

2004-07

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 146

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**1 MEETING OF SENATE**

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

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

AusLink—Report for 2005-06.

Australian Competition and Consumer Commission—Telecommunications reports for 2005-06—Report 1: Telecommunications competitive safeguards; Report 2: Changes in the prices paid for telecommunications services in Australia.

Australian Land Transport Development Programme—Report for 2003-04.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 138/07 to 199/07—

Commonwealth Ombudsman's reports.

Commonwealth Ombudsman's reports—Government response.

*National Health Act 1953*—Private health insurance premium increases—Report for the quarter ending 30 June 2007.

*Renewable Energy (Electricity) Act 2000*—Report for 2006 on the operation of the Act.

Treaties—

*Bilateral*—Text together with national interest analysis and annexures—

Agreement between the Government of Australia and the Government of Antigua and Barbuda on the Exchange of Information with Respect to Taxes (Saint John's, Antigua, 30 January 2007).

Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles for the Exchange of Information with Respect to Taxes (Canberra, 1 March 2007).

Agreement on Health Care Insurance between Australia and the Kingdom of Belgium done at Canberra on 10 August 2006.

Agreement on Operational and Strategic Cooperation between Australia and the European Police Office (Europol) (The Hague, 20 February 2007).

Extension of the Agreement of 4 December 1997 between the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty [to be signed at WIPO in Geneva in October 2007].

Protocol between the Government of Australia and the Government of the Hong Kong Special Administrative Region of the People's Republic of China Amending the Agreement for the Surrender of Accused and Convicted Persons of 15 November 1993 (Hong Kong, 19 March 2007).

Treaty between Australia and the Kingdom of Thailand on Mutual Assistance in Criminal Matters, done at Kuala Lumpur on 27 July 2006.

*Multilateral*—Text together with national interest analysis, regulation impact statement and annexures—

International Convention for the Control and Management of Ships' Ballast Water and Sediments (London, 13 February 2004).

**3 TAX LAWS AMENDMENT (2007 MEASURES NO. 3) BILL 2007**  
**TAX LAWS AMENDMENT (SMALL BUSINESS) BILL 2007**

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

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*In the committee*

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

Bills to be reported without amendments.

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

On the motion of the Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) the report from the committee was adopted and the bills read a third time.

**4 INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (2007 BUDGET MEASURES) 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.

Senator Carr moved the following amendment:

At the end of the motion, add “but the Senate commits to the following goals:

- (a) to eliminate the 17-year gap in life expectancy between Indigenous and non-Indigenous Australians within a generation, so that every Indigenous child has the same educational and life opportunities as any other child;
- (b) to at least halve the difference in the rate of Indigenous students at years 3, 5 and 7 who fail to meet reading, writing and numeracy benchmarks within 10 years;
- (c) to at least halve the mortality rate of Indigenous children aged under 5 within a decade; and
- (d) a long-term bipartisan national commitment to work with Indigenous Australians towards achieving these goals, and overcoming generational disadvantage”.

Debate ensued.

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

**5 TAX LAWS AMENDMENT (2007 MEASURES NO. 2) 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 “but the Senate:

- (a) condemns the Government for its failure to promote the venture capital industry; and
- (b) calls on the Government to:
  - (i) increase to \$500 million the value of assets of an entity invested in by an Early Stage Venture Capital Limited Partnership (ESVCLP) beyond which an ESVCLP must divest itself of an interest in the entity,
  - (ii) increase the time allowed for a partnership to divest an investment from 9 months to 12 months, and
  - (iii) increase to \$500 million the value of assets target investees of an ESVCLP can have”.

Debate ensued.

Question—That the amendment be agreed to—put and 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 Human Services (Senator Ellison) the bill was read a third time.

**6 HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION) 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 Senator McLucas was speaking.

**7 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the sitting of the Senate was suspended at 1.55 pm till 2 pm.

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*At 2 pm—*

**8 QUESTIONS**

Questions without notice were answered.

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*Distinguished visitors:* The President welcomed members of a parliamentary delegation from Malaysia led by the Speaker of the House of Representatives, the Honourable Tan Sri Ramli, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

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Further questions without notice were answered.

**9 ADMINISTRATION—POLITICAL DONATIONS—KIRRIBILLI HOUSE—ANSWERS TO QUESTIONS**

Senator Sherry moved—That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators McEwen and Wong today relating to a function for the Liberal Party held at Kirribilli House and political donations.

Debate ensued.

Question put and passed.

**10 FAMILY AND COMMUNITY SERVICES—PROPOSED ACCESS CARD—ANSWER TO QUESTION**

Senator Stott Despoja moved—That the Senate take note of the answer given by the Minister for Human Services (Senator Ellison) to a question without notice asked by Senator Stott Despoja today relating to proposed legislation to establish a health benefits, veterans' and social services access card.

Question put and passed.

**11 NOTICES**

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the Global Fund to Fight AIDS, Tuberculosis and Malaria was established in 2002 to provide necessary funding for international programs to deal effectively with these diseases,
- (ii) HIV/AIDS, tuberculosis (TB) and malaria are diseases that affect proportionately more people who live in poverty, particularly in the Asia-Pacific region,
- (iii) more than 6 million people die from these diseases each year and, despite rapid increases in treatment, only one-fifth of people with HIV who need anti-retroviral treatment are receiving it,
- (iv) TB is a leading killer of people infected with HIV, however, with the proper treatment of TB, this can prolong the lives of people with HIV by years and at a very low cost,
- (v) the Global Fund has received \$US6.7 billion since its inception but reports that significantly more is required in order to adequately combat HIV/AIDS, TB and malaria,
- (vi) Australia's past contribution to the Global Fund totals \$AUD55 million and in the 2007-08 Budget the Government indicated it would allocate a further \$AUD45 million,

- (vii) by 2010, Australia's fair share of support for the Global Fund is calculated by RESULTS Australia and other international non-government organisations to be \$AUD220 million per year, and
- (viii) at the recently concluded G8 meeting, world leaders promised \$US60 billion to fight HIV/AIDS, TB and malaria over the next few years, which includes a \$US30 billion commitment from the United States of America to fight HIV/AIDS over a 5-year period;
- (b) urges the Australian Government to support the G8's commitment to the fight against HIV/AIDS, TB and malaria by realising its fair share of funding for the Global Fund; and
- (c) urges the Australian Government to make a 4-year commitment to the Global Fund of \$AUD640 million. (*general business notice of motion no. 805*)

The Chair of the Community Affairs Committee (Senator Humphries): To move on the next day of sitting—That the Community Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 June 2007, from 4 pm, to take evidence on a matter relating to the PET review. (*general business notice of motion no. 806*)

The Minister for Fisheries, Forestry and Conservation (Senator Abetz): To move on the next day of sitting—That—

- (1) On Thursday, 14 June 2007:
  - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;
  - (b) the routine of business from 12.45 pm till not later than 2 pm, and from 7.30 pm shall be government business only;
  - (c) divisions may take place after 4.30 pm; and
  - (d) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (2) The Senate shall sit on Friday, 15 June 2007 and that:
  - (a) the hours of meeting shall be 9.30 am to 4.10 pm;
  - (b) the routine of business shall be:
    - (i) notices of motion, and
    - (ii) government business only; and
  - (c) the question for the adjournment of the Senate shall be proposed at 3.30 pm.
- (3) On Tuesday, 19 June 2007:
  - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;
  - (b) the routine of business from 7.30 pm shall be government business only; and
  - (c) the question for the adjournment of the Senate shall be proposed at 10 pm.
- (4) On Thursday, 21 June 2007:
  - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
  - (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;

- (c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 4.30 pm shall be government business only;
- (d) divisions may take place after 4.30 pm; and
- (e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below, including any messages from the House of Representatives:
  - Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007
  - Aged Care Amendment (Residential Care) Bill 2007
  - Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2007
  - Agriculture, Fisheries and Forestry Legislation Amendment (2007 Measures No. 1) Bill 2007
  - Appropriation (Parliamentary Departments) Bill (No. 1) 2007-2008
  - Appropriation Bill (No. 1) 2007-2008
  - Appropriation Bill (No. 2) 2007-2008
  - Appropriation Bill (No. 5) 2006-2007
  - Appropriation Bill (No. 6) 2006-2007
  - Australian Centre for International Agricultural Research Amendment Bill 2007
  - Australian Wine and Brandy Corporation Amendment Bill (No. 1) 2007
  - Communications Legislation Amendment (Content Services) Bill 2007
  - Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007
  - Corporations (Fees) Amendment Bill 2007
  - Corporations (Review Fees) Amendment Bill 2007
  - Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Bill 2007
  - Evidence Amendment (Journalists' Privilege) Bill 2007
  - Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Bill 2007
  - Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007
  - Financial Sector Legislation Amendment (Restructures) Bill 2007
  - Fisheries Legislation Amendment Bill 2007
  - Fisheries Levy Amendment Bill 2007
  - Food Standards Australia New Zealand Amendment Bill 2007
  - Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Bill 2007
  - Forestry Marketing and Research and Development Services Bill 2007
  - Governance Review Implementation (Science Research Agencies) Bill 2007
  - Great Barrier Reef Marine Park Amendment Bill 2007
  - Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007
  - Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007
  - Migration (Sponsorship Fees) Bill 2007



Migration Amendment (Statutory Agency) Bill 2007  
 National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007  
 Native Title Amendment (Technical Amendments) Bill 2007  
 Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment (2007 Budget Measures) Bill 2007  
 Social Security Amendment (Apprenticeship Wage Top-Up for Australian Apprentices) Bill 2007  
 Tax Laws Amendment (Simplified GST Accounting) Bill 2007  
 Veterans' Affairs Legislation Amendment (2007 Measures No. 1) Bill 2007  
 Wheat Marketing Amendment Bill 2007  
 Workplace Relations Amendment (A Stronger Safety Net) Bill 2007.

Senator Murray: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to encourage and facilitate the disclosure of information in the public interest, by protecting public officials and others who make disclosures, and for related purposes. **Public Interest Disclosures Bill 2007.** (*general business notice of motion no. 807*)

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

- (a) notes:
  - (i) the imprisonment since November 2005 by the Ethiopian Government of members of the main opposition party, representatives of civic organisations and the banned free press, and
  - (ii) these prisoners are declared by Amnesty International to be prisoners of conscience; and
- (b) urges the Government to make representations to the Ethiopian Government asking for the release of these prisoners of conscience, and to accept the results of the 2005 democratic election. (*general business notice of motion no. 808*)

Senator Stephens: To move on the next day of sitting—That the following matters be referred to the Community Affairs Committee for inquiry and report by 13 September 2007:

- (a) the cost of living pressures on older Australians, both pensioners and self-funded retirees, including:
  - (i) the impact of recent movements in the price of essentials, such as petrol and food,
  - (ii) the costs of running household utilities, such as gas and electricity, and
  - (iii) the cost of receiving adequate dental care;
- (b) the impact of these cost pressures on the living standards of older Australians and their ability to participate in the community;
- (c) the impact of these cost pressures on older Australians and their families, including caring for their grandchildren; and
- (d) the adequacy of current tax, pension and concession arrangements for older Australians to meet these costs.

The Minister for Fisheries, Forestry and Conservation (Senator Abetz): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Tax Laws Amendment (Simplified GST Accounting) Bill 2007  
Wheat Marketing Amendment Bill 2007.

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*Documents:* Senator Abetz tabled the following documents:

Consideration of legislation—Statements of reasons [2] for introduction and passage of the bills in the 2007 winter sittings.

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

- (a) notes that:
- (i) renewable electricity generators face significant barriers to entry into the electricity market,
  - (ii) households selling electricity into the grid are typically paid low prices that do not fairly reflect the value of zero emission, distributed energy,
  - (iii) feed-in tariffs have secured market incentives, driving an unprecedented expansion of the renewables industry in several European nations, and
  - (iv) policies such as feed-in tariffs and renewable energy targets are intended to foster emerging industries to ensure that deep cuts in greenhouse gas emissions can be achieved in the medium- and long-term; and
- (b) calls on the Government to reject the recommendation of the Prime Ministerial Task Group on Emissions Trading that ‘All Australian schemes that set mandatory targets for deployment of particular technologies should be wound up over time, and new ones forestalled’. (*general business notice of motion no. 809*)

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

- (a) notes that 10 June 2007 marks 40 years since the Israeli occupation of the West Bank, Gaza Strip and Golan Heights; and
- (b) calls on the Australian Government to:
- (i) take action to ensure that Israel complies with United Nations Security Council Resolution 242 passed unanimously in 1967 that calls for a ‘withdrawal of Israel armed forces from territories occupied in the recent conflict’,
  - (ii) ensure that humanitarian relief is provided to those who need it, particularly the children in Palestine,
  - (iii) stop providing arms to Israel, and
  - (iv) play a constructive role to ensure that peace and justice can be achieved in Palestine, Israel and the Middle East. (*general business notice of motion no. 810*)

Senator Milne: To move on 21 June 2007—That the following matter be referred to the Economics Committee for inquiry and report by 6 October 2007:

An assessment of the benefits and costs of introducing renewable energy feed-in tariffs in Australia, including an evaluation of:

- (a) barriers to the expansion of the renewable energy industry in general and within the electricity market in Australia in particular;
- (b) the likelihood that carbon prices generated by an emission trading system will be insufficient to overcome these barriers in the near term; and
- (c) options to link the Mandatory Renewable Energy Target scheme (with an increased target) with feed-in tariffs to guarantee a viable return on investment for investors in a range of prospective renewable energy technologies.

## 12 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 9 OF 2007

The Chair of the Selection of Bills Committee (Senator Parry) tabled the following report:

### SELECTION OF BILLS COMMITTEE

#### REPORT NO. 9 OF 2007

1. The committee met in private session on Tuesday, 12 June 2007 at 4.16 pm.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007 be *referred immediately* to the Community Affairs Committee for inquiry and report by 18 June 2007;
  - (b) the *provisions* of the Australian Citizenship Amendment (Citizenship Testing) Bill 2007 be *referred immediately* to the Legal and Constitutional Affairs Committee for inquiry and report by 31 July 2007; and
  - (c) the *provisions* of the Fisheries Legislation Amendment Bill 2007 and the Fisheries Levy Amendment Bill 2007 be *referred immediately* to the Rural and Regional Affairs and Transport Committee for inquiry and report by 18 June 2007.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2007
  - Agriculture, Fisheries and Forestry Legislation Amendment (2007 Measures No. 1) Bill 2007
  - Corporations (Fees) Amendment Bill 2007
  - Corporations (Review Fees) Amendment Bill 2007
  - Corporations Amendment (Insolvency) Bill 2007
  - Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007
  - Customs Tariff Amendment Bill (No. 1) 2007
  - Defence Force (Home Loans Assistance) Amendment Bill 2007
  - Evidence Amendment (Journalists' Privilege) Bill 2007
  - Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Bill 2007
  - Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007

Financial Framework Legislation Amendment Bill (No. 1) 2007  
 Financial Sector Legislation Amendment (Restructures) Bill 2007  
 Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007  
 Migration (Sponsorship Fees) Bill 2007  
 Migration Amendment (Statutory Agency) Bill 2007  
 Product Stewardship (Oil) Amendment Bill 2007  
 Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment (2007 Budget Measures) Bill 2007  
 Social Security Amendment (Apprenticeship Wage Top-Up for Australian Apprentices) Bill 2007.

*The committee recommends accordingly.*

4. The committee considered a proposal to refer the provisions of the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007 to the Community Affairs Committee, but was unable to reach agreement on whether the bill should be referred.
5. The committee considered a proposal to refer the provisions of the Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007 to the Employment, Workplace Relations and Education Committee, but was unable to reach agreement on whether the bill should be referred.
6. The committee deferred consideration of the following bill to its next meeting: Repatriation of Citizens Bill 2007.

Stephen Parry  
 Chair  
 13 June 2007.

Senator Parry moved—That the report be adopted.

Debate ensued.

Question put and passed.

**13 LEAVE OF ABSENCE**

Senator Parry, by leave, moved—That leave of absence be granted to Senator Nash today, on account of ill health.

Question put and passed.

**14 REGIONAL AUSTRALIA—NEW SOUTH WALES—DESTRUCTIVE FLOODING**

Senator Sandy Macdonald, also on behalf of Senator Campbell, the Minister for Communications, Information Technology and the Arts (Senator Coonan) and Senators Faulkner, Fierravanti-Wells, Forshaw, Heffernan, Hutchins, Nash, Nettle, Payne and Stephens, amended general business notice of motion no. 803 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the extensive and destructive flooding of the New South Wales Central Coast and Hunter region of New South Wales over the long weekend of 9 June to 11 June 2007;
- (b) recognises the pain and loss being experienced by affected communities particularly with respect to the loss of life, property, housing, buildings, roads and community infrastructure;

- (c) congratulates all levels of government and community organisations, particularly police, ambulance, Australian Defence Force, state emergency service personnel from far and wide, rescue crews and all those responding to the human heartache and loss brought about by this natural disaster; and
- (d) acknowledges the enduring capacity of the Australian people to respond to the needs of its community in times of distress.

Question put and passed.

**15 PUBLICATIONS—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Parry, at the request of the Chair of the Standing Committee on Publications (Senator Barnett) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 797—That the Joint Standing Committee on Publications be authorised to hold a public meeting during the sitting of the Senate on Monday, 18 June 2007, from 12.30 pm to 1.30 pm, to take evidence for the committee's inquiry into printing standards for documents presented to Parliament.

Question put and passed.

**16 KERANG TRAIN DISASTER**

Senator Ronaldson, also on behalf of Senator Conroy, the Leader of the Australian Democrats (Senator Allison), the Leader of the Family First Party (Senator Fielding), Senators Fifield, Kemp, McGauran, Patterson, Troeth, Carr, Marshall and Ray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 802—That the Senate sends:

- (a) its sympathies to the families of the 11 people who were tragically killed in the Kerang train disaster;
- (b) a message of support to those who were injured and wishes them a full and speedy recovery;
- (c) its gratitude to the emergency personnel, many of whom were volunteers, who performed with great skill and dedication during the rescue operation; and
- (d) its thanks to the members of the public who offered assistance at the crash site, many of whom had been passengers aboard the train.

Question put and passed.

**17 COMMUNICATIONS—TELSTRA**

Senator Carol Brown, also on behalf of Senator O'Brien, Polley and Sherry, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 801—That the Senate—

- (a) notes:
  - (i) the comments by the Member for Bass, Mr Michael Ferguson, on 17 August 2005 that the 'sale of Telstra will not disadvantage Northern Tasmania',
  - (ii) the announcement by Telstra on 5 June 2007 that it plans to close its Launceston Service Advantage centre, which will result in the loss of 257 jobs,
  - (iii) that, on top of this, a further 20 Telstra technicians' jobs were axed on 6 June 2007, and
  - (iv) the dramatic effect these redundancies will have on the lives of workers and their families; and

- (b) calls on the Minister for Communications, Information Technology and the Arts (Senator Coonan) to join Tasmanian members and senators and the Tasmanian State Government to lobby Telstra to reverse the decision.

Question put.

The Senate divided—

AYES, 34

Senators—

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

NOES, 36

Senators—

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

Question negatived.

18 ENVIRONMENT—WATER MANAGEMENT

Senator Siewert, also on behalf of Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 798—That the Senate—

(a) notes:

- (i) the impact of reduced rainfall on inflows into river systems in northern New South Wales due to the combined effects of climate change and drought,
- (ii) that serious water management issues already exist in these systems, including problems with the over-allocation of water resources, and
- (iii) the economic value of the range of industries that depend on these systems, from dairy farms on the floodplains through to commercial fisheries; and

(b) calls on the Federal Government to:

- (i) abandon the further assessment of damming and extracting water from these northern rivers for additional water supplies for southeast Queensland, and
- (ii) focus its efforts on non-runoff dependent alternative sources to meet increasing demand, such as setting water efficiency standards and water conservation measures.

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

Question put and negatived.

**19 CHILDREN—FOOD ADVERTISING**

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 800—That the Senate—

- (a) recognises that, according to a survey of parents commissioned by the Coalition on Food Advertising to Children:
  - (i) 86.2 per cent support a ban on advertising of unhealthy foods at times when children watch television, and
  - (ii) 88.7 per cent agree that the Government should introduce stronger restrictions on food advertising at times when children are watching television; and
- (b) calls on the Government to support a ban on food advertising during peak viewing times of children.

Question put and negatived.

**20 SCRUTINY OF BILLS—STANDING COMMITTEE—6TH REPORT AND ALERT DIGEST NO. 6 OF 2007**

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

Scrutiny of Bills—Standing Committee—  
6th report of 2007, dated 13 June 2007.  
Alert Digest No. 6 of 2007, dated 13 June 2007.

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

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

Debate ensued.

Question put and passed.

**21 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—REPORT—AUSTRALIAN CRIME COMMISSION—REPORT FOR 2005-06**

The Chair of the Parliamentary Joint Committee on the Australian Crime Commission (Senator Ian Macdonald) tabled the following report and document:

Australian Crime Commission—Joint Statutory Committee—Examination of the annual report for 2005-06 of the Australian Crime Commission—Report, dated June 2007 and Hansard record of proceedings.

Report ordered to be printed on the motion of Senator Ian Macdonald.

Senator Ian Macdonald moved—That the Senate take note of the report.

Question put and passed.

**22 AUSTRALIAN PARLIAMENTARY DELEGATION TO REPUBLIC OF MALTA AND SPAIN AND OFFICIAL VISIT TO KUWAIT—DOCUMENT**

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

Republic of Malta and Spain—Report of the Australian parliamentary delegation, 14 to 24 April 2007 and official visit to Kuwait by the President of the Senate, 24 to 26 April 2007, dated June 2007.

**23 DEPARTMENT OF THE SENATE—SURVEY OF SENATORS' SATISFACTION WITH DEPARTMENTAL SERVICES—DOCUMENT**

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

Department of the Senate—Senators' satisfaction with departmental services—Report prepared by Eureka Strategic Research, dated May 2007.

**24 AUDITOR-GENERAL—AUDIT REPORT NO. 43 OF 2006-07—DOCUMENT**

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

Auditor-General—Audit report no. 43 of 2006-07—Performance audit—Managing security issues in procurement and contracting.

**25 NATIONAL LIBRARY OF AUSTRALIA—SENATE MEMBER OF COUNCIL**

The Acting Deputy President (Senator Crossin) informed the Senate that the President had received a letter from the Leader of the Government in the Senate (Senator Minchin) nominating a senator to be a member of the Council of the National Library of Australia.

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck), by leave, moved—That, in accordance with the provisions of the *National Library Act 1960*, the Senate elect Senator Trood to be a member of the Council of the National Library of Australia on and from 13 June 2007, for a period of 3 years.

Question put and passed.

**26 DOCUMENTS**

The following documents were tabled by the Clerk:

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

Auslink (National Land Transport) Act—Variation of AusLink Roads to Recovery List Instrument No. 2007/1 [F2007L01583]\*.

Australian National University Act—

ANU College Governance Statute 2006—ANU College Governance Rules 2007 [F2007L01680]\*.

Membership of the Council Statute 2004—Membership of the Council Rules 2007 [F2007L01679]\*.

Residential Colleges Affiliation Statute 2007 [F2007L01681]\*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos—

CASA 143/07—Instructions – for approved use of P-RNAV procedures [F2007L01582]\*.

CASA 172/07—Direction – number of cabin attendants [F2007L01462]\*.



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

AD/A330/45 Amdt 3—Wing Rib 6 [F2007L01600]\*.

AD/A330/74—Fuselage Longitudinal Joint at Stringer 28 RH [F2007L01563]\*.

AD/AS 355/60 Amdt 2—Tail Rotor Blade Trailing Edge [F2007L01562]\*.

AD/ECUREUIL/122 Amdt 1—Emergency Flotation Gear [F2007L01599]\*.

AD/ERJ-170/11—Hydraulic Hose Clamps [F2007L01598]\*.

AD/LJ45/10—APU Fuel Shutoff Valve [F2007L01593]\*.

## 106—

AD/MAKILA/7 Amdt 1—Digital Engine Control Unit Software [F2007L01592]\*.

AD/MAKILA/9—Engine Control Unit – Comparator/Selection Board [F2007L01591]\*.

AD/TAY/9—Ultrasonic Inspection of LP Compressor Rotor Blades [F2007L01588]\*.

Crimes (Overseas) Act—Select Legislative Instrument 2007 No. 140—Crimes (Overseas) (Declared Foreign Countries) Amendment Regulations 2007 (No. 1) [F2007L01543]\*.

Customs Act—Tariff Concession Order 0703649 [F2007L01643]\*.

Customs Administration Act—Select Legislative Instrument 2007 No. 141—Customs Administration Amendment Regulations 2007 (No. 1) [F2007L01604]\*.

## Financial Management and Accountability Act—

Financial Management and Accountability Determination 2007/02 – Commonwealth Superannuation Administration Special Account Establishment 2007 [F2007L01694]\*.

Financial Management and Accountability Determination 2007/03 – ComSuper Special Account Variation and Abolition 2007 [F2007L01695]\*.

Financial Management and Accountability Determination 2007/04 – Australian Reward Investment Alliance Special Account Establishment 2007 [F2007L01693]\*.

Financial Management and Accountability Determination 2007/05 – PSS Special Account Variation and Abolition 2007 [F2007L01696]\*.

Medicare Australia Act—Medicare Australia (Functions of Chief Executive Officer) Amendment Direction 2007 (No. 1) [F2007L01674]\*.

Migration Act—Migration Regulations—Instrument IMMI 06/090—Residential Postcodes, Skilled Occupations, Relevant Assessing Authorities and Points [F2007L01687]\*.

## National Health Act—

Declaration No. PB 43 of 2007 [F2007L01698]\*.

Determination No. PB 45 of 2007 [F2007L01700]\*.

*Governor-General's Proclamations—Commencement of Provisions of Acts**Australian Citizenship Act 2007—Sections 2A to 54—1 July 2007 [F2007L01653]\*.**Export Finance and Insurance Corporation Amendment Act 2007—Schedule 1—1 July 2007 [F2007L01579]\*.*

\* Explanatory statement tabled with legislative instrument.

**27 EVIDENCE AMENDMENT (JOURNALISTS' PRIVILEGE) BILL 2007**  
**FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE MANAGEMENT**  
**SYSTEM AND OTHER MEASURES) BILL 2007**  
**FISHERIES LEGISLATION AMENDMENT BILL 2007**  
**FISHERIES LEVY AMENDMENT BILL 2007**  
**MIGRATION AMENDMENT (STATUTORY AGENCY) BILL 2007**

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

Message no. 575, dated 12 June 2007—A Bill for an Act to amend the *Evidence Act 1995*, and for related purposes.

Message no. 577, dated 12 June 2007—A Bill for an Act to amend the law in relation to family assistance, and for related purposes.

Message no. 573, dated 12 June 2007—A Bill for an Act to amend legislation about fisheries, and for related purposes.

Message no. 574, dated 12 June 2007—A Bill for an Act to amend the *Fisheries Levy Act 1984*, and for related purposes.

Message no. 576, dated 12 June 2007—A Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) 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 Colbeck moved—That these bills be now read a second time.

On the motion of Senator Colbeck the debate was adjourned till the next day of sitting.

*Consideration of legislation:* Senator Colbeck moved—That the Fisheries Legislation Amendment Bill 2007 and the Fisheries Levy Amendment Bill 2007 be listed on the *Notice Paper* as one order of the day, and the remaining bills be listed as separate orders of the day.

Question put and passed.

**28 WORKPLACE RELATIONS AMENDMENT (A STRONGER SAFETY NET) BILL 2007**

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

Message no. 571, dated 12 June 2007—A Bill for an Act to amend the *Workplace Relations Act 1996*, and for other purposes.

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) 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 Colbeck moved—That this bill be now read a second time.

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

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On the motion of Senator Colbeck the debate was adjourned till the next day of sitting.

29 **HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION)**  
**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.

Question put and passed.

Bill read a second time.

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*Before 5 pm—*

30 **FIRST SPEECH**

Pursuant to order (*see entry no. 14, 12 June 2007*), Senator Birmingham made his first speech.

31 **HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION)**  
**BILL 2007**

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

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*In the committee*

Bill taken as a whole by leave.

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

Schedule 1, page 3 (after line 12), after item 2, insert:

**2A Paragraph 10AA(7) (definition of spouse)**

Repeal the definition, substitute:

*spouse*, in relation to a person, includes:

- (a) a person who is legally married to, and is not living, on a permanent basis, separately and apart from, that person; and
- (b) another person, who although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person; and
- (c) a person in an interdependency relationship as defined in section 10AAA.

Schedule 1, page 3 (after line 12), after item 2, insert:

**2B After section 10AA**

Insert:

**10AAA Interdependency relationship**

- (1) Two persons (whether or not related by family) have an *interdependency relationship* under this section if:
  - (a) they have a close personal relationship; and

- (b) they live together; and
  - (c) one or each of them provides the other with financial support; and
  - (d) one or each of them provides the other with domestic support and personal care.
- (2) In addition, 2 persons (whether or not related by family) also have an interdependency relationship under this section if:
- (a) they have a close personal relationship; and
  - (b) they do not satisfy one or more of the requirements of an interdependency relationship mentioned in paragraphs (1)(b), (c) and (d); and
  - (c) the reason they do not satisfy those requirements is that either or both of them suffer from a physical, intellectual or psychiatric disability.
- (3) The regulations may specify:
- (a) matters that are, or are not, to be taken into account in determining under subsection (1) or (2) whether 2 persons have an interdependency relationship under this section; and
  - (b) circumstances in which 2 persons have, or do not have, an interdependency relationship under this section.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

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

### 32 NATIVE TITLE AMENDMENT (TECHNICAL AMENDMENTS) 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.

Question put and passed.

Bill read a second time.

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

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*In the committee*

Bill taken as a whole by leave.

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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.

Senator Johnston moved the following amendments together by leave:

No. 1—Subclause 2(1), page 2 (table items 2 to 4), omit the table items, substitute:

2. Schedule 1, items 1 to 83	A single day to be fixed by Proclamation.  However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.
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3. Schedule 1, items 83A to 83C	The day after this Act receives the Royal Assent.
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4. Schedule 1, items 84 to 89	At the same time as the provision(s) covered by table item 2.
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4A. Schedule 1, items 90 and 91	Immediately after the commencement of Schedule 2 to the <i>Native Title Amendment Act 2007</i> .
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4B. Schedule 1, items 91A to 91E	At the same time as the provision(s) covered by table item 3.
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4C. Schedule 1, items 91F to 139	At the same time as the provision(s) covered by table item 2.
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No. 2—Subclause 2(1), page 2 (table item 10), omit the table item, substitute:

10. Schedule 3, items 8 to 10	At the same time as the provision(s) covered by table item 5.
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10A. Schedule 3, item 10A	Immediately after the commencement of 1 July 2007 Schedule 1 to the <i>Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006</i> .
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10B. Schedule 3, items 11 and 12	At the same time as the provision(s) covered by table item 5.
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No. 3—Subclause 2(1), page 2 (at the end of the table), add:

12. Schedule 5	At the same time as the provision(s) covered by table item 2.
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No. 4—Schedule 1, item 22, page 8 (lines 21 to 23), omit the item, substitute:

**22 Subparagraph 24CL(2)(b)(ii)**

Omit “subsection 190D(2)”, substitute “subsection 190F(1)”.

**22A After subparagraph 24CL(2)(b)(ii)**

Insert:

- (ia) the claim is accepted by the Registrar for registration as a result of notification given to the Registrar by the NNTT under section 190E on application under that section, where the application was made not more than 28 days after the notice under subsection 190D(1) was given; or

No. 5—Schedule 1, item 31, page 10 (lines 9 to 11), omit the item, substitute:

**31 Subparagraph 24FE(b)(ii)**

Omit “subsection 190D(2)”, substitute “subsection 190F(1)”.

**31A After subparagraph 24FE(b)(ii)**

Insert:

- (ia) the claim is accepted by the Registrar for registration as a result of notification given to the Registrar by the NNTT under section 190E on application under that section, where the application was made not more than 28 days after the notice under subsection 190D(1) was given; or

No. 6—Schedule 1, item 69, page 19 (cell at table item 5, 3rd column), omit the cell, substitute:

- (a) direct the ADI to pay the amount secured (the *original amount*) to the Registrar; and
- (b) pay an amount equal to the amount determined to the ultimate beneficiary; and
- (c) pay the remainder to the person who secured the original amount by bank guarantee or, if that person no longer exists, apply to the Federal Court for a direction as to its payment.

No. 7—Schedule 1, item 69, pages 20 and 21 (cell at table item 8, 3rd column), omit the cell, substitute:

- (a) direct the ADI to pay the secured amount (the *original amount*) to the Registrar; and
- (b) pay an amount to the ultimate beneficiary equal to the amount the court orders to be paid; and
- (c) if the amount to be paid to the ultimate beneficiary is less than the original amount—pay the remainder to the person who secured the original amount by bank guarantee or, if that

person no longer exists, the person to whom the Federal Court orders it to be paid.

No. 8—Schedule 1, item 69, page 22 (line 4), omit “item 9”, substitute “items 5, 8 and 9”.

No. 9—Schedule 1, item 78, page 24 (lines 6 and 7), omit paragraph 64(3)(b), substitute:

- (b) the NNTT is, under section 190E, reconsidering the claim made in the application; or

No. 10—Schedule 1, page 26 (after line 14), after item 83, insert:

**83A Paragraph 66C(1)(c)**

Omit “and”.

**83B Paragraph 66C(1)(d)**

Repeal the paragraph.

**83C Paragraph 66C(2)(b)**

Omit “paragraph 94C(1)(d)”, substitute “paragraph 94C(1)(c)”.

No. 11—Schedule 1, item 88, page 27 (line 22), omit paragraph 84D(2)(b), substitute:

- (b) on the application of a party to the proceedings; or

No. 12—Schedule 1, item 88, page 27 (lines 25 to 32), omit subsection 84D(3), substitute:

- (3) Subsection (4) applies if:
  - (a) an application does not comply with section 61 (which deals with the basic requirements for applications) because it was made by a person or persons who were not authorised by the native title claim group to do so; or
  - (b) a person who is or was, or one of the persons who are or were, the applicant in relation to the application has dealt with, or deals with, a matter arising in relation to the application in circumstances where the person was not authorised to do so.

Note: Section 251B states what it means for a person or persons to be authorised to make native title determination applications or compensation applications or to deal with matters arising in relation to them.

No. 13—Schedule 1, page 28 (after line 25), after item 91, insert:

**91A Paragraphs 94C(1)(b), (c) and (d)**

Repeal the paragraphs, substitute:

- (b) it is apparent from the timing of the application that it is made in response to a future act notice given in relation to land or waters wholly or partly within the area; and
- (c) the future act requirements are satisfied in relation to each future act identified in the future act notice; and

**91B After subsection 94C(1)**

Insert:

- (1A) For the purposes of paragraph (1)(b), it is apparent from the timing of an application by a person for a determination of native title in relation to an area that it is made in response to a future act notice to which the current law applies if:
- (a) the future act notice is given in relation to land or waters wholly or partly within the area; and
  - (b) the application is made during the period of 3 months after the notification day specified in the future act notice; and
  - (c) the person becomes a registered native title claimant in relation to any land or waters that will be affected by the act, before the end of 4 months after the notification day specified in the future act notice.
- (1B) For the purposes of paragraph (1)(b), it is apparent from the timing of an application by a person for a determination of native title in relation to an area that it is made in response to a future act notice to which the pre-1998 law applies if:
- (a) the future act notice is given in relation to land or waters wholly or partly within the area; and
  - (b) the person becomes a registered native title claimant in relation to any land or waters that will be affected by the act, within the period of 2 months starting when the notice is given.
- (1C) The regulations may prescribe, for the purposes of paragraph (1)(b), other circumstances in which it is taken to be apparent from the timing of an application by a person for a determination of native title in relation to an area that it is made in response to a future act notice, including circumstances in which it is taken to be apparent in relation to a future act notice given under alternative provisions.
- (1D) For the purposes of paragraph (1)(c), the ***future act requirements are satisfied*** in relation to a future act notice to which the current law applies if one of the following paragraphs is satisfied in relation to each future act identified in the notice:
- (a) subsection 32(2) (which applies if no objection is made after the giving of a notice that the act attracts the expedited procedure) allows the act to be done;
  - (b) a determination is made under subsection 32(4) that the act is an act attracting the expedited procedure;
  - (c) native title parties have lodged one or more objections in relation to the act under subsection 32(3), but all such objections are withdrawn under subsection 32(6);
  - (d) an agreement of the kind mentioned in paragraph 31(1)(b) is made;
  - (e) a determination is made under section 36A or 38 that the act may be done, or may be done subject to conditions being complied with;
  - (f) a determination is made under section 36A or 38 that the act must not be done;



- (g) a determination that the act may be done, or may be done subject to conditions being complied with or must not be done, is declared to be overruled in accordance with section 42;
  - (h) a circumstance occurs in which, under the regulations, the future act requirements are satisfied.
- (1E) For the purposes of paragraph (1)(c), the ***future act requirements are satisfied*** in relation to a future act notice to which the pre-1998 law applies if one of the following paragraphs is satisfied in relation to each future act identified in the notice:
- (a) subsection 32(2) of the pre-1998 law (which applies if no objection is made after the giving of a notice that the act attracts the expedited procedure) allows the act to be done;
  - (b) a determination is made under subsection 32(4) of the pre-1998 law that the act is an act attracting the expedited procedure;
  - (c) a copy of an agreement that the act may be done, or may be done subject to conditions being complied with, is given to the arbitral body under section 34 of the pre-1998 law;
  - (d) a determination is made under section 38 of the pre-1998 law that the act may be done, or may be done subject to conditions being complied with;
  - (e) a determination is made under section 38 of the pre-1998 law that the act must not be done;
  - (f) a determination that the act may be done, or may be done subject to conditions being complied with or must not be done, is declared to be overruled in accordance with section 42 of the pre-1998 law;
  - (g) a circumstance occurs in which, under the regulations, the future act requirements are satisfied.
- (1F) The regulations may prescribe, for the purposes of paragraphs (1D)(h) and (1E)(g), other circumstances in which ***future act requirements are satisfied***.
- (1G) The regulations may prescribe circumstances in which ***future act requirements are satisfied*** in relation to a future act notice given under alternative provisions.

**91C Subsection 94C(6)**

Insert:

***future act notice to which the current law applies*** means a future act notice to which the provisions in Subdivision P of Division 3 of Part 2 of this Act apply.

**91D Subsection 94C(6)**

Insert:

***future act notice to which the pre-1998 law applies*** means a future act notice to which the provisions in Subdivision B of Division 3 of Part 2 of the *Native Title Act 1993* apply, as in force immediately before the commencement of the *Native Title Amendment Act 1998* (including as it applies in accordance with Schedule 5 of that Act).

**91E Subsection 94C(6)**

Insert:

*pre-1998 law* means the *Native Title Act 1993*, as in force immediately before the commencement of the *Native Title Amendment Act 1998* (including as it applies in accordance with Schedule 5 of that Act).

No. 14—Schedule 1, page 28 (after line 25), after item 91, insert:

**91F After section 96**

Insert:

**96A Powers of Registrar—ILUAs and future act negotiations**

The Registrar has the powers set out in Part 2.

No. 15—Schedule 1, page 28 (after line 25), after item 91, insert:

**91G After subsection 108(1A)**

Insert:

*Reconsideration of claims*

(1AA) The Tribunal has the functions in relation to applications for the reconsideration of claims made to the Tribunal under section 190E that are given to it under that section.

No. 16—Schedule 1, page 28 (after line 25), after item 91, insert:

**91H After paragraph 123(1)(ca)**

Insert:

(cb) the person who is to constitute the Tribunal for the purposes of reconsidering a decision of the Registrar not to accept a claim;

No. 17—Schedule 1, page 29 (after line 27), after item 96, insert:

**96A Subparagraph 186(1)(g)(i)**

After “the Registrar”, insert “or the NNTT”.

No. 18—Schedule 1, item 97, page 29 (lines 28 to 30), omit the item, substitute:

**97 Paragraph 190(1)(a)**

After “under section 190A”, insert “or in response to notification by the NNTT under section 190E”.

No. 19—Schedule 1, item 99, page 30 (lines 12 to 14), omit the item, substitute:

**99 Paragraph 190(3)(b)**

After “under section 190A”, insert “or in response to notification by the NNTT under section 190E”.

No. 20—Schedule 1, item 102, page 32 (lines 15 to 38), omit paragraph 190A(6A)(d), substitute:

(d) the Registrar is satisfied that the only effect of the amendment is to do one or more of the following:

- (i) reduce the area of land or waters covered by the application, in circumstances where the information and map contained in the application, as amended, are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters;

- (ii) remove a right or interest from those claimed in the application;
- (iii) change the name in the application of the representative body, or one of the representative bodies, recognised for the area covered by the application, in circumstances where the body's name has been changed or the body has been replaced with another representative body or a body to whom funding is made available under section 203FE;
- (iv) change the name in the application of the body to whom funding was made available under section 203FE in relation to all or part of the area covered by the application, in circumstances where the body's name has been changed or the body has been replaced by another such body or a representative body;
- (v) alter the address for service of the person who is, or persons who are, the applicant.

No. 21—Schedule 1, item 107, page 33 (line 27) to page 34 (line 17), omit section 190D, substitute:

**190D If the claim cannot be registered—notice of decision**

- (1) If the Registrar does not accept the claim for registration, the Registrar must, as soon as practicable, give the applicant and the Federal Court written notice of his or her decision not to accept the claim, including:
  - (a) if the Registrar does not accept the claim because the Registrar is notified by the NNTT under section 190E that he or she should not do so—a copy of the NNTT's statement of reasons for its decision; or
  - (b) otherwise—a statement of the Registrar's reasons for his or her decision.

*Content of notice where failure to satisfy physical connection test*

- (2) If the only reason why the claim is not accepted for registration is that the condition in subsection 190B(7) (which is about a physical connection with the claim area) is not satisfied, the notice must advise the applicant of the applicant's right to make an application to the Federal Court under section 190F and of the power of the Court to make an order in accordance with that section in respect of the application.

*Statements of reasons must specify whether section 190B satisfied*

- (3) If the Registrar's decision not to accept the claim is not in response to notification by the NNTT under section 190E, the Registrar's statement of reasons for the decision must include a statement on:
  - (a) whether, in the opinion of the Registrar, the claim for registration satisfies all of the conditions in section 190B; and
  - (b) whether, in the opinion of the Registrar, it is not possible to determine whether the claim for registration satisfies all of the conditions in section 190B because of a failure to satisfy section 190C.

No. 22—Schedule 1, item 107, page 34 (line 18) to page 35 (line 2), omit section 190E, substitute:

**190E If the claim cannot be registered—reconsideration by the NNTT**

*Application to reconsider a claim*

- (1) If the Registrar gives the applicant a notice under subsection 190D(1), then, subject to subsections (3) and (4), the applicant may apply to the NNTT to reconsider the claim made in the application.
- (2) The application must:
  - (a) be in writing; and
  - (b) be made within 42 days after the notice under subsection 190D(1) is given; and
  - (c) state the basis on which the reconsideration is sought.
- (3) The applicant may not make an application to the NNTT for reconsideration of the claim if the applicant has already made an application to the Federal Court under subsection 190F(1) for review of the decision.
- (4) The applicant may apply to the NNTT for reconsideration of the claim no more than once.

*Constitution of NNTT for purposes of reconsidering the claim*

- (5) For the purposes of reconsidering the claim, the NNTT must be constituted by a single member.
- (6) The member of the NNTT who reconsiders the claim may not take any part in the proceeding in relation to the claim (including any review or inquiry in relation to the claim), unless the parties to the proceeding otherwise agree.

*NNTT's reconsideration of the claim*

- (7) In reconsidering the claim:
  - (a) the NNTT must have regard to any information to which the Registrar was required to have regard under subsections 190A(3) to (5) in considering the claim; and
  - (b) the NNTT may have regard to any other information which the NNTT regards as appropriate in reconsidering the claim.

*Effect of certain notices*

- (8) If, either before the NNTT begins to do so or while it is doing so, a notice is given in accordance with:
  - (a) paragraph 24MD(6B)(c); or
  - (b) section 29; or
  - (c) a provision of a law of a State or Territory that corresponds to section 29 and is covered by a determination in force under section 43; or
  - (d) a provision of a law of a State or Territory that corresponds to section 29 and is covered by a determination in force under section 43A;

in relation to an act affecting any of the land or waters in the area covered by the application, the member reconsidering the claim must use his or her best endeavours to finish reconsidering the claim by the end of:

- (e) in a paragraph (a) case—2 months after the notice is given; or
- (f) in a paragraph (b) case—4 months after the notification day specified in the notice; or
- (g) in a paragraph (c) case—the period, in the law of the State or Territory, that corresponds to the period of 4 months mentioned in paragraph 30(1)(a); or
- (h) in a paragraph (d) case—the period at the end of which any person who is a registered native title claimant or registered native title body corporate has a right to be consulted about the act, to object to the act or to participate in negotiations about the act.

*Otherwise, claim to be reconsidered as soon as is practicable*

- (9) In any other case, the NNTT must finish reconsidering the claim as soon as is practicable.

*Notifying the Registrar of the NNTT's decision*

- (10) The NNTT must notify the Registrar that the Registrar should accept the claim for registration if the claim satisfies all of the conditions in:
  - (a) section 190B (which deals mainly with the merits of the claim); and
  - (b) section 190C (which deals with procedural and other matters).
- (11) In any other case, the NNTT must notify the Registrar that the Registrar should not accept the claim, and include in that notice a statement of the NNTT's reasons for its decision. The statement of reasons for the decision must include a statement on:
  - (a) whether, in the opinion of the member who reconsidered the claim, the claim for registration satisfies all of the conditions in section 190B; and
  - (b) whether, in the opinion of the member who reconsidered the claim, it is not possible to determine whether the claim for registration satisfies all of the conditions in section 190B because of a failure to satisfy section 190C.
- (12) For the purposes of subsection (10), sections 190B and 190C apply as if a reference to the Registrar in those sections were a reference to the NNTT.
- (13) The Registrar must comply with a notice given to the Registrar under subsection (10) or (11).

No. 23—Schedule 1, item 107, page 35 (line 7), at the end of subsection 190F(1), add “, provided the NNTT is not reconsidering the claim under section 190E at the time the application is made”.

No. 24—Schedule 1, item 107, page 36 (line 5), omit “, in the opinion of the Registrar”, substitute “, in the opinion of the Registrar or, if the claim is reconsidered under section 190E, of the member of the NNTT reconsidering the claim”.

No. 25—Schedule 1, page 37 (after line 14), after item 111, insert:

**111A At the end of section 199B**

Add:

*Updating parties' contact details*

- (4) If a party to an agreement notifies the Registrar of a change in the address at which the party can be contacted, the Registrar must update the Register to reflect the change.

No. 26—Schedule 1, item 123, page 40 (lines 19 to 24), omit the item, substitute:

**123 Application of items 22, 22A, 23, 31, 31A, 32, 78, 84, 91G, 91H, 96A, 97, 98, 99, 101, 102, 103, 104 and 107**

The amendments made by items 22, 22A, 23, 31, 31A, 32, 78, 84, 91G, 91H, 96A, 97, 98, 99, 101, 102, 103, 104 and 107 apply in relation to claims in a native title determination application made or amended on or after the commencing day.

No. 27—Schedule 1, page 41 (after line 29), after item 132, insert:

**132A Application of items 83A to 83C, and items 91A to 91E**

The amendments made by items 83A to 83C, and by items 91A to 91E of this Schedule apply to an application under section 61 of the *Native Title Act 1993*, regardless of whether it is made before or after the commencing day.

No. 28—Schedule 1, item 136, page 42 (lines 12 to 18), omit the item, substitute:

**136 Effect of amendments of sections 190A to 190D of the Principal Act on transitional arrangements in the *Native Title Amendment Act 2007***

To avoid doubt, the amendments made in relation to sections 190A to 190D of the Principal Act in items 22, 22A, 23, 31, 31A, 32, 78, 84, 91G, 91H, 96A, 97, 98, 99, 101, 102, 103, 104 and 107 of this Schedule (including the insertion of sections 190E and 190F) are to be disregarded for the purposes of items 89 and 90 of Schedule 2 to the *Native Title Amendment Act 2007*.

No. 29—Schedule 2, item 4, page 46 (lines 16 and 17), omit the note, substitute:

Note 1: Provisions similar to Division 4 of Part 3 of the *Commonwealth Authorities and Companies Act 1997* and Schedule 2 to that Act already apply to a representative body registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

Note 2: Similar provisions already apply under the *Corporations Act 2001* to representative bodies that are companies incorporated under that Act.

No. 30—Schedule 3, item 1, page 55 (lines 22 to 24), omit paragraph 56(4)(c), substitute:

- (c) the determination by the Federal Court of a prescribed body corporate to replace the trustee, and any other matter in relation to the replacement of the trustee; and

No. 31—Schedule 3, item 1, page 55 (lines 29 to 32), omit paragraph 56(4)(e), substitute:

- (e) the determination by the Federal Court of a prescribed body corporate to perform the functions mentioned in subsection 57(3) once the trust is terminated; and

No. 32—Schedule 3, item 2, page 56 (lines 7 to 17), omit paragraph 56(7)(a), substitute:

- (a) the determination by the Federal Court of a prescribed body corporate to hold the rights and interests from time to time comprising the native title in trust for the common law holders where:
  - (i) a determination is made, either under this section or under regulations made for the purposes of this section, that the rights and interests are to be held by the common law holders; and
  - (ii) the common law holders wish a prescribed body corporate to instead hold those rights and interests in trust; and

No. 33—Schedule 3, item 5, page 57 (lines 2 to 7), omit section 59, substitute:

**59 Kinds of prescribed bodies corporate may be determined**

- (1) The regulations may prescribe the kinds of body corporate that may be determined under paragraph 56(2)(b) or 57(2)(b).
- (2) The regulations may prescribe the body corporate, or the kinds of body corporate, that may be determined under paragraph 57(2)(c).
- (3) The regulations may prescribe the body corporate, or the kinds of body corporate, that may be determined under paragraph 56(4)(c) or (e), 56(7)(a) or 60(b).

No. 34—Schedule 3, item 6, page 57 (lines 19 to 21), omit paragraph 60(b), substitute:

- (b) the determination by the Federal Court of the replacement PBC; and

No. 35—Schedule 3, item 7, page 59 (lines 29 and 30), omit paragraph 60AC(5)(a).

No. 36—Schedule 3, item 8, page 60 (line 19), omit “another”, substitute “a”.

No. 37—Schedule 3, item 8, page 60 (line 19), omit “appointed as”, substitute “determined to be”.

No. 38—Schedule 3, page 60 (after line 31), after item 10, insert:

**10A Section 253 (definition of *registered native title body corporate*)**

Repeal the definition, substitute:

*registered native title body corporate* means:

- (a) a prescribed body corporate whose name and address are registered on the National Native Title Register under paragraph 193(2)(e) or subsection 193(4); or
- (b) a body corporate whose name and address are registered on the National Native Title Register under paragraph 193(2)(f).

No. 39—Schedule 3, item 11, page 61 (lines 3 to 11), omit the item, substitute:

**11 Application of items 1, 5 and 6**

- (1) To avoid doubt, nothing in the amendments made by items 1, 5 and 6 of this Schedule is intended to affect:
  - (a) regulations made under section 56, 59 or 60 of the *Native Title Act 1993* that were in force before, or are in force on or after, the commencement of this Schedule; or

- (b) anything done under those regulations.
- (2) Nothing in paragraph (1)(a) affects the power to amend or repeal regulations mentioned in that paragraph.

No. 40—Page 65 (after line 9), at the end of the bill, add:

**Schedule 5—Applications not considered or reconsidered  
under items 89 and 90 of Schedule 2 to the Native  
Title Amendment Act 2007**

**1 Applications not considered or reconsidered under items 89 and 90  
of Schedule 2 to the *Native Title Amendment Act 2007***

- (1) This item applies to a native title determination application amended before the day on which this item commences by a person or persons claiming to hold native title if:
  - (a) the application as amended is not one to which item 89 or 90 of Schedule 2 to the *Native Title Amendment Act 2007* applies; and
  - (b) either:
    - (i) the Registrar has decided not to accept the claim made in the application, as amended, for registration before the day on which this item commences; and
    - (ii) the decision of the Registrar is one to which section 190D of the *Native Title Act 1993*, as in force immediately before the commencement of Schedule 2 to the *Native Title Amendment Act 2007*, applies;
  - or:
    - (iii) the Registrar has not yet decided whether to accept the claim made in the application, as amended, for registration by the day on which this item commences; and
    - (iv) section 190D of the *Native Title Act 1993*, as in force immediately before the commencement of Schedule 2 to the *Native Title Amendment Act 2007*, will apply if the Registrar decides not to accept the claim; and
  - (c) the claim is not on the Register of Native Title Claims on the day on which this item commences.
- (2) The Registrar must:
  - (a) reconsider the claim under section 190A, as in force immediately before the commencement of this item or, if the claim has not already been considered under that section, consider the claim under that section; and
  - (b) use his or her best endeavours to finish doing so by the end of one year after the day on which this item commences.

If the Registrar does not do so by that time, the Registrar must reconsider or consider (as the case requires) the claim under that section as soon as reasonably practicable afterwards.

- (3) If, either before the Registrar begins to reconsider, or consider, the claim in accordance with subitem (2), or while the Registrar is doing so, a notice is given in accordance with:
  - (a) paragraph 24MD(6B)(c), as in force immediately before the commencement of this item; or



- (b) section 29, as in force at that time; or
- (c) a provision of a law of a State or Territory that corresponds to section 29, as in force at that time, and is covered by a determination in force under section 43, as in force at that time; or
- (d) a provision of a law of a State or Territory that corresponds to section 29, as in force at that time, and is covered by a determination in force under section 43A, as in force at that time;

in relation to an act affecting any of the land or waters in the area covered by the application, the Registrar must use his or her best endeavours to finish considering the claim under section 190A, as in force at that time, by the end of:

- (e) in a paragraph (a) case—2 months after the notice is given; or
  - (f) in a paragraph (b) case—4 months after the notification day specified in the notice; or
  - (g) in a paragraph (c) case—the period, in the law of the State or Territory, that corresponds to the period of 4 months after the notification day specified in a notice under section 29, as in force at that time; or
  - (h) in a paragraph (d) case—the period at the end of which any person who is a registered native title claimant or registered native title body corporate has a right to be consulted about the act, to object to the act or to participate in negotiations about the act.
- (4) In reconsidering, or considering, a claim in accordance with subitem (2) or (3), the Registrar must:
- (a) in addition to having regard to information in accordance with subsection 190A(3), as in force immediately before the commencement of this item, also have regard to any information provided by the applicant after the application was made; and
  - (b) apply section 190A, as in force at that time, as if the conditions in sections 190B and 190C, as in force at that time, requiring that the application:
    - (i) contain or be accompanied by certain information or other things; or
    - (ii) be certified or have other things done in relation to it; also allowed the information or other things to be provided, or the certification or other things to be done, by the applicant or another person after the application is made; and
  - (c) for the purposes of paragraphs (a) and (b) of this subitem, advise the applicant that the Registrar is reconsidering, or considering, the claim, and allow the applicant a reasonable opportunity to provide any further information or other things, or to have any things done, in relation to the application.
- (5) If the claim does not satisfy all of the conditions in sections 190B and 190C, as in force immediately before the commencement of this item:
- (a) the Registrar must give written notice as required by subsection 190D(1), as in force at that time; and

- (b) the other provisions of section 190A to 190D, as in force at that time, apply as if the notice given under paragraph (a) were given under subsection 190D(1), as in force at that time; and
- (c) after the Registrar has complied with subitems (2) to (4) and this subitem (in so far as they are applicable), the Registrar is taken to have complied with section 190A.

Senator Ludwig moved the following amendment to Senator Johnston's proposed amendment no. 11:

Schedule 1, item 88, page 27 (line 22), after "proceedings", insert "if that party has shown cause to the Federal Court as to why the order should be made".

Debate ensued.

Question—That Senator Ludwig's amendment to Senator Johnston's proposed amendment no. 11 be agreed to—put and negatived.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 62, 63 and 127.

Schedule 1, items 62, 63 and 127 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 138 and 139.

Schedule 1, items 138 and 139 agreed to.

Senator Ludwig moved the following amendment:

Schedule 3, item 5, page 57 (after line 7), at the end of section 59, add:

- (4) The regulations must prescribe that a body corporate with members who do not meet the Indigeneity requirement specified in section 29-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* is not entitled to become a prescribed body corporate.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

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At 6.50 pm—

**33 GOVERNMENT DOCUMENTS—CONSIDERATION**

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

*Renewable Energy (Electricity) Act 2000*—Report for 2006 on the operation of the Act. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Government response to reports by the Commonwealth Ombudsman—Personal identifiers 138/07 to 199/07, dated 12 June 2007. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Reports by the Commonwealth Ombudsman—Personal identifiers 138/07 to 199/07. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

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

Australian Livestock Export Corporation Limited (Livecorp)—Report for 2005-06. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

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

*Migration Act 1958*—Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days—Report for the period 1 November 2006 to 28 February 2007. Motion to take note of document moved by Senator Bartlett and agreed to.

*Migration Act 1958*—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 November 2006 to 28 February 2007. Motion to take note of document moved by Senator Bartlett and agreed to.

General business orders of the day nos 18, 20 to 24, 26 and 29 relating to government documents were called on but no motion was moved.

**34 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.54 pm till Thursday, 14 June 2007 at 9.30 am.

**35 ATTENDANCE**

Present, all senators except Senator Nash (on leave).

**HARRY EVANS**  
Clerk of the Senate