Senate Standing Committee for the Scrutiny of Bills

No. 6 of 2004

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Senate Standing Committee

for the

Scrutiny of Bills

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Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

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

TABLE OF CONTENTS

- Anti-terrorism Bill 2004 5
- Child Support Legislation Amendment Bill 2004 7
- Customs Tariff Amendment (Fuels) Bill 2004 8

Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004 10

- Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004 11
- Excise Tariff Amendment (Fuels) Bill 2004 15

Family Law Amendment Bill 2004 16

- Health Legislation Amendment (Podiatric Surgery and Other Matters) Bill 2004 17
- Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Bill 2004 19

New International Tax Arrangements (Participation Exemption and Other Measures) Bill 2004 21

Occupational Health and Safety (Commonwealth Employment) Amendment ((Promoting Safer Workplaces) Bill 2004 22

Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 23

Parliamentary Superannuation Bill 2004 24

- Tax Laws Amendment (2004 Measures No. 2) Bill 2004 25

Tourism Australia Bill 2004 31

- **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.

- Veterans' Entitlements (Clark Review) Bill 2004 32

  Workplace Relations Amendment (Good Faith Bargaining) Bill 2004 34

  Provisions of bills which impose criminal sanctions for a failure to provide information 35

  Parliamentary amendments and the Committee's terms of reference 36

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

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Anti-terrorism Bill 2004

[Introduced into the House of Representatives on 31 March 2004. Portfolio: Attorney-General]

The bill amends various Acts to improve Australia's counter-terrorism legal framework. The main provisions:

- extend fixed investigation periods for investigations into suspected terrorism offences and permit law enforcement agencies to suspend or delay questioning a suspect to make overseas inquiries;
- strengthen foreign incursions offences;
- strengthen terrorist organisation membership offences and offences of providing training to or receiving training from a terrorist organisation; and
- improve restrictions on any commercial exploitation by persons who have committed foreign indictable offences.

The bill also contains application provisions.

Personal rights
Schedule 1, item 5

Proposed new subsection 23CA(4) of the *Crimes Act 1914*, to be inserted by item 5 of Schedule 1 to this bill, would permit law enforcement authorities to detain a person for up to four hours after the person's arrest before he or she must be taken before a judicial officer to determine whether the person's detention is to continue. The Explanatory Memorandum acknowledges that, at common law, a person must be brought before a judicial officer as soon as possible after arrest. This provision will therefore limit and trespass to some extent upon the personal rights and liberties of an arrested person.

The Committee has decided that the question of whether this amendment trespasses *unduly* on those rights and liberties is **a matter to be left for a decision by the Senate as a whole.**

The Committee draws Senators' attention to the provision, as it 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.

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

Child Support Legislation Amendment Bill 2004

[Introduced into the House of Representatives on 31 March 2004. Portfolio: Family and Community Services]

The bill amends various Acts to give effect to minor policy measures in relation to child support. The main provisions:

- move into the principal legislation those provisions currently contained in regulations relating to overseas maintenance arrangements;
- make minor and consequential amendments to the family law legislation;
- improve equity between parents in access to courts and streamlining of certain review processes; and
- make minor and technical amendments in relation to child support.

Retrospective commencement
Schedule 3, item 10

By virtue of item 8 in the table in subclause 2(1), the amendments proposed in item 10 of Schedule 3 to this bill would commence retrospectively, immediately after the commencement of item 7 of Schedule 10 to the *Child Support Legislation Amendment Act 2001*, on 30 June 2001. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum makes it clear that the purpose of the amendment is 'to override [a] superfluous amendment.' The Explanatory Memorandum continues by assuring that 'no person will be adversely affected by this retrospective commencement.'

> *In the circumstances, the Committee makes no further comment on this provision.*

Customs Tariff Amendment (Fuels) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Justice and Customs]

Introduced with the Excise Tariff Amendment (Fuels) Bill 2004, the bill amends the *Customs Tariff Act 1995* to:

- impose new differential customs duty rates for high sulphur diesel and ultra low sulphur diesel and certain similar products;
- increase the customs duty rate for aviation kerosene and aviation gasoline; and
- introduce a customs duty on biodiesel for use as a fuel in an internal combustion engine.

The bill also amends the *Customs Tariff Amendment Act (No. 1) 2003* to make minor consequential amendments.

Retrospective commencement
Schedule 1, Parts 1 to 5

By virtue of items 2 to 6 inclusive in the table in subclause 2(1), the amendments proposed in Parts 1 to 5 of Schedule 1 to this bill would commence retrospectively on various dates between 1 July 2003 and 18 September 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum notes that each of these amendments gives effect to a Customs Tariff Proposal which was introduced into the House of Representatives prior to its proposed date of effect. The Committee has, in the past, been prepared to accept a measure of retrospectivity in these circumstances.

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

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

Retrospective commencement
Schedule 3

By virtue of item 9 in the table in subclause 2(1), the amendments proposed in Schedule 3 to this bill would commence retrospectively, immediately after the commencement of section 1 of the *Customs Tariff Amendment Act (No. 1) 2003*, on 30 June 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum indicates that the purpose of the amendments is to repeal matter which has become redundant by the terms of this bill or superseded by this bill.

In the circumstances, the Committee makes no further comment on this provision.

Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Special Minister of State]

The bill amends the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* to:

- address current enrolment issues, clarify and improve access rights to the electoral roll and specify the permitted purposes for which prescribed authorities can use roll information;
- update provisions relating to the lead-up to election day including preparations undertaken by the Australian Electoral Commission, political parties, candidates and others, and procedures for nomination of candidates;
- update processes for voting, including postal voting, and the distribution of electoral material at mobile polls;
- update provisions relating to the operation of polling booths on election day, the roll of scrutineers and political broadcasting at polling booths;
- streamline procedures for the return of election results attached to the writs; and
- update appeal provisions.

The bill also contains application, saving and transitional provisions.

The Committee has no comment on this bill.

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

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Special Minister of State]

The bill amends the *Commonwealth Electoral Act 1918* and the *Electoral and Referendum Amendment Act (No. 1) 1999* to strengthen provisions relating to:

- enrolment and voting processes, including proof of identity and address arrangements, and closure of electoral rolls;
- prisoners' rights to vote;
- financial disclosure thresholds;
- the provision of certain voting information to political parties and independent members of parliament;
- the removal of the requirement for broadcasters and publishers to lodge returns on electoral advertising during an election period;
- multiple voting and enrolment offences;
- the restriction of scrutineers' activities in relation to assisted votes;
- reinstatement on the electoral roll; and
- registration of party names.

The bill also amends the *Public Employment (Consequential and Transitional) Amendment Act 1999* to make a technical amendment, and the *Referendum (Machinery Provisions) Act 1984* to strengthen 'silent elector' protections and clarify minimum disclosure provisions.

The bill also contains application and transitional provisions.

Commencement on proclamation
Schedule 1, items 5, 9, 12, 16, 19, 42, 78 and 116

By virtue of items 3, 5, 8, 11,14, 18, 24 and 30 in the table in subclause 2(1), the amendments proposed in items 5, 9, 12, 16, 19, 42, 78 and 116 of Schedule 1 to this bill would commence on proclamation, with no date being fixed within which the amendments must commence in any event. The Committee expects that where legislation is expressed to commence on proclamation, the date should be no later than 6 months after the Parliament passes the relevant measure. Where the period will be longer, the Committee expects that the explanatory memorandum will provide an explanation for the delayed commencement. In this case, the Explanatory Memorandum indicates that these amendments are concerned with proof of identity and address at enrolment, and are 'subject to regulations being developed in consultation with the States and Territories and possible complementary State and Territory legislation'. These factors are put forward as the reasons for there being no date by which the provisions must commence in any event.

The Committee, however, **seeks the Minister's advice** as to whether the measures proposed in these amendments need to be confirmed prior to any relevant election date. The Committee also **seeks the Minister's advice** as to whether the bill might provide for these amendments to be deemed to be repealed if they have not commenced within 12 months of assent.

> *Pending the Minister's advice, the Committee draws Senators' attention to the 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.*

The voting rights of prisoners
Schedule 1, items 6 to 7 and 18

The amendments proposed by items 6 and 7 and 18 of Schedule 1 will abrogate the rights of all persons serving a term of imprisonment to enrol and vote in a federal election. This is a change in the law that was originally proposed in the Electoral and Referendum Amendment Bill (No.2) 1998, and on which the Committee reported in its *Seventh Report of 1998.* This change

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

in the law was again proposed in the Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002.

In the *Seventh Report of 1998*, the Committee noted that this issue had been debated for many years, and concluded that it was possible 'that voters may be dealt with differently depending on the nature of their sentence and the effectiveness of notification procedures in the various States and Territories'. Accordingly, the Committee drew attention to the possible effect of that provision on personal rights and liberties.

The Committee reaffirms these comments in relation to this bill.

The Committee considers that this may be a matter more appropriately dealt with at the time of sentencing. The Committee therefore **seeks the minister's advice** as to whether this is a matter that could more appropriately be dealt with under the Criminal Code, thus allowing judicial officers to determine whether a person should lose their voting rights at the time of sentencing.

> *Pending the Minister's advice, the Committee draws Senators' attention to the 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.*

Commencement on proclamation
Schedule 1, items 10, 13, 17, 37, 45, 62, 63 and 106 to 109

By virtue of items 6, 9, 12, 16, 20, 22 and 28 in the table in subclause 2(1), the amendments proposed in items 10, 13, 17, 37, 45, 62, 63 and 106 to 109 of Schedule 1 to this bill would commence on proclamation, with no date being fixed within which the amendments must commence in any event. The Committee expects that where legislation is expressed to commence on proclamation, the date should be no later than 6 months after the Parliament passes the relevant measure. Where the period will be longer, the Committee expects that the Explanatory Memorandum will provide an explanation for the delayed commencement. In this case, the Explanatory Memorandum indicates that these amendments 'change the time when the electoral rolls close prior to

an election for the addition of new enrolments and changes to existing enrolment details.' The Explanatory Memorandum further notes that 'complementary State legislation will be required to enable …implementation of the provisions' and therefore can commence only on proclamation.

The Committee, however, **seeks the Minister's advice** as to whether the measures proposed in these amendments need to be confirmed prior to any relevant election date. The Committee also **seeks advice** at to whether the bill might provide for these amendments to be deemed to be repealed if they have not commenced within 12 months of assent.

Pending the Minister's advice, the Committee draws Senators' attention to the 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.

Retrospective commencement
Schedule 1, items 104 and 105

By virtue of item 27 in the table in subclause 2(1), the amendments proposed in items 104 and 105 of Schedule 1 to this bill would commence retrospectively, immediately after the commencement of items 764 and 765 of Schedule 1 to the *Public Employment (Consequential and Transitional) Amendment Act 1999*, on 5 December 1999. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the purpose of these amendments is to change a spelling error, and that they make no change to the substantive law.

In the circumstances, the Committee makes no further comment on these 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 (Fuels) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Treasury]

Introduced with the Customs Tariff Amendment (Fuels) Bill 2004, the bill amends the *Excise Tariff Act 1921* to:

- provide for new differential excise duty rates for high sulphur diesel and ultra low sulphur diesel and certain similar products;
- increase the excise duty rate for aviation kerosene and aviation gasoline;
- introduce an excise duty on biodiesel for use as a fuel in an international combustion engine; and
- enable previously paid duties to be deducted in the formula for calculating excise duty payable on fuel ethanol/gasoline blends.

Retrospective commencement
Schedule 1, Parts 1 to 4

By virtue of items 2 to 5 inclusive in the table in subclause 2(1), the amendments proposed in Parts 1 to 4 of Schedule 1 to this bill would commence retrospectively on various dates between 1 July 2003 and 1 January 2004. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum notes that each of these amendments gives effect to an Excise Tariff Proposal which was introduced into the House of Representatives prior to its proposed date of effect. The Committee has, in the past, been prepared to accept a measure of retrospectivity in these circumstances.

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

Family Law Amendment Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Attorney-General]

The bill amends the *Family Law Act 1975* to:

- address bankruptcy and family law issues identified in the *Joint Task Force Report on the Use of Bankruptcy and Family Law Schemes to Avoid Payment of Tax*, and in respect of separation declarations;
- clarify provisions associated with 'unworkable' parenting orders and the enforcement of court orders;
- update certain outdated terms (including introduction of the term 'divorce');
- enable the recovery of child maintenance paid by a person found not to be a parent;
- strengthen the Court's power in relation to vexatious litigants;
- clarify the rule-making power of the Family Court; and
- make technical amendments.

The Committee has no comment on this bill.

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

Health Legislation Amendment (Podiatric Surgery and Other Matters) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Health and Ageing]

The bill amends various Acts in relation to health and ageing measures. The main provisions:

- provide for payment of benefits for hospital treatment associated with podiatric surgery;
- update arrangements for the provision of Hospital Casemix Protocol data;
- provide for the continuing supply of pharmaceutical benefits in the event of the death of an approved pharmacist; and
- correct drafting errors.

Retrospective commencement
Schedule 1, items 15 and 16

By virtue of item 5 in the table in subclause 2(1), the amendments proposed in items 15 and 16 of Schedule 1 to this bill would commence retrospectively, immediately after the commencement of sections 21 and 24 of the *Health and Other Services (Compensation) Act 1995*, on 1 February 1996. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum indicates that the purpose of the amendments is to amend minor typographical errors.

> *In the circumstances, the Committee makes no further comment on this provision.*

Retrospective commencement
Schedule 1, items 17 and 18

By virtue of item 6 in the table in subclause 2(1), the amendments proposed in items 17 and 18 of Schedule 1 to this bill would commence retrospectively, immediately after the commencement of item 8 of Schedule 1 to the *Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Act 2003*, on 15 April 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum indicates that the purpose of the amendments is to correct an earlier drafting error.

In the circumstances, the Committee makes no further comment on this provision.

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

Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Bill 2004

[Introduced into the House of Representatives on 31 March 2004. Portfolio: Health and Ageing]

The bill amends the *Industrial Chemicals (Notification and Assessment) Act 1989* to:

- establish a new process for audited self-assessment for Low Regulatory Concern Chemicals categories, including an audited self-assessed assessment certificate for certain low regulatory concern chemicals;
- create new permit categories for low hazard and/or low concern chemicals;
- amend the definition of 'cosmetics' to align it with the definition used under the Trade Practices legislation;
- insert an option to enable industry to nominate an assessed chemical for immediate inclusion on the Australian Inventory of Chemical Substances (AICS);
- provide the Director of the National Industrial Chemicals Notification and Assessment Scheme with the ability to put the particulars of a chemical, including any conditions to which it is subject, on the Australian Inventory of Chemical Substances (AICS) and making these conditions enforceable under the Act; and
- introduce mandatory company registration for all chemical introducers.

Abrogation of the privilege against self-incrimination
Proposed new section 40M

Proposed new section 40M of the *Industrial Chemicals (Notification and Assessment) Act 1989*, to be inserted by item 124 of Schedule 1 to this bill, would abrogate the privilege against self-incrimination for a person required to provide information under proposed new section 40L. However, section

40M also limits the circumstances in which information so provided is admissible in evidence in proceedings against the affected person. The Committee is therefore prepared to accept that this strikes a reasonable balance between the competing interests of obtaining information and protecting individuals' rights.

In the circumstances, the Committee makes no further comment on this provision.

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

New International Tax Arrangements (Participation Exemption and Other Measures) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Treasury]

The bill amends various Acts to modernise Australia's international tax regime. The main provisions:

- reduce the amount of the capital gain or capital loss that will be subject to capital gains tax rules where Australian companies and controlled foreign companies sell shares in a foreign company with an underlying active business;
- extend the current exemptions for foreign branch profits and foreign dividends to all countries from 1 July 2004; and
- reduce the scope of tainted services income.

The bill also contains application provisions.

The Committee has no comment on this bill.

Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Employment and Workplace Relations]

The bill amends the *Occupational Health and Safety (Commonwealth Employment) Act 1991* to exclude Commonwealth employers and employees from the application of the ACT industrial manslaughter laws and any other similar industrial manslaughter law enacted by a State or Territory in the future.

The Committee has no comment on this bill.

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

Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Finance and Administration]

Introduced with the Parliamentary Superannuation Bill 2004, the bill amends the following Acts:

- *Parliamentary Contributory Superannuation Act 1948* to close the Parliamentary Contributory Superannuation Scheme to new members from the next general election, and suspend retiring allowances being paid to former senators and members who are again elected at or after the next general election; and the

- *Parliamentary Contributory Superannuation Act 1948* and the *Remuneration and Allowances Act 1990* to allow a limited salary sacrifice facility for senators and members who are entitled to superannuation under the new arrangements.

The Committee has no comment on this bill.

Parliamentary Superannuation Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Finance and Administration]

Introduced with the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004, the bill establishes new superannuation arrangements for persons who become members of the Federal Parliament at or after the next general election. The new arrangements will involve a 9 per cent contribution payable into a superannuation fund nominated by the senator or member.

The Committee has no comment on this bill.

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

Tax Laws Amendment (2004 Measures No. 2) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Treasury]

The bill amends various Acts to give effect to several taxation measures. The main provisions:

- improve the practical operation of the income tax law affecting life insurance companies;
- give greater flexibility and certainty to taxpayers as they move to the new consolidation regime;
- clarify the tax concession status of venture capital partnerships; and the tax treatment of franked distributions received through certain partnerships and trusts;
- continue certain fringe benefits tax (FBT) treatments for non-remote housing benefits;
- ensure that the pre-CGT status of membership interests is fully preserved following a demerger and a capital gains tax event K6 is not inadvertently triggered;
- ensure that individuals who make United Medical Protection Limited support payments are entitled to an income tax deduction;
- amend the alienation of personal services income provisions to clarify when the Commissioner of Taxation may provide a personal services business determination to taxpayers;
- clarify the GST insurance provisions applying to compulsory third party schemes;
- provide for the same FBT treatment of public ambulance services as is provided to public hospitals; and
- facilitate the transfer of overseas superannuation payments to an Australian complying superannuation fund by implementing a more

favourable tax regime, and to make technical corrections to foreign tax credit provisions.

The bill also contains application and transitional provisions.

Retrospectivity
Schedule 1, items 1 to 107

By virtue of items 2 to 11 in the table in subclause 2(1), the amendments proposed in items 1 to 107 of Schedule 1 to this bill would commence on various dates between 30 June 2000 and 17 December 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum notes that some of the amendments proposed in that Schedule 'will potentially have an adverse impact on taxpayers, and therefore apply from the date that the bill receives Royal Assent'. The Explanatory Memorandum also notes that the amendments in Schedule 1 as a whole will have a negligible financial impact.

In the circumstances, the Committee makes no further comment on this provision.

Retrospectivity
Schedule 10, items 1 to 40

By virtue of items 22 to 25 in the table in subclause 2(1), the amendments proposed in items 1 to 40 of Schedule 10 to this bill would commence on various dates between 1 July 2000 and 30 June 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum notes that the major amendments to be made by Schedule 10 will have no impact on revenue, and that other amendments to be made by the Schedule will have a 'small, positive but unquantifiable impact on revenue.'

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

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 2, item 1

By virtue of item 1 of Schedule 2 to this bill, the amendments proposed by that Schedule will generally apply on and after 1 July 2002. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that those 'amendments are either beneficial to taxpayers or … correct unintended outcomes' in the legislation.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 3, item 6

By virtue of item 6 of Schedule 3 to this bill, the amendments proposed by that Schedule will apply from 2 December 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the financial impact of the proposals is nil.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 4, item 2

By virtue of item 2 of Schedule 4 to this bill, the amendments proposed by that Schedule will apply from 1 April 2001. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the financial impact of the proposals is nil.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 5, item 2

By virtue of item 2 of Schedule 5 to this bill, the amendments proposed by that Schedule will apply from 1 July 2002. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the financial impact of the proposals is nil.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 6, item 4

By virtue of item 4 of Schedule 6 to this bill, the amendments proposed by that Schedule will apply from 1 July 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum observes that the

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amendments are beneficial to members of the medical profession who made United Medical Protection Ltd support payments.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 7, item 14

By virtue of item 14 of Schedule 7 to this bill, the amendments proposed by that Schedule will apply from 1 July 2000. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the financial impact of the proposals is nil.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 11, item 5

By virtue of item 5 of Schedule 11 to this bill, the amendments proposed by that Schedule will apply from the same date as the provisions amended by that Schedule. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum notes that the 'amendments have retrospective effect to correct a technical problem with the current application of the relevant provisions' and that the financial impact of the proposals is nil.

In the circumstances, the Committee makes no further comment on this provision.

Retrospective application
Schedule 12, item 9

By virtue of item 9 of Schedule 12 to this bill, the amendments proposed by Part 1 of that Schedule will apply from the 2000/2001 tax year. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum points out that the financial impact of the proposals is 'unquantifiable' but 'is expected to be insignificant.'

In the circumstances, the Committee makes no further comment on this provision.

Tourism Australia Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Small Business and Tourism]

The bill establishes Tourism Australia, which will amalgamate the functions of the Australian Tourist Commission, See Australia, the Tourism Forecasting Council and the Bureau of Tourism Research, and a new unit, Tourism Events Australia. Tourism Australia will be responsible for international and domestic tourism marketing and research.

The bill also contains a regulation-making power.

The Committee has no comment on this bill.

Veterans' Entitlements (Clarke Review) Bill 2004

[Introduced into the House of Representatives on 1 April 2004. Portfolio: Veterans' Affairs]

The bill provides for a once only payment to former prisoners-of-war of the North Korean military forces, or their surviving spouse, and amends the *Veterans' Entitlements Act 1986* to:

- index above general rate disability pensions;
- introduce a Defence Force Income Support Allowance;
- ensure appropriate rent assistance for war widows and widowers;
- increase funeral benefits; and
- extend operational service to personnel involved in minesweeping and bomb/mine clearance operations after World War II who have qualifying service.

The bill also contains an application provision.

Retrospectivity
Schedule 1

By virtue of item 2 in the table in subclause 2(1), the amendment proposed in Schedule 1 to this bill would commence on 20 March 2004, and therefore to some extent retrospectively. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum makes it clear that those amendments are beneficial to recipients of various disability pensions.

In the circumstances, the Committee makes no further comment on this provision.

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

Retrospectivity
Schedule 5

By virtue of item 7 in the table in subclause 2(1), the amendment proposed in Schedule 5 to this bill would commence on 1 April 2004, and therefore to some extent retrospectively. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum makes it clear that those amendments are 'beneficial because, in certain circumstances, disability pension may be payable from 1 April 2004.'

In the circumstances, the Committee makes no further comment on this provision.

Workplace Relations Amendment (Good Faith Bargaining) Bill 2004

[Introduced into the House of Representatives on 29 March 2004 by Mr Emerson as a Private Member's bill.]

The bill amends the *Workplace Relations Act 1996* to insert a requirement to negotiate in good faith when negotiating in the workplace.

The Committee has no comment on this bill.

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

PROVISIONS OF BILLS WHICH IMPOSE CRIMINAL SANCTIONS FOR A FAILURE TO PROVIDE INFORMATION

The Committee's *Eighth Report of 1998* dealt with the appropriate basis for penalty provisions for offences involving the giving or withholding of information. In that Report, the Committee recommended that the Attorney-General develop more detailed criteria to ensure that the penalties imposed for such offences were 'more consistent, more appropriate, and make greater use of a wider range of non-custodial penalties'. The Committee also recommended that such criteria be made available to Ministers, drafters and to the Parliament.

The Government responded to that Report on 14 December 1998. In that response, the Minister for Justice referred to the ongoing development of the Commonwealth *Criminal Code*, which would include rationalising penalty provisions for 'administration of justice offences'. The Minister undertook to provide further information when the review of penalty levels and applicable principles had taken place.

For information, the following Table sets out penalties for 'information-related' offences in the legislation covered in this *Digest.* The Committee notes that imprisonment is still prescribed as a penalty for some such offences.

TABLE

Bill/Act	Section/Subsection	Offence	Penalty
Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Bill 2004	Proposed new subsection 40L(3)	Fail to provide information to a public authority	60 penalty units

PARLIAMENTARY AMENDMENTS AND THE COMMITTEE'S TERMS OF REFERENCE

AMENDMENTS IN THE HOUSE OF REPRESENTATIVES (29 March to 1 April 2004)

Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2003: The House of Representatives amended this bill on 30 March 2004. The amendments raise no issues within the Committee's terms of reference.

Intelligence Services Amendment Bill 2003: The House of Representatives amended this bill on 30 March 2004. The amendments raise no issues within the Committee's terms of reference.

AMENDMENTS IN THE SENATE (29 March to 1 April 2004)

Age Discrimination Bill 2003: The Senate amended this bill on 29 March 2004. The amendments raise no issues within the Committee's terms of reference.

Communications Legislation Amendment Bill (No. 2) 2003: The Senate amended this bill on 1 April 2004. The amendments raise no issues within the Committee's terms of reference.

Energy Grants (Cleaner Fuels) Scheme Bill 2003: The Senate amended this bill on 31 March 2004. The amendments raise no issues within the Committee's terms of reference.

Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003: The Senate amended this bill on 31 March 2004. The amendments raise no issues within the Committee's terms of reference.

Migration Legislation Amendment Bill (No. 1) 2002: The Senate amended this bill on 30 March 2004. The amendments raise no issues within the Committee's terms of reference.

Military Rehabilitation and Compensation Bill 2003: The Senate amended this bill on 29 March 2004. The amendments raise no issues within the Committee's terms of reference.

Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003: The Senate amended this bill on 29 March 2004. The amendments raise no issues within the Committee's terms of reference.

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

Superannuation Legislation Amendment (Family Law) Bill 2002: The Senate amended this bill on 1 April 2004. The amendments raise no issues within the Committee's terms of reference.

Telecommunications (Interception) Amendment Bill 2004: The Senate amended this bill on 1 April 2004. The amendments raise no issues within the Committee's terms of reference.

12 May 2004

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2004

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Bill dealt with in 2002 still awaiting reporting							
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	
Bills dealt with in 2003 still awaiting reporting							
ASIO Legislation Amendment Act 2003	16(3.12.03)	27.11.03	3.12.03	Attorney-General	4.12.03	9.2.04	1(11.2.04)
Australian Protective Service Amendment Bill 2003 **Amendments**	8(13.8.03)	15.10.03	26.6.03	Justice and Customs	14.8.03 27.11.03	9.9.03 4.2.04	9(10.9.03) 1(11.2.04)
Aviation Transport Security Bill 2003 **Amendments**	5(14.5.03) 1(11.2.04)	27.3.03	10.2.04	Transport and Regional Services	15.5.03 12.2.04	20.6.03 27.2.04	1(11.2.04) 2(3.3.04)
Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2]	15(26.11.03)	5.11.03	2.12.03	Communications, Information Technology and the Arts	27.11.03	24.3.04	5(31.3..04)
Building and Construction Industry Improvement Bill 2003	15(26.11.03)	6.11.03	10.2.04	Employment and Workplace Relations	27.11.03	12.1.04	1(11.2.04)
Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003	8(13.8.03)	25.6.03		Transport and Regional Services	14.8.03	29.10.03	

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Corporate Responsibility and Employment Security Bill 2003	10(10.9.03)	18.8.03	--	Hon S F Crean MP	11.9.03	--	RNP
Fisheries Legislation Amendment (High Seas Fishing Activities and Other Matters) Bill 2003	16(3.12.03)	16.2.04	28.11.03	Agriculture, Fisheries and Forestry	4.12.03	5.2.04	1(11.2.04)
Late Payment of Commercial Debts (Interest) Bill 2003	3(19.3.03)		6.3.03	Senator Conroy	27.3.03		
Migration Legislation Amendment (Identification and Authentication) Bill 2003	9(20.8.03)	26.6.03	7.10.03	Immigration and Multicultural and Indigenous Affairs	21.8.03	10.2.04	1(11.2.04)
Sexuality and Gender Identity Discrimination Bill 2003	16(3.12.03)		25.11.03	Senator Greig	4.12.03	20.4.04	6(12.5.04)
Superannuation Safety Amendment Bill 2003	16(3.12.03)	27.11.03	11.2.04	Treasurer/Revenue	4.12.03	1.3.04	2(3.3.04)
Trade Practices Amendment (Public Liability Insurance) Bill 2003	10(10.9.03)	18.8.03	--	Mr A Griffin MP	11.9.03	--	RNP
Bills dealt with in 2004							
Australian Crime Commission Amendment Bill 2004	1(11.2.04)	8.3.04	4.12.03	Attorney-General/Justice & Customs	12.2.04	1.3.04	2(3.3.04)
Bankruptcy Legislation Amendment Bill 2004	5(31.3.04)	24.3.04		Attorney-General	1.4.04	5.5.04	

NAME OF BILL	ALERT DIGEST	INTRODUCED HOUSE	INTRODUCED SENATE	MINISTER	RESPONSE SOUGHT	RESPONSE RECEIVED	REPORT NUMBER
Customs Legislation Amendment (Application of International Trade Modernisation and Other Measures) Bill 2003	1(11.2.04)	4.12.03	11.3.04	Justice and Customs	12.2.04	8.03.04	4(24.3.04)
Dairy Produce Amendment Bill 2003	1(11.2.04)	3.12.03	24.3.04	Agriculture, Fisheries and Forestry	12.2.04	18.3.04	4(24.3.04)
Environment Protection and Biodiversity Conservation Act 1999	2(3.3.04)	28.6.99	12.11.98	Environment and Heritage	4.3.04		
Military Rehabilitation and Compensation Bill 2003	1(11.2.04)	4.12.03	1.3.04	Veterans' Affairs	12.2.04	23.3.04	4(24.3.04)
Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004	5(31.3.04)	25.3.04		Veterans' Affairs	1.4.04	23.4.04	