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Contents

1	Meeting of Senate	3985
2	Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Bill 2007 Therapeutic Goods Amendment Bill 2007.....	3985
3	Order of Business—Rearrangement.....	3985
4	Workplace Relations Amendment (A Stronger Safety Net) Bill 2007.....	3985
5	Order of Business—Rearrangement.....	3991
6	National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007.....	3992
7	Matters of Public Interest.....	3995
8	Questions.....	3995
9	Communications—Broadband—Answers to Questions	3995
10	Petition.....	3996
11	Notices.....	3996
12	Postponements.....	3997
13	Independent Contractors Amendment Bill 2007 (No. 2).....	3997
14	Death of Mr George Burarrawanga	3998
15	Foreign Affairs—Mr Alan Johnston.....	3998
16	Environment—Climate Change	3999
17	Environment—Proposed Anvil Hill Coal Mine—Proposed Order for Production of Documents	3999
18	Postponement	4000
19	Environment—Tasmania—Proposed Pulp Mill	4000
20	Notice	4001
21	Scrutiny of Bills—Standing Committee—7th Report and Alert Digest No. 7 of 2007.....	4001
22	Senators' Interests—Standing Committee—Documents.....	4001
23	Environment, Communications, Information Technology and the Arts— Standing Committee—Report—Australia's Indigenous Visual Arts and Craft Sector.....	4001

24	Rural and Regional Affairs and Transport—Standing Committee— Report—Administration of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and Australian Quarantine and Inspection Service in relation to the Final Import Risk Analysis Report for Apples from New Zealand	4002
25	Public Works—Joint Statutory Committee—5th Report of 2007	4002
26	Department of the Senate—Register of Senior Executive Officers’ Interests—Document	4002
27	Auditor-General—Audit Report No. 46 of 2006-07—Document.....	4002
28	Treaties—Joint Standing Committee—84th Report	4003
29	Documents.....	4003
30	Committees—Changes in Membership.....	4004
31	Tax Laws Amendment (Simplified GST Accounting) Bill 2007	4005
32	Wheat Marketing Amendment Bill 2007	4005
33	Native Title Amendment (Technical Amendments) Bill 2007.....	4005
34	Rural and Regional Affairs and Transport—Standing Committee— Proposed Reference.....	4006
35	Vacancy in the Representation of Western Australia—Choice of Mathias Hubert Paul Cormann.....	4006
36	Rural and Regional Affairs and Transport—Standing Committee— Proposed Reference.....	4007
37	National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007.....	4007
38	Communications Legislation Amendment (Content Services) Bill 2007	4008
39	Order of Business—Rearrangement.....	4008
40	Communications Legislation Amendment (Content Services) Bill 2007	4009
41	Government Documents—Orders of the Day—Consideration.....	4012
42	Adjournment	4012
43	Attendance.....	4012

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 **AUSTRALIAN POSTAL CORPORATION AMENDMENT (QUARANTINE INSPECTION AND OTHER MEASURES) BILL 2007
THERAPEUTIC GOODS AMENDMENT BILL 2007**

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), at the request of the Minister for Communications, Information Technology and the Arts (Senator Coonan) and the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) and pursuant to notice, moved government business notices of motion nos 1 and 2—That the following bills be introduced:

A Bill for an Act to amend the *Australian Postal Corporation Act 1989*, and for related purposes.

A Bill for an Act to amend the law relating to therapeutic goods, and for related purposes.

Question put and passed.

Senator Abetz presented the bills and 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 Abetz moved—That these bills be now read a second time.

Explanatory memoranda: Senator Abetz tabled explanatory memoranda [2] relating to the bills.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Abetz moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

3 **ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) moved—That government business notice of motion no. 3 standing in his name for today, relating to the approval of works in the Parliamentary Zone, be postponed till a later hour.

Question put and passed.

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

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

In the committee

Consideration resumed of the bill, as amended.

Senator Siewert moved the following amendment:

Page 83 (after line 20), at the end of the bill, add:

Schedule 6—Redundancy and hours of work

Workplace Relations Act 1996

Part 1—Redundancy

1 After Division 6 of Part 7

Insert:

Division 6B—Redundancy pay

316G The guarantee

If an employer has made a definite decision that the employer no longer wishes the job an employee has been doing to be done by anyone, the employer will pay the occupant of that job an equitable payment in accordance with this Division.

316H Definitions

In this Division:

a week's pay means the ordinary time rate of pay for the employee concerned, provided that such rate excludes:

- (a) overtime; and
- (b) penalty rates; and
- (c) disability allowances; and
- (d) shift allowances; and
- (e) special rates; and
- (f) fares and travelling time allowances; and
- (g) bonuses; and
- (h) any other ancillary payments of a like nature.

business includes trade, process, business or occupation and includes part of any such business.

redundancy occurs if an employer has made a definite decision that the employer no longer wishes the job an employee has been doing to be done by anyone and that decision leads to the termination of employment of the employee.

transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and *transmitted* has a corresponding meaning.

316I Transfer to lower paid duties

If an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.

316J Redundancy pay

- (1) An employee, whose employment is terminated by reason of redundancy, is entitled to the following amount of redundancy pay in respect of a period of continuous service:

Item	Period of continuous service	Redundancy pay
1	Less than 1 year	Nil
2	1 year and less than 2 years	4 weeks' pay*
3	2 years and less than 3 years	6 weeks' pay
4	3 years and less than 4 years	7 weeks' pay
5	4 years and less than 5 years	8 weeks' pay
6	5 years and less than 6 years	10 weeks' pay
7	6 years and less than 7 years	11 weeks' pay
8	7 years and less than 8 years	13 weeks' pay
9	8 years and less than 9 years	14 weeks' pay
10	9 years and less than 10 years	16 weeks' pay
11	10 years and over	12 weeks' pay

* *a week's pay* is defined in section 316H

- (2) Provided that the redundancy pay does not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.
- (3) *Continuous service* has the same meaning as in section 228.

316K Alternative employment

- (1) An employer, in a particular redundancy case, may make application to the Commission to vary the amount of redundancy pay if the employer obtains acceptable alternative employment for the employee.
- (2) This provision does not apply in circumstances involving transmission of a business as set out in section 316M.

316L Job search entitlement

- (1) During the period of notice of termination given by the employer in accordance with subsection 661(2), an employee must be allowed up to one day off without loss of pay during each week of notice, for the purpose of seeking other employment.
- (2) If an employee has been allowed paid leave for more than one day during the notice period, for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview in order to receive payment for the time absent. A statutory declaration is sufficient proof of attendance.

316M Transmission of business

- (1) The preceding provisions of this Division are not applicable if a business is, before or after the commencement of the *Workplace Relations Amendment (A Stronger Safety Net) Act 2007*, transmitted from an employer (in this subsection called the *transmittor*) to another

employer (in this subsection called the *transmittee*), in either of the following circumstances:

- (a) if the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
 - (b) if the employee rejects an offer of employment with the transmittee:
 - (i) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
 - (ii) which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee.
- (2) The Commission may vary the operation of subparagraph (1)(b)(ii) if it is satisfied that the application of that provision would operate unfairly in a particular case.

316N Employees exempted

This Division does not apply to:

- (a) employees terminated as a consequence of serious misconduct that justifies dismissal without notice; or
- (b) probationary employees; or
- (c) apprentices; or
- (d) trainees; or
- (e) employees engaged for a specific period of time or for a specified task or tasks; or
- (f) casual employees.

Note: *serious misconduct* is provided for in section 661.

316O Incapacity to pay

The Commission may vary the amount of redundancy pay provided for in section 316J on the basis of an employer's incapacity to pay. An application for variation may be made by an employer or a group of employers.

Part 2—Hours of work

2 Paragraph 226(4)(g)

After "employee's hours of work", insert " , including the pattern of hours worked and any shift work,".

3 At the end of section 226

Add:

Minimum rest periods – breaks

- (6) An employer must take all measures necessary to ensure that if the working day is longer than 6 hours, every employee is entitled to a maximum rest break of at least 30 minutes.

Daily rest period

- (7) An employer must take all measures necessary to ensure that in every 24 hour period, every employee is entitled to a minimum daily rest period of 11 consecutive hours.

Weekly rest period

- (8) An employer must take all measures necessary to ensure that in each 7 day period, every employee is entitled to a minimum rest period, uninterrupted by work for the employer, of 24 hours in addition to the 11 hours daily rest period specified in subsection (7).
- (9) Where possible, the minimum weekly rest period provided for in subsection (8) must occur on Sunday.

Additional payment for work during rest periods

- (10) If an employee is required by his or her employer to work during the rest periods prescribed in subsections (6) to (8), the employee is to be paid at a rate of twice their ordinary rate of pay for the time worked until a rest period as prescribed in subsections (6) to (8) occurs.

Debate ensued.

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

On the motion of the Leader of the Family First Party (Senator Fielding) the following amendments, taken together by leave, were debated and agreed to:

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

8. Schedule 7, Parts 1 and 2	The day on which this Act receives the Royal Assent.
9. Schedule 7, Part 3	Immediately after the commencement of Schedule 1.

Page 83 (after line 19), at the end of the bill, add:

Schedule 7—Preserved redundancy provisions

Part 1—Length of period of preservation

Workplace Relations Act 1996

1 Subsection 347(7) (note)

Omit “12”, substitute “24”.

2 Paragraph 399A(3)(a)

Omit “12”, substitute “24”.

3 Paragraph 598A(3)(a)

Omit “12”, substitute “24”.

4 Subclause 3(4) of Schedule 7 (note)

Omit “12”, substitute “24”.

5 Paragraph 6A(4)(a) of Schedule 7

Omit “12”, substitute “24”.

6 Subclause 18(3) of Schedule 7 (note)

Omit “12”, substitute “24”.

7 Paragraph 20A(4)(a) of Schedule 7

Omit “12”, substitute “24”.

8 Paragraph 21A(4)(a) of Schedule 8

Omit “12”, substitute “24”.

9 Paragraph 21D(4)(a) of Schedule 8

Omit “12”, substitute “24”.

10 Paragraph 27A(3)(a) of Schedule 9

Omit “12”, substitute “24”.

11 Application

The amendments made by this Part apply to agreements terminated after the commencement of item 31 of Schedule 3 to the *Workplace Relations Legislation Amendment (Independent Contractors) Act 2006*.

Part 2—Notice requirements***Workplace Relations Act 1996*****12 Paragraph 603A(3)(c)**

Omit “12”, substitute “24”.

13 Paragraph 6B(3)(c) of Schedule 7

Omit “12”, substitute “24”.

14 Paragraph 20B(2)(c) of Schedule 7

Omit “12”, substitute “24”.

15 Paragraph 21B(3)(c) of Schedule 8

Omit “12”, substitute “24”.

16 Paragraph 21E(2)(c) of Schedule 8

Omit “12”, substitute “24”.

17 Paragraph 29A(3)(c) of Schedule 9

Omit “12”, substitute “24”.

18 Application

The amendments made by this Part apply to notices given after the commencement of this item.

Part 3—Contingent amendments**19 Subparagraph 346YA(3)(b)(i)**

Omit “12”, substitute “24”.

20 Subparagraph 346ZA(2)(b)(i)

Omit “12”, substitute “24”.

Senator Fielding moved the following amendments together by leave:

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

8. Schedule 7	The day on which this Act receives the Royal Assent.
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Page 83 (after line 19), at the end of the bill, add:

Schedule 7—Protected allowable award matters etc.

Workplace Relations Act 1996

1 Subsection 354(4) (after paragraph (h) of the definition of *protected allowable award matters*)

Insert:

(ha) redundancy pay;

2 After subsection 513(3)

Insert:

(3A) To avoid doubt, the matter of redundancy pay is, and is taken to have always been, a matter covered by the following provisions:

(a) paragraph (1)(a);

(b) paragraph (1)(n).

3 After subclause 17(1) of Schedule 6

Insert:

(1A) To avoid doubt, the matter of redundancy pay is, and is taken to have always been, a matter covered by the following provisions:

(a) paragraph (1)(b);

(b) paragraph (1)(p).

4 Subclause 25A(4) of Schedule 8 (after paragraph (h) of the definition of *protected allowable award matters*)

Insert:

(ha) redundancy pay;

5 Subclause 52(3) of Schedule 8 (after paragraph (g) of the definition of *protected allowable award matters*)

Insert:

(ga) redundancy pay;

6 Application of amendments

The amendments made by items 1, 4 and 5 apply in relation to a workplace agreement lodged after the commencement of this item.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

5 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) moved—That government business order of the day no. 2 (Communications Legislation Amendment (Content Services) Bill 2007) be postponed till a later hour.

Question put and passed.

**6 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME)
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. All Australian Greens senators, by leave, recorded their votes for the noes.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

The Minister for the Arts and Sport (Senator Brandis) moved the following amendments together by leave:

Schedule 1, item 81, page 29 (after line 3), at the end of subsection 99ACC(3), add:

Note: The new price for the single brand of the combination item may be the same as the existing agreed price.

Schedule 1, item 81, page 29 (lines 4 to 12), omit subsection 99ACC(4), substitute:

- (4) If the Pharmaceutical Benefits Advisory Committee gives advice to the Minister under subsection 101(4AC) in relation to the combination item, then, in working out the new price of the single brand of the combination item, the Minister may have regard to that advice in considering the extent (if any) to which to reduce the existing agreed price.
- (4A) If:
- (a) subsection (4) applies; and
 - (b) the Minister decides to reduce the existing agreed price;
- then, in agreeing the new price of the single brand of the combination item, the Minister:
- (c) may have regard to the advice referred to in subsection (4) in relation to the combination item; and
 - (d) must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:
 - (i) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and
 - (ii) the quantity of the listed component drug contained in the combination item.
- (4B) If subsection (4) does not apply, then, in agreeing the new price of the single brand of the combination item, the Minister must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:

- (a) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and
- (b) the quantity of the listed component drug contained in the combination item.

Schedule 1, item 81, page 31 (lines 17 to 23), omit subsection 99ACD(3).

Schedule 1, item 81, page 31 (line 28), omit “reduction”, substitute “determination”.

Schedule 1, item 81, page 31 (line 35) to page 32 (line 5), omit subsection 99ACD(6), substitute:

- (6) If, on a day before the determination day:
 - (a) one or more of the listed component drugs contained in the drug in the existing item had been subject to a 12.5% price reduction; and
 - (b) because of that price reduction, the approved price to pharmacists of the existing brand of the existing item was reduced;
 then the reduction referred to in subsection (5) is to be adjusted to reflect:
 - (c) the extent to which the 12.5% price reduction was taken into account in working out the amount of the reduction to the approved price to pharmacists; and
 - (d) the quantity of the listed component drug contained in the drug in the existing item.

Schedule 1, item 81, page 34 (lines 21 to 27), omit subsection 99ACE(5), substitute:

- (5) If, on a day before the reduction day:
 - (a) one or more of the listed component drugs contained in the drug in the related item had been subject to a 12.5% price reduction; and
 - (b) because of that price reduction, the approved price to pharmacists of the related brand of the related item was reduced;
 then the reduction referred to in subsection (3) or (4) is to be adjusted to reflect:
 - (c) the extent to which the 12.5% price reduction was taken into account in working out the amount of the reduction to the approved price to pharmacists; and
 - (d) the quantity of the listed component drug contained in the drug in the related item.

Schedule 1, item 83, page 62 (after line 18), after subsection 101(4AB), insert:

Function relating to Minister’s decisions about prices of combination items

- (4AC) If the Committee is satisfied that therapy involving a combination item provides, for some patients:
 - (a) a significant improvement in patient compliance with the therapy; or
 - (b) a significant improvement in efficacy or reduction in toxicity; over alternative therapies, then the Committee must advise the Minister accordingly.

Schedule 1, page 66 (after line 23), after item 99, insert:

99A Transitional provision—approved price to pharmacists

If the determination day or reduction day referred to in subsection 99ACD(6) or 99ACE(5) of the *National Health Act 1953* is a day that is on or after this Schedule commences, then the reference in those subsections to the approved price to pharmacists on a day (the *relevant day*) before the determination day or reduction day is a reference to the approved price to pharmacists within the meaning of subsection 98B(3) of that Act as in force on the relevant day.

Debate ensued.

Explanatory memorandum: The Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Debate continued.

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

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

Schedule 1, page 22 (after line 10), after item 73, insert:

73A After section 98AA

Insert:

98AB Notification by Department of alterations to pharmaceutical benefits scheme

The Secretary must cause to be made publicly available on the Department's website information on the outcomes of the changes to the pharmaceutical benefits scheme resulting from the introduction of the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*.

Senator McLucas moved the following amendment:

Schedule 1, Part 1, page 63 (after line 14), at the end of the Part, add:

93A At the end of section 114

Add:

- (2) In addition to matters referred for inquiry in accordance with subsection (1), the Pharmaceutical Services Federal Committee of Inquiry must prepare a report for the Minister on:
 - (a) the impact of the reforms made by the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*; and
 - (b) the impact on the cost of medicines to consumers as a consequence of the reforms.
- (3) The report required by subsection (2) is to be completed by 30 July 2009.

- (4) The Minister must cause the report required by subsection (2) to be tabled in both Houses of the Parliament within 5 sitting days of receiving the report.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 32

Senators—

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

NOES, 35

Senators—

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

Question negatived.

At 12.45 pm: The Acting Deputy President (Senator Hutchins) resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

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 1.41 pm till 2 pm.

At 2 pm—

8 QUESTIONS

Questions without notice were answered.

9 COMMUNICATIONS—BROADBAND—ANSWERS TO QUESTIONS

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

Debate ensued.

Question put and passed.

10 PETITION

The following petition, lodged with the Clerk by Senator McLucas, was received:

From 1 152 petitioners, requesting that the Senate declare the anniversary of the Mabo decision an Australian public holiday.

11 NOTICES

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

- (a) acknowledges that 2007 is the half-time progress mark in the global effort to meet the Millennium Development Goals which aim to halve extreme global poverty by 2015;
- (b) notes that, since the Millennium Declaration was signed by the Prime Minister (Mr Howard) and other world leaders, there has been progress, with:
 - (i) an additional 34 million children worldwide afforded the opportunity to enter and complete primary school,
 - (ii) more people than ever receiving treatment for HIV, and
 - (iii) 30 of the world's poorest countries receiving debt cancellation or some reduction;
- (c) affirms the positive contribution that Australia has already made, by:
 - (i) providing up-front, Australia's 10-year contribution to multilateral debt relief for poor nations,
 - (ii) increasing Australia's aid budget to approximately \$4 billion by 2010,
 - (iii) strengthening Australia's commitment to coordinate aid with other donors and better aligning Australia's aid with partner countries' own priorities and processes, and
 - (iv) renewing the focus of Australia's aid on education and health;
- (d) notes that on current progress, the promise of the declaration will not be fulfilled and that many of the Millennium Development Goals will not be achieved unless new action is taken and new resources are mobilised;
- (e) affirms the work of the 'Make Poverty History' and 'Micah Challenge' campaigns in raising public awareness and generating new support for international poverty reduction efforts; and
- (f) calls on Australia to continue to play its part in supporting the achievement of the Millennium Development Goals by maintaining and increasing its efforts through:
 - (i) a generous, effective and poverty-focused aid program,
 - (ii) a commitment to reducing the unsustainable debt burden of poor countries,
 - (iii) the promotion of good governance in developing country institutions and communities,
 - (iv) advocacy for fairer international trade rules, and
 - (v) addressing the development challenges posed by climate change. (*general business notice of motion no. 829*)

The Minister for Justice and Customs (Senator Johnston): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend legislation relating to aviation, and for related purposes. *Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007*.

Senator Murray: To move on the next day of sitting—That the Senate requests the Government to require that an appropriate examination or review be undertaken of the remuneration and entitlements of members and senators by the Remuneration Tribunal, with the requirement that it take a holistic view with respect to members' and senators' salary packages and allowances, what they need to do their jobs, and their superannuation entitlements; and that the tribunal report to the Government in 2008. (*general business notice of motion no. 830*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That Determination 2007/04: Principal Executive Office (PEO) Classification Structure and Terms and Conditions, made pursuant to subsections 5(2A), 7(3D) and 7(4) of the *Remuneration Tribunal Act 1973*, be disapproved.

The Leader of the Family First Party (Senator Fielding): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Australian Securities and Investments Commission Act 2001* to limit unfair banking and credit card penalty fees, and for related purposes. ***Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007***. (*general business notice of motion no. 831*)

The Minister for Finance and Administration (Senator Minchin): To move on the next day of sitting—That the following operate as a temporary order until the conclusion of the 2007 sittings:

If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.

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 Aged Care Amendment (Residential Care) Bill 2007, allowing it to be considered during this period of sittings.

Document: Senator Minchin tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Aged Care Amendment (Residential Care) Bill 2007 in the 2007 winter sittings.

12 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport Committee, postponed till 21 June 2007.

General business notice of motion no. 791 standing in the name of Senator Milne for today, relating to Colombia and human rights, postponed till 15 October 2007.

13 INDEPENDENT CONTRACTORS AMENDMENT BILL 2007 (NO. 2)

Senator Sterle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 822—That the following bill be introduced:

A Bill for an Act to amend the *Independent Contractors Act 2006*, and for related purposes.

Question put and passed.

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

Question put and passed.

Bill read a first time.

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

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

14 DEATH OF MR GEORGE BURARRAWANGA

Senator Crossin, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 826—That the Senate—

- (a) expresses its deep regret at the passing of the late Mr George Burarrowanga, who died at his Elcho Island home of Galiwin'ku in the Northern Territory on 9 June 2007;
- (b) pays tribute to Mr Burarrowanga's life as a performer, best known as the magnetic lead singer of the Warumpi Band which was formed in the Central Australian community of Papunya and took its music across Australia and internationally, particularly with the well-known ballad 'My Island Home';
- (c) recognises Mr Burarrowanga's heritage as a proud saltwater Gumatj man who also developed strong links in Central Australian communities and mastered several Aboriginal languages;
- (d) notes Mr Burarrowanga's contribution to bringing a greater understanding of Aboriginal Australia through his life and performance which bridged many cultural divides; and
- (e) conveys its condolences to Mr Burarrowanga's family and the community during this period of grief.

Question put and passed.

15 FOREIGN AFFAIRS—MR ALAN JOHNSTON

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 820—That the Senate—

- (a) notes that:
 - (i) the respected British Broadcasting Corporation journalist Mr Alan Johnston was abducted whilst on assignment in the Gaza Strip more than 3 months ago and his whereabouts remains unknown,
 - (ii) the Army of Islam group has claimed responsibility for that abduction, and
 - (iii) the major Palestinian factions and the Palestinian authority have condemned the abduction;
- (b) expresses its:
 - (i) concern at the plight of Mr Johnston and the effect of the kidnapping on his family, friends and colleagues, and
 - (ii) unreserved condemnation of the taking of hostages for political purposes; and
- (c) calls for Mr Johnston's immediate and unconditional release.

Question put and passed.

16 ENVIRONMENT—CLIMATE CHANGE

Senator Milne amended general business notice of motion no. 824 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that the Australian Government has called for a new global framework on climate change that includes all major emitters;
- (b) notes that, at its annual summit held from 6 June to 8 June 2007, the Group of Eight (G8):
 - (i) agreed that the United Nations (UN) climate process is the appropriate forum for negotiating future global action on climate change,
 - (ii) called on all parties to actively and constructively participate in the UN Climate Change Conference to be held in Indonesia in December 2007 with a view to achieving a comprehensive post 2012-agreement (post Kyoto-agreement) that should include all major emitters, and
 - (iii) stressed that further action should be based on the UN Framework Convention on Climate Change principle of common but differentiated responsibilities and capabilities; and
- (c) agrees with the above resolutions of the G8 meeting.

Question put.

The Senate divided—

AYES, 31

Senators—

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

NOES, 34

Senators—

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

Question negatived.

17 ENVIRONMENT—PROPOSED ANVIL HILL COAL MINE—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 828—That—

- (a) the Senate:
 - (i) condemns the recent decision of the New South Wales State Labor Government to allow the giant Anvil Hill coal mine to proceed, and

- (ii) notes that the Minister for the Environment and Water Resources (Mr Turnbull) decided on 11 February 2007 not to assess the mine under the controlled action provisions of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (b) there be laid on the table by the Minister representing the Minister for the Environment and Water Resources, no later than noon on 7 August 2007:
 - (i) all documents relating to the decision not to make the Anvil Hill coal mine a controlled action under the Act, and
 - (ii) any other documents held by the Department of the Environment and Water Resources in relation to the Anvil Hill coal mine.

Question put and negatived.

18 POSTPONEMENT

Senator Nettle, by leave, moved—That general business notice of motion no. 827 standing in her name for today, relating to Afghan Member of Parliament, Ms Malalai Joya, be postponed till the next day of sitting.

Question put and passed.

19 ENVIRONMENT—TASMANIA—PROPOSED PULP MILL

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 825—That the Senate congratulates the 10 000 or more Tasmanians who turned out in Launceston on Saturday, 16 June 2007 to protest against the proposed Gunns Limited pulp mill, for their civic pride, concern for the environment and peaceful expression of opinion in the best of democratic traditions.

Statements by leave: Senators Campbell and Bob Brown, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 7

Senators—

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

NOES, 51

Senators—

Abetz	Crossin	Joyce	Patterson
Adams	Eggleston	Kemp	Payne
Bernardi	Faulkner	Kirk	Ray
Birmingham	Ferguson	Lightfoot	Ronaldson
Bishop	Fielding	Ludwig	Scullion
Boyce	Fierravanti-Wells	Macdonald, Sandy	Sherry
Brandis	Fifield	Mason	Stephens
Brown, Carol	Fisher	McGauran	Troeth
Campbell (Teller)	Forshaw	McLucas	Trood
Carr	Hogg	Moore	Webber
Chapman	Humphries	Nash	Wong
Colbeck	Hurley	O'Brien	Wortley
Coonan	Johnston	Parry	

Question negatived.

20 NOTICE

Senator Faulkner gave a notice of motion as follows: To move on the next day of sitting—

- (1) That the following matter be referred to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 31 August 2007:

Whether the inquiries conducted by the Board of Inquiry and the Coroner of Western Australia into the fire on HMAS *Westralia* in May 1998 resulting in the death of four crew members, were fully informed of all the circumstances leading up to the tragedy, including alleged prior warnings of poor engine maintenance standards in Navy ships, and HMAS *Westralia* in particular, and of any other matters relevant to maintenance procedures affecting the safety, reliability and capability of ships at sea.

- (2) That the committee, in the course of its inquiry, examine relevant evidence provided in the estimates hearings of the committee and the Legal and Constitutional Affairs Committee in February and May 2007.

21 SCRUTINY OF BILLS—STANDING COMMITTEE—7TH REPORT AND ALERT DIGEST NO. 7 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—

7th report of 2007, dated 20 June 2007.

Alert Digest No. 7 of 2007, dated 20 June 2007.

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

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

Question put and passed.

22 SENATORS' INTERESTS—STANDING COMMITTEE—DOCUMENTS

The Chair of the Standing Committee of Senators' Interests (Senator Webber) tabled the following documents:

Senators' Interests—Standing Committee—

Register of gifts to the Senate and the Parliament incorporating declarations of gifts lodged between 5 December 2000 and 18 June 2007, dated June 2007.

Register of senators' interests incorporating statements of registrable interests and notifications of alterations of interests of senators lodged between 5 December 2006 and 18 June 2007, dated June 2007.

23 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS—STANDING COMMITTEE—REPORT—AUSTRALIA'S INDIGENOUS VISUAL ARTS AND CRAFT SECTOR

The Chair of the Environment, Communications, Information Technology and the Arts Committee (Senator Eggleston) tabled the following report and documents:

Environment, Communications, Information Technology and the Arts—Standing Committee—Indigenous art: Securing the future—Australia's Indigenous visual arts and craft sector—Report, dated June 2007, Hansard record of proceedings, documents presented to the committee, additional information and submissions [89].

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

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

Debate ensued.

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

**24 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—
REPORT—ADMINISTRATION OF THE DEPARTMENT OF AGRICULTURE, FISHERIES
AND FORESTRY, BIOSECURITY AUSTRALIA AND AUSTRALIAN QUARANTINE AND
INSPECTION SERVICE IN RELATION TO THE FINAL IMPORT RISK ANALYSIS REPORT
FOR APPLES FROM NEW ZEALAND**

Senator Nash, at the request of the Chair of the Rural and Regional Affairs and Transport Committee (Senator Heffernan), tabled the following report and documents:

Rural and Regional Affairs and Transport—Standing Committee—Administration of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and Australian Quarantine and Inspection Service in relation to the final import risk analysis report for apples from New Zealand—Report, dated June 2007, Hansard record of proceedings, documents presented to the committee and additional information.

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

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

Debate ensued.

Debate adjourned till the next day of sitting, the Leader of the Family First Party (Senator Fielding) in continuation.

25 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—5TH REPORT OF 2007

Senator Parry, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

Public Works—Joint Statutory Committee—5th report of 2007—Proposed provision of facilities for Project Single Living Environment and Accommodation Precinct: Phase 2, dated June 2007.

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

Question put and passed.

**26 DEPARTMENT OF THE SENATE—REGISTER OF SENATE SENIOR EXECUTIVE OFFICERS'
INTERESTS—DOCUMENT**

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

Department of the Senate—Register of Senate senior executive officers' interests incorporating notifications of alterations of interests of Senate senior executive officers lodged between 5 December 2006 and 18 June 2007, dated June 2007.

27 AUDITOR-GENERAL—AUDIT REPORT NO. 46 OF 2006-07—DOCUMENT

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

Auditor-General—Audit report no. 46 of 2006-07—Performance audit—Management of the Pharmaceuticals Partnerships Program: Department of Industry, Tourism and Resources.

28 TREATIES—JOINT STANDING COMMITTEE—84TH REPORT

Senator Trood, on behalf of the Joint Standing Committee on Treaties, tabled the following report:

Treaties—Joint Standing Committee—84th report—Treaty tabled on 6 December 2006, dated June 2007.

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

Debate ensued.

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

29 DOCUMENTS

The following documents were tabled by the Clerk:

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

Australian Participants in British Nuclear Tests (Treatment) Act—Instrument No. R8/2007—Treatment Principles ((Australian Participants in British Nuclear Tests) 2006 – Removal of Arrangements for Health Care Providers) Instrument 2007 [F2007L01229]*.

Civil Aviation Act—

Civil Aviation Order 82.1 Amendment Order (No. 1) 2007 [F2007L01689]*.

Civil Aviation Order 82.3 Amendment Order (No. 1) 2007 [F2007L01690]*.

Civil Aviation Order 82.5 Amendment Order (No. 1) 2007 [F2007L01691]*.

Civil Aviation Regulations—Civil Aviation Order 20.18 Amendment Order (No. 1) 2007 [F2007L01688]*.

Instruments Nos—

CASA EX26/07—Exemption – carriage of life rafts [F2007L01764]*.

CASA EX27/07—Exemption – carriage and use of automatic dependent surveillance – broadcast equipment [F2007L01779]*.

Corporations Act—ASIC Class Orders—

[CO 07/409] [F2007L01758]*.

[CO 07/447] [F2007L01789]*.

Customs Act—Tariff Concession Orders—

0702647 [F2007L01622]*.

0703306 [F2007L01623]*.

0703394 [F2007L01635]*.

0703431 [F2007L01706]*.

0703433 [F2007L01637]*.

0703436 [F2007L01626]*.

0703686 [F2007L01636]*.

0704078 [F2007L01746]*.

0704131 [F2007L01745]*.

0704147 [F2007L01744]*.

0704178 [F2007L01742]*.

Defence Act—Defence Force Regulations—Defence Practice Area – South Australian Acoustic Ranging Area Declaration 2007.

Military Rehabilitation and Compensation Act—Instrument No. M7/2007—MRCA Private Patient Principles 2004 (Removal of Arrangements for Local Medical Officers) Instrument 2007 [F2007L01227]*.

Remuneration Tribunal Act—Determinations—

2007/06: Remuneration and Allowances for Holders of Public Office [F2007L01750]*.

2007/07: Compensation for Loss of Office for Holders of Public Office [F2007L01752]*.

2007/09: Recreation Leave for Full-Time Holders of Relevant Offices [F2007L01760]*.

Taxation Administration Act—Variation to the rate of withholding for certain superannuation income stream beneficiaries who turn 60 during the financial year [F2007L01787]*.

* Explanatory statement tabled with legislative instrument.

30 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Justice and Customs (Senator Johnston), by leave, moved—That senators be discharged from and appointed to committees as follows:

Community Affairs—Standing Committee—

Appointed—Participating members: Senators Birmingham, Cormann and Fisher

Economics—Standing Committee—

Appointed—Participating members: Senators Birmingham, Cormann and Fisher

Employment, Workplace Relations and Education—Standing Committee—

Discharged—Senator Birmingham

Appointed—

Senator Fisher

Participating members: Senators Birmingham and Cormann

Substitute members: Senators Fifield and Birmingham to replace Senators Lightfoot and Fisher, respectively, on 25 June and 26 June 2007

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

Appointed—Participating members: Senators Boyce, Cormann and Fisher

Finance and Public Administration—Standing Committee—

Discharged—Senator Boyce

Appointed—

Senator Cormann

Participating members: Senators Birmingham, Boyce and Fisher

Foreign Affairs, Defence and Trade—Standing Committee—

Appointed—Participating members: Senators Birmingham, Boyce, Cormann and Fisher

Legal and Constitutional Affairs—Standing Committee—

Appointed—Participating members: Senators Birmingham, Boyce, Cormann and Fisher

Procedure—Standing Committee—

Discharged—Senators Eggleston and Ellison

Appointed—Senators Abetz and Parry

Publications—Standing Committee—

Discharged—Senator Barnett

Appointed—Senator McGauran

Rural and Regional Affairs and Transport—Standing Committee—

Appointed—Participating members: Senators Birmingham, Boyce, Cormann and Fisher

Treaties—Joint Standing Committee—

Discharged—Senator Trood

Appointed—Senator Birmingham.

Question put and passed.

31 TAX LAWS AMENDMENT (SIMPLIFIED GST ACCOUNTING) BILL 2007

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

Message no. 592, dated 19 June 2007—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Minister for Justice and Customs (Senator Johnston) 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 Johnston moved—That this bill be now read a second time.

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

32 WHEAT MARKETING AMENDMENT BILL 2007

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

Message no. 594, dated 20 June 2007—A Bill for an Act to amend the *Wheat Marketing Act 1989*, and for other purposes.

The Minister for Justice and Customs (Senator Johnston) 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 Johnston moved—That this bill be now read a second time.

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

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

33 NATIVE TITLE AMENDMENT (TECHNICAL AMENDMENTS) BILL 2007

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:

Message no. 593, dated 20 June 2007—Native Title Amendment (Technical Amendments) Bill 2007.

**34 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—
PROPOSED REFERENCE**

Senator O'Brien, pursuant to notice, moved business of the Senate notice of motion no. 2—That the Wheat Marketing Amendment Bill 2007 be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 7 August 2007.

Debate ensued.

On the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz) the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

**35 VACANCY IN THE REPRESENTATION OF WESTERN AUSTRALIA—CHOICE OF
MATHIAS HUBERT PAUL CORMANN**

The President informed the Senate that he had received, through the Governor-General, from the Lieutenant-Governor of Western Australia, a copy of the certificate of the choice by the Parliament of Western Australia of Mathias Hubert Paul Cormann to fill the vacancy caused by the resignation of Senator Ian Campbell.

The President tabled the copy of the certificate as follows:

Government House

Perth

20 June 2007

His Excellency Major General Michael Jeffery AC CVO MC (Retd)

Governor-General of the Commonwealth of Australia

Government House

Dunrossil Drive

YARRALUMLA ACT 2600

Your Excellency

I have the honour to inform you that the President of the Legislative Council of Western Australia has advised me in the following terms:

“MAY IT PLEASE YOUR EXCELLENCY

With reference to Your Excellency's Message to Parliament enclosing copy of a notification from the Honourable the President of the Senate of the Commonwealth, that a vacancy had happened in the representation of Western Australia in the Senate of the Commonwealth, I do myself the honour to inform you that at a joint sitting of the Houses of Parliament of the State of Western Australia, held at Perth on the 19th day of June 2007, the Members of such Houses sitting and voting together, in pursuance of Section 15 of The Commonwealth of Australia Constitution Act, did choose Mathias Hubert Paul Cormann, Manager, of 23 Clyde Road, Menora, Western Australia, to hold the place vacated by Senator Ian Gordon Campbell.”

Yours sincerely

David Malcolm

Lieutenant-Governor & deputy of the Governor.

Senator sworn: Senator Cormann, pursuant to the Constitution of the Commonwealth of Australia, then made and subscribed the oath of allegiance at the table.

36 **RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—
PROPOSED REFERENCE**

Order of the day read for the adjourned debate on the motion of Senator O'Brien (*see entry no. 35*).

Debate resumed.

Question put.

The Senate divided—

AYES, 31

Senators—

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

NOES, 33

Senators—

Abetz	Coonan	Johnston	Payne
Adams	Cormann	Joyce	Ronaldson
Bernardi	Eggleston	Kemp	Scullion
Birmingham	Ellison	Lightfoot	Troeth
Boswell	Ferguson	Mason	Trood
Boyce	Fierravanti-Wells	McGauran	Watson
Brandis	Fifield	Nash	
Calvert	Fisher	Parry (Teller)	
Colbeck	Humphries	Patterson	

Question negatived.

37 **NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME)
BILL 2007**

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

In the committee

Consideration resumed of the bill, as amended.

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) the following amendment was debated and agreed to:

Schedule 1, Part 1, page 63 (after line 14), at the end of the Part, add:

93A After section 104A

Insert:

104B Report on impact of *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*

- (1) The Minister must prepare a report on:
 - (a) the impact of the reforms made by the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*; and

- (b) the impact on the cost of pharmaceutical benefits to patients as a consequence of the reforms.
- (2) The preparation of the report must be completed by 31 December 2009.
- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 5 sitting days of that House after the day of the completion of the preparation of the report.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

38 **COMMUNICATIONS LEGISLATION AMENDMENT (CONTENT SERVICES) 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 Conroy moved the following amendment:

At the end of the motion, add “but the Senate notes that:

- (a) the Government failed to adequately consult content makers prior to the drafting of the bill;
- (b) the Environment, Communications, Information Technology and the Arts Committee inquiry into the bill did not allow for sufficient time to consider the bill and draft submissions to the committee;
- (c) the bill will not prevent access to prohibited material from offshore service providers; and
- (d) Labor believes that children should be protected from inappropriate or harmful material on the internet, however, Labor would prefer to regulate for this via ISP filtering, as set out in Labor’s ISP filtering policy”.

Debate ensued.

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

Main question put and passed.

Bill read a second time.

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan) consideration of the bill in committee of the whole was made an order of the day for a later hour.

39 **ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Communications, Information Technology and the Arts (Senator Coonan), by leave, moved—That consideration of government documents today be called on at the conclusion of consideration of government business order of the day no. 2 (Communications Legislation Amendment (Content Services) Bill 2007).

Question put and passed.

40 COMMUNICATIONS LEGISLATION AMENDMENT (CONTENT SERVICES) BILL 2007

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

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Communications, Information Technology and the Arts (Senator Coonan) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 77, page 16 (after line 8), after the definition of *adult chat service* in clause 2, insert:

ancillary subscription television content service has the meaning given by clause 9A.

Schedule 1, item 77, page 24 (after line 19), after the definition of *special link-deletion notice* in clause 2, insert:

special service-cessation notice means a notice under clause 59A.

Schedule 1, item 77, page 25 (lines 8 to 14), omit paragraphs 3(1)(b) and (c), substitute:

(b) in the case of a live content service—the live content service is provided from Australia.

Schedule 1, item 77, page 25 (after line 14), at the end of subclause 3(1), add:

Note: A link is an example of content. If a link provided by a content service is hosted in Australia, the content service will have an Australian connection (see paragraph (a)).

Schedule 1, item 77, page 26 (line 8), before “For”, insert “(1)”.

Schedule 1, item 77, page 26 (after line 10), at the end of clause 5, add:

(2) For the purposes of this Schedule, a person does not provide a content service merely because the person provides a billing service, or a fee collection service, in relation to a content service.

Schedule 1, item 77, page 27 (after line 12), after clause 9, insert:

9A Ancillary subscription television content service

(1) For the purposes of this Schedule, an *ancillary subscription television content service* is a service that:

(a) delivers content by way of television programs to persons having equipment appropriate for receiving that content, where:

(i) those television programs are stored on the equipment (whether temporarily or otherwise); and

- (ii) the equipment is also capable of receiving one or more subscription television broadcasting services provided in accordance with a licence allocated by the ACMA under this Act; and
 - (iii) those television programs are delivered to a subscriber to such a subscription television broadcasting service under a contract with the relevant subscription television broadcasting licensee; and
- (b) complies with such other requirements (if any) as are specified in the regulations.
- (2) For the purposes of subsection (1), it is immaterial whether the equipment is capable of receiving:
- (a) content by way of television programs; or
 - (b) subscription television broadcasting services;
- when used:
- (c) in isolation; or
 - (d) in conjunction with any other equipment.

Schedule 1, item 77, page 33 (line 6), omit “otherwise); or”, substitute “otherwise);”.

Schedule 1, item 77, page 33 (after line 6), at the end of paragraph 20(1)(c), add:

- (vi) the content service is not an ancillary subscription television content service; or

Schedule 1, item 77, page 56 (line 29), omit “such steps as are necessary”, substitute “all reasonable steps”.

Schedule 1, item 77, page 56 (line 36), omit “such steps as are necessary”, substitute “all reasonable steps”.

Schedule 1, item 77, page 63 (after line 28), after clause 59, insert:

59A Anti-avoidance—special service-cessation notices

- (1) If:
- (a) an interim service-cessation notice or a final service-cessation notice relating to a particular live content service is applicable to a particular live content service provider; and
 - (b) the ACMA is satisfied that the live content service provider:
 - (i) is providing; or
 - (ii) is proposing to provide;
 another live content service that is substantially similar to the first-mentioned live content service; and
 - (c) the ACMA is satisfied that the other live content service:
 - (i) has provided; or
 - (ii) is providing; or
 - (iii) is likely to provide;
 prohibited content or potential prohibited content;
- the ACMA may:
- (d) if the interim service-cessation notice or final service-cessation notice, as the case may be, was given under paragraph 56(1)(c), (2)(d) or (4)(b) of this Schedule—give the live content service provider a written notice (a *special service-cessation notice*) directing the provider to take all reasonable steps to ensure that a

type A remedial situation exists in relation to the other live content service at any time when the interim service-cessation notice or final service-cessation notice, as the case may be, is in force; or

- (e) in any other case—give the live content service provider a written notice (a *special service-cessation notice*) directing the provider to take all reasonable steps to ensure that a type B remedial situation exists in relation to the other live content service at any time when the interim service-cessation notice or final service-cessation notice, as the case may be, is in force.

Note 1: For *type A remedial situation*, see subclause (2).

Note 2: For *type B remedial situation*, see subclause (3).

Type A remedial situation

- (2) For the purposes of the application of this clause to a live content service provider, a *type A remedial situation* exists in relation to a live content service if the provider does not provide the live content service.

Type B remedial situation

- (3) For the purposes of the application of this clause to a live content service provider, a *type B remedial situation* exists in relation to a live content service if:
- (a) the provider does not provide the live content service; or
 - (b) access to any R 18+ or MA 15+ content provided by the live content service is subject to a restricted access system.

Schedule 1, item 77, page 64 (after line 5), after subclause 60(2), insert:

Special service-cessation notice

- (2A) A live content service provider must comply with a special service-cessation notice that applies to the provider as soon as practicable, and in any event by 6 pm on the next business day, after the notice was given to the provider.

Schedule 1, item 77, page 64 (line 10), after “(2),”, insert “(2A)”.

Schedule 1, item 77, page 70 (line 36), omit “such steps as are necessary”, substitute “all reasonable steps”.

Schedule 1, item 77, page 71 (line 7), omit “such steps as are necessary”, substitute “all reasonable steps”.

Schedule 1, item 77, page 99 (after line 26), after paragraph 113(3)(b), insert:

- (ba) a decision to give a live content service provider a special service-cessation notice;

Schedule 1, item 77, page 103 (after line 20), after clause 117, insert:

117A Meaning of *broadcasting service*

Disregard the following provisions of this Schedule in determining the meaning of the expression *broadcasting service*:

- (a) clause 9A;
- (b) subparagraph 20(1)(c)(vi).

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

41 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION

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

Aboriginal and Torres Strait Islander Social Justice Commissioner—Report for 2006—Social justice. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Report for 2006—Native title. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

General business orders of the day nos 10 to 12 relating to government documents were called on but no motion was moved.

42 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.40 pm till Thursday, 21 June 2007 at 9.30 am.

43 ATTENDANCE

Present, all senators except Senators Barnett, Ian Macdonald and Polley.

HARRY EVANS
Clerk of the Senate