Senate Standing Committee for the Scrutiny of Bills

No. 8 of 2002

28 August 2002

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for the

Scrutiny of Bills

Alert Digest No. 8 of 2002

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ISSN 1329-668X

Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

Senator J McLucas (Chair)
Senator B Mason (Deputy Chairman)
Senator G Barnett
Senator T Crossin
Senator D Johnston
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.

ACIS Administration Amendment Bill 2002

This bill was introduced into the House of Representatives on 22 August 2002 by the Parliamentary Secretary to the Minister for Industry, Tourism and Resources. [Portfolio responsibility: Industry, Tourism and Resources]

The bill proposes to amend the *ACIS Administration Act 1999* to allow eligible motor vehicle producers to claim Automotive Competitiveness and Investment Scheme (ACIS) uncapped production credits for the production of derivatives of passenger motor vehicles such as utilities, panel vans and pick-ups, with effect from the date of commencement of ACIS. The current definition of *passenger vehicles* unintentionally excludes utilities, panel vans and pick-ups and is inconsistent with the Government's stated intention to continue the Duty Free Allowance provisions that operated prior to the introduction of the ACIS.

The bill also contains transitional provisions.

Retrospective commencement
Items 1 to 4 of Schedule 1

By virtue of item 2 in the table to subclause 2(1), items 1 to 4 of Schedule 1 to this Bill would commence on 1 January 2001. However, the Explanatory Memorandum points out that the amendments contained in those items are beneficial to motor vehicle producers, as it will allow them to apply for financial incentives from the uncapped element of the Automotive Competitiveness and Investment Scheme (ACIS), rather than from the capped element of that Scheme, for the production of utilities, panel vans and pick-ups.

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

Customs Tariff Amendment Bill (No. 2) 2002

This bill was introduced into the House of Representatives on 22 August 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Justice and Customs]

The bill proposes to amend the *Customs Tariff Act 1995* to:

- exempt certain goods from the Product Stewardship Oil levy;
- amend customs rates of duty for certain beers to facilitate the introduction of a national scheme for low alcohol beer;
- make amendments to section 19 of the Act consequential to the removal of indexation provisions for those goods, including waste oils, subject to the Product Stewardship Oil levy; and
- implement other minor related amendments to the Customs Tariff.

Retrospective commencement
Parts 1 and 2 of Schedule 1

By virtue of items 2 and 3 in the table to subclause 2(1), Parts 1 and 2 of Schedule 1 to this Bill would commence on 15 April 2002 and 1 July 2002 respectively. However, the amendments contained in Part 2 of Schedule 1 – which take effect from 1 July 2002 – were tabled in the House of Representatives as a Customs Tariff Proposal on 26 June 2002, and the Committee has accepted in the past that for both Customs Tariff Proposals and Excise Tariff Notices a reasonable balance is struck between administrative efficiency and legislative propriety for the legislation giving effect to the Proposal or Notice to be introduced some time after it has been tabled. Furthermore, the amendments in both Part 1 and Part 2 provide for a reduction in the amount of customs duty payable.

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

Any Senator who wishes to draw matters to the attention of the Committee under its terms of reference is invited to do so.

Excise Tariff Amendment Bill (No. 1) 2002

This bill was introduced into the House of Representatives on 22 August 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Excise Tariff Act 1921* to:

- allow the water component of emulsified diesel/water fuel blends produced by manufacturers licensed under the *Excise Act 1901* to be free of excise duty. The special provisions for diesel/water emulsified blends are an environmental initiative designed to encourage clean fuel technology;
- exempt certain oil products from the Product Stewardship Oil (PSO) levy. The exemptions from the PSO levy support the original intention of the levy to reduce the impact of waste oil on the environment;
- amend the rates of excise duty for certain beers to facilitate the introduction of a national excise scheme for low alcohol beer. The key feature of this scheme is the cessation of State and Territory subsidies for low alcohol beer, with assistance to be delivered through lower excise rates; and
- alter indexation provisions of the *Excise Tariff Act 1921* to remove the application of the provisions from oil products classified to item 15 of the Schedule to the Act. The removal of the indexation provisions will provide for consistency of treatment between petroleum fuels and certain oils subject to the PSO levy for non-fuel use, and reduce costs to business.

Retrospective commencement
Parts 1, 2 and 3 of Schedule 1

By virtue of items 2, 3 and 4 in the table to subclause 2(1), Parts 1, 2 and 3 of Schedule 1 to this Bill would commence on 25 October 2001, 15 April 2002 and 1 July 2002 respectively. However, the Committee has been prepared, in the past, to accept retrospectivity in legislation giving effect to Customs Tariff Proposals and Excise Tariff Notices which have been tabled prior to the date

of effect of the change in the law, and the amendments contained in Parts 1, 2, and 3 of Schedule 1 fall into that category. Furthermore, in this case all of those amendments provide for a reduction in the amount of excise duty payable.

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

Any Senator who wishes to draw matters to the attention of the Committee under its terms of reference is invited to do so.

States Grants (Primary and Secondary Education Assistance) Amendment Bill (No. 2) 2002

This bill was introduced into the House of Representatives on 21 August 2002 by the Minister for Education, Science and Training. [Portfolio responsibility: Education, Science and Training]

The bill proposes to amend the *States Grants (Primary and Secondary Education Assistance) Act 2000* (the Act) to insert maximum capital funding amounts for government and non-government schools for the calendar years 2005, 2006 and 2007.

Schedules 3 and 5 to the Act currently set out the maximum funding amounts for the capital grants program, for government and non-government schools respectively, for the years 2001 to 2004. The bill will permit approval of capital grant funding amounts for future program years beyond the four year funding period 2001-2004, through to 2007, in keeping with program administrative arrangements.

The Committee has no comment on this bill.

PARLIAMENTARY AMENDMENTS AND THE COMMITTEE'S TERMS OF REFERENCE

AMENDMENTS IN THE SENATE
(19-22 August)

Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002: On 21 August, the Senate agreed to amend this bill. Among other things, the amendments omit Schedule 1, item 14, which *Alert Digest No. 2 of 2002* and the *Fifth* and *Eighth Reports of 2002* mentioned in relation to retrospective application.

Any Senator who wishes to draw matters to the attention of the Committee under its terms of reference is invited to do so.

28 August 2002

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2002

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Bills dealt with in 2001							
Air Passenger Ticket Levy (Collection) Act 2001	14(26.9.01)	20.9.01	26.9.01	Transport and Regional Services	27.9.01	31.12.01	1(20.2.02)
Border Protection (Validation and Enforcement Powers) Act 2001	13(20.9.01)	18.9.01	20.9.01	Immigration and Multicultural Affairs	20.9.01	6.02.02	1(20.2.02)
Defence Legislation Amendment (Application of Criminal Code) Act 2001	12(19.9.01)	29.8.01	24.9.01	Defence	20.9.01	8.11.01	1(20.2.02)
Electoral and Referendum Amendment Act (No. 1) 2001	4(28.3.01)	7.3.01	2.4.01	Finance and Administration	29.3.01	4.5.01	6(23.5.01)
				Further response required	24.5.01	10.1.02	1(20.2.02)
Environment and Heritage Legislation Amendment Bill (No. 2) 2000 [2001]	1(7.2.01) 8(27.6.01)		7.12.00	Environment and Heritage	28.6.01	20.8.01	10(22.8.01)
				Further response required	23.8.01	26.9.01	1(20.2.02)
Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001	9(8.8.01)	25.6.01	24.5.01	Environment and Heritage **re Amendments**	23.8.01	18.10.01	1(20.2.02)
Health and Aged Care Legislation Amendment (Application of Criminal Code) Act 2001	10(22.8.01)	8.8.01	23.8.01	Health and Aged Care	23.8.01	8.10.01	1(20.2.02)

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Migration Amendment (Excision from Migration Zone) Act 2001	13(20.9.01)	18.9.01	20.9.01	Immigration and Multicultural Affairs	20.9.01	6.2.02	1(20.2.02)
Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Act 2001	13(20.9.01)	18.9.01	20.9.01	Immigration and Multicultural Affairs	20.9.01	6.2.02	1(20.2.02)
Migration Legislation Amendment Act (No. 6) 2001	13(20.9.01)	28.8.01	24.9.01	Immigration and Multicultural Affairs	20.9.01	6.2.02	1(20.2.02)
Taxation Laws Amendment Act (No. 5) 2001	11(29.8.01)	23.8.01	26.9.01	Treasurer	30.8.01	18.9.01	1(20.2.02)
Trade Practices Amendment (Telecommunications) Act 2001	10(22.8.01)	9.8.01	19.9.01	Communications, Information Technology and the Arts	23.8.01 20.9.01	17.9.01 25.9.01	12(19.9.01) FRR13(26.9.01) 1(20.2.02)

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Bills being dealt with in 2002							
Aboriginal and Torres Strait Islander Commission Amendment Bill 2002	3(20.3.02)	13.3.02	16.5.02	Immigration and Multicultural and Indigenous Affairs	21.3.02 20.6.02	13.5.02 28.6.02	FRR5(19.6.02) 8(21.8.02)
Airports Amendment Bill 2002	1(20.2.02)	14.2.02	--	Transport and Regional Services	21.2.02	6.5.02	DC
Australian Heritage Council Bill 2002	7(21.8.02)	27.6.02		Environment and Heritage	22.8.02		
Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002	7(21.8.02)	27.6.02		Environment and Heritage	22.8.02		
Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment Bill 2002	4(15.5.02)	21.3.02	20.6.02	Health and Ageing	16.5.02	4.6.02	7(26.6.02)
Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002	4(15.5.02)	21.3.02		Attorney-General	16.5.02		
Border Security Legislation Amendment Bill 2002	3(20.3.02)	12.3.02	14.3.02	Attorney-General	21.3.02	23.4.02	4(15.5.02)
Coal Industry Repeal Act 2001	1(20.2.02)	28.6.00	5.4.01	Industry, Science and Resources	21.2.02	11.3.02	2(13.3.02)
Coal Industry Repeal (Validation of Proclamation) Act 2002	2(13.3.02)	20.2.02	13.3.02	Industry, Tourism and Resources	14.3.02	22.3.02	4(15.5.02)
Communications Legislation Amendment Bill (No. 1) 2002	7(21.8.02)	27.6.02		Communications, Information Technology and the Arts	22.8.02		

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Copyright Amendment (Parallel Importation) Bill 2002	3(20.3.02)	13.3.02		Attorney-General	21.3.02	5.6.02	
Corporate Responsibility and Employment Security Bill 2002	3(20.3.02)	11.3.02		Mr McClelland	21.3.02		
Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002	1(20.2.02)	13.2.02	11.3.02	Attorney-General	21.2.02 14.3.02 21.3.02	8.3.02 19.3.02 4.4.02	2(13.3.02) 3(20.3.02) 4(15.5.02)
Criminal Code Amendment (Espionage and Related Offences) Bill 2002	3(20.3.02)	13.3.02		Attorney-General	21.3.02	14.6.02	9(28.8.02)
Customs Legislation Amendment Bill (No. 1) 2002	6(26.6.02	19.6.02	22.8.02	Justice and Customs	27.6.02	20.8.02	9(28.8.02)
Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002	3(20.3.02)	14.3.02		Special Minister of State	21.3.02	30.4.02	
Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002	3(20.3.02)	15.5.02	12.3.02	Treasury	21.3.02	3.5.02	4(15.5.02)
Financial Sector Legislation Amendment Bill (No. 1) 2002	4(15.5.02)	21.3.02	20.6.02	Treasury	16.5.02	17.6.02	7(26.6.02)
Financial Sector Legislation Amendment Bill (No. 2) 2002	7(21.8.02)	26.6.02		Treasury	22.8.02		
Financial Services Reform Bill 2001	6(23.5.01) 11(29.8.01)	5.4.01	9.8.01	Treasurer **re Amendments**	24.5.01 30.8.01 17.5.02	7.8.01 13.5.02 14.8.02	9(8.8.01) 4(15.5.02) 8(21.8.02)

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Financial Services Reform (Consequential Provisions) Bill 2001	7(20.6.01)	7.6.01	9.8.01	Treasurer **Further response requested**	21.6.01 9.8.01	7.8.01 13.5.02	9(8.8.01) 4(15.5.02)
General Insurance Reform Act 2001	9(8.8.01)	28.6.01	27.8.01	Treasurer **Amendments**	9.8.01 30.8.01	27.8.01 24.6.02	11(29.8.01) 7(26.6.02)
Higher Education Funding Amendment Bill 2002	5(19.6.02)	5.6.02	22.8.02	Education, Science and Training	20.6.02	20.8.02	9(28.8.02)
Higher Education Legislation Amendment Bill (No. 1) 2002	1(20.2.02)	14.2.02	13.3.02	Education, Science and Training		12.3.02	2(13.3.02)
Import Processing Charges (Amendment and Repeal) Bill 2002	6(26.6.02)	19.6.02	22.8.02	Justice and Customs	27.6.02	20.8.02	9(28.8.02)
Intellectual Property Laws Amendment Bill 2002	7(21.8.02)	27.6.02		Industry, Tourism and Resources	22.8.02		
International Criminal Court Bill 2002	7(21.8.02)	25.6.02	26.6.02	Attorney-General	22.8.02		
International Criminal Court (Consequential Amendments) Bill 2002	7(21.8.02)	25.6.02	26.6.02	Attorney-General	22.8.02		
Migration Legislation Amendment Bill (No. 1) 2002	3(20.3.02)	13.3.02		Immigration and Multicultural and Indigenous Affairs	21.3.02	27.5.02	
Migration Legislation Amendment (Transitional Movement) Act 2002	3(20.3.02)	13.3.02	20.3.02	Immigration and Multicultural and Indigenous Affairs	21.3.02	27.5.02	5(19.6.02)
Plant Breeder's Rights Amendment Bill 2002	3(20.3.02)		13.3.02	Agriculture, Fisheries and Forestry	21.3.02	23.5.02	5(19.6.02)

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Proceeds of Crime Bill 2002	3(20.3.02)	13.3.02	20.8.02	Justice and Customs	21.3.02	9.5.02	8(21.8.02)
Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002	3(20.3.02)	13.3.02	20.8.02	Justice and Customs	21.3.02	9.5.02	8(21.8.02)
Quarantine Amendment Bill 2002	3(20.3.02)	14.3.02	21.3.02	Agriculture, Fisheries and Forestry	21.3.02		
Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]	3(20.3.02)	13.3.02	14.3.02	Attorney-General	21.3.02	14.5.02	4(15.5.02)
Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 2002	2(13.3.02)	21.2.02	19.6.02	Finance and Administration	14.3.02	16.5.02	FRR5(19.6.02)
Suppression of Financing of Terrorism Bill 2002	3(20.3.02)	12.3.02	14.3.02			14.5.02	4(15.5.02)
Taxation Laws Amendment Bill (No. 2) 2002	3(20.3.02)	14.3.02	24.6.02	Treasury	21.3.02	25.6.02	7(26.6.02)
Taxation Laws Amendment Bill (No. 3) 2002	4(15.5.02)	21.3.02		Treasury	16.5.02		
Taxation Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2002	5(19.6.02)	14.5.02	19.6.02	Treasurer	20.6.02		
Telecommunications Interception Legislation Amendment Bill 2002	3(20.3.02)	12.3.02	14.3.02			14.5.02	4(15.5.02)
Therapeutic Goods Amendment Bill (No. 1) 2002	2(13.3.02)	20.2.02	20.3.02	Health and Ageing	14.3.02	19.3.02	3(20.3.02)

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Bill 2002	2(13.3.02)	20.2.02	14.3.02	Transport and Regional Services	14.3.02		
Transport Safety Investigation Bill 2002	6(26.6.02)	20.6.02		Transport and Regional Services	27.6.02		
Veterans' Affairs Legislation Amendment Bill (No. 1) 2002	4(15.5.02)	21.3.02		Veterans' Affairs	16.5.02	27.6.02	
Veterans' Affairs Legislation Amendment Bill (No. 2) 2002	7(21.8.02)	27.6.02		Veterans' Affairs	22.8.02		
Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002	2(13.3.02)	21.2.02	21.3.02	Veterans' Affairs	14.3.02	19.3.02	3(20.3.02)
Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002	2(13.3.02)	20.2.02	19.6.02	Employment and Workplace Relations	14.3.02 20.6.02	22.5.02 9.8.02	FRR5(19.6.02) 8(21.8.02)
Workplace Relations (Registration and Accountability of Organisations) Bill 2002	4(15.5.02)	21.3.02		Employment and Workplace Relations	16.5.02	19.8.02	