

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 111

MONDAY, 27 OCTOBER 2003

**Contents**

|    |   |      |
|----|---|------|
| 1  | Meeting of Senate .....   | 2603 |
| 2  | Superannuation (Surcharge Rate Reduction) Amendment Bill 2003.....  | 2603 |
| 3  | Questions .....   | 2604 |
| 4  | Trade—Free Trade Agreements—Answers to Questions .....  | 2605 |
| 5  | Foreign Affairs—China—Human Rights—Answer to Question.....  | 2605 |
| 6  | Petitions .....   | 2605 |
| 7  | Notices.....  | 2605 |
| 8  | Rural and Regional Affairs and Transport Legislation Committee—<br>Appointment of Member.....                               | 2608 |
| 9  | Hours of Meeting and Routine of Business—Variation .....  | 2608 |
| 10 | Rural and Regional Affairs and Transport Legislation Committee—Leave to<br>Meet During Sitting.....                         | 2608 |
| 11 | Rural and Regional Affairs and Transport Legislation Committee—<br>Extension of Time to Report.....                         | 2608 |
| 12 | Environment, Communications, Information Technology and the Arts<br>Legislation Committee—Extension of Time to Report ..... | 2608 |
| 13 | ASIO, ASIS and DSD—Joint Statutory Committee—Leave to Meet During<br>Sitting.....   | 2609 |
| 14 | Leave of Absence.....   | 2609 |
| 15 | Postponements.....  | 2609 |
| 16 | Science and Technology—Nuclear Weapons.....   | 2609 |
| 17 | Economics Legislation Committee—Reference—Extension of Time to<br>Report .....  | 2610 |
| 18 | Parliamentary Service Commissioner—Report for 2002-03—Document.....   | 2611 |
| 19 | Government Documents .....  | 2611 |
| 20 | Auditor-General—Audit Reports Nos 8 and 9 of 2003-04—Documents .....  | 2611 |
| 21 | Departmental and Agency Contracts—Order for Production of<br>Documents—Document.....  | 2611 |
| 22 | Auditor-General—Audit Report No. 10 of 2003-04—Document.....  | 2612 |
| 23 | Historical Events—Sydney Opera House—Order for Production of<br>Documents—Statement by Leave .....                          | 2612 |

|    |   |      |
|----|---|------|
| 24 | Documents.....  | 2612 |
| 25 | Higher Education Support Bill 2003  |      |
|    | Higher Education Support (Transitional Provisions and Consequential Amendments) Bill 2003   |      |
|    | Telecommunications Interception and Other Legislation Amendment Bill 2003 .....   | 2613 |
| 26 | Governor-General's Messages—Assent to Laws .....  | 2614 |
| 27 | Superannuation (Surcharge Rate Reduction) Amendment Bill 2003.....  | 2614 |
| 28 | Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 .....  | 2616 |
| 29 | Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 .....   | 2618 |
| 30 | Environment, Communications, Information Technology and the Arts Legislation Committee—Report—Telstra (Transition to Full Private Ownership) Bill 2003..... | 2621 |
| 31 | Hours of Meeting and Routine of Business—Variation .....  | 2622 |
| 32 | Order of Business—Rearrangement .....   | 2622 |
| 33 | Telstra (Transition to Full Private Ownership) Bill 2003 .....  | 2622 |
| 34 | Adjournment .....   | 2622 |
| 35 | Attendance.....   | 2622 |

**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 SUPERANNUATION (SURCHARGE RATE REDUCTION) AMENDMENT BILL 2003**

Order of the day read for the further consideration of message no. 421 from the House of Representatives in committee of the whole (*see entry no. 23, 9 October 2003*).

---

*In the committee*

Consideration resumed of the message—and of the motion moved by the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That the committee does not insist on its amendment no. 27 to which the House of Representatives has disagreed.

Debate resumed.

Senator Cherry moved the following amendment:

At the end of the motion, add “but agrees to the following further amendment:

Schedule 1, page 11 (after line 37), after Part 2, insert:

**Part 2A—Amendments relating to income tax**

***Income Tax Assessment Act 1936***

**31A Paragraph 82AAS(2)(b)**

Repeal the paragraph, substitute:

(b) to the extent to which those benefits would be attributable to the year of income:

(i) the benefits would be wholly or partly attributable to contributions made, or required to be made, in relation to the year of income:

(A) to a superannuation fund of the relevant person; and

(B) by someone other than the relevant person; and

(C) in connection with the eligible employment of the relevant person in the year of income; or

(ii) the benefits would, in whole or in part, be paid in relation to the year of income:

(A) out of money (other than contributions made to a superannuation fund) of someone other than the relevant person; and

(B) in connection with the eligible employment of the person in the year of income.

**31B Subparagraph 82AAS(3)(c)(i)**

After ‘made’, insert ‘, or required to be made,’.

**31C At the end of subparagraph 274(1)(a)(i)**

Add:

or (E) Government co-contributions made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;

**31D At the end of subparagraph 274(1)(ba)(i)**

Add:

- (C) Government co-contributions made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*; and

**31E At the end of paragraph 274(1)(e)**

Add '(except to the extent to which it represents a Government co-contribution or contributions made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*)'.

***Income Tax Assessment Act 1997*****31F Section 11-10**

Before:

**interest**

judgment debt, personal injury ..... 51-57,

**23GA**

insert:

**Government co-contributions**

towards low income earner's superannuation ..... 51-65

**31G At the end of Division 51**

Add:

**51-65 Government co-contribution towards low income earner's superannuation**

The following are exempt from income tax:

- (a) a Government co-contribution in respect of you under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* that is paid to you, or to your legal personal representative;
- (b) a payment to you, or to your legal personal representative, of the balance of an account under the *Small Superannuation Accounts Act 1995* to the extent to which the balance represents a Government co-contribution or co-contributions in respect of you under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*.

Note: A Government co-contribution in respect of you paid to another person (such as the trustee of a complying superannuation fund) would not be income of yours according to ordinary concepts."

Debate ensued.

---

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

**3 QUESTIONS**

Questions without notice were answered.

**4 TRADE—FREE TRADE AGREEMENTS—ANSWERS TO QUESTIONS**

Senator Conroy moved—That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked by Senators Conroy and Forshaw today relating to the negotiation of free trade agreements.

Debate ensued.

Question put and passed.

**5 FOREIGN AFFAIRS—CHINA—HUMAN RIGHTS—ANSWER TO QUESTION**

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to human rights in China.

Question put and passed.

*Statement by leave:* Senator Harradine, by leave, made a statement relating to the answer.

**6 PETITIONS**

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

The President, from 146 petitioners, requesting that the Senate take action to limit the scope of the Australia-United States free trade agreement negotiations and ensure that independent research is published and all trade agreements are debated and decided by Parliament, not just Cabinet.

Senator Ridgeway, from 69 petitioners, requesting that the Senate take action to ensure the independence and protection of the Australian Broadcasting Corporation and increase its funding.

**7 NOTICES**

The Chair of the Legal and Constitutional References Committee (Senator Bolkus): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional References Committee on the State Elections (One Vote, One Value) Bill 2001 [2002] be extended to 1 March 2004. (*general business notice of motion no. 667*)

Senator Carr: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than Wednesday, 29 October 2003, the regional impact statement prepared by the Department of Education Science and Training, in support, explanation and justification of the higher education policy package, referred to at the hearing of the Employment, Workplace Relations and Education References Committee on 17 October 2003 (*Hansard*, p. 119). (*general business notice of motion no. 668*)

The Chair of the Economics References Committee (Senator Stephens): To move on the next day of sitting—That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 30 October 2003, from 3.30 pm to 5.30 pm, to take evidence for the committee's inquiry into whether the *Trade Practices Act 1974* adequately protects small business. (*general business notice of motion no. 669*)

The Minister for Local Government, Territories and Roads (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 following bills, allowing them to be considered during this period of sittings:

Energy Grants (Cleaner Fuels) Scheme Bill 2003 and Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003  
 Farm Household Support Amendment Bill 2003  
 Maritime Transport Security Bill 2003  
 Spam Bill 2003 and Spam (Consequential Amendments) Bill 2003  
 Telecommunications Interception and Other Legislation Amendment Bill 2003.

---

*Documents:* Senator Ian Campbell tabled the following documents:

Consideration of legislation—Statements of reasons [5] for introduction and passage of certain bills in the 2003 spring sittings.

---

Senator Brown: To move on 29 October 2003—That the following matters arising from the joint meeting of the Houses on 23 October 2003 be referred to the Committee of Privileges for inquiry and report by 3 December 2003:

- (a) the presence of any agents of the United States of America, including armed agents, in Parliament House;
- (b) the ability of foreign, but not Australian, personnel to film proceedings;
- (c) any physical interference with Senator Nettle by an employee of either House; and
- (d) any physical interference with Senators Brown and Nettle after the speech of President Bush.

Senator Harradine: To move on the next day of sitting—That there be laid on the table by the Leader of the Government in the Senate (Senator Hill), no later than immediately after motions to take note of answers on 29 October 2003, the following two expert reports prepared for and subsequently issued to members of the Council of Australian Governments for its meeting on 29 August 2003:

- (a) a report that discussed protocols to prevent the creation of embryos for the purposes of scientific research, prepared by the Committee for the Review of Ethical Guidelines for Assisted Reproductive Technology, a subcommittee of the Australian Health Ethics Committee of the National Health and Medical Research Council (NHMRC); and
- (b) a report prepared by the NHMRC that considered the adequacy of supply and distribution for research of excess assisted reproductive technology embryos, which would otherwise have been allowed to succumb. (*general business notice of motion no. 670*)

Senator Brown: To move on 29 October 2003—That the following matters arising from the joint meeting of the Houses on 24 October 2003 be referred to the Committee of Privileges for inquiry and report by 3 December 2003:

- (a) the influence of President Hu's delegation on the President of the Senate or any other office holders towards achieving:
  - (i) a delay in the commencement of the meeting,

- (ii) the removal or redirection of senators' or members' guests from the public gallery,
  - (iii) the prohibition of Senators Brown and Nettle from the meeting, and
  - (iv) a message to any participants that no Tibetan or other symbolism be displayed;
- (b) the failure of the President of the Senate to notify senators of any of these matters;
  - (c) the presence and influence of agents of China, including armed personnel, within the parliamentary precincts, and the use of this presence to influence, or potentially influence, senators; and
  - (d) any other relevant matters relating to senators, the Parliament and the visit of President Hu.

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

- (a) rejects the intemperate anti-Semitic remarks made by outgoing Malaysian Prime Minister, Dr Mahathir; and
- (b) calls on the incoming Prime Minister of Malaysia to repudiate Dr Mahathir's anti-Jewish tirade. (*general business notice of motion no. 671*)

Senator Brown: To move on the next day of sitting—That the following matters be referred to the Procedure Committee for inquiry and report by the first sitting day in February 2004:

- (a) whether the recently adopted practice, of joint meetings of the Senate and the House of Representatives for the purpose of addresses by foreign visitors, should continue, or whether some alternative procedure should be adopted; and
- (b) the rules which should apply to any future joint meetings or alternative procedure, with particular regard to:
  - (i) the right of the Senate exclusively to determine how the conduct of senators shall be regulated, and
  - (ii) the ability of senators to interact with foreign visitors, including by presenting correspondence to them and discussing relevant matters with them.

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

- (a) notes that:
  - (i) Mamdouh Habib is currently incarcerated at Camp X-Ray in Guantanamo Bay, Cuba, without charge,
  - (ii) Mr Habib's wife, Maha Habib, has attempted to communicate her concerns regarding her husband's status to the United States (US) Government, and
  - (iii) Mrs Habib wrote to the US President stating that her husband 'has not been charged with any crime – not under American law, Australian law or any law. In his two years of imprisonment I have not been able to speak with him. How are his rights being protected by the United States? It is beyond understanding how he could have been caught up in all of this... If the United States Government considers that [Mr Habib] is a threat to its security, then please inform us of his crime and press charges against him. If not, then please return him to his family and country'; and
- (b) calls on the Federal Government to convey the Habib family's request to the US Government as soon as possible. (*general business notice of motion no. 672*)

**8 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—  
APPOINTMENT OF MEMBER**

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter nominating a senator to be a member of a committee.

The Minister for Revenue and Assistant Treasurer (Senator Coonan), by leave, moved—That Senator Bishop be appointed as a participating member of the Rural and Regional Affairs and Transport Legislation Committee.

Question put and passed.

**9 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, moved—That, on Tuesday, 28 October 2003:

- (a) the hours of meeting shall be 9.30 am to 12.45 pm, and 2 pm to adjournment; and
- (b) the routine of business from 9.30 am to 12.45 pm shall be government business only.

Debate ensued.

On the motion of Senator Ian Campbell the debate was adjourned till a later hour.

**10 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—  
LEAVE TO MEET DURING SITTING**

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4 pm, to take evidence for the committee's inquiry into the provisions of the Maritime Transport Security Bill 2003.

Question put and passed.

**11 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—  
EXTENSION OF TIME TO REPORT**

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the committee on the provisions of the Maritime Transport Security Bill 2003 be extended to 30 October 2003.

Question put and passed.

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

Senator Ferris, by leave and at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), moved—That the time for the presentation of the report of the committee on the provisions of the Spam Bill 2003 and a related bill be extended to 29 October 2003.

Question put and passed.



**13 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, by leave and on behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, moved—That the Parliamentary Joint Committee on ASIO, ASIS and DSD be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 5 pm to 10 pm, in relation to its inquiry into the Intelligence Services Amendment Bill 2003.

Question put and passed.

**14 LEAVE OF ABSENCE**

Senator Allison, by leave, moved—That leave of absence be granted to Senators Stott Despoja and Ridgeway from 27 October to 30 October 2003, on compassionate grounds.

Question put and passed.

Senator Crossin, by leave, moved—That leave of absence be granted to Senator Cook for the period 27 October to 30 October 2003, on account of business overseas.

Question put and passed.

**15 POSTPONEMENTS**

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Allison for today, relating to the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003 No. 201, postponed till 29 October 2003.

General business notice of motion no. 646 standing in the name of Senator Allison for today, relating to a resolution concerning the ethanol industry, adopted at the National Party's Federal Conference, postponed till 29 October 2003.

General business notice of motion no. 659 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the days of meeting for 2003, postponed till 29 October 2003.

**16 SCIENCE AND TECHNOLOGY—NUCLEAR WEAPONS**

The Leader of the Australian Democrats (Senator Bartlett) amended his notice of motion by leave, and by leave moved general business notice of motion no. 652—That the Senate—

- (a) expresses concern about the growing risks posed by the proliferation of nuclear weapons, the potential for further proliferation, plans for the research, development, testing and deployment of new types of nuclear weapons by the nuclear weapons states, and the broadening role being given to nuclear weapons in security strategies;
- (b) notes the New Agenda Coalition resolution introduced in the 58th United Nations (UN) General Assembly First Committee entitled 'Towards a nuclear-weapon-free world: the need for a new agenda' and:
  - (i) notes that this resolution is similar to resolution A/RES/57/59 which was adopted by the UN General Assembly in 2002 by a vote of 125 to 6 with 36 abstentions, and
  - (ii) commends the New Agenda Coalition for:

- (A) setting out a series of practical and necessary steps to curb nuclear proliferation and achieve nuclear disarmament, based on the thirteen disarmament steps agreed by all state parties to the Non-Proliferation Treaty (NPT) in 2000, and
  - (B) making changes to the draft resolution at the current session of the UN General Assembly in order to meet the concerns of states such as Australia, which abstained on the vote in 2002, in particular to highlight the dangers of nuclear proliferation and to call on all states, including North Korea, Israel, Pakistan, Iran and India to subscribe to the NPT and accept full-scope safeguards on their nuclear facilities;
- (c) also notes the New Agenda Coalition resolution introduced in the 58th UN General Assembly First Committee entitled 'Reduction of non-strategic nuclear weapons' and:
- (i) notes that this resolution is similar to resolution A/RES/57/58 which was adopted by the UN General Assembly in 2002 by a vote of 120 to 3 with 42 abstentions, and
  - (ii) commends the New Agenda Coalition for:
    - (A) drawing attention to the need to deal with this class of nuclear weapons, of which there are more than 4 000 in the stockpiles of the nuclear weapons states, and
    - (B) making changes to the draft resolution at the current session of the UN General Assembly in order to meet the concerns of states such as Australia, which abstained on the vote in 2002, in particular changes to address the particular concerns surrounding the tactical nuclear weapons possessed by Russia, and
  - (iii) expresses concern about the threat posed by non-strategic weapons due to their portability, proximity to areas of conflict and probability of pre-delegation in case of military conflict, and thus about the risk of proliferation and of early, pre-emptive, unauthorised or accidental use; and
- (d) calls on the Government to support the New Agenda Coalition resolutions in the 58th UN General Assembly First Committee 'Towards a nuclear-weapon-free world: the need for a new agenda' (item A/C.1/58/L.40) and 'Reduction of non-strategic nuclear weapons' (item A/C.1/58/L.39) and consequential votes in the UN General Assembly.

Question put and passed.

#### **17 ECONOMICS LEGISLATION COMMITTEE—REFERENCE—EXTENSION OF TIME TO REPORT**

Senator Sherry amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—

- (1) That the draft regulations relating to the Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003, the Superannuation Industry (Supervision) Amendment Regulations 2003 (draft), the Income Tax Amendment Regulations 2003 (draft) and the Retirement Savings Accounts Amendment Regulations 2003 (draft) be referred to the Economics Legislation Committee for inquiry and report concurrently with the committee's inquiry on the Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003.

- (2) That the time for presentation of the committee's report on the Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003 and associated regulations be extended to 3 December 2003.

Question put and passed.

**18 PARLIAMENTARY SERVICE COMMISSIONER—REPORT FOR 2002-03—DOCUMENT**

The Deputy President (Senator Hogg) tabled the following document received on 21 October 2003:

Parliamentary Service Commissioner—Report for 2002-03, including a report of the Parliamentary Service Merit Protection Commissioner.

**19 GOVERNMENT DOCUMENTS**

The Deputy President (Senator Hogg) tabled the following documents received on the dates indicated:

Cotton Research and Development Corporation and Cotton Research and Development Corporation Selection Committee—Reports for 2002-03. [*Received 21 October 2003*]

Department of Education, Science and Training—Report for 2002-03. [*Received 24 October 2003*]

Department of the Environment and Heritage—Report for 2002-03, including reports on the operation of the *Environment Protection and Biodiversity Conservation Act 1999*, the *Ozone Protection Act 1989*, the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, the *Protection of Movable Cultural Heritage Act 1986*, the *Fuel Quality Standards Act 2000* and the *Product Stewardship (Oil) Act 2000*. [*Received 24 October 2003*]

Director of National Parks—Report for 2002-03. [*Received 24 October 2003*]

Supervising Scientist—Report for 2002-03 on the operation of the *Environment Protection (Alligator Rivers Region) Act 1978*. [*Received 24 October 2003*]

**20 AUDITOR-GENERAL—AUDIT REPORTS NOS 8 AND 9 OF 2003-04—DOCUMENTS**

The Deputy President (Senator Hogg) tabled the following documents received on the dates indicated:

Auditor-General—Audit reports for 2003-04—

No. 8—Performance audit—Commonwealth management of the Great Barrier Reef—Follow-up audit: The Great Barrier Reef Marine Park Authority. [*Received 20 October 2003*]

No. 9—Performance audit—Business continuity management and emergency management in Centrelink: Centrelink. [*Received 22 October 2003*]

**21 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

Pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001, 18 June and 26 June 2003, the Deputy President (Senator Hogg) tabled the following document received on 21 October 2003:

Departmental and agency contracts for 2002-03—Letters of advice—Education, Science and Training portfolio agencies—

Australian Research Council.

Department of Education, Science and Training.

**22 AUDITOR-GENERAL—AUDIT REPORT NO. 10 OF 2003-04—DOCUMENT**

The Deputy President (Senator Hogg) tabled the following document

Auditor-General—Audit report no. 10 of 2003-04—Performance audit—  
Australian Defence Force recruiting contract: Department of Defence.

**23 HISTORICAL EVENTS—SYDNEY OPERA HOUSE—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 16 October 2003 for the production of documents concerning a world heritage nomination for the Sydney Opera House (*see entry no. 15, 16 October 2003*).

**24 DOCUMENTS**

The following documents were tabled by the Clerk:

Air Navigation Act—Regulations—Statutory Rules 2003 No. 260.

Australian Meat and Live-stock Industry Act—Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union — Quota Year 2004) Order 2003.

Australian Research Council Act—Determination No. 17—Determination under section 51, dated 3 September 2003.

Class Rulings CR 2003/90-CR 2003/94.

Currency Act—Currency (Royal Australian Mint) Determination 2003 (No. 6).

Customs Act—Regulations—Statutory Rules 2003 No. 253.

Family Law Act—Family Law (Superannuation) Regulations—Methods and Factors for Valuing Particular Superannuation Interests Approval Amendment 2003 (No. 1).

Fisheries Management Act—Southern Bluefin Tuna Fishery Management Plan 1995—2003 SBT Final TAC Determination.

Goods and Services Tax Bulletin—

GSTB 2000/2 (Addendum).

GSTB 2003/1 (Addendum).

Goods and Services Tax Determination GSTD 2003/3.

Goods and Services Tax Ruling—

GSTR 1999/1 (Addendum).

GSTR 2000/30 (Addendum).

GSTR 2001/1 (Addendum) and GSTR 2001/8 (Addendum).

Health Insurance Act—Regulations—Statutory Rules 2003 Nos 254-256.

Horticulture Marketing and Research and Development Services Act—Regulations—Statutory Rules 2003 No. 263.

*Income Tax Assessment Act 1936*—Regulations—Statutory Rules 2003 No. 262.

Medical Indemnity Act—Regulations—Statutory Rules 2003 No. 264.

National Health Act—Determination under—

Schedule 1—PHS 21/2003.

Section 5D—PHS 20/2003.

Product Ruling—

PR 2002/40 (Notice of Withdrawal).

PR 2003/60-PR 2003/64.

Safety, Rehabilitation and Compensation Act—Approved forms under section 34S—

Notice 21 of 2003—Approved form for application for initial approval as a rehabilitation program provider.

Notice 22 of 2003—Approved form for application for renewal of approval as a rehabilitation program provider.

Sydney Airport Curfew Act—Regulations—Statutory Rules 2003 No. 261.

Taxation Ruling TR 2003/13.

Telecommunications Act—Telecommunications (Types of Cabling Work) Amendment Declaration 2003 (No. 1).

Therapeutic Goods Act—Regulations—Statutory Rules 2003 Nos 257-259.

**25 HIGHER EDUCATION SUPPORT BILL 2003**

**HIGHER EDUCATION SUPPORT (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2003**

**TELECOMMUNICATIONS INTERCEPTION AND OTHER LEGISLATION AMENDMENT BILL 2003**

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

Message no. 431, dated 16 October 2003—A Bill for an Act relating to the funding of higher education, and for other purposes.

Message no. 432, dated 16 October 2003—A Bill for an Act to deal with transitional and consequential matters arising from the enactment of the *Higher Education Support Act 2003*, and for other purposes.

Message no. 430, dated 15 October 2003—A Bill for an Act to amend the *Telecommunications (Interception) Act 1979* and other legislation, and for related purposes.

The Minister for Local Government, Territories and Roads (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.

*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Ian Campbell moved that the Telecommunications Interception and Other Legislation Amendment Bill 2003 be listed on the *Notice Paper* as a separate order of the day.

Question put and passed.

**26 GOVERNOR-GENERAL'S MESSAGES—ASSENT TO LAWS**

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

14 October 2003—Message—

No. 36—

*National Residue Survey (Customs) Levy Amendment Act 2003* (Act No. 92, 2003)

*National Residue Survey (Customs) Levy Amendment Act (No. 2) 2003* (Act No. 93, 2003)

*National Residue Survey (Excise) Levy Amendment Act 2003* (Act No. 94, 2003)

*National Residue Survey (Excise) Levy Amendment Act (No. 2) 2003* (Act No. 95, 2003).

No. 37—

*ACIS Administration Amendment Act 2003* (Act No. 96, 2003)

*Customs Tariff Amendment (ACIS) Act 2003* (Act No. 97, 2003)

*Australian National Training Authority Amendment Act 2003* (Act No. 98, 2003)

*Migration Legislation Amendment (Sponsorship Measures) Act 2003* (Act No. 99, 2003)

*Vocational Education and Training Funding Amendment Act 2003* (Act No. 100, 2003).

No. 38—*Taxation Laws Amendment Act (No. 3) 2003* (Act No. 101, 2003).

15 October 2003—Message No. 39—

*Crimes (Overseas) Amendment Act 2003* (Act No. 102, 2003)

*Sex Discrimination Amendment (Pregnancy and Work) Act 2003* (Act No. 103, 2003).

16 October 2003—Message No. 40—*Workplace Relations Amendment (Fair Termination) Act 2003* (Act No. 104, 2003).

**27 SUPERANNUATION (SURCHARGE RATE REDUCTION) AMENDMENT BILL 2003**

Order of the day read for the further consideration of message no. 421 from the House of Representatives in committee of the whole (*see entry no. 23, 9 October 2003*).

---

*In the committee*

Consideration resumed of the message—and of the motion moved by the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That the committee does not insist on its amendment no. 27 to which the House of Representatives has disagreed—and of the amendment moved by Senator Cherry (*see entry no. 2*).

Debate resumed.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 30

Senators—

|          |                  |          |          |
|----------|------------------|----------|----------|
| Allison  | Collins          | Hogg     | Murray   |
| Bartlett | Conroy           | Hutchins | Nettle   |
| Bishop   | Crossin (Teller) | Kirk     | Ray      |
| Bolkus   | Denman           | Ludwig   | Sherry   |
| Brown    | Evans            | Mackay   | Stephens |
| Buckland | Faulkner         | Marshall | Wong     |
| Carr     | Forshaw          | McLucas  |          |
| Cherry   | Greig            | Moore    |          |

NOES, 32

Senators—

|         |                 |                  |          |
|---------|-----------------|------------------|----------|
| Abetz   | Coonan          | Kemp             | Payne    |
| Alston  | Eggleston       | Lees             | Santoro  |
| Barnett | Ellison         | Macdonald, Ian   | Scullion |
| Boswell | Ferris (Teller) | Macdonald, Sandy | Tchen    |
| Brandis | Harradine       | Mason            | Tierney  |
| Calvert | Hill            | McGauran         | Troeth   |
| Chapman | Humphries       | Murphy           | Vanstone |
| Colbeck | Johnston        | Patterson        | Watson   |

Question negatived. Senator Allison, by leave, indicated that Senators Stott Despoja and Ridgeway would have voted for the ayes.

Main question put.

The committee divided—

AYES, 30

Senators—

|         |                 |                  |          |
|---------|-----------------|------------------|----------|
| Abetz   | Eggleston       | Macdonald, Ian   | Scullion |
| Barnett | Ferris (Teller) | Macdonald, Sandy | Tchen    |
| Boswell | Harradine       | Mason            | Tierney  |
| Brandis | Hill            | McGauran         | Troeth   |
| Calvert | Humphries       | Murphy           | Vanstone |
| Chapman | Johnston        | Patterson        | Watson   |
| Colbeck | Kemp            | Payne            |          |
| Coonan  | Lees            | Santoro          |          |

NOES, 30

Senators—

|          |                  |          |          |
|----------|------------------|----------|----------|
| Allison  | Collins          | Hogg     | Murray   |
| Bartlett | Conroy           | Hutchins | Nettle   |
| Bishop   | Crossin (Teller) | Kirk     | Ray      |
| Bolkus   | Denman           | Ludwig   | Sherry   |
| Brown    | Evans            | Mackay   | Stephens |
| Buckland | Faulkner         | Marshall | Wong     |
| Carr     | Forshaw          | McLucas  |          |
| Cherry   | Greig            | Moore    |          |

The ayes and noes were equal and so the committee did not insist on the amendment.

Resolution to be reported.

The President resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 421 from the House of Representatives relating to the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 and had resolved not to insist on amendment no. 27 made by the Senate to which the House had disagreed.

Senator Coonan moved—That the report from the committee be adopted.

Question put.

The Senate divided—

AYES, 51

Senators—

|          |                 |           |           |
|----------|-----------------|-----------|-----------|
| Abetz    | Conroy          | Humphries | Nettle    |
| Barnett  | Coonan          | Hutchins  | Patterson |
| Bishop   | Crossin         | Johnston  | Payne     |
| Bolkus   | Denman          | Kemp      | Scullion  |
| Boswell  | Eggleston       | Kirk      | Sherry    |
| Brandis  | Evans           | Ludwig    | Stephens  |
| Brown    | Faulkner        | Mackay    | Tchen     |
| Buckland | Ferris (Teller) | Marshall  | Tierney   |
| Calvert  | Forshaw         | Mason     | Troeth    |
| Carr     | Harradine       | McGauran  | Vanstone  |
| Chapman  | Heffernan       | McLucas   | Watson    |
| Colbeck  | Hill            | Moore     | Wong      |
| Collins  | Hogg            | Murphy    |           |

NOES, 6

Senators—

|                  |        |      |        |
|------------------|--------|------|--------|
| Allison (Teller) | Cherry | Lees | Murray |
| Bartlett         | Greig  |      |        |

Question agreed to.

**28 SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2003**

Order of the day read for the consideration of message no. 427 from the House of Representatives in committee of the whole (*see entry no. 29, 14 October 2003*).

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE  
TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

**(5) AG (1) [Sheet 3084]**

Clause 15, page 10 (after line 16), after paragraph (1)(d), insert:

(da) where the person does not have a legal personal representative, a dependant of the person; or

**(6) AG (2) [Sheet 3084]**

Clause 18, page 12 (line 10), after paragraph (1)(b), insert:

or (c) where the person does not have a legal personal representative, a dependant of the person;

**(7) AG (3) [Sheet 3084]**

Clause 19, page 13 (after line 22), after paragraph (4)(d), insert:



(da) where the person does not have a legal personal representative, a dependant of the person; or

**(12) Opp (3) [Sheet 3067]/AG (4) [Sheet 3084]**

Clause 56, page 45 (lines 1 and 2), omit the definition of *dependant*, substitute:

*de facto partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine basis as a partner of the person.

*dependant*, in relation to a person, includes the spouse, de facto partner and any child of the person or of the person's spouse or de facto partner.

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its amendments nos 5 to 7 and 12 to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 38

Senators—

|               |                 |                  |          |
|---------------|-----------------|------------------|----------|
| Abetz         | Coonan          | Kemp             | Payne    |
| Allison       | Eggleston       | Lees             | Santoro  |
| Bartlett      | Ferguson        | Lightfoot        | Scullion |
| Boswell       | Ferris (Teller) | Macdonald, Ian   | Tchen    |
| Brandis       | Greig           | Macdonald, Sandy | Tierney  |
| Calvert       | Harradine       | Mason            | Troeth   |
| Campbell, Ian | Heffernan       | McGauran         | Vanstone |
| Chapman       | Hill            | Murphy           | Watson   |
| Cherry        | Humphries       | Murray           |          |
| Colbeck       | Johnston        | Patterson        |          |

NOES, 23

Senators—

|                   |          |          |          |
|-------------------|----------|----------|----------|
| Bishop            | Conroy   | Hutchins | Moore    |
| Bolkus            | Crossin  | Kirk     | Nettle   |
| Brown             | Denman   | Ludwig   | Ray      |
| Buckland (Teller) | Faulkner | Mackay   | Sherry   |
| Carr              | Forshaw  | Marshall | Stephens |
| Collins           | Hogg     | McLucas  |          |

Question agreed to.

Resolution to be reported.

---

The President resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 427 from the House of Representatives relating to the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and had resolved not to insist on amendments nos 5 to 7 and 12 made by the Senate to which the House had disagreed.

On the motion of Senator Coonan the report from the committee was adopted.

**29 SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS)  
(CONSEQUENTIAL AMENDMENTS) BILL 2003**

Order of the day read for the consideration of message no. 420 from the House of Representatives in committee of the whole (*see entry no. 22, 9 October 2003*).

—————  
*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE  
TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

**(1) Dem (1) [Sheet 3090 Revised]**

Schedule 1, page 3 (after line 7), before item 1, insert:

**1A Section 6 (after the definition of *demerging entity*)**

Insert:

*dependant*, in relation to a person, includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

**(2) Dem (2) [Sheet 3090 Revised]**

Schedule 1, page 3 (after line 7), before item 1, insert:

**1B Section 6 (after the definition of *insurance funds*)**

Insert:

*interdependency relationship* means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) residing together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

**(3) Dem (3) [Sheet 3090 Revised]**

Schedule 1, page 3 (after line 7), before item 1, insert:

**1C Section 6 (after the definition of *part of a distribution that is franked with a venture capital credit*)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

**(4) Dem (4) [Sheet 3090 Revised]**

Schedule 1, page 3 (after line 7), before item 1, insert:

**1D Section 6 (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant time, was legally married to that person.

**(5) Dem (5) [Sheet 3090 Revised]**

Schedule 1, page 4 (after line 20), after item 7, insert:

**7A Section 995-5 (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant time, was legally married to that person.

**(6) AG (1) [Sheet 3104]**

Schedule 1, page 5 (after line 32), after item 9, insert:

**9A Schedule (Form of Trust Deed, subrule 7(4) (definition of spouse))**

Repeal the definition, substitute:

*spouse*, in relation to a member, means a person who is legally married to the member and includes a person who, although not legally married to the member, ordinarily lives with the member as his or her husband or wife or partner, as the case may be, on a permanent and bona fide basis.

**9B Schedule 1 (paragraphs 9(c) and (d))**

After “husband or wife” (twice occurring), insert “or partner”.

**9C Clause 12**

Repeal the clause, substitute:

12. In spite of anything in this Part, a partner in relation to a person means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

**(8) AG (2) [Sheet 3104]**

Schedule 1, page 9 (after line 14), before item 16, insert:

**15A At the end of subsection 8B(3)**

Add:

; or (e) if the person at the time of death was the partner of the person.

- (4) For the purposes of this section, *partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

**(9) AG (3) [Sheet 3104]**

Schedule 1, page 11 (after line 14), at the end of Part 1, add:

***Superannuation Act 1990***

**24AA The Schedule (clause 1.1.1, paragraphs (c), (d), (e) and (f) of the definition of spouse)**

After “husband or wife” (wherever occurring), insert “or partner”.

**24AB The Schedule (clause 1.1.1, after the definition of *partially dependent child*)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

**(10) Dem (6) [Sheet 3090 Revised]**

Schedule 1, page 11 (after line 14), at the end of Part 1, add:

***Superannuation Industry (Supervision) Act 1993*****24A Subsection 10(1) (definition of *dependant*)**

Repeal the definition, substitute:

*dependant*, in relation to a person, includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

**24B Subsection 10(1) (after the definition of *insurance funds*)**

Insert:

*interdependency relationship* means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) residing together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

**(11) Dem (1) [Sheet 3105]**

Schedule 1, page 11 (after line 14), at the end of Part 1, add:

***Superannuation Industry (Supervision) Act 1993*****24C Subsection 10(1)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

**24D Subsection 10(1) (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant time, was legally married to that person.

**24E At the end of subsection 52(2)**

Add:

- ; (i) not to discriminate, in relation to a beneficiary, on the basis of race, colour, sex, sexual preference, transgender status, marital status, family responsibilities, religion, political opinion or social origin.

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its amendments nos 1 to 6 and 8 to 11 to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 32

Senators—

|         |           |                   |           |
|---------|-----------|-------------------|-----------|
| Abetz   | Coonan    | Lees              | Patterson |
| Alston  | Ferguson  | Lightfoot         | Payne     |
| Barnett | Ferris    | Macdonald, Ian    | Scullion  |
| Boswell | Harradine | Macdonald, Sandy  | Tchen     |
| Brandis | Heffernan | Mason             | Tierney   |
| Calvert | Hill      | McGauran (Teller) | Troeth    |
| Chapman | Humphries | Minchin           | Vanstone  |
| Colbeck | Johnston  | Murphy            | Watson    |

NOES, 30

Senators—

|                   |          |          |          |
|-------------------|----------|----------|----------|
| Allison           | Collins  | Hogg     | Murray   |
| Bartlett          | Conroy   | Hutchins | Nettle   |
| Bishop            | Crossin  | Kirk     | Ray      |
| Bolkus            | Denman   | Ludwig   | Sherry   |
| Brown             | Evans    | Mackay   | Stephens |
| Buckland (Teller) | Faulkner | Marshall | Wong     |
| Carr              | Forshaw  | McLucas  |          |
| Cherry            | Greig    | Moore    |          |

Question agreed to.

Resolution to be reported.

---

The Deputy President (Senator Hogg) resumed the chair and the Chair of Committees reported that the committee had considered message no. 420 from the House of Representatives relating to the Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 and had resolved not to insist on amendments nos 1 to 6 and 8 to 11 made by the Senate to which the House had disagreed.

On the motion of Senator Coonan the report from the committee was adopted.

**30 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—REPORT—TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003**

Senator McGauran, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled the following report and documents:

Environment, Communications, Information Technology and the Arts Legislation Committee—Provisions of the Telstra (Transition to Full Private Ownership) Bill 2003—Report, dated October 2003, *Hansard* record of proceedings [7 vols], documents presented to the committee and submissions [168].

Report ordered to be printed on the motion of Senator McGauran.

Senator Mackay, by leave, moved—That the Senate take note of the report.

Debate ensued.

Question put and passed.

**31 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

Order read for the adjourned debate on the motion moved by the Minister for Local Government, Territories and Roads (Senator Ian Campbell) (*see entry no. 9*).

Question put and passed.

**32 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, moved—That the government business order of the day for 30 October 2003, relating to the Telstra (Transition to Full Private Ownership) Bill 2003, be called on immediately.

Question put and passed.

**33 TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003**

Order read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

---

*Document:* Senator Crossin, by leave, tabled the following document:

Telstra (Transition to Full Private Ownership) Bill 2003—Copy of photograph—  
Mobile phone use in a remote area.

---

Debate continued.

*At 9.50 pm:* Debate was interrupted while Senator Marshall was speaking.

**34 ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.28 pm till Tuesday, 28 October 2003 at 9.30 am.

**35 ATTENDANCE**

Present, all senators except Senators George Campbell, Cook\*, Knowles\*, Ridgeway\*, Stott Despoja\* and Webber (\* on leave).

**HARRY EVANS**  
Clerk of the Senate