

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

Alert Digest

No. 14 of 2006

29 November 2006

Senate Standing Committee
for the
Scrutiny of Bills

Alert Digest No. 14 of 2006

29 November 2006

ISSN 1329-668X

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.

TABLE OF CONTENTS

Commentary on bills

Migration Legislation Amendment (Duration of Detention) Bill 2006	5
---	---

Migration Legislation Amendment (Restoration of Human Rights) Bill 2006	6
---	---

Commentary on amendments to bills	7
--	---

Scrutiny of standing appropriations	8
-------------------------------------	---

- **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.

Migration Legislation Amendment (Duration of Detention) Bill 2006

Introduced into the Senate on 9 November 2006

By Senator Bartlett

Background

This bill amends the *Migration Amendment (Duration of Detention) Act 2003* to allow courts to release persons from immigration detention whilst an appeal seeking their release is before the courts.

The Committee has no comment on this bill.

Migration Legislation Amendment (Restoration of Human Rights) Bill 2006

Introduced into the Senate on 9 November 2006

By Senator Bartlett

Background

This bill amends the *Migration Legislation Amendment Act (No. 2) 1998* to allow the Human Rights and Equal Opportunities Commission and others to give legal advice or assistance to immigration detainees.

The Committee has no comment on this bill.

COMMENTARY ON AMENDMENTS TO BILLS

Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget and Other Measures) Bill 2006

The Committee commented on this bill in its *Tenth Report of 2006*, and among other things, drew the Senate's attention to entry, search and seizure provisions contained in Schedule 2.

Search and Entry Schedule 2

The Senate Legal and Constitutional Affairs Committee reported on this bill on 22 November 2006.

The Committee notes that the Senate amended this bill on 28 November 2006 to remove Schedule 2 from the bill in its entirety.

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

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 41st Parliament.

Bills introduced with standing appropriation clauses - 41st Parliament

*Indicates passed by Senate	Bills and Clauses
*	Aged Care (Bond Security) Bill 2006 – clause 17
*	Appropriation (Regional Telecommunications Services) Bill 2005-2006 – clause 13
*	Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005 – subclause 8(2)
*	Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005 – subclause 5(3)
*	Australian Participants in British Nuclear Tests (Treatment) Bill 2006 – clause 49
*	Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Bill 2005 – clause 23
*	Australian Trade Commission Legislation Amendment Bill 2006 – Schedule 4, item 16
*	Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006 – Schedule 5, subitem 20(3)
	Federal Magistrates Amendment (Disability and Death Benefits) Bill 2006 – Schedule 1, item 13, section 9G

*	Financial Framework Legislation Amendment Bill 2004 – 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>]
*	Future Fund Bill 2006 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>
*	Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Bill 2006 – Schedule 2, subitem 1(3)
*	Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Bill 2006 – clause 9
*	Human Services Legislation Amendment Bill 2005 – Schedule 2, subitem 720(4)
*	Indigenous Education (Targeted Assistance) Amendment Bill 2004 – Schedule 1, item 3, subsection 14A(1)
	Indigenous Education (Targeted Assistance) Amendment Bill 2006 – Schedule 1, subsection 14A
	Medibank Private Sale Bill 2006 – Schedule 2, subitem 8(1)
	Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 - Schedule 1, subitem 43(3)
*	National Water Commission Bill 2004 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>
*	Offshore Petroleum Bill 2005 – clause 56
*	Plant Health Australia (Plant Industries) Funding Amendment Bill 2006 - Schedule 1, item 17, section 10B
*	Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004 – clause 133
*	Skilling Australia’s Workforce Bill 2005 – clause 40
*	Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Bill 2006 - Schedule 4, subitem 1(4)
*	Superannuation Bill 2005 – subclause 29(4)
*	Superannuation (Consequential Amendments) Bill 2005 – Schedule 5, item 1, subsection 4AA(5) and Schedule 6, item 1, subsection 12A(5)
*	Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005 – Schedule 1, item 1, subsections 158ZO(4), 158ZP(7) and 158ZQ(5) and Schedule 3, item 1, subsection 136C(4)
*	Textile Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Bill 2004 – Schedule 1, item 12, section 37ZH and subsection 37ZJ(3)
*	Water Efficiency Labelling and Standards Bill 2004 – 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
*	AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004 – Schedule 2, item 3: special appropriation clause – for a finite amount and a finite period of time.
*	Social Security Legislation Amendment (One-off Payments for Carers) Bill 2005 – 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	
Bills dealt with in 2005							
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	16.10.06	Immigration and Multicultural and Indigenous Affairs	11.8.05	10.10.06	8(11.10.06)
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
Workplace Relations Amendment (Work Choices) Act 2005	13(9.11.05)	2.11.05	10.11.05	Employment and Workplace Relations	10.11.05	28.3.06	2(29.3.06)
Bills dealt with in 2006							
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 Amendment (Residential Care) Bill 2006	11(11.10.06)		13.9.06	Health and Ageing	12.10.06	17.10.06	9(18.10.06)
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)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Airport Development and Aviation Noise Ombudsman Bill 2006	4(10.5.06)	27.3.06		Mr Georganus	11.5.06		
Anti-Money Laundering and Counter-Terrorism Financing Bill 2006	13(8.11.06)	1.11.06		Justice and Customs	9.11.06	29.11.06	11(29.11.06)
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 Participants in British Nuclear Tests (Treatment) Bill 2006	11(11.10.06)	14.9.06	12.10.06	Veterans' Affairs	12.10.06		
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)
Customs Legislation Amendment (New Zealand Rules of Origin) Bill 2006	13(8.11.06)	1.11.06		Justice and Customs	9.11.06	27.11.06	11(29.11.06)
Datacasting Transmitter Licence Fees Bill 2006	12(18.10.06)	12.10.06		Communications, Information Technology and the Arts	19.10.06	27.11.06	11(29.11.06)
<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)
Defence Legislation Amendment Bill 2006	11(11.10.06)	14.9.06		Defence	12.10.06	28.11.06	11(29.11.06)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006	5(14.6.06)	31.5.06	14.9.06	Education, Science and Training	15.6.06	19.7.06	5(9.8.06)
Environment and Heritage Legislation Amendment Bill (No. 1) 2006	12(18.10.06)	12.10.06	6.11.06	Environment and Heritage	19.10.06	13.11.06	11(29.11.06)
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)
Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Bill 2006	11(11.10.06)	14.9.06	11.10.06	Families, Community Services and Indigenous Affairs	12.10.06	7.11.06	10(8.11.06)
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2006	10(13.9.06)	4.9.06	--	Mr Katter	14.9.06		
Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Bill 2006	11(11.10.06)	13.9.06	11.10.06	Treasurer	12.10.06	17.10.06	9(18.10.06)
Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006	10(13.9.06)	7.9.06		Attorney-General	14.9.06	17.10.06	10(8.11.06)
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)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
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)
Medibank Private Sale Bill 2006	13(8.11.06)	18.10.06	6.11.06	Finance and Administration	9.11.06	20.11.06	11(29.11.06)
Migration Amendment (Designated Unauthorised Arrivals) Bill 2006	5(14.6.06)	11.5.06	--	Immigration and Multicultural Affairs	15.6.06		Message Rep
Migration Amendment (Visa Integrity) Bill 2006	7(9.8.06)		21.6.06	Immigration and Multicultural Affairs	10.8.06	10.10.06	8(11.10.06)
Protection of the Sea (Harmful Anti-Fouling System) Bill 2006	7(9.8.06)	22.6.06	7.9.06	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	16.10.06	Treasurer	10.8.06	17.10.06	9(18.10.06)
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		