

SELECTION OF BILLS COMMITTEE

REPORT NO. 5 of 2007

29 March 2007

MEMBERS OF THE COMMITTEE

Senator Jeannie Ferris (Government Whip, Chair)

Senator George Campbell (Opposition Whip)

Senator Andrew Bartlett (Australian Democrats Whip)

Senator Fiona Nash (The Nationals Whip)

Senator Rachel Siewert (The Australian Greens Whip)

Senator the Hon. Eric Abetz

Senator Joe Ludwig

Senator Stephen Parry (Deputy Chair)

Senator Ruth Webber

Secretary: Richard Pye
☎ 6277 3020

SELECTION OF BILLS COMMITTEE

REPORT NO. 5 OF 2007

1. The committee met in private session on Wednesday, 28 March 2007 at 4.16 pm.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Aged Care Amendment (Residential Care) Bill 2007 be *referred immediately* to the Community Affairs Committee for inquiry and report by 17 May 2007 (see appendices 1 and 2 for statements of reasons for referral);
 - (b) the Gene Technology Amendment Bill 2007 be *referred immediately* to the Community Affairs Committee for inquiry and report by 1 May 2007 (see appendix 3 for a statement of reasons for referral);
 - (c) the Food Standards Australia New Zealand Amendment Bill 2007 be *referred immediately* to the Community Affairs Committee for inquiry and report by 1 May 2007 (see appendices 4 to 6 for statements of reasons for referral); and
 - (d) the *provisions* of the Liquid Fuel Emergency Amendment Bill 2007 be *referred immediately* to the Economics Committee for inquiry and report by 8 May 2007 (see appendix 7 for a statement of reasons for referral);
 - (e) the *provisions* of the Broadcasting Legislation Amendment (Digital Radio) Bill 2007 and the Radio Licence Fees Amendment Bill 2007 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Committee for inquiry and report by 30 April 2007 (see appendix 8 for a statement of reasons for referral).
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
 - Classification (Publications, Films and Computer Games) Amendment (Advertising and Other Matters) Bill 2007
 - Criminal Code Amendment (Anti-Child Abuse and Pornography Materials) Bill 2007
 - Education Services for Overseas Students Legislation Amendment Bill 2007
 - Food Safety (Trans Fats) Bill 2007
 - Migration Legislation Amendment (Information and Other Measures) Bill 2007
 - Veterans' Affairs Legislation Amendment (2007 Measures No. 1) Bill 2007.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:
- Governance Review Implementation (Science Research Agencies) Bill 2007
 - Great Barrier Reef Marine Park Amendment Bill 2007.

(Stephen Parry)
Deputy Chair
29 March 2007

APPENDIX 1



AUSTRALIAN SENATE

SELECTION OF BILLS COMMITTEE**Proposal to refer a bill to a committee****Name of bill:** Aged Care Amendment (Residential Care) Bill 2007**Reasons for referral/principal issues for consideration:**

To examine the provisions of the bill, in particular to

- a) determine the effect on documentation and record-keeping
- b) consider the implications of the streamlining of the audit process
- c) examine the proposed arrangements around the expiration of classifications

Possible submissions or evidence from:

Aged Care Association Australia

Catholic Health Australia

Aged and Community Services Australia

Department of Health and Ageing

Committee to which bill is to be referred: Community Affairs Committee**Possible hearing date(s):****Possible reporting date:** 10 May 2007

A handwritten signature in black ink that reads 'Andrew Bartlett'. The signature is written in a cursive style with a long horizontal stroke at the end.

Senator Andrew Bartlett, Australian Democrats Whip



THE SENATE
CANBERRA ACT 2600
SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill *Aged Care Amendment (Res. Care) Bill 2007*

Reasons for referral/principal issues for consideration: *This bill changes the funding instrument for care delivery in residential aged care.*

Without the information about the funding attached to the care need assessment it will be difficult for the sector to make an informed view on its impact.

Possible submissions or evidence from: *ACA, ACSA, AMA, CHA, Gerontologists, Geriatricians,*

Committee to which bill is to be referred: *CA Committee*

Possible hearing date(s): *for negotiation.*

Possible reporting date: *May sitting.*

(signed)

[Signature]
Whip / Selection of Bills Committee member

28/3/07



AUSTRALIAN SENATE

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of Bill: Gene Technology Amendment Bill 2007

Reasons for referral/principal issues for consideration:

For further consideration of the bill and its implications for ~~gene~~ gene technology regulation, the environment & community safety

Possible submission or evidence from:

Community organisations
Government agencies
farmers
farmer organisations
researchers

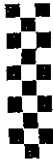
Committee to which bill is to be referred: Employment, Workplace Relations and Education - Standing Committee

Possible hearing date(s):

Possible reporting date:

8th May

Whip/Selection of Bills Committee member



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N L ROXON MP, SENATE
N L ROXON MP, HIP

NO. 6568 P. 1
NO. 7059 P. 3

APPENDIX 4



THE SENATE

CANBERRA ACT 2600
SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill Food Standards Australia and New Zealand
Amendment Bill

Reasons for referral/principal issues for consideration:

consideration of the bill as necessary

Possible submissions or evidence from:

Committee to which bill is to be referred: Community affairs

Possible hearing date(s): ~~.....~~

Possible reporting date: 1 May 2007

(signed) [Signature] 28/3/07
Whip / Selection of Bills Committee member



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Food Standards Australia New Zealand Amendment Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

Possible submissions or evidence from:

Committee to which bill is to be referred: Community Affairs

Possible hearing date (s):

Possible reporting date: 1 May 2007

(signed)


.....
Whip/Selection of Bills Committee member

FOOD STANDARDS AMENDMENT BILL 2007.

Outline

The Food Standards Australia New Zealand Act (the FSANZ Act) sets out the process for developing and amending joint food standards for Australia and New Zealand. The process involves scientific assessment by Food Standards Australia New Zealand (FSANZ), stakeholder consultation, and oversight by the Australia and New Zealand Food Regulation Ministerial Council

The purpose of this Bill is to amend the Food Standards Australia New Zealand Act 1991 (the Act) to expedite the development of food regulatory measures (commonly referred to as food standards) by Food Standards Australia New Zealand (the Authority) and improve the framework within which the Authority operates and food standards are made.

Experience with the system since 2002 (and a review of the standard development processes) confirmed the strengths of the current system including the focus on public health and safety.

However, the review also highlighted areas for improvement. The Main weaknesses of the existing system were found to be the timeframe for decision making and the “one size fits all” approach fixed in the legislation for developing or amending a food standard.

The Bill reforms the assessment and consultation process to:

- Match the process with the nature and scope of the application or proposal under consideration; and
- Creates more meaningful opportunities for consultation with stakeholders.

The Bill also makes a number of minor amendments to the legislation to remove unnecessary red-tape and duplication and to improve clarity.

The amendments do not change the underlying intent or overall legislative framework of the Act.



AUSTRALIAN SENATE

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Food Standards Australia New Zealand Amendment Bill 2007

Reasons for referral/principal issues for consideration:

To examine the provisions of the bill, in particular to consider the implications for consumer protection and public consultation

Possible submissions or evidence from:

Australian Consumers Association
Public Health Association of Australia
Nutrition Australia
Consumers Institute of New Zealand Inc

Committee to which bill is to be referred: Community Affairs Committee

Possible hearing date(s):

Possible reporting date: 12 June 2007



Senator Andrew Bartlett, Australian Democrats Whip



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Liquid Fuel Emergency Amendment Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

Possible submissions or evidence from:

Committee to which bill is to be referred: Economics

Possible hearing date (s):

Possible reporting date: 8 May 2007

(signed)


.....
Whip/Selection of Bills Committee member

Liquid Fuel Emergency Amendment Bill 2007

Purpose

The Liquid Fuel Emergency Amendment Bill 2007 (the Bill) will make a number of changes to the *Liquid Fuel Emergency Act 1984* (the Act) to improve the administrative and economic efficiency of the Australian Government's national liquid fuel emergency response arrangements.

The majority of the changes that will be given effect by this Bill were identified in the course of the 2004 ACIL Tasman Review of the *Liquid Fuel Emergency Act 1984*. ACIL Tasman made 31 recommendations across a range of matters, including several proposed legislative changes to improve the operation of the Act. The major thrust of the recommendations is to encourage all parties in the liquid fuel market to undertake their own contingency planning, on the basis that market mechanisms will generally be the most economically efficient and effective means of allocating supplies in a national liquid fuel emergency.

While the Australian Government accepts its responsibility to prepare contingency plans against a national liquid fuel emergency, Government policy is, where possible, to allow industry to manage fuel supply shortfalls. The Act does not, and was never intended to, manage or reduce fuel supply risks for fuel users.

As a result, the changes outlined in this Bill are intended to facilitate two outcomes:

- to encourage the more effective management of fuel supply risks by those persons or organisations that have the capacity to do so; and
- to ensure that the Act's administrative arrangements remain efficient, effective and sufficiently flexible to deal with the many different circumstances that could require the exercise of the Government's powers under the Act.

Changes Introduced by this Bill

The Bill introduces a number of significant changes to the operation of the Act.

- The concept of "high priority" users has been removed, with the intention that this will encourage contingency planning amongst those fuel users that are capable of doing so. Further discussion on this point is included in the Regulation Impact Statement.
- The concept of "essential" users has been narrowed to include those users that are "essential to the health, safety and welfare of the community."
- At the time of its introduction, the Australian Capital Territory had not yet become a self-governing entity. The Australian Capital Territory is therefore included in the Act in its own right.
- The capacity to delegate and sub-delegate the powers and functions conferred or imposed by the Act has been extended to facilitate a more devolved emergency response. The power to refuse a sub-delegation and/or to revoke a delegation continues to provide the Minister with a significant degree of control over the exercise of the powers and functions of the Act.

- The compensation provisions of the Act have been amended to provide greater assistance to corporations that are subject to a direction prior to the commencement of a national liquid fuel emergency. The compensation provisions have also been amended to remove the right to compensation for all persons or corporations that are the subject of a direction during a national liquid fuel emergency. Further discussion on these changes is included in the Regulation Impact Statement.
- A direction issued during a national liquid fuel emergency may cause a breach of contract. The Act already provides immunity from legal action (also known as an exemption from suit) for breach of contract in these circumstances. The Bill extends the immunity to breaches caused by directions issued prior to a national liquid fuel emergency. An exemption from suit for officials exercising a power or performing a function under the Act reasonably and in good faith has also been included.
- An exemption from prosecution for breach of Part IV of the *Trade Practices Act 1974* (dealing with anti-competitive conduct) has been included where the conduct was required by a direction. The exemption is restricted to conduct which occurs during a period of national liquid fuel emergency.
- Several provisions of the Act have been exempted from the operation of some sections of the *Legislative Instruments Act 2003* to provide the Government of the day with the capacity to respond as quickly as possible to changing circumstances in preparing for or managing a national liquid fuel emergency. The effect of these amendments is to enable certain legislative instruments under the Act to take effect prior to their registration, or to prevent the Parliament from disallowing or sun-setting certain legislative instruments.
- The enforcement provisions of the Act are amended to require a search warrant to be issued by a magistrate rather than a justice of the peace. The Bill also clarifies the powers of authorised persons appointed under the Act, and includes the requirements for consent when an authorised person exercises their powers.
- Where necessary, the penalty provisions and the archaic or gender-specific language of the Act have been updated to reflect current drafting practices.



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Broadcasting Legislation Amendment (Digital Radio) Bill 2007
Radio Licence Fees Amendment Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bills as necessary.

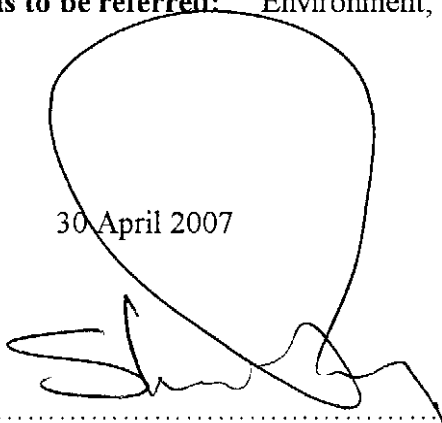
Possible submissions or evidence from:

Committee to which bill is to be referred: Environment, Communications, IT and the Arts

Possible hearing date (s):

Possible reporting date: 30 April 2007

(signed)


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Whip/Selection of Bills Committee member

**Broadcasting Legislation Amendment (Digital
Radio) Bill 2007**

Radio Licence Fees Amendment Bill 2007

**MINISTER FOR COMMUNICATIONS,
INFORMATION TECHNOLOGY AND THE ARTS**

SENATOR THE HON HELEN COONAN

March 2007

BRIEF FOR REFERRAL TO COMMITTEE

March 2007

Broadcasting Legislation Amendment (Digital Radio) Bill 2007

Radio Licence Fees Amendment Bill 2007

OUTLINE

The Broadcasting Legislation Amendment (Digital Radio) Bill 2007 (Digital Radio Bill) implements the Government's policy framework for the introduction of digital radio services in Australia.

The framework, announced in October 2005, was the culmination of an extensive process of research, policy development and industry consultation. In initiating the policy development process, the Government reiterated its principle election commitments in relation to digital radio, which included a moratorium on the issue of new licence area planned commercial digital radio licences, the inclusion of the community broadcasting sector in the digital environment and the conduct of a transparent and accountable process for developing the policy and regulatory settings for digital radio.

The Digital Radio Bill will amend the *Broadcasting Services Act 1992* (BSA), the *Radiocommunications Act 1992* (Radcomms Act) and the *Trade Practices Act 1974* (TPA) to:

- enable the provision of digital radio services by commercial and wide-coverage community radio broadcasting licensees, and the national broadcasters, using the Digital Audio Broadcasting (DAB) technology;
- establish a new category of service, restricted datacasting, to enable the provision of innovative data services on the digital radio platform;
- establish a new multiplex transmitter licence category to accommodate the shared transmission platforms ('multiplexes') of the DAB system;
- provide the Australian Communications and Media Authority (ACMA) with powers to undertake planning and licence allocation activities for digital radio services;
- require incumbent commercial radio broadcasters and multiplex licensees to commence, and to continue to provide, digital radio services – in the case of the state capital city markets on or before 1 January 2009;
- provide the opportunity for existing commercial and wide-coverage community broadcasters to control the multiplex licences for their initial services, with subsequent licence allocations to be undertaken via a priced-based method;
- introduce a six year moratorium on the issue of new licence area planned commercial digital radio licences from the commencement of services in the respective market;

- establish minimum access rights to multiplex transmission capacity for the commercial, wide-coverage community and national broadcasters on relevant multiplex licences;
- establish a multiplex access regime to ensure operators of commercial multiplexes provide access to transmission capacity on terms that are open, efficient and generally non-discriminatory;
- provide the Australian Competition and Consumer Commission (ACCC) with appropriate powers to enforce the access regime;
- provide ACMA with the power to determine technical standards relating to digital radio and restricted datacasting services, the operation of digital radio multiplex transmitters, and domestic digital reception equipment for radio services; and
- provide ACMA with the power to require industry to develop and register voluntary codes of practice dealing with a range of digital radio and restricted datacasting issues, and with a power to determine standards where such codes are not developed or do not operate effectively.

Consequential amendments to the *Radio Licence Fees Act 1964* will also ensure the consistent application of licence fees to the revenue of commercial radio broadcasting licensees derived from analogue and digital radio services. These amendments are made in the Radio Licence Fees Amendment Bill 2007 (the Licence Fees Bill) which is part of this package.