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1 MEETING OF SENATE

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 PARLIAMENT HOUSE ART COLLECTION—STATEMENT BY PRESIDENT

The President made a statement, pursuant to the order of the Senate of 1 April 2004, relating to a review of the Parliament House art collection (*see entry no. 8, 1 April 2004*).

Senator Brown, by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

3 PETITIONS

The following 6 petitions, lodged with the Clerk by the senators indicated, were received:

Senators Allison, Collins and Nettle, from 25, 76 and 26 petitioners, respectively, requesting that the Senate take action to oppose any legislation to abolish the Aboriginal and Torres Strait Islander Commission.

Senator Allison, from 38 petitioners, requesting that the Senate support the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003.

Senator Allison, from 8 petitioners, requesting that the Senate amend any proposed legislation relating to Medicare to ensure that equitable access to doctors' services is preserved.

Senator Humphries, from 158 petitioners, requesting that the Senate take action to have the treatment for osteoporosis made available on the Pharmaceutical Benefits Scheme.

4 NOTICES

Senator Ridgeway: To move on the next day of sitting—That the Lands Acquisition Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 82 and made under the *Lands Acquisition Act 1989*, be disallowed.

Senator Ridgeway: To move on the next day of sitting—That there be laid on the table by the Minister for Immigration and Multicultural and Indigenous Affairs, no later than 3 pm on 23 June 2004, the following documents relating to the Lands Acquisition Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 82 and made under the *Lands Acquisition Act 1989*:

- (a) any documents relating to the making of the relevant amendments to the Lands Acquisition Regulations 1989;
- (b) any advice provided in relation to the decision to make the relevant amendments to the Lands Acquisition Regulations 1989;
- (c) any advice provided in relation to the continued government control of title currently held by Indigenous people through the Aboriginal and Torres Strait Islander Commission (ATSIC) after ATSIC is abolished by legislation; and
- (d) any other advice relating to the decision to make the relevant amendments. (*general business notice of motion no. 902*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins): To move on the next day of sitting—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 5 August 2004. (*general business notice of motion no. 903*)

The Chair of the Select Committee on the Free Trade Agreement between Australia and the United States of America (Senator Cook): To move on the next day of sitting—That the time for the presentation of the interim report of the Select Committee on the Free Trade Agreement between Australia and the United States of America be extended to 24 June 2004. (*general business notice of motion no. 904*)

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

- (a) notes that 310 parliamentarians from 67 countries, including Australia, attended the international Parliamentary Forum on Renewable Energies in Bonn, Germany on 2 June 2004;
- (b) notes the resolution adopted by the forum, which called for the shift to renewable energy and energy efficiency to be a key political priority in parliaments around the world and included:
 - (i) support for the establishment of an International Renewable Energy Agency as an intergovernmental organisation which governments could join at any time,
 - (ii) encouragement for countries that have not yet ratified the Kyoto Protocol to do so,
 - (iii) recognition that legislation is needed to develop the full potential of renewable energy, and
 - (iv) recognition that renewable energy can make a major contribution to overcoming economic disparities in many countries and in the global economy; and
- (c) calls on the Australian Government to endorse the resolution of the Parliamentary Forum on Renewable Energies and to implement the measures it recommends. (*general business notice of motion no. 905*)

5 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

- No. 6 Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2004.
- No. 7 Farm Household Support Amendment Bill 2004.
- No. 8 Export Market Development Grants Amendment Bill 2004.
- No. 9 Medical Indemnity (Run-off Cover Support Payment) Bill 2004 and a related bill.
- No. 10 Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004.
- No. 12 Agricultural and Veterinary Chemicals Legislation Amendment (Name Change) Bill 2004.
- No. 13 Bankruptcy (Estate Charges) Amendment Bill 2004 and a related bill.

Question put and passed.

Senator Ferris, by leave and at the request of the respective chairs, moved—That the following business of the Senate orders of the day be postponed till a later hour:

- (a) no. 2, relating to the presentation of the reports of the Economics Legislation Committee, the Employment, Workplace Relations and Education Legislation Committee and the Finance and Public Administration Legislation Committee on the 2004-05 Budget estimates; and
- (b) no. 6, relating to the presentation of the report of the Finance and Public Administration Legislation Committee on the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002.

Question put and passed.

6 COMMITTEES—LEAVE TO MEET DURING SITTING

Senator Ferris, by leave and at the request of the respective chairs, moved—That the following committees be authorised to hold public meetings during the sitting of the Senate on Friday, 18 June 2004:

- (a) Economics Legislation Committee, from 9 am to 2 pm, to take evidence for the committee's inquiries into the Superannuation Budget Measures Bill 2004 and two related bills, and the Tax Laws Amendment (2004 Measures No. 3) Bill 2004; and
- (b) Environment, Communications, Information Technology and the Arts References Committee, from 9 am, to take evidence for the committee's inquiry into the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.

Question put and passed.

7 EDUCATION—EDUCATIONAL TEXTBOOK SUBSIDY SCHEME

Statements by leave: Senators Mackay and Stott Despoja and the Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made statements relating to the vote on general business notice of motion no. 881 standing in the name of Senator Stott Despoja (*see entry no. 27, 16 June 2004*).

Question—That the motion be agreed to—put again, by leave, and negatived.

8 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 895 standing in the name of Senator Allison for today, relating to nuclear weapons systems and Colonel Stanislav Petrov, postponed till 22 June 2004.

General business notice of motion no. 896 standing in the name of Senator Allison for today, relating to health inequities and their socio-economic determinants, postponed till 21 June 2004.

General business notice of motion no. 898 standing in the name of Senator Allison for today, proposing that certain legislation committees reconvene to further consider the 2004-05 Budget estimates, postponed till 21 June 2004.

9 DAYS AND HOURS OF MEETING AND ROUTINE OF BUSINESS—PROPOSED VARIATION

Motion determined as not formal: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) requested that government business notice of motion no. 1 standing in his name for today, relating to hours of meeting and routine of business for today and 18 June 2004, be taken as formal.

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

10 WOMEN—DOMESTIC VIOLENCE

Senator Allison, also on behalf of Senator Stott Despoja, amended general business notice of motion no. 899 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) acknowledges that domestic and intimate partner violence comes in many forms and occurs in all sections of the Australian community and across all cultures;
- (b) notes that:
 - (i) the Victorian Health Promotion Foundation report of 16 June 2004 on intimate partner violence revealed that physical and emotional abuse by a partner was the leading risk factor for death, disease and disability and was responsible for 9 per cent of the total health costs for Australian women aged between 15 and 24,
 - (ii) domestic violence affects between one in three to one in five Australian families,
 - (iii) the 1996 Australian Women's Survey found that more than one million women had experienced some form of physical or sexual violence from a current or previous partner,
 - (iv) more than 80 per cent of violence experienced by women is not reported to police or other services,
 - (v) men, women and children can be victims of domestic violence as well as perpetrators, however, the vast majority of intimate partner violence is perpetrated by males, and
 - (vi) domestic violence is not limited to physical and sexual violence but covers a wide range of abusive behaviours such as bullying, verbal, emotional, social and financial abuse, which are often unrecognised by the community; and
- (c) calls on the Federal Government to:
 - (i) return to the original violence against women campaign, 'No Respect/No Relationship', with its focus on young men and the need to develop respectful relationships,
 - (ii) provide extra funding through the Supported Accommodation Assistance Program agreement, and directly to sexual assault services, to meet the demand that the campaign will generate for domestic violence and sexual assault support services, and
 - (iii) increase funding to state and territory governments to allow for the implementation of the National Safe Schools Framework with a strong focus on tackling bullying behaviour.

Question put and passed.

11 RENEWABLE ENERGY AMENDMENT (INCREASED MRET) BILL 2004

Senator Lees, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 901—That the following bill be introduced:

A Bill for an Act to set a higher target for mandatory renewable energy requirements, and for related purposes.

Question put and passed.

Senator Lees presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Lees moved—That this bill be now read a second time.

Debate adjourned till the next day of sitting, Senator Lees in continuation.

12 WORLD REFUGEE DAY

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 889—That the Senate—

- (a) notes that:
 - (i) 20 June 2004 is World Refugee Day, and
 - (ii) Australia has failed many asylum seekers who are hoping to rebuild their lives in safety and dignity;
- (b) condemns the Federal Government's treatment of asylum seekers, including:
 - (i) the indefinite detention of asylum seekers in harsh conditions, including the denial of basic human rights,
 - (ii) the official discrimination and denial of services and rights to those asylum seekers found to be refugees but granted only temporary protection visas,
 - (iii) the Pacific Solution, which has left many asylum seekers abandoned on Nauru and Manus Island, and
 - (iv) the forced deportation of asylum seekers to the countries they have fled or to inappropriate third countries; and
- (c) calls on the Government to end mandatory, non-reviewable detention of asylum seekers in Australia and adequately fund genuine community release programs.

Question put.

The Senate divided—

AYES, 10

Senators—

Allison (Teller)
Bartlett
Brown

Cherry
Greig
Lees

Murphy
Murray

Nettle
Ridgeway

NOES, 42

Senators—

Barnett	Faulkner	Kirk	Ray
Bishop	Ferguson	Knowles	Santoro
Buckland	Ferris	Ludwig	Scullion
Calvert	Fifield	Lundy	Stephens
Campbell, George	Forshaw	Macdonald, Sandy	Tchen
Campbell, Ian	Harris	Mackay	Troeth
Chapman	Heffernan	Marshall	Watson
Colbeck	Hogg	McGauran	Webber
Collins	Humphries	McLucas	Wong
Crossin	Hutchins	Moore	
Eggleston (Teller)	Johnston	Payne	

Question negatived.

Senator Kirk amended general business notice of motion no. 894 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that:
 - (i) 20 June 2004 is World Refugee Day, and
 - (ii) there are more than 20 million refugees and displaced people in the world;
- (b) acknowledges Australia's long and proud record of resettling refugees in Australia as a signatory to the Refugee Convention;
- (c) commends the United Nations High Commissioner for Refugees (UNHCR) for the tireless work it undertakes worldwide;
- (d) congratulates the UNHCR Australia post for its ongoing work in assisting asylum seekers who were or remain a part of the Howard Government's 'Pacific Solution';
- (e) condemns the Howard Government's outsourcing offshore to foreign countries and an international company of Australia's immigration detention system through the 'Pacific Solution';
- (f) notes the report of the Human Rights and Equal Opportunity Commission's inquiry into children in detention;
- (g) calls on the Government to:
 - (i) acknowledge that it has presided over an immigration detention regime where the welfare, safety and health of children has not been its primary concern,
 - (ii) set the immigration detention system up for the future so that this cannot happen again, and
 - (iii) release children from immigration detention facilities immediately, which is within the power of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone);
- (h) condemns the Minister for the production of the selective and ill-informed 'Australia says YES to Refugees' school kit; and
- (i) commends the UNHCR for its activities to commemorate World Refugee Day 2004 and encourages Australian high school students to participate in the UNHCR's World Refugee Day writing competition.

Question put and passed.

13 FOREIGN AFFAIRS—BURMA—AUNG SAN SUU KYI

Senator Ridgeway, also on behalf of Senator Stott Despoja and the Leader of the Opposition in the Senate (Senator Faulkner), amended general business notice of motion no. 900 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that:
 - (i) 19 June is the birthday of Aung San Suu Kyi, leader of the Burmese National League for Democracy (NLD),
 - (ii) 2004 marks the eighth birthday since 1989 that Aung San Suu Kyi has spent in detention under the Burmese military government (SPDC), and
 - (iii) 19 June is Women of Burma Day, and events are being held around Australia on 20 June to commemorate this day;
- (b) urges the SPDC to:
 - (i) release Aung San Suu Kyi and her deputy Tin Oo, who remain under house arrest, and
 - (ii) re-open all offices of the NLD and allow all offices full access to communication with people both inside and outside of Burma; and
- (c) calls on the Australian Government to reconsider the policy of full diplomatic relations with the Burmese military government until the release of Aung San Suu Kyi is ensured.

Question put and passed.

14 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Eggleston, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 890—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on current health preparation arrangements for the deployment of Australian Defence Forces overseas be extended to 5 August 2004.

Question put and passed.

15 NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Eggleston, at the request of the Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Lightfoot) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 891—That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 June 2004, from 5 pm to 8 pm, to take evidence for the committee's inquiry into the adequacy of funding for Australia's Antarctic Program.

Question put and passed.

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

Senator Eggleston, 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. 892—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 17 June 2004, from 4.30 pm to 8.30 pm, to take evidence for the committee's inquiry into the provisions of the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004.

Question put and passed.

**17 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING
SITTINGS**

Senator Eggleston, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 893—That the Community Affairs Legislation Committee be authorised to hold public meetings during the sitting of the Senate, from 9.30 am, on the following days:

- (a) Friday, 18 June 2004, to take evidence for the committee's inquiry into the Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004; and
- (b) Friday, 25 June 2004, to take evidence for the committee's inquiry into the provisions of the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004 and related bills.

Question put and passed.

**18 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—HEPATITIS C AND
THE BLOOD SUPPLY IN AUSTRALIA**

The Chair of the Community Affairs References Committee (Senator McLucas) tabled the following report and documents:

Community Affairs References Committee—Hepatitis C and the blood supply in Australia—Report, dated June 2004, *Hansard* record of proceedings [4 vols], additional information and submissions [93].

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

Senator McLucas moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Moore in continuation.

19 LEGISLATION COMMITTEES—REPORTS—BUDGET ESTIMATES 2004-05

Pursuant to order, Senator McGauran, at the request of the respective committees, tabled the following reports, dated June 2004 and documents:

2004-05 Budget estimates—

Community Affairs Legislation Committee—Report and *Hansard* record of proceedings [5 vols].

Environment, Communications, Information Technology and the Arts Legislation Committee—Report and *Hansard* record of proceedings [4 vols].

Legal and Constitutional Legislation Committee—Report and *Hansard* record of proceedings [4 vols].

Rural and Regional Affairs and Transport Legislation Committee—Report, *Hansard* record of proceedings [4 vols] and additional information.

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

20 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—REPORT—WORKPLACE RELATIONS AMENDMENT BILLS

Pursuant to order, Senator McGauran, at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), tabled the following report and documents:

Employment, Workplace Relations and Education Legislation Committee—Provisions of the Workplace Relations Amendment (Award Simplification) Bill 2002, [the] Workplace Relations Amendment (Better Bargaining) Bill 2003, [the] Workplace Relations Amendment (Choice in Award Coverage) Bill 2004 [and the] Workplace Relations Amendment (Simplifying Agreement-making) Bill 2004—Report, dated June 2004, *Hansard* record of proceedings, additional information and submissions [9].

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

21 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—REPORT—CIVIL AVIATION LEGISLATION AMENDMENT (MUTUAL RECOGNITION WITH NEW ZEALAND AND OTHER MATTERS) BILL 2003

Pursuant to order, Senator McGauran, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), tabled the following report and documents:

Rural and Regional Affairs and Transport Legislation Committee—Provisions of the Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003—Report, dated June 2004, *Hansard* record of proceedings and submissions [8].

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

22 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—REPORT—MIGRATION AMENDMENT (JUDICIAL REVIEW) BILL 2004

Pursuant to order, Senator McGauran, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled the following report and documents:

Legal and Constitutional Legislation Committee—Provisions of the Migration Amendment (Judicial Review) Bill 2004—Report, dated June 2004, *Hansard* record of proceedings and submissions [21].

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

23 DAYS AND HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 1—That—

(1) On Thursday, 17 June 2004:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 10.30 pm;

- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
 - (c) the routine of business from not later than 4.30 pm shall be government business only;
 - (d) divisions may take place after 4.30 pm; and
 - (e) the question for the adjournment of the Senate shall be proposed at 9.50 pm.
- (2) The Senate shall sit on Friday, 18 June 2004 and that:
- (a) the hours of meeting shall be 9 am to 4.25 pm;
 - (b) the routine of business shall be:
 - (i) notices of motion, and
 - (ii) government business only; and
 - (c) the question for the adjournment of the Senate shall be proposed at 3.45 pm.

Question put and passed.

24 CORPORATIONS (FEES) AMENDMENT BILL (NO. 2) 2003
CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND
CORPORATE DISCLOSURE) BILL 2003

Order of the day read for the consideration of the bills in committee of the whole.

In the committee

CORPORATIONS (FEES) AMENDMENT BILL (NO. 2) 2003—

Bill, taken as a whole by leave, agreed to.

CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND
CORPORATE DISCLOSURE) BILL 2003—

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Local Government, Territories and Roads (Senator Ian Campbell) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Bill debated.

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

Schedule 1, item 9, page 5 (line 16), omit “(b)”, substitute “(a)”.

Schedule 1, item 9, page 5 (line 18), omit “; or (c)”, substitute “(aa)”.

Schedule 1, item 9, page 5 (line 19), at the end of paragraph (c), add “or”.

Schedule 1, item 17, page 10 (line 15), after “FRC”, insert “, acting on behalf of the FRC,”.

Schedule 1, item 17, page 11 (line 3), after “FRC”, insert “, acting on behalf of the FRC,”.

Schedule 1, item 17, page 11 (line 33), after “FRC”, insert “, acting on behalf of the FRC,”.

Schedule 1, item 17, page 12 (line 1), before “the FRC”, insert “the Chair of”.

Schedule 1, item 17, page 12 (line 8), before “the FRC”, insert “the Chair of”.

Schedule 1, item 17, page 12 (line 18), after “at that time that”, insert “the Chair of”.

Schedule 1, item 17, page 12 (line 20), after “that”, insert “the Chair of”.

Schedule 1, item 32, page 21 (after line 13), after paragraph (e), insert:

- (ea) is made to APRA for the purposes of its performance of its functions; or

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

Schedule 1, item 14, page 7 (line 5), omit “approving and monitoring”, substitute “providing feedback on”.

Schedule 1, item 14, page 7 (line 11), omit paragraph 225(2)(c).

Schedule 1, item 14, page 7 (line 12), omit “directions, advice or”.

Schedule 1, item 14, page 8 (line 3), omit “approving and monitoring”, substitute “providing feedback on”.

Schedule 1, item 14, page 8 (line 9), omit paragraph 225(2A)(c).

Schedule 1, item 14, page 8 (line 10), omit “directions, advice or”.

Schedule 1, page 10 (after line 2), after item 14, insert:

14A Subsection 225(5)

Repeal the subsection, substitute:

- (5) The FRC does not have the power to:
 - (a) direct the AASB in relation to the development, or making of a particular standard; or
 - (b) veto a standard made, formulated or recommended by AASB; or
 - (c) determine the AASB’s broad strategic direction.

Schedule 1, item 16, page 10 (lines 8 to 11), omit subsections 225(7) and (8), substitute:

- (7) The FRC does not have the power to:
 - (a) direct the AUASB in relation to the development, or making of a particular auditing standard; or
 - (b) veto a standard made, formulated or recommended by AUASB; or
 - (c) determine the AUASB’s broad strategic direction.
- (8) The FRC shall hold its meetings in public except to the extent that a meeting considers:
 - (a) matters relating to the appointment or retirement or performance of members of the FRC, AASB or AUASB; or
 - (b) matters which are of such a sensitive nature that a public meeting would be inappropriate.

Schedule 1, page 12 (after line 25), after item 17, insert:

17A At the end of subsection 227(1)

Add:

; and (f) to determine its broad strategic direction.

Schedule 1, item 18, page 13 (after line 25), at the end of subsection 227B(1), add:

; and (f) to determine its broad strategic direction.

Schedule 1, items 19 and 20, page 14 (lines 17 to 20), omit the items, substitute:

19 Paragraphs 232(a) and (b)

Repeal the paragraphs.

Schedule 1, item 22, page 15 (lines 24 and 25), omit paragraph 234C(a).

Schedule 1, item 26, page 17 (line 10), omit the item, substitute:

26 Paragraph 236A(3)(a)

Repeal the paragraph.

Schedule 1, item 28, page 17 (lines 23 to 26), omit subsection 236E(2), substitute:

- (2) The AUASB shall hold its meetings in public except to the extent that a meeting considers:
 - (a) matters relating to the appointment or retirement or performance of members of a subcommittee of the AUASB; or
 - (b) matters which are of such a sensitive nature that a public meeting would be inappropriate.

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

Schedule 1, page 30 (after line 5), after item 50, insert:

50A Subsection 1279(2)

Repeal the subsection, substitute:

- (2) An application under this section:
 - (a) must be lodged with ASIC; and
 - (b) must contain such information as is prescribed in the regulations; and
 - (c) must be in the prescribed form.

Schedule 1, item 54, page 31 (lines 10 to 13), omit the note.

Schedule 1, item 56, page 32 (lines 15 to 22), omit subsection (1), substitute:

- (1) A person who is a registered company auditor must, within one month after the end of:
 - (a) the period of 12 months beginning on the day on which the person's registration begins; and
 - (b) each subsequent period of 12 months;
 lodge with ASIC a statement in respect of that period.
- (1A) A statement under subsection (1):
 - (a) must contain such information as is prescribed in the regulations; and
 - (b) must be in the prescribed form.

On the motion of Senator Ian Campbell the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 73, page 36 (line 22), omit “*audit*”, substitute “*auditor*”.

Schedule 1, page 43 (after line 8), after item 90, insert:

90A After subsection 300(2)

Insert:

(2A) If subsection (2) is relied on to not include in the directors’ report for a financial year details that would otherwise be required to be included in that report under paragraph (11B)(a) or (11C)(b), that report must specify, in the section headed “Non-audit services”, where those details may be found in the company’s financial report for that financial year.

Schedule 1, item 91, page 43 (line 18), omit “amount paid”, substitute “amounts paid or payable”.

Schedule 1, item 91, page 43 (line 19), omit “by the auditor during the year”, substitute “, during the year, by the auditor (or by another person or firm on the auditor’s behalf)”.

Schedule 1, item 91, page 43 (line 21), omit “by the auditor during the year”, substitute “, during the year, by the auditor (or by another person or firm on the auditor’s behalf)”.

Schedule 1, item 91, page 43 (lines 25 and 26), omit “by the auditor during the year”, substitute “, during the year, by the auditor (or by another person or firm on the auditor’s behalf)”.

Schedule 1, item 91, page 43 (line 29), at the end of subsection (11B), add “If consolidated financial statements are required, the details and statements must relate to amounts paid or payable to the auditor by, and non-audit services provided to, any entity (including the company, registered scheme or disclosing entity) that is part of the consolidated entity.”.

Schedule 1, item 91, page 43 (line 30), after “paid”, insert “or payable”.

Schedule 1, item 91, page 43 (lines 31 and 32), omit “by the auditor during the year”, substitute “, during the year, by the auditor (or by another person or firm on the auditor’s behalf)”.

Schedule 1, item 91, page 43 (lines 34 and 35), omit paragraph (11C)(b), substitute:

- (b) the dollar amount that:
 - (i) the listed company; or
 - (ii) if consolidated financial statements are required—any entity that is part of the consolidated entity; paid, or is liable to pay, for each of those non-audit services.

Schedule 1, item 91, page 44 (lines 3 to 7), omit paragraph (11D)(a), substitute:

- (a) advice provided by the listed company’s audit committee if the company has an audit committee; or

Schedule 1, item 95, page 49 (line 8), after “company”, insert “or registered scheme”.

Schedule 1, item 95, page 56 (after line 17), after subsection 324CA(1), insert:

Individual auditor or audit company to notify ASIC

- (1A) An individual auditor or audit company contravenes this subsection if:
- (a) the individual auditor or audit company is the auditor of an audited body; and
 - (b) a conflict of interest situation exists in relation to the audited body while the individual auditor or audit company is the auditor of the audited body; and
 - (c) on a particular day (the *start day*):
 - (i) in the case of an individual auditor—the individual auditor becomes aware that the conflict of interest situation exists; or
 - (ii) in the case of an audit company—the audit company becomes aware that the conflict of interest situation exists; and
 - (d) at the end of the period of 7 days from the start day:
 - (i) the conflict of interest situation remains in existence; and
 - (ii) the individual auditor or audit company has not informed ASIC in writing that the conflict of interest situation exists.

Note 1: For *conflict of interest situation*, see section 324CD.

Note 2: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2A) or (2C) (public company) or 331AAA(2A) or (2C) (registered scheme) within the period of 21 days from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) A person is not excused from informing ASIC under subsection (1A) that a conflict of interest situation exists on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (1C) However, if the person is a natural person:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (1D) If the individual auditor or audit company gives ASIC a notice under paragraph (1A)(d), ASIC must, as soon as practicable after the notice has been received, give a copy of the notice to the audited body.

Conflict of interest situation of which individual auditor or audit company is not aware

Schedule 1, item 95, page 57 (after line 27), before subsection 324CA(6), insert:

Relationship between obligations under this section and other obligations

Schedule 1, item 95, page 57 (after line 35), before subsection 324CB(1), insert:

Contravention by member of audit firm

Schedule 1, item 95, page 58 (after line 12), after subsection 324CB(1), insert:

Member of audit firm to notify ASIC

- (1A) A person (the *defendant*) contravenes this subsection if:
- (a) an audit firm is the auditor of an audited body; and
 - (b) a conflict of interest situation exists in relation to the audited body while the audit firm is the auditor of the audited body; and
 - (c) the defendant is a member of the audit firm at a time when the conflict of interest situation exists; and
 - (d) on a particular day (the *start day*), the defendant becomes aware of the circumstances referred to in paragraphs (a) and (b); and
 - (e) at the end of the period of 7 days from the start day:
 - (i) the conflict of interest situation remains in existence; and
 - (ii) ASIC has not been informed in writing by the defendant, by another member of the audit firm or by someone else on behalf of the audit firm that the conflict of interest situation exists.

Note 1: For *conflict of interest situation*, see section 324CD.

Note 2: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2B) (public company) or 331AAA(2B) (registered scheme) within the period of 21 days from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) A person is not excused from informing ASIC under subsection (1A) that a conflict of interest situation exists on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (1C) However:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (1D) If ASIC is given a notice under paragraph (1A)(e), ASIC must, as soon as practicable after the notice is received, give a copy of the notice to the audited body.

Conflict of interest situation of which another member of audit firm is aware

Schedule 1, item 95, page 58 (after line 30), before subsection 324CB(4), insert:

Conflict of interest situation of which members are not aware

Schedule 1, item 95, page 59 (after line 13), before subsection 324CB(6), insert:

Defence

Schedule 1, item 95, page 59 (after line 23), before subsection 324CB(7), insert:

Relationship between obligations under this section and other obligations

Schedule 1, item 95, page 59 (after line 31), before subsection 324CC(1), insert:

Contravention by director of audit company

Schedule 1, item 95, page 60 (after line 11), after subsection 324CC(1), insert:

Director of audit company to notify ASIC

- (1A) A person (the **defendant**) contravenes this subsection if:
- (a) an audit company is the auditor of an audited body; and
 - (b) a conflict of interest situation exists in relation to the audited body while the audit company is the auditor of the audited body; and
 - (c) the defendant is a director of the audit company at a time when the conflict of interest situation exists; and
 - (d) on a particular day (the **start day**), the defendant becomes aware of the circumstances referred to in paragraphs (a) and (b); and
 - (e) at the end of the period of 7 days from the start day:
 - (i) the conflict of interest situation remains in existence; and
 - (ii) ASIC has not been informed in writing by the defendant, by another director of the audit company or by the audit company that the conflict of interest situation exists.

Note 1: For **conflict of interest situation**, see section 324CD.

Note 2: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2C) (public company) or 331AAA(2C) (registered scheme) within the period of 21 days from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) A person is not excused from informing ASIC under subsection (1A) that a conflict of interest situation exists on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (1C) However, if the person is a natural person:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (1D) If ASIC is given a notice under paragraph (1A)(e), ASIC must, as soon as practicable after the notice is received, give a copy of the notice to the audited body.

Conflict of interest situation of which another director of audit company aware

Schedule 1, item 95, page 60 (after line 31), before subsection 324CC(4), insert:

Conflict of interest situation of which directors of audit company not aware

Schedule 1, item 95, page 61 (after line 15), before subsection 324CC(6), insert:

Defence

Schedule 1, item 95, page 61 (after line 25), before subsection 324CC(7), insert:

Relationship between obligations under this section and other obligations

Schedule 1, item 95, page 63 (after line 18), after subsection 324CE(1), insert:

Individual auditor to notify ASIC

- (1A) An individual auditor contravenes this subsection if:
- (a) the individual auditor is the auditor of an audited body; and
 - (b) a relevant item of the table in subsection 324CH(1) applies to a person or entity covered by subsection (5) of this section while the individual auditor is the auditor of the audited body; and
 - (c) on a particular day (the *start day*), the individual auditor becomes aware of the circumstances referred to in paragraph (b); and
 - (d) at the end of the period of 7 days from the start day:
 - (i) those circumstances remain in existence; and
 - (ii) the individual auditor has not informed ASIC in writing of those circumstances.

Note: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2A) (public company) or 331AAA(2A) (registered scheme) within the period of 21 days from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) A person is not excused from informing ASIC under subsection (1A) that the circumstances referred to in paragraph (1A)(b) exist on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (1C) However:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (1D) If the individual auditor gives ASIC a notice under paragraph (1A)(d), ASIC must, as soon as practicable after the notice has been received, give a copy of the notice to the audited body.

Strict liability contravention of specific independence requirements by individual auditor

Schedule 1, item 95, page 64 (after line 19), before subsection 324CE(5), insert:

People and entities covered

Schedule 1, item 95, page 64 (table item 2, cell at column 2), omit the cell, substitute:

a service company or trust acting for, or on behalf of, the firm, or another entity performing a similar function

Schedule 1, item 95, page 65 (table item 7, cell at column 2), omit the cell, substitute:

an entity that the auditor (or a service company or trust acting for, or on behalf of, the individual auditor, or another entity performing a similar function) controls

Schedule 1, item 95, page 65 (table item 8, cell at column 2), omit the cell, substitute:

a body corporate in which the auditor (or a service company or trust acting for, or on behalf of, the individual auditor, or another entity performing a similar function) has a substantial holding

Schedule 1, item 95, page 66 (lines 26 to 29), omit all the words from and including “by the auditor” to the end of paragraph 324CE(7)(d), substitute:

by the auditor, other than:

- (i) an arrangement providing for regular payments of a fixed pre-determined dollar amount which is not dependent, directly or indirectly, on the revenues, profits or earnings of the auditor; or
- (ii) an arrangement providing for regular payments of a dollar amount where the method of calculating the dollar amount is fixed and is not dependent, directly or indirectly, on the revenues, profits or earnings of the auditor; and

Schedule 1, item 95, page 67 (after line 19), after subsection 324CF(1), insert:

Member of audit firm to notify ASIC

- (1A) A person (the *defendant*) contravenes this subsection if:
- (a) an audit firm is the auditor of an audited body; and
 - (b) a relevant item of the table in subsection 324CH(1) applies to a person or entity covered by subsection (5) of this section while the audit firm is the auditor of the audited body; and
 - (c) the defendant is a member of the audit firm at a time when the circumstances referred to in paragraph (b) exist; and
 - (d) on a particular day (the *start day*), the defendant becomes aware of the circumstances referred to in paragraphs (a) and (b); and
 - (e) at the end of the period of 7 days from the start day:
 - (i) the circumstances referred to in paragraph (b) remain in existence; and
 - (ii) ASIC has not been informed in writing of those circumstances by the defendant, by another member of the audit firm or by someone else on behalf of the audit firm.

Note: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2B) (public company) or 331AAA(2B) (registered scheme) within the period of 21 days

from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) A person is not excused from informing ASIC under subsection (1A) that the circumstances referred to in paragraph (1A)(b) exist on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (1C) However:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (1D) If ASIC is given a notice under paragraph (1A)(e), ASIC must, as soon as practicable after the notice is received, give a copy of the notice to the audited body.

Contravention of independence requirements by members of audit firm

Schedule 1, item 95, page 68 (after line 6), before subsection 324CF(5), insert:

People and entities covered

Schedule 1, item 95, page 68 (table item 2, cell at column 2), omit the cell, substitute:

a service company or trust acting for, or on behalf of, the firm, or another entity performing a similar function

Schedule 1, item 95, page 69 (table item 8, cell at column 2), omit the cell, substitute:

an entity that the firm (or a service company or trust acting for, or on behalf of, the firm, or another entity performing a similar function) controls

Schedule 1, item 95, page 69 (table item 9, cell at column 2), omit the cell, substitute:

a body corporate in which the firm (or a service company or trust acting for, or on behalf of, the firm, or another entity performing a similar function) has a substantial holding

Schedule 1, item 95, page 70 (lines 23 to 26), omit all the words from and including “by the firm” to the end of paragraph 324CF(7)(d), substitute:

by the firm, other than:

- (i) an arrangement providing for regular payments of a fixed pre-determined dollar amount which is not dependent, directly or indirectly, on the revenues, profits or earnings of the firm; or
- (ii) an arrangement providing for regular payments of a dollar amount where the method of calculating the dollar

amount is fixed and is not dependent, directly or indirectly, on the revenues, profits or earnings of the firm; and

Schedule 1, item 95, page 71 (after line 19), after subsection 324CG(1), insert:

Audit company to notify ASIC

- (1A) An audit company contravenes this subsection if:
- (a) the audit company is the auditor of an audited body; and
 - (b) a relevant item of the table in subsection 324CH(1) applies to a person or entity covered by subsection (9) of this section while the audit company is the auditor of the audited body; and
 - (c) on a particular day (the *start day*), the audit company becomes aware of the circumstances referred to in paragraph (b); and
 - (d) at the end of the period of 7 days from the start day:
 - (i) those circumstances remain in existence; and
 - (ii) the audit company has not informed ASIC in writing of those circumstances.

Note: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2C) (public company) or 331AAA(2C) (registered scheme) within the period of 21 days from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (1B) If the audit company gives ASIC a notice under paragraph (1A)(d), ASIC must, as soon as practicable after the notice has been received, give a copy of the notice to the audited body.

Strict liability contravention of specific independence requirements by audit company

Schedule 1, item 95, page 72 (after line 21), after subsection 324CG(5), insert:

Director of audit company to notify ASIC

- (5A) A person (the *defendant*) contravenes this subsection if:
- (a) an audit company is the auditor of an audited body; and
 - (b) a relevant item of the table in subsection 324CH(1) applies to a person or entity covered by subsection (9) of this section while the audit company is the auditor of the audited body; and
 - (c) the defendant is a director of the audit company at a time when the circumstances referred to in paragraph (b) exist; and
 - (d) on a particular day (the *start day*), the defendant becomes aware of the circumstances referred to in paragraphs (a) and (b); and
 - (e) at the end of the period of 7 days from the start day:
 - (i) the circumstances referred to in paragraph (b) remain in existence; and
 - (ii) ASIC has not been informed in writing of those circumstances by the defendant, by another director of the company or by the audit company.

Note: If the audited body is a public company or a registered scheme and the notice under this subsection is not followed up by a notice under subsection 327B(2C) (public company) or 331AAA(2C) (registered scheme) within the period of 21 days

from the day the notice under this subsection is given, the audit appointment will be terminated at the end of that period.

- (5B) A person is not excused from informing ASIC under subsection (5A) that the circumstances referred to in paragraph (5A)(b) exist on the ground that the information might tend to incriminate the person or expose the person to a penalty.
- (5C) However, if the person is a natural person:
- (a) the information; and
 - (b) the giving of the information;
- are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than proceedings for an offence based on the information given being false or misleading.
- (5D) If ASIC is given a notice under paragraph (5A)(e), ASIC must, as soon as practicable after the notice is received, give a copy of the notice to the audited body.

Strict liability contravention of specific independence requirements by director of audit company

Schedule 1, item 95, page 73 (table item 2, cell at column 2), omit the cell, substitute:

a service company or trust acting for, or on behalf of, the audit company, or another entity performing a similar function

Schedule 1, item 95, page 74 (table item 8, cell at column 2), omit the cell, substitute:

an entity that the audit company (or a service company or trust acting for, or on behalf of, the audit company, or another entity performing a similar function) controls

Schedule 1, item 95, page 74 (table item 9, cell at column 2), omit the cell, substitute:

a body corporate in which the audit company (or a service company or trust acting for, or on behalf of, the audit company, or another entity performing a similar function) has a substantial holding

Schedule 1, item 95, page 75 (lines 31 to 34), omit all the words from and including “audit company” to the end of paragraph 324CG(11)(d), substitute:

audit company, other than:

- (i) an arrangement providing for regular payments of a fixed pre-determined dollar amount which is not dependent, directly or indirectly, on the revenues, profits or earnings of the audit company; or
- (ii) an arrangement providing for regular payments of a dollar amount where the method of calculating the dollar amount is fixed and is not dependent, directly or

indirectly, on the revenues, profits or earnings of the audit company; and

Schedule 1, item 96, page 90 (lines 23 and 24), omit paragraph 327B(2)(d), substitute:

- (d) ceases to be auditor under subsection (2A), (2B) or (2C).
- (2A) An individual auditor ceases to be auditor of a company under this subsection if:
 - (a) on a particular day (the *start day*), the individual auditor:
 - (i) informs ASIC of a conflict of interest situation in relation to the company under subsection 324CA(1A); or
 - (ii) informs ASIC of particular circumstances in relation to the company under subsection 324CE(1A); and
 - (b) the individual auditor does not give ASIC a notice, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.
- (2B) An audit firm ceases to be auditor of a company under this subsection if:
 - (a) on a particular day (the *start day*), ASIC is:
 - (i) informed of a conflict of interest situation in relation to the company under subsection 324CB(1A); or
 - (ii) informed of particular circumstances in relation to the company under subsection 324CF(1A); and
 - (b) ASIC has not been given a notice on behalf of the audit firm, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.
- (2C) An audit company ceases to be auditor of a company under this subsection if:
 - (a) on a particular day (the *start day*), ASIC is:
 - (i) informed of a conflict of interest situation in relation to the company under subsection 324CB(1A) or 324CC(1A); or
 - (ii) informed of particular circumstances in relation to the company under subsection 324CF(1A) or 324CG(1A) or (5A); and
 - (b) ASIC has not been given a notice on behalf of the audit company, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.
- (2D) The *notification day* is:
 - (a) the last day of the remedial period; or
 - (b) such later day as ASIC approves in writing (whether before or after the remedial period ends).

Schedule 1, item 96, page 90 (lines 27 to 30), omit subsection 327B(4), substitute:

- (4) If an audit firm ceases to be the auditor of a company under subsection (2) at a particular time, each member of the firm who:
 - (a) is taken to have been appointed as an auditor of the company under subsection 324AB(1) or 324AC(4); and
 - (b) is an auditor of the company immediately before that time; ceases to be an auditor of the company at that time.

Schedule 1, item 100, page 96 (lines 22 and 23), omit paragraph 331AAA(2)(d), substitute:

- (d) ceases to be auditor under subsection (2A), (2B) or (2C).
- (2A) An individual auditor ceases to be auditor of a registered scheme under this subsection if:
 - (a) on a particular day (the *start day*), the individual auditor:
 - (i) informs ASIC of a conflict of interest situation in relation to the scheme under subsection 324CA(1A); or
 - (ii) informs ASIC of particular circumstances in relation to the scheme under subsection 324CE(1A); and
 - (b) the individual auditor does not give ASIC a notice, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.
- (2B) An audit firm ceases to be auditor of a registered scheme under this subsection if:
 - (a) on a particular day (the *start day*), ASIC is:
 - (i) informed of a conflict of interest situation in relation to the scheme under subsection 324CB(1A); or
 - (ii) informed of particular circumstances in relation to the scheme under subsection 324CF(1A); and
 - (b) ASIC has not been given a notice on behalf of the audit firm, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.
- (2C) An audit company ceases to be auditor of a registered scheme under this subsection if:
 - (a) on a particular day (the *start day*), ASIC is:
 - (i) informed of a conflict of interest situation in relation to the scheme under subsection 324CB(1A) or 324CC(1A); or
 - (ii) informed of particular circumstances in relation to the scheme under subsection 324CF(1A) or 324CG(1A) or (5A); and
 - (b) ASIC has not been given a notice on behalf of the audit company, before the notification day (see subsection (2D)), that that conflict of interest situation has, or those circumstances have, ceased to exist before the end of the period (the *remedial period*) of 21 days from the start day.

- (2D) The **notification day** is:
- (a) the last day of the remedial period; or
 - (b) such later day as ASIC approves in writing (whether before or after the remedial period ends).

Schedule 1, item 100, page 96 (lines 26 to 29), omit subsection 331AAA(4), substitute:

- (4) If an audit firm ceases to be the auditor of a registered scheme under subsection (2) at a particular time, each member of the firm who:
- (a) is taken to have been appointed as an auditor of the scheme under subsection 324AB(1) or 324AC(4); and
 - (b) is an auditor of the scheme immediately before that time;
- ceases to be an auditor of the scheme at that time.

Schedule 1, item 111, page 101 (table item 116CB, cell at column 2), omit the cell, substitute:

Subsections
324CA(1A) and (2)

Schedule 1, item 111, page 101 (table item 116CD, cell at column 2), omit the cell, substitute:

Subsections
324CB(1A), (2) and
(4)

Schedule 1, item 111, page 101 (table item 116CF, cell at column 2), omit the cell, substitute:

Subsections
324CC(1A), (2) and
(4)

Schedule 1, item 111, page 101 (table item 116DB, cell at column 2), omit the cell, substitute:

Subsections
324CE(1A) and (2)

Schedule 1, item 111, page 101 (table item 116EB, cell at column 2), omit the cell, substitute:

Subsections
324CF(1A) and (2)

Schedule 1, item 111, page 101 (table item 116FB, cell at column 2), omit the cell, substitute:

Subsections
324CG(1A) and (2)

Schedule 1, item 111, page 101 (table item 116FD, cell at column 2), omit the cell, substitute:

Subsections
324CG(5A) and (6)

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 65.

Question—That Schedule 1, item 65 stand as printed—put and negatived.

Senator Murray moved the following amendment:

Schedule 1, item 73, page 36 (line 23), at the end of the definition of *audit independence requirements of this Act*, add “and includes the following specific requirements:

- (a) an audit committee is not independent and an auditor is not independent if either is subject to the patronage or direction of a dominant shareholder; and
- (b) an auditor is not independent if the auditor provides non-audit services of a kind prohibited in Australia, the European Union, or the United States of America”.

Debate ensued.

At 12.45 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported progress.

**25 TAX LAWS AMENDMENT (MEDICARE LEVY AND MEDICARE LEVY SURCHARGE)
BILL 2004**

Order of the day 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of Senator Troeth the bill was read a third time.

26 FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2004

Order of the day 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of Senator Troeth the bill was read a third time.

27 EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 2004

Order of the day 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of Senator Troeth the bill was read a third time.

28 MEDICAL INDEMNITY (RUN-OFF COVER SUPPORT PAYMENT) BILL 2004**MEDICAL INDEMNITY LEGISLATION AMENDMENT (RUN-OFF COVER INDEMNITY AND OTHER MEASURES) BILL 2004**

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

Debate resumed.

Question put and passed.

Bills read a second time.

No amendments to the bills were circulated and no senator required that they be considered in committee.

On the motion of Senator Troeth the bills were read a third time.

29 ELECTORAL AND REFERENDUM AMENDMENT (ACCESS TO ELECTORAL ROLL AND OTHER MEASURES) BILL 2004

Order of the day 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of Senator Troeth the bill was read a third time.

30 AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT (NAME CHANGE) BILL 2004

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

31 BANKRUPTCY (ESTATE CHARGES) AMENDMENT BILL 2004
BANKRUPTCY LEGISLATION AMENDMENT BILL 2004

Order of the day read for the adjourned debate on the motions of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) and the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

No amendments to the bills were circulated and no senator required that they be considered in committee.

On the motion of Senator Troeth the bills were read a third time.

Suspension of sitting: On the motion of Senator Troeth the sitting of the Senate was suspended till 2 pm.

At 2 pm—

32 QUESTIONS

Questions without notice were answered.

Documents: The Special Minister of State (Senator Abetz) tabled the following documents:

Australian Electoral Commission—Personal enrolment and voting information—
Copies of—

Claim for enrolment of Eric Abetz.

Letter to the Special Minister of State (Senator Abetz) from the Deputy
Electoral Commissioner (Mr Dacey), dated 15 June 2004.

Further questions without notice were answered.

33 CULTURE AND THE ARTS—AUSTRALIA COUNCIL—ANSWER TO QUESTION

Senator Lundy moved—That the Senate take note of the answer given by the Minister for the Arts and Sport (Senator Kemp) to a question without notice asked by Senator Lundy today relating to Australia Council grants.

Debate ensued.

Question put and passed.

34 SCRUTINY OF BILLS—STANDING COMMITTEE—GOVERNMENT RESPONSE—6TH REPORT OF 2002

The Minister for Defence (Senator Hill) tabled the following document:

Scrutiny of Bills—Standing Committee—6th report of 2002—Application of absolute and strict liability offences in Commonwealth legislation—Government response.

35 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—DISCLOSURE OF COMMISSIONS ON RISK PRODUCTS

The Minister for Defence (Senator Hill) tabled the following document:

Corporations and Financial Services—Joint Statutory Committee—Report—Disclosure of commissions on risk products—Government response.

36 TREATIES—JOINT STANDING COMMITTEE—GOVERNMENT RESPONSE—52ND REPORT

The Minister for Defence (Senator Hill) tabled the following document:

Treaties—Joint Standing Committee—52nd report—Government response.

37 AUDITOR-GENERAL—AUDIT REPORT NO. 53 OF 2003-04—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Auditor-General—Audit report no. 53 of 2003-04—Performance audit—The implementation of CrimTrac.

38 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Parliament Act—Parliamentary Zone—Proposal, together with supporting documentation, relating to projects to enhance the security around Parliament House.

Notice of motion: The Minister for Defence (Senator Hill), by leave, gave a notice of motion as follows: To move on 21 June 2004—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Department of Parliamentary Services to enhance the security around Parliament House.

Statement by leave: Senator Brown, by leave, made a statement relating to the matter.

39 SCIENCE AND TECHNOLOGY—COOPERATIVE RESEARCH CENTRE PROGRAM—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The Minister for Defence (Senator Hill), by leave, made a statement relating to the order of the Senate of 15 June 2004 for the production of documents relating to the Cooperative Research Centre Program and certain Australian Greenhouse Office briefs and, pursuant to that order, tabled the following documents:

Science and technology—Cooperative Research Centre Program—
Copy of statement.

List of applications in the 2004 CRC selection round and funding sought identifying those that were unsuccessful in stage 1 and reason.

‘Options for support of the Australian photovoltaic industry’—Australian Greenhouse Office brief to the Minister for the Environment and Heritage and the Minister for Industry, Tourism and Resources, dated 12 December 2003.

Senator Brown, by leave, moved—That the Senate take note of the statement.

Question put and passed.

40 LEGISLATION COMMITTEES—REPORTS—BUDGET ESTIMATES 2004-05

Pursuant to order, Senator Lightfoot, at the request of the respective committees, tabled the following reports, dated June 2004 and documents:

2004-05 Budget estimates—

Economics Legislation Committee—Report and *Hansard* record of proceedings [5 vols].

Employment, Workplace Relations and Education Legislation Committee—Report and *Hansard* record of proceedings [4 vols].

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

41 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—REPORT—OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 2002

Pursuant to order, Senator Lightfoot, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled the following report and documents:

Finance and Public Administration Legislation Committee—Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002—Report, dated June 2004, *Hansard* record of proceedings, documents presented to the committee, additional information and submissions [5].

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

42 DOCUMENTS

The following documents were tabled by the Clerk:

Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].

National Health Act—Declaration No. PB 9 of 2004.

43 COMMITTEES—CHANGES IN MEMBERSHIP

The Deputy President (Senator Hogg) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), by leave, moved—That senators be discharged from and appointed to committees as follows:

Administration of Indigenous Affairs—Select Committee—

Appointed: Senators Heffernan, Johnston, Nettle, Ridgeway and Scullion

Community Affairs Legislation Committee—

Appointed—Substitute member: Senator Sherry to replace Senator Denman for the committee's inquiry into the Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004

Economics Legislation Committee—

Appointed—Substitute member: Senator Cherry to replace Senator Murray for the committee's inquiry into the Superannuation Budget Measures Bill 2004 and two related bills.

Question put and passed.

44 **CORPORATIONS (FEES) AMENDMENT BILL (NO. 2) 2003**
CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND
CORPORATE DISCLOSURE) BILL 2003

Order of the day read for the further consideration of the bills in committee of the whole.

—————
In the committee

CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND
CORPORATE DISCLOSURE) BILL 2003—

Consideration resumed of the bill, as amended—*and of the amendment moved by Senator Murray (see entry no. 24).*

Debate resumed.

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

Senator Conroy moved the following amendment:

Schedule 8, page 230 (after line 22), after item 15, insert:

15A After subsection 308(1A)

Insert:

- (1B) An auditor who audits the financial report for a financial year must report to members on:
- (a) the impact of the position taken by the reporting entity where alternative accounting treatments are reasonably open from the reading of an accounting standard and the difference is material; and
 - (b) significant matters arising in the audit process.

Debate ensued.

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

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

Schedule 1, item 91, page 43 (after line 14), after subsection (11A), insert:

Non-audit services not to be provided by auditor

- (11AA) A person contravenes this subsection if the person, as an auditor that performs for any company any audit required by this Act, provides to that company contemporaneously with the audit any non-audit service, including but not restricted to:
- (a) bookkeeping or other services related to the accounting records or financial statements of the company; or
 - (b) financial information systems design and implementation; or
 - (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; or
 - (d) actuarial services; or
 - (e) internal audit outsourcing services; or
 - (f) management functions or human resources management functions; or
 - (g) broker or dealer, investment adviser, or investment banking services; or

- (h) legal services and expert services unrelated to the audit; or
- (i) any other service prescribed by regulations made for the purpose of this subsection.

(11AB) A person does not commit an offence because of a contravention of subsection (11AA) if:

- (a) the non-audit service is not described above and the activity is approved in advance by the audit committee of the company; or
- (b) the company, auditor, or service is exempted by ASIC from the provisions of subsection (11AA).

Schedule 1, item 91, page 43 (line 16), omit “The”, substitute “Where subsection (11AB) applies, the”.

Schedule 1, item 95, page 82 (line 1), omit “2”, substitute “4”.

Schedule 1, item 95, page 82 (line 20), omit “2”, substitute “4”.

Schedule 2, item 2, page 137 (after line 31), after paragraph 295A(2)(c), insert:

- (ca) the company’s risk management and internal compliance and control system implements the policies adopted by the board; and
- (cb) the company’s risk management and internal compliance and control system is operating efficiently and effectively in all material respects; and

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

Schedule 1, page 100 (after line 23), after item 109, insert:

109A Schedule 3 (after table item 103)

Insert:

103AA	Subsection 300(11AA)	100 penalty units or imprisonment for 12 months, or both.
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Schedule 1, item 111, page 100 (line 26) to page 102, omit the item, substitute:

111 Schedule 3 (before table item 117)

Insert:

116BA	Section 324BA	100 penalty units or imprisonment for 12 months, or both.
116BB	Subsection 324BB(1)	100 penalty units or imprisonment for 12 months, or both.
116BC	Subsection 324BB(2)	40 penalty units.
116BD	Subsections 324BC(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116BE	Subsection 324BC(3)	40 penalty units.
116CA	Subsection 324CA(1)	100 penalty units or imprisonment for 12 months, or both.
116CB	Subsections 324CA(1A) and (2)	40 penalty units.
116CC	Subsection 324CB(1)	100 penalty units or imprisonment for 12 months, or both.

116CD	Subsections 324CB(1A), (2) and (4)	40 penalty units.
116CE	Subsection 324CC(1)	100 penalty units or imprisonment for 12 months, or both.
116CF	Subsections 324CC(1A), (2) and (4)	40 penalty units.
116DA	Subsection 324CE(1)	100 penalty units or imprisonment for 12 months, or both.
116DB	Subsections 324CE(1A) and (2)	40 penalty units.
116EA	Subsection 324CF(1)	100 penalty units or imprisonment for 12 months, or both.
116EB	Subsections 324CF(1A) and (2)	40 penalty units.
116FA	Subsection 324CG(1)	100 penalty units or imprisonment for 12 months, or both.
116FB	Subsections 324CG(1A) and (2)	40 penalty units.
116FC	Subsection 324CG(5)	100 penalty units or imprisonment for 12 months, or both.
116FD	Subsections 324CG(5A) and (6)	40 penalty units.
116GA	Section 324CI	100 penalty units or imprisonment for 12 months, or both.
116GB	Section 324CJ	100 penalty units or imprisonment for 12 months, or both.
116GC	Section 324CK	100 penalty units or imprisonment for 12 months, or both.
116H	Subsections 324CM(1), (2) and (3)	100 penalty units or imprisonment for 12 months, or both.
116I	Section 324DB	100 penalty units or imprisonment for 12 months, or both.
116JA	Subsection 324DC(1)	100 penalty units or imprisonment for 12 months, or both.
116JB	Subsection 324DC(2)	40 penalty units.
116KA	Subsections 324DD(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116KB	Subsection 324DD(3)	40 penalty units.
116LA	Subsection 327A(3)	100 penalty units or imprisonment for 12 months, or both.
116LB	Subsections 327B(1) and (3)	100 penalty units or imprisonment for 12 months, or both.

116LC	Subsection 327C(3)	100 penalty units or imprisonment for 12 months, or both.
116MA	Subsection 328A(4)	100 penalty units or imprisonment for 12 months, or both.
116MB	Subsection 328B(2)	100 penalty units or imprisonment for 12 months, or both.
116NA	Subsections 331AAA(1) and (3)	100 penalty units or imprisonment for 12 months, or both.
116NB	Subsections 331AAB(1) and (2)	100 penalty units or imprisonment for 12 months, or both.
116O	Subsection 342B(1)	20 penalty units.

Schedule 4, item 1, page 179 (lines 5 and 6), omit the item, substitute:

1 Schedule 3 (table items 1, 30, 50, 51, 83, 90, 117, 138, 229A to 229C, 235, 240, 309B, 309C, 310A to 310C, 311A to 311C, 312A, 334 to 337)

Repeal the items, substitute:

1	Section 111AU	400 penalty units or imprisonment for 10 years, or both.
30	Section 184	4,000 penalty units or imprisonment for 10 years, or both.
50	Subsection 209(3)	4,000 penalty units or imprisonment for 10 years, or both.
51	Section 224	400 penalty units or imprisonment for 10 years, or both.
83	Section 254T	200 penalty units or imprisonment for 5 years, or both.
90	Subsection 260D(3)	4,000 penalty units or imprisonment for 10 years, or both.
117	Subsection 344(2)	4,000 penalty units or imprisonment for 10 years, or both.
138	Subsection 588G(3)	4,000 penalty units or imprisonment for 10 years, or both.
229A	Subsection 674(2)	400 penalty units or imprisonment for 10 years or both.
229B	Subsection 674(5)	200 penalty units or imprisonment for 5 years, or both.
229C	Subsection 675(2)	400 penalty units or imprisonment for 10 years, or both.
229CA	Subsection 679(1)	100 penalty units.
235	Section 726	400 penalty units or imprisonment for 10 years, or both.
240	Subsection 728(3)	400 penalty units or imprisonment for 10 years, or both.

309B	Section 1041A	400 penalty units or imprisonment for 10 years, or both.
309C	Subsection 1041B(1)	400 penalty units or imprisonment for 10 years, or both.
310A	Subsection 1041C(1)	400 penalty units or imprisonment for 10 years, or both.
310B	Section 1041D	400 penalty units or imprisonment for 10 years, or both.
310C	Subsection 1041E(1)	400 penalty units or imprisonment for 10 years, or both.
311A	Subsection 1041F(1)	400 penalty units or imprisonment for 10 years, or both.
311B	Subsection 1041G(1)	400 penalty units or imprisonment for 10 years, or both.
311C	Subsection 1043A(1)	4,000 penalty units or imprisonment for 10 years, or both.
312A	Subsection 1043A(2)	4,000 penalty units or imprisonment for 10 years, or both.
334	Section 1307	200 penalty units or imprisonment for 5 years, or both.

1A Schedule 3 (after table item 273A)

Insert:

273AA	Subsection 950D(3)	1,000 penalty units or imprisonment for 1 year, or both.
273AB	Subsection 950E(1)	1,000 penalty units or imprisonment for 1 year, or both.
273AC	Subsection 950F(1)	1,000 penalty units or imprisonment for 1 year, or both.
273AD	Subsection 950F(2)	500 penalty units or imprisonment for 6 months, or both.

Schedule 4, page 186 (after line 15), after item 11, insert:

11A Paragraph 1317E(1)(f)

After “601FC(5)”, insert “, (7) or (9)”.

Schedule 5, item 15, page 193, omit “5 penalty units”, substitute “50 penalty units”.

Schedule 5, item 15, page 193, omit “5 penalty units”, substitute “100 penalty units”.

Schedule 5, item 17, page 194, omit “5 penalty units”, substitute “100 penalty units”.

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the following amendments, taken together by leave, were agreed to:

Schedule 1, item 112, page 103 (lines 11 and 12), omit subsection 1299A(2), substitute:

- (2) An application under this section:
 - (a) must contain such information as is prescribed in the regulations; and
 - (b) must be in the prescribed form.

Schedule 1, item 112, page 106 (line 9), omit paragraph 1299F(2)(c), substitute:

- (c) be lodged with ASIC in the prescribed form.

Schedule 1, item 112, page 106 (line 19), omit paragraph 1299F(4)(c), substitute:

- (c) be lodged with ASIC in the prescribed form.

Schedule 1, item 112, page 106 (line 30), omit paragraph 1299F(6)(c), substitute:

- (c) be lodged with ASIC in the prescribed form.

Schedule 1, item 112, page 106 (line 32) to page 107 (line 6), omit subsection 1299G(1), substitute:

- (1) A company that is an authorised audit company must, within one month after the end of:
 - (a) the period of 12 months beginning on the day on which the company became registered as an authorised audit company; and
 - (b) each subsequent period of 12 months; lodge with ASIC a statement in respect of that period.
- (1A) A statement under subsection (1):
 - (a) must contain such information as is prescribed in the regulations; and
 - (b) must be in the prescribed form.

Schedule 1, item 113, page 109 (table item 332A, cell at column 3), omit the cell, substitute:

5 penalty units

Schedule 1, item 113, page 109 (table item 332B, cell at column 3), omit the cell, substitute:

5 penalty units

Schedule 1, item 113, page 109 (table item 332C, cell at column 3), omit the cell, substitute:

5 penalty units

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

Schedule 1, item 155, page 133 (line 16), omit “**After**”, substitute “**Before**”.

Schedule 1, item 155, page 133 (line 18), omit “or (c)”, substitute “(ab)”.

Schedule 1, item 155, page 133 (line 23), at the end of paragraph (c), add “or”.

Senator Murray moved the following amendment:

Schedule 2, Part 1, page 139 (after line 12), at the end of the Part, add:

2A After Division 8 of Part 2M.3

Insert:

Division 9—Disclosure by companies of political donations

323E Introductory provisions

- (1) This Division has effect for authorising gifts and political donations, as defined in the *Commonwealth Electoral Act 1918* and in this section, made by companies to political organisations.
- (2) It is unlawful for a gift or political donation as defined in this section to be made by a company to a political organisation except as authorised by this Division.
- (3) In this Division:

candidate means a candidate for election to the Commonwealth Parliament, a State Parliament or for a position in an organisation as defined in the *Workplace Relations Act 1996*.

company includes a private company and a public company as defined in section 9 of this Act.

political donation means:

- (a) a gift as defined by the *Commonwealth Electoral Act 1918*; or
- (b) a disposition of property as defined by the *Commonwealth Electoral Act 1918*; and

includes but is not limited to, all manner of administrative support provided for a candidate or political party including provision of postal, telephonic and electronic and like communication facilities, photocopying, folding, binding and the like, printing and other associated facilities, all forms of advertising including canvassing and doorknocking and any form of assistance provided by the company for a candidate or political party.

political organisation means:

- (a) a registered political party as defined by the *Commonwealth Electoral Act 1918*; or
- (b) a registered organisation as defined in the *Workplace Relations Act 1996*.

the relevant time, in relation to any political donation made by a company, means:

- (a) the time when the donation is made; or
- (b) if earlier, the time when any contract is entered into by the company or undertaking in pursuance of which the political donation is made.

323F Prohibition of political donations by companies

- (1) It is unlawful for a company or an officer on behalf of a company to make any political donation to a political organisation unless:
 - (a) the political donation is authorised by a resolution passed at an approved general meeting by a majority of shareholders of the company before the relevant time; or
 - (b) the political donation is made on the authority of the company, board or management body in accordance with a donation policy which has been approved by a general meeting of the company before the relevant time.

Penalty: in the case of an individual—50 penalty units; or
in the case of a body corporate—500 penalty units.

- (2) For the purposes of this section, an approval resolution is a qualifying resolution which specifically authorises the company to make donations, not exceeding in total a sum specified in the resolution to nominated political organisations, during the requisite period beginning with the date of the resolution and concluding at the expiration of 3 years after the date of the resolution, after which a further resolution is required in accordance with subsection (1).
- (3) In subsection (2):
qualifying resolution means:
(a) an ordinary resolution; or
if the directors so determine or the articles of association so require:
(b) a special resolution; or
(c) a resolution passed by any percentage of the members greater than that required for an ordinary resolution.
- the requisite period** means three years or such shorter period as the directors may determine or the articles of association may require, commencing on the date of the resolution.
- (4) The directors may make determinations for the purposes of subsection (3) except where any provision of the articles operates to prevent them from doing so.
- (5) An approval resolution must be expressed in specific terms in accordance with subsection (2).
- (6) Where a company or an officer on behalf of a company makes a political donation in contravention of subsection (1), an approval resolution of that donation at the next available general meeting by a majority of shareholders of the company operates so as to validate the donation for the purposes of this section.
- (7) Nothing in this section requires approval of donations where the value of the donation is \$1,500 or less.
- (8) For the purposes of this section, **company** includes a subsidiary of the company.

Debate ensued.

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

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

Schedule 2, item 11, page 146 (lines 20 to 32), omit subsection 239BA(4), substitute:

- (4) If the Chairperson gives a direction as to the sitting members, he or she may:
(a) revoke the direction and give a new direction under subsection (2) as to the sitting members; or
(b) vary the direction to replace one or more of the sitting members; at any time after the giving of the direction and before the commencement of proceedings in relation to the matter.

- (5) If:
- (a) the Chairperson gives a direction as to the sitting members; and
 - (b) one of those persons:
 - (i) ceases to be a member; or
 - (ii) ceases to be available for the purposes of proceedings in relation to a matter;
 - during the proceedings or after the completion of the proceedings but before the report on the matter to which the proceedings relate is finalised;
- the Chairperson may vary the direction to replace that person at any time after the person so ceases to be a member or to be available.

Schedule 2, item 11, page 150 (after line 22), at the end of section 239CC, add:

- (9) The Financial Reporting Panel may revoke or vary a direction given under subsection (4).

Schedule 2, item 11, page 151 (after line 15), at the end of section 239CD, add:

- (5) The Financial Reporting Panel may revoke or vary a direction given under subsection (1).

Schedule 2, item 11, page 152 (after line 34), at the end of section 239CG, add:

- (3) The Financial Reporting Panel may revoke or vary a determination made under subsection (1).

Schedule 2, item 11, page 154 (line 23), omit “The”, substitute “A member of the”.

Schedule 2, item 11, page 154 (line 25), omit “If the”, substitute “If a member of the”.

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

Schedule 2, page 163, at the end of the Schedule, add:

Part 4—Content of financial reports

Corporations Act 2001

17 Subsection 45A(4)

Omit “(d)”, substitute “(b)”.

18 Subsection 295(2)

Repeal the subsection, substitute:

- (2) The financial statements for the year are:
- (a) the financial statements in relation to the entity reported on that are required by the accounting standards; and
 - (b) if required by the accounting standards—the financial statements in relation to the consolidated entity that are required by the accounting standards.

19 Subsection 303(2)

Repeal the subsection, substitute:

- (2) The financial statements for the half-year are:
- (a) the financial statements in relation to the entity reported on that are required by the accounting standards; and

- (b) if required by the accounting standards—the financial statements in relation to the consolidated entity that are required by the accounting standards.

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

Schedule 4, item 2, page 180 (line 14), omit “services with”, substitute “the supply of services or goods to”.

Schedule 4, item 2, page 180 (lines 16 and 17), omit “services with”, substitute “the supply of services or goods to”.

Schedule 4, item 2, page 181 (after line 29), at the end of section 1317AB, add:

- (3) Without limiting paragraphs (1)(b) and (2)(b), if a court is satisfied that:
 - (a) a person (the *employee*) is employed in a particular position under a contract of employment with another person (the *employer*); and
 - (b) the employee makes a disclosure that qualifies for protection under this Part; and
 - (c) the employer purports to terminate the contract of employment on the basis of the disclosure;

the court may order that the employee be reinstated in that position or a position at a comparable level.

Schedule 4, item 2, page 183 (after line 6), at the end of Part 9.4AAA, add:

1317AE Confidentiality requirements for company, company officers and employees and auditors

- (1) A person (the *offender*) is guilty of an offence against this subsection if:
 - (a) a person (the *discloser*) makes a disclosure of information (the *qualifying disclosure*) that qualifies for protection under this Part; and
 - (b) the qualifying disclosure relates to a contravention or possible contravention of a provision of the Corporations legislation by:
 - (i) a company; or
 - (ii) an officer or employee of the company; and
 - (c) the qualifying disclosure is made to:
 - (i) the company’s auditor or a member of an audit team conducting an audit of the company; or
 - (ii) a director, secretary or senior manager of the company; or
 - (iii) a person authorised by the company to receive disclosures of that kind; and
 - (d) the offender is:
 - (i) the company’s auditor or a member of an audit team conducting an audit of the company; or
 - (ii) a director, secretary or senior manager of the company; or
 - (iii) a person authorised by the company to receive disclosures of that kind; or
 - (iv) the company; or
 - (v) any officer or employee of the company; and

- (e) the offender discloses one of the following (the *confidential information*):
 - (i) the information disclosed in the qualifying disclosure;
 - (ii) the identity of the discloser;
 - (iii) information that is likely to lead to the identification of the discloser; and
 - (f) the confidential information is information that the offender obtained directly or indirectly because of the qualifying disclosure; and
 - (g) either:
 - (i) the offender is the person to whom the qualifying disclosure is made; or
 - (ii) the offender is a person to whom the confidential information is disclosed in contravention of this section and the offender knows that the disclosure of the confidential information to the offender was unlawful or made in breach of confidence; and
 - (h) the disclosure referred to in paragraph (e) is not authorised under subsection (2).
- (2) The disclosure referred to in paragraph (1)(e) is authorised under this subsection if it:
- (a) is made to ASIC; or
 - (b) is made to APRA; or
 - (c) is made to a member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979*); or
 - (d) is made to someone else with the consent of the discloser.

Schedule 4, item 3, page 183 (after table item 338), insert:

338A Subsection 1317AE(1) 25 penalty units.

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

Schedule 4, item 2, page 181 (line 4), omit “in good faith”, substitute “with an honest and reasonable belief”.

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

Schedule 5, page 189 (after line 29), after item 4, insert:

4A After paragraph 200F(a)

Insert:

- (aa) a benefit given under an order of a court; or

Senator Sherry moved the following amendments together by leave:

No. 1—Schedule 5, heading, page 189 (lines 2 and 3), omit “**Remuneration of directors and executives**”, substitute “**Appointment and remuneration of directors and executives**”.

No. 2—Schedule 5, page 191 (after line 13), after item 5, insert:

5C After section 201D

Insert:

201DA Special rules for the appointment of listed corporation directors

- (1) A notice of meeting of a listed corporation at which a person is standing for election as a director must contain the following information for each person standing for election, or re-election, as a director:
 - (a) any relationship between that person and any director of the company which may affect the independent conduct of the duties of a director; and
 - (b) any relationship between that person and the company which may affect the independent conduct of that person's duties as a director; and
 - (c) all other public company directorships currently held by that person; and
 - (d) any other information required by the regulations.
- (2) A person standing for election or re-election must give the company any information the company needs to comply with subsection (1).

No. 3—Schedule 5, page 191 (after line 13), after item 5, insert:

5D After section 202C

Insert:

202D Certain payments not to be made

A listed corporation must not pay the following types of remuneration to a director who is not an executive of the listed corporation:

- (a) options that are granted over shares of the listed corporation;
- (b) bonus payments;
- (c) retirement benefits other than superannuation which is required by statute to be paid;
- (d) other forms of remuneration specified by the regulations.

202E Limited-recourse loans

- (1) A listed corporation must not provide limited-recourse loans to its directors, or senior managers or employees. For the purposes of this section, a *limited-recourse loan* is any loan where:
 - (a) the loan is made by the listed corporation (or an associate of the listed corporation) to a director or senior manager of the listed corporation;
 - (b) the loan is used to purchase shares or securities of the listed corporation; and
 - (c) the borrower's liability to repay the principal is limited to the sale price of the shares or securities purchased by the borrower.
- (2) Subsection (1) does not apply to a loan provided by a company if the company's ordinary business includes providing finance and the loan is provided in the ordinary course of that business and on ordinary commercial terms available to clients of the company.

202F Shareholder approval of securities to be issued to directors

- (1) A listed corporation must not issue a security of the listed corporation to a director of a listed corporation without member approval as set out in this section.

- (2) Where member approval is required by subsection (1), it must be approved by a special resolution passed at a general meeting of the listed corporation.
- (3) Details of the securities to be issued must be set out in or accompany the notice of meeting at which the resolution is to be considered.
- (4) Subsection (1) does not apply to an issue of a security if member approval is not required under the provisions of the listing rules of a listing market in relation to the listed corporation.

No. 4—Schedule 5, item 5, page 190 (lines 1 to 18), omit subsection 200F(2), substitute:

- (2) Subsection 200B(1) does not apply to a benefit given in connection with a person's retirement from an office in relation to a company if:
 - (a) the benefit is:
 - (i) a genuine payment by way of damages for breach of contract; or
 - (ii) given to the person under an agreement made between the company and the person before the person became the holder of the office as the consideration, or part of the consideration, for the person agreeing to hold the office; and
 - (b) the value of the benefit, when added to the value of all other payments (if any) already made or payable in connection with the person's retirement from the board or managerial offices in the company and related bodies corporate, does not exceed the lesser of:
 - (i) the amount worked out under subsection (3); and
 - (ii) the amount worked out under subsection (4).

In applying paragraph (b) disregard superannuation which is required by statute to be paid.

Debate ensued.

Senator Murray moved the following amendment to Senator Sherry's proposed amendment no. 3:

Section 202D, after "A listed corporation must not pay", insert "or otherwise provide".

Debate ensued.

Question—That Senator Murray's amendment to Senator Sherry's proposed amendment no. 3 be agreed to—put and passed.

Debate continued.

Senator Murray moved the following amendment to Senator Sherry's proposed amendment no. 3:

Section 202D, after "executive of the listed corporation", insert "in consideration of the performance of duties by the director as a director of the listed corporation".

Question—That Senator Murray's amendment to Senator Sherry's proposed amendment no. 3 be agreed to—put and passed.

Debate continued.

Senator Conroy moved the following amendment to Senator Sherry's proposed amendment no. 3:

Paragraph 202E(1)(a), after "senior manager", insert "or employee".

Question—That Senator Conroy's amendment to Senator Sherry's proposed amendment no. 3 be agreed to—put and passed.

Question—That amendments nos 1, 2 and 4 and amendment no. 3, as amended, be agreed to—put and passed.

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

Schedule 5, page 191 (after line 13), after item 5, insert:

5A Subsection 200G(2)

Repeal the subsection, substitute:

(2) The payment limit is whichever is the lesser of:

- (a) the amount worked out under subsection (3); and
- (b) the amount worked out under subsection (3A);

if the person was an eligible employee in relation to the company when the person retired from office. In applying this subsection, disregard superannuation which is required by statute to be paid.

Schedule 5, page 191 (after line 13), after item 5, insert:

5B After subsection 200G(3)

Insert:

(3A) The amount worked out under this subsection is:

- (a) if the relevant period for the person is less than 12 months—a reasonable estimate of the total remuneration that the person would have received from the company and the related bodies corporate during the relevant period if the relevant period had been 12 months; or
- (b) if the relevant period for the person is 12 months—the total remuneration that the person received from the company and related bodies corporate in the relevant period; or
- (c) if the relevant period for the person is more than 12 months—the total remuneration that the person received from the company and related bodies corporate in the last 12 months of the relevant period.

(3B) For the purposes of subsection (3A), if a person has held an office in relation to a company:

- (a) throughout a period; or
- (b) throughout a number of periods;

the relevant period for that person is that period or the period consisting of the total of those periods.

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

Schedule 5, item 11, page 192 (after line 16), at the end of the item, add:

- (aa) the discussion of board policy in paragraph (a) must include:
 - (i) a discussion of the relationship between such policy and the company's performance;

- (ii) a detailed summary of the performance conditions where any element of remuneration is subject to a performance condition;
- (iii) an explanation as to why such performance conditions were chosen;
- (iv) a summary of the methods used in assessing whether any such performance conditions are met and an explanation as to why those methods were chosen;
- (v) if any such performance condition involves any comparison with factors external to the company:
 - (A) a summary of the factors to be used in making each comparison; and
 - (B) if any of the factors relates to the performance of another company, or two or more other companies, or of an index on which the securities of a company or companies are listed, the identity of that company, of each of those companies or of the index; and
- (vi) in relation to persons described in paragraph (c), where any entitlement to securities is received which is not subject to performance conditions, an explanation as to why that is the case;
- (vii) in relation to persons described in paragraph (c), an explanation of the relative importance of those elements which are related to performance and those elements which are not related to performance in respect of the terms and conditions of the person's remuneration; and
- (viii) such other matters as may be prescribed by the regulations; and

Schedule 5, item 12, page 192 (after line 30), at the end of the item, add:

- (d) the following details in relation to the remuneration of:
 - (i) each director of the company; and
 - (ii) each of the 5 named company executives who receive the highest remuneration for that year:
 - (A) the value of options granted, exercised and lapsed unexercised during the year and their aggregation;
 - (B) the percentage of the person's remuneration for the financial year that is made up of options granted to the person in that year;
 - (C) an explanation of the company's policy on the duration of the contract, the notice periods and termination payments under such contracts;
 - (D) details of any equity value protection scheme entered into by them or on their behalf.

For the purposes of this paragraph, *equity value protection scheme* means any financial arrangement which results in the director or executive retaining legal ownership of unvested equity in the company the value of which to the director or executive remains fixed regardless of changing market values of the equity.

For the purposes of this paragraph, *unvested equity* means equity in the company which has been issued to the particular director or executive by the company pursuant to a director or employee equity scheme and where:

- (i) the equity was issued subject to vesting arrangements over time and the equity has yet to vest; or
 - (ii) the equity forms part of a minimum holding requirement imposed on the director or executive by the company.
- (e) a line graph which plots for each of the most recent 5 financial years the total shareholder return on:
- (i) the holding of shares of that class of the company's equity share capital whose listing, or admission to dealing, has resulted in the company falling within the definition of a listed company; and
 - (ii) a hypothetical holding of shares made up of shares of the same kind and number as those by reference to which a broad equity market index is calculated;
- and state the name of the index selected for the purposes of the graph and set out the reasons for selecting that index.

Senator Murray moved the following amendment:

Schedule 5, item 7, page 191 (lines 25 and 26) omit subsection (3), substitute:

- (3) The vote on the resolution binds the directors of the company except that:
 - (a) an absolute majority of shareholders of the company may vote that approval of the remuneration of executive directors is not necessary; and
 - (b) where a vote of the kind mentioned in paragraph (a) is taken, a board remuneration policy must be approved by the AGM.

Debate ensued.

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

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

Schedule 12, item 2, page 251 (after line 30), at the end of section 1468, add:

- (4) The amendments made by section 201DA of item 5C and section 202F of item 5D of Schedule 5 to the amending Act apply after 1 October 2004.

Senator Murray moved the following amendment:

Schedule 5, item 7, page 191 (after line 26), at the end of section 250R, add:

- (4) Where a listed company has an institutional investor, and that institutional investor has a fiduciary duty in respect of the beneficial owners of shares they manage or act for, they must vote at an AGM of the company on the following:
 - (a) any resolution concerning the constitution of the company; and
 - (b) any remuneration of directors, whether executive or non-executive; and
 - (c) any matter concerning the election of directors.

Penalty: in the case of an individual—50 penalty units; or
in the case of a body corporate—500 penalty units.

Debate ensued.

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

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

Schedule 5, item 12, page 192 (after line 30), at the end of the item, add:

- (1A) The details in relation to remuneration prescribed in paragraph (1)(c) must include the total remuneration of each director and company officer where the value of the total remuneration is equal to or exceeds 20 times the full-time adult ordinary time earnings as periodically reported by the Australian Bureau of Statistics.

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

Schedule 6, page 195 (after line 12), after item 1, insert:

1A Before subsection 674(3)

Insert:

- (2B) A person does not contravene subsection (2A) if the person proves that they:
- (a) took all steps (if any) that were reasonable in the circumstances to ensure that the listed disclosing entity complied with its obligations under subsection (2); and
 - (b) after doing so, believed on reasonable grounds that the listed disclosing entity was complying with its obligations under that subsection.

Schedule 6, page 195 (after line 20), after item 2, insert:

2A Before subsection 675(3)

Insert:

- (2B) A person does not contravene subsection (2A) if the person proves that they:
- (a) took all steps (if any) that were reasonable in the circumstances to ensure that the disclosing entity complied with its obligations under subsection (2); and
 - (b) after doing so, believed on reasonable grounds that the disclosing entity was complying with its obligations under that subsection.

Schedule 6, item 9, page 204 (line 18), after “not”, insert “, by reason only of subsection (3) being satisfied,”.

Schedule 6, item 9, page 207 (line 29), after “the”, insert “determination,”.

Senator Conroy moved the following amendment:

Schedule 6, item 9, page 210 (after line 32), after section 1317DAJ, insert:

1317DAK Publication in relation to statement of reasons

- (1) If ASIC issues a statement of reasons to a disclosing entity, ASIC may publish the following details in relation to the statement of reasons, that:
- (a) ASIC believes that the disclosing entity has contravened subsection 674(2) or 675(2); and

- (b) ASIC has issued a statement of reasons to the disclosing entity; and
 - (c) the disclosing entity has an opportunity to appear before ASIC at a private hearing in relation to the alleged contravention.
- (2) Where ASIC publishes details of the statement of reasons in accordance with subsection (1), the details must include a statement that:
- (a) the disclosing entity is not regarded as having contravened the provision specified in the statement; and
 - (b) that following the outcome of the hearing, ASIC may issue an infringement notice or may choose not to issue an infringement notice in relation to the alleged contravention.

The Minister for Justice and Customs (Senator Ellison) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

The Acting Deputy President (Senator Hutchins) resumed the chair and the Temporary Chair of Committees reported that the committee had considered the bills, made progress and asked leave to sit again.

Ordered, on the motion of Senator Ellison, that the committee have leave to sit again at a later hour.

**45 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—REPORT—
BUDGET ESTIMATES 2004-05**

Pursuant to order, Senator Eggleston, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled the following report and documents:

Finance and Public Administration Legislation Committee—2004-05 Budget estimates—Report, dated June 2004 and *Hansard* record of proceedings [3 vols].

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

46 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Anti-terrorism Bill 2004).

Question put and passed.

47 ANTI-TERRORISM BILL 2004

Order of the day 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.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Clause 4, page 2 (after line 6), before subclause (1), insert:

- (1A) The amendment made by item 1B of Schedule 1 applies:
 - (a) to a person convicted of an offence on or after the commencement of this Act (whether or not the person was charged with the offence before the commencement of this Act); and
 - (b) to a person charged with an offence on or after the commencement of this Act.
- (1B) The amendments made by items 1C, 1D and 1E of Schedule 1 apply in relation to minimum non-parole offences of which persons are convicted on or after the commencement of this Act, whether the offences were or are committed before, on or after that commencement.

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

1A Subsection 3(1)

Insert:

terrorism offence means:

- (a) an offence against Division 72 of the *Criminal Code*; or
- (b) an offence against Part 5.3 of the *Criminal Code*.

1B After section 15

Insert:

15AA Bail not to be granted in certain cases

- (1) Despite any other law of the Commonwealth, a bail authority must not grant bail to a person (the *defendant*) charged with, or convicted of, an offence covered by subsection (2) unless the bail authority is satisfied that exceptional circumstances exist to justify bail.
- (2) This subsection covers:
 - (a) a terrorism offence; and
 - (b) an offence against a law of the Commonwealth, if:
 - (i) a physical element of the offence is that the defendant engaged in conduct that caused the death of a person; and
 - (ii) the fault element for that physical element is that the defendant intentionally engaged in that conduct (whether or not the defendant intended to cause the death, or knew

or was reckless as to whether the conduct would result in the death); and

- (c) an offence against a provision of Division 80 or Division 91 of the *Criminal Code*, or against section 24AA of this Act, if:
 - (i) the death of a person is alleged to have been caused by conduct that is a physical element of the offence; or
 - (ii) conduct that is a physical element of the offence carried a substantial risk of causing the death of a person; and
 - (d) an ancillary offence against a provision of Division 80 or Division 91 of the *Criminal Code*, or against section 24AA of this Act, if, had the defendant engaged in conduct that is a physical element of the primary offence to which the ancillary offence relates, there would have been a substantial risk that the conduct would have caused the death of a person.
- (3) To avoid doubt, the express reference in paragraph (2)(d) to an ancillary offence does not imply that references in paragraphs (2)(a), (b) or (c) to an offence do not include references to ancillary offences.
 - (4) To avoid doubt, except as provided by subsection (1), this section does not affect the operation of a law of a State or a Territory.

Note: Subsection (1) indirectly affects laws of the States and Territories because it affects section 68 of the *Judiciary Act 1903*.

- (5) In this section:

ancillary offence has the meaning given in the *Criminal Code*.

bail authority means a court or person authorised to grant bail under a law of the Commonwealth, a State or a Territory.

primary offence has the meaning given in the *Criminal Code*.

1C After section 19AF

Insert:

19AG Non-parole periods for sentences for certain offences

- (1) This section applies if a person is convicted of one of the following offences (each of which is a *minimum non-parole offence*) and a court imposes a sentence for the offence:
 - (a) an offence against section 24AA;
 - (b) a terrorism offence;
 - (c) an offence against Division 80 or 91 of the *Criminal Code*.

Note: A sentence for a minimum non-parole offence is a federal sentence, because such an offence is a federal offence.

- (2) The court must fix a single non-parole period of at least $\frac{3}{4}$ of:
 - (a) the sentence for the minimum non-parole offence; or
 - (b) if 2 or more sentences have been imposed on the person for minimum non-parole offences—the aggregate of those sentences.

The non-parole period is in respect of all federal sentences the person is to serve or complete.

- (3) For the purposes of subsection (2):
- (a) a sentence of imprisonment for life for a minimum non-parole offence is taken to be a sentence of imprisonment for 30 years for the offence; and
 - (b) it does not matter:
 - (i) whether or not the sentences mentioned in that subsection were imposed at the same sitting; or
 - (ii) whether or not the convictions giving rise to those sentences were at the same sitting; or
 - (iii) whether or not all the federal sentences mentioned in that subsection are for minimum non-parole offences.
- (4) If the person was subject to a recognizance release order, the non-parole period supersedes the order.
- (5) Sections 19AB, 19AC, 19AD, 19AE and 19AR have effect subject to this section.

Note: The effects of this include preventing a court from:

- (a) making a recognizance release order under paragraph 19AB(1)(e) or (2)(e), 19AE(2)(e) or 19AR(2)(e); or
- (b) confirming (under paragraph 19AD(2)(d)) a pre-existing non-parole period; or
- (c) confirming (under paragraph 19AE(2)(d)) a recognizance release order; or
- (d) declining (under subsection 19AB(3) or 19AC(1) or (2) or paragraph 19AD(2)(f)) to fix a non-parole period.

1D At the end of section 20

Add:

- (6) Paragraph (1)(b) does not apply in relation to a minimum non-parole offence mentioned in section 19AG, or offences that include one or more such minimum non-parole offences. This subsection has effect despite subsection (1) and sections 19AB, 19AC, 19AE and 19AR (which permit or require a court to make a recognizance release order in certain circumstances).

Note: If the court sentences the person to imprisonment for a minimum non-parole offence, it must fix a non-parole period under section 19AG.

1E At the end of section 20AB

Add:

- (6) Subsection (1) does not permit a court (including a federal court) to pass a sentence, or make an order, that involves detention or imprisonment, in respect of the conviction of a person before the court of a minimum non-parole offence mentioned in section 19AG.

Note: If the court sentences the person to imprisonment for the minimum non-parole offence, it must fix a non-parole period under section 19AG.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 2.

Schedule 1, item 2 debated.

Question—That Schedule 1, item 2 stand as printed—put and negatived.

Senator Greig moved the following amendments together by leave:

Clause 4, page 2 (after line 18), at the end of the clause, add:

- (3) The amendments made by this Act apply only insofar as they do not contravene the International Convention on the Rights of the Child.

Schedule 1, page 3 (after line 13), after item 2, insert:

2A After section 23B

Add:

23CA Compliance with International Convention on the Rights of the Child

This Division applies only insofar as it does not contravene the International Convention on the Rights of the Child.

Debate ensued.

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

Senator Ellison moved the following amendments together by leave:

Schedule 1, item 5, page 6 (line 8), after “section”, insert “23CB,”.

Schedule 1, item 5, page 6 (lines 21 to 26), omit paragraph (m), substitute:

- (m) any reasonable time that:
- (i) is a time during which the questioning of the person is reasonably suspended or delayed; and
 - (ii) is within a period specified under section 23CB.

Schedule 1, item 5, page 6 (after line 38), after section 23CA, insert:

23CB Specifying time during which suspension or delay of questioning may be disregarded

- (1) This section applies if the person mentioned in paragraph 23CA(8)(m) is detained under subsection 23CA(2) for the purpose of investigating whether the person committed a terrorism offence.

Note: The person may be detained under subsection 23CA(2) for the purpose of investigating whether the person committed a terrorism offence, whether the person was arrested for that terrorism offence or a different terrorism offence.

Application for specification of period

- (2) At or before the end of the investigation period, an investigating official may apply for a period to be specified for the purpose of subparagraph 23CA(8)(m)(ii).
- (3) The application must be made to:
- (a) a magistrate; or
 - (b) if it cannot be made at a time when a magistrate is available—a justice of the peace employed in a court of a State or Territory or a bail justice; or
 - (c) if it cannot be made when any of the foregoing is available—any justice of the peace.

- (4) The application may be made:
- (a) in person before the magistrate, justice of the peace or bail justice; or
 - (b) in writing; or
 - (c) by telephone, telex, fax or other electronic means.

However, before making the application by means described in paragraph (c), the investigating official must inform the person that the person, or his or her legal representative, may make representations to the magistrate, justice of the peace or bail justice about the application.

- (5) The application must include statements of all of the following:
- (a) whether it appears to the investigating official that the person is under 18;
 - (b) whether it appears to the investigating official that the person is an Aboriginal person or a Torres Strait Islander;
 - (c) the reasons why the investigating official believes the period should be specified, which may, for example, be or include one or more of the following:
 - (i) the need to collate and analyse information relevant to the investigation from sources other than the questioning of the person (including, for example, information obtained from a place outside Australia);
 - (ii) the need to allow authorities in or outside Australia (other than authorities in an organisation of which the investigating official is part) time to collect information relevant to the investigation on the request of the investigating official;
 - (iii) the fact that the investigating official has requested the collection of information relevant to the investigation from a place outside Australia that is in a time zone different from the investigating official's time zone;
 - (iv) the fact that translation is necessary to allow the investigating official to seek information from a place outside Australia and/or be provided with such information in a language that the official can readily understand;
 - (d) the period that the investigating official believes should be specified.
- (6) The person, or his or her legal representative, may make representations about the application.

Decision about specifying period

- (7) The magistrate, justice of the peace or bail justice may, by signed instrument, specify a period starting at the time the instrument is signed, if satisfied that:
- (a) it is appropriate to do so, having regard to:
 - (i) the application; and
 - (ii) the representations (if any) made by the person, or his or her legal representative, about the application; and
 - (iii) any other relevant matters; and
 - (b) the offence is a terrorism offence; and

- (c) detention of the person is necessary to preserve or obtain evidence or to complete the investigation into the offence or into another terrorism offence; and
- (d) the investigation into the offence is being conducted properly and without delay; and
- (e) the person, or his or her legal representative, has been given the opportunity to make representations about the application.

Instrument specifying period

- (8) The instrument must:
 - (a) specify the period as a number (which may be less than one) of hours; and
 - (b) set out the day and time when it was signed; and
 - (c) set out the reasons for specifying the period.
- (9) The magistrate, justice of the peace or bail justice must:
 - (a) give the investigating official a copy of the instrument as soon as practicable after signing it; and
 - (b) if the instrument was made as a result of an application made by means described in paragraph (4)(c)—inform the investigating official of the matters included in the instrument.

Evidentiary provisions if application was made by telephone, fax etc.

- (10) As soon as practicable after being informed of those matters, the investigating official must:
 - (a) complete a form of the instrument and write on it the name of the magistrate, justice of the peace or bail justice and the particulars given by him or her; and
 - (b) forward it to the magistrate, justice of the peace or bail justice.
- (11) If the form of the instrument completed by the investigating official does not, in all material respects, accord with the terms of the instrument signed by the magistrate, justice of the peace or bail justice, the specification of the period is taken to have had no effect.
- (12) In any proceedings, if the instrument signed by the magistrate, justice of the peace or bail justice is not produced in evidence, the burden lies on the prosecution to prove that the period was specified.

Debate ensued.

At 9.50 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported progress.

48 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.29 pm till Friday, 18 June 2004 at 9 am.

49 ATTENDANCE

Present, all senators except Senators Denman*, Harradine* and Tierney* (* on leave).

HARRY EVANS
Clerk of the Senate