

**Senate Standing Committee  
for the  
Scrutiny of Bills**



**Alert Digest**

**No. 7 of 2000**

**7 June 2000**

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# Senate Standing Committee for the Scrutiny of Bills

## Members of the Committee

Senator B Cooney (Chairman)  
Senator W Crane (Deputy Chairman)  
Senator T Crossin  
Senator J Ferris  
Senator B Mason  
Senator A Murray

## Terms of Reference

Extract from **Standing Order 24**

- (1) (a) At the commencement of each parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
- (i) trespass unduly on personal rights and liberties;
  - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
  - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
  - (iv) inappropriately delegate legislative powers; or
  - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.



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- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.  
Any Senator who wishes to draw matters to the attention of the  
Committee under its terms of reference is invited to do so.

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- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.  
Any Senator who wishes to draw matters to the attention of the  
Committee under its terms of reference is invited to do so.

## **A New Tax System (Tax Administration) Bill (No. 2) 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

The bill proposes to amend the:

*Taxation Administration Act 1953* and 12 other Acts, to introduce a uniform administrative penalty regime (covering statements and schemes, the late lodgement of returns and other documents, and failing to meet other taxation obligations) for all taxation laws administered by the Commissioner of Taxation;

*Income Tax Assessment Act 1936* and *Fringe Benefits Tax Assessment Act 1986* to allow members of recognised professional associations of accountants and tax practitioners, bookkeepers working under the direction of registered tax agents, and providers of payroll bureau services to employers to prepare and lodge a business activity statement (BAS), and provide advice about BAS matters, on behalf of taxpayers; and

*Taxation Administration Act 1953*, *A New Tax System (Tax Administration) Act 1999* and the Corporations Law in relation to the introduction of the pay as you go withholding system.

The bill also proposes miscellaneous and technical amendments to various other provisions covering the pay as you go arrangements, the BAS and general interest charges.

*The Committee has no comment on this bill.*



## **Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 3) 2000**

This bill was introduced into the House of Representatives on 1 June 2000 by the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs. [Portfolio responsibility: Aboriginal and Torres Strait Islander Affairs]

The bill proposes to amend the *Aboriginal Land Rights (Northern Territory) Act 1976* to give effect to an agreement made between two Aboriginal Land Trusts and the Central Land Council. The agreement will enable the grant to the Land Trusts of land on which there are several redundant roads over which the public has a right of way.

*The Committee has no comment on this bill.*

## **Appropriation Bill (No. 1) 2000-2001**

This bill was introduced into the House of Representatives on 9 May 2000 by the Treasurer. [Portfolio responsibility: Finance and Administration]

The bill proposes to appropriate money totalling \$38,530.8 million out of the Consolidated Revenue Fund to meet payments for the ordinary annual services of the government for the year ending on 30 June 2001.

*The Committee has no comment on this bill.*

## **Appropriation Bill (No. 2) 2000-2001**

This bill was introduced into the House of Representatives on 9 May 2000 by the Treasurer. [Portfolio responsibility: Finance and Administration]

The bill proposes to appropriate money totalling \$5,128.5 million out of the Consolidated Revenue Fund to meet payments to or for the States and Territories, and payments for administered items, administered capital items and departmental capital items for the year ending on 30 June 2001.

*The Committee has no comment on this bill.*

## **Appropriation (Parliamentary Departments) Bill (No. 1) 2000-2001**

This bill was introduced into the House of Representatives on 9 May 2000 by the Treasurer. [Portfolio responsibility: Finance and Administration]

The bill proposes to appropriate money totalling \$154.5 million out of the Consolidated Revenue Fund to meet the expenses of the parliamentary departments for the year ending on 30 June 2001.

*The Committee has no comment on this bill.*

## **Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000**

This bill was introduced into the House of Representatives on 10 May 2000 by the Minister representing the Minister for Communications, Information Technology and the Arts. [Portfolio responsibility: Communications, Information Technology and the Arts]

The bill, which was introduced with the Datacasting Charge (Imposition) Bill 2000, proposes to amend the *Broadcasting Services Act 1992* and *Radiocommunications Act 1992* to make changes to the arrangements for the introduction of digital television in Australia, and to implement a new regulatory regime for the provision of datacasting services.

The bill sets out the operating rules for digital television and datacasting services. It also sets out a framework for High-Definition Television (HDTV) standards and levels, the nature of datacasting and program enhancements, arrangements relating to captioning, the provisions of new services in under-served areas and arrangements for the hand-back of the analog spectrum.

The bill also proposes to amend the *Australian Security Intelligence Organisation Act 1979*, the *Freedom of Information Act 1982*, the *Retirement Savings Accounts Act 1997*, the *Superannuation Industry (Supervision) Act 1993*, and the *Tobacco Advertising Prohibition Act 1992* to extend certain provisions in those Acts to datacasting services.

*The Committee has no comment on this bill.*

## **Datacasting Charge (Imposition) Amendment Bill 2000**

This bill was introduced into the House of Representatives on 10 May 2000 by the Minister representing the Minister for Communications, Information Technology and the Arts. [Portfolio responsibility: Communications, Information Technology and the Arts]

The bill, which was introduced with the Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000, proposes to amend the *Datacasting Charge (Imposition) Act 1998* to reflect the new approach to defining datacasting services in the *Broadcasting Services Act 1992*, and to clarify that a datacasting charge will not be imposed on a transmitter licence for existing teletext services as long as they remain substantially the same as the services currently provided in analog form.

*The Committee has no comment on this bill.*

## **Diesel and Alternative Fuel Grants Scheme Amendment Bill 2000**

This bill was introduced into the House of Representatives on 1 June 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Diesel and Alternative Fuels Grants Scheme Act 1999* to extend eligibility to the scheme to:

- primary production businesses and contractors carrying passengers or goods on behalf of primary production businesses, operating within the metropolitan areas;
- buses using alternative fuels operating in metropolitan areas; and
- emergency vehicles of over 4.5 tonnes gross vehicle mass operating on public roads in both metropolitan and non-metropolitan areas.

It is also proposed to:

- amend the Scheme's registration requirements to ensure that claimants do not forfeit entitlements as a result of technicalities;
- clarify that journeys between metropolitan and non-metropolitan areas are eligible in both directions;
- amend the Scheme's entitlement provisions to ensure that clients seeking to correct a mistake or omission for a previous claim do not lose their entitlements for both the original and the amended claims;
- replace the provisions dealing with the recovery of Scheme debts with the standardised collection and recovery provisions that apply to other Acts administered by the Commissioner of Taxation; and
- provide for the payment of interest to claimants on underpaid amounts of fuel grants which are paid, or applied against debts, as a result of an objection against a fuel grants assessment.

The bill also inserts new definitions for 'primary production business' and 'emergency vehicle' in the *Taxation Administration Act 1953*.

*The Committee has no comment on this bill.*

## **Financial Management and Accountability Amendment Bill 2000**

This bill was introduced into the House of Representatives on 10 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Finance and Administration]

The bill proposes to amend the *Financial Management and Accountability Act 1997* to provide for a supplement to annual and special appropriations on account of amounts of GST paid by Commonwealth entities. This amendment is required as the amounts appropriated in the Appropriation Bills 2000-2001 represent net amounts, and do not include an allowance for recoverable GST. This approach, which is in line with accepted accounting practice for GST, requires an additional appropriation to cover the following payments that give rise to recoverable GST:

- payments to suppliers to the extent of the GST embedded in the acquisition price; and
- payments of GST on creditable importations.

### **Indefinite appropriation Proposed new section 30A**

Schedule 1 to this bill proposes to insert a new section 30A in the *Financial Management and Accountability Act 1997*. This section covers payments for acquisitions, and payments of GST on importations, made in reliance on a limited appropriation where a GST qualifying amount arises. A 'GST qualifying amount' means an input tax credit or a decreasing adjustment (within the meaning of the GST Act).

Under new section 30A, in each case "the appropriation is increased by the amount of the GST qualifying amount". This suggests that an amount appropriated may be automatically increased by an indefinite amount with no scope for Parliamentary scrutiny of that appropriation.

However, proposed new section 30A limits the amount of any increase to the total of the GST qualifying amount for any acquisition or importation. And the Explanatory Memorandum notes that this appropriation will apply "only



where the Commonwealth can recover the amount of the payment as an input tax credit (recoverable GST) under the GST law”. The Explanatory Memorandum goes on to note that, as a result, the additional appropriation “will have no effect on recorded revenues, expenses and assets” and “will not have any impact on the cash or Fiscal Budget balances”.

Therefore, this particular additional appropriation – though indefinite, and, arguably, not subject to separate Parliamentary scrutiny – is akin to a book entry which notes that a GST amount is payable and then recoverable. While the circumstances surrounding this particular appropriation seem unobjectionable, the Committee would be concerned if a similar approach were to be used in more problematic circumstances. The Committee, therefore, **seeks the Minister’s advice** as to whether there have been any previous occasions on which such an indefinite appropriation has been sought, and why such an approach was adopted on this occasion.

*Pending the Minister’s advice, the Committee draws Senators’ attention to this provision, as it may be considered to insufficiently subject the exercise of legislative power to Parliamentary scrutiny in breach of principle 1(a)(v) of the Committee’s terms of reference.*

## Health Legislation Amendment Bill (No. 3) 2000

This bill was introduced into the House of Representatives on 31 May 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

The bill proposes to amend the *Health Insurance Act 1973* to:

- extend the definition of 'hospital treatment' to enable the private health industry to fund 'outreach services', (ie, current care practices using alternative models of health care delivery as a substitute for in-hospital care for admitted patients);
- protect registered health benefits organisations from any breach of duty of confidence in relation to the reasonable disclosure of membership eligibility information to hospitals with which the organisations have a Hospital Purchaser Provider Agreement;
- clarify the definitions of 'adult beneficiary' and 'hospital cover' for the purposes of the Lifetime Health Cover (LHC) rules; and
- provide all refugees with a period of 12 months after their eligibility for Medicare in which to take out hospital cover without incurring a LHC penalty.

The bill also proposes a consequential technical amendment to the *Health Insurance Act 1973* concerning the use of the term 'hospital treatment'.

*The Committee has no comment on this bill.*

## Indirect Tax Legislation Amendment Bill 2000

This bill was introduced into the House of Representatives on 11 May 2000 by the Minister for Financial Services and Regulation. [Portfolio responsibility: Treasury]

The bill proposes to amend the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) and seven related Acts to give effect to measures announced in the Treasurer's Press Release No 37 of 3 May 2000, and to various other measures not previously announced.

Schedule 1 proposes to amend the GST Act and the *Taxation Administration Act 1953* (the TAA Act) to enable charities to choose whether to treat certain fund-raising activities as input taxed; to enable certain non-profit bodies to lodge GST returns quarterly, regardless of the date on which they balance their accounts; to allow charities to claim input tax credits when reimbursing volunteers for certain expenses; and to ensure that a non-profit sub-entity can be a member of a GST group.

Schedule 2 proposes to amend the GST Act to ensure that the lease or hire of education goods, short-term leases of farm land, certain medical services such as medical reports, and various sewerage-related services are GST free.

Schedule 3 proposes to amend the GST Act in relation to certain supplies made by non-residents, and certain services provided to non-residents.

Schedule 4 proposes a number of minor technical amendments to the GST Act and the TAA Act, among other things, to allow entities involved in transactions as principal and agent to simplify their accounting for GST on supplies and acquisitions, and also to grant the Commissioner a discretion to apply these arrangements to certain industries.

Schedule 5 proposes amendments to the GST Act to enable registered businesses to claim input tax credits for borrowing related expenses unless the borrowing relates to making other input taxed supplies. It also amends the *de minimis* test, and provides that an entity is not entitled to both a reduced input tax credit and an input tax credit for the same acquisition.

Schedule 6 proposes amendments to the GST Act and other Acts to provide rounding rules for GST liability, to allow the Commissioner to determine a

transitional rounding rule for entities, and to allow the net amount for a tax period to be worked from a method provided in a GST return.

Schedule 7 proposes amendments to the GST Act and other Acts in relation to joint ventures, and Schedule 8 proposes amendments in relation to insurance.

Schedule 9 proposes amendments to various tax laws to allow credits of representative members of GST groups to be offset against debts of other group members; to clarify that a GST credit entitlement arises on notification of the credit in the GST return; to allow interest to be paid to entities where an amended assessment gives rise to a GST refund; and to make consequential amendments as a result of the introduction of the uniform penalty regime.

Schedule 10 proposes amendments to the *Sales Tax Assessment Act 1992* in relation to certain alcoholic beverages not covered by the Wine Equalisation Tax – primarily to prevent the possible stockpiling of alcoholic beverages which are free of sales tax which will not be subject to the higher rates of excise after 1 July 2000.

Schedule 11 proposes amendments to the GST Act, among other things, to clarify that supplies of livestock or game for processing into food are taxable supplies; to ensure that supplies of existing housing stock are not subject to GST as new residential premises; to make provision in relation to the requirement to issue adjustment notes; to ensure consistency between the requirement to hold a tax invoice for second-hand goods and a tax invoice for other goods; to ensure that the associates provisions operate in relation to GST branches and government-related entities; and to provide that the amount to be included in relation to gambling supplies in the calculation of annual turnover is the difference between the total amount wagered and total monetary prizes.

Schedule 11 also amends various other Acts, including the *A New Tax System (Australian Business Number) Act 1999* to ensure that all superannuation funds are entitled to an ABN, and the *A New Tax System (Goods and Services Tax Transition) Act 1999* to ensure that consideration received prior to 1 July 2005 is GST-free where a prepaid funeral agreement was entered into before 1 December 1999.

*The Committee has no comment on this bill.*

## **Local Government (Financial Assistance) Amendment Bill 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Minister for the Arts and the Centenary of Federation. [Portfolio responsibility: Regional Services, Territories and Local Government]

The bill proposes to amend the *Local Government (Financial Assistance) Act 1995* to:

- remove the nexus between local government financial assistance grants and States' financial assistance grants;
- require the States and the Northern Territory to withhold from any local government authority in breach of clause 17 of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations a sum representing the amount of any unpaid voluntary or notional GST payments from their financial assistance grant;
- replace the requirement that the Minister and Statistician must agree to the assumptions used in projecting the population change with a requirement that the Statistician provide estimates on the basis of assumptions specified by the Minister after consulting the Statistician; and
- make consequential amendments to various definitions.

*The Committee has no comment on this bill.*

## **National Health Amendment Bill (No. 1) 2000**

This bill was introduced into the House of Representatives on 31 May 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

The bill proposes to amend the *National Health Act 1953* in relation to the Pharmaceutical Benefits Scheme (PBS) in so far as it implements changes arising from the Third Community Pharmacy Agreement.

The changes proposed will:

- provide a dispute resolution mechanism involving the Pharmaceutical Benefits Remuneration Tribunal when direct negotiation and mediation have failed to resolve an issue;
- provide an amended basis for remunerating community pharmacists for their dispensing of medicines under the PBS;
- relax new pharmacy and relocated pharmacy approval rules for PBS purposes;
- improve access to pharmacy services in rural and remote Australia;
- replace the Isolated Pharmacy Allowance, Remote Pharmacy Allowance and current professional allowance with a new Rural Maintenance Allowance;
- replace existing medication reviews in residential care facilities with an extended medication management program to assist elderly persons in residential care and at home to properly manage their medication regime; and
- introduce a range of measures to support and encourage quality pharmacy services across Australia, including the introduction of a Pharmacy Development Program.

The bill also proposes consequential amendments and contains a regulation-making power dealing with transitional and saving arrangements.

*The Committee has no comment on this bill.*

## **Petroleum (Submerged Lands) Legislation Amendment Bill (No. 2) 2000**

This bill was introduced into the House of Representatives on 1 June 2000 by the Minister assisting the Minister for Industry, Science and Resources. [Portfolio responsibility: Industry, Science and Resources]

The bill proposes to repeal section 130 of the *Petroleum (Submerged Lands) Act 1967*. Section 130 makes provision for annual payments from the Commonwealth to Western Australia for its share of the royalty from domestic gas sales derived from the North West Shelf project. With the agreement of Western Australia, the Commonwealth now proposes to discharge this obligation with a single one-off payment. It is proposed that the Advance to the Minister for Finance be used to effect the payment.

*The Committee has no comment on this bill.*

## **Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration as part of a package of four bills relating to the sales tax exemption for industrial safety equipment. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992*, in so far as it deals with tax imposed by the *Sales Tax Imposition (Customs) Act 1992*, to ensure that industrial safety equipment is only exempt from sales tax if it is of a kind mainly used to protect persons engaged in industrial operations.

### **Retrospectivity and legislation by press release**

#### **Clause 6**

Together with the other related modification bills, this bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992* with effect from the ‘first taxing day’ (ie 1 January 1993). However, the retrospective operation of this amendment is mitigated by the effect of item 6 of Schedule 1 to the Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000 (discussed below at page 24).

*In these circumstances, the Committee makes no further comment on this bill.*



## **Sales Tax (Excise) (Industrial Safety Equipment) Bill 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration as part of a package of four bills relating to the sales tax exemption for industrial safety equipment. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992*, in so far as it deals with tax imposed by the *Sales Tax Imposition (Excise) Act 1992*, to ensure that industrial safety equipment is only exempt from sales tax if it is of a kind mainly used to protect persons engaged in industrial operations.

### **Retrospectivity and legislation by press release**

#### **Clause 6**

Together with the other related modification bills, this bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992* with effect from the ‘first taxing day’ (ie 1 January 1993). However, the retrospective operation of this amendment is mitigated by the effect of item 6 of Schedule 1 to the Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000 (discussed below at page 24).

*In these circumstances, the Committee makes no further comment on this bill.*

## **Sales Tax (General) (Industrial Safety Equipment) Bill 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration as part of a package of four bills relating to the sales tax exemption for industrial safety equipment. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992*, in so far as it deals with tax imposed by the *Sales Tax Imposition (General) Act 1992*, to ensure that industrial safety equipment is only exempt from sales tax if it is of a kind mainly used to protect persons engaged in industrial operations.

### **Retrospectivity and legislation by press release**

#### **Clause 6**

Together with the other related modification bills, this bill proposes to amend the *Sales Tax (Exemptions and Classifications) Act 1992* with effect from the ‘first taxing day’ (ie 1 January 1993). However, the retrospective operation of this amendment is mitigated by the effect of item 6 of Schedule 1 to the Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000 (discussed below at page 24).

*In these circumstances, the Committee makes no further comment on this bill.*

## **Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration as part of a package of four bills relating to the sales tax exemption for industrial safety equipment. [Portfolio responsibility: Treasury]

This bill provides for transitional measures to ensure that the amendments made by the three related bills do not affect credit claims lodged, or liabilities for dealings that occurred, before 5 October 1999.

### **Retrospectivity and legislation by press release Schedule 1, item 6**

The Explanatory Memorandum accompanying this and the related modification bills points out that their collective purpose is to retrospectively modify the effect of the *Sales Tax (Exemptions and Classifications) Act 1992* from the commencement of that Act on 1 January 1993.

However, this retrospectivity is largely ameliorated by the operation of item 6 in the Schedule to this bill. In general terms, this item states that the modifications will increase liability to sales tax only in relation to dealings in goods after 5 October 1999 – the date of a Press Release issued by the Assistant Treasurer.

This Press Release followed a number of Federal Court decisions, including the recent case of *Commissioner of Taxation v NSW Cancer Council* (1999) FCA 1146. In that case, the Court held that sunglasses were exempt from sales tax as safety equipment because it could be demonstrated that outdoor workers used them to protect their eyes from glare and cancer. The effect of the decision is said to be that all sunglasses which meet Australian Standard AS 1067.1 and which are not fashion glasses would be exempt from sales tax, even though most are used as personal protection in activities unrelated to industrial operations.

The Explanatory Memorandum notes that this modification “will correct the unintended consequences of the 1992 legislation which aimed to streamline the sales tax law”. In replacing the phrase “of a kind used exclusively or

primarily and principally” with the phrase “of a kind ordinarily used”, the 1992 legislation had intended no substantive change to the law. The revenue said to be at risk should the amendments not be made “could be in excess of \$2 billion”.

The issue of a Press Release, to some extent, mitigates the effect of the retrospective application. However, in this case the legislation which gives effect to the proposals in that Press Release has not been introduced within the six-month period specified in the Senate Resolution of 8 November 1988.

This resolution deals with the introduction of legislation to give effect to proposed amendments to taxation laws. In general terms it states that, where the relevant legislation has not been introduced into Parliament or made available by way of a draft bill within 6 months of the date of the announcement, “the Senate shall, subject to any further resolution, amend the Bill to provide that the commencement date of the Bill shall be a date that is no earlier than either the date of introduction of the Bill into the Parliament or the date of publication of the draft Bill”.

The Committee therefore, **seeks the Treasurer’s advice** as to the effect of this resolution on the proposed commencement date of the bill. The Committee is puzzled by the suggestion that revenue of \$2 billion is potentially at risk and also **seeks the Treasurer’s advice** on how this figure was determined.

*Pending the Treasurer’s response, the Committee draws Senators’ attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee’s terms of reference.*

## **Taxation Laws Amendment Bill (No. 6) 2000**

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Schedule 1 proposes to amend the *Income Tax Assessment Act 1936*, *Income Tax Rates Act 1986* and *Taxation Administration Act 1953* to provide that the Community Development Employment Projects (CDEP) Scheme Participant Supplement will receive the same income tax treatment as the equivalent payment made to Newstart and Youth Allowance recipients involved in labour market programs. Recipients of the CDEP Scheme Participant Supplement will be eligible for a beneficiary rebate in respect of that payment, which will also be subject to the pay as you earn and pay as you go withholding systems.

Schedule 2 proposes to amend the *Income Tax Assessment Act 1997* to ensure that GST direct assistance certificates are exempt from income tax that may arise from the receipt or redemption of the certificates.

### **Retrospective application**

#### **Schedule 1, subitems 8(2) and (3)**

By virtue of subitems 8(2) and (3) of Schedule 1 to this bill, the amendments proposed in that Schedule are to have effect from 11 November 1999. However, these amendments are beneficial to the taxpayers concerned.

*In these circumstances, the Committee makes no further comment on these provisions.*

## **Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000**

This bill was introduced into the House of Representatives on 10 May 2000 by the Minister representing the Minister for Communications, Information Technology and the Arts. [Portfolio responsibility: Communications, Information Technology and the Arts]

The bill proposes to amend the universal service regime contained in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to:

- enhance industry certainty by enabling the Minister to determine a universal service provider's net universal service cost (NUSC) in advance for 2000-01 and for up to 3 years in advance;
- support the proposed \$150 million tender for untimed local calls in Telstra's Extended Zones in remote Australia; and
- provide greater flexibility in relation to the declaration of universal service providers and digital data service providers.

The bill also contains application and transitional provisions.

### **Non-reviewable discretion Schedule 1, items 16 and 18**

The effect of the amendments proposed by items 16 and 18 of Schedule 1 to this bill would seem to grant the relevant Minister a completely unfettered discretion to decide what system he or she might use to determine who is to be a national or regional Universal Service Provider. The exercise of this discretion does not appear to be subject to any form of judicial or Parliamentary oversight.

In the case of each item, the Explanatory Memorandum states that the proposed new provision "will enable the Minister to use any selection system that has been determined under section 22" for the purpose of deciding what carrier should be declared as a universal service provider in a particular situation, "or to make that decision on some other basis".

Such Ministerial decisions may have serious financial effects, both on the company chosen to be a Universal Service Provider, and on others not so chosen. The Committee, therefore, **seeks the Minister's advice** as to why such Ministerial decisions should not be reviewable either by Parliament or judicially.

*Pending the Minister's advice, the Committee draws Senators' attention to these provisions, as they may be considered to make rights, liberties or obligations unduly dependent upon non-reviewable decisions, in breach of principle 1(a)(iii) of the Committee's terms of reference.*

## **Tobacco Advertising Prohibition Amendment Bill 2000**

This bill was introduced into the House of Representatives on 31 May 2000 by the Minister for Health and Aged Care. [Portfolio responsibility: Health and Aged Care]

The bill proposes to amend the *Tobacco Advertising Prohibition Act 1992* to remove the Minister's discretionary power to grant exemptions from the general ban on tobacco advertising at international sporting or cultural events held in Australia with effect from 1 October 2006. Events that currently receive such an exemption may continue to apply for exemptions, but no new events are to be able to receive an exemption after 1 January 2002.

The removal of this discretion is consistent with a directive which came into force in the European Union in July 1998 which bans all forms of tobacco advertising in the European Union. This directive notes that sponsorship advertising of events or activities organised at world level is to be banned from 1 October 2006.

*The Committee has no comment on this bill.*



## Transport Legislation Amendment Bill 2000

This bill was introduced into the House of Representatives on 30 May 2000 by the Minister for Transport and Regional Services. [Portfolio responsibility: Transport and Regional Services]

The bill proposes to amend the *Australian National Railways Commission Act 1983* and the *Australian National Railways Commission Sales Act 1997* to provide for the winding-up of the Australian National Railways Commission (AN) while preserving the authority for the issuing of essential land identification certificates, and to correct a technical drafting error relating to the *Port Augusta to Whyalla Railway Act 1970*.

The bill also proposes amendments to the *Transport and Communications Legislation Amendment Act (No. 2) 1992* concerning the commencement provisions relating to the *Protection of the Seas (Prevention of Pollution from Ships) Act 1983*.

The provisions of this bill, together with certain Senate amendments, were previously included in the Transport and Territories Legislation Amendment Bill 1999, which is currently before the Senate.

### Retrospective application

#### Subclause 2(2) and Schedule 2, item 1

Subclause 2(2) of this bill states that Item 1 of Schedule 2 is taken to have commenced on 30 July 1997, being the date of commencement of the *Australian National Railways Commission Sale Act 1997*. However, the Explanatory Memorandum observes that this amendment does not affect rights, but simply corrects a technical drafting error in the citation of the *Port Augusta to Whyalla Railway Act 1970*.

*In these circumstances, the Committee makes no further comment on these provisions.*

## Workplace Relations Amendment Bill 2000

This bill was introduced into the House of Representatives on 11 May 2000 by the Minister for Employment, Workplace Relations and Small Business. [Portfolio responsibility: Employment, Workplace Relations and Small Business]

The bill proposes to amend the *Workplace Relations Act 1996* to:

- define “pattern bargaining” (as a course of conduct or bargaining which involves seeking common wages and/or other conditions that forms part of a campaign extending beyond a single business, and which is contrary to the objective of encouraging agreements to be negotiated at the enterprise level) and provide for defined consequences where pattern bargaining occurs;
- enhance the power of the Australian Industrial Relations Commission to issue orders that unlawful industrial action cease or not occur;
- provide access to cooling off periods in relation to protected industrial action; and
- protect rights to pursue common law remedies in response to unlawful industrial action in Supreme Courts without additional litigation in the form of anti suit injunctions being sought from or issued by the Federal Court.

The bill also contains application and transitional provisions.

*The Committee has no comment on this bill.*

## **BILLS GIVING EFFECT TO NATIONAL SCHEMES OF LEGISLATION**

Recent discussions between the Chairs and Deputy Chairs of Commonwealth, State and Territory Scrutiny Committees have again noted difficulties in the identification and scrutiny of national schemes of legislation. Essentially, these difficulties arise because 'national scheme' bills are devised by Ministerial Councils and are presented to Parliaments as agreed and uniform legislation. Any requests for amendment are seen to threaten that agreement and that uniformity.

To assist in the early identification of national schemes of legislation, the Committee proposes to note bills that give effect to such schemes as they come before the Committee for consideration.

### **Local Government (Financial Assistance) Amendment Bill 2000**

This bill amends the *Local Government (Financial Assistance) Act 1995* (the Act) to remove the nexus between the local government financial assistance grants and States' financial assistance grants – the latter are to be abolished from 1 July 2000 under the terms of the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* (the Agreement).

The bill also amends the Act to implement the Commonwealth's undertaking in clause 18 of the Agreement. Under clause 17, the States and Territories agreed, among other things, that local government would operate as if it were subject to the GST legislation. Pursuant to its undertaking in clause 18, the Commonwealth is legislating to require the States and the Northern Territory to withhold from the financial assistance grants for any local government authority in breach of clause 17 a sum representing the amount of any unpaid voluntary or notional GST payments. Amounts so withheld are to be paid to the Commonwealth.

## STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2000

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT RECEIVED	REPORT NUMBER
		HOUSE	SENATE			
<b>Bills Carried over from 1999</b>						
Convention on Climate Change (Implementation) Bill 1999	14(22.9.99)		2.9.99	Senator Brown	23.9.99	
Copyright Amendment (Digital Agenda) Bill 1999	14(22.9.99)	2.9.99		Attorney-General	23.9.99	
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999	19(1.12.99)	24.11.99		Justice and Customs	2.12.99	15.3.00
Fair Prices and Better Access for All (Petroleum) Bill 1999	14(22.9.99)	30.8.99		Mr Fitzgibbon	23.9.99	23.12.99 DC 3.4.00
Fisheries Legislation Amendment Bill (No. 1) 1999	14(22.9.99)	1.9.99	14.10.99	Agriculture, Fisheries and Forestry	23.9.99	14.2.00 1(16.2.00) Act No. 143
<i>Migration Legislation Amendment Act (No. 1) 1999</i>	1(15.2.99)	30.6.99	3.12.98	Immigration and Multicultural Affairs	16.2.99	23.3.99 4(24.3.99)
(previous citation: Migration Legislation Amendment Bill (No. 2) 1998)					25.3.99	22.6.99 10(23.6.99)
					24.6.99	20.12.99 1(16.2.00)
						7.2.00
<i>Telecommunications (Interception) Amendment Act 1999</i>	14(22.9.99)	2.9.99	14.10.99	Attorney-General	23.9.99	19.10.99 17(20.10.99)
					21.10.99	16.3.00 3(5.4.00)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT		REPORT NUMBER
		HOUSE	SENATE		RECEIVED	RECEIVED	
<b>Bills being dealt with during 2000</b>							
A New Tax System (Family Assistance and Related Measures) Bill 2000	3(15.3.00)	9.3.00	5.4.00	Family and Community Services	16.3.00	4.4.00	5(12.4.00)
Broadcasting Services Amendment Bill (No. 3) 1999	1(16.2.00)	6.12.99	9.12.99	Communications, Information and the Arts	17.2.00	4.5.00	Act No.198 7(7.6.00)
Broadcasting Services Amendment Bill (No. 4) 1999	1(16.2.00)	9.12.99		Communications, Information and the Arts	17.2.00	4.5.00	
Criminal Assets Recovery Bill 2000	4(5.4.00)	13.3.00		Mr Kerr, ALP	6.4.00	17.5.00	
Customs Legislation Amendment (Criminal Sanctions and Other Measures) Bill 2000 (previous citation: Customs Legislation Amendment (Criminal Sanctions and Other Measures) Bill 1999	*19(1.12.99) 2(8.3.00)	24.11.99	13.3.00	Justice and Customs	9.3.00		Act No. 23
Dairy Industry Adjustment Bill 2000	2(8.3.00)	16.2.00	15.3.00	Agriculture, Fisheries and Forestry	9.3.00	14.3.00	2(15.3.00)
Family and Community Services Legislation Amendment Bill 2000	3(15.3.00)	9.3.00	13.4.00	Family and Community Services	16.3.00	4.4.00	6(10.5.00)
Financial Sector Legislation Amendment Bill (No. 1) 2000	6(10.5.00)	13.4.00		Treasurer	11.5.00	25.5.00	
Jurisdiction of Courts Legislation Amendment Bill 2000	3(15.3.00)	8.3.00	11.4.00	Attorney-General	16.3.00	30.3.00 13.4.00	5(12.4.00) 6(10.5.00)
Migration Legislation Amendment Bill (No. 2) 2000	4(5.4.00)	14.3.00		Immigration and Multicultural Affairs	6.4.00	26.4.00	

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
		HOUSE	SENATE				
National Crime Authority Amendment Bill 2000	4(5.4.00)	13.3.00		Mr Kerr	6.4.00	17.5.00	
New Business Tax System (Miscellaneous) Bill (No. 2) 2000	6(10.5.00)	13.4.00		Treasurer	11.5.00		
Pooled Development Funds Amendment Bill 1999	1(16.2.00)	8.12.99	13.4.00	Industry, Science and Resources	17.2.00	2.3.00	6(10.5.00)
Postal Services Legislation Amendment Bill 2000	5(12.4.00)	6.4.00		Communications, Information Technology and the Arts	13.4.00		
Privacy Amendment (Private Sector) Bill 2000	6(10.5.00)	12.4.00		Attorney-General	11.5.00		
Product Grants And Benefits Administration Bill 2000	6(10.5.00)	12.4.00	11.5.00	Treasurer	11.5.00	5.6.00	7(7.6.00)
Sex Discrimination Legislation Amendment (Pregnancy and Work) Bill 2000	4(5.4.00)	13.3.00		Mrs Macklin	6.4.00		
Sex Discrimination Legislation Amendment (Pregnancy and Work) Bill 2000 [No. 2]	4(5.4.00)		14.3.00	Senator Crossin	6.4.00		
Sydney Harbour Federation Trust Bill 1999	1(16.2.00)		8.12.99	Environment and Heritage	17.2.00	22.3.00	4(5.4.00)
Taxation Laws Amendment Bill (No. 11) 1999	1(16.2.00) 2(8.3.00)	9.12.99	10.5.00	Treasurer	17.2.00 9.3.00	30.3.00 5.4.00	7(7.6.00)
Telecommunications (Interception) Legislation Amendment Bill 2000	3(15.3.00)	16.2.00	13.3.00	Attorney-General	16.3.00	27.4.00	6(10.5.00)

