

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



**Alert Digest**

**No. 9 of 2006**

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# Senate Standing Committee for the Scrutiny of Bills

## Members of the Committee

Senator R Ray (Chair)  
Senator B Mason (Deputy Chair)  
Senator G Barnett  
Senator D Johnston  
Senator A McEwen  
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.





## **Export Finance and Insurance Corporation Amendment Bill 2006**

Introduced into the Senate on 16 August 2006

Portfolio: Trade

### **Background**

This bill amends the *Export Finance and Insurance Corporation Act 1991* by implementing changes to the board management structure of the Export Finance and Insurance Corporation in response to the recommendations of the *Review of Corporate Governance of Statutory Authorities and Office Holders* (the Uhrig Review). The Corporation will continue to operate as a Commonwealth authority under the *Commonwealth Authorities and Companies Act 1997*.

*The Committee has no comment on this bill.*

## **Migration Legislation Amendment (Provisions Relating to Character and Conduct) Bill 2006**

Introduced into the Senate on 14 August 2006

By Senator Bartlett

### **Background**

This bill amends the *Migration Act 1958* to limit ministerial discretion in relation to assessment of the character or conduct of a non-citizen for the purposes of refusing a visa application or cancelling an existing visa and to provide for an internal review process.

### **Explanatory memorandum**

The Committee notes that this bill, introduced as a private Senator's bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the parliament is assisted if they are accompanied by an explanation of the intent and operation of the proposed amendments, preferably in the form of an explanatory memorandum. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this case, the Committee notes that the second reading speech provides some explanation of the intent and operation of the proposed amendments.

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

## **Migration Legislation Amendment (Return to Procedural Fairness) Bill 2006**

Introduced into the Senate on 17 August 2006

By Senator Bartlett

### **Background**

This bill amends the *Migration Act 1958* by repealing certain provisions of the *Migration Legislation Amendment (Procedural Fairness) Act 2002* which provide that compliance with certain specified codes of procedure satisfy the common law requirements of the natural justice hearing rule.

*The Committee has no comment on this bill.*

## **National Cattle Disease Eradication Account Amendment Bill 2006**

Introduced into the House of Representatives on 16 August 2006  
Portfolio: Agriculture, Fisheries and Forestry

### **Background**

This bill amends the *National Cattle Disease Eradication Account Act 1991* to enable residual cattle and buffalo industry levies, collected under bovine tuberculosis and bovine brucellosis eradication campaigns, to be transferred from the National Cattle Disease Eradication Account to the Cattle Disease Contingency Fund following the conclusion of the Tuberculosis Freedom Assurance Program on 31 December 2006.

*The Committee has no comment on this bill.*

## Payment of Accounts by Government Bill 2006

Introduced into the House of Representatives on 14 August 2006

By Mr Bowen

### Background

This bill amends the *Parliamentary Service Act 1999* and the *Public Service Act 1999* to require annual reports of departments and agencies to include details of performance in paying accounts to small business.

### Explanatory memorandum

The Committee notes that this bill, introduced as a private Member's bill, was introduced without either a second reading speech or an explanatory memorandum. The consideration of bills by the Committee and by the parliament is assisted if they are accompanied by an explanation of the intent and operation of the proposed amendments, preferably in the form of an explanatory memorandum. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this case, the Committee notes that the proposed amendments appear to be expressed clearly enough not to warrant further explanation.

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

## **Tax Laws Amendment (2006 Measures No. 5) Bill 2006**

Introduced into the House of Representatives on 17 August 2006

Portfolio: Treasury

### **Background**

Schedule 1 of this bill amends the *Fringe Benefits Tax Assessment Act 1986* by increasing the minor benefits exemption threshold, increasing the reportable fringe benefits amount threshold, increasing the reduction of taxable value that applies to eligible fringe benefits, and extending the definition of 'remote' to include employees who work in locations where the shortest practicable route involves travel by water.

Schedule 2 amends the *A New Tax System (Goods and Services Tax) Act 1999* in relation to GST concessions for cars and pharmaceuticals following the establishment of the military specific compensation scheme under the *Military Rehabilitation and Compensation Act 2004*.

Schedule 3 amends the *Income Tax Rates Act 1986* by removing the part-year tax-free threshold to reduce compliance costs for taxpayers who have finished full-time education for the first time.

The bill also contains application and transitional provisions in relation to starting and reporting dates.

### **Retrospective application**

#### **Schedule 2**

Item 4 of Schedule 2 to this bill provides for the amendments proposed in that Schedule in relation to GST car and pharmaceutical concessions to apply from 1 July 2004, the date on which the military compensation scheme commenced. However, the explanatory memorandum notes, on page four, that the amendments would have a negligible financial impact, and in any case would be beneficial to those receiving benefits under the current military compensation scheme.

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

## COMMENTARY ON AMENDMENTS TO BILLS

### **Aboriginal Land Rights (Northern Territory) Amendment Bill 2006**

The House of Representatives amended this bill on 19 June 2006. The Senate also amended the bill and requested that the House of Representatives make amendments to the bill on 16 August 2006. The House of Representatives made the requested amendments on 16 August 2006 and agreed to the Senate amendments on 17 August 2006.

#### **Delegation of power to a person Proposed new subsection 76(1)**

The amendments raise no issues within the Committee's terms of reference. However, the Committee notes that the amendment to proposed new subsection 76(1), inserted by item 202 of Schedule 1 of the bill, addresses a concern raised by the Committee in its commentary on the bill in *Alert Digest No. 5 of 2006*. The Committee was concerned that the proposed new subsection would give the Minister an unfettered discretion to delegate certain functions or powers to 'a person'. The Committee prefers to see some reference to the relevant attributes or qualifications which a person must possess before being appointed a delegate. In responding to the Committee's concerns, the Minister undertook to consider whether amendments should be made to meet the Committee's concerns. The amendment to proposed new subsection 76(1) stipulates that the functions and powers in question may be delegated to 'the Secretary of the Department, or an SES employee or acting SES employee in the Department'. The Committee thanks the Minister for this amendment which addresses its concerns.

### **Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006]**

On 4 September 2006, the Senate agreed to amend this bill. The amendment raises no issues within the Committee's terms of reference.



## SCRUTINY OF STANDING APPROPRIATIONS

The committee has determined that, as part of its standard procedures for reporting on bills, it should draw senators' attention to the presence in bills of standing appropriations. It will do so under provisions 1(a)(iv) and (v) of its terms of reference, which require the committee to report on whether bills:

- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Further details of the Committee's approach to scrutiny of standing appropriations are set out in the committee's *Fourteenth Report of 2005*. The following is a list of the bills containing standing appropriations that have been introduced since the beginning of the 41<sup>st</sup> Parliament.

### Bills introduced with standing appropriation clauses - 41<sup>st</sup> Parliament

*Indicates passed by Senate	Bills and Clauses
*	<b>Appropriation (Regional Telecommunications Services) Bill 2005-2006</b> – clause 13
*	<b>Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005</b> – subclause 8(2)
*	<b>Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005</b> – subclause 5(3)
*	<b>Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Bill 2005</b> – clause 23
*	<b>Financial Framework Legislation Amendment Bill 2004</b> – Schedule 1, item 397, paragraphs 124(1)(b) and (c) and item 422, subsection 235(2)  [also Schedule 1, items 58, 63, 82, 86, 95, 99, 114, 135, 136, 145, 153, 164, 169, 182, 197, 205, 218, 261, 293, 317, 324, 370, 419, 437, 448, 484 and 493 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i> ]
*	<b>Human Services Legislation Amendment Bill 2005</b> – Schedule 2, subitem 720(4)
*	<b>Indigenous Education (Targeted Assistance) Amendment Bill 2004</b> – Schedule 1, item 3, subsection 14A(1)
*	<b>National Water Commission Bill 2004</b> – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>

*	<b>Offshore Petroleum Bill 2005</b> – clause 56
*	<b>Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004</b> – clause 133
*	<b>Skilling Australia’s Workforce Bill 2005</b> – clause 40
*	<b>Superannuation Bill 2005</b> – subclause 29(4)
*	<b>Superannuation (Consequential Amendments) Bill 2005</b> – Schedule 5, item 1, subsection 4AA(5) and Schedule 6, item 1, subsection 12A(5)
*	<b>Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005</b> – Schedule 1, item 1, subsections 158ZO(4), 158ZP(7) and 158ZQ(5) and Schedule 3, item 1, subsection 136C(4)
*	<b>Textile Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Bill 2004</b> – Schedule 1, item 12, section 37ZH and subsection 37ZJ(3)
*	<b>Water Efficiency Labelling and Standards Bill 2004</b> – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>

**Other relevant appropriation clauses**

*Indicates Passed by Senate	Bills and Clauses
*	<b>AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004</b> – Schedule 2, item 3: special appropriation clause – for a finite amount and a finite period of time.
*	<b>Social Security Legislation Amendment (One-off Payments for Carers) Bill 2005</b> – Schedule 2, item 1: special appropriation clause – for a finite period of time (i.e. for circumstances arising in a particular financial year).

## STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2005/2006

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
<b>Bills dealt with in 2005</b>							
Australian Citizenship Bill 2005	14(30.11.05)	9.11.05		Citizenship and Multicultural Affairs	1.12.05	13.2.06	1(1.3.06)
Corporations (Aboriginal and Torres Strait Islander) Bill 2005	8(10.8.05) 9(17.8.05)	23.6.05		Immigration and Multicultural and Indigenous Affairs	11.8.05		
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2005	11(14.9.05)	5.9.05	--	Mr Katter	15.9.05	--	RNP
Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2005	11(14.9.05)	5.9.05	--	Mr Kerr	15.9.05	--	RNP
<i>Workplace Relations Amendment (Work Choices) Act 2005</i>	13(9.11.05)	2.11.05	10.11.05	Employment and Workplace Relations	10.11.05	28.3.06	2(29.3.06)
<b>Bills dealt with in 2006</b>							
Aboriginal Land Rights (Northern Territory) Amendment Bill 2006	5(14.6.06)	31.5.06	20.6.06	Families, Community Services and Indigenous Affairs	15.6.06	20.6.06 17.7.06	4(21.6.06) 5(9.8.06)
Aged Care (Bond Security) Bill 2005	1(8.2.06)	8.12.05	9.2.06	Ageing	9.2.06	23.3.06	2(29.3.06)
Airport Development and Aviation Noise Ombudsman Bill 2006	4(10.5.06)	27.3.06		Mr Georganus	11.5.06		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
ASIO Legislation Amendment Bill 2006 Noise Ombudsman Bill 2006	4(10.5.06)	29.3.06	13.6.06	Attorney-General	11.5.06	8.6.06	3(14.6.06)
Australian Sports Anti-Doping Authority Bill 2005	1(8.2.06)	7.12.05	9.2.06	Arts and Sport	9.2.06	27.2.06	1(1.3.06)
Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006	7(9.8.06)		21.6.06	Justice and Customs	10.8.06	15.8.06	6(16.8.06)
<i>Defence Legislation Amendment (Aid to Civilian Authorities) Act 2005</i>	1(8.2.06)	13.2.06	7.12.05	Defence	9.2.06	27.3.06	2(29.3.06)
Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006	5(14.6.06)	31.5.06		Education, Science and Training	15.6.06	19.7.06	5(9.8.06)
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006	5(14.6.06)	25.5.06	13.6.06	Families, Community Services and Indigenous Affairs	15.6.06	20.6.06	4(21.6.06)
Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006	4(10.5.06)	29.3.06	22.6.06	Attorney-General	11.5.06	20.6.06	4(21.6.06)
Law Enforcement Integrity Commissioner Bill 2006	4(10.5.06)	29.3.06	22.6.06	Attorney-General	11.5.06	20.6.06	4(21.6.06)
Migration Amendment (Designated Unauthorised Arrivals) Bill 2006	5(14.6.06)	11.5.06		Immigration and Multicultural Affairs	15.6.06		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Migration Amendment (Visa Integrity) Bill 2006	7(9.8.06)		21.6.06	Immigration and Multicultural Affairs	10.8.06		
Protection of the Sea (Harmful Anti-Fouling System) Bill 2006	7(9.8.06)	22.6.06		Transport and Regional Services	10.8.06	5.9.06	7(6.9.06)
Renewable Energy (Electricity) Amendment Bill 2006	3(29.3.06)	2.3.06	21.6.06	Environment and Heritage	30.3.06	18.5.06	4(21.6.06)
Tax Laws Amendment (2006 Measures No. 4) Bill 2006	7(9.8.06)	22.6.06		Treasurer	10.8.06		
Telecommunications (Interception) Amendment Bill 2006	2(1.3.06)	16.2.06	1.3.06	Attorney-General	2.3.06	17.3.06	2(29.3.06)
Trade Practices Legislation Amendment Bill 2006	7(9.8.06)	19.6.06		Mr Katter	10.8.06		

