

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 95

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**1 MEETING OF SENATE**

The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Advance to the Finance Minister—Statement and supporting applications for funds for June 2003.

APEC—Australia's individual action plan 2003.

Defence Housing Authority—Statement of corporate intent 2003-04.

National Health and Medical Research Council—Report for 2002.

Office of the Renewable Energy Regulator—Report for 2002.

Queensland Fisheries Joint Authority—Report for 2001-02.

*Roads to Recovery Act 2000*—Roads to Recovery programme—Report for 2002-03 on the operation of the Act.

Snowy Hydro Limited—Report for the period 27 June 2001 to 28 June 2002.

Treaties—

*Bilateral*—

Text, together with national interest analysis and annexures—Agreement between the European Community and Australia amending the Agreement between Australia and the European Community on Trade in Wine, and Protocol, of 1994.

Text, together with national interest analysis, regulation impact statement and annexures—

Agreement between the Government of Australia and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and Protocol, done at Mexico City on 9 September 2002.

Convention between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, done at Canberra on 21 August 2003, and an Associated Exchange of Notes.

*Multilateral*—Text, together with national interest analysis and annexures—

Agreement, done at Townsville on 24 July 2003, between Solomon Islands, Australia, New Zealand, Fiji, Papua New Guinea, Samoa and Tonga concerning the operations and status of the Police and Armed Forces and Other Personnel deployed to Solomon Islands to assist in the restoration of law and order and security.

Amendments, done at Berlin, Germany on 19 June 2003, to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946.

International Labour Organization Convention No. 155: Occupational Safety and Health, 1981.

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998.

Stockholm Convention on Persistent Organic Pollutants (POPs), done at Stockholm on 22 May 2001.

### 3 CONSIDERATION OF LEGISLATION

The Minister for Communications, Information Technology and the Arts (Senator Alston), at the request of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 1—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Quarantine Amendment (Health) Bill 2003, allowing it to be considered during this period of sittings.

Question put and passed.

### 4 COMMUNICATIONS LEGISLATION AMENDMENT BILL (NO. 1) 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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*In the committee*

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Communications, Information Technology and the Arts (Senator Alston) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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Question—That the bill be agreed to—divided in respect of Schedule 2.

Schedule 2 debated.

Question—That Schedule 2 stand as printed—put.

The committee divided—

AYES, 34

Senators—

Abetz	Coonan	Kemp	Payne
Alston	Eggleson	Lees	Scullion
Barnett	Ellison	Lightfoot	Tchen
Boswell	Ferguson	Macdonald, Ian	Tierney
Brandis	Ferris	Mason	Troeth
Calvert	Harradine	McGauran (Teller)	Vanstone
Campbell, Ian	Harris	Minchin	Watson
Chapman	Humphries	Murphy	
Colbeck	Johnston	Patterson	

## NOES, 33

## Senators—

Allison	Cook	Ludwig	Ridgeway
Bartlett	Crossin	Lundy	Sherry
Bishop	Denman	Mackay	Stephens
Bolkus	Faulkner	Marshall	Stott Despoja
Brown	Forshaw	McLucas	Webber
Buckland (Teller)	Greig	Moore	Wong
Campbell, George	Hogg	Murray	
Carr	Hutchins	Nettle	
Cherry	Kirk	Ray	

Schedule agreed to.

Senator Lundy moved the following amendment:

Clause 2, page 2 (table item 3), omit the table item.

Debate ensued.

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*At 2 pm:* The President resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

**5 QUESTIONS**

Questions without notice were answered.

**6 QUESTION ON NOTICE—ANSWER AND EXPLANATION—STATEMENT BY LEAVE**

The Minister for Justice and Customs (Senator Ellison), by leave, gave an explanation of an answer not being provided to question on notice no. 1642 and indicated that an answer would be provided (*see entry no. 5, 8 September 2003*).

**7 ANSWERS TO QUESTIONS**

Senator Lundy moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

**8 FAMILY AND COMMUNITY SERVICES—JOB NETWORK—ANSWER TO QUESTION**

Senator Cherry moved—That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Vanstone) to a question without notice asked by Senator Cherry today relating to Job Network and support for disadvantaged job seekers.

Question put and passed.

**9 PETITIONS**

The following 2 petitions, lodged with the Clerk by Senator Bartlett, were received:

From 19 petitioners, requesting that the Senate call on the Government to initiate a Royal Commission into sexual assault and the abuse of children.

From 44 petitioners, requesting that the Senate support the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003.

## 10 NOTICES

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson): To move on the next day of sitting—That the Foreign Affairs Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Monday, 15 September 2003, from 5.30 pm to 6.30 pm, to take evidence for the committee's inquiry into Australia's relationship with Indonesia. (*general business notice of motion no. 570*)

Senator Sherry: To move 7 sitting days after today—That the Migration Amendment Regulations 2003 (No. 6), as contained in Statutory Rules 2003 No. 224 and made under the *Migration Act 1958*, be disallowed.

The Minister for Revenue and Assistant Treasurer (Senator Coonan): To move on the next day of sitting—That the second reading of the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 be restored to the *Notice Paper* and be made an order of the day for a later hour of the day.

Senator Allison: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the recent report *Bipolar disorder: Costs: An analysis of the burden of bipolar disorder and related suicide* commissioned by SANE Australia reveals that one in every six Australians with bipolar disorder commit suicide, a total of 12 per cent of all suicides;
- (ii) 60 per cent develop a substance abuse problem;
- (iii) average treatment levels are less than one-quarter of what is considered 'best practice', and
- (iv) over two-thirds of people with bipolar disorder are likely to be misdiagnosed three times before an accurate diagnosis is made;

(b) recognises the impact of bipolar disorder on the community, affecting not only the health of those living with it, but also their work, study and ability to maintain relationships and friends; and

(c) calls upon the Federal Government to:

- (i) move for better training of medical professionals in diagnosing bipolar disorder, and
- (ii) provide increased community education about this disorder. (*general business notice of motion no. 571*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—

- (1) That the order of the Senate of 12 November 2002, relating to days of meeting of the Senate for 2003, be varied to provide that the Senate not sit on Monday, 3 November 2003 and Tuesday, 4 November 2003.
- (2) That the order of the Senate of 11 December 2002, relating to estimates hearings, be varied as follows:

At the end of paragraph (1), add:

### **2003-04 Budget estimates – supplementary hearings**

Monday, 3 November and Tuesday, 4 November 2003 (*Group A*)

Wednesday, 5 November and Thursday, 6 November 2003 (*Group B*).

Senator Nettle: To move on the next day of sitting—That the Senate—

- (a) notes:
  - (i) the nationally-significant cultural and heritage values contained in the Department of Defence land at Point Nepean in Victoria, and
  - (ii) the recommendation of the Community Reference Group in the draft master plan for the Point Nepean land, commissioned by the Federal Government, that the entire site at Point Nepean remain in public hands as a ‘public park managed as a whole’;
- (b) condemns the Government for ignoring this recommendation and instead offering a 90-hectare portion of the land for long-term commercial lease by private developers;
- (c) notes that:
  - (i) the admission by the Government that the terms of the lease could permit education, recreational, community and tourism uses leaves open the possibility that hotels, shops, jetties and sporting arenas could be developed on the land, robbing the general public of the right to access and enjoy the land, and potentially compromising or destroying its nationally-significant heritage and cultural values, and
  - (ii) under a long-term leasing arrangement between the Commonwealth and a private developer, the Victorian community will have no say in, or control over, what happens to the 90-hectare parcel of land, and the developer will be able to avoid proper local and state planning and heritage controls; and
- (d) calls on the Federal Government to respect the wishes of the Victorian community by:
  - (i) reversing its decision to lease the 90-hectare portion of the site, and
  - (ii) gifting the land to the State Government as a national park, as recommended by the Victorian National Parks Authority and the National Trust of Australia (Victoria). (*general business notice of motion no. 572*)

Senator Brown: To move on 11 September 2003—That the Senate calls on the Government to ensure that the proposed Barrow Island gas development not proceed if it:

- (a) threatens endangered species or their habitats; and
- (b) has a negative environmental impact on the Barrow Island marine and land ecosystems. (*general business notice of motion no. 573*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Australian National Training Authority Amendment Bill 2003, allowing it to be considered during this period of sittings.

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*Document:* Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Australian National Training Authority Amendment Bill 2003 in the 2003 spring sittings.

**11 LEAVE OF ABSENCE**

Senator Ferris, by leave, moved—That leave of absence be granted to Senator Sandy Macdonald for the period 8 September to 17 September 2003, on account of parliamentary business overseas.

Question put and passed.

**12 POSTPONEMENTS**

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the disallowance of the Migration Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 57, postponed till 15 September 2003.

General business notice of motion no. 467 standing in the name of Senator Lees for today, relating to the introduction of the Encouraging Communities Bill 2003, postponed till 2 December 2003.

General business notice of motion no. 566 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the United Nations Conference on Accelerating Entry-Into-Force of the Comprehensive Nuclear Test Ban Treaty, postponed till 10 September 2003.

**13 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—REFERENCE**

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the State Elections (One Vote, One Value) Bill 2001 [2002] be referred to the Legal and Constitutional References Committee for inquiry and report by 30 October 2003.

Question put and passed.

**14 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 558—That the time for the presentation of the report of the Economics Legislation Committee on annual reports tabled by 30 April 2003 be extended to 10 September 2003.

Question put and passed.

**15 ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 559—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 13 October 2003, from 4 pm, to take evidence for the committee's inquiry into the Late Payment of Commercial Debts (Interest) Bill 2003.

Question put and passed.

**16 EDUCATION—NATIONAL REPORT—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS**

*Motion determined as not formal:* Senator Carr requested that general business notice of motion no. 567 standing in his name for today, proposing an order for the production of documents by the Minister representing the Minister for Education, Science and Training (Senator Alston), be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

*Statements by leave:* Senators Harradine and Carr, by leave, made statements relating to the motion.

*Postponement:* Senator Carr, by leave, moved—That general business notice of motion no. 567 be postponed till the next day of sitting.

Question put and passed (*but see entry no. 24*).

**17 HEALTH—TOBACCO**

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 565—That the Senate—

- (a) notes that tobacco currently kills 5 million people annually worldwide, half in middle age, and that this global epidemic is predicted to double in the first half of the 21st century, to over 10 million deaths per year; and
- (b) calls on the Government to respond to the recommendations of the 12th World Conference on Tobacco in Finland, held from 3 August to 8 August 2003 by:
  - (i) ratifying the Framework Convention on Tobacco Control (FCTC) by January 2005, implementing and enforcing its provisions, and actively involving civil society in this process,
  - (ii) contributing resources and funding proportionate to Australia's gross domestic product for the implementation and monitoring of the FCTC,
  - (iii) urging the United Nations to include non-communicable diseases and tobacco control as part of its Millennium Development Goals,
  - (iv) including a plan for tobacco control as part of Australia's overseas development and poverty reduction agenda,
  - (v) not accepting funding or participating in the tobacco industry's youth, social responsibility, voluntary marketing or other programs, and
  - (vi) working towards greater coordination and cooperation between all sectors of the tobacco control movement, such as research, prevention, treatment, policy, advocacy, communications, and the world conference organising committee, with a view towards establishing a world association for tobacco control.

Question put and passed.

**18 ENVIRONMENT—WATER**

Senator Nettle amended her notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 568—That the Senate—

- (a) notes that water has been historically mismanaged in Australia, one of the driest continents in the world, leading to the current crisis facing Australian rivers;

- (b) notes the importance of the federal and state governments' ability to regulate the management of Australian water sources to ensure that water is allocated fairly between rural and urban users and for environmental flows; and
- (c) calls on the Federal Government to:
  - (i) instruct the Australian negotiators at the World Trade Organization ministerial in Cancun, Mexico in the week beginning 7 September 2003 to reject any pressure for Australia to enter into a General Agreement on Trade in Services (GATS) commitment to liberalising Australian water services,
  - (ii) in the GATS negotiations, support the rights of the other countries, particularly developing countries, to protect their own sovereignty over their water supplies, management and distribution,
  - (iii) uphold the right of all people, particularly those in developing countries, to free access to a plentiful supply of potable water, and
  - (iv) recognise the global scarcity of water, and particularly clean drinking water, as a serious threat to the health and well-being of people, particularly in developing countries, and to support the initiatives of the World Health Organisation, the United Nations Environment Programme and UNCTAD, to improve sustainable water conservation and accessibility.

Question put and passed.

**19 REGULATIONS AND ORDINANCES—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 560—That the Standing Committee on Regulations and Ordinances be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 10 September 2003, from 3.30 pm, to take evidence for the committee's inquiry into the provisions of the Legislative Instruments Bill 2003 and the Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003.

Question put and passed.

**20 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—EXTENSIONS OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 561—That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to 16 September 2003:

- (a) annual reports tabled by 30 April 2003; and
- (b) provisions of the Aviation Transport Security Bill 2003 and a related bill.

Question put and passed.

**21 ELECTORAL MATTERS—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of Senator Mason and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 562—That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Thursday, 18 September 2003, from 9.30 am to 11 am, to take evidence for the committee's inquiry into increasing the minimum representation of the Territories in the House of Representatives.

Question put and passed.

**22 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 563—That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 9 September 2003, from 6 pm, to take evidence for the committee's inquiry into the provisions of the Age Discrimination Bill 2003.

Question put and passed.

**23 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), amended Senator Eggleston's notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 564—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Communications Legislation Amendment Bill (No. 2) 2003 be extended to 15 September 2003.

Question put and passed.

**24 EDUCATION—NATIONAL REPORT—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Carr, by leave, moved general business notice of motion no. 567—That there be laid on the table by the Minister representing the Minister for Education, Science and Training (Senator Alston), no later than 3.30 pm on 15 September 2003, the following documents relating to the *National Report on Australia's Higher Education Sector 2001* ('national report') and the associated supporting research reports to it:

- (a) a copy of the drafts of chapters 4 and 7 of the national report as they were written at:
  - (i) April 2002,
  - (ii) September 2002,
  - (iii) 1 December 2002,
  - (iv) 31 December 2002, and
  - (v) April 2003;
- (b) a copy of the four following reports:
  - (i) P Aungles et al, *HECS and educational opportunities*,

- (ii) R Fleming and T Karmel, *University participation of persons from non-English speaking backgrounds: Impact of migration patterns*,
- (iii) M McLachlan and T Karmel, *HECS: The impact of changes*, and
- (iv) Y Martin and T Karmel, *Expansion in higher education: Effects on access and students quality over the 1990s*, as at April 2002;
- (c) any communication between the Secretary of the Department of Education, Science and Training and the head of the Education Information and Analysis Group, the Higher Education Group and/or the Research, Analysis and Evaluation Group, on the methodological quality of the research underpinning the reports mentioned in paragraphs (a) and (b) above;
- (d) briefing advices or notes prepared for the Minister for Education, Science and Training and/or the Secretary of the Department of Education, Science and Training between April 2002 and July 2003, regarding the reports mentioned in paragraphs (a) and (b) above;
- (e) any minutes of meetings held to consider the research, editing, formatting and indexing of the reports mentioned in paragraphs (a) and (b) above;
- (f) any correspondence, including e-mails, directing the change in status of the reports from being 'forthcoming' to becoming 'advice to the Minister';
- (g) records of any communications between Mr Bill Burmester and any Department of Education, Science and Training officer, or external consultant, on the national report and all four reports mentioned at paragraph (b), from the period when Mr Burmester was appointed head of the Higher Education Group, until July 2003;
- (h) copies of any other Evaluations and Investigations Programme (EIP) reports (either prepared internally, or commissioned by the EIP group) related to higher education, that were reclassified after April 2002, as 'advice to the Minister';
- (i) a copy of the invoices and receipts relating to payment to Ray Adams and Associates, for editing work on the national report; and
- (j) a copy of the invoices and receipts relating to the Department of Education, Science and Training in-house printing service JS McMillan, regarding work on the national report.

Question put and passed.

## 25 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Bureau of Statistics Act—Proposal No. 12 of 2003.

Dairy Produce Act—Deed between the Commonwealth of Australia and certain proposed directors of Dairy Australia Limited, dated 26 June 2003.

Environment Protection and Biodiversity Conservation Act—Instrument amending list of exempt native specimens under section 303DB, dated 3 September 2003.

Gene Technology Act—Gene Technology (Recognition of Designated Areas) Principle 2003.

Tradesmen's Rights Regulation Act—Explanatory statement to Statutory Rules 2003 No. 104 (*in substitution for explanatory statement tabled with Statutory Rules 2003 No. 104 on 16 June 2003*).

**26 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR  
PRODUCTION OF DOCUMENTS—DOCUMENTS**

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended on 3 December 1998:

Indexed lists of departmental and agency files for the period—  
1 January to 31 December 2003 and 1 January to 30 June 2003—Statement of compliance—Industry, Tourism and Resources portfolio—  
Australian Government Analytical Laboratory.  
Australian Tourist Commission.  
Department of Industry, Tourism and Resources.  
Geoscience Australia.  
Ionospheric Prediction Service [nil return].  
IP Australia.  
National Standards Commission.  
1 January to 30 June 2003—Statements of compliance—  
Agriculture, Fisheries and Forestry portfolio agencies.  
Attorney-General's portfolio—  
Administrative Appeals Tribunal.  
Attorney-General's Department.  
Australian Crime Commission.  
Australian Customs Service.  
Australian Federal Police.  
Australian Institute of Criminology and the Criminology Research Council.  
Australian Law Reform Commission.  
Australian Transaction Reports and Analysis Centre.  
Commonwealth Director of Public Prosecutions.  
CrimTrac.  
Family Court of Australia.  
Federal Court of Australia.  
High Court of Australia.  
Human Rights and Equal Opportunity Commission.  
Insolvency Trustee Service of Australia.  
National Native Title Tribunal.  
Office of Film and Literature Classification.  
Office of Parliamentary Counsel.  
Office of the Federal Privacy Commissioner.  
Australian Public Service Commission.  
Communications, Information Technology and the Arts portfolio—  
Department of Communications, Information Technology and the Arts.  
National Office for the Information Economy.  
Department of Defence.  
Department of Foreign Affairs and Trade.  
Department of Transport and Regional Services.  
Department of Veterans' Affairs.  
Finance and Administration portfolio—  
Australian Electoral Commission.  
Commonwealth Grants Commission.  
ComSuper.  
CSS Board.

Department of Finance and Administration.  
 PSS Board.  
 Immigration and Multicultural and Indigenous Affairs portfolio—  
 Aboriginal and Torres Strait Islander Services.  
 Aboriginal Hostels Limited [nil return].  
 Australian Institute of Aboriginal and Torres Strait Islander Studies.  
 Department of Immigration and Multicultural and Indigenous Affairs.  
 Indigenous Business Australia [nil return].  
 Indigenous Land Corporation.  
 Migration Review Tribunal.  
 Refugee Review Tribunal.  
 Torres Strait Regional Authority.  
 Office of the Official Secretary to the Governor-General.

## 27 COMMITTEES—APPOINTMENT OF MEMBERS

The Deputy President (Senator Hogg) informed the Senate that the President had received letters nominating senators to be members of various committees.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—that senators be appointed to committees as follows:

### **Community Affairs Legislation and References Committees—**

Appointed—Participating member: Senator Mackay

### **Economics Legislation Committee—**

Appointed—Participating member: Senator Mackay

### **Economics References Committee—**

Appointed—Participating members: Senators Mackay and Barnett

### **Employment, Workplace Relations and Education Legislation and References Committees—**

Appointed—Participating member: Senator Mackay

### **Finance and Public Administration References Committee—**

Appointed—Participating member: Senator Mackay

### **Legal and Constitutional Legislation and References Committees—**

Appointed—Participating member: Senator Mackay

### **Rural and Regional Affairs and Transport Legislation and References Committees—**

Appointed—Participating member: Senator Mackay.

Question put and passed.

## 28 ACIS ADMINISTRATION AMENDMENT BILL 2003

### **CUSTOMS TARIFF AMENDMENT (ACIS) BILL 2003**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 375, dated 8 September 2003—A Bill for an Act to amend the *ACIS Administration Act 1999*, and for related purposes.

Message no. 376, dated 8 September 2003—A Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

On the motion of Senator Mackay the debate was adjourned till the next day of sitting.

**29 LEGISLATIVE INSTRUMENTS BILL 2003**

**LEGISLATIVE INSTRUMENTS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2003**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 377, dated 8 September 2003—A Bill for an Act relating to the making, registration, Parliamentary scrutiny and periodic repeal of legislative instruments, and for related purposes.

Message no. 378, dated 8 September 2003—A Bill for an Act to deal with transitional and consequential matters arising from the enactment of the *Legislative Instruments Act 2003*, and for other purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

On the motion of Senator Mackay the debate was adjourned till the next day of sitting.

**30 ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002**

**AUSTRALIAN HERITAGE COUNCIL BILL 2002**

**AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002**

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:

Message no. 379, dated 8 September 2003—Environment and Heritage Legislation Amendment Bill (No. 1) 2002.

Message no. 380, dated 8 September 2003—Australian Heritage Council Bill 2002.

Message no. 381, dated 8 September 2003—Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002.

**31 LEGISLATION COMMITTEES—REPORTS—ANNUAL REPORTS**

Pursuant to order, Senator Ferris, at the request of the chairs of the respective committees, tabled the following reports:

Reports on annual reports referred to legislation committees—No. 2 of 2003, dated September 2003—

Employment, Workplace Relations and Education Legislation Committee.

Environment, Communications, Information Technology and the Arts Legislation Committee.

Finance and Public Administration Legislation Committee.

Foreign Affairs, Defence and Trade Legislation Committee.

Legal and Constitutional Legislation Committee.

Reports ordered to be printed on the motion of Senator Ferris.

### 32 COMMUNICATIONS LEGISLATION AMENDMENT BILL (NO. 1) 2002

Order read for the further consideration of the bill in committee of the whole.

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#### *In the committee*

Consideration resumed of the bill—and of the amendment moved by Senator Lundy (see entry no. 4).

Question—That the amendment be agreed to—put and negatived.

On the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) the following amendment was agreed to:

Clause 2, page 2 (cell at table item 3, column 2), omit the cell, substitute:

27 March 2003

On the motion of Senator Ian Campbell the following amendment was debated and agreed to:

Clause 2, page 2 (cell at table item 5, column 2), omit the cell, substitute:

The day after this Act receives the Royal  
Assent

Senator Cherry moved the following amendment:

Schedule 4, page 10 (after line 3), before item 1, insert:

#### **1A At the end of subclause 27(1) of Schedule 3**

Add:

; and (g) where the facility is proposed to be located near a community sensitive site, including residential areas, childcare centres, schools, aged care centres, hospitals, playgrounds and regional icons:

- (i) the community has been fully consulted, and wherever possible, has agreed to the facility; and
- (ii) alternative less sensitive sites have been considered; and
- (iii) the beam of greatest intensity does not fall on any part of an area frequented by the public without agreement of the usual users of that area; and
- (iv) efforts have been made to minimise electromagnetic radiation exposure to the public.

Senator Lundy moved the following amendment to Senator Cherry's proposed amendment:

Omit subparagraph (iii).

Debate ensued.

Question—That Senator Lundy's amendment to Senator Cherry's proposed amendment be agreed to—put and passed.

Question—That the amendment, as amended, be agreed to—put and passed.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Chapman) reported accordingly.

On the motion of Senator Ian Campbell the report from the committee was adopted.

Senator Ian Campbell moved—That this bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time.

**33 HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INSURANCE REFORM)  
BILL 2003**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Senator Allison moved the following amendment:

At the end of the motion, add “but the Senate accepts that while private health insurance will continue to be important in people’s health choices should they wish to pay for it, it calls on the Government to limit the use of taxpayer subsidies of private health insurance by:

- (a) replacing the 30 per cent private health insurance rebate with a capped and means-tested rebate in line with the private health insurance incentive scheme previously in place; and
- (b) removing Lifetime Health Cover age loadings on premiums”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Main question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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*In the committee*

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Health and Ageing (Senator Patterson) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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On the motion of Senator Patterson the following amendments, taken together by leave, were agreed to:

Schedule 1, item 3, page 4 (line 18), omit “or sexual orientation”, substitute “, sexual orientation or religious belief”.

Schedule 1, item 3, page 4 (after line 21), after paragraph (ba), insert:

(baa) the place of residence of a person, except to the extent that the person’s place of residence may be taken into account under section 73AAL;

Schedule 1, item 3, page 4 (line 23), omit “place of residence, occupation,”, substitute “occupation or”.

On the motion of Senator Patterson the following amendment was agreed to:

Schedule 1, item 10, page 8 (after line 3), at the end of section 73AAH, add:

(4) Determining entitlement to ancillary health benefits claimed in respect of a period by or on behalf of a contributor to a health benefits fund conducted by a registered health benefits organization, or by or on behalf of a dependant of such a contributor, by reference solely to the quantum of ancillary health benefits already claimed in respect of that period is consistent with the principles of community rating referred to in subsections (2) and (3).

On the motion of Senator Patterson the following amendment was agreed to:

Schedule 1, item 10, page 9 (after line 36), after section 73AAK, insert:

#### **73AAL Discrimination on basis of place of residence**

Nothing in this Act prevents a registered health benefits organization:

- (a) from charging different rates of contribution; or
- (b) from paying different levels of benefit;

in respect of persons who are contributors to the health benefits fund conducted by the organization, or in respect of persons who are dependants of such contributors, where such contributors or dependants have their place of residence in one State or Territory as distinct from another.

On the motion of Senator Greig the following amendment was agreed to:

Schedule 1, page 10 (after line 34), after item 15, insert:

#### **15A Subsection 73B(2)**

After “*Gazette*”, insert “, and free of charge on the Department’s website not later than 5 working days after the action is taken by the Minister.”.

On the motion of Senator Greig the following amendment was agreed to:

Schedule 1, item 20, page 12 (line 5), subsection 73BEA(1), omit “may”, substitute “must”.

On the motion of Senator Greig the following amendment was agreed to:

Schedule 1, item 20, page 12 (after line 14), at the end of section 73BEA, add:

(3) The Department must publish on its website guidance to the public on how the Department will interpret and apply the performance indicators provided for by this section.

On the motion of Senator Greig the following amendment was agreed to:

Schedule 1, item 20, page 19 (after line 15), at the end of section 73BEJ, add:

(6) A direction given by the Minister in accordance with this section must be published free of charge by the Secretary on the Department's website not later than 5 working days after the direction is given.

Senator Nettle moved the following amendments together by leave:

Clause 2, page 2 (after table item 13), insert:

14. Schedule 1,	30 June 2004
item 40	

Schedule 1, item 40, page 26 (lines 13 to 20), omit the item, substitute:

**40 The whole of the Act**

Repeal the Act.

Schedule 1, page 26 (after line 20), at the end of Part 1, add:

***Taxation Laws Amendment (Private Health Insurance) Act 1998***

**40A The whole of the Act**

Repeal the Act.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Lees		

NOES, 34

Senators—

Barnett	Crossin	Johnston	Sherry
Bishop	Denman	Kirk	Stephens
Boswell	Eggleston (Teller)	Lightfoot	Tchen
Brandsis	Evans	Mackay	Tierney
Campbell, George	Ferris	Mason	Watson
Carr	Forshaw	McLucas	Webber
Chapman	Hogg	Patterson	Wong
Colbeck	Humphries	Payne	
Cook	Hutchins	Scullion	

Question negatived.

*At 6.50 pm:* The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

**34 GOVERNMENT DOCUMENTS—CONSIDERATION**

The following government documents tabled earlier today (*see entry no. 2*) were considered:

Office of the Renewable Energy Regulator—Report for 2002. Motion to take note of document moved by Senator Murphy and agreed to.

Queensland Fisheries Joint Authority—Report for 2001-02. Motion to take note of document moved by Senator Murphy. Debate adjourned till Thursday at general business, Senator Murphy in continuation.

*Roads to Recovery Act 2000*—Roads to Recovery programme—Report for 2002-03 on the operation of the Act. Motion to take note of document moved by Senator Murphy. Debate adjourned till Thursday at general business, Senator Murphy in continuation.

Defence Housing Authority—Statement of corporate intent 2003-04. Motion to take note of document moved by Senator Murphy. Debate adjourned till Thursday at general business, Senator Murphy in continuation.

APEC—Australia's individual action plan 2003. Motion to take note of document moved by Senator Cook. Debate adjourned till Thursday at general business, Senator Cook in continuation.

### 35 ADJOURNMENT

The Acting Deputy President (Senator McLucas) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 8.59 pm till Wednesday, 10 September 2003 at 9.30 am.

### 36 ATTENDANCE

Present, all senators except Senators Collins, Conroy\*, Knowles\*, Sandy Macdonald\* and O'Brien\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate