1) (definition of *incentive amount*)**

Omit “section 61-345”, substitute “section 61-220”.

***Private Health Insurance Act 2007*****9D Section 20-1 (note)**

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

**9E Subsection 26-1(4)**

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

Schedule 3, page 66 (after line 8), at the end of the Schedule, add:

***Taxation Administration Act 1953*****17 Section 45-340 of Schedule 1 (method statement, step 1, paragraph (a))**

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

**18 Section 45-375 of Schedule 1 (method statement, step 1, paragraph (a))**

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

Senator McLucas moved the following amendment:

Clause 14, page 10 (lines 23 to 25), omit the clause, substitute:

**14 Quality assurance requirements**

The quality assurance requirements in Division 81 of the new Act commence on 1 April 2007 and apply to any insurance policy already in existence.

Debate ensued.

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

Bill, as amended, agreed to.

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**PRIVATE HEALTH INSURANCE (PROSTHESES APPLICATION AND LISTING FEES)  
BILL 2006**  
**PRIVATE HEALTH INSURANCE (COLLAPSED ORGANIZATION LEVY) AMENDMENT  
BILL 2006**  
**PRIVATE HEALTH INSURANCE COMPLAINTS LEVY AMENDMENT BILL 2006**  
**PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) AMENDMENT  
BILL 2006**  
**PRIVATE HEALTH INSURANCE (REINSURANCE TRUST FUND LEVY) AMENDMENT  
BILL 2006**

Bills taken together and as a whole by leave.

On the motion of Senator Ellison the following requests for amendments to the Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006, taken together by leave, were agreed to:

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

Schedule 1, item 17, page 5 (table item 1), omit “by the Council by legislative instrument”, substitute “in writing by the Council”.

Schedule 1, item 17, page 5 (table item 2), omit “by the Minister by legislative instrument”, substitute “in writing by the Minister”.

Schedule 1, page 5 (after line 26), after item 18, insert:

**18A At the end of section 7**

Add:

- (4) An instrument made under paragraph (a) of item 1 or 2 of the table in subsection (1) is not a legislative instrument.

The Private Health Insurance (Prostheses Application and Listing Fees) Bill 2006, the Private Health Insurance (Collapsed Organization Levy) Amendment Bill 2006, the Private Health Insurance Complaints Levy Amendment Bill 2006 and the Private Health Insurance (Council Administration Levy) Amendment Bill 2006 agreed to and the Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006 agreed to, subject to requests.

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The Private Health Insurance Bill 2006 and the Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006 to be reported with amendments, the Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006 to be reported with requests for amendments and the remaining bills to be reported without amendments or requests.

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

On the motion of the Minister for Human Services (Senator Ellison) the report from the committee was adopted and the Private Health Insurance Bill 2006, the Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006, the Private Health Insurance (Prostheses Application and Listing Fees) Bill 2006, the Private Health Insurance (Collapsed Organization Levy) Amendment Bill 2006, the Private Health Insurance Complaints Levy Amendment Bill 2006 and the Private Health Insurance (Council Administration Levy) Amendment Bill 2006 read a third time.

**6 NATIVE TITLE AMENDMENT BILL 2006**

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.

Question put and passed.

Bill read a second time.

On the motion of the Minister for Justice and Customs (Senator Johnston) consideration of the bill in committee of the whole was made an order of the day for a later hour.

**7 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—*and on the amendment moved by Senator Carr:*

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 resumed.

Question—That the amendment be agreed to—put.

The Senate divided—

**AYES, 29**

Senators—

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

**NOES, 33**

Senators—

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

Question negatived.



Senator Nettle moved the following amendment:

At the end of the motion, add “but the Senate condemns the Government for not funding schools on the basis of genuine need which necessarily requires funding to be diverted from being provided to the wealthiest private schools and instead being redirected to the most needy public schools”.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 7

Senators—

Allison	Brown, Bob	Murray	Siewert (Teller)
Bartlett	Milne	Nettle	

NOES, 53

Senators—

Abetz	Ellison	Lightfoot	Payne
Adams	Ferguson	Macdonald, Ian	Polley
Barnett	Fielding	Macdonald, Sandy	Ray
Bishop	Fierravanti-Wells	Marshall	Ronaldson
Boswell	Fifield	Mason	Scullion
Brandis	Forshaw	McEwen	Stephens
Brown, Carol	Heffernan	McGauran	Sterle
Campbell, Ian	Hogg	McLucas	Troeth
Carr	Humphries	Minchin	Trood
Chapman	Hurley	Moore	Webber
Colbeck	Johnston	Nash (Teller)	Wortley
Conroy	Joyce	O'Brien	
Crossin	Kemp	Parry	
Eggleston	Kirk	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 the Arts and Sport (Senator Brandis) the bill was read a third time.

8 **SENATE—CASUAL VACANCY—PERSONAL EXPLANATION**

The Minister for the Arts and Sport (Senator Brandis), by leave, made a personal explanation relating to articles in the *Adelaide Advertiser*, the *Canberra Times* and the *Launceston Examiner* of 23 March 2007 concerning a possible casual vacancy in the Senate.

9 **NATIVE TITLE AMENDMENT BILL 2006**

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

—————  
*In the committee*

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, item 7.

Schedule 1, item 7 debated and agreed to.

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

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

Schedule 1, page 4 (after line 24), after item 6, insert:

**6A Subsection 203A(1)**

Repeal the subsection, substitute:

- (1) Subject to section 203AA, the Commonwealth Minister may:
  - (a) invite applications from eligible bodies, in the way determined in writing by the Commonwealth Minister, for recognition as the representative body for an area; or
  - (b) invite an eligible body, in writing, to make an application for recognition as the representative body for an area.

**6B Subsection 203A(2)**

After “for which”, insert “an application or”.

**6C Subsection 203A(3)**

After “within which”, insert “the application or”.

Schedule 1, item 7, page 4 (lines 27 to 30), omit subsection 203A(3A), substitute:

- (3A) The invitation may specify the period for which an eligible body would be recognised, if the body successfully applied for recognition. The period must be:
  - (a) unless subsection (3B) applies, of no less than 2 years; and
  - (b) of no more than 6 years.
- (3B) The period specified may be of less than 2 years, but no less than 1 year, if:
  - (a) the body is under external administration; or
  - (b) a person is currently appointed, under a condition imposed by the Secretary in compliance with paragraph 203CA(1)(e), to deal with funds provided under Division 4 of this Part to the body; or
  - (c) the Commonwealth Minister is of the opinion that specifying a period of that length would promote the efficient performance of the functions mentioned in subsection 203B(1).

Schedule 1, page 4 (after line 30), after item 7, insert:

**7A Subsection 203A(4)**

Omit “under subsection (1) for inviting applications”, substitute “under paragraph (1)(a) for inviting applications from eligible bodies”.

Schedule 1, item 8, page 5 (lines 27 to 29), omit subsection 203AA(3), substitute:

- (3) The invitation must specify the period for which the body would be recognised, if an application were made. The period specified must be:
  - (a) unless subsection (3A) applies, of no less than 2 years; and
  - (b) of no more than 6 years.

- (3A) The period specified may be of less than 2 years, but no less than 1 year, if:
- (a) the body is under external administration; or
  - (b) a person is currently appointed, under a condition imposed by the Secretary in compliance with paragraph 203CA(1)(e), to deal with funds provided under Division 4 of this Part to the body; or
  - (c) the Commonwealth Minister is of the opinion that specifying a period of that length would promote the efficient performance of the functions mentioned in subsection 203B(1).

Schedule 1, page 6 (after line 8), after item 8, insert:

**8A Subsection 203AB(1)**

Repeal the subsection, substitute:

- (1) Subject to subsection (3), an eligible body may apply to the Commonwealth Minister, in the form approved by the Commonwealth Minister, for recognition as the representative body for the area, or for one or more of the areas, in respect of which:
- (a) the body has been invited under section 203A to make an application; or
  - (b) eligible bodies have been invited under section 203A to make applications.

Schedule 1, item 15, page 8 (lines 12 to 16), omit paragraph 203AD(2D)(b), substitute:

- (b) if the body applied for recognition on the basis of an invitation in which no period of recognition was specified—the period of recognition specified in the instrument of recognition must be:
    - (i) unless subsection (2E) applies, of no less than 2 years; and
    - (ii) of no more than 6 years.
- (2E) The period specified may be of less than 2 years, but no less than 1 year, if:
- (a) the body is under external administration; or
  - (b) a person is currently appointed, under a condition imposed by the Secretary in compliance with paragraph 203CA(1)(e), to deal with funds provided under Division 4 of this Part to the body; or
  - (c) the Commonwealth Minister is of the opinion that specifying a period of that length would promote the efficient performance of the functions mentioned in subsection 203B(1).

Senator Ludwig moved the following amendments together by leave:

Schedule 1, item 5, page 4 (line 6), omit “*Corporations Act 2001*”, substitute “*Corporations (Aboriginal and Torres Strait Islander) Act 2006*”.

Schedule 1, item 8, page 5 (lines 34 to 36), omit subsection 203AA(5).

Schedule 1, item 24, page 13 (line 28) to page 14 (line 7), omit the item, substitute:

**24 Subsection 203AH(2)**

Repeal the subsection, substitute:

*Discretionary grounds for withdrawing recognition*

- (2) The Commonwealth Minister may, by legislative instrument, withdraw the recognition of a body as the representative body for an area if satisfied that:
- (a) the body:
- (i) is not satisfactorily representing the native title holders or persons who may hold native title in the area; or
  - (ii) the body is not consulting effectively with Aboriginal peoples and Torres Strait Islanders living in the area; or
  - (iii) the body is not satisfactorily performing its functions; or
  - (iv) there are serious or repeated irregularities in the financial affairs of the body; and
- (b) the body is unlikely to take steps to ensure that, within a reasonable period, none of subparagraphs (a)(i), (ii) and (iii) continue to apply in relation to the body.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 13, 18 to 21, 27, 30 to 35, 46, 49, 51 to 54, 56, 57 and 59.

Schedule 1, items 13, 18 to 21, 27, 30 to 35, 46, 49, 51 to 54, 56, 57 and 59 agreed to.

Senator Siewert moved the following amendments together by leave:

Schedule 1, item 7, page 4 (lines 27 to 30), omit subsection 203A(3A), substitute:

- (3A) The invitation may specify the period for which an eligible body would be recognised, if the body successfully applied for recognition. The period specified must be no less than 3 years and no more than 6 years.

Schedule 1, page 4 (after line 30), after item 7, insert:

**7A After subsection 203A(3)**

Insert:

- (3B) If an eligible body has been recognised, the Minister must, before the expiration of the period of recognition mentioned in subsection (3A), invite the representative body for a further period of recognition.

Schedule 1, page 4 (after line 30), after item 7, insert:

**7B After subsection 203A(3)**

Insert:

- (3C) If a recognition period for a representative body has been specified under subsection 203A(3A) for a period of less than 6 years, the Minister must give to the applicant a reason in writing for having specified a period of less than 6 years.

Schedule 1, page 4 (after line 30), after item 7, insert:

**7C After subsection 203A(3)**

Insert:

- (3D) If a recognition period for a representative body has been specified under subsection 203A(3A), the Minister must invite that representative body to apply for further recognition no later than 6 months before the end of that recognition period, except in circumstances where notice is given by the Minister at or before this point in time of an intention to withdraw recognition in accordance with subsections 203AH(2) and (3).

Schedule 1, page 14 (after line 27), after item 28, insert:

**28A After section 203C**

Insert:

**203CAA Link between recognition and funding**

It is a general principal of this Act that:

- (a) where recognition has been given to an eligible body in accordance with Division 2, the Secretary of the Department is required to provide funds to the recognised eligible body; and
- (b) funding will be provided for the duration of the period of recognition; and
- (c) funding periods and recognition periods will be of the same duration.

Debate ensued.

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

Senator Bartlett moved the following amendments together by leave:

Schedule 1, item 7, page 4 (lines 29 and 30), omit “The period specified must be of no less than 1 year and no more than 6 years.”.

Schedule 1, page 4 (after line 30), after item 7, insert:

**7A After subsection 203A(1)**

Insert:

- (1A) If an eligible body has been recognised, the Minister must, not less than 90 days before the expiration of the period of recognition specified under section 203AD, invite the representative body to apply for a further period of recognition as the representative body for that area.

Schedule 1, page 4 (after line 30), after item 7, insert:

**7B After subsection 203A(3)**

Insert:

- (3B) Subject to subsection (3C), the period to be specified in an invitation is to be 6 years.
- (3C) When, pursuant to subsection (1A), the Minister gives an invitation to an eligible body that has been recognised, the Minister may specify a period less than 6 years, but not less than 2 years, if, during the current period of recognition:
  - (a) the body has failed, in a material respect, to comply with conditions to which funding is subject pursuant to section 203CA; or
  - (b) the body has failed, in a material respect, to comply with section 203DA; or
  - (c) the body has failed, in a material respect, to comply with section 203DB; or
  - (d) there have been serious or repeated irregularities in the financial affairs of the representative body; or
  - (e) the body has not satisfactorily performed its functions.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 2 to 6, 8 to 11, 13 to 16, 18 to 20, 24 and 27.

Schedule 1, items 2 to 6, 8 as amended, 9 to 11, 13, 14, 15 as amended, 16, 18 to 20, 24 and 27 debated and agreed to.

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

Schedule 1, item 14, page 7 (after line 12), after subsection 203AD(1A), insert:

*Instrument recognising body not disallowable*

(1B) Section 42 of the *Legislative Instruments Act 2003* does not apply to a legislative instrument made under subsection (1A).

Schedule 1, Part 1, page 22 (after line 6), at the end of the Part, add:

***Legislative Instruments Act 2003***

**47A Subsection 54(2) (table item 26)**

Omit “section 203AD, 203AE, 203AF or 203AG, subsection 203AH(1) or (2),”, substitute “subsection”.

Senator Bartlett moved the following amendment:

Schedule 1, page 14 (after line 27), after item 28, insert:

**28A After section 203C**

Insert:

**203CAA Link between recognition and funding**

It is a general principal of this Act that:

- (a) where recognition has been given to an eligible body in accordance with Division 2, the Secretary of the Department is required to provide funds to the recognised eligible body; and
- (b) funding will be provided for the duration of the period of recognition; and
- (c) funding periods and recognition periods will be of the same duration.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 5, 8, 12, 13, 18 to 20, 23, 24, 27 and 31.

Schedule 1, items 5, 8 as amended, 12, 13, 18 to 20, 23, 24, 27 and 31 agreed to.

Senator Bartlett moved the following amendments together by leave:

Schedule 1, item 18, page 9 (lines 18 and 19), omit paragraph 203AE(4)(b).

Schedule 1, item 18, page 9 (lines 30 to 35), omit subsection 203AE(6).

Schedule 1, item 19, page 11 (lines 23 and 24), omit paragraph 203AF(4)(b).

Schedule 1, item 19, page 12 (lines 4 to 9), omit subsection 203AF(6).

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

Senator Bartlett moved the following amendment:

Schedule 1, item 27, page 14 (lines 24 and 25), omit “the body’s organisational structures and administrative processes will operate, or are operating, in a fair manner”, substitute “on the basis of published criteria:

- (a) the body’s organisational structures and administrative processes will operate, or are operating, in a fair manner; and
- (b) there has been satisfactory compliance with approved statutory plans under section 203D; and
- (c) the body has effective planning procedures in place and complies with them; and
- (d) there has been satisfactory representation and effective consultation with constituents.”.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 43.

Schedule 1, item 43 debated.

Question—That Schedule 1, item 43 stand as printed—put and negatived.

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

Question—That Schedule 1, as amended, be agreed to—put.

The committee divided—

AYES, 32

Senators—

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

NOES, 28

Senators—

Allison	Crossin	Marshall	O’Brien
Bartlett	Faulkner	McEwen	Polley
Bishop	Forshaw	McLucas	Siewert
Brown, Carol	Hogg	Milne	Stephens
Brown, Bob	Hurley	Moore	Sterle
Campbell, G (Teller)	Kirk	Murray	Webber
Carr	Ludwig	Nettle	Wortley

Schedule agreed to.

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*After 3.30 pm:* The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Moore) reported progress.

**10 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 3.55 pm till Monday, 26 March 2007 at 12.30 pm.

**11 ATTENDANCE**

Present, all senators except Senators Bernardi, Calvert, Coonan, Evans, Ferris\*, Lundy, Santoro, Sherry\*, Stott Despoja, Vanstone\*, Watson and Wong\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate