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1 MEETING OF SENATE

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

2 ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, moved—That the routine of business for today be as follows:

- (a) consideration of government business notice of motion no. 3 relating to the exemption of bills from the cut-off order; and

- (b) consideration of the following bills:

- Building Energy Efficiency Disclosure Bill 2010;
- No. 7—Bankruptcy Legislation Amendment Bill 2009
- No. 8—Trade Practices Amendment (Infrastructure Access) Bill 2009
- No. 9—Broadcasting Legislation Amendment (Digital Television) Bill 2010
- Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010
- No. 10—Excise Tariff Amendment (Aviation Fuel) Bill 2010 and a related bill
- Tax Laws Amendment (2010 Measures No. 3) Bill 2010
- No. 11—Tax Laws Amendment (2010 GST Administration Measures No. 3) Bill 2010
- Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010
- International Monetary Agreements Amendment Bill (No. 1) 2010
- No. 12—National Health Amendment (Continence Aids Payment Scheme) Bill 2010
- No. 13—Corporations Amendment (Corporate Reporting Reform) Bill 2010
- No. 14—Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Bill 2010
- Crimes Amendment (Royal Flying Doctor Service) Bill 2010
- Higher Education Support Amendment (Indexation) Bill 2010
- Farm Household Support Amendment (Ancillary Benefits) Bill 2010
- Superannuation Industry (Supervision) Amendment Bill 2010
- Agricultural and Veterinary Chemicals Code Amendment Bill 2010
- Food Standards Australia New Zealand Amendment Bill 2010
- Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009
- Immigration (Education) Amendment Bill 2010.

Question put and passed.

3 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary for Social Inclusion (Senator Stephens), at the request of the Special Minister of State (Senator Ludwig), amended government business notice of motion no. 3 by leave and, pursuant to notice, moved—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:

- Agricultural and Veterinary Chemicals Code Amendment Bill 2010
- Building Energy Efficiency Disclosure Bill 2010
- Crimes Amendment (Royal Flying Doctor Service) Bill 2010
- Farm Household Support Amendment (Ancillary Benefits) Bill 2010
- Food Standards Australia New Zealand Amendment Bill 2010
- Higher Education Support Amendment (Indexation) Bill 2010

Immigration (Education) Amendment Bill 2010
 International Monetary Agreements Amendment Bill (No. 1) 2010
 Superannuation Industry (Supervision) Amendment Bill 2010
 Tax Laws Amendment (2010 Measures No. 3) Bill 2010
 Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009
 Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010
 Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010
 Veterans' Affairs and Other Legislation Amendment (Miscellaneous Measures)
 Bill 2009.

Question put and passed.

4 **BUILDING ENERGY EFFICIENCY DISCLOSURE BILL 2010**

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

Message no. 630, dated 23 June 2010—A Bill for an Act to promote the disclosure of information about the energy efficiency of buildings, and for related purposes.

The Parliamentary Secretary for Social Inclusion (Senator Stephens) 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 Stephens moved—That this bill be now read a second time.

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

Debate ensued.

Senator Milne moved the following amendment:

At the end of the motion, add “but the Senate, while supporting the proposal that the building energy efficiency disclosure scheme initially only apply to buildings and building areas over 2 000 square metres, calls on the Government to commit to extend the scheme in 2011 to all buildings and building areas equal to or greater than 1 000 square metres, subject to a detailed regulatory impact assessment”.

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.

Senator Milne moved the following amendment:

Page 26 (after line 20), after Part 2, insert:

Part 2A—Obligation to report annual energy use

23B Buildings and areas of buildings to report annual energy use

- (1) If a constitutional corporation owns a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 2,000 square metres in area;
- the corporation must provide to the Secretary by 31 January in each year the information listed in subsection (2) in relation to the preceding calendar year, for inclusion in the Building Energy Efficiency Register.

Civil penalty: 1,000 penalty units.

- (2) The information to be provided by a constitutional corporation under subsection (1) is:
- (a) the size of the building or area of a building to which the information relates;
 - (b) the electricity consumption for the building or area of the building for the relevant calendar year;
 - (c) the natural gas consumption, if any, for the building or area of the building for the relevant calendar year;
 - (d) any other information prescribed by the regulations for the purpose of this paragraph.

Debate ensued.

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

Senator Milne moved the following amendments together by leave:

Clause 13, page 12 (after line 16), before paragraph (1)(a), insert:

- (aa) the size of the building; and
- (ab) the electricity consumption for the building for the preceding calendar year; and
- (ac) the natural gas consumption, if any, for the building for the preceding calendar year; and

Clause 13, page 12 (after line 24), before paragraph (2)(a), insert:

- (aa) the size of area of the building; and
- (ab) the electricity consumption for the area of the building for the preceding calendar year; and
- (ac) the natural gas consumption, if any, for the area of the building for the preceding calendar year; and

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

Senator Milne moved the following amendment:

Page 14 (after line 7), after clause 13, insert:

13A Display of current building energy efficiency certificates

- (1) If the Commonwealth owns a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 1,000 square metres in area;

the Commonwealth must, by 1 January 2011, display the current building energy efficiency certificate for the building prominently in a location in the building that is accessible by the public.

- (2) If the Commonwealth leases a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 1,000 square metres in area;

the owner of the building must, by 1 January 2011, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

- (3) If a constitutional corporation owns or leases a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 5,000 square metres in area;

the constitutional corporation must, by 1 January 2011, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

- (4) If a constitutional corporation owns or leases a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 4,000 square metres in area;

the constitutional corporation must, by 1 January 2012, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

- (5) If a constitutional corporation owns or leases a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 3,000 square metres in area;

the constitutional corporation must, by 1 January 2013, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

- (6) If a constitutional corporation owns or leases a building or an area of a building that is:
- (a) used or capable of being used as an office; and
 - (b) equal to or greater than 2,000 square metres in area;

the constitutional corporation must, by 1 January 2014, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

13B Independent review about reporting annual energy use and display requirements

- (1) The Minister must cause an independent review to be undertaken and completed by 31 December 2013 to consider whether the obligation to report annual energy use and the display requirements in subsections 13A(3) to (6) should be extended to buildings or areas of buildings owned or leased by constitutional corporations and that are:
 - (a) used or capable of being used as an office; and
 - (b) equal to or greater than 1,000 square metres in area.
- (2) The review must be undertaken by a person who, in the Minister's opinion, possesses appropriate qualifications to undertake the review.
- (3) The person undertaking the review must give the Minister a written report of the review before 31 December 2013.
- (4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the report is given to the Minister.
- (5) The report is not a legislative instrument.
- (6) The Minister must ensure that any bill to implement the recommendations of the review is introduced into the Parliament by 28 February 2014.

Question—That the amendment be agreed to—put and negatived. All Australian Greens senators, by leave, recorded their votes for the ayes.

Bill agreed to.

Bill to be reported without amendment.

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

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

5 BANKRUPTCY LEGISLATION AMENDMENT BILL 2009

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Ludwig)—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.

On the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens) the following amendments, taken together by leave, were agreed to:

Schedule 4, item 1, page 26 (line 6), omit "\$10,000", substitute "\$5,000".

Schedule 4, item 2, page 26 (line 8), omit “\$10,000”, substitute “\$5,000”.

Schedule 4, item 3, page 26 (line 10), omit “\$10,000”, substitute “\$5,000”.

Schedule 4, item 5, page 27 (line 6), omit “28”, substitute “21”.

Schedule 4, item 13, page 28 (line 2), omit “(1)”.

Schedule 4, item 13, page 28 (lines 5 and 6), omit subitem (2).

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Stephens, in respect of Schedule 4, item 11.

Question—That Schedule 4, item 11 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

6 TRADE PRACTICES AMENDMENT (INFRASTRUCTURE ACCESS) BILL 2009

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Ludwig)—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.

Explanatory memorandum: The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 11, page 7 (line 29), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 13, page 8 (line 23), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 34, page 15 (line 5), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 42, page 18 (line 18), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 46, page 19 (line 14), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 51, page 22 (line 12), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 55, page 23 (line 3), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 66, page 27 (line 17), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 1, item 68, page 27 (lines 24 and 25), omit “the power to request information under subsection 44ZZBCA(1) and”.

Schedule 1, item 70, page 28 (line 12) to page 30 (line 29), omit section 44ZZOAA, substitute:

44ZZOAAA Information to be given to Tribunal

Tribunal to notify decision maker

- (1) If an application for review of a decision (however described) is made under this Part, the Tribunal must notify the decision maker of the application.
- (2) If the application is made under section 44K, 44L, 44LJ, 44LK or 44O, the Tribunal must also notify the Council of the application.

Decision maker to give material to Tribunal

- (3) The decision maker must give the following information to the Tribunal within the period specified by the Tribunal:
 - (a) if the decision is taken to have been made because of the operation of subsection 44H(9), 44J(7), 44LG(6), 44LI(7), 44N(4) or 44NB(3A)—all of the information that the Council took into account in connection with making the recommendation to which the decision under review relates;
 - (b) if the decision is taken to have been made because of the operation of subsection 44PD(6), 44XA(6) or 44ZZBC(6)—any information or documents given to the Commission in connection with the decision to which the review relates, other than information or documents in relation to which the Commission could not have regard because of subparagraph 44PE(6)(c)(iii) or 44ZZBD(6)(c)(iii);
 - (c) otherwise—all of the information that the decision maker took into account in connection with the making of the decision to which the review relates.

Tribunal may request further information

- (4) The Tribunal may request such information that the Tribunal considers reasonable and appropriate for the purposes of making its decision on a review under this Part.
- (5) A request under subsection (4) must be made by written notice given to a person specifying the information requested and the period within which the information must be given to the Tribunal.

- (6) The Tribunal must:
- (a) give a copy of the notice to:
 - (i) the person who applied for review; and
 - (ii) if the application is made under section 44K, 44L, 44LJ, 44LK or 44O—the Council; and
 - (iii) if the application is made under section 44PG, 44PH, 44ZP, 44ZX or 44ZZBF—the Commission; and
 - (iv) any other person who has been made a party to the proceedings for review by the Tribunal; and
 - (b) publish, by electronic or other means, the notice.
- (7) Without limiting the information that may be given in accordance with the notice, information may include information that could not have reasonably been made available to the decision maker at the time the decision under review was made.

Certain material before the Tribunal not to be disclosed

- (8) The Tribunal may, on the application of a person, prohibit or restrict the disclosure of the contents of a document or other information given to the Tribunal under this section if the Tribunal is satisfied that it is desirable to do so because of the confidential nature of the document or other information, or for any other reason.

- (9) In this section:

decision maker, in relation to an application for review under this Part, means:

- (a) if the application was made under section 44K, 44L, 44LJ or 44LK—the designated Minister; or
- (b) if the application was made under section 44O—the Commonwealth Minister; or
- (c) if the application was made under section 44PG, 44PH, 44ZP, 44ZX, or 44ZZBF—the Commission.

44ZZOAA Tribunal only to consider particular material

For the purposes of a review under this Part, the Tribunal:

- (a) subject to paragraph (b), must have regard to:
 - (i) information that was given to the Tribunal under subsection 44ZZOAAA(3); and
 - (ii) any information given to the Tribunal in accordance with a notice given under subsection 44ZZOAAA(5); and
 - (iii) any thing done as mentioned in subsection 44K(6), 44L(5), 44LJ(5), 44LK(5), 44O(5), 44PG(5), 44PH(5), 44ZP(5), 44ZX(5) or 44ZZBF(5); and
 - (iv) any information or report given to the Tribunal in relation to the review under subsection 44K(6A), 44L(5A), 44LJ(6), 44LK(6), 44O(5A), 44PG(5A), 44PH(5A), 44ZP(5A), 44ZX(5A) or 44ZZBF(5A) within the specified period; and
- (b) may disregard:
 - (i) any information given to the Tribunal in response to a notice given under subsection 44ZZOAAA(5) after the period specified in the notice has ended; and

- (ii) any information or report of the kind specified in a notice under subsection 44K(6A), 44L(5A), 44LJ(6), 44LK(6), 44O(5A), 44PG(5A), 44PH(5A), 44ZP(5A), 44ZX(5A) or 44ZZBF(5A) that is given to the Tribunal after the specified period has ended.

Schedule 1, item 71, page 31 (table item 2), omit “44ZZOAA(4)”, substitute “44ZZOAAA(5)”.

Schedule 1, item 72, page 34 (line 13), omit “44,”.

Schedule 1, item 72, page 34 (line 13), omit “53,”.

Schedule 2, item 7, page 47 (lines 16 and 17), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Schedule 2, item 7, page 49 (lines 2 and 3), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Stephens, in respect of Schedule 1, items 7, 44, 53 and 72.

Question—That Schedule 1, items 7, 44, 53 and 72 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

7 **BROADCASTING LEGISLATION AMENDMENT (DIGITAL TELEVISION) BILL 2010**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—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.

Explanatory memorandum: Senator Stephens tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 2, page 3 (lines 12 and 13), omit “complies with section 130ZB”, substitute “sets out rules relating to access to services provided under a commercial television broadcasting licence allocated under section 38C”.

Schedule 1, page 3 (after line 29), after item 4, insert:

4A Subsection 6(1)

Insert:

final digital television switch-over day has the meaning given by section 8AE.

Schedule 1, item 7, page 4 (lines 14 to 18), omit the item, substitute:

7 Subsection 6(1)

Insert:

scheme administrator has the meaning given by subsection 130ZB(8).

Schedule 1, page 4 (before line 19), before item 8, insert:

7A After section 8AD

Insert:

8AE Final digital television switch-over day

- (1) For the purposes of this Act, the *final digital television switch-over day* is the last switch-over day.
- (2) For the purposes of subsection (1), the last day of a simulcast period is a *switch-over day*.
- (3) In this section:

simulcast period has the same meaning as in Schedule 4.

Schedule 1, item 28, page 14 (lines 4 to 6), omit subsection 41B(1A) (including the note), substitute:

- (1A) Subsection (1) does not apply, after the commencement of section 38C, to:
 - (a) an eligible parent licence; or
 - (b) an eligible section 38A licence.

Note 1: For *eligible parent licence*, see subsection (2E).

Note 2: For *eligible section 38A licence*, see subsection (2E).

Schedule 1, item 29, page 14 (after line 12), after paragraph 41B(2A)(a), insert:
(aa) an eligible section 38A licence; or

Schedule 1, item 29, page 14 (after line 14), after note 1, insert:

Note 1A: For *eligible section 38A licence*, see subsection (2E).

Schedule 1, item 29, page 15 (after line 26), after subsection 41B(2C), insert:

Eligible section 38A licences in force immediately before 1 January 2009

(2CA) If:

- (a) an eligible section 38A licence for a licence area was in force immediately before 1 January 2009; and

(b) the eligible section 38A licence authorised the licensee to provide the following 3 services in the licence area:

- (i) the core commercial television broadcasting service;
- (ii) a HDTV multi-channelled commercial television broadcasting service;
- (iii) a SDTV multi-channelled commercial television broadcasting service;

the eligible section 38A licence is taken to authorise the licensee to provide the following services in the licence area:

- (c) the core commercial television broadcasting service;
- (d) either:
 - (i) a HDTV multi-channelled commercial television broadcasting service and a SDTV multi-channelled commercial television broadcasting service; or
 - (ii) 2 SDTV multi-channelled commercial television broadcasting services;

during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For *eligible section 38A licence*, see subsection (2E).

Eligible section 38A licences allocated on or after 1 January 2009

(2CB) If an eligible section 38A licence for a licence area is allocated on or after 1 January 2009 but before the end of whichever of the following periods is applicable:

- (a) the simulcast period for the licence area;
- (b) the simulcast-equivalent period for the licence area;

the eligible section 38A licence is taken to authorise the licensee to provide:

- (c) the following services in the licence area:
 - (i) a HDTV multi-channelled commercial television broadcasting service;
 - (ii) 2 SDTV multi-channelled commercial television broadcasting services; or
- (d) 3 SDTV multi-channelled commercial television broadcasting services in the licence area;

during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For *eligible section 38A licence*, see subsection (2E).

Schedule 1, item 29, page 16 (lines 8 to 24), omit subsection 41B(2E), substitute:

Eligible parent licence, eligible section 38A licence and eligible section 38B licence

- (2E) For the purposes of this section, if:
 - (a) a person (the *original licensee*) is or was the licensee of a commercial television broadcasting licence (other than a commercial television broadcasting licence allocated under section 38A or subsection 38B(6), (7), (8) or (9)); and
 - (b) the original licensee is or was allocated an additional commercial television broadcasting licence under section 38A; and

- (c) after the commencement of section 38C, the original licensee is allocated an additional commercial television broadcasting licence under subsection 38B(6), (7), (8) or (9); and
- (d) at a particular time, the licences mentioned in paragraphs (a), (b) and (c) are held by the same person (whether or not that person is the original licensee);

then, at that time:

- (e) the licence mentioned in paragraph (a) is an *eligible parent licence*; and
- (f) the licence mentioned in paragraph (b) is an *eligible section 38A licence*; and
- (g) the licence mentioned in paragraph (c) is an *eligible section 38B licence*.

Schedule 1, item 32, page 18 (line 37), omit “43A(3A) or”.

Schedule 1, item 41, page 22 (line 12), omit “**and information**”.

Schedule 1, item 41, page 22 (lines 17 and 18), omit “, or a local information program,”.

Schedule 1, item 41, page 22 (after line 18), after paragraph 43AA(1)(a), insert:

- (aa) the licensee has not previously broadcast the program in the licence area; and

Schedule 1, item 41, page 22 (lines 23 and 24), omit “, or the local information program, as the case may be,”.

Schedule 1, item 41, page 23 (lines 3 to 7), omit subsection 43AA(3), substitute:

(3) If:

- (a) apart from this subsection, a commercial television broadcasting licensee for a regional licence area (the *regional licensee*) is required by subsection (1) to provide a program to the licensee of a commercial television broadcasting licence allocated under section 38C; and
- (b) the regional licensee believes, on reasonable grounds, that the broadcasting of a part of the program in any jurisdiction in the licence area of the section 38C licence could result in the section 38C licensee:
 - (i) committing an offence; or
 - (ii) becoming liable to a civil penalty; or
 - (iii) breaching an order or direction of a court; or
 - (iv) being in contempt of court;

subsection (1) has effect as if the program did not include that part of the program.

(3A) If:

- (a) apart from this subsection, a commercial television broadcasting licensee for a regional licence area (the *regional licensee*) is required by subsection (1) to provide a program to the licensee of a commercial television broadcasting licence allocated under section 38C; and

(b) the regional licensee believes, on reasonable grounds, that the broadcasting of the program in any jurisdiction in the licence area of the section 38C licensee could result in the section 38C licensee:

- (i) committing an offence; or
- (ii) becoming liable to a civil penalty; or
- (iii) breaching an order or direction of a court; or
- (iv) being in contempt of court;

subsection (1) does not apply to the program.

(3B) A commercial television broadcasting licence for a regional licence area is subject to the condition that, if:

- (a) the licensee broadcasts a local news program in the licence area on 2 or more occasions; and
- (b) the licence area is wholly or partly included in the licence area of a licence allocated under section 38C;

the licensee of the regional commercial television broadcasting licence will take reasonable steps to ensure that the licensee of the regional commercial television broadcasting licence does not, on more than one occasion, provide the program to the section 38C licensee for broadcast by the section 38C licensee.

Schedule 1, item 41, page 23 (lines 8 to 11), omit subsections 43AA(4) and (5).

Schedule 1, item 41, page 23 (before line 15), before the definition of *metropolitan licence area* in subsection 43AA(7), insert:

local news program means:

- (a) a program that consists solely of local news and/or local weather information; or
- (b) a program:
 - (i) that consists primarily of local news and/or local weather information; and
 - (ii) the remainder of which consists of other news and/or other weather information;

but does not include:

- (c) a short segment, or a headline update, that is broadcast for the sole or primary purpose of promoting another program; or
- (d) a short segment, or a headline update, that repeats news content that has previously been broadcast by the licensee concerned.

Schedule 1, item 41, page 23 (lines 24 and 25), omit the definition of *regional aggregated commercial television broadcasting licence* in subsection 43AA(7).

Schedule 1, item 41, page 27 (line 13), omit paragraph 43AD(1)(a).

Schedule 1, item 41, page 27 (line 17), omit “or material”.

Schedule 1, item 50, page 29 (line 1), omit “subsection 43A(3A).”.

Schedule 1, items 57 to 61, page 29 (line 27) to page 30 (line 33), omit the items, substitute:

57 Subsections 122(7) and (8)

Repeal the subsections, substitute:

- (7) Standards under subsection (1) do not apply to a commercial television broadcasting service provided by a commercial television broadcasting licensee before the end of the final digital television switch-over day, unless that service is the core/primary commercial television broadcasting service provided by the licensee.

58 Subsection 122(9)

Omit “section 36 or”.

59 Subsection 122(10)

Repeal the subsection.

Schedule 1, page 31 (before line 1), before item 62, insert:

61A After section 123A

Insert:

123B Review by the ACMA—application of code of practice to section 38C licences

Scope

- (1) This section applies if:
- (a) a code of practice (the *original code*) is registered under section 123; and
 - (b) the code applies to the broadcasting operations of commercial television broadcasting licensees.

Review of original code

- (2) The ACMA may conduct a review of whether the original code is appropriate in its application to the broadcasting operations of licensees of commercial television broadcasting licences allocated under section 38C.

Request for development of replacement code

- (3) If the ACMA:
- (a) conducts a review of the original code under subsection (2); and
 - (b) considers that the original code is not appropriate in its application to the broadcasting operations of licensees of commercial television broadcasting licences allocated under section 38C;

the ACMA may, by written notice given to the industry group that developed the original code:

- (c) request the industry group to:
 - (i) develop another code of practice (the *replacement code*) that is expressed to replace the original code; and
 - (ii) give a copy of the replacement code to the ACMA within the period specified in the notice; and
- (d) specify particular matters that, in the ACMA’s opinion, should be addressed in the replacement code.

Schedule 1, item 63, page 32 (line 6), omit “either or both”, substitute “any or all”.

Schedule 1, item 63, page 32 (line 11), omit “satellite.”, substitute “satellite;”.

Schedule 1, item 63, page 32 (after line 11), at the end of subsection 130BB(1), add:

- (c) community television broadcasting services provided with the use of a satellite;
- (d) open narrowcasting television services provided with the use of a satellite.

Schedule 1, item 63, page 32 (line 16), omit “either or both”, substitute “any or all”.

Schedule 1, item 63, page 32 (line 21), omit “and”.

Schedule 1, item 63, page 32 (after line 21), at the end of paragraph 130BB(2)(c), add:

- (iii) community television broadcasting services provided with the use of a satellite;
- (iv) open narrowcasting television services provided with the use of a satellite; and

Schedule 1, item 63, page 32 (line 27), omit “either or both”, substitute “any or all”.

Schedule 1, item 63, page 32 (line 32), omit “and”.

Schedule 1, item 63, page 32 (after line 32), at the end of paragraph 130BB(3)(a), add:

- (iii) community television broadcasting services provided with the use of a satellite;
- (iv) open narrowcasting television services provided with the use of a satellite; and

Schedule 1, item 63, page 33 (line 9), omit “either or both”, substitute “any or all”.

Schedule 1, item 63, page 33 (after line 14), after paragraph 130BB(6)(b), insert:

- (ba) community television broadcasting services provided with the use of a satellite;
- (bb) open narrowcasting television services provided with the use of a satellite;

Schedule 1, item 63, page 33 (after line 17), after subsection 130BB(6), insert:

Ministerial direction

(6A) The Minister may, by legislative instrument, direct the ACMA about the exercise of its powers to:

- (a) determine technical standards under subsection (1); or
- (b) vary technical standards determined under subsection (1).

(6B) The ACMA must comply with a direction under subsection (6A).

Schedule 1, item 63, page 33 (before line 25), before the definition of *digital mode* in subsection 130BB(8), insert:

community television broadcasting service means a community broadcasting service that provides television programs.

Schedule 1, item 64, page 34 (lines 27 and 28), omit “must be”, substitute “complies with this section if the scheme is”.

Schedule 1, item 64, page 36 (line 19), omit “14 days”, substitute “15 business days”.

Schedule 1, item 64, page 38 (lines 18 to 25), omit paragraph 130ZC(1)(d), substitute:

- (d) any of the following subparagraphs applies:
 - (i) the body or association gives the copy of the new scheme to the ACMA within 45 days after the first or only occasion on which a licence for the licence area is allocated under section 38C;
 - (ii) the body or association gives the copy of the new scheme to the ACMA in response to an invitation under section 130ZCAA;
 - (iii) the new scheme is expressed to replace another conditional access scheme registered under this section; and
- (da) the ACMA is satisfied that the new scheme complies with section 130ZB; and

Schedule 1, item 64, page 39 (line 5), omit “28”, substitute “35”.

Schedule 1, item 64, page 39 (after line 6), after section 130ZC, insert:

130ZCAA ACMA may invite representative body or association to develop a revised conditional access scheme

Scope

- (1) This section applies if:
 - (a) the ACMA is satisfied that a body or association represents commercial television broadcasting licensees; and
 - (b) that body or association develops a conditional access scheme (the *new scheme*) for the licence area of a commercial television broadcasting licence allocated under section 38C; and
 - (c) the body or association gives a copy of the new scheme to the ACMA; and
 - (d) the body or association gives the copy of the new scheme to the ACMA within 45 days after the first or only occasion on which a licence for the licence area is allocated under section 38C;
- and either:
 - (e) the ACMA is not satisfied that the new scheme complies with section 130ZB; or
 - (f) the ACMA is not satisfied that the new scheme is consistent with the principle that a person in the licence area should have adequate reception of:
 - (i) all of the applicable terrestrial digital commercial television broadcasting services; or
 - (ii) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

Invitation

- (2) The ACMA must:
- (a) by written notice given to the body or association, invite the body or association to:
 - (i) develop a revised conditional access scheme for the licence area; and
 - (ii) give a copy of the revised scheme to the ACMA within 30 days after the invitation is given; and
 - (b) do so within 60 days after the copy of the new scheme is given to the ACMA.

Schedule 1, item 64, page 39 (before line 7), before section 130ZCA, insert:

130ZCAB ACMA may request development of replacement conditional access scheme

Scope

- (1) This section applies if:
- (a) a conditional access scheme for a licence area is registered under section 130ZC; and
 - (b) the ACMA is satisfied that the scheme is not achieving one or more of the objectives set out in section 130ZB.

Request

- (2) The ACMA may, by written notice given to the body or association that developed the scheme:
- (a) request the body or association to:
 - (i) develop another conditional access scheme (the **replacement scheme**) that is expressed to replace the scheme registered under section 130ZC; and
 - (ii) give a copy of the replacement scheme to the ACMA within the period specified in the notice; and
 - (b) specify particular matters that, in the ACMA's opinion, should be addressed in the replacement scheme.
- (3) The period specified in a notice under subsection (2):
- (a) must not be shorter than 30 days after the notice is given; and
 - (b) must not be longer than 60 days after the notice is given.

Schedule 1, item 64, page 39 (lines 9 to 18), omit subsection 130ZCA(1), substitute:

Scope

- (1) This section applies if:
- (a) the following conditions are satisfied:
 - (i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;
 - (ii) that is the first or only occasion on which a commercial television broadcasting licence is allocated under section 38C for the licence area;

- (iii) if the ACMA has not given an invitation under section 130ZCAA in relation to the licence area—90 days pass after the allocation of the licence, and no conditional access scheme for the licence area has been registered, or is required to be registered, under section 130ZC;
- (iv) if the ACMA has given an invitation under section 130ZCAA in relation to the licence area—60 days pass after the invitation is given, and no conditional access scheme for the licence area has been registered, or is required to be registered, under section 130ZC; or
- (b) the following conditions are satisfied:
 - (i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;
 - (ii) a conditional access scheme for the licence area is registered under section 130ZC;
 - (iii) the ACMA gives a notice under subsection 130ZCAB(2) to a body or association in relation to the scheme;
 - (iv) the body or association does not give the ACMA a copy of a replacement scheme within the period specified in the notice; or
- (c) the following conditions are satisfied:
 - (i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;
 - (ii) a conditional access scheme for the licence area is registered under section 130ZC;
 - (iii) the ACMA gives a notice under subsection 130ZCAB(2) to a body or association in relation to the scheme;
 - (iv) the body or association gives the ACMA a copy of a replacement scheme within the period specified in the notice;
 - (v) 35 days pass after the copy is given to the ACMA, and the replacement scheme has not been, and is not required to be, registered under section 130ZC.

Schedule 1, item 64, page 39 (lines 22 to 30), omit subsection 130ZCA(3), substitute:

- (3) The ACMA must not formulate a conditional access scheme unless:
 - (a) the ACMA is satisfied that the scheme complies with section 130ZB; and
 - (b) the ACMA is satisfied that the scheme is consistent with the principle that a person in the licence area should have adequate reception of:
 - (i) all of the applicable terrestrial digital commercial television broadcasting services; or
 - (ii) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

Schedule 1, item 64, page 42 (line 14), omit “14 days”, substitute “15 business days”.

Schedule 1, item 68, page 46 (before line 3), before section 211A, insert:

211AA Time when a television program is broadcast—certain terrestrial licence areas

Nomination of place

- (1) The licensee of a commercial television broadcasting licence for:
 - (a) the Remote Central and Eastern Australia TV1 licence area; or
 - (b) the Remote Central and Eastern Australia TV2 licence area;
 may, by written notice given to the ACMA, nominate a specified place in the licence area for the purposes of the licence.
- (2) The nomination must be expressed to be a nomination under subsection (1).

Withdrawal of nomination

- (3) If a nomination is in force under subsection (1), the licensee may, by written notice given to the ACMA, withdraw the nomination.
- (4) The withdrawal of a nomination does not prevent the licensee from making a fresh nomination under subsection (1).

Time when a program is broadcast

- (5) If a nomination of a place is in force under subsection (1) for the purposes of a commercial television broadcasting licence, then:
 - (a) this Act; and
 - (b) any program standards; and
 - (c) any other instrument under this Act; and
 - (d) any codes of practice registered under section 123;
 have effect, in relation to any programs broadcast on a commercial television broadcasting service provided under the licence, as if those programs had been broadcast in all parts of the licence area at the time that is legal time in the nominated place.

Schedule 1, page 48 (after line 13), after item 71, insert:

71A After subclause 7(4) of Schedule 2

Insert:

- (4A) For the purposes of paragraphs (1)(k) and (m), if:
 - (a) a transmitter licence was issued under section 100 of the *Radiocommunications Act 1992*; and
 - (b) the transmitter licence authorises the operation of one or more transmitters for transmitting one or more commercial television broadcasting services in digital mode;
 ignore any transmission of those services in digital mode by those transmitters.

71B Paragraph 7(8)(a) of Schedule 2

After “subclause”, insert “(4A),”.

Schedule 1, item 72, page 50 (line 34), omit “(d)”, substitute “(c)”.

Schedule 1, item 72, page 56 (lines 5 to 15), omit clause 7D, substitute:

7D Condition about the provision of local news services

- (1) A licence allocated under section 38C is subject to the condition that, if a program is provided, or required to be provided, to the licensee by another licensee under subsection 43AA(1), the section 38C licensee will broadcast the program on a service authorised by paragraph 41CA(1)(c), (f) or (g) as soon as practicable after the other licensee begins to broadcast the program.
- (2) Subclause (1) does not apply if the section 38C licensee has previously broadcast the program on such a service.
- (3) Subclause (1) does not apply to a program the broadcasting of which in any jurisdiction in the licence area of the section 38C licence could result in the section 38C licensee:
 - (a) committing an offence; or
 - (b) becoming liable to a civil penalty; or
 - (c) breaching an order or direction of a court; or
 - (d) being in contempt of court.

Schedule 1, page 63 (after line 12), after item 74, insert:

74A Clause 2 of Schedule 4 (at the end of the definition of coverage area)

Add:

Note: For overlapping coverage areas, see clause 5J.

Schedule 1, page 65 (after line 17), after item 87, insert:

87A At the end of Part 1 of Schedule 4

Add:

5J Overlapping coverage areas

If:

- (a) apart from this clause, a coverage area (the *first coverage area*) overlaps with another coverage area; and
- (b) the last day of the simulcast period for the first coverage area is earlier than the last day of the simulcast period for the other coverage area;

this Schedule has effect as if the area of overlap were not part of the first coverage area.

Schedule 1, page 65 (after line 20), after item 88, insert:

88A Subparagraph 6(3)(c)(iia) of Schedule 4

Omit “for 8 years”, substitute “until the end of 31 December 2013”.

Schedule 1, page 67 (after line 26), after item 98, insert:

98A After clause 6B of Schedule 4

Insert:

6C Digital conversion of re-transmission facilities

- (1) In addition to the policy objectives set out in subclause 6(3), Part A of the commercial television conversion scheme must be directed towards ensuring the achievement of the policy objective set out in subclause (2).
- (2) The objective is that, if:
 - (a) immediately before the commencement of this clause, a self-help provider provided a service that does no more than re-transmit programs that are transmitted by a commercial television broadcasting licensee within the licence area of the licence; and
 - (b) the self-help provider did so using a radiocommunications transmitter operating at a particular location under the authority of a transmitter licence held by the self-help provider; and
 - (c) the sole or principal purpose of the service provided by the self-help provider was to enable persons living in a particular area to obtain or improve reception of the commercial television broadcasting service concerned; and
 - (d) the commercial television broadcasting licensee notifies the ACMA before:
 - (i) the 9-month period ending on the earliest applicable digital television switch-over date for the licence area; or
 - (ii) if this clause commences in that 9-month period—the earliest applicable digital television switch-over date for the licence area;that the licensee is willing to transmit the commercial television broadcasting service, under a transmitter licence held by the commercial television broadcasting licensee, using a radiocommunications transmitter at or near that location; and
 - (e) such other conditions (if any) as are specified in the scheme are satisfied;

then:

- (f) the commercial television broadcasting licensee should be authorised, under a transmitter licence held by the licensee, to transmit the commercial television broadcasting service in digital mode using a radiocommunications transmitter at or near that location; and
- (g) if the radiocommunications transmitter mentioned in paragraph (b) is the sole radiocommunications transmitter the operation of which is authorised under the transmitter licence mentioned in that paragraph—the transmitter licence should be cancelled; and

- (h) if the radiocommunications transmitter mentioned in paragraph (b) is not the sole radiocommunications transmitter authorised by the transmitter licence mentioned in that paragraph—the transmitter licence should be varied so that it ceases to authorise the operation of the radiocommunications transmitter.
- (3) For the purposes of this clause, if:
- (a) clause 6 applies to a commercial television broadcasting licence; and
 - (b) there is a simulcast period for the licence area of the licence; and
 - (c) there is no local market area included in the licence area of the licence;
- the last day of the simulcast period for the licence area is the *applicable digital television switch-over date* for the licence area.
- (4) For the purposes of this clause, if:
- (a) clause 6 applies to a commercial television broadcasting licence; and
 - (b) there is a simulcast period for the licence area of the licence; and
 - (c) a local market area is included in the licence area of the licence;
- the day on which the local market area becomes a digital-only local market area is an *applicable digital television switch-over date* for the licence area.

Schedule 1, page 68 (before line 9), before item 102, insert:

101B After clause 35 of Schedule 4

Insert:

35A Certain transmissions to be disregarded

For the purposes of clauses 34 and 35, if:

- (a) a transmitter licence was issued under section 100 of the *Radiocommunications Act 1992*; and
- (b) the transmitter licence authorises the operation of one or more transmitters for transmitting one or more national television broadcasting services in digital mode;

ignore any transmission of those services in digital mode by those transmitters.

Schedule 1, item 103, page 68 (lines 15 to 17), omit the item, substitute:

103 Paragraph 38(4)(a) of Schedule 4

Repeal the paragraph, substitute:

- (a) a commercial television broadcasting licence is in force; and
- (aa) the licence was not allocated under section 38C; and

103A Paragraph 38(4)(b) of Schedule 4

Omit “core”, substitute “core/primary”.

103B Subclause 38(4) of Schedule 4

Omit “, during that period,”, substitute “, before the end of the final digital television switch-over day,”.

103C Subclause 38(4) of Schedule 4

Omit “the core”, substitute “the core/primary”.

Schedule 1, item 104, page 68 (line 19), omit “or (2C)”, substitute “, (2C) or (2CB)”.

Schedule 1, page 68 (after line 19), after item 104, insert:

104A Paragraph 38(4A)(b) of Schedule 34

Repeal the paragraph.

104B Subclause 38(4A) of Schedule 4

Omit “, during that period,”, substitute “, before the end of the final digital television switch-over day,”.

Schedule 1, item 105, page 69 (lines 3 and 4), omit “, until the end of the last applicable terrestrial digital television switch-over date for the licence area,”, substitute “, before the end of the final digital television switch-over day,”.

Schedule 1, items 106 to 108, page 69 (lines 13 to 20), omit the items, substitute:

106 Subclause 38(5) of Schedule 4

Repeal the subclause, substitute:

(5) If:

- (a) a national broadcaster provides a national television broadcasting service in a coverage area; and
- (b) the service is not provided with the use of a satellite;

then, before the end of the final digital television switch-over day, subclause (1) does not require the provision of a captioning service for a television program transmitted on:

- (c) a SDTV national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite; or
- (d) a HDTV national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite;

unless:

- (e) during the simulcast period, or the simulcast-equivalent period, as the case may be, for the coverage area, the television program was previously transmitted by the national broadcaster on the national television broadcasting service that is:
 - (i) provided by the national broadcaster; and
 - (ii) the service to which clause 19 applies; or
- (f) after the end of the simulcast period, or the simulcast-equivalent period, as the case may be, for the coverage area, the television program was previously transmitted by the national broadcaster on the primary national television broadcasting service provided by the national broadcaster.

Schedule 1, item 109, page 69 (lines 27 and 28), omit “, until the end of the last applicable terrestrial digital television switch-over date for the licence area that corresponds to the satellite delivery area,”, substitute “, before the end of the final digital television switch-over day,”.

Schedule 1, item 110, page 70 (lines 7 to 9), omit the item, substitute:

110 Paragraph 38(9)(a) of Schedule 4

Repeal the paragraph, substitute:

- (a) a commercial television broadcasting licence is in force; and
- (aa) the licence was not allocated under section 38C; and

110A Paragraph 38(9)(b) of Schedule 4

Omit “during that period,” substitute “before the end of the final digital television switch-over day.”

Schedule 1, item 111, page 70 (lines 15 to 17), omit “last applicable terrestrial digital television switch-over date for the licence area,” substitute “final digital television switch-over day.”

Schedule 1, page 70 (after line 30), after item 111, insert:

111A Paragraph 38(10)(a) of Schedule 4

Repeal the paragraph.

111B Paragraph 38(10)(b) of Schedule 4

Omit “during that period, the national broadcaster”, substitute “before the end of the final digital television switch-over day, a national broadcaster”.

111C Paragraph 38(10)(b) of Schedule 4

Omit “in the coverage area”, substitute “in a coverage area”.

Schedule 1, item 112, page 71 (lines 10 to 12), omit “last applicable terrestrial digital television switch-over date for the licence area that corresponds to the satellite delivery area”, substitute “final digital television switch-over day”.

Schedule 1, item 115, page 71 (line 34), omit “or (2C)”, substitute “, (2C) or (2CB)”.

Schedule 1, item 118, page 72 (line 12), omit “or (2C)”, substitute “, (2C) or (2CB)”.

Schedule 1, item 123, page 75 (line 25), omit “or (2C)”, substitute “, (2C) or (2CB)”.

Schedule 1, page 81 (after line 8), after item 132, insert:

132A At the end of Part 8 of Schedule 4

Add:

60D Review of content and captioning rules applicable to multi-channelled television broadcasting services

- (1) Before 31 December 2012, the Minister must cause to be conducted a review of the following matters:
 - (a) the operation of Part 9 of this Act and clause 38 of this Schedule, in so far as those provisions apply to:
 - (i) SDTV multi-channelled commercial television broadcasting services; and
 - (ii) HDTV multi-channelled commercial television broadcasting services;
 - (b) whether Part 9 of this Act and clause 38 of this Schedule, in so far as those provisions apply to:
 - (i) SDTV multi-channelled commercial television broadcasting services; and

- (ii) HDTV multi-channelled commercial television broadcasting services;
should be amended;
- (c) the operation of clause 38 of this Schedule, in so far as that clause applies to:
 - (i) SDTV multi-channelled national television broadcasting services; and
 - (ii) HDTV multi-channelled national television broadcasting services;
- (d) whether clause 38 of this Schedule, in so far as that clause applies to:
 - (i) SDTV multi-channelled national television broadcasting services; and
 - (ii) HDTV multi-channelled national television broadcasting services;
should be amended.
- (2) The Minister must cause to be prepared a report of a review under subclause (1).
- (3) The Minister must cause copies of a report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

Schedule 1, item 141, page 83 (lines 18 to 29), omit subsection 135ZZZG(1).

Schedule 1, item 141, page 86 (lines 20 to 23), omit subsection 135ZZZI(5), substitute:

- (5) If:
 - (a) a copy of an eligible program is made for a purpose referred to in subsection (3) or (4); and
 - (b) under a law of the Commonwealth, the satellite BSA licensee is required to retain the copy for a period longer than 7 days after the copy is made; and
 - (c) the copy is not destroyed as soon as practicable after the end of that period;
 subsection (3) or (4), as the case requires, does not apply, and is taken never to have applied, in relation to the making of the copy.

- (5A) If:
 - (a) a copy of an eligible program is made for a purpose referred to in subsection (3) or (4); and
 - (b) subsection (5) does not apply; and
 - (c) the copy is not destroyed within 7 days after it is made;
 subsection (3) or (4), as the case requires, does not apply, and is taken never to have applied, in relation to the making of the copy.

Schedule 1, page 101 (after line 11), at the end of the Schedule, add:

Radiocommunications Act 1992

144A Subsection 100(5)

Before “153H”, insert “102AF, 102AH or”.

144B Subsection 101B(1)

Omit all the words from and including “may,” to and including “under this section”, substitute “may apply in writing to the ACMA for the issue of a transmitter licence under this section”.

144C Subsection 101B(6)

Repeal the subsection.

144D Subsection 101C(1)

Omit all the words from and including “may,” to and including “under this section”, substitute “may apply in writing to the ACMA for the issue of a transmitter licence under this section”.

144E Subsections 101C(5) and (9)

Repeal the subsections.

145 Before section 102B

Insert:

102AE Variation of transmitter licences—digital conversion of re-transmission facilities

(1) If:

- (a) there is in force a transmitter licence issued under section 102 or 102A; and
- (b) the transmitter licence is held by the licensee of a commercial television broadcasting licence (the *related licence*); and
- (c) the transmitter licence authorises the operation of one or more specified radiocommunications transmitters for transmitting a commercial television broadcasting service in digital mode in accordance with the related licence; and
- (d) under a scheme in force under clause 6 of Schedule 4 to the *Broadcasting Services Act 1992*, the ACMA is required to vary the transmitter licence so that the transmitter licence authorises the operation of one or more additional radiocommunications transmitters for transmitting the commercial television broadcasting service in digital mode in accordance with the related licence; and
- (e) the requirement that the ACMA vary the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the *Broadcasting Services Act 1992*;

the ACMA must, by written notice to the transmitter licensee, vary the transmitter licence accordingly.

(2) In this section:

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

commercial television broadcasting service means a commercial broadcasting service that provides television programs.

102AF Variation or cancellation of transmitter licences—digital conversion of re-transmission facilities

- (1) If:
- (a) a transmitter licence is in force; and
 - (b) the transmitter licence is held by a self-help provider; and
 - (c) the transmitter licence authorises the operation of 2 or more specified radiocommunications transmitters for re-transmitting programs that are transmitted by a commercial television broadcasting licensee; and
 - (d) under a scheme in force under clause 6 of Schedule 4 to the *Broadcasting Services Act 1992*, the ACMA is required to vary the transmitter licence by removing the specification of one or more, but not all, of the radiocommunications transmitters; and
 - (e) the requirement that the ACMA vary the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the *Broadcasting Services Act 1992*;

the ACMA must, by written notice to the transmitter licensee, vary the transmitter licence accordingly.

- (2) If:
- (a) a transmitter licence is in force; and
 - (b) the transmitter licence is held by a self-help provider; and
 - (c) the transmitter licence authorises the operation of a specified radiocommunications transmitter for re-transmitting programs that are transmitted by a commercial television broadcasting licensee; and
 - (d) under a scheme in force under clause 6 of Schedule 4 to the *Broadcasting Services Act 1992*, the ACMA is required to cancel the transmitter licence; and
 - (e) the requirement that the ACMA cancel the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the *Broadcasting Services Act 1992*;

the ACMA must, by written notice to the transmitter licensee, cancel the transmitter licence.

- (3) In this section:
- commercial television broadcasting licensee* has the same meaning as in the *Broadcasting Services Act 1992*.
- self-help provider* has the meaning given by section 212A of the *Broadcasting Services Act 1992*.

102AG Transmitter licences—re-transmission of commercial television broadcasting services to be in digital mode

- (1) The ACMA must not issue a transmitter licence to a self-help provider that authorises the operation of one or more specified radiocommunications transmitters for re-transmitting in analog mode the programs transmitted by a commercial television broadcasting licensee in the licence area of the commercial television broadcasting licence.

- (2) Subsection (1) does not apply to the issue of a transmitter licence if the ACMA issues the transmitter licence:
- (a) by way of renewal; and
 - (b) during the simulcast period, or simulcast-equivalent period, for the licence area mentioned in subsection (1).

- (3) In this section:

analog mode has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

self-help provider has the meaning given by section 212A of the *Broadcasting Services Act 1992*.

simulcast-equivalent period has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

simulcast period has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

102AH Cancellation of transmitter licences—re-transmission of commercial television broadcasting services

Scope

- (1) This section applies if:
- (a) a transmitter licence (the ***analog transmitter licence***) is in force; and
 - (b) the analog transmitter licence is held by a self-help provider; and
 - (c) the analog transmitter licence authorises the operation of one or more specified radiocommunications transmitters for re-transmitting in analog mode the programs transmitted by a commercial television broadcasting licensee in the licence area of the commercial television broadcasting licence.

Cancellation of transmitter licence

- (2) The analog transmitter licence is cancelled at the end of the simulcast period, or the simulcast-equivalent period, for the licence area of the commercial television broadcasting licence.

Definitions

- (3) In this section:

analog mode has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

self-help provider has the meaning given by section 212A of the *Broadcasting Services Act 1992*.

simulcast-equivalent period has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

simulcast period has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Stephens, in respect of Schedule 1, items 36 to 40, 94, 96 and 113.

Question—That Schedule 1, items 36 to 40, 94, 96 and 113 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

8 **EXCISE TARIFF AMENDMENT (AVIATION FUEL) BILL 2010**
CUSTOMS TARIFF AMENDMENT (AVIATION FUEL) BILL 2010

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

Debate resumed.

Question put and passed.

Bills read a second time.

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

On the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens) the bills were read a third time.

9 **TAX LAWS AMENDMENT (2010 MEASURES NO. 3) BILL 2010**

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

Message no. 632, dated 23 June 2010—A Bill for an Act to amend the law relating to taxation and superannuation, and for related purposes.

The Minister for Immigration and Citizenship (Senator Evans) 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 Evans moved—That this bill be now read a second time.

Explanatory memorandum: Senator Evans 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 the Special Minister of State (Senator Ludwig) the bill was read a third time.

**10 TAX LAWS AMENDMENT (2010 GST ADMINISTRATION MEASURES NO. 3)
BILL 2010**

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—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 Special Minister of State (Senator Ludwig) the bill was read a third time.

**11 TAX LAWS AMENDMENT (FOREIGN SOURCE INCOME DEFERRAL)
BILL (NO. 1) 2010**

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

Message no. 631, dated 23 June 2010—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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 Ludwig the bill was read a third time.

12 INTERNATIONAL MONETARY AGREEMENTS AMENDMENT BILL (NO. 1) 2010

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Ludwig)—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 Senator Ludwig the bill was read a third time.

**13 NATIONAL HEALTH AMENDMENT (CONTINENCE AIDS PAYMENT SCHEME)
BILL 2010**

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—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 Special Minister of State (Senator Ludwig) the bill was read a third time.

14 CORPORATIONS AMENDMENT (CORPORATE REPORTING REFORM) BILL 2010

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—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 Special Minister of State (Senator Ludwig) the bill was read a third time.

15 FINANCIAL SECTOR LEGISLATION AMENDMENT (PRUDENTIAL REFINEMENTS AND OTHER MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—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 Special Minister of State (Senator Ludwig) the bill was read a third time.

**16 TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW)
BILL (NO. 2) 2010**

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

Message no. 636, dated 24 June 2010—A Bill for an Act to amend the *Trade Practices Act 1974* and the *Australian Securities and Investments Commission Act 2001*, and for other purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig 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.

Explanatory memorandum: Senator Ludwig tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill and corrections to the explanatory memorandum.

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

Schedule 1, item 1, page 16 (line 2), before “In this Schedule:”, insert “(1)”.

Schedule 1, item 1, page 16 (after line 28), after the definition of *assert a right to payment* in section 2, insert:

associate regulator:

- (a) for the purposes of the application of this Schedule as a law of the Commonwealth—means a body that is, for the purposes of the application of this Schedule as a law of a State or a Territory, the regulator within the meaning of the application law of the State or Territory; or
- (b) for the purposes of the application of this Schedule as a law of a State or a Territory—means:
 - (i) the Commission; or
 - (ii) a body that is, for the purposes of the application of this Schedule as a law of another State or a Territory, the regulator within the meaning of the application law of that other State or Territory.

Schedule 1, item 1, page 22 (after line 31), after the definition of *materials* in section 2, insert:

mixed supply: see section 3(11).

Schedule 1, item 1, page 28 (after line 9), at the end of section 2, add:

- (2) In this Schedule:
- (a) a reference to engaging in conduct is a reference to doing or refusing to do any act, including:
 - (i) the making of, or the giving effect to a provision of, a contract or arrangement; or
 - (ii) the arriving at, or the giving effect to a provision of, an understanding; or
 - (iii) the requiring of the giving of, or the giving of, a covenant; and
 - (b) a reference to conduct, when that expression is used as a noun otherwise than as mentioned in paragraph (a), is a reference to the doing of or the refusing to do any act, including:
 - (i) the making of, or the giving effect to a provision of, a contract or arrangement; or
 - (ii) the arriving at, or the giving effect to a provision of, an understanding; or
 - (iii) the requiring of the giving of, or the giving of, a covenant; and
 - (c) a reference to refusing to do an act includes a reference to:
 - (i) refraining (otherwise than inadvertently) from doing that act; or
 - (ii) making it known that that act will not be done; and
 - (d) a reference to a person offering to do an act, or to do an act on a particular condition, includes a reference to the person making it known that the person will accept applications, offers or proposals for the person to do that act or to do that act on that condition, as the case may be.

Schedule 1, item 1, page 28 (line 10) to page 29 (line 5), omit section 3, substitute:

3 Meaning of *consumer*

Acquiring goods as a consumer

- (1) A person is taken to have acquired particular goods as a ***consumer*** if, and only if:
- (a) the amount paid or payable for the goods, as worked out under subsections (4) to (9), did not exceed:
 - (i) \$40,000; or
 - (ii) if a greater amount is prescribed for the purposes of this paragraph—that greater amount; or
 - (b) the goods were of a kind ordinarily acquired for personal, domestic or household use or consumption; or
 - (c) the goods consisted of a vehicle or trailer acquired for use principally in the transport of goods on public roads.
- (2) However, subsection (1) does not apply if the person acquired the goods, or held himself or herself out as acquiring the goods:
- (a) for the purpose of re-supply; or
 - (b) for the purpose of using them up or transforming them, in trade or commerce:

- (i) in the course of a process of production or manufacture;
or
- (ii) in the course of repairing or treating other goods or fixtures on land.

Acquiring services as a consumer

- (3) A person is taken to have acquired particular services as a **consumer** if, and only if:
- (a) the amount paid or payable for the services, as worked out under subsections (4) to (9), did not exceed:
 - (i) \$40,000; or
 - (ii) if a greater amount is prescribed for the purposes of subsection (1)(a)—that greater amount; or
 - (b) the services were of a kind ordinarily acquired for personal, domestic or household use or consumption.

Amounts paid or payable for purchases

- (4) For the purposes of subsection (1) or (3), the amount paid or payable for goods or services purchased by a person is taken to be the price paid or payable by the person for the goods or services, unless subsection (5) applies.
- (5) For the purposes of subsection (1) or (3), if a person purchased goods or services by a mixed supply and a specified price was not allocated to the goods or services in the contract under which they were purchased, the amount paid or payable for goods or services is taken to be:
- (a) if, at the time of the acquisition, the person could have purchased from the supplier the goods or services other than by a mixed supply—the price at which they could have been purchased from the supplier; or
 - (b) if:
 - (i) paragraph (a) does not apply; but
 - (ii) at the time of the acquisition, goods or services of the kind acquired could have been purchased from another supplier other than by a mixed supply;
the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier; or
 - (c) if, at the time of the acquisition, goods or services of the kind acquired could not have been purchased from any supplier except by a mixed supply—the value of the goods or services at that time.

Amounts paid or payable for other acquisitions

- (6) For the purposes of subsection (1) or (3), the amount paid or payable for goods or services acquired by a person other than by way of purchase is taken to be the price at which, at the time of the acquisition, the person could have purchased the goods or services from the supplier, unless subsection (7) or (8) applies.

- (7) For the purposes of subsection (1) or (3), if:
- (a) goods or services acquired by a person other than by way of purchase could not, at the time of the acquisition, have been purchased from the supplier, or could have been purchased only by a mixed supply; but
 - (b) at that time, goods or services of the kind acquired could have been purchased from another supplier other than by a mixed supply;

the amount paid or payable for the goods or services is taken to be the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier.

- (8) For the purposes of subsection (1) or (3), if goods or services acquired by a person other than by way of purchase could not, at the time of the acquisition, have been purchased from any supplier other than by a mixed supply, the amount paid or payable for the goods or services is taken to be the value of the goods or services at that time.

Amounts paid or payable for obtaining credit

- (9) If:
- (a) a person obtains credit in connection with the acquisition of goods or services by him or her; and
 - (b) the amount paid or payable by him or her for the goods or services is increased because he or she so obtains credit;

obtaining the credit is taken for the purposes of subsection (3) to be the acquisition of a service, and the amount paid or payable by him or her for the service of being provided with the credit is taken to include the amount of the increase.

Presumption that persons are consumers

- (10) If it is alleged in any proceeding under this Schedule, or in any other proceeding in respect of a matter arising under this Schedule, that a person was a consumer in relation to particular goods or services, it is presumed, unless the contrary is established, that the person was a consumer in relation to those goods or services.

Mixed supplies

- (11) A purchase or other acquisition of goods or services is made by a ***mixed supply*** if the goods or services are purchased or acquired together with other property or services, or together with both other property and other services.

Supplies to consumers

- (12) In this Schedule, a reference to a supply of goods or services to a consumer is a reference to a supply of goods or services to a person who is taken to have acquired them as a consumer.

Schedule 1, item 1, page 46 (line 6), before “Without”, insert “(1)”.

Schedule 1, item 1, page 47 (after line 5), at the end of section 25, add:

- (2) Before the Governor-General makes a regulation for the purposes of subsection (1)(n) prescribing a kind of term, or a kind of effect that a term has, the Minister must take into consideration:

- (a) the detriment that a term of that kind would cause to consumers; and
- (b) the impact on business generally of prescribing that kind of term or effect; and
- (c) the public interest.

Schedule 1, item 1, page 79 (after line 3), at the end of section 61, add:

- (4) This section does not apply to a supply of services of a professional nature by a qualified architect or engineer.

Schedule 1, item 1, page 80 (after line 7), at the end of Subdivision C, add:

64A Limitation of liability for failures to comply with guarantees

- (1) A term of a contract for the supply by a person of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption is not void under section 64 merely because the term limits the person's liability for failure to comply with a guarantee (other than a guarantee under section 51, 52 or 53) to one or more of the following:
 - (a) the replacement of the goods or the supply of equivalent goods;
 - (b) the repair of the goods;
 - (c) the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (d) the payment of the cost of having the goods repaired.
- (2) A term of a contract for the supply by a person of services other than services of a kind ordinarily acquired for personal, domestic or household use or consumption is not void under section 64 merely because the term limits the person's liability for failure to comply with a guarantee to:
 - (a) the supplying of the services again; or
 - (b) the payment of the cost of having the services supplied again.
- (3) This section does not apply in relation to a term of a contract if the person to whom the goods or services were supplied establishes that it is not fair or reasonable for the person who supplied the goods or services to rely on that term of the contract.
- (4) In determining for the purposes of subsection (3) whether or not reliance on a term of a contract is fair or reasonable, a court is to have regard to all the circumstances of the case, and in particular to the following matters:
 - (a) the strength of the bargaining positions of the person who supplied the goods or services and the person to whom the goods or services were supplied (the *buyer*) relative to each other, taking into account, among other things, the availability of equivalent goods or services and suitable alternative sources of supply;
 - (b) whether the buyer received an inducement to agree to the term or, in agreeing to the term, had an opportunity of acquiring the goods or services or equivalent goods or services from any source of supply under a contract that did not include that term;

- (c) whether the buyer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);
- (d) in the case of the supply of goods, whether the goods were manufactured, processed or adapted to the special order of the buyer.

Schedule 1, item 1, page 82 (after line 25), after subsection 69(1), insert:

- (1A) The consumer is not taken, for the purposes of subsection (1)(c), to have invited the dealer to come to that place, or to make a telephone call, merely because the consumer has:
 - (a) given his or her name or contact details other than for the predominant purpose of entering into negotiations relating to the supply of the goods or services referred to in subsection (1)(c); or
 - (b) contacted the dealer in connection with an unsuccessful attempt by the dealer to contact the consumer.

Schedule 1, item 1, page 94 (after line 20), after subsection 88(1), insert:

- (1A) Subsection (1) does not apply to:
 - (a) bringing, or asserting an intention to bring, legal proceedings against the consumer; or
 - (b) taking, or asserting an intention to take, any other action against the consumer;to enforce a liability under section 85(3), or a liability of a kind referred to in section 85(6).

Schedule 1, item 1, page 125 (line 7), omit “of a particular kind”.

Schedule 1, item 1, page 125 (lines 8 to 10), omit paragraph 131(1)(b), substitute:

- (b) the supplier becomes aware of the death or serious injury or illness of any person and:
 - (i) considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods; or
 - (ii) becomes aware that a person other than the supplier considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods;

Schedule 1, item 1, page 125 (lines 17 to 20), omit paragraphs 131(2)(a) and (b), substitute:

- (a) it is clear that the death or serious injury or illness was not caused by the use or foreseeable misuse of the consumer goods; or
- (b) it is very unlikely that the death or serious injury or illness was caused by the use or foreseeable misuse of the consumer goods; or

Schedule 1, item 1, page 125 (line 21), after “supplier”, insert “, or another person,”.

Schedule 1, item 1, page 125 (line 25), after “supplier”, insert “, or another person,”.

Schedule 1, item 1, page 125 (line 27), after “supplier”, insert “or other person”.

Schedule 1, item 1, page 126 (line 26), omit “of a particular kind”.

Schedule 1, item 1, page 126 (lines 27 to 29), omit paragraph 132(1)(b), substitute:

- (b) the supplier becomes aware of the death or serious injury or illness of any person and:
 - (i) considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods to which the services relate; or
 - (ii) becomes aware that a person other than the supplier considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods to which the services relate;

Schedule 1, item 1, page 127 (lines 1 to 6), omit paragraphs 132(2)(a) and (b), substitute:

- (a) it is clear that the death or serious injury or illness was not caused by the use or foreseeable misuse of the consumer goods to which the services relate; or
- (b) it is very unlikely that the death or serious injury or illness was caused by the use or foreseeable misuse of the consumer goods to which the services relate; or

Schedule 1, item 1, page 127 (line 7), after “supplier”, insert “, or another person,”.

Schedule 1, item 1, page 127 (line 11), after “supplier”, insert “, or another person,”.

Schedule 1, item 1, page 127 (line 13), after “supplier”, insert “or other person”.

Schedule 1, item 1, page 128 (after line 6), at the end of Division 5, add:

132A Confidentiality of notices given under this Division

- (1) A person must not disclose to any other person a notice given under this Division, or any part of or information contained in such a notice, unless the person who gave the notice has consented to the notice, or that part or information, not being treated as confidential.
- (2) This section does not apply if:
 - (a) the disclosure is made by the Commonwealth Minister to:
 - (i) another responsible Minister; or
 - (ii) the regulator; or
 - (iii) an associate regulator; or
 - (b) the disclosure is made by the Commonwealth Minister and the Commonwealth Minister considers that the disclosure is in the public interest; or
 - (c) the disclosure is made by a member of the staff of the regulator, or an associate regulator, in the performance of his or her duties as such a member of staff, and is made:
 - (i) to another member of the staff of the regulator or associate regulator; or
 - (ii) if the person making the disclosure is a member of the staff of the regulator—to an associate regulator; or

- (iii) if the person making the disclosure is a member of the staff of an associate regulator—to the regulator or another associate regulator; or
- (d) the disclosure is required or authorised by or under law; or
- (e) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty.

Schedule 1, item 1, page 235 (lines 8 to 25), omit section 265, substitute:

265 Termination of contracts for the supply of services that are connected with rejected goods

- (1) If:
 - (a) under section 259, a consumer notifies a supplier of goods that the consumer rejects the goods; and
 - (b) the supplier is required under section 263(4)(a) to give the consumer a refund; and
 - (c) a person supplies, in trade or commerce, services to the consumer that are connected with the rejected goods;
 the consumer may terminate the contract for the supply of the services.
- (2) The termination takes effect:
 - (a) at the time the termination is made known to the supplier of the services (whether by words or by conduct indicating the consumer's intention to terminate the contract); or
 - (b) if it is not reasonably practicable to communicate with the supplier of the services—at the time the consumer indicates, by means which are reasonable in the circumstances, his or her intention to terminate the contract.
- (3) The consumer is entitled to recover, by action against the supplier of the services, a refund of:
 - (a) any money paid by the consumer for the services; and
 - (b) an amount that is equal to the value of any other consideration provided by the consumer for the services;
 to the extent that the consumer has not already consumed the services at the time the termination takes effect.

Schedule 1, item 1, page 238 (lines 12 to 16), omit subsection 269(3), substitute:

- (3) The consumer is entitled to recover, by action against the supplier of the services, a refund of:
 - (a) any money paid by the consumer for the services; and
 - (b) an amount that is equal to the value of any other consideration provided by the consumer for the services;
 to the extent that the consumer has not already consumed the services at the time the termination takes effect.

Schedule 1, item 1, page 244 (after line 34), at the end of section 276, add:

- (3) This section does not apply to a term of a contract that is a term referred to in section 276A(4).

Schedule 1, item 1, page 245 (before line 1), before section 277, insert:

276A Limitation in certain circumstances of liability of manufacturer to seller

- (1) Despite section 274, if goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability under that section of the manufacturer of the goods to a person (the *supplier*) who supplied the goods to a consumer is limited to a liability to pay to the supplier an amount equal to:
 - (a) the cost of replacing the goods; or
 - (b) the cost of obtaining equivalent goods; or
 - (c) the cost of having the goods repaired;
 whichever is the lowest amount.
- (2) Subsection (1) does not apply in relation to particular goods if the supplier establishes that it is not fair or reasonable for the liability of the manufacturer of the goods to be limited as mentioned in subsection (1).
- (3) In determining for the purposes of subsection (2) whether or not it is fair or reasonable for the liability of a manufacturer to a supplier in relation to goods to be limited as mentioned in subsection (1), a court is to have regard to all the circumstances of the case, and in particular to the following matters:
 - (a) the availability of suitable alternative sources of supply of the goods;
 - (b) the availability of equivalent goods;
 - (c) whether the goods were manufactured, processed or adapted to the special order of the supplier.
- (4) This section is subject to any term of a contract between the manufacturer and the supplier imposing on the manufacturer a greater liability than the liability mentioned in subsection (1).

Schedule 2, item 1, page 256 (after line 27), after the definition of *enforcement order* in section 130, insert:

Family Court Judge means a Judge of the Family Court (including the Chief Judge, the Deputy Chief Judge, a Judge Administrator or a Senior Judge).

Schedule 2, item 1, page 322 (after line 2), after section 139D, insert:

139DA Application of section 229 of the Australian Consumer Law to a person other than a body corporate

If, as a result of the operation of Part 2.4 of the *Criminal Code*, a person other than a body corporate is:

- (a) convicted of an offence (the *relevant offence*) against subsection 229(1) of the Australian Consumer Law; or
- (b) convicted of an offence (the *relevant offence*) against section 11.4 of the *Criminal Code* in relation to an offence referred to in subsection 229(1) of the Australian Consumer Law;

the relevant offence is taken to be punishable on conviction by a fine not exceeding \$550.

Schedule 5, page 351 (after line 23), after item 6, insert:

6A Subsection 4(1) (definition of *Family Court Judge*)

Repeal the definition.

Schedule 5, page 362 (after line 21), after item 100, insert:

100A Subsection 87CB(1)

Omit “section 82”, substitute “section 236 of the Australian Consumer Law”.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Ludwig, in respect of Schedule 1, item 1, section 231.

Question—That Schedule 1, item 1, section 231 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

17 CRIMES AMENDMENT (ROYAL FLYING DOCTOR SERVICE) BILL 2010

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

Message no. 628, dated 23 June 2010—A Bill for an Act to amend the *Crimes Act 1914*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ludwig 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 Ludwig the bill was read a third time.

18 HIGHER EDUCATION SUPPORT AMENDMENT (INDEXATION) BILL 2010

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

Message no. 629, dated 23 June 2010—A Bill for an Act to amend the *Higher Education Support Act 2003*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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 Ludwig the bill was read a third time.

19 SUPERANNUATION INDUSTRY (SUPERVISION) AMENDMENT BILL 2010

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

Message no. 634, dated 23 June 2010—A Bill for an Act to amend the *Superannuation Industry (Supervision) Act 1993*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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 Ludwig the bill was read a third time.

20 AGRICULTURAL AND VETERINARY CHEMICALS CODE AMENDMENT BILL 2010

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

Message no. 635, dated 24 June 2010—A Bill for an Act to amend the *Agricultural and Veterinary Chemicals Code Act 1994*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ludwig 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 Ludwig the bill was read a third time.

21 IMMIGRATION (EDUCATION) AMENDMENT BILL 2010

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

Message no. 633, dated 23 June 2010—A Bill for an Act to amend the *Immigration (Education) Act 1971*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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 Ludwig the bill was read a third time.

22 ORDER OF BUSINESS—REARRANGEMENT

The Special Minister of State (Senator Ludwig) moved—That the order of the Senate agreed to earlier today relating to the consideration of bills, be varied to add government business order of the day no. 18 (Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 and Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Bill 2010).

Question put and passed.

23 CONSIDERATION OF LEGISLATION

The Special Minister of State (Senator Ludwig) moved—That the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 be listed on the *Notice Paper* as a separate order of the day.

Debate ensued.

Question put and passed.

24 ELECTORAL AND REFERENDUM AMENDMENT (HOW-TO-VOTE CARDS AND OTHER MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Minister for Employment Participation (Senator Arbib)—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.

Explanatory memorandum: The Special Minister of State (Senator Ludwig) tabled a supplementary explanatory memorandum relating to the government amendment to be moved to the bill.

On the motion of Senator Ludwig the following amendment was agreed to:

Schedule 1, item 1, page 3 (lines 15 to 21), omit paragraphs (b) and (c) of the definition of *how-to-vote card*, substitute:

- (b) that lists the names of 2 or more of the candidates or registered political parties in an election, with a number indicating the order of voting preference in conjunction with the names of 2 or more of the candidates or parties; or
- (c) that otherwise directs or encourages the casting of votes in an election in a particular way, other than a card, handbill or pamphlet:
 - (i) that only relates to first preference votes; or
 - (ii) that only relates to last preference votes.

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

Schedule 1, item 6, page 4 (line 6), after “top”, insert “or bottom”.

Schedule 1, item 6, page 5 (line 13), omit “10 penalty units”, substitute “50 penalty units”.

Schedule 1, item 6, page 5 (line 30), omit “10 penalty units”, substitute “50 penalty units”.

Schedule 1, item 7, page 6 (line 2), after “top”, insert “, bottom”.

Senator Xenophon moved the following amendments together by leave:

Page 9 (after line 5), at the end of the bill, add:

Schedule 3—Amendment relating to misleading or deceptive conduct

Commonwealth Electoral Act 1918

1 After section 329

Insert:

329A Misleading or deceptive conduct

- (1) A person commits an offence if:
- (a) the person either:
 - (i) engages in conduct; or
 - (ii) authorises another person to engage in conduct; and
 - (b) that conduct occurs during the relevant period in relation to an election under this Act; and
 - (c) that conduct is likely to mislead or deceive an elector in relation to the casting of a vote.

Penalty:

- (a) if the offender is a natural person—\$1,000 or 6 months' imprisonment; or
 - (b) if the offender is a body corporate—\$5,000.
- (2) In a prosecution of a person under subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the conduct was likely to mislead or deceive an elector in relation to the casting of a vote.
- Note: A defendant bears a legal burden in relation to the defence in subsection (2) (see section 13.4 of the *Criminal Code*).
- (3) If the Electoral Commissioner is satisfied that, during the relevant period in relation to an election under this Act, a person is engaging in, or has engaged in, conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the Electoral Commissioner may request the person to desist from that conduct.
 - (4) In proceedings for an offence under this section, the court may take into account a person's response to a request under subsection (3) in assessing any penalty to which the person may be liable.
 - (5) If the court is satisfied, in proceedings for an offence under this section, that a person has engaged in conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the court may order the person to desist from that conduct.

2 Application of amendment

The amendment made by this Schedule applies in relation to elections the writs for which are issued on or after the commencement of the amendment.

Clause 2, page 2 (before line 1), at the end of the table, add:

4. Schedule 3 The day this Act receives the Royal Assent

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

25 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Employment Participation (Senator Arbib) moved—That the order of the Senate agreed to earlier today relating to the consideration of bills, be varied to add the following bills:

- No. 15 Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Bill 2010.
- No. 6 Veterans' Affairs Legislation Amendment (2010 Budget Measures) Bill 2010
Veterans' Entitlements Amendment (Income Support Measures) Bill 2010.
- No. 1 Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011
Appropriation Bill (No. 1) 2010-2011
Appropriation Bill (No. 2) 2010-2011.
- No. 2 Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010.

Question put and passed.

26 SOCIAL SECURITY AND INDIGENOUS LEGISLATION AMENDMENT (BUDGET AND OTHER MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—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 Minister for Employment Participation (Senator Arbib) the bill was read a third time.

27 VETERANS' AFFAIRS LEGISLATION AMENDMENT (2010 BUDGET MEASURES) BILL 2010

VETERANS' ENTITLEMENTS AMENDMENT (INCOME SUPPORT MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—That these bills be now read a second time.

Debate resumed.

Senator Ludlam moved the following amendment in respect of the Veterans' Affairs Legislation Amendment (2010 Budget Measures) Bill 2010:

At the end of the motion, add "but the Senate calls on the Government to extend eligibility for the Repatriation Health Card – All conditions (known as the 'Gold Card') to former Australian Defence Force members in the new category of service established by this bill, the British nuclear test defence service, and to their medically-affected dependants".

Debate ensued.

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

Main question put and passed.

Bills read a second time.

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

On the motion of the Minister for Employment Participation (Senator Arbib) the bills were read a third time.

28 APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 1) 2010-2011

APPROPRIATION BILL (NO. 1) 2010-2011

APPROPRIATION BILL (NO. 2) 2010-2011

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—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 Appropriation Bill (No. 1) 2010-2011 to which requests for amendments were circulated in the Senate.

In the committee

Bill taken as a whole by leave.

The Leader of the Family First Party (Senator Fielding) moved the following requests for amendments together by leave:

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

Page 12 (after line 13), after clause 15, insert:

15A Tax reform communication

- (1) No amount appropriated by this Act is to be spent on any advertising campaign or public information project in relation to proposed 'resources super profit tax' announced by the Treasurer on 2 May 2010.

Schedule 1, page 152, Treasury portfolio—Department of the Treasury (Administered):

Reduce the vote by \$30.61 million, the amount appropriated for tax reform communication.

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

Bill agreed to.

Bill to be reported without requests for amendments.

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

On the motion of the Minister for Employment Participation (Senator Arbib) the report from the committee was adopted and Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011, Appropriation Bill (No. 1) 2010-2011 and Appropriation Bill (No. 2) 2010-2011 read a third time.

29 FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE BUDGET MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—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.

On the motion of Senator Hanson-Young the following amendment was debated and agreed to:

Page 3 (after line 27), at the end of the bill, add:

Schedule 2—Periodic payments of child care rebate

Part 1—Amendments

A New Tax System (Family Assistance) Act 1999

1 Subdivision A of Division 4A of Part 4 (heading)

Repeal the heading, substitute:

Subdivision A—Child care rebate for a CCR period

2 Bulk amendments

The provisions listed in the table are amended by omitting “quarter” (wherever occurring) and substituting “CCR period”.

1	Subsection 57EA(1)
2	Subparagraph 57EA(1)(a)(ii)
3	Section 84AA
4	Method statement in section 84AA (each of steps 1 to 5)
5	Section 84AC

6 Paragraph 84AC(a)

Note 1: The heading to section 57EA is altered by omitting “quarter” and substituting “CCR period”.

Note 2: The heading to section 84AA is altered by omitting “quarter” and substituting “CCR period”.

A New Tax System (Family Assistance) (Administration) Act 1999

3 Subsection 3(1) (after the definition of CCB %)

Insert:

CCR period has the meaning given by section 65EAD.

4 Subdivision AA of Division 4AA of Part 3 (heading)

Repeal the heading, substitute:

Subdivision AA—Periodic payments of child care rebate

5 At the end of Subdivision AA of Division 4AA of Part 3

Add:

65EAD Meaning of CCR period

- (1) Subject to subsection (2), the *CCR period* for an individual in respect of a child is a fortnight.
- (2) The Secretary may determine, on application by an individual in the prescribed form, that the CCR period for the individual in respect of a child is a quarter.
- (3) A determination under subsection (2) remains in force until the Secretary determines otherwise.

6 Paragraph 66(2)(ab)

Omit “quarterly”, substitute “periodic”.

7 Bulk amendments

The provisions listed in the table are amended by omitting “quarter” (wherever occurring) and substituting “CCR period”.

1	Paragraphs 65EAA(1)(a) and (b)
2	Subsection 65EAA(1)
3	Subsection 65EAB(1)
4	Paragraphs 65EAB(2)(a) and (b)
5	Paragraphs 65EAB(3)(a) and (b)
6	Subsection 65EAB(3)
7	Paragraph 65EAC(1)(a)
8	Subsection 65EF(2A)
9	Paragraph 65EF(2B)(c)
10	Paragraph 66(2)(ab)
11	Paragraph 104(da)
12	Paragraph 108(2)(db)
13	Paragraph 175(a)

14 Paragraph 175AA(a)

15 Paragraph 224(1)(ca)

Note 1: The heading to section 65EAA is altered by omitting “**quarterly**” and substituting “**periodic**”.

Note 2: The heading to subsection 65EAA(1) is altered by omitting “*quarterly*” and substituting “*periodic*”.

Note 3: The heading to section 65EAB is altered by omitting “**quarterly**” and substituting “**periodic**”.

Note 4: The heading to section 65EAC is altered by omitting “**quarterly**” and substituting “**periodic**”.

Note 5: The heading to section 175AA is altered by omitting “**quarter**” and substituting “**period**”.

Part 2—Application and transitional

8 Application

The amendments made by this Schedule apply in relation to care provided by an approved child care service to a child on or after 1 July 2010.

9 Transitional

The regulations may provide that the provisions of the *A New Tax System (Family Assistance) (Administration) Act 1999* and the *A New Tax System (Family Assistance) Act 1999* apply in a modified form for the purpose of the transition from a regime of quarterly payments to a regime of periodic payments (fortnightly, by default) as provided for by the amendments in this Schedule.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

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

On the motion of the Minister for Employment Participation (Senator Arbib) the report from the committee was adopted and the bill read a third time.

30 DEFENCE LEGISLATION AMENDMENT (SECURITY OF DEFENCE PREMISES) BILL 2010

The Minister for Employment Participation (Senator Arbib), at the request of the Minister for Defence (Senator Faulkner) and pursuant to notice, moved government business notice of motion no. 1—That the following bill be introduced:

A Bill for an Act to amend the *Defence Act 1903*, and for related purposes.

Question put and passed.

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

Explanatory memorandum: Senator Arbib 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.

31 PETITIONS

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

By Senator Humphries, from 1 919 petitioners, requesting that the Senate reject any proposal to introduce paid parking in the Parliamentary Triangle, Australian Capital Territory.

By Senator Siewert, from 173 petitioners, requesting that the Senate reject proposals for mandatory income management for disadvantaged Australians.

32 NOTICE

Senator Colbeck: To move on the next day of sitting—That the Disability (Access to Premises – Buildings) Standards 2010, made under subsection 31(1) of the *Disability Discrimination Act 1992*, be disallowed.

33 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Employment Participation (Senator Arbib) moved—That the order of general business for consideration today be as follows:

- (a) general business notice of motion no. 851 standing in the name of Senator Parry relating to government service delivery; and
- (b) orders of the day relating to government documents.

Question put and passed.

34 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE— EXTENSION OF TIME TO REPORT

Senator Parry, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Nash), moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the management of aircraft noise by Airservices Australia be extended to 2 July 2010.

Question put and passed.

35 CHOICE OF REPAIRER BILL 2010

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. 852—That the following bill be introduced:

A Bill for an Act to enhance customer choice in the repair and maintenance of motor vehicles, 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.

36 PARLIAMENTARY BUDGET OFFICE BILL 2010

Senator Barnett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 854—That the following bill be introduced:

A Bill for an Act to establish the Parliamentary Budget Office, and for related purposes.

Question put and passed.

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

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

37 FINANCIAL MANAGEMENT AND ACCOUNTABILITY AMENDMENT (VALUE FOR MONEY IN GOVERNMENT SPENDING) BILL 2010

Senator Barnett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 855—That the following bill be introduced:

A Bill for an Act to amend the *Financial Management and Accountability Act 1997* to ensure value for money in the use of Commonwealth resources, and for related purposes.

Question put and passed.

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

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

38 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—PROPOSED REFERENCE

Senator Ryan, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 26 August 2010:

The *Ahead of the Game: Blueprint for the Reform of Australian Government Administration* issued by the Advisory Group on Reform of Australian Government Administration in March 2010 and, in particular:

- (a) the implementation of recommendations contained in the review, including means and costs of implementation;
- (b) possible amendments to the *Public Service Act 1999*;
- (c) identification and consideration of related matters not covered by the review; and
- (d) any other related matter.

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved the following amendment:

At the end of the motion, add:

- (e) the potential implications of the cut of 12 000 Commonwealth jobs over 2 years, as announced as policy by the Leader of the Opposition in his budget reply speech.

Question—That the amendment be agreed to—put.

The Senate proceeded to divide—

Leave was granted for the votes on the amendment and the main question to be taken immediately after motions to take note of answers.

At 2 pm—

39 MINISTRY AND MINISTERIAL ARRANGEMENTS

The Leader of the Government in the Senate (Senator Evans), by leave, informed the Senate that Ms Julia Gillard was selected as Leader of the Australian Labor Party and Mr Wayne Swan selected as the Deputy Leader.

Document: Senator Evans tabled a document showing all members of the Gillard Ministry and ministerial representation, dated 24 June 2010.

40 QUESTIONS

Questions without notice were answered.

41 MOTION TO TAKE NOTE OF ANSWER

Senator Bernardi moved—That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) today relating to the proposed new tax on mining.

Debate ensued.

Question put and passed.

42 SUPERANNUATION—MILITARY SUPERANNUATION PENSIONS—DOCUMENT

The Leader of the Family First Party (Senator Fielding), by leave, tabled the following document:

Superannuation—Petitioning document from 13 666 signatories relating to indexing arrangements to military superannuation pensions.

43 EMPLOYMENT—AUSTRALIAN SERVICES UNION—EQUAL PAY—DOCUMENT

Senator Siewert, by leave, tabled the following document:

Employment—Australian Services Union—Petitioning document from 353 signatories relating to equal pay.

44 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—REFERENCE

Leave was granted for the vote on the amendment moved by the Leader of the Australian Greens (Senator Bob Brown) to the motion for a reference to the Finance and Public Administration References Committee to be taken immediately (*see entry no. 38*), and to enable the discovery of formal business to be concluded and the tabling and consideration of committee reports.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 33

Senators—

Arbib	Faulkner	Lundy	Sherry
Bilyk	Feeney	Marshall	Siewert
Bishop	Forshaw	McEwen (Teller)	Stephens
Brown, Bob	Furner	McLucas	Sterle
Brown, Carol	Hanson-Young	Milne	Wong
Cameron	Hogg	Moore	Wortley
Collins	Hurley	O'Brien	
Crossin	Ludlam	Polley	
Farrell	Ludwig	Pratt	

NOES, 35

Senators—

Abetz	Cash	Heffernan	Parry
Adams (Teller)	Colbeck	Humphries	Ronaldson
Back	Coonan	Joyce	Ryan
Barnett	Cormann	Kroger	Scullion
Bernardi	Eggleston	Macdonald	Troeth
Birmingham	Ferguson	Mason	Trood
Boyce	Fielding	McGauran	Williams
Brandis	Fifield	Minchin	Xenophon
Bushby	Fisher	Nash	

Question negatived.

Main question put and passed.

45 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—REFERENCE

Documents: The Minister for Climate Change, Energy Efficiency and Water (Senator Wong) tabled the following documents:

Australian Privacy Principles—

Exposure draft.

Companion guide, dated June 2010.

Senator Wong, at the request of the Special Minister of State (Senator Ludwig) and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—

- (1) That the following matter be referred to the Finance and Public Administration Legislation Committee for inquiry and report by 1 July 2011:
Exposure drafts of Australian privacy amendment legislation.
- (2) That, in undertaking this inquiry the committee may consider the exposure draft of the Australian Privacy Principles and the draft companion guides on the Australian privacy reforms, and any other relevant documents tabled in the Senate or presented to the President by a senator when the Senate is not sitting.

Question put and passed.

**46 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—
REFERENCE**

Senator Nash, also on behalf of Senator Colbeck, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4— That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 31 July 2010:

- (a) the import risk analysis process for the proposed importation of Chinese apples into Australia; and
- (b) the protocols relating to the Australia/United States of America cherry trade.

Question put and passed.

**47 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—
REFERENCE**

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 5—That the following matter be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 20 October 2010:

The adequacy of protections for the privacy of Australians online, with regard to:

- (a) privacy protections and data collection on social networking sites;
- (b) data collection activities of private companies;
- (c) data collection activities of government agencies; and
- (d) other related issues.

Question put and passed.

48 FOREIGN AFFAIRS—SRI LANKA

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 818—That the Senate—

- (a) notes:
 - (i) the recent report from the International Crisis Group on War Crimes in Sri Lanka, and
 - (ii) this report, recommends, among other things, for the United Nations (UN) to authorise an independent international inquiry into the alleged war crimes in Sri Lanka during the last year of the conflict;

- (b) welcomes:
 - (i) the UN Secretary-General's establishment of an Advisory Panel on Sri Lanka, and
 - (ii) the establishment in Sri Lanka of a Lessons Learned and Reconciliation Commission and urges the Sri Lankan Government to ensure the commission operates in an independent way;
- (c) reaffirms the importance of credible investigations into all allegations of violations of human rights; and
- (d) calls on the Australian Government to support an effective process of national reconciliation to allow Sri Lanka to move forward after years of conflict.

Question put and passed.

49 FOREIGN AFFAIRS—CHINA AND TAIWAN

Senator McEwen, at the request of Senator Hutchins, amended general business notice of motion no. 848 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) welcomes the signing of various bilateral agreements between China and Taiwan, including on direct flights, maritime shipping, linking postal services, food security, financial services and cooperation in telecommunications agreed to since May 2008;
- (b) recognises the continuing improvement in relations between China and Taiwan is conducive to the long-term rapprochement between these communities and will have a positive effect on the stability and security of the Asia-Pacific region; and
- (c) encourages both sides of the Taiwan Strait to further enhance dialogue, practical cooperation and confidence-building, including a cooperative approach towards providing increased opportunities for Taiwanese participation in international forums and global policy dialogue, especially concerning international aviation and climate change.

Question put and passed.

50 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REFERENCE

Senator Xenophon, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That—

- (1) The following matter be referred to the Community Affairs References Committee for inquiry and report by 2 September 2010:
The prevalence of interactive and online gambling in Australia and the adequacy of the *Interactive Gambling Act 2001* to effectively deal with its social and economic impacts.
- (2) In undertaking the inquiry, the committee must consider:
 - (a) the recent growth in interactive sports betting and the changes in online wagering due to new technologies;
 - (b) the development of new technologies, including mobile phone and interactive television, that increase the risk and incidence of problem gambling;
 - (c) the relative regulatory frameworks of online and non-online gambling;
 - (d) inducements to bet on sporting events online;

- (e) the impact of betting exchanges, including the ability to bet on losing outcomes;
- (f) appropriate regulation, including codes of disclosure, for persons betting on events over which they have some participation or special knowledge, including match fixing of sporting events; and
- (g) any other related matters.

Question put and passed.

51 ENVIRONMENT—GREEN LOANS PROGRAM

Senator Birmingham, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 849—That the Senate notes the continuing failings of the Rudd Government in relation to its Green Loans program (the program), despite the undertakings of the Minister for Climate Change, Energy Efficiency and Water (Senator Wong) of 10 March 2010 to the Senate, including:

- (a) the training and accreditation of thousands more assessors than the Government first promised, had work for, or ever intended to contract;
- (b) systemic failures to process bookings for home sustainability assessments, return assessments to householders in a timely way or pay assessors for work undertaken in a timely way;
- (c) its cancellation of the loans component of the program, having provided only approximately 1 per cent of the 200 000 loans it promised at the 2007 election;
- (d) its failure to finalise assessor contracts in a timely manner, leaving thousands of assessors in limbo and/or unemployed and without any offer of Government support;
- (e) delays in its conduct of audits and reviews into the program, including reviews the Minister has indicated would inform the finalising of additional assessor contracts;
- (f) its failure to commit to the public release of these audit and review findings;
- (g) its failure to deliver a promised Green Rewards Card (the card) to householders and its expensive, bureaucratic alternative to the card;
- (h) its failure to implement, following the discontinuation of loans, any mechanism for evaluating the worth of assessments conducted at taxpayer expense; and
- (i) the Minister's failure to acknowledge, let alone respond, to correspondence.

Question put and passed.

52 ENVIRONMENT—CONTAINER DEPOSIT SCHEME

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 850—That the Senate notes that:

- (a) Australians use more than 11 billion drink containers every year;
- (b) through a container deposit scheme, South Australia has achieved a recovery rate of more than 80 per cent;
- (c) the *National Waste Report 2010* shows that Australians recycle only 40 per cent of our municipal solid waste;
- (d) a national container deposit scheme would:
 - (i) create hundreds of green jobs,
 - (ii) decrease litter by 12 to 15 per cent,
 - (iii) increase recycling of drink containers from 50 to 80 per cent,

- (iv) divert more than 512 000 tonnes from landfill,
 - (v) reduce national greenhouse gas emissions by nearly one million tonnes of CO₂ each year, the equivalent of switching 135 000 homes to renewable energy, and
 - (vi) improve air quality to the equivalent of taking 56 000 cars off the road; and
- (e) a national container deposit scheme be introduced without further delay.

Question put and negatived.

Statements by leave: Senators Ludlam and Xenophon, by leave, made statements relating to the motion.

**53 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Parry, at the request of the Chair of the Environment, Communications and the Arts References Committee (Senator Fisher) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 853—That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on the Energy Efficient Homes Package be extended to 2 July 2010.

Question put and passed.

**54 AGRICULTURAL AND RELATED INDUSTRIES—SELECT COMMITTEE—EXTENSION OF
TIME TO REPORT**

Senator Parry, at the request of the Chair of the Select Committee on Agricultural and Related Industries (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 856—That the time for the presentation of the report of the Select Committee on Agricultural and Related Industries on food production in Australia be extended to 23 August 2010.

Question put and passed.

55 HEALTH—MINIMUM PRICE FOR ALCOHOL

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 857—That the Senate—

- (a) notes that the price of alcohol has proven to be a significant factor in tackling alcohol abuse, especially among disadvantaged drinkers;
- (b) raises concern at the decision by Coles supermarkets to place on sale \$4 bottles of wine in Alice Springs;
- (c) calls on the Minister for Health and Ageing (Ms Roxon) to convene a meeting of the large supermarket chains and public health authorities to discuss responsible alcohol sales and promotions; and
- (d) calls on the Rudd Government to introduce a minimum price for alcohol.

Question put and passed.

56 INDIGENOUS AUSTRALIANS—HUMAN RIGHTS

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 858—That the Senate—

(a) notes:

- (i) the statement made by seven Coalition senators in their dissenting report in the Legal and Constitutional Affairs Legislation Committee's report *Wild Rivers (Environmental Management) Bill 2010 [No. 2]* that 'the principle of "free, prior and informed consent" is a fundamental human rights principal for Indigenous peoples', and
- (ii) that the principle of 'free, prior and informed consent' is reflected in Articles 19 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples which was recently endorsed by the Federal Government but has yet to be implemented in Australian law;

(b) affirms the view that 'free, prior and informed consent' is a fundamental human rights principle for Indigenous peoples; and

(c) calls on all current and future Australian governments to ensure this principle is taken into account in developing, implementing and administering their laws and programs.

Question put and passed.

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

57 TAXATION

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. 859—That the Senate—

(a) notes that:

- (i) the massive trade in complex financial derivatives was a major cause of the recent financial crisis and that governments around the world are now seeking solutions to ensure that financial markets price risk appropriately and that unregulated financial trading is more visible to regulators,
- (ii) the 'Robin Hood' tax (the tax), an idea that is gaining traction in many western countries with growing public support, imposes a small levy (0.05 per cent) on banks, hedge funds, foreign exchange transactions, derivatives and share deals,
- (iii) the tax is estimated to raise approximately \$400 billion dollars a year globally and up to \$18 billion in Australia, and
- (iv) the tax advocates proposes that 50 per cent of the revenue is spent by governments on the delivery of essential services and costs of bail-outs associated with the global financial crisis with the remaining 50 per cent to be spent on overseas development aid and climate change adaptation; and

(b) calls on the Government to support the adoption of this tax at the G20 meeting in Toronto, Canada, in June 2010.

Question put.

The Senate divided—

AYES, 5

Senators—

Brown, Bob	Ludlam	Milne	Siewert (Teller)
Hanson-Young			

NOES, 40

Senators—

Abetz	Eggleston	Ludwig	Pratt
Adams (Teller)	Farrell	Lundy	Ronaldson
Back	Feeney	Marshall	Ryan
Bilyk	Ferguson	Mason	Stephens
Birmingham	Fielding	McEwen	Sterle
Bishop	Fifield	McLucas	Troeth
Brown, Carol	Furner	Moore	Trood
Cameron	Hurley	Nash	Williams
Cash	Hutchins	Parry	Wortley
Cormann	Kroger	Polley	Xenophon

Question negatived.

58 NOTICE

Senator Milne, by leave, gave a notice of motion as follows: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) triazines are banned throughout Europe because of their impact on public health and the environment, yet they are still allowed to be used in Australia,
- (ii) as Leader of the Tasmanian Greens in the early 1990s, Senator Milne called for a ban on the use of triazines in Tasmania, following the contamination of Olivers Creek at Lorinna,
- (iii) the Australian Pesticides and Veterinary Medicines Authority (the authority) took 11 years to review the use of atrazines and came up with recommendations that are simply insufficient, and
- (iv) it is time that the Federal Government took a much keener interest in the contamination of river systems and the impact on human and animal health, with responsibility for this ranging across the environment, water, health and agriculture portfolios; and

(b) calls on the Government to ban the use of triazines until the authority can demonstrate that they are safe to use. (*general business notice of motion no. 860*)

59 PUBLICATIONS—STANDING COMMITTEE—19TH REPORT

The Chair of the Standing Committee on Publications (Senator Carol Brown), tabled the following report:

PUBLICATIONS COMMITTEE

19TH REPORT

The Publications Committee, having considered documents presented to the Parliament since 18 March 2010, recommends that the following be printed:

Australian Institute of Health and Welfare—Report—Australia's health 2010—Twelfth biennial report.

Australian National University—Report for 2009.
Director of Military Prosecutions—Report for 2009.
Finance—Budget paper no. 2—Budget measures 2010-11—Corrigendum.
Productivity Commission—Report no. 50—Gambling, dated 26 February 2010—
 Volume 1.
 Volume 2.
Tax Laws Amendment (Medicare Levy Surcharge Threshold) Act (No. 2) 2008—Review of the impact of the new Medicare Levy Surcharge thresholds on public hospitals—First year review, dated June 2010.

Senator Carol Brown
Chair
23 June 2010.

Senator Carol Brown moved—That the report be adopted.

Question put and passed.

60 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—INTERIM REPORT—PRIMARY SCHOOLS FOR THE 21ST CENTURY

The Chair of the Education, Employment and Workplace Relations References Committee (Senator Cash) tabled the following report and documents:

Education, Employment and Workplace Relations References Committee—
Primary schools for the 21st Century—Interim report, dated June 2010, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

Question put and passed.

61 PARLIAMENTARY ENTITLEMENTS—PERSONAL EXPLANATION

The Minister for Defence (Senator Faulkner), by leave, made a personal explanation relating to parliamentary entitlements.

62 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That divisions may take place after 4.30 pm today.

Debate ensued.

Senator Ludwig, by leave, withdrew the motion.

63 COMMITTEES—ADDITIONAL INFORMATION—BUDGET AND ADDITIONAL ESTIMATES 2009-10 AND BUDGET ESTIMATES 2010-11

Senator O'Brien, at the request of the chairs of the respective committees, tabled the following documents:

Budget estimates (Supplementary) 2009-10—

Environment, Communications and the Arts Legislation Committee—
Additional information received between 24 February and 23 June 2010—
Environment, Water, Heritage and the Arts portfolio.

Additional estimates 2009-10—

Community Affairs Legislation Committee—Additional information—received between—

18 March and 2 June 2010—Health and Ageing portfolio.

13 May and 28 May 2010—Families, Housing, Community Services and Indigenous Affairs portfolio.

Economics Legislation Committee—Additional information received between 13 May and 23 June 2010—Treasury portfolio.

Education, Employment and Workplace Relations Legislation Committee—Additional information received between 13 May and 24 June 2010—Education, Employment and Workplace Relations portfolio.

Environment, Communications and the Arts Legislation Committee—Additional information received between 13 May and 23 June 2010—

Broadband, Communications and the Digital Economy portfolio.

Environment, Water, Heritage and the Arts portfolio.

Finance and Public Administration Legislation Committee—Additional information received between 13 May and 23 June 2010—

Climate Change portfolio.

Finance and Deregulation portfolio.

Human Services portfolio.

Foreign Affairs, Defence and Trade Legislation Committee—Additional information received between 13 May and 24 June 2010—

Defence portfolio.

Foreign Affairs and Trade portfolio.

Rural and Regional Affairs and Transport Legislation Committee—Additional information received between 18 March and 23 June 2010—

Agriculture, Fisheries and Forestry portfolio.

Infrastructure, Transport, Regional Development and Local Government portfolio.

Budget estimates 2010-11—

Community Affairs Legislation Committee—Additional information received between—

31 May and 23 June 2010—Families, Housing, Community Services and Indigenous Affairs portfolio.

2 June and 23 June 2010—Health and Ageing portfolio.

4 June and 23 June 2010—Indigenous issues across portfolios.

Finance and Public Administration Legislation Committee—Additional information received between 24 May and 23 June 2010—

Climate Change portfolio.

Finance and Deregulation portfolio.

Human Services portfolio.

Parliamentary departments.

Prime Minister and Cabinet portfolio.

Legal and Constitutional Affairs Legislation Committee—Additional information received between 17 June and 22 June 2010—Immigration and Citizenship portfolio.

64 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—417TH REPORT

Senator O'Brien, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following report:

Public Accounts and Audit—Joint Statutory Committee—417th report—Review of Auditor-General's reports tabled between February and September 2009, dated June 2010.

Senator O'Brien moved—That the Senate take note of the report.

Question put and passed.

65 INSURANCE CONTRACTS AMENDMENT BILL 2010

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

Message no. 627, dated 23 June 2010—A Bill for an Act to amend the *Insurance Contracts Act 1984*, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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.

At 4.30 pm—

66 AVIATION TRANSPORT SECURITY AMENDMENT REGULATIONS—PROPOSED DISALLOWANCE

Order of the day read for the adjourned debate on the motion of Senator Xenophon—That the Aviation Transport Security Amendment Regulations 2010 (No. 1), as contained in Select Legislative Instrument 2010 No. 80 and made under the *Aviation Transport Security Act 2004*, be disallowed.

Debate resumed.

Question put.

A division was called for.

After 4.30 pm: Pursuant to standing order 57(3) consideration of the matter was adjourned.

The Special Minister of State (Senator Ludwig) moved—That the vote be taken after the discovery of formal business on the next day of sitting.

Question put and passed.

Statement by leave: Senator Xenophon, by leave, made a statement relating to the matter.

67 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—SUICIDE IN AUSTRALIA

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

Community Affairs References Committee—Suicide in Australia—Report, dated June 2010, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

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

68 AVIATION TRANSPORT SECURITY AMENDMENT REGULATIONS—DISALLOWANCE

Senator Xenophon asked that the question on business of the Senate order of the day no. 1 relating to the disallowance of the Aviation Transport Security Amendment Regulations 2010 be put again (*see entry no. 65*).

Leave was granted for the question to be put again.

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

Statement by leave: The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the matter.

69 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—REPORT—AUSTRALIA POST'S TREATMENT OF INJURED AND ILL WORKERS

Pursuant to order, the Chair of the Environment, Communications and the Arts References Committee (Senator Fisher) tabled the following report and documents:

Environment, Communications and the Arts References Committee—Australia Post's treatment of injured and ill workers—Report, dated June 2010, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

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

70 PUBLICATIONS—JOINT STANDING COMMITTEE—REPORT—ELECTRONIC PARLIAMENTARY PAPERS SERIES

Pursuant to order, Senator McEwen, at the request of the Chair of the Joint Standing Committee on Publications (Senator Carol Brown), tabled the following report and documents:

Publications—Joint Standing Committee—Inquiry into the development of a digital repository and electronic distribution of the Parliamentary Papers Series—Report, dated June 2010 and submissions.

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

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

Debate ensued.

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

71 BANKRUPTCY LEGISLATION AMENDMENT BILL 2009—EXPLANATORY MEMORANDUM

The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled a supplementary explanatory memorandum relating to the government amendments to the Bankruptcy Legislation Amendment Bill 2009.

72 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 10 OF 2010

Senator McEwen, by leave and at the request of the Chair of the Selection of Bills Committee (Senator O'Brien), tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 10 OF 2010

1. The committee met in private session on Thursday, 24 June 2010 at 11.55 am.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Airports Amendment Bill 2010 be *referred immediately* to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 24 August 2010;
 - (b) the *provisions* of the Access to Justice (Family Court Restructure and Other Measures) Bill 2010 be *referred immediately* to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010;
 - (c) the *provisions* of the Crimes Legislation Amendment Bill 2010 be *referred immediately* to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010;
 - (d) the Defence Legislation Amendment (Security of Defence Premises) Bill 2010 be *referred immediately* to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 August 2010;
 - (e) the *provisions* of the Military Court of Australia Bill 2010 be *referred immediately* to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010;
 - (f) the Parliamentary Budget Office Bill 2010 be *referred immediately* to the Finance and Public Administration Legislation Committee for inquiry and report by 25 August 2010; and
 - (g) the *provisions* of the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 be *referred immediately* to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
 - Australian Civilian Corps Bill 2010
 - Aviation Crimes and Policing Legislation Amendment Bill 2010
 - Education Services for Overseas Students Legislation Amendment Bill 2010
 - Federal Financial Relations Amendment (National Health and Hospitals Network) Bill 2010
 - Financial Framework Legislation Amendment Bill 2010
 - Financial Management and Accountability Amendment (Value for Money in Government Spending) Bill 2010
 - International Tax Agreements Amendment Bill (No. 2) 2010
 - National Health and Hospitals Network Bill 2010

National Integrity Commissioner Bill 2010
 National Measurement Amendment Bill 2010
 Tax Laws Amendment (2010 Measures No. 4) Bill 2010.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:
- Commonwealth Commissioner for Children and Young People Bill 2010
 - Choice of Repairer Bill 2010
 - Corporations Amendment (No. 1) Bill 2010
 - Sex Discrimination Amendment Bill 2010
 - Superannuation Legislation Amendment Bill 2010.

Kerry O'Brien
 Chair
 24 June 2010.

Senator McEwen moved—That the report be adopted.

Senator Parry moved the following amendment:

At the end of the motion, add “and:

- (a) the provisions of bills be referred as follows:
 - (i) Australian Civilian Corps Bill 2010 to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 August 2010,
 - (ii) Aviation Crimes and Policing Legislation Amendment Bill 2010 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 August 2010,
 - (iii) Education Services for Overseas Students Legislation Amendment Bill 2010 to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 24 August 2010,
 - (iv) Federal Financial Relations Amendment (National Health and Hospitals Network) Bill 2010 to the Economics Legislation Committee for inquiry and report by 24 August 2010, and
 - (v) National Health and Hospitals Network Bill 2010 to the Community Affairs Legislation Committee for inquiry and report by 24 August 2010; and
- (b) the Financial Framework Legislation Amendment Bill 2010 be deferred for consideration at the committee’s next meeting”.

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

Main question, as amended, put and passed.

General business was called on.

73 ADMINISTRATION—GOVERNMENT SERVICE DELIVERY

Senator Barnett, at the request of Senator Parry and pursuant to notice, moved general business notice of motion no. 851—That the Senate notes:

- (a) the ineptitude of the Rudd Labor Government to deliver promised services to the Australian people; and
- (b) the mismanagement by the Rudd Labor Government in relation to:
 - (i) border protection,

- (ii) migration,
- (iii) Indigenous policy,
- (iv) home insulation, and
- (v) the Building Education Revolution.

Debate ensued.

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

General business concluded.

74 ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, moved—That the government business order of the day relating to the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 be called on immediately and have precedence until determined.

Question put and passed.

75 ELECTORAL AND REFERENDUM AMENDMENT (MODERNISATION AND OTHER MEASURES) BILL 2010

Order of the day read for the adjourned debate on the motion of the Minister for Employment Participation (Senator Arbib)—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, at the request of Senator Ronaldson, in respect of Schedule 6, items 2 and 12 and Part 2.

Schedule 6, items 2 and 12 and Part 2 debated.

Question—That Schedule 6, items 2 and 12 and Part 2 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens) the report from the committee was adopted and the bill read a third time.

76 ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, moved—That government business order of the day no. 4 (Healthcare Identifiers Bill 2010 and a related bill) be called on immediately and have precedence until determined.

Question put and passed.

77 HEALTHCARE IDENTIFIERS BILL 2010**HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL 2010**

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change, Energy Efficiency and Water (Senator Wong)—That these bills be now read a second time.

Debate resumed.

Senator Siewert moved the following amendment in respect of the Healthcare Identifiers Bill 2010:

At the end of the motion, add “but the Senate calls on the Government to ensure:

- (a) the involvement of key healthcare stakeholder groups, including state and territory governments, private and community health providers, and healthcare consumer groups, in the development of a Healthcare Identifiers Service implementation plan which covers the period from now to 30 June 2012;
- (b) the publication of this plan for public comment prior to its finalisation; and
- (c) the development and implementation of a targeted education and communication strategy which targets both healthcare providers and healthcare consumers, and which clearly lays out the facts behind healthcare identifiers and provides contacts for people to access further detailed information. This strategy should be implemented prior to the Healthcare Identifiers Service coming into effect and no later than 30 June 2012”.

Debate ensued.

Explanatory memorandum: The Special Minister of State (Senator Ludwig) tabled a replacement explanatory memorandum relating to the bills.

Question—That the amendment 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

Bills taken together and as a whole by leave.

On the motion of Senator Ludwig the following amendments in respect of the Healthcare Identifiers Bill 2010, taken together by leave, were agreed to:

Clause 5, page 2 (before line 19), before the definition of *data source*, insert:

contracted service provider, of a healthcare provider, means an entity that provides:

- (a) information technology services relating to the communication of health information; or
- (b) health information management services;

to the healthcare provider under a contract with the healthcare provider.

Clause 5, page 4 (line 27), omit the definition of *service operator*, substitute:

service operator means the Chief Executive Officer of Medicare Australia.

Clause 5, page 4 (after line 29), after the definition of *State or Territory authority*, insert:

under this Act includes under the regulations.

Clause 17, page 12 (line 29), omit “section.”, substitute “section; or”.

Clause 17, page 12 (after line 29), at the end of subclause (1), add:

- (c) a contracted service provider (the *authorised service provider*) of an identified healthcare provider, if that identified healthcare provider has, by notice to the service operator, authorised the contracted service provider to act on behalf of that identified healthcare provider under this section.

Clause 17, page 12 (line 30), omit “or authorised employee”, substitute “, authorised employee or authorised service provider”.

Clause 17, page 13 (after line 6), at the end of note 1, add:

The authorisation extends to certain employees and contracted service providers of the healthcare provider: see section 36.

Clause 17, page 13 (line 9), at the end of note 2, add “The authorisation extends to certain employees and contracted service providers of the healthcare provider: see section 36.”.

Clause 31, page 21 (line 15), omit “section.”, substitute “section; or”.

Clause 31, page 21 (after line 15), at the end of subclause (2), add:

- (c) a contracted service provider of an identified healthcare provider, if that identified healthcare provider has, by notice to the service operator, authorised the contracted service provider to act on behalf of that identified healthcare provider under this section.

Clause 35, page 23 (line 4), after “this Act”, insert “and the regulations”.

Clause 36, page 24 (lines 3 to 7), omit the clause, substitute:

36 Extent of authorisation

An authorisation under this Act to an entity (the *first entity*) for a particular purpose is an authorisation to:

- (a) an individual who:
 - (i) is an employee of the first entity; and
 - (ii) whose duties involve implementing that purpose; or

- (b) a contracted service provider of the first entity, if:
 - (i) the first entity is a healthcare provider; and
 - (ii) the duties of the contracted service provider under a contract with the healthcare provider involve implementing that purpose by providing information technology services relating to the communication of health information, or health information management services, to the healthcare provider; or
- (c) an individual who:
 - (i) is an employee of a contracted service provider to which paragraph (b) applies; and
 - (ii) whose duties involve implementing that purpose as mentioned in that paragraph.

Clause 37, page 24 (line 18), after “this Act”, insert “or the regulations”.

Clause 37, page 24 (line 22), after “this Act”, insert “or the regulations”.

Clause 37, page 24 (line 26), after “this Act”, insert “and the regulations”.

Clause 5, page 2 (after line 23), after the definition of *date of death accuracy indicator*, insert:

Defence Department means the Department that:

- (a) deals with matters arising under section 1 of the *Defence Act 1903*; and
- (b) is administered by the Minister who administers that section.

Clause 5, page 3 (lines 9 to 17), omit the definition of *healthcare provider*, substitute:

healthcare provider means:

- (a) an individual healthcare provider; or
- (b) a healthcare provider organisation.

Clause 5, page 2 (line 17) to page 5 (line 6), insert:

Healthcare Provider Directory has the meaning given by subsection 31(1).

healthcare provider organisation means an entity, or a part of an entity, that has conducted, conducts, or will conduct, an enterprise that provides healthcare (including healthcare provided free of charge).

Example: A public hospital, or a corporation that runs a medical centre.

individual healthcare provider means an individual who:

- (a) has provided, provides, or is to provide, healthcare; or
- (b) is registered by a registration authority as a member of a particular health profession.

network organisation has the meaning given by subsection 9A(6).

organisation maintenance officer:

- (a) for a seed organisation—has the meaning given by paragraph 9A(3)(c); and
- (b) for a network organisation—has the meaning given by paragraph 9A(6)(b).

professional association means an organisation that:

- (a) is a separate legal entity under a law of the Commonwealth or a State or Territory; and
- (b) has the following characteristics:
 - (i) its members practise the same healthcare profession;
 - (ii) it has enough membership to be considered representative of the healthcare profession practised by its members;
 - (iii) it sets its own admission requirements, including acceptable qualifications;
 - (iv) it sets and publishes standards of practice and ethical conduct;
 - (v) it aims to maintain the standing of the healthcare profession practised by its members;
 - (vi) it has written rules, articles of association, by-laws or codes of conduct for its members;
 - (vii) it has the ability to impose sanctions on members who contravene the association's written rules, articles of association, by-laws or codes of conduct;
 - (viii) it sets requirements to maintain its members' professional skills and knowledge by continuing professional development; and
- (c) has members who:
 - (i) may take part in decisions affecting their profession; and
 - (ii) have the right to vote at meetings of the association; and
 - (iii) have the right to be recognised as being members of the professional association.

responsible officer has the meaning given by paragraph 9A(3)(b).

retirement, for a healthcare provider organisation's healthcare identifier, means a state imposed by the service operator on the healthcare identifier so that it may no longer be used by the healthcare provider organisation to identify the healthcare provider organisation.

seed organisation has the meaning given by subsections 9A(3) and (4).

sole practitioner means a person who is both an individual healthcare provider and a healthcare provider organisation.

Clause 9, page 7 (lines 6 and 7), omit "included in a class prescribed by the regulations for the purpose of this paragraph", substitute "to whom section 9A applies".

Clause 9, page 7 (lines 16 to 24), omit paragraphs (3)(a) and (b), substitute:

- (a) an identifier that is assigned to an individual healthcare provider; and
- (b) an identifier that is assigned to a healthcare provider organisation; and

Clause 9, page 7 (lines 26 to 28), omit all the words from and including "A healthcare provider" to and including "(for example, a sole practitioner)", substitute "A sole practitioner".

Clause 9, page 8 (lines 3 to 6), omit subclause (5).

Page 8 (after line 8), after clause 9, insert:

9A Classes of providers for the purposes of paragraph 9(1)(a)

Individual healthcare providers

- (1) This section applies to an individual healthcare provider who is registered by a registration authority as a member of a health profession.
- (2) This section also applies to an individual healthcare provider who is a member of a professional association that:
 - (a) relates to the healthcare that has been, is, or is to be, provided by the member; and
 - (b) has uniform national membership requirements, whether or not in legislation.

Healthcare provider organisations

- (3) This section also applies to a healthcare provider organisation (a *seed organisation*) that has:
 - (a) an employee who:
 - (i) is an identified healthcare provider; and
 - (ii) provides healthcare as part of his or her duties; and
 - (b) only one employee (the *responsible officer*) to act on behalf of the seed organisation in its dealings with the service operator in relation to the following:
 - (i) nominating to the service operator at least one employee to be an organisation maintenance officer for the seed organisation;
 - (ii) nominating to the service operator any network organisation of the seed organisation for which the nominated organisation maintenance officer is to be responsible;
 - (iii) requesting the assignment or retirement of a healthcare identifier for the seed organisation;
 - (iv) requesting the merger or reconfiguration of a healthcare identifier for the seed organisation if the seed organisation was part of a merger or acquisition; and

Example: A request after merger activity between 2 healthcare provider organisations if one is a seed organisation, or the acquisition of one healthcare provider organisation by another if one is a seed organisation.

- (c) an employee (an *organisation maintenance officer*) to act on behalf of the seed organisation in its dealings with the service operator, including:
 - (i) nominating to the service operator, if required, at least one additional employee to be an organisation maintenance officer for the seed organisation or any network organisation of the seed organisation; and
 - (ii) nominating to the service operator any network organisation of the seed organisation for which an additional organisation maintenance officer is to be responsible; and

- (iii) requesting the assignment or retirement of a healthcare identifier for any network organisation of the seed organisation; and
- (iv) maintaining information that is held by the service operator about the seed organisation, and about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and
- (v) for the seed organisation, or for any network organisation of the seed organisation for which the organisation maintenance officer is responsible, that has consented to its details being included in the Healthcare Provider Directory—providing current details to the service operator about the organisation for inclusion in the Directory; and
- (vi) providing any further information requested by the service operator about the seed organisation, or about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and
- (vii) requesting the merger or reconfiguration of a healthcare identifier for any network organisation of the seed organisation, if the network organisation was part of a merger or acquisition.

Note: More than one employee may be an organisation maintenance officer. An employee may be any or all of the following: the responsible officer, an organisation maintenance officer and an authorised employee (see section 17).

- (4) A sole practitioner is taken to be a healthcare provider organisation to which subsection (3) applies if he or she provides healthcare and performs the roles of responsible officer and organisation maintenance officer.
- (5) For the purposes of paragraph (3)(b), a delegate of the responsible officer, who is another employee of the seed organisation, is taken to be the responsible officer.
- (6) This section also applies to a healthcare provider organisation (a **network organisation**) that:
 - (a) is part of, or subordinate to, a seed organisation that:
 - (i) has been assigned a healthcare identifier that has not been retired; and
 - (ii) does not object to the network organisation being a network organisation of the seed organisation; and
 - (b) has a person (an **organisation maintenance officer**) who complies with subsection (7) to act on behalf of the network organisation in its dealings with the service operator, including:
 - (i) nominating to the service operator, if required, at least one additional employee to be an organisation maintenance officer for any network organisation of the seed organisation; and

- (ii) nominating to the service operator any network organisation of the seed organisation for which an additional organisation maintenance officer is to be responsible; and
- (iii) requesting the assignment or retirement of a healthcare identifier for any network organisation of the seed organisation; and
- (iv) maintaining information that is held by the service operator about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and
- (v) for any network organisation that the organisation maintenance officer is responsible for and that has consented to its details being included in the Healthcare Provider Directory—providing current details to the service operator about the organisation for inclusion in the Directory; and
- (vi) providing any further information requested by the service operator about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and
- (vii) requesting the merger or reconfiguration of a healthcare identifier for any network organisation of the seed organisation, if the network organisation is part of a merger or acquisition.

Example: A request after merger activity between the network organisation and another healthcare provider organisation, or the acquisition of one healthcare provider organisation by another if one is the network organisation.

- (7) For the purposes of paragraph (6)(b), the person must be an employee of:
 - (a) the network organisation (the *first network organisation*); or
 - (b) the seed organisation of the first network organisation; or
 - (c) another network organisation that is:
 - (i) linked to the seed organisation of the first network organisation; and
 - (ii) hierarchically superior to the first network organisation.

Page 8, after proposed clause 9A, insert:

9B Information that may be requested before assigning healthcare identifiers

- (1) The service operator may request an individual healthcare provider to provide the following information before assigning the healthcare provider a healthcare identifier:
 - (a) identifying information of the healthcare provider;

Note: *Identifying information* is defined in section 7.

 - (b) information that shows that section 9A applies to the healthcare provider.
- (2) The service operator may request a healthcare provider organisation to provide the following information before assigning the healthcare provider a healthcare identifier:

(a) identifying information of the healthcare provider;

Note: **Identifying information** is defined in section 7.

(b) information that shows that section 9A applies to the healthcare provider;

(c) information identifying the healthcare provider's responsible officer and organisation maintenance officer, including the person's name, work address, work email address, work telephone number or work fax number.

(3) The healthcare provider must give the information in any form requested by the service operator.

Example: A healthcare provider may be asked for original documentation, or for the information to be given in writing or in a statutory declaration.

(4) If the service operator is not satisfied by the information given, it does not have to assign a healthcare identifier to the healthcare provider.

Page 8, after proposed clause 9B, insert:

9C Review of decision not to assign a healthcare identifier

(1) This section applies to a decision by the service operator not to assign a healthcare identifier to a healthcare provider under paragraph 9(1)(a).

Note: This section does not apply to a decision to assign a healthcare identifier to a healthcare recipient under paragraph 9(1)(b), or a decision by a national registration authority not to assign a healthcare identifier to an individual healthcare provider under subsection 9(2).

(2) The service operator must give written notice of the decision to a person whose interests are affected by the decision, including a statement:

(a) that the person may apply to the service operator to reconsider the decision; and

(b) of the person's rights to seek review under subsection (8) of a reconsidered decision.

(3) A failure of the service operator to comply with subsection (2) does not affect the validity of the decision.

(4) A person whose interests are affected by the decision may, by written notice to the service operator within 28 days after receiving notice of the decision, ask the service operator to reconsider the decision.

(5) A request under subsection (4) must mention the reasons for making the request.

(6) The service operator must:

(a) reconsider the decision within 28 days after receiving the request; and

(b) give to the person who requested the reconsideration written notice of the result of the reconsideration and of the grounds for the result.

(7) The notice must include a statement that the person may apply to the Administrative Appeals Tribunal for review of the reconsideration.

(8) A person may apply to the Administrative Appeals Tribunal for a review of a decision of the service operator made under subsection (6).

Clause 12, page 9 (lines 23 and 24), omit paragraph (2)(c), substitute:
(c) the Defence Department.

Question—That the Healthcare Identifiers Bill 2010, as amended, be agreed to—divided, at the request of Senator Ludwig, in respect of clause 6.

Clause 6 debated.

Question—That clause 6 stand as printed—put and negatived.

Senator Siewert moved the following amendments in respect of the Healthcare Identifiers Bill 2010 together by leave:

Clause 9, page 7 (line 4), omit “The”, substitute “Subject to section 9A, the”.

Page 8 (after line 8), after clause 9, insert:

9A Individuals must be able to opt out

- (1) A person may apply to the service operator to opt out of the Healthcare Identifier scheme.
- (2) If a person applies to the service operator in the form prescribed for the purposes of subsection (1):
 - (a) the service operator is not authorised under section 9 to assign a number (a *healthcare identifier*) to identify the person as a healthcare recipient or for any other purpose connected with this Act or any other Act; and
 - (b) the service operator must ensure that any healthcare identifier previously assigned to identify the person under section 9:
 - (i) no longer be assigned to identify the person; and
 - (ii) no longer be used to identify the person as a healthcare recipient or for any other purpose connected with this Act or any other Act.

Debate ensued.

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

Explanatory memorandum: Senator Ludwig tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bills.

On the motion of Senator Ludwig the following amendments in respect of the Healthcare Identifiers (Consequential Amendments) Bill 2010, taken together by leave, were agreed to:

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

5. Schedule 3 The later of:
- (a) the commencement of section 3 of the *Australian Information Commissioner Act 2010*; and
 - (b) immediately after the commencement of the *Healthcare Identifiers Act 2010*.

However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.

Page 6 (after line 15), at the end of the bill, add:

Schedule 3—Amendment of the Healthcare Identifiers Act 2010

1 Subsection 30(1)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Note 1: The heading to section 29 is altered by omitting “**Privacy Commissioner**” and substituting “**Information Commissioner**”.

Note 2: The heading to section 30 is altered by omitting “**Privacy Commissioner**” and substituting “**Information Commissioner**”.

2 Subsection 30(1)

Omit “Privacy Commissioner’s”, substitute “Information Commissioner’s”.

3 Subsections 30(2) and (3)

Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Bills, as amended, agreed to.

Bills to be reported with amendments.

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

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

78 ORDER OF BUSINESS—REARRANGEMENT

The Special Minister of State (Senator Ludwig), by leave, moved—That consideration of government documents under standing order 57(1)(d)(xi) business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with.

Question put and passed.

79 FARM HOUSEHOLD SUPPORT AMENDMENT (ANCILLARY BENEFITS) BILL 2010

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

Message no. 643, dated 24 June 2010—A Bill for an Act to deal with things done in connection with the Farm Family Support Scheme, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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 Ludwig the bill was read a third time.

80 BANKRUPTCY LEGISLATION AMENDMENT BILL 2009

ELECTORAL AND REFERENDUM AMENDMENT (HOW-TO-VOTE CARDS AND OTHER MEASURES) BILL 2010

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2010

TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW)

BILL (NO. 2) 2010

TRADE PRACTICES AMENDMENT (INFRASTRUCTURE ACCESS) BILL 2009

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:

Message no. 640, dated 24 June 2010—Bankruptcy Legislation Amendment Bill 2009.

Message no. 641, dated 24 June 2010—Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Bill 2010.

Message no. 638, dated 24 June 2010—Renewable Energy (Electricity) Amendment Bill 2010.

Message no. 642, dated 24 June 2010—Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010.

Message no. 639, dated 24 June 2010—Trade Practices Amendment (Infrastructure Access) Bill 2009.

81 PARLIAMENTARY COMMITTEE REPORTS—PRESIDENT'S REPORT—GOVERNMENT RESPONSES OUTSTANDING

The Deputy President (Senator Trood) tabled the following document:

President's report to the Senate on government responses outstanding to parliamentary committee reports as at 24 June 2010.

82 AUDITOR-GENERAL—AUDIT REPORTS NOS 49 AND 50 OF 2009-10—DOCUMENTS

The Acting Deputy President (Senator Trood) tabled the following documents:

Auditor-General—Audit reports for 2009-10—

No. 49—Performance audit—Defence’s management of health services to Australian Defence Force personnel in Australia: Department of Defence.

No. 50—Financial statement audit—Interim phase of the audit of financial statements of major general Government sector agencies for the year ending 30 June 2010.

83 DOCUMENTS

The following documents were tabled by the Clerk:

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

Aged Care Act—

Aged Care (Amount of Flexible Care Subsidy – Innovative Care Services) Determination 2010 (No. 1) [F2010L01650]*.

Aged Care (Residential Care Subsidy – Amount of Enteral Feeding Supplement) Determination 2010 (No. 1) [F2010L01293]*.

Flexible Care Subsidy Amendment Principles 2010 (No. 1) [F2010L01652]*.

Quality of Care Amendment Principles 2010 (No. 1) [F2010L01651]*.

Residential Care Subsidy Amendment Principles 2010 (No. 1) [F2010L01655]*.

Appropriation Act (No. 1) 2009-2010—Advance to the Finance Minister—No. 5 of 2009-2010 [F2010L01677]*.

Australian Communications and Media Authority Act—Radiocommunications (Interpretation) Amendment Determination 2010 (No. 2) [F2010L01707]*.

Australian Nuclear Science and Technology Act—Statement under section 7—Disclosure of the Australian Nuclear Science and Technology Organisation’s interests in company.

Australian Prudential Regulation Authority Act—

Australian Prudential Regulation Authority (Confidentiality) Determination No. 13 of 2010—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2010L01774]*.

Australian Prudential Regulation Authority Instrument Fixing Charges No. 4 of 2010—Models-based capital adequacy requirements for ADIs for the 2009-10 financial year [F2010L01709]*.

Commonwealth Authorities and Companies Act—Notice under section 45—Global Carbon Capture and Storage Institute Ltd.

Corporations Act—ASIC Class Order [CO 10/464] [F2010L01687]*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of CITES species, dated 18 June 2010 [F2010L01735]*.

Financial Management and Accountability Act—FMA Act Determination 2010/11 – Section 32 (Transfer of Functions from DEWHA to DCCEE) [F2010L01688]*.

Fisheries Management Act—Fisheries Management (Southern Squid Jig Fishery Management Plan 2005) Temporary Order 2010 [F2010L01722]*.

Health Insurance Act—Health Insurance (Leukoscan) Determination 2010 [F2010L01653]*.

Migration Act—Migration Regulations—Instruments IMMI—

10/027—Skilled occupations for skills assessments [F2010L01326]*.

10/037—Specification of income threshold and annual earnings [F2010L01486]*.

National Health Act—Instrument No. PB 66 of 2010—National Health (Indigenous Chronic Disease – PBS Co-payment Measure) Special Arrangements Instrument 2010 [F2010L01724]*.

Private Health Insurance Act—

Private Health Insurance (Data Provision) Rules 2010 [F2010L01753]*.

Private Health Insurance (Health Insurance Business) Rules 2010 [F2010L01740]*.

Radiocommunications (Transmitter Licence Tax) Act—Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4) [F2010L01706]*.

Veterans' Entitlements Act—

Amendment of Statements of Principles concerning—

Fibrosing Interstitial Lung Disease No. 59 of 2010 [F2010L01672]*.

Fibrosing Interstitial Lung Disease No. 60 of 2010 [F2010L01673]*.

Statements of Principles concerning—

Dupuytren's Disease No. 58 of 2010 [F2010L01671]*.

Internal Derangement of the Knee No. 51 of 2010 [F2010L01664]*.

Internal Derangement of the Knee No. 52 of 2010 [F2010L01665]*.

Vascular Dementia No. 61 of 2010 [F2010L01674]*.

Vascular Dementia No. 62 of 2010 [F2010L01675]*.

* Explanatory statement tabled with legislative instrument.

84 FINANCE—FINANCIAL ADVICE—MINISTERIAL STATEMENT—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Finance—The future of financial advice—Ministerial statement by the Minister for Financial Services, Superannuation and Corporate Law (Mr Bowen), dated 23 June 2010.

85 PARLIAMENTARIANS' EXPENDITURE ON ENTITLEMENTS—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Parliamentarians' expenditure on entitlements paid by the Department of Finance and Deregulation—1 July to 31 December, dated June 2010.

86 FORMER PARLIAMENTARIANS' TRAVEL COSTS—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Former parliamentarians' expenditure on entitlements paid by the Department of Finance and Deregulation—1 July to 31 December, dated June 2010.

87 PARLIAMENTARIANS' OVERSEAS STUDY TRAVEL REPORTS—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Parliamentarians' overseas study travel reports—1 July to 31 December, dated June 2010.

88 DEPARTMENT OF DEFENCE—SPECIAL PURPOSE FLIGHTS—DOCUMENTS

The Special Minister of State (Senator Ludwig) tabled the following document:

Department of Defence—Special purpose flights—Schedule for the period 1 June to 31 December 2009.

89 ENVIRONMENT—PACKAGING AND BEVERAGE CONTAINER WASTE MANAGEMENT—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Environment—Packaging and beverage container waste management—Statement responding to the resolution of the Senate of 22 June 2010.

90 COMMITTEE MEMBERSHIP

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

The Special Minister of State (Senator Ludwig), by leave, moved—That senators be discharged from and appointed to committees as follows:

Economics Legislation Committee—

Appointed—Participating member: Senator Stephens

Environment, Communications and the Arts References Committee—

Appointed—

Substitute member: Senator Moore to replace Senator Wortley on 29 and 30 June 2010

Participating member: Senator Wortley

Legal and Constitutional Affairs References Committee—

Appointed—

Substitute member: Senator Siewert to replace Senator Ludlam for the committee's inquiry into donor conception practices

Participating member: Senator Ludlam.

Question put and passed.

91 NEXT MEETING OF SENATE

The Special Minister of State (Senator Ludwig) moved—That the Senate, at its rising, adjourn till Tuesday, 24 August 2010, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question put and passed.

92 LEAVE OF ABSENCE

The Special Minister of State (Senator Ludwig) moved—That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question put and passed.

93 NOTICE

Senator Colbeck, by leave, gave a notice of motion as follows: To move on the next day of sitting—That the Disability Standards for Accessible Public Transport Amendment 2010 (No. 1), made under subsection 31(1) of the *Disability Discrimination Act 1992*, be disallowed.

94 ADJOURNMENT

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

Debate ensued.

Time expired: The debate reached the limit of 40 minutes.

The Senate adjourned at 7.40 pm till Tuesday, 24 August 2010 at 12.30 pm.

95 ATTENDANCE

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

ROSEMARY LAING
Clerk of the Senate