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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 MEETING OF SENATE

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

2 PARLIAMENT—WOMEN IN PARLIAMENT EXHIBITION—STATEMENT BY PRESIDENT

The President made a further statement in response to a question without notice asked by Senator Crossin on 19 September 2007 relating to the Women in Parliament exhibition in Parliament House (*see entry no. 7, 19 September 2007*).

3 PETITIONS

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Bartlett, from 25 683 petitioners, requesting that the Senate take action to end the export of live animals from Australia to the Middle East.

Senator Trood, from 1 747 petitioners, requesting that the Senate urge the Government to support an international commitment to the abolition of the death penalty.

4 NOTICES

Senator Milne: To move 15 sitting days after today—That regulation 400 made under item 41 of Schedule 1 to the Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2007 (No. 1), as contained in Select Legislative Instrument 2007 No. 217 and made under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, be disallowed.

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Watson): To move 15 sitting days after today—

No. 1—That Australian Passports Amendment Determination (No. 4), made under section 57 of the *Australian Passports Act 2005*, be disallowed.

No. 2—That the Corporations Amendment Regulations 2007 (No. 9), as contained in Select Legislative Instrument 2007 No. 227 and made under the *Corporations Act 2001*, be disallowed.

No. 3—That the Family Law (Child Abduction Convention) Amendment Regulations 2007 (No. 1), as contained in Select Legislative Instrument 2007 No. 213 and made under the *Family Law Act 1975*, be disallowed.

No. 4—That the Financial Transaction Reports Amendment Regulations 2007 (No. 1), as contained in Select Legislative Instrument 2007 No. 214 and made under the *Financial Transaction Reports Act 1988*, be disallowed.

No. 5—That the Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2007 (No. 5), as contained in Select Legislative Instrument 2007 No. 224 and made under the *Health Insurance Act 1973*, be disallowed.

No. 6—That Instrument number CASA 222/07 – Direction – number of cabin attendants, made under regulation 208 of the Civil Aviation Regulations 1988, be disallowed.

No. 7—That Instrument number PB 52 of 2007, Determination under paragraph 98C(1)(b) of the *National Health Act 1953*, be disallowed.

No. 8—That the Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2007 (No. 1), as contained in Select Legislative Instrument 2007 No. 217 and made under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, be disallowed.

No. 9—That the Private Health Insurance (Prostheses Application and Listing Fee) Rules 2007 (No. 2), made under section 8 of the *Private Health Insurance (Prostheses Application and Listing Fees) Act 2007*, be disallowed.

No. 10—That Safety, Rehabilitation and Compensation (Revocation of Declaration and Specification) Notice 2007 (1), Notice No. 1 of 2007, made under the *Safety, Rehabilitation and Compensation Act 1988*, be disallowed.

No. 11—That Therapeutic Goods (Emergency) Exemption 2007 (No. 3), made under subsection 18A(1) and paragraph 18A(2)(a) of the *Therapeutic Goods Act 1989*, be disallowed.

No. 12—That the Trade Practices Amendment Regulations 2007 (No. 4), as contained in Select Legislative Instrument 2007 No. 228 and made under the *Trade Practices Act 1974*, be disallowed.

No. 13—That the Variation to the Statement of Conditions under subsection 38A(3) of the *Defence Service Homes Act 1918*, be disallowed.

No. 14—That Vehicle Standard (Australian Design Rule 23/02 – Passenger Car Tyres) 2007, made under subsection 7(1) of the *Motor Vehicle Standards Act 1989*, be disallowed.

No. 15—That the Workplace Relations Amendment Regulations 2007 (No. 2), as contained in Select Legislative Instrument 2007 No. 183 and made under the *Workplace Relations Act 1996*, be disallowed.

No. 16—That the Workplace Relations Amendment Regulations 2007 (No. 3), as contained in Select Legislative Instrument 2007 No. 216 and made under the *Workplace Relations Act 1996*, be disallowed.

Senator Watson, by leave, made a statement relating to the notices of motion.

5 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 16 OF 2007

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 16 OF 2007

1. The committee met in private session on Wednesday, 19 September 2007 at 4.18 pm.
2. The committee resolved to recommend—That the *provisions* of the Crimes Legislation Amendment (Child Sex Tourism Offences and Related Measures) Bill 2007 be *referred immediately* to the Legal and Constitutional Affairs Committee for inquiry and report by 10 October 2007.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
 - Communications Legislation Amendment (Miscellaneous Measures) Bill 2007
 - Financial Sector Legislation Amendment (Review of Prudential Decisions) Bill 2007
 - Health Legislation Amendment Bill 2007

Lands Acquisition Legislation Amendment Bill 2007
 National Health Security Bill 2007
 Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2007
 Privacy (Data Security Breach Notification) Amendment Bill 2007
 Stolen Generation Compensation Bill 2007
 Workplace Relations (Guaranteeing Paid Maternity Leave) Amendment
 Bill 2007.

The committee recommends accordingly.

4. The committee considered a proposal to refer the provisions of the Tax Laws Amendment (2007 Measures No. 6) Bill 2007 to the Rural and Regional Affairs and Transport Committee, but **was unable to reach agreement on whether the bill should be referred.**

Stephen Parry
 Chair
 20 September 2007.

Senator Parry moved—That the report be adopted.

Debate ensued.

Senator Bartlett moved the following amendment:

At the end of the motion, add “and in respect of the Tax Laws Amendment (2007 Measures No. 6) Bill 2007, the provisions of the bill be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 10 October 2007”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 32

Senators—

Allison	Evans	McEwen	Ray
Bartlett	Fielding	McLucas	Sherry
Bishop	Hogg	Milne	Siewert
Brown, Bob	Hurley	Moore	Sterle
Brown, Carol	Kirk	Murray	Stott Despoja
Campbell (Teller)	Ludwig	Nettle	Webber
Conroy	Lundy	O’Brien	Wong
Crossin	Marshall	Polley	Wortley

NOES, 34

Senators—

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

Question negatived.

Main question put and passed.

6 ORDER OF BUSINESS—REARRANGEMENT

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

No. 8 Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability Assistance) Bill 2007.

No. 9 Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Bill 2007.

Higher Education Support Amendment (Extending FEE-HELP for VET Diploma and VET Advanced Diploma Courses) Bill 2007.

Social Security Legislation Amendment (2007 Budget Measures for Students) Bill 2007.

No. 10 Superannuation Legislation Amendment Bill 2007.

No. 11 Financial Framework Legislation Amendment Bill (No. 1) 2007.

Question put and passed.

7 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Faulkner for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade Committee, postponed till 15 October 2007.

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the reference of a matter to the Community Affairs Committee, postponed till 16 October 2007.

Senator Milne, by leave, moved—That general business notice of motion no. 914 standing in her name for today, relating to firearms laws in Tasmania, be postponed till the next day of sitting.

Question put and passed.

8 COMMUNICATIONS LEGISLATION AMENDMENT (CRIME OR TERRORISM RELATED INTERNET CONTENT) 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 pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the following bill be introduced:

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

Question put and passed.

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

Explanatory memorandum: Senator Abetz tabled an explanatory memorandum relating to the bill.

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.

9 CONSIDERATION OF LEGISLATION

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—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:

Health Insurance Amendment (Medicare Dental Services) Bill 2007
 Health Legislation Amendment Bill 2007
 Higher Education Support Amendment (Extending FEE-HELP for VET Diploma and VET Advanced Diploma Courses) Bill 2007
 Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Bill 2007
 National Health Security Bill 2007
 Social Security Amendment (2007 Measures No. 2) Bill 2007
 Social Security Legislation Amendment (2007 Budget Measures for Students) Bill 2007
 Tax Laws Amendment (2007 Measures No. 6) Bill 2007
 Trade Practices Amendment (Small Business Protection) Bill 2007.

Document: Senator Abetz tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Health Insurance Amendment (Medicare Dental Services) Bill 2007 in the 2007 spring sittings.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the noes.

10 FOREIGN AFFAIRS—COLOMBIA—HUMAN RIGHTS

Senator Stott Despoja amended general business notice of motion no. 918 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the murder of Mr Dario de Jesus Torres, a member of the San José de Apartadó Peace Community, in Colombia on 13 July 2007;
- (b) recognises that the murder of Mr Torres, and threats to the safety of the peace community, are part of the on-going violence against civilians by guerrilla and paramilitary groups that continues to plague Colombia;

- (c) notes the calls by relevant international bodies including the United Nations Human Rights Council, the Executive Committee of the Program of the United Nations High Commissioner for Human Rights and the Inter-American Commission of Human Rights for the Colombian Government to continue to give priority to addressing this situation;
- (d) welcomes the efforts made by the Colombian Government to this end so far, and urges it to continue and strengthen these efforts, including by investigation of Mr Torres' murder and guaranteeing the security of the peace community; and
- (e) notes that the Australian Government has raised the case of Mr Torres and continued concerns about the safety of the peace community with the Colombian Government in the context of their on-going dialogue on human rights issues and urges the continuation of this dialogue, including in relation to this case.

Question put and passed.

11 CHILDREN—SEXUAL ASSAULT AND ABUSE

Senator Bartlett amended general business notice of motion no. 919 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the damaging long-term effects to Australian society caused by the sexual assault and abuse of children and young people;
- (b) recognises the importance of following up expressions of concern with genuine action to assist survivors of sexual assault and to bring perpetrators to justice;
- (c) notes:
 - (i) recent concerns expressed about an alleged pack rape of a 14-year old girl in the John Oxley Youth Detention Centre in Queensland in 1988, and urges any person with information about this alleged crime to immediately furnish that information to police for full and proper investigation to ensure the alleged victim receives justice, and
 - (ii) the many petitions tabled in the Senate, expressing the support of many Australians for a royal commission into the sexual assault and abuse of children in Australia and the ongoing cover-ups of many of these matters; and
- (d) expresses support for the longstanding call for a comprehensive royal commission into the sexual assault and abuse of children throughout Australia, especially in institutions.

Question put and passed.

12 FOREIGN AFFAIRS—JAPAN—COMFORT WOMEN

Senator Payne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 920—That the Senate—

- (a) notes that:
 - (i) the suffering of the 'comfort women' in the 1930s and 1940s was an appalling episode in Japan's history and that of the Asia Pacific region, and that there can be no disputing the facts of what occurred and the pain that it caused to those affected,

- (ii) the position of successive Australian governments has been that the 1951 Peace Treaty, which Australia signed, firmly drew a line under the crimes committed by Japan before and during the Second World War, for which many Japanese were rightly tried, convicted and sentenced,
- (iii) Japan has made great progress since 1945 in recognising and atoning for its past actions, and for many decades has been a major contributor to international peace, security and development, including through the United Nations,
- (iv) the 1993 statement by then Chief Cabinet Secretary Yohei Kono on the comfort women issue (the ‘Kono statement’) fully and officially acknowledged the complicity of the Japanese Government and military in the 1930s and 1940s in a coercive system of sexual slavery in occupied territories, and
- (v) the Kono statement has been reaffirmed by subsequent Japanese governments and prime ministers, including by Prime Minister Abe;
- (b) commends the Japanese people and Government for the steps they have taken so far to acknowledge and atone for Japan’s actions in the 1930s and 1940s; and
- (c) encourages the Japanese people and Government to take further steps to recognise the full history of their nation, to foster awareness in Japan of its actions in the 1930s and 1940s, including in relation to comfort women, and to continue dialogue with those affected by Japan’s past actions in a spirit of reconciliation.

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

Omit all words after “That”, substitute “the Senate—

- (a) notes that:
 - (i) the suffering of the ‘comfort women’ in the 1930s and 1940s was an appalling episode in Japan’s history and that of the Asia Pacific region, and that there can be no disputing the facts of what occurred and the pain that it caused to those affected,
 - (ii) the position of successive Australian governments has been that the 1951 Peace Treaty, which Australia signed, legally at the time of signing addressed the crimes committed by Japan before and during World War II, and
 - (iii) the 1993 statement by then Chief Cabinet Secretary Yohei Kono officially acknowledged the Japanese Government’s findings, including its involvement in the comfort women system;
- (b) encourages the new Prime Minister of Japan to acknowledge and officially apologise to comfort women by introducing such a resolution in the Diet; and
- (c) encourages the Japanese Government to take further steps to recognise the full history of its nation, by taking historical responsibility and accurately teaching the history of comfort women in its schools.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 32

Senators—

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

NOES, 34

Senators—

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

Question negatived.

Statements by leave: Senators Wong, Allison and Nettle, by leave, made statements relating to the motion.

Main question put and passed.

13 TRADE PRACTICES (CREEPING ACQUISITIONS) AMENDMENT BILL 2007

The Leader of the Family First Party (Senator Fielding), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 921—That the following bill be introduced:

A Bill for an Act to regulate creeping acquisitions, and for related purposes.

Question put and passed.

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

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

14 DEATH OF MR VINCENT SERVENTY

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. 922—That the Senate—

- (a) notes the death of Australia's grand old man of the environment, Mr Vincent Serventy, aged 91;
- (b) expresses its condolences to Mr Serventy's wife, Carol, family and friends;

- (c) celebrates Mr Serventy's life and achievements, from his early success in saving the Dryandra Forest in Western Australia to his role in helping save the Great Barrier Reef, and his ongoing efforts to establish ten green commandments, through a global bill of rights for the environment; and
- (d) recognises that Mr Serventy, as a bushman, educator, author, filmmaker and President of Honour of the Wildlife Preservation Society of Australia, made a remarkable contribution to Australia's environmental well-being.

Question put and passed.

15 FOREIGN AFFAIRS—PAPUA NEW GUINEA—CARTERET ISLANDERS

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 923—That the Senate—

- (a) notes:
 - (i) the current visit to Australia of representatives of the Carteret Islanders of Papua New Guinea,
 - (ii) that rising sea levels, caused by climate change, threaten the viability of the Carteret Islands, and
 - (iii) the urgent need to relocate the population of the Carteret Islands; and
- (b) calls on the Australian Government to provide financial assistance to facilitate the relocation of Carteret Islanders.

Question put and negatived.

16 SCIENCE AND TECHNOLOGY—LUCAS HEIGHTS NUCLEAR REACTOR

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 916—That the Senate—

- (a) notes recent statements by the Australian Nuclear Science and Technology Organisation that it 'cannot give a firm time as to when the Lucas Heights nuclear reactor would be operational'; and
- (b) calls on the Government to use the reactor's temporary closure as an opportunity to permanently close this nuclear white elephant.

Question put and negatived.

17 FOREIGN AFFAIRS—GREECE—BUSHFIRES

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 917—That the Senate—

- (a) notes:
 - (i) the tragic loss of more than 70 lives in the devastating bushfires that have raged across Greece since August 2007,
 - (ii) the loss of livestock, native fauna and flora and thousands of acres of mature trees,
 - (iii) that the Australian Government has donated \$3 million in aid to Greece via the Greek Red Cross, and
 - (iv) that the Australian Government further promised a number of Australian bushfire experts to assist Greek authorities; and
- (b) calls on the Government to:
 - (i) investigate expanding the scope of Australian aid to Greece, and

- (ii) pledge Australian aid for appropriate replacement tree planting programs.

Question put and negatived.

18 PRIVILEGES—STANDING COMMITTEE—131ST REPORT—ORDER OF THE DAY—CONSIDERATION

The following order of the day relating to a committee report was considered by leave:

Privileges—Standing Committee—Report—Possible false or misleading evidence and improper refusal to provide information to the Finance and Public Administration Committee. Motion of the chair of the committee (Senator Faulkner)—That the Senate—

- (a) agree to the recommendation at paragraph 40; and
- (b) endorse the finding at paragraph 41,

of the 131st report of the Committee of Privileges.

Question put and passed.

19 PUBLICATIONS—JOINT STANDING COMMITTEE—REPORT—PRINTING STANDARDS FOR DOCUMENTS PRESENTED TO PARLIAMENT

Senator McGauran, on behalf of the Joint Standing Committee on Publications, tabled the following report and documents:

Publications—Joint Standing Committee—Printing standards for documents presented to Parliament—Report, dated September 2007, Hansard record of proceedings, minutes of proceedings and submissions [9].

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

Question put and passed.

20 INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—REPORT—INQUIRY INTO THE PROSCRIPTION OF ‘TERRORIST ORGANISATIONS’ UNDER THE AUSTRALIAN CRIMINAL CODE

Senator Nash, on behalf of the Parliamentary Joint Committee on Intelligence and Security, tabled the following report:

Intelligence and Security—Joint Statutory Committee—Inquiry into the proscription of ‘terrorist organisations’ under the Australian Criminal Code—Report, dated September 2007.

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

Question put and passed

21 PUBLICATIONS—STANDING COMMITTEE—24TH REPORT

Senator Nash, at the request of the Chair of the Standing Committee on Publications (Senator McGauran), tabled the following report:

PUBLICATIONS COMMITTEE
24TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the House of Representatives.

The Committee, having considered documents presented to the Parliament since 16 August 2007, recommends that the following be printed:

Aboriginal Land Commissioner—Report and recommendations to the Minister for Families, Community Services and Indigenous Affairs and to the Administrator of the Northern Territory—No. 69—Alcoota Land Claim No. 146.

Australian War Memorial—Report for 2006-07.

Housing Assistance Act 1996—Report for 2005-06.

Human Rights and Equal Opportunity Commission—Report—No. 37—Report of an inquiry into Dr Julie Copeman's complaint that Derbarl Yerrigan Health Service terminated her employment on the basis of her trade union activity (and corrections).

Members of Parliament (Staff) Act 1984—Report on consultants engaged under section 4 for 2006-07.

Northern Territory Fisheries Joint Authority—Report for 2005-06.

Reserve Bank of Australia—Report for 2006-07.

Witness Protection Act 1994—Report on the operation of the National Witness Protection Program for 2006-07.

Senator McGauran

Chair

20 September 2007.

Senator Nash moved—That the report be adopted.

Question put and passed.

22 TREATIES—JOINT STANDING COMMITTEE—89TH REPORT

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

Treaties—Joint Standing Committee—89th report—Treaties tabled on 7 August 2007, dated September 2007.

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

Question put and passed.

23 COMMITTEES—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2006-07 AND 2007-08

Senator Nash, at the request of the chairs of the respective committees, tabled the following documents:

Budget estimates 2006-07 (Supplementary)—Rural and Regional Affairs and Transport—Standing Committee—Additional information received between 14 August and 19 September 2007—Transport and Regional Services portfolio.

Budget estimates 2007-08—

Community Affairs—Standing Committee—Additional information received between 13 September and 19 September 2007—Health and Ageing portfolio.

Economics—Standing Committee—Additional information received between—

28 May and 19 September 2007—Treasury portfolio.

16 August and 19 September 2007—Industry, Tourism and Resources portfolio.

Employment, Workplace Relations and Education—Standing Committee—Additional information received—

Between 26 July and 18 September 2007—Employment and Workplace Relations portfolio.

16 August 2007—Education, Science and Training portfolio.

Environment, Communications, Information Technology and the Arts—Standing Committee—Additional information received between 15 August and 19 September 2007—Communications, Information Technology and the Arts portfolio.

Finance and Public Administration—Standing Committee—Additional information received between 16 August and 19 September 2007—

Finance and Administration portfolio.

Human Services portfolio.

Foreign Affairs, Defence and Trade—Standing Committee—Additional information received between 16 August and 20 September 2007—

Defence portfolio.

Foreign Affairs and Trade portfolio.

Rural and Regional Affairs and Transport—Standing Committee—Additional information received between 10 August and 18 September 2007—

Agriculture, Fisheries and Forestry portfolio.

Transport and Regional Services portfolio.

Senator O'Brien moved—That the Senate take note of additional information received by the Rural and Regional Affairs and Transport Committee for Budget estimates 2006-07 and 2007-08.

Documents: Senator O'Brien, by leave, tabled the following documents:

Transport—Air safety—Copies of—

Eastwest Airlines (Operations) Limited settlement agreement with Ansett Transport Industries (Operations) Pty Limited and Avco Corporation (1993).

E-mails from—

Dr Carl Mackerer, dated 4 October 2000.

Mr Richard Fox (Allied Signal Incorporated) to the Chief Medical Officer of Ansett Australia (Dr David Lewis) and others, 'Preliminary Trip Report for Air Quality Testing at Ansett', dated 4 September 1997.

Facsimile from the Chief Medical Officer of Ansett Australia (Dr David Lewis) to the Executive General Manager, Operations and Inflight Services, Ansett Australia (Captain Trevor Jensen), 'BAe 146 certification', dated 4 December 1997.

Magazine article, 'The secret life of BAe', *Private Eye*.

Question put and passed

24 MIGRATION AMENDMENT REGULATIONS—PROPOSED DISALLOWANCE

Senator Bartlett, pursuant to notice, moved business of the Senate notice of motion no. 3—That items 41 and 72 of Schedule 1 and items 7 and 8 of Schedule 2 of the Migration Amendment Regulations 2007 (No. 7), as contained in Select Legislative Instrument 2007 No. 257 and made under the *Migration Act 1958*, be disallowed.

Debate ensued.

Question put and negatived.

25 COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT—PATIENT ASSISTED TRAVEL SCHEMES

Pursuant to order, the Chair of the Community Affairs Committee (Senator Humphries) tabled the following report and documents:

Community Affairs—Standing Committee—Highway to health: better access for rural, regional and remote patients—Report, dated September 2007, Hansard record of proceedings, documents presented to the committee, additional information and submissions [190].

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

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

Debate ensued.

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

26 FOREIGN AFFAIRS, DEFENCE AND TRADE—STANDING COMMITTEE—REPORT—ANNUAL REPORTS

Pursuant to order, Senator Parry, at the request of the Chair of the Foreign Affairs, Defence and Trade Committee (Senator Payne), tabled the following report:

Foreign Affairs, Defence and Trade—Standing Committee—Annual reports referred to committees—Report no. 2 of 2007, dated September 2007.

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

27 SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 2) BILL 2007

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

Message no. 656, dated 19 September 2007—A Bill for an Act to amend the law in relation to social security, and for related purposes.

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

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

28 HEALTH LEGISLATION AMENDMENT BILL 2007

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

Message no. 657, dated 19 September 2007—A Bill for an Act to amend the law in relation to health and private health insurance, and for related purposes.

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

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

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

29 TAX LAWS AMENDMENT (2007 MEASURES NO. 5) BILL 2007

A message from the House of Representatives was reported indicating that the House had made the amendments requested by the Senate to the following bill:

Message no. 661, dated 19 September 2007—Tax Laws Amendment (2007 Measures No. 5) Bill 2007.

On the motion of the Minister for Human Services (Senator Ellison) the bill was read a third time.

30 TRADE PRACTICES LEGISLATION AMENDMENT BILL (NO. 1) 2007

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

Message no. 660, dated 19 September 2007—Trade Practices Legislation Amendment Bill (No. 1) 2007.

31 CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT (TERRORIST MATERIAL) BILL 2007

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck)—That this bill be now read a second time.

Debate resumed.

Document: The Minister for Justice and Customs (Senator Johnston) tabled the following document:

Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007—Chronology of events relating to the review of classifications and the passage of the bill.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Stott Despoja moved the following amendment:

Schedule 1, item 3, page 3 (after line 15), after subsection 9A(1), insert:

- (1A) Before making a classification in accordance with subsection (1), consideration must be given to the likely impact of the material, based on an assessment of the class of persons to or amongst whom the material is to be, or is intended to be, or is likely to be published.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, item 3, page 3 (line 18), after “if”, insert “it is intended or might reasonably be regarded as intended by the creator of the material that”.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 3, page 3 (line 19), omit “or indirectly”.

Schedule 1, item 3, page 3 (line 21), omit “or indirectly”.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, item 3, page 3 (lines 23 to 28), omit paragraph 9A(2)(c).

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, item 3, page 3 (lines 25 to 27), omit “(regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person might suffer)”.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, item 3, page 4 (after line 6), at the end of section 9A, add:

9B Exemption for access to material Refused Classification

- (1) A person (the applicant) may apply to the Classification Review Board for access to material which has been classified RC if the purpose of the access is to review or analyse the material for educational or scholarly purposes and the Classification Review Board may grant access in accordance with the subsection.
- (2) An application may be made to the Administrative Appeals Tribunal for the review of a decision of the Classification Review Board under subsection (1).
- (3) The regulations may prescribe:
 - (a) the procedures for application and review; and

- (b) conditions for the release of material which will safeguard the capacity to undertake educational or scholarly review or analysis while limiting the circulation of RC material.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of Senator Johnston the report from the committee was adopted.

Senator Johnston moved—That this bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time.

32 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Johnston) moved—That government business order of the day no. 2 (Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Amendment Bill (No. 2) 2007) be considered after consideration of government business order of the day no. 11 (Financial Framework Legislation Amendment Bill (No. 1) 2007) till not later than 2 pm.

Question put and passed.

**33 NATIONAL HEALTH SECURITY BILL 2007
SOCIAL SECURITY LEGISLATION AMENDMENT (2007 BUDGET MEASURES FOR
STUDENTS) BILL 2007**

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

Message no. 663, dated 20 September 2007—A Bill for an Act to provide for national health security, and for related purposes.

Message no. 662, dated 20 September 2007—A Bill for an Act to amend the law relating to the provision of benefits to students, and for related purposes.

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

Question put and passed.

Bills read a first time.

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

Explanatory memoranda: Senator Johnston tabled a revised explanatory memorandum and a correction to the revised explanatory memorandum relating to the Social Security Legislation Amendment (2007 Budget Measures for Students) Bill 2007.

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

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

Question put and passed.

At 12.45 pm—

**34 FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS LEGISLATION
AMENDMENT (CHILD DISABILITY ASSISTANCE) BILL 2007**

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz)—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.

In the committee

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, items 9 to 13. Schedule 1, items 9 to 13 debated and agreed to.

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Moore) resumed the chair and the Temporary Chair of Committees 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 bill read a third time.

**35 FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS LEGISLATION
AMENDMENT (FURTHER 2007 BUDGET MEASURES) BILL 2007**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) the bill was read a third time.

36 SOCIAL SECURITY LEGISLATION AMENDMENT (2007 BUDGET MEASURES FOR STUDENTS) 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) welcomes the extension of eligibility for Austudy payments to students undertaking Masters degrees and the expansion of eligibility for Rent Assistance to all Austudy recipients;
- (b) notes that these measures come after more than 11 years in office, during which time the Government has made it more difficult for Australian students to go to university, demonstrated by the fact that:
 - (i) the cost of a university degree has increased by between \$7 500 and \$30 000,
 - (ii) there are now more than 100 university degrees costing more than \$100 000, and
 - (iii) since 1996 the Higher Education Contribution Scheme (HECS) debts have nearly tripled from \$4.5 billion to nearly \$13 billion;
- (c) notes the findings of the Australian University Finances 2006 report which revealed:
 - (i) nearly 42 per cent of all full-time undergraduates and nearly 33 per cent of full-time postgraduate coursework students had a total annual income of less than \$10 000,
 - (ii) full-time postgraduate coursework students had the highest rate of rejection for Youth Allowance, the highest rate of dependence on a partner, and the highest level of debt, and
 - (iii) female students are more likely to rely on free or subsidised services provided by universities and student associations and believed they would be less able to afford these services if they were not subsidised;
- (d) notes the Government’s dismissive and out of touch attitude towards these findings, in particular, the labelling of the survey of nearly 19 000 questionnaire responses as ‘anecdotal’, for suggesting that students should be more ‘frugal’ with their finances, and for saying that the HECS system is ‘generous’; and
- (e) condemns the Government for failing to adequately meet the genuine income support needs of Australia’s university students over its period in office”.

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 Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) the bill was read a third time.

37 SUPERANNUATION LEGISLATION AMENDMENT BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Brandis)—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.

In the committee

Bill taken as a whole by leave.

Senator Murray moved the following amendment:

Page 25 (after line 28), at the end of the bill, add:

Schedule 7—Same-sex: same entitlements

Defence Force Retirement and Death Benefits Act 1973

1 Subsection 3(1)

Insert:

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the two people are not legally married:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) a de facto relationship is a beneficiary relationship.

Note: A person in a marital relationship is taken to be legally married—see subsection 8A(2) of the *Superannuation Act 1976*.

Parliamentary Contributory Superannuation Act 1948**2 Subsection 4(1)**

Insert:

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the two people are not legally married:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) a de facto relationship is a beneficiary relationship.

3 The whole of the Act

Amend so that every occurrence of “marital” is omitted and substituted by “beneficiary”.

Superannuation Act 1976**4 The whole of the Act**

Amend so that every occurrence of “marital” is omitted and substituted by “beneficiary”.

5 Subsection 3(1)

Insert:

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the two people are not legally married:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:

- (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
 - (c) a de facto relationship is a beneficiary relationship.

6 Section 8A

Repeal the section, substitute:

8A Beneficiary relationship

- (1) For the purposes of this Act, a person had a *beneficiary relationship* with another person at a particular time if the person has a marital or de facto relationship with the person and ordinarily lived with that other person on a permanent and *bona fide* domestic basis at that time.
- (2) For the purpose of subsection (1), a person is to be regarded as ordinarily living with another person on a permanent and *bona fide* domestic basis at a particular time only if:
 - (a) the person had been living with that other person for a continuous period of at least 3 years up to that time; or
 - (b) the person had been living with that other person for a continuous period of less than 3 years up to that time and the Board, having regard to any relevant evidence, is of the opinion that the person ordinarily lived with that other person on a permanent and *bona fide* domestic basis at that time.
- (3) For the purposes of this Act, a beneficiary relationship is taken to have begun at the beginning of the continuous period mentioned in paragraph (2)(a) or (b).
- (4) For the purpose of subsection (2), relevant evidence includes, but is not limited to, evidence establishing any of the following:
 - (a) the person was wholly or substantially dependent on that other person at the time;
 - (b) the persons were legally married to each other at the time;
 - (c) the persons had a child who was:
 - (i) born of the relationship between the persons; or
 - (ii) adopted by the persons during the period of the relationship;

- (d) the persons jointly owned a home which was their usual residence.
- (5) For the purposes of this section, a person is taken to be living with another person if the Board is satisfied that the person would have been living with that other person except for a period of:
 - (a) temporary absence; or
 - (b) absence because of the person's illness or infirmity.

Superannuation Industry (Supervision) Act 1993

7 Subsection 10(1) (definition of *dependant*)

After "interdependency", insert "or de facto".

8 After section 10A

Insert:

10B De facto relationship

- (1) For the purposes of this Act, 2 persons have a *de facto relationship* if they are living together as a couple on a genuine domestic basis, where the two people are not legally married.
- (2) In determining whether 2 people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (a) the length of their relationship;
 - (b) how long and under what circumstances they have lived together;
 - (c) whether there is a sexual relationship between them;
 - (d) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (e) the ownership, use and acquisition of their property, including any property that they own individually;
 - (f) their degree of mutual commitment to a shared life;
 - (g) whether they mutually care for and support children;
 - (h) the performance of household duties;
 - (i) the reputation, and public aspects, of the relationship between them;
 - (j) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person.
- (3) A de facto relationship may be between two people of the same gender.
- (4) A de facto relationship is a beneficiary relationship.
- (5) The rights, entitlements and obligations of a person in an independency relationship extend in all respects to a person in a de facto relationship.

Veteran's Entitlement Act 1986**9 Section 5E(1)**

Insert:

de facto partner means a person in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) a de facto relationship is a beneficiary relationship.

Workplace Relations Act 1996**10 Section 263 (definition of spouse)**

Omit "de facto spouse" (twice occurring), substitute "de facto partner".

11 Subsection 282(1)

Omit "a male" (wherever occurring), substitute "an".

12 Subsection 282(1)

After "his" (wherever occurring), insert "or her".

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

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Kirk) resumed the chair and the Temporary Chair of Committees 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 bill read a third time.

38 FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 1) 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.

Explanatory memorandum: The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) tabled a replacement explanatory memorandum relating to the bill.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Murray moved the following amendments together by leave:

Schedule 1, page 4 (after line 11), after item 2, insert:

2A After section 20

Insert:

20A Consolidated Register of Special Accounts

- (1) The Minister must cause to be tabled in each House of Parliament not later than 31 August each year a list:
 - (a) identifying all Special Accounts established in accordance with section 20 or 21 of this Act; and
 - (b) specifying the date of establishment of each Special Account and the expected duration of the Account; and
 - (c) specifying the purpose for which each Special Account is established; and
 - (d) specifying the amount credited to each Special Account at the close of the previous financial year.

Schedule 1, page 4 (after line 15), after item 3, insert:

3A Before section 28

Insert:

27A Time limits for special appropriations

- (1) If a provision of an Act:
 - (a) has effect immediately before the commencement of the *Financial Framework Legislation Amendment Act (No.1) 2007*; and

- (b) appropriates money; and
 - (c) does not specify the amount of money so appropriated;
- the appropriation of money by that provision, unless otherwise provided by the Parliament, ceases to have effect at the expiration of the fourth year after the date of assent of the *Financial Framework Legislation Amendment Act (No.1) 2007*.
- (2) Amounts otherwise payable under an appropriation which ceases to have effect in accordance with subsection (1) are to be paid from money appropriated by the Parliament for those purposes.
 - (3) An appropriation under subsection (2) must not have effect for more than 4 financial years.

Schedule 1, item 8, page 6 (lines 1 to 10), omit section 31, substitute:

31 Transitional arrangements

- (1) If a provision of an Act:
 - (a) has effect immediately before the commencement of the *Financial Framework Legislation Amendment Act (No.1) 2007*; and
 - (b) appropriates money under section 31 of the *Financial Framework Legislation Amendment Act (No.1) 2007*;
 the appropriation of money by that provision ceases to have effect at the end of the financial year during which this schedule commences.

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

Bill agreed to.

Bill to be reported without amendment.

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

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

39 AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA'S SKILLS NEEDS) AMENDMENT BILL (NO. 2) 2007

Order of the day read for the adjourned debate on the motion of the Minister for Human Services (Senator Ellison)—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 notes the:

- (a) Government’s continued failure over 11 long years in office to ensure Australians get the training they need for a skilled job and to meet the skills needs of the economy;
- (b) slashing of funding to the existing Technical and Further Education (TAFE) system, with Commonwealth revenues in vocational education decreasing by 13 per cent from 1997 to 2000 and only increasing by one per cent from 2000 to 2004;

- (c) Government's failure to make the necessary investments in existing vocational education and training infrastructure to create opportunities for young Australians to access high quality vocational education and training in all our secondary schools and in the TAFE system;
- (d) Government is creating an expensive, inefficient, and duplicative network of stand alone Australian technical colleges, without cooperation or consultation with the states within the existing vocational education and training framework;
- (e) appropriation of more than half a billion dollars for 30 colleges that will produce 10 000 graduates by 2010 when by the Government's own estimates there will be a shortage of 200 000 skilled workers over the next 5 years; and
- (f) failure of the Government to provide opportunities for young people interested in pursuing vocational education and trades training who do not live near the 30 Australian technical colleges".

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 Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) the bill was read a third time.

Suspension of sitting: On the motion of Senator Colbeck the sitting of the Senate was suspended at 1.55 pm till 2 pm.

At 2 pm—

40 QUESTIONS

Questions without notice were answered.

41 ENVIRONMENT—CLIMATE CHANGE—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Evans) moved—That the Senate take note of the answers given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to questions without notice asked by Senators Carr, Carol Brown and Wortley today relating to climate change.

Debate ensued.

Question put and passed.

42 CHILDREN—SEXUAL ASSAULT AND ABUSE—ANSWER TO QUESTION

Senator Bartlett moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Bartlett today relating to the sexual assault and abuse of children.

Question put and passed.

**43 COMMUNICATIONS—TELSTRA—BROADBAND—ANSWER TO QUESTION—
STATEMENT BY LEAVE**

The Minister for Communications, Information Technology and the Arts (Senator Coonan), by leave, made a statement clarifying the answer she gave to a question without notice asked by Senator Crossin today relating to Telstra and broadband.

Document: Senator Coonan tabled the following document:

Communications—Telstra—Broadband—Copy of ‘Our Clients’, UMR Research, printed 20 September 2007, <http://www.umr.co.nz/Clients_Australia.php>.

Senator Conroy, by leave, moved—That the Senate take note of the statement.
Question put and passed.

44 HOURS OF MEETING—VARIATION—ORDER OF BUSINESS—REARRANGEMENT

The Minister for Communications, Information Technology and the Arts (Senator Coonan), by leave, moved—That—

- (a) the hours of meeting for today shall be 9.30 am to 6.30 pm and 7 pm to adjournment; and
- (b) the order of consideration of government business orders of the day for the remainder of today be as follows:

Health Insurance Amendment (Medicare Dental Services) Bill 2007

Health Legislation Amendment Bill 2007

National Health Security Bill 2007

Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Bill 2007

No. 4 Social Security Amendment (2007 Measures No. 1) Bill 2007

Social Security Amendment (2007 Measures No. 2) Bill 2007

No. 5 Telecommunications (Interception and Access) Amendment Bill 2007

No. 6 Communications Legislation Amendment (Information Sharing and Datacasting) Bill 2007

No. 3 National Greenhouse and Energy Reporting Bill 2007

No. 7 Judges’ Pensions Amendment Bill 2007

Federal Magistrates Amendment (Disability and Death Benefits) Bill 2007

Veterans’ Entitlements Amendment (Disability, War Widow and War Widower Pensions) Bill 2007

Higher Education Support Amendment (Extending FEE-HELP for VET Diploma and VET Advanced Diploma Courses) Bill 2007

Tax Laws Amendment (2007 Measures No. 6) Bill 2007

Trade Practices Amendment (Small Business Protection) Bill 2007.

Question put and passed.

45 DEFENCE—JOINT DEFENCE FACILITY PINE GAP—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) tabled the following document:

Defence—Joint Defence Facility Pine Gap—Ministerial statement by the Minister for Defence (Dr Nelson), dated 20 September 2007.

Senator Bartlett, by leave, moved—That the Senate take note of the document.

Question put and passed.

46 COMMUNITY AFFAIRS REFERENCES COMMITTEE—GOVERNMENT RESPONSE—AGED CARE

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) tabled the following document:

Community Affairs References Committee—Report—Quality and equity in aged care—Government response, dated September 2007.

Senator McLucas, by leave, moved—That the Senate take note of the document.

Question put and passed.

47 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—AUSTRALIA'S AID PROGRAM IN THE PACIFIC

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Payne) tabled the following report:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Australia's aid program in the Pacific—Report, dated September 2007.

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

Question put and passed.

48 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS—STANDING COMMITTEE—REPORT—INQUIRY INTO NATIONAL PARKS, CONSERVATION RESERVES AND MARINE PROTECTED AREAS—TWO PRIVILEGE MATTERS

Senator Parry, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Committee (Senator Eggleston), tabled the following report:

Environment, Communications, Information Technology and the Arts—Standing Committee—Report on two privilege matters raised with the committee in relation to its inquiry into national parks, conservation reserves and marine protected areas—Report, dated September 2007.

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

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

Question put and passed.

49 SAME-SEX: SAME ENTITLEMENTS BILL 2007—DOCUMENT

The Leader of the Australian Democrats (Senator Allison), by leave, tabled the following document:

Entitled to equality—Inquiry into the provisions of the Same-Sex: Same Entitlements Bill 2007, dated September 2007.

50 DOCUMENTS

The following documents were tabled by the Clerk:

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

Australian Communications and Media Authority Act—

Radiocommunications (Charges) Amendment Determination 2007 (No. 3) [F2007L03648]*.

Radiocommunications (Interpretation) Amendment Determination 2007 (No. 2) [F2007L03650]*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 13 of 2007—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2007L03727]*.

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

AD/BELL 212/68—Tail Rotor Blades [F2007L03732]*.

AD/BELL 205/73—Tail Rotor Blades [F2007L03731]*.

AD/BELL 412/52—Tail Rotor Blades [F2007L03733]*.

Defence Act—Determinations under section 58B—

Defence Determinations—

2007/60—Short absence.

2007/61—Overseas conditions of service – post indexes.

Defence (Employer Support Payments) Amendment Determination 2007 (No. 1).

Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2007 (No. 2) [F2007L03665]*.

Financial Management and Accountability Act—Net Appropriation Agreements for—

Australian Prudential Regulation Authority [F2007L03664]*.

Great Barrier Reef Marine Park Authority [F2007L03666]*.

Gene Technology Act—Gene Technology (Equine Influenza Vaccine) Emergency Dealing Determination 2007 [F2007L03766]*.

Health Insurance Act—Determinations—

HIB 13/2007 [F2007L03696]*.

HIB 14/2007 [F2007L03697]*.

HIB 15/2007 [F2007L03698]*.

HIB 16/2007 [F2007L03700]*.

HIB 17/2007 [F2007L03701]*.

HIB 18/2007 [F2007L03703]*.

HIB 19/2007 [F2007L03705]*.

Motor Vehicle Standards Act—

Vehicle Standard (Australian Design Rule 29/00 – Side Door Strength) 2006 Amendment 1 [F2007L03749]*.

Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005 Amendment 3 [F2007L03748]*.

Natural Heritage Trust of Australia Act—Extensions to the National Action Plan for Salinity and Water Quality Bilateral Agreements (to 30 June 2008) between the Commonwealth of Australia and—

Queensland.
South Australia.
Tasmania.
Victoria.

Natural Heritage Trust of Australia Act and Natural Resources Management (Financial Assistance) Act—Extension to the Natural Heritage Trust and the National Action Plan for Salinity and Water Quality Bilateral Agreements (to 30 June 2008) between the Commonwealth of Australia and New South Wales.

Private Health Insurance Act—Private Health Insurance (Benefit Requirements) Rules 2007 (No. 3) [F2007L03707]*.

Radiocommunications (Transmitter Licence Tax) Act—Radiocommunications (Transmitter Licence Tax) Amendment Determination 2007 (No. 3) [F2007L03651]*.

Remuneration Tribunal Act—Select Legislative Instrument 2007 No. 277—Remuneration Tribunal (Miscellaneous Provisions) Amendment Regulations 2007 (No. 2) [F2007L03751]*.

Social Security Act—

Social Security Exempt Lump Sum (Queensland Government Redress Scheme) (DEST) Determination 2007 [F2007L03723]*.

Social Security Exempt Lump Sum (Queensland Government Redress Scheme) (DEWR) Determination 2007 [F2007L03631]*.

Social Security Exempt Lump Sum (Queensland Government Redress Scheme) (FaCSIA) Determination 2007 [F2007L03594]*.

Social Security (Personal Care Support – Direct Payments Project) (DEST) Determination 2007 [F2007L03686]*.

* Explanatory statement tabled with legislative instrument.

51 GOVERNOR-GENERAL'S MESSAGE—ASSENT TO LAW

A Message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the following law:

17 September 2007—Message No. 98—*Australian Citizenship Amendment (Citizenship Testing) Act 2007* (Act No. 142, 2007).

52 HEALTH INSURANCE AMENDMENT (MEDICARE DENTAL SERVICES) BILL 2007

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

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

Schedule 1, page 4 (after line 4), at the end of the Schedule, add:

5 Subsection 10AA(7)

Insert:

de facto partner means one of two people in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

6 Subsection 10AA(7) (paragraph (b) of definition of spouse)

Omit “spouse”, substitute “partner”.

7 Subsection 23DZZID(1)

Insert:

de facto partner means one of two people in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;

- (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
 - (c) to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

8 Subsection 23DZZID(1) (definition of spouse)

Omit “de facto spouse”, substitute “de facto partner”.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Chapman) 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.

53 HEALTH LEGISLATION AMENDMENT BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for Human Services (Senator Ellison)—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.

In the committee

Bill taken as a whole by leave.

Senator Bartlett moved the following amendment:

Page 7 (after line 4), at the end of the bill, add:

Schedule 3—Same-sex: same entitlements

National Health Act 1953

1 Subsection 4(1)

Insert:

de facto partner means one of two people in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

2 Subsection 4(1) (definition of spouse)

Omit “spouse” (second occurring), substitute “partner”.

3 Subsection 84B(4) (paragraph (b) of the definition of spouse)

Omit “spouse”, substitute “partner”.

Debate ensued.

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

Bill debated and agreed to.

Bill to be reported without amendment.

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

54 NATIONAL HEALTH SECURITY BILL 2007

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

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

55 INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (CAPE YORK MEASURES) 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 provides bipartisan support for:

- (a) eliminating 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 other Australian children; and
- (b) Labor’s positive policy approach towards narrowing the gap between Indigenous and non-Indigenous educational outcomes by:
 - (i) providing universal preschool access for all Australian 4 year olds, including Indigenous 4 year olds,
 - (ii) committing additional funding towards intensive literacy and numeracy programs across Australia,
 - (iii) developing new programs to tackle the gap in numeracy outcomes between Indigenous and other Australian children,
 - (iv) implementing the Australian early development index for all Australian children starting school, and
 - (v) introducing individual learning plans for all Indigenous children in Australia”.

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 Community Services (Senator Scullion) the bill was read a third time.

56 **SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 1) BILL 2007**
SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 2) BILL 2007

Order of the day read for the adjourned debate on the motions of the Minister for Fisheries, Forestry and Conservation (Senator Abetz) and the Minister for Human Services (Senator Ellison)—That these bills be now read a second time.

Debate resumed.

Senator Wong moved the following amendments together by leave:

In respect of the Social Security Amendment (2007 Measures No. 1) Bill 2007—

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

- (a) condemns the Government for:
 - (i) making it harder for Australians to move from welfare to work,
 - (ii) reducing the financial rewards for people who move from welfare to work, and
 - (iii) restricting access to training and education for job seekers; and
- (b) calls on the Government to allow people with part-time participation requirements to fulfil those requirements through real training or study”.

In respect of the Social Security Amendment (2007 Measures No. 2) Bill 2007—

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

- (a) notes the additional parliamentary scrutiny of legislative instruments in place of administrative guidelines; and
- (b) calls on the Government to:
 - (i) listen to the concerns of the disability community regarding the quality and fairness of their Job Capacity Assessment system, and
 - (ii) consult with stakeholders to ensure that these new guidelines do not make life harder for people with a disability and that they have fair and reasonable opportunity to appeal decisions relating to job capacity assessments”.

Debate ensued.

The question was divided—

Question—That the amendment in respect of the Social Security Amendment (2007 Measures No. 1) Bill 2007 be agreed to—put and negatived.

Question—That the amendment in respect of the Social Security Amendment (2007 Measures No. 2) Bill 2007 be agreed to—put and negatived.

Main question put and passed.

Bills read a second time.

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

In the committee

SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 1) BILL 2007—

Bill taken as a whole by leave.

Senator Siewert moved the following amendments together by leave:

Schedule 4, item 1, page 13 (line 7), after “*family law order*”, insert “*or care arrangement*”.

Schedule 4, item 1, page 13 (after line 15), at the end of the item, add:
 ; or (e) a parenting plan within the meaning of 63C of that Act; or
 (f) any other formal or informal care arrangement.

Debate ensued.

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

Senator Bartlett moved the following amendment:

Page 17 (after line 14), after Schedule 5, insert:

Schedule 5A—Same-sex: same entitlements

Social Security Act 1991

1 Subsection 4(1)

Insert:

de factor partner means one of two people in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

2 Paragraph 4(2)(b) (definition of *member of a couple*)

Add at the end “and includes a de facto partner and people in a de facto relationship”.

3 Subsections 4(2), (3), (3A) and 24(2) (definition of *marriage-like relationships*)

Omit “marriage-like relationship”, substitute “de facto relationship”.

4 Paragraph 5(1)(a)

After “parent” (twice occurring), insert “or adoptive de facto partner”.

5 Section 1067C

Omit “marriage-like relationship” (wherever occurring), substitute “de facto relationship”.

6 Subsection 1067C(1)

After “married to” (wherever occurring), insert “or is in a de facto relationship with”.

Debate ensued.

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

Bill agreed to.

SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 2) BILL 2007—

Bill taken as a whole by leave.

Senator Siewert moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment:
Schedule 1, page 3 (before line 5), before item 1, insert:

1A Subsection 5(18) (and the heading)

Repeal the heading and the subsection, substitute:

Principal carer—a child may have more than one principal carer

(18) If:

- (a) a court orders that more than one parent is to have a significant proportion of responsibility for the care of a child; and
- (b) the difference in percentage of responsibility for the care of a child between the two parents is 12% or less;

both parents must be treated for all purposes of this Act as a principal carer for the child.

1B After subsection 5(19)

Insert:

- (19A) Notwithstanding subsection (19), if a court orders that more than one parent has a significant proportion of responsibility for the care of a child and the difference in percentage of responsibility for the care of a child between the two parents is 12% or less, the Secretary must make a determination that each parent the subject of the court order is the principal carer of the child.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, items 2 to 4, 8, 10, 17, 18, 25 and 33.

Schedule 1, items 2 to 4, 8, 10, 17, 18, 25 and 33 debated and agreed to.

Senator Siewert moved the following amendments together by leave:

Schedule 1, item 7, page 4 (line 11), after “*family law order*”, insert “*or care arrangement*”.

Schedule 1, item 7, page 4 (after line 19), at the end of the definition of *family law order*, add:

- (e) a parenting plan within the meaning of 63C of the Act; or
- (f) any other formal or informal care arrangement.

Schedule 1, item 15, page 5 (line 20), after “family law order”, insert “or care arrangement”.

Schedule 1, item 16, page 5 (line 25), after “*family law order*”, insert “*or care arrangement*”.

Schedule 1, item 20, page 6 (line 25), after “family law order”, insert “or care arrangement”.

Schedule 1, item 21, page 6 (line 30), after “*family law order*”, insert “*or care arrangement*”.

Schedule 1, item 23, page 7 (line 4), after “family law order”, insert “or care arrangement”.

Schedule 1, item 24, page 7 (line 9), after “*family law order*”, insert “*or care arrangement*”.

Schedule 1, item 31, page 8 (line 5), after “family law order”, insert “or care arrangement”.

Schedule 1, item 32, page 8 (line 10), after “*family law order*”, insert “*or care arrangement*”.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, items 37 to 46.

Schedule 1, items 37 to 46 debated and agreed to.

Senator Siewert moved the following amendment:

Schedule 1, item 47, page 10 (lines 11 to 17), omit all the words from and including “That day” to and including “new payment”.

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

Bill agreed to.

Bills to be reported without amendments.

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

On the motion of the Minister for Community Services (Senator Scullion) the report from the committee was adopted and the bills read a third time.

57 TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) AMENDMENT BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for Human Services (Senator Ellison)—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.

In the committee

Bill taken as a whole by leave.

Senator Stott Despoja moved the following amendment:

Schedule 1, item 6, page 4 (line 24), omit paragraph 5(1)(m).

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 12, page 9 (after line 27), at the end of section 176, add:

Judicial warrant required for access

- (7) Notwithstanding the other provisions of this section, any authorisation for access to prospective information or documents in accordance with this section is void unless it complies with Divisions 1 and 2 of Part 2, and Part 3 of the *Surveillance Devices Act 2004*.

Schedule 1, item 12, page 11 (after line 30), at the end of section 180, add:

Judicial warrant required for access

- (8) Notwithstanding the other provisions of this section, any authorisation for access to prospective information or documents in accordance with this section is void unless it complies with Divisions 1 and 2 of Part 2, and Part 3 of the *Surveillance Devices Act 2004*.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 7

Senators—

Allison
Bartlett (Teller)

Milne
Murray

Nettle
Siewert

Stott Despoja

NOES, 51

Senators—

Adams	Crossin	Joyce	Patterson
Barnett	Eggleston	Kirk	Payne
Bernardi	Evans	Ludwig	Polley
Birmingham	Faulkner	Macdonald, Ian	Ray
Bishop	Ferguson	Macdonald, Sandy	Ronaldson
Boswell	Fielding	Marshall	Scullion
Boyce	Fierravanti-Wells	Mason	Sterle
Brown, Carol	Fifield	McEwen	Trood
Bushby	Fisher	McGauran	Watson
Campbell	Hogg	McLucas	Webber
Carr	Humphries	Moore	Wong
Chapman	Hurley	Nash	Wortley
Colbeck	Johnston	Parry (Teller)	

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Justice and Customs (Senator Johnston) the report from the committee was adopted and the bill read a third time.

58 COMMUNICATIONS LEGISLATION AMENDMENT (INFORMATION SHARING AND DATACASTING) BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz)—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:

- (a) is concerned that the bill does not:
 - (i) provide for consultation with licence holders prior to varying the frequencies on which datacasting transmitter licences operate, and
 - (ii) address privacy concerns or provide adequate protection of confidential information; and
- (b) therefore demands that the Government:
 - (i) make every attempt to carry out spectrum planning for new digital mobile services to ensure that consumers and licence holders are not disadvantaged, and
 - (ii) undertake consultation with all stakeholders prior to varying the frequencies on which datacasting transmitter licences operate”.

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 Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) the bill was read a third time.

59 NATIONAL GREENHOUSE AND ENERGY REPORTING BILL 2007

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

Debate resumed.

Senator Wong moved the following amendment:

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

- (a) notes that:
 - (i) the bill was hastily drafted without any genuine consultation with stakeholders, including state governments, industry groups and environment groups,
 - (ii) the bill was hastily drafted and introduced so as to prevent due public and parliamentary scrutiny, and
 - (iii) significant Government amendments were circulated less than 24 hours before the second reading debate so as to prevent due public and parliamentary scrutiny;
- (b) is concerned that the bill does not reflect the urgent need to establish an effective emissions trading scheme; and
- (c) therefore demands that the Government amend the legislation according to the unanimous recommendations in the report of the inquiry into the bill by the Environment, Communications, Information Technology and the Arts Committee”.

Debate ensued.

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

Main question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Human Services (Senator Ellison) the report from the committee was adopted and the bill read a third time.

60 **JUDGES' PENSIONS AMENDMENT BILL 2007**
FEDERAL MAGISTRATES AMENDMENT (DISABILITY AND DEATH BENEFITS)
BILL 2007

Order of the day read for the adjourned debate on the motions of the Minister for Fisheries, Forestry and Conservation (Senator Abetz) and the Minister for the Arts and Sport (Senator Brandis)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

JUDGES' PENSIONS AMENDMENT BILL 2007—

Bill taken as a whole by leave.

Senator Ludwig moved the following amendments together by leave:

Schedule 1, page 3 (after line 4), before item 1, insert:

1AA Subsection 4(1)

Repeal the definition of *child of marital relationship*.

Schedule 1, page 3 (after line 6), item 1, before the definition of *salary*, insert:

de facto relationship means:

- (a) the relationship between two people living together as a couple on a genuine domestic basis;
- (b) in determining whether two people are in a de facto relationship, all the circumstances of the relationship must be taken into account, including any of the following:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (c) no one factor, or any combination of factors, under paragraph (b) or (f) is necessary to establish a de facto relationship;

- (d) a de facto relationship may be between two people, irrespective of gender;
- (e) two people may still be in a de facto relationship if they are living apart from each other on a temporary basis;
- (f) if a relationship is registered under a state or territory law allowing for the registration of relationships, registration is proof of the relationship from that date.

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

Senator Ludwig moved the following amendment:

Schedule 1, page 3 (after line 15), after item 1, insert:

1A Section 4AC

Repeal the heading, substitute:

4AC Spouse or de facto partner who survives a deceased Judge

1B After subsection 4AC(2)

Insert:

- (2A) For the purposes of this Act, a person is a de facto partner who survives a deceased Judge if:
 - (a) the person had a de facto relationship with the deceased Judge at the time of the death of the deceased Judge (*the death*); and
 - (b) in the case of a deceased Judge who was a retired Judge at the time of the death:
 - (i) the de facto relationship began before the retired Judge became a retired Judge; or
 - (ii) the de facto relationship began after the retired Judge became a retired Judge but before the retired Judge reached 60; or
 - (iii) in the case of neither subparagraph (i) nor (ii) applying—the de facto relationship had continued for a period of at least 5 years up to the time of the death.

1C After subsection 4AC(3)

Insert:

- (3A) In spite of subsection (2A), a person is taken to be a de facto partner who survives a deceased Judge if:
 - (a) the person previously had a de facto relationship with the deceased Judge; and
 - (b) in the case of a de facto relationship that began after the deceased person became a retired Judge and reached 60—the relationship began at least 5 years before the deceased person's death; and
 - (c) in the Attorney-General's opinion, the person was wholly or substantially dependent upon the deceased Judge at the time of the death.

1D Section 7

Repeal the heading, substitute:

7 Pension to spouse or de facto partner on death of Judge

1E Section 7

After "spouse" (wherever occurring), insert "or de facto partner".

1F Section 8

Repeal the heading, substitute:

8 Pension to spouse or de facto partner on death of retired Judge

1G Section 8

After “spouse” (wherever occurring), insert “or de facto partner”.

1H Subsection 9(1)

After “spouse” (wherever occurring), insert “or de facto partner”.

1I Subsection 10(1)

After “spouse” (wherever occurring), insert “or de facto partner”.

1J Section 11

Repeal the heading, substitute:

11 Pension in respect of children on death of spouse or de facto partner

1K Subsection 11(1)

After “spouse” (wherever occurring), insert “or de facto partner”.

1L Section 12

Repeal the heading, substitute:

12 Pension in respect of children on death of Judge or retired Judge when spouse’s or de facto partner’s pension not payable

1M Subsection 12(1)

After “spouse” (wherever occurring), insert “or de facto partner”.

1N Section 12A

After “spouse” (wherever occurring), insert “or de facto partner”.

1O Section 15

After “spouse” (wherever occurring), insert “or de facto partner”.

1P Section 15A

Repeal the heading, substitute:

15A Allocation of pension if a deceased Judge or retired Judge is survived by more than one spouse or de facto partner

1Q Section 15A

After “spouse” (wherever occurring), insert “or de facto partner”.

1R Section 15A

After “spouses” (wherever occurring), insert “or de facto partners”.

Debate ensued.

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

Senator Murray moved the following amendments together by leave:

Schedule 1, page 3 (after line 6), item 1, before the definition of *salary*, insert:

child of a de facto relationship means:

- (a) a child born of a de facto relationship; or
- (b) a child adopted by the persons engaged in that relationship during the period of the relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the two people are not legally married:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
- (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender.

Note: A person in a marital relationship is taken to be legally married—see subsection 8A(2) of the *Superannuation Act 1976*.

Schedule 1, page 3 (after line 15), after item 1, insert:

1A Subsection 4AB(1)

After “basis at that time”, insert “and includes a de facto relationship”.

Schedule 1, page 3 (after line 15), after item 1, insert:

1B Section 4AB

Omit “marital relationship (wherever occurring), substitute “beneficiary relationship”.

Schedule 1, page 3 (after line 15), after item 1, insert:

1C Section 4AC

Omit “marital relationship” (wherever occurring), substitute “beneficiary relationship”.

Schedule 1, page 6 (after line 26), after item 10, insert:

10A Subsection 10(2)

Omit “marital relationship” (wherever occurring), substitute “beneficiary relationship”.

Schedule 1, page 7 (after line 5), after item 11, insert:

12A Subsection 11(3)

Omit “marital relationship” (wherever occurring), substitute “beneficiary relationship”.

Schedule 1, page 7 (after line 19), after item 12, insert:

12A Subsection 12(3)

Omit “marital relationship” (wherever occurring), substitute “beneficiary relationship”.

Debate ensued.

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

Senator Nettle moved the following amendments together by leave:

Schedule 1, item 1, page 3 (after line 6), before the definition of *salary*, insert:

child of a de facto relationship means:

- (a) a child born of a de facto relationship; or
- (b) a child adopted by the persons engaged in that relationship during the period of the relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis.

Schedule 1, page 3 (after line 15), after item 1, insert:

1A Section 4AC

After “marital relationship” (wherever occurring), insert “or de facto relationship”.

Schedule 1, page 6 (after line 26), after item 10, insert:

10A Subsection 10(2)

After “marital relationship” (wherever occurring), insert “or de facto relationship”.

Schedule 1, page 7 (after line 5), after item 11, insert:

11A Subsection 11(3)

After “marital relationship” (wherever occurring), insert “or de facto relationship”.

Schedule 1, page 7 (after line 19), after item 12, insert:

12A Subsection 12(3)

After “marital relationship” (wherever occurring), insert “or de facto relationship”.

Debate ensued.

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

Bill agreed to.

**FEDERAL MAGISTRATES AMENDMENT (DISABILITY AND DEATH BENEFITS)
BILL 2007—**

Bill taken as a whole by leave.

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 13, page 5 (line 22), omit “70”, substitute “60”.

Schedule 1, item 13, page 7 (line 26), omit “65”, substitute “60”.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 13, page 10 (line 15), omit “husband or wife”, substitute “partner”.

Schedule 1, item 13, page 10 (line 19), omit “husband or wife”, substitute “partner”.

Schedule 1, item 13, page 10 (line 23), omit “husband or wife”, substitute “partner”.

Schedule 1, item 13, page 11 (after line 16), after subsection 9E(8), insert:

(8A) To remove doubt, the Minister must not form the opinion that the relationship between a person and his or her partner is not a marital relationship on the ground that the Federal Magistrate and his or her partner are of the same gender, gender identity or sexuality.

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

Bill debated and agreed to.

Bills to be reported without amendments.

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

On the motion of the Minister for Justice and Customs (Senator Johnston) the report from the committee was adopted and the bills read a third time.

**61 DEFENCE LEGISLATION AMENDMENT BILL 2007
CRIMES LEGISLATION AMENDMENT (CHILD SEX TOURISM OFFENCES AND
RELATED MEASURES) BILL 2007**

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

Message no. 658, dated 19 September 2007—A Bill for an Act to amend legislation relating to defence, and for related purposes.

Message no. 659, dated 19 September 2007—A Bill for an Act to amend the law relating to sexual offences against children, and for related purposes.

The Minister for Human Services (Senator Ellison) 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 Ellison moved—That these bills be now read a second time.

Explanatory memorandum: Senator Ellison tabled a revised explanatory memorandum relating to the Defence Legislation Amendment Bill 2007.

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

Question put and passed.

**62 AUSTRALIAN CRIME COMMISSION AMENDMENT BILL 2007
NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS) BILL 2007**

Messages from the House of Representatives were reported agreeing to the following bills without amendment:

Message no. 665, dated 20 September 2007—Australian Crime Commission Amendment Bill 2007.

Message no. 666, dated 20 September 2007—National Health Amendment (Pharmaceutical Benefits) Bill 2007.

63 TAX LAWS AMENDMENT (2007 MEASURES NO. 5) BILL 2007

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

Message no. 667, dated 20 September 2007—Tax Laws Amendment (2007 Measures No. 5) Bill 2007.

64 VETERANS' ENTITLEMENTS AMENDMENT (DISABILITY, WAR WIDOW AND WAR WIDOWER PENSIONS) BILL 2007

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

Message no. 664, dated 20 September 2007—A Bill for an Act to amend the *Veterans' Entitlements Act 1986*, and for related purposes.

The Minister for Human Services (Senator Ellison) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Consideration of legislation: Senator Ellison, by leave, moved—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill, allowing it to be considered during this period of sittings.

Document: Senator Ellison tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Veterans' Entitlements Amendment (Disability, War Widow and War Widower Pensions) Bill 2007 in the 2007 spring sittings.

Question put and passed.

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

Debate ensued.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Bartlett moved the following amendments together by leave:

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

1A Subsection 5E(1)

Insert:

de facto partner means a person in a de facto relationship.

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender.

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

1B Subsection 5E(1) (at the end of the definition of *non-illness separated spouse*)

Add:

; or (c) who is a de facto partner.

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

1C After paragraph 5E(2)(a)

Insert:

(ab) the person is a de facto partner, or a person in a de facto relationship; or

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

1D Subparagraph 5E(2)(b)(iii)

Omit “marriage-like relationship”, substitute “de facto relationship”.

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

1E Section 11A (and the heading)

Omit “marriage-like” (wherever occurring), substitute “de facto relationship”.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

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

65 HIGHER EDUCATION SUPPORT AMENDMENT (EXTENDING FEE-HELP FOR VET DIPLOMA, ADVANCED DIPLOMA, GRADUATE DIPLOMA AND GRADUATE CERTIFICATE COURSES) BILL 2007

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

Message no. 668, dated 20 September 2007—A Bill for an Act to amend the *Higher Education Support Act 2003*, and for related purposes.

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

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

Debate ensued.

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 Senator Ellison the bill was read a third time.

66 ADJOURNMENT

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

The Senate adjourned at 10.43 pm till Monday, 15 October 2007 at 12.30 pm.

67 ATTENDANCE

Present, all senators except Senators Brandis, Forshaw*, Hutchins*, Kemp*, Stephens and Troeth* (* on leave).

HARRY EVANS
Clerk of the Senate