
# SENATE STANDING COMMITTEE

# FOR THE

# SCRUTINY OF BILLS

## FIFTH REPORT

## OF

## 2009

**2 June 2009**

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## SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## MEMBERS OF THE COMMITTEE

Senator the Hon H Coonan (Chair)
Senator M Bishop (Deputy Chair)
Senator D Cameron
Senator J Collins
Senator R Siewert
Senator the Hon J Troeth

## 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.

# SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## FIFTH REPORT OF 2009

The Committee presents its Fifth Report of 2009 to the Senate.

The Committee draws the attention of the Senate to clauses of the following bills which contain provisions that the Committee considers may fall within principles 1(a)(i) to 1(a)(v) of Standing Order 24:

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009 *****

Tax Laws Amendment (2009 Measures No. 2) Bill 2009 *****

***** Although these bills have not yet been introduced in the Senate, the Committee may report on the proceedings in relation to these bills, under standing order 24(9).

# Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009

## *Introduction*

The Committee dealt with this bill in *Alert Digest No. 5 of 2009*. The Minister for Resources and Energy responded to the Committee's comments in a letter dated 1 June 2009. A copy of the letter is attached to this report.

## *Extract from Alert Digest No. 5 of 2009*

Introduced into the House of Representatives on 19 March 2009
Portfolio: Resources and Energy

### Background

This bill contains three main elements to amend the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Offshore Petroleum and Greenhouse Gas Storage Act).

First, the bill addresses minor policy and technical issues identified during consultative processes reviewing the operation of the Offshore Petroleum and Greenhouse Gas Storage Act over the past two years by:

- providing an 'expedited' consultation process for the granting of an access authority to titles in adjoining offshore areas where the title holders have consented to the access;
- changing the decision-maker who can declare a petroleum location and grant a scientific investigation consent from the Designated Authority (DA) to the Joint Authority (JA);
- requiring notification of discovery of petroleum in a production license area, as is required for other titles, and extending the period of notification of discovery of petroleum from immediately to within 30 days from completion of the well that led to the discovery;

- empowering the DA to issue instruments to allow relabelling of, for example, title areas and blocks using coordinates corresponding to the current datum rather than providing this power through regulations as occurs currently;

- providing in unequivocal terms that the fault element for duty of care offences is negligence and not intent;

- removing the consent to operate a pipeline;
- removing requirements for Data Management Plans; and

- clarifying titleholder's responsibility for matters within their control in relation to drilling safety cases.

Second, the bill corrects omissions in and makes clarifications to the greenhouse gas provisions in the Offshore Petroleum and Greenhouse Gas Storage Act, which came into effect in November 2008.

Third, the bill makes a number of technical corrections, including references to the Offshore Petroleum and Greenhouse Gas Storage Act in other legislation.

**Insufficiently defined administrative power**
**Schedule 1, items 29 and 30, new sections 471A and 523A**

Item 28 of Schedule 1 amends sections 44 and 45 of the Offshore Petroleum and Greenhouse Gas Storage Act to allow the DA to issue an instrument to vary petroleum titles and instruments, greenhouse gas titles and instruments, applications for petroleum titles and applications for greenhouse gas titles by relabelling them using coordinates based on the current datum. However, item 29 of Schedule 1 adds a new section 471A, giving the DA the power to make a notation in the Register about the applicable datum for a petroleum title, petroleum special prospecting authority, notice or instrument. The explanatory memorandum states that '(w)hen a new Datum is gazetted there can be considerable work in relabelling titles with new coordinates. This item allows the DA to make a notation in the Register rather than necessarily issuing an instrument as set out in Sections 44-45 for every change'.

Similarly, item 30 of Schedule 1 adds a new section 523A allowing the Minister to make a notation in the Register about the applicable datum for a greenhouse gas title, greenhouse gas search authority, notice or instrument.

The Committee **seeks the Minister's advice** as to whether greater certainty might be included in the bill in relation to the particular circumstances in which Register notations under proposed new sections 471A and 523A will be deemed appropriate.

*Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the Committee's terms of reference, and may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the Committee's terms of reference.*

## *Relevant extract from the response from the Minister*

The key matter raised by the Committee is about Items 29 and 30 of Schedule 1 in the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009* which provide for two new sections, 471A and 523A to be added to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act) at the end of Parts 4.2 and 5.2 respectively.

These new sections allow the Designated Authority, in relation to petroleum titles, and the responsible Commonwealth Minister, in relation to greenhouse gas titles, to make a notation in the Register about the applicable Datum for a title, authority, notice or instrument. The Committee raised whether the Bill might provide greater certainty about the particular circumstances in which Register notations will be deemed appropriate.

As discussed in the Explanatory Memorandum to the Bill, the transition from the current Datum to a new Datum is a large task for Registrars. However, it is infrequent and has only occurred once in recent times. This was when the Geocentric Datum of Australia was gazetted for purposes of the Act on 29 August 2002.

The current Datum will not be revised for a number of years. When this does occur, on the basis that there are over 300 petroleum titles at this time in Australia, it would be a very large and onerous task to issue a new instrument for each title and publish a new gazette notice for each variation, where applicable.

Sections 471A and 523A set out an alternate, streamlined process for doing this which does not alter the nature of the title or any documents such as notices and instruments which may refer to a title. It is intended the streamlined process would apply to all existing titles as it provides an administratively simpler process for transitioning from an existing Datum to a new one.

In order to make a notation under sections 471A and 523A a titles Registrar would necessarily need to consult Division 2, Subdivision A of the Act, which sets out the

Datum provisions. Under those provisions, the only relabelling that occurs is when there is a change in the current Datum. When a Datum changes, the underlying graticular block arrangement for petroleum titles is not changed and the area under title does not change, although the coordinates of the area are relabelled in line with the new Datum.

The Committee thanks the Minister for this response, which addresses its concerns.

# Tax Laws Amendment (2009 Measures No. 2) Bill 2009

## *Introduction*

The Committee dealt with this bill in *Alert Digest No. 5 of 2009*. The Assistant Treasurer responded to the Committee's comments in a letter dated 28 May 2009. A copy of the letter is attached to this report.

## *Extract from Alert Digest No. 5 of 2009*

Introduced into the House of Representatives on 19 March 2009
Portfolio: Treasury

### Background

This bill amends various taxation laws to implement a range of improvements to Australia's tax laws.

Schedule 1 amends the *Banking Act 1959*, the *First Home Saver Accounts Act 2008*, the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Income Tax (Transitional Provisions) Act 1997*, the *Insurance Act 1973* and the *Taxation Administration Act 1953* to ensure that there are no adverse tax implications arising from payments made by the Australian Prudential Regulation Authority (APRA), or by a liquidator, under the financial claims scheme in relation to capital gains tax, farm management deposits, retirement savings accounts, first home saver accounts, and various reporting and withholding obligations.

Schedule 2 amends the *Income Tax Assessment Act 1997*, the *Income Tax Assessment Act 1936* and the *Tax Laws Amendment (2008 Measures No. 6) Act 2009* to increase access to the small business capital gains tax (CGT) concessions for taxpayers owning passively held CGT assets; and clarifies and refines elements of the existing small business CGT concession provisions.

Schedule 3 amends the *Income Tax Assessment Act 1997* to provide a general exemption from CGT for capital gains arising from a right or entitlement to a tax offset, deduction or similar benefit.

Schedule 4 amends the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997* and the *Taxation (Interest on Overpayments and Early Payments) Act 1983* to provide a refundable tax offset in relation to eligible projects approved under the National Urban Water and Desalination Plan.

Schedule 5 amends the *Income Tax Assessment Act 1997* to update the list of the deductible gift recipients to include four new entities and to extend the time limit of three organisations currently listed.

Schedule 6 amends the *A New Tax System (Australian Business Number) Act 1999* to allow the Registrar of the Australian Business Register (ABR) to act as the Multi-agency Registration Authority, to enable representatives of businesses to be identified for the purpose of communicating electronically with multiple government agencies on behalf of businesses; and to improve the integrity and efficiency of the ABR and help position the Registrar to take on the role of the Multi-agency Registration Authority.

Schedule 7 amends the *Fuel Tax Act 2006* and the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* to remove the restriction that businesses may not claim more than $3 million of fuel tax credits in a financial year unless they are a member of the Greenhouse Challenge Plus Programme.

Schedule 8 amends the *Income Tax Assessment Act 1997* to provide an exemption from tax for the Clean-up and Restoration Grants paid to small businesses and primary producers affected by the Victorian bushfires.

The bill also contains application, consequential and transitional provisions.

**Retrospective commencement**
**Clause 2**

Clause 2 of the bill contains a table of commencement information. Item 3 of the table in clause 2 shows that item 1 of Schedule 2 commenced on 21 June 2007. The explanatory memorandum states (at page 4) that the relevant amendments relate to CGT events in the 2007-08 income year but does not explain the need for retrospective application.

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. The Committee, therefore, **seeks the Treasurer's advice** on the reasons for the retrospective commencement of item 1 of Schedule 2.

*Pending the Treasurer's advice, 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.*

## *Relevant extract from the response from the Assistant Treasurer*

The Committee seeks advice on the reasons for the retrospective commencement of item 1 of Schedule 2.

Individual partners make capital gains when a capital gains tax (CGT) event happens in relation to a partnership asset. Therefore, individual partners must satisfy the basic conditions in subsection 152-10(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) if seeking access to the small business CGT concessions. Although the small business CGT concessions apply to a partner's interest in a CGT asset of the partnership (that is, the 'CGT asset of yours' referred to in paragraph 152-10(1)(a) of the ITAA 1997), the provision refers to the asset as an 'asset of the partnership'.

Therefore, on a strict reading, the current provisions are unworkable for partners in a partnership who are seeking relief via the small business entity test. If the current provisions were applied strictly, it would not be possible for a partner in a partnership to obtain access via the small business entity test.

Item 1 of Schedule 2 amends subparagraph 152-10(1)(c)(iii) of the ITAA 1997 to refer to the partner's 'interest in an asset of the partnership', consistent with the references earlier in the subsection. The amendment will clarify this aspect of the law and align it with the intended operation of the provision, consistent with the explanation given in paragraphs 2.12-2.14 of the Explanatory Memorandum.

The retrospectivity of the proposed amendment does not disadvantage any partner who has accessed the concessions during the period of retrospectivity. The proposed amendment puts beyond doubt the legitimacy of that access.

The Committee thanks the Assistant Treasurer for this response.

**Insufficiently defined administrative powers**
**Schedule 1, item 9, new subsection 128A(5)**

Proposed new section 128A, to be inserted by item 9 of Schedule 1, comprises special provisions applying if financial claims scheme entitlements arise in relation to first home saver accounts (FHSAs). If a failed authorised deposit taking institution (ADI) holds a person's FHSA then it will need to be transferred to a new FHSA. However, the person's circumstances may have changed making them no longer eligible for an FHSA.

Proposed new subsection 128A(5) requires a person to give notice that they do not satisfy the FHSA eligibility requirements within 30 days after notice is sent to them that a new FHSA has been opened in their name with a new FHSA provider. The explanatory memorandum states (at paragraph 1.40) that '(t)his will ensure that the tax and penalty consequences of ineligibility will be as similar as possible to what they would have been if the old FHSA provider had not become a declared ADI'.

However, the Committee considers that the provision is indeterminate in nature. It does not specify that APRA must send the notice about the new FHSA, nor state whom the person must notify about failure to satisfy eligibility requirements. The Committee **seeks the Treasurer's advice** as to whether there will be any liability to penalty or sanction under proposed new subsection 128A(5) and, if so, whether such penalty or sanction might be specified.

*The Committee draws Senators' attention to the provision, as it may be considered to make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the Committee's terms of reference.*

## *Relevant extract from the response from the Assistant Treasurer*

> The Committee seeks advice whether there will be any liability to penalty or sanction under proposed new subsection 128A(5) of the *First Home Saver Accounts Act 2008* (FHSA Act) and, if so, whether such penalty or sanction might be specified.
>
> When proposed subsection 128A(5) is read in conjunction with section 20 of the FHSA Act and the *Banking Act 1959*, its application is clear and can be readily determined.

Proposed section 128A of the FHSA Act is a special provision applying if financial claims scheme entitlements arise in relation to first home saver accounts. Proposed subsection 128A(5) applies to protect a holder of a first home saver account from penalties in the event that they cannot notify their first home saver account provider of a change in their circumstances because the provider has failed.

Under section 20 of the FHSA Act, a holder of a first home saver account must notify their provider (within 30 days) of a change in circumstances which results in the holder no longer being eligible to hold a first home saver account. However, if their provider fails they will not be able to notify their provider as required under the law. Nor will their provider be able to take the necessary actions required as a result of receiving such a notification. This would inappropriately lead to a holder being subject to a penalty relating to their failure to comply with the FHSA Act.

Proposed subsection 128A(5) applies in such circumstances to delay the time by which a holder is required to make their notification to the provider. The new due date for notification is 30 days after the holder receives notification that a new first home saver account has been opened for them by APRA. The *Banking Act 1959* and arrangements to be put in place by APRA (in the event an entitlement arising under the financial claims scheme) will ensure that either APRA or the new provider will notify the holder that a new account has been opened for them and where that account is now held.

The holder's obligations to notify the provider of the changed circumstances remain on hold until he or she receives this notification. After the notification has been received, the holder will have 30 days from this time to notify their new provider of the changed circumstances. The existing section 20 of the FHSA Act (for which proposed subsection 128A(5) modifies its application) will still provide for the penalty and the information that is required by the notice as well as to whom the notice is required to be made. In substance, proposed subsection 128A(5) only seeks to delay the time by which a holder of a first home saver account is required to notify their provider of a change in circumstances.

The Committee thanks the Assistant Treasurer for this response, which addresses its concerns.

**Merits review**
**Clarification of statement in explanatory memorandum**
**Schedule 4, item 10, new subsection 402-765(5) and new section 402-775**

Proposed new section 402-775, to be inserted by item 10 of Schedule 4, grants a company the right to seek merits review of decisions made by the Water Minister in relation to: the refusal to issue a certificate to the company; the amount of urban water offset specified in such a certificate; or the revocation of such a certificate.

The Committee considers that the explanatory memorandum (at paragraph 4.22) is misleading in stating that 'review rights apply only to the process surrounding the issuance and revoking of certificates'. In fact, both proposed new section 402-775 and proposed new subsection 402-765(5) (also to be inserted by item 10 of Schedule 4) grant the right to seek review of a decision specifying the amount of the offset set out in a certificate. The Committee **brings this matter to the Treasurer's attention** and **seeks his advice** as to whether consideration could be given to amending the explanatory memorandum to accurately inform companies of their review rights.

## *Relevant extract from the response from the Assistant Treasurer*

> The Committee asks whether consideration could be given to amending the Explanatory Memorandum to 'accurately inform companies of their review rights'.
>
> The Government does not consider the relevant statement in the Explanatory Memorandum requires amendment, on the basis that it already provides sufficient clarity. The circumstances in which a company may seek an Administrative Appeals Tribunal review of the Water Minister's decision are listed at paragraph 4.20. The explanatory memorandum notes at paragraph 4.22 that while the rights of appeal extend to the issues covered in paragraph 4.20, they do not extend to the application for assistance under the Government's National Urban Water and Desalination Plan.
>
> I hope these responses assist the Committee.

The Committee thanks the Assistant Treasurer for this response.

Senator the Hon Helen Coonan
Chair

# THE HON MARTIN FERGUSON AM MP

**MINISTER FOR RESOURCES AND ENERGY**
**MINISTER FOR TOURISM**

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Min ID: B09/1192

01 JUN 2009

Senator the Hon Helen Coonan
Senator for New South Wales
Chair
Senate Scrutiny of Bills Committee
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan

I am replying to the letter of 14 May 2009 from Ms Julie Dennett, Secretary to the Standing Committee For The Scrutiny Of Bills to my Senior Adviser. The letter advised of matters raised in the Committee's Alert Digest No. 5 of 2009 (13 May 2009) in relation to the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009* and the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Amendment Bill 2009.*

The key matter raised by the Committee is about Items 29 and 30 of Schedule 1 in the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Bill 2009* which provide for two new sections, 471A and 523A to be added to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act) at the end of Parts 4.2 and 5.2 respectively.

These new sections allow the Designated Authority, in relation to petroleum titles, and the responsible Commonwealth Minister, in relation to greenhouse gas titles, to make a notation in the Register about the applicable Datum for a title, authority, notice or instrument. The Committee raised whether the Bill might provide greater certainty about the particular circumstances in which Register notations will be deemed appropriate.

As discussed in the Explanatory Memorandum to the Bill, the transition from the current Datum to a new Datum is a large task for Registrars. However, it is infrequent and has only occurred once in recent times. This was when the Geocentric Datum of Australia was gazetted for purposes of the Act on 29 August 2002.

The current Datum will not be revised for a number of years. When this does occur, on the basis that there are over 300 petroleum titles at this time in Australia, it would be a very large and onerous task to issue a new instrument for each title and publish a new gazette notice for each variation, where applicable.


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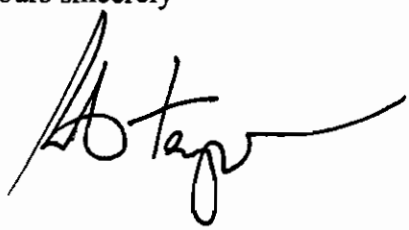
Sections 471A and 523A set out an alternate, streamlined process for doing this which does not alter the nature of the title or any documents such as notices and instruments which may refer to a title. It is intended the streamlined process would apply to all existing titles as it provides an administratively simpler process for transitioning from an existing Datum to a new one.

In order to make a notation under sections 471A and 523A a titles Registrar would necessarily need to consult Division 2, Subdivision A of the Act, which sets out the Datum provisions. Under those provisions, the only relabelling that occurs is when there is a change in the current Datum. When a Datum changes, the underlying graticular block arrangement for petroleum titles is not changed and the area under title does not change, although the coordinates of the area are relabelled in line with the new Datum.

My adviser and officers of the Department of Resources, Energy and Tourism are available to meet with the Committee's Secretary to discuss any of these matters if required.

Yours sincerely



Martin Ferguson

# The Hon Chris Bowen MP
## Assistant Treasurer
## Minister for Competition Policy and Consumer Affairs

2 8 MAY 2009

**Senator the Hon Helen Coonan**
**Chair**
**Senate Standing Committee for the Scrutiny of Bills**
**Parliament House**
**CANBERRA ACT 2600**



Dear Senator Coonan

I refer to the comments contained in the *Alert Digest* No. 5 of 2009 (13 May 2009) concerning the Tax Laws Amendment (2009 Measures No. 2) Bill 2009. The Government's response to the Committee's concerns is set out below.

*Increase access to the small business CGT concessions (Schedule 2) — reasons for the retrospective commencement of an amendment*

The Committee seeks advice on the reasons for the retrospective commencement of item 1 of Schedule 2.

Individual partners make capital gains when a capital gains tax (CGT) event happens in relation to a partnership asset. Therefore, individual partners must satisfy the basic conditions in subsection 152-10(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) if seeking access to the small business CGT concessions. Although the small business CGT concessions apply to a partner's interest in a CGT asset of the partnership (that is, the 'CGT asset of yours' referred to in paragraph 152-10(1)(a) of the ITAA 1997), the provision refers to the asset as 'an asset of the partnership'.

Therefore, on a strict reading, the current provisions are unworkable for partners in a partnership who are seeking relief via the small business entity test. If the current provisions were applied strictly, it would not be possible for a partner in a partnership to obtain access via the small business entity test.

Item 1 of Schedule 2 amends subparagraph 152-10(1)(c)(iii) of the ITAA 1997 to refer to the partner's 'interest in an asset of the partnership', consistent with the references earlier in the subsection. The amendment will clarify this aspect of the law and align it with the intended operation of the provision, consistent with the explanation given in paragraphs 2.12-2.14 of the Explanatory Memorandum.

The retrospectivity of the proposed amendment does not disadvantage any partner who has accessed the concessions during the period of retrospectivity. The proposed amendment puts beyond doubt the legitimacy of that access.

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*Schedule 1, item 9, new subsection 128A(5) of the First Home Saver Accounts Act 2008*

The Committee seeks advice whether there will be any liability to penalty or sanction under proposed new subsection 128A(5) of the *First Home Saver Accounts Act 2008* (FHSA Act) and, if so, whether such penalty or sanction might be specified.

When proposed subsection 128A(5) is read in conjunction with section 20 of the FHSA Act and the *Banking Act 1959*, its application is clear and can be readily determined.

Proposed section 128A of the FHSA Act is a special provision applying if financial claims scheme entitlements arise in relation to first home saver accounts. Proposed subsection 128A(5) applies to protect a holder of a first home saver account from penalties in the event that they cannot notify their first home saver account provider of a change in their circumstances because the provider has failed.

Under section 20 of the FHSA Act, a holder of a first home saver account must notify their provider (within 30 days) of a change in circumstances which results in the holder no longer being eligible to hold a first home saver account. However, if their provider fails they will not be able to notify their provider as required under the law. Nor will their provider be able to take the necessary actions required as a result of receiving such a notification. This would inappropriately lead to a holder being subject to a penalty relating to their failure to comply with the FHSA Act.

Proposed subsection 128A(5) applies in such circumstances to delay the time by which a holder is required to make their notification to the provider. The new due date for notification is 30 days after the holder receives notification that a new first home saver account has been opened for them by APRA. The *Banking Act 1959* and arrangements to be put in place by APRA (in the event an entitlement arising under the financial claims scheme) will ensure that either APRA or the new provider will notify the holder that a new account has been opened for them and where that account is now held.

The holder's obligations to notify the provider of the changed circumstances remain on hold until he or she receives this notification. After the notification has been received, the holder will have 30 days from this time to notify their new provider of the changed circumstances. The existing section 20 of the FHSA Act (for which proposed subsection 128A(5) modifies its application) will still provide for the penalty and the information that is required by the notice as well as to whom the notice is required to be made. In substance, proposed subsection 128A(5) only seeks to delay the time by which a holder of a first home saver account is required to notify their provider of a change in circumstances.

*National Urban Water and Desalination Plan — urban water offset (Schedule 4)*

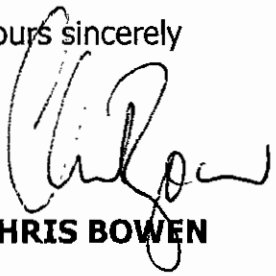
The Committee asks whether consideration could be given to amending the Explanatory Memorandum to 'accurately inform companies of their review rights'.

The Government does not consider the relevant statement in the Explanatory Memorandum requires amendment, on the basis that it already provides sufficient clarity. The circumstances in which a company may seek an Administrative Appeals Tribunal review of the Water Minister's decision are listed at paragraph 4.20. The explanatory

memorandum notes at paragraph 4.22 that while the rights of appeal extend to the issues covered in paragraph 4.20, they do not extend to the application for assistance under the Government's National Urban Water and Desalination Plan.

I hope these responses assist the Committee.

Yours sincerely



**CHRIS BOWEN**