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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 MEETING OF SENATE

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

2 WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003—RECOMMITTAL

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 1—

- (1) That so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect.
- (2) That the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 be recommitted, and that consideration of the bill in committee of the whole be an order of the day for a later hour.
- (3) That the committee consider the bill as reported by the committee of the whole on 3 March 2004.

Question put and passed.

3 AGED CARE AMENDMENT BILL 2004

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time—*and on the amendment moved by Senator Forshaw:*

At the end of the motion, add “but the Senate:

- (a) notes that for years the Government has ignored the pleas of the aged care industry, the community and the Australian Labor Party about its neglect of residential aged care, neglect that has caused difficulties in access and industry viability as well as concerns about the quality of care; and
- (b) registers its concern that the Government has resorted to a short-term political fix which seeks to put off until after the election the Government’s true intentions on a range of issues, including whether:
 - (i) accommodation bonds will apply consistently for both high level care and low level care,
 - (ii) an accommodation bond will apply to residents who are classified as medium care residents under the new resident classification scale,
 - (iii) there will be a further increase in the maximum daily accommodation charge for non-concessional residents from \$16.25 to \$19, a nearly 40 per cent increase from the current charge,
 - (iv) the requirement that at least 40 per cent of residents are concessional before a provider is entitled to a concessional supplement is retained into the future,
 - (v) bonds will be available to providers for the duration of a resident’s period of stay if it is greater than the current 5 years,
 - (vi) an aged care voucher system will be introduced, and
 - (vii) an auction or tender system will be introduced for the allocation of aged care places”.

Debate resumed.

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

Main question, as amended, 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.

Senator Forshaw moved the following amendment:

Schedule 1, page 3 (after line 6), after item 1, insert:

1A After paragraph 57-2(1)(h)

Insert:

- (ha) if the application of resident classification scale levels 1, 2, 3 and 4 as high care and levels 5, 6, 7 and 8 as low care is modified or replaced with the effect that care recipients are categorised into three levels, namely resident classification scale levels 5, 6, 7 and 8 as low care, levels 3 and 4 as medium care and levels 1 and 2 as high care, the payment of an accommodation bond can only be required in respect of care recipients categorised as low care;

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 25

Senators—

Bolkus	Crossin	Ludwig	Ray
Buckland (Teller)	Evans	Lundy	Stephens
Campbell, George	Forshaw	Marshall	Webber
Carr	Harradine	McLucas	Wong
Collins	Hogg	Moore	
Conroy	Hutchins	Murphy	
Cook	Kirk	Nettle	

NOES, 37

Senators—

Abetz	Colbeck	Kemp	Ridgeway
Allison	Eggleston	Knowles	Santoro
Barnett	Ellison	Lees	Scullion
Bartlett	Ferguson	Lightfoot	Tchen
Boswell	Ferris (Teller)	Macdonald, Ian	Troeth
Brandis	Fifield	Macdonald, Sandy	Vanstone
Calvert	Greig	Mason	Watson
Campbell, Ian	Heffernan	Minchin	
Chapman	Humphries	Murray	
Cherry	Johnston	Payne	

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the report from the committee was adopted and the bill read a third time.

**4 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 Conroy:

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.

Debate ensued.

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

Senator Murray moved the following amendments together by leave:

No. 1—Schedule 1, item 14, page 6 (after line 32), after subsection 225(1), insert:

- (1A) In fulfilling its functions the FRC shall:
 - (a) conduct its meetings in public, unless the sensitivity of a specific matter under consideration, as determined by an absolute majority members of the FRC, makes it appropriate to consider a matter in closed proceedings; and

- (b) undertake public consultation on proposals within its functions and responsibilities which have a public interest element.

No. 2—Schedule 1, item 28, page 17 (lines 28 and 29), omit paragraph 236E(3)(a).

Debate ensued.

Senator Murray, by leave, amended amendment no. 1 to read as follows:

Schedule 1, item 14, page 6 (after line 32), after subsection 225(1), insert:

- (1A) In fulfilling its functions the FRC shall undertake public consultation on proposals within its functions and responsibilities which have a public interest element.

Debate continued.

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

Senator Murray moved the following amendments together by leave:

Schedule 1, page 6 (after line 8), after item 13, insert:

13A Before section 225

Insert:

225AA Staffing and appropriations

- (1) To assist the FRC in the performance of its functions, the FRC:
 - (a) shall engage such staff as the FRC considers necessary to establish and maintain a secretariat which will be solely responsible to the FRC; and
 - (b) shall determine the functions and responsibilities of that secretariat.
- (2) The functions and responsibilities of the FRC secretariat established by subsection (1) shall be funded by money appropriated by the Parliament for the purpose.

Schedule 1, item 14, page 6 (after line 11), before subsection (1), insert:

Independence and continuing funding of FRC secretariat

- (1A) The FRC may carry out its functions in accordance with this section only:
 - (a) after the establishment of a secretariat in accordance with section 225A; and
 - (b) where funds are appropriated for the functioning of the secretariat referred to in paragraph (a).

Debate ensued.

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

Senator Murray moved the following amendment:

Schedule 1, item 95, page 50 (after line 29), at the end of section 324AF, add:

- (3) A rotation obligation does not apply to a review auditor where:
 - (a) the review auditor performs a role in an audit which is exclusively technical; or
 - (b) the review auditor's contact with the audit client could not be regarded as material to the day-to-day conduct of the audit as a whole.

Debate ensued.

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

Senator Murray moved the following amendment:

Schedule 1, item 95, page 87 (after line 35), after section 324DC, insert:

324DCA Postponements of audit firm's rotation obligation

- (1) Where an auditor, audit firm or an audit company makes an application to ASIC for a short-term postponement of the rotation obligation required by this Part, the Commission may approve such a postponement.
- (2) A postponement provided for in subsection (1) may be granted only:
 - (a) where it is for a term of not more than six months; and
 - (b) the postponement is reasonable to complete active audit work underway; and
 - (c) is reasonable in all the circumstances.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 95, section 324CK.

Schedule 1, item 95, section 324CK debated and agreed to.

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

Schedule 1, item 117, page 113 (lines 12 to 15), omit paragraph (1)(a), substitute:

- (a) allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or their representative questions:
 - (i) relevant to the conduct of the audit and the preparation and content of the auditor's report; and
 - (ii) about critical accounting policies adopted by the directors of the company and the basis on which the financial statements of the company were prepared; and

Schedule 1, item 117, page 113 (line 18), at the end of subsection (1), add:

- ; and (c) allow a reasonable opportunity for members present at the meeting to ask the auditor or their representative questions about the independence of the auditor.

Schedule 1, item 117, page 113 (after line 18), after subsection (1), insert:

- (1A) Where a company's auditor or their representative is at the meeting and has prepared written answers to written questions which have been submitted under section 250PA, the Chair of the AGM may permit the auditor or their representative to table the written answers to questions.

Senator Murray moved the following amendment:

Schedule 2, item 2, page 138 (after line 3), after subsection 295A(2), insert:

- (2A) In making the declaration required in subsection 295A(2), the Chief Executive Officer and Chief Financial Officer may:
 - (a) rely reasonably on information provided by other company employees having relevant responsibilities; and
 - (b) take account of practical contingencies relevant to compliance with section 295A.

Debate ensued.

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

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

Schedule 2, page 140 (after line 9), after item 3, insert:

3A At the end of section 297

Add:

- (2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.
- (3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.
- (4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

Schedule 2, page 140 (after line 9), after item 3, insert:

3B After section 297

Insert:

297A Purpose of true and fair view

The purpose of a true and fair view is to ensure that the financial reports of a disclosing entity or consolidated entity represent a view that users of the reports (including investors, shareholders and creditors) would reasonably require to make an informed assessment of matters such as investment in the entity or the transaction of business with the entity.

Schedule 2, page 140 (after line 9), after item 3, insert:

3C Section 297 (note)

Repeal the note.

Schedule 2, page 141 (after line 12), after item 7, insert:

7A At the end of section 305

Add:

- (2) In undertaking the assessment of a true and fair view, directors must consider the objectives contained in paragraph 224(a) of the ASIC Act and must include a statement in the financial report that they have done so.
- (3) In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.
- (4) The notes to the financial statements must include a reconciliation to provide additional information necessary to give a fair view.

Schedule 2, page 141 (after line 12), after item 7, insert:

7B Section 305 (note)

Repeal the note.

Senator Murray moved the following amendments together by leave:

Schedule 2, item 11, page 150 (line 10), at the end of the subsection 239CC(6), add:

; (h) the registered company auditor of the lodging entity.

Schedule 2, item 14, page 156 (line 20), after “entity”, insert “and the registered company auditor of the lodging entity”.

Schedule 2, item 14, page 157 (after line 36), after section 323EE, insert:

323EEA Written response to ASIC notice

The registered company auditor of the lodging entity may, within 14 days after receiving the notice, give ASIC a written response relating to any matters relevant to the notice, have its response included with ASIC’s referral and make submissions to the Financial Reporting Panel’s consideration of the relevant financial report.

Schedule 2, item 14, page 158 (line 16), after “entity”, insert “and the registered company auditor of the lodging entity”.

Schedule 2, item 14, page 158 (line 18), after “entity”, insert “and the registered company auditor of the lodging entity”.

Schedule 2, item 14, page 158 (line 19), after “323EE”, insert “or 323EEA”.

Schedule 2, item 14, page 158 (line 22), after subparagraph 323EF(1)(d)(i), insert:

(ia) the registered company auditor of the lodging entity gives ASIC the response under Section 323EEA; or

Schedule 2, item 14, page 160 (line 21), after “ASIC”, insert “and the registered company auditor of the lodging entity”.

Schedule 2, item 14 page 162 (after line 9), after paragraph 323EK(5)(b), insert:

(ba) the registered company auditor of the lodging entity; and
(bb) the Australian Accounting Standards Board; and

Debate ensued.

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

Senator Murray moved the following amendments together by leave:

Schedule 2, item 14, page 159 (line 17), omit “sections 323EH and”, substitute “section”.

Schedule 2, item 14, page 159 (line 21) to page 160 (line 9), omit section 323EH.

Schedule 2, item 14, page 160 (lines 18 and 19), omit paragraph 323EI(1)(c).

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

Senator Murray moved the following amendment:

Schedule 2, item 14, page 162 (after line 3), after subsection 323EK(3), insert:

(3A) Determinations of the Financial Reporting Panel shall not have application beyond the specific matter or matters referred, as precedents for the interpretation of financial reporting requirements.

Debate ensued.

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

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the following amendments, taken together by leave, were agreed to:

Schedule 7, page 213 (after line 4), before item 4, insert:

3A Section 9 (paragraph (a) of the definition of *continuously quoted securities*)

After “prospectus”, insert “or Product Disclosure Statement”.

Schedule 7, item 15, page 217 (line 38), omit “and”, substitute “or”.

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

Schedule 8, page 227 (before line 8), after item 1, insert:

2A At the end of paragraph 249D(1)(b)

Add “, being members who hold:

- (i) a minimum of 100 shares each; and
- (ii) the value of the shareholding per member is not less than \$500.”.

Senator Conroy moved the following amendments together by leave:

Schedule 8, page 229 (after line 12), after item 9, insert:

9A Subsections 250A(4) and (5)

Repeal the subsections, substitute:

- (4) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
 - (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and
 - (b) if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must not vote on a show of hands;
 - (c) if the proxy is the chair—the proxy must vote on a poll, and must vote as directed in respect of each appointment; and
 - (d) if the proxy votes on a poll and if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must vote on a poll as directed in respect of each appointment.

If a proxy is also a member, this subsection does not affect the way that person can cast any votes he or she holds as a member.

- (5) A person who contravenes subsection (4) is guilty of an offence.

Schedule 8, page 230 (after line 16), after item 14, insert:

14A After section 250T

Insert:

250U Confirmation of appointment of Chair

- (1) At the first AGM following the appointment of a new person as chair of a listed corporation’s board of directors where that corporation was at the date that the notice convening the AGM (the *notice date*) one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation, a resolution confirming the appointment of that person as chair of that listed corporation’s board of directors must be put to the vote where that person (at the notice date) was also the chair

of another company which was one of the top 300 listed companies on the Australian Stock Exchange by market capitalisation.

Note: Under subsection 249L(2), the notice of the AGM must inform members that this resolution will be put at the AGM.

- (2) The vote on the resolution is advisory only and does not bind the directors or the listed corporation.

Schedule 8, page 230 (after line 16), after item 14, insert:

14B At the end of the subsection 251AA(1)

Add:

; and (c) if a resolution is withdrawn prior to the meeting, the nature of the resolution and a statement that it was withdrawn.

Schedule 8, page 230 (after line 16), after item 14, insert:

14C At the end of subsection 300(10)

Add:

; and (d) the qualifications and experience of each person who is a company secretary of the company as at the end of the year.

Schedule 12, item 2, page 253 (after line 8), after subsection 1471(2), insert:

- (2A) The amendments made by item 14A of Schedule 8 to the amending Act apply to an AGM held on or after 1 October 2004.

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

5 QUESTIONS

Questions without notice were answered.

6 SPORT—DRUGS—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Minister for the Arts and Sport (Senator Kemp) to questions without notice asked by Senators Faulkner, Lundy and Ray today relating to drug use in cycling at the Australian Institute of Sport.

Debate ensued.

Question put and passed.

7 LAW AND JUSTICE—CHILD SEXUAL ABUSE—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Bartlett today relating to child sexual abuse.

Question put and passed.

8 PETITION

The following petition, lodged with the Clerk by Senator Humphries, was received:

From 652 petitioners, requesting that the Senate call on the Human Rights and Equal Opportunity Commission to ensure that slanderous and offensive statements relating to a nation or its armed forces do not appear in the media.

9 NOTICES

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

- (a) congratulates Anangu Tours, an Aboriginal-owned tourist operation based at Uluru, which won the 2004 National Geographic world legacy heritage tourism award;
- (b) notes that Anangu Tours has previously won Australian tourism awards for both Indigenous tourism and for heritage and culture and has been inducted into the Tourism Hall of Fame;
- (c) notes also that Anangu Tours provides employment and training for local Anangu people and economic development for local communities; and
- (d) calls on the Government to acknowledge the vital role these types of companies play in remote Australia and to honour the assurances given by the Minister for Small Business and Tourism (Mr Hockey) in the process of approving the Tourism Australia Bill 2004, to commit to the development and promotion of Indigenous tourism through its new body, Tourism Australia. (*general business notice of motion no. 909*)

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

- (a) notes with sadness the passing on 26 May 2004 of senior Wangurri elder and cultural leader, Mr Djerrkura;
- (b) pays tribute to Mr Djerrkura as an advocate of economic development through his leadership of Yirrkala Business Enterprises which operated independently, providing employment and training to local Aboriginal people;
- (c) notes that he was awarded the Order of Australia in 1984 and was involved in the following official positions during his life:
 - (i) Chairman of the Aboriginal and Torres Strait Islander Commission (ATSIC) Board of Commissioners,
 - (ii) Chairman of the Batchelor Institute of Indigenous Tertiary Education,
 - (iii) Chairman of ATSIC Commercial Development Corporation,
 - (iv) Northern Territory North Zone ATSIC Commissioner,
 - (v) Chairperson of the Miwatj Provincial Governing Council,
 - (vi) Director of the Board of the Indigenous Land Corporation,
 - (vii) board member of the Council for Aboriginal Reconciliation, and
 - (viii) board member of the National Australia Day Council;
 as well as other key positions in Aboriginal organisations and in the former Department of Aboriginal Affairs; and
- (d) acknowledges his outstanding contribution to public life in Australia, his cultural leadership and his work in trying to build bridges between Indigenous people and other Australians. (*general business notice of motion no. 910*)

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

- (a) notes that:
 - (i) on 15 January 2004, 220 members of the British House of Commons and 85 members of the House of Lords issued a joint statement supporting the removal of the terrorist tag from the People's Mojahedin Organisation of Iran (PMOI), recognising that the PMOI was 'an essential part of the drive to halt the advance of fundamentalism in Iraq and the region',

- (ii) the British parliamentarians expressed the opinion that the deportation of any PMOI members from Iraq would be contrary to international law,
 - (iii) on 8 June 2004, the majority of the Belgian Senate, by way of a statement signed by 41 senators, called on the European Union to remove the PMOI from its list of terrorist organisations, and
 - (iv) on 10 June 2004, a majority of members of the Parliament of Luxembourg, in an all-party joint statement, called on the European Union to removed the PMOI from its list of terrorist organisations; and
- (b) calls on the Australian Government to:
- (i) acknowledge the important role that the PMOI has to play in halting the advance of fundamentalism in Iraq and the region,
 - (ii) call on the European Union, the United Kingdom and the United States of America to remove the PMOI from their terrorist lists,
 - (iii) remove the PMOI and its affiliate organisations from the Charter of the United Nations (Anti-terrorism—Persons and Entities) List, and
 - (iv) express its strong opposition to the decision of the Iraqi Governing Council to expel PMOI members from Iraq, which would constitute a breach of international law and the Fourth Geneva Convention. (*general business notice of motion no. 911*)

Senator Allison: To move on the next day of sitting—That the Environment, Communications, Information Technology and the Arts Legislation Committee, whose recent examination of estimates has been affected by the Government's Energy White Paper, reconvene during the first week of August 2004 to further consider the 2004-05 Budget estimates and report by 12 August 2004. (*general business notice of motion no. 912*)

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Crossin): To move on the next day of sitting—That the Standing Committee for the Scrutiny of Bills be authorised to hold public hearings in relation to its inquiry into entry, search and seizure provisions in Commonwealth legislation. (*general business notice of motion no. 913*)

Senator Brown: To move on the next day of sitting—That there be laid on the table by the Minister for Defence, no later than 4 pm on Wednesday, 23 June 2004, the following document:

The 61-page report and nine additional annexures, prepared by the Department of Defence's Iraq Detainees Fact-Finding Team which formed the basis for the statement by the Minister for Defence (Senator Hill) to the Senate on the abuse of detainees held in Iraq, prepared by Mr Michael Pezzullo, Head of Infrastructure, Department of Defence for the Secretary of the Department of Defence and the Commander of the Defence Forces, and referred to by the Minister in the 2004-05 Budget estimates hearings of the Foreign Affairs, Defence and Trade Legislation Committee on 17 June 2004. (*general business notice of motion no. 914*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That the Senate—

- (a) notes the Government's decision to implement a judicial review of the lease arrangements for Centenary House, as called for by an order of the Senate of 4 March 2004; and
- (b) calls on the Government to act on other, more long-standing Senate resolutions calling for inquiries, namely:

- (i) the resolution of the Senate of 15 May 2003 urging the establishment of a Royal Commission into child sexual abuse in Australia, and
- (ii) the resolution of the Senate of 16 October 2003 calling for the establishment of a judicial inquiry into all aspects of the People Smuggling Disruption Program operated by the Commonwealth Government and agencies and, in particular, issues surrounding the sinking of the boat known as the SIEV X, with the loss of 353 lives. (*general business notice of motion no. 915*)

10 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Ridgeway for today, proposing the disallowance of the Lands Acquisition Amendment Regulations 2004, postponed till 23 June 2004.

Government business notice of motion no. 2 standing in the name of the Minister for Defence (Senator Hill) for today, relating to a proposal for capital works in the parliamentary zone, postponed till 24 June 2004.

Senator Allison, by leave, moved—That general business notice of motion no. 898 standing in her name for today, proposing that certain legislation committees reconvene to further consider the 2004-05 Budget estimates, be postponed till the next day of sitting.

Question put and passed.

11 NOTICE OF MOTION WITHDRAWN

The following notice of motion was withdrawn:

General business notice of motion no. 908 standing in the name of Senator Brown, relating to the proposed censure of the Minister for Defence (Senator Hill).

12 FREE TRADE AGREEMENT—AUSTRALIA AND THE UNITED STATES OF AMERICA—SELECT COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Select Committee on the Free Trade Agreement between Australia and the United States of America (Senator Cook) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 904—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.

Question put and passed.

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

Senator Mackay, 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. 903—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.

Question put and passed.

14 ENVIRONMENT—PARLIAMENTARY FORUM ON RENEWABLE ENERGIES

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 905—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.

Question put and passed.

15 HEALTH—INEQUALITIES

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 896—That the Senate—

- (a) notes that:
 - (i) despite an overall improvement in average health status, trends in health statistics associated with the distribution of social, economic and cultural opportunities are worsening both within and between countries, and
 - (ii) widening inequalities are a barrier to Australia's future social, economic and cultural development and that persistent coexistence of material poverty and cultural alienation in Australia poses an accumulating social risk; and
- (b) calls on the Government to adopt the recommendations of the Public Health Association of Australia, and in particular to:
 - (i) give priority across government agencies to reducing socio-economically related health inequalities as a national goal,
 - (ii) provide health impact statements as part of the development of all major policies, whether economic, environmental or social in focus, and
 - (iii) provide funding through the National Health and Medical Research Council for research into health inequities and their socio-economic determinants.

Question put and passed.

16 INDIGENOUS AUSTRALIANS—LANDS ACQUISITION AMENDMENT REGULATIONS 2004—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 902—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.

Question put and passed.

17 PARLIAMENTARY SERVICE AMENDMENT BILL 2004

The President, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 906—That the following bill be introduced:

A Bill for an Act to amend the *Parliamentary Service Act 1999*, and for related purposes.

Question put and passed.

The President 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.

The President moved—That this bill be now read a second time.

Explanatory memorandum: The President tabled an explanatory memorandum relating to the bill.

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

18 MINISTER FOR DEFENCE—CENSURE

The Leader of the Opposition in the Senate (Senator Faulkner), also on behalf of the Leader of the Australian Democrats (Senator Bartlett) and Senator Brown, by leave, moved general business notice of motion no. 907—That the Senate censures the Minister for Defence (Senator Hill) for his failure to:

- (a) take seriously and respond adequately to the reports of abuse of Iraqi prisoners by United States of America personnel, including reports in June and July 2003 of concerns raised by Amnesty International;

- (b) acknowledge Australia's legal and moral obligations to Iraqi prisoners in general and those captured by Australian forces in particular, noting that it is a crime under the Rome Statute of the International Criminal Court (to which Australia is a signatory) to commit outrages upon the personal dignity of prisoners;
- (c) take his accountability responsibilities seriously; and
- (d) correct the serious communications problems within Defence and between Defence and his office, which were revealed by the 'Children Overboard' affair.

Debate ensued.

Question put.

The Senate divided—

AYES, 32

Senators—

Allison	Collins	Hutchins	Murray
Bartlett	Conroy	Kirk	Nettle
Bishop	Cook	Lees	O'Brien
Brown	Crossin	Ludwig	Ridgeway
Buckland (Teller)	Evans	Lundy	Sherry
Campbell, George	Forshaw	Mackay	Stephens
Carr	Greig	Marshall	Webber
Cherry	Hogg	Moore	Wong

NOES, 30

Senators—

Abetz	Coonan	Kemp	Santoro
Barnett	Ellison	Knowles	Scullion
Boswell	Ferguson	Lightfoot	Tchen
Brandis	Ferris (Teller)	Macdonald, Ian	Troeth
Calvert	Fifield	Macdonald, Sandy	Vanstone
Campbell, Ian	Heffernan	Mason	Watson
Chapman	Humphries	McGauran	
Colbeck	Johnston	Payne	

Question agreed to.

19 SPORT—DRUGS—STATEMENT BY LEAVE

The Minister for the Arts and Sport (Senator Kemp), by leave, made a statement relating to drug use in cycling at the Australian Institute of Sport (*see entries no. 11, 18 June 2004 and no. 14, 23 June 2004*).

Statement by leave: The Leader of the Opposition in the Senate (Senator Faulkner), by leave, made a statement relating to the matter.

20 AUDITOR-GENERAL—AUDIT REPORT NO. 54 OF 2003-04—DOCUMENT

The Acting Deputy President (Senator Watson) tabled the following document received on 18 June 2004:

Auditor-General—Audit report no. 54 of 2003-04—Performance audit—Management of the detention centre contracts—Part A: Department of Immigration and Multicultural Affairs and Indigenous Affairs.

The Leader of the Australian Democrats (Senator Bartlett), by leave, moved—That the Senate take note of the document.

Question put and passed.

21 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2003-04

Senator McGauran, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles), tabled additional information received by the committee (Additional estimates 2003-04—vols 1 to 4).

22 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—REPORT—AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL) BILL 2004

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 Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004—Report, dated June 2004, *Hansard* record of proceedings, documents presented to the committee and submissions [3].

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

23 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION AMENDMENT (INCOME STREAMS) BILL 2004

Pursuant to order, Senator McGauran, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles), tabled the following report and documents:

Community Affairs Legislation Committee—Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004—Report, dated June 2004, *Hansard* record of proceedings and submissions [6].

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

24 ECONOMICS LEGISLATION COMMITTEE—REPORT—SUPERANNUATION BUDGET MEASURES BILL 2004 AND SUPERANNUATION LAWS AMENDMENT BILLS

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

Economics Legislation Committee—Superannuation Budget Measures Bill 2004, Superannuation Laws Amendment (2004 Measures No. 1) Bill 2004 and Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004—Report, dated June 2004, *Hansard* record of proceedings and submissions [6].

Report ordered to be printed on the motion of Senator McGauran

25 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—AUSTRALIA'S MARITIME STRATEGY

Senator McGauran, at the request of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), tabled the following report:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Australia's maritime strategy—Report, dated June 2004.

Leave refused: Senator McGauran sought leave to move a motion to take note of the report.

An objection was raised and leave was not granted.

**26 AUSTRALIAN PARLIAMENTARY DELEGATION TO THE ASIA PACIFIC
PARLIAMENTARY FORUM—DOCUMENT**

Leave refused: Senator Chapman sought leave to table the report of the Australian parliamentary delegation to the twelfth annual meeting of the Asia Pacific Parliamentary Forum in Beijing, People's Republic of China.

An objection was raised and leave was not granted.

**27 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES
COMMITTEE—REPORT—BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT
BILLS**

The Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell) tabled the following report and documents:

Employment, Workplace Relations and Education References Committee—Beyond Cole: The future of the construction industry: Confrontation or co-operation? [Exposure draft of the Building and Construction Industry Improvement Bill 2003, the provisions of the Building and Construction Industry Improvement Bill 2003 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2003]—Report, dated June 2004, *Hansard* record of proceedings [6 vols], documents presented to the committee, additional information and submissions [125].

Report ordered to be printed on the motion of Senator George Campbell.

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

Debate ensued.

Debate adjourned till the next day of sitting, the Leader of the Australian Democrats (Senator Bartlett) in continuation.

28 DOCUMENTS

The following documents were tabled by the Clerk:

Child Support (Assessment) Act—Regulations—Statutory Rules 2004 No. 122.

Child Support (Registration and Collection) Act—Regulations—Statutory Rules 2004 No. 123.

Christmas Island Act—

Ordinance No. 2 of 2004 (Administration Amendment Ordinance 2004 (No. 1)).

Ordinance No. 3 of 2004 (Interpretation Amendment Ordinance 2004 (No. 1)).

Civil Aviation Act—Regulations—Statutory Rules 2004 No. 134.

Cocos (Keeling) Islands Act—

Ordinance No. 2 of 2004 (Administration Amendment Ordinance 2004 (No. 1)).

Ordinance No. 3 of 2004 (Interpretation Amendment Ordinance 2004 (No. 1)).

Customs Act—Regulations—Statutory Rules 2004 No. 121.

Defence Act—Determination under section 58B—Defence Determination 2004/23.

Health Insurance Act—Regulations—Statutory Rules 2004 Nos 125 and 126.

Higher Education Support Act—Commonwealth Grant Scheme Guidelines, dated 2 June 2004.

- Income Tax Assessment Act 1936*—Regulations—Statutory Rules 2004 No. 115.
Marine Navigation Levy Act—Regulations—Statutory Rules 2004 No. 135.
Marine Navigation (Regulatory Functions) Levy Act—Regulations—Statutory Rules 2004 No. 136.
Maritime Transport Security Act—Regulations—Statutory Rules 2004 No. 137.
Migration Act—
 Notice under section 306AD, dated 25 May 2004.
 Regulations—Statutory Rules 2004 Nos 129 and 131.
Migration Agents Registration Application Charge Act—Regulations—Statutory Rules 2004 No. 130.
National Measurement Act—
 National Measurement Amendment Guidelines 2004 (No. 1).
 Regulations—Statutory Rules 2004 No. 132.
Navigation Act—Marine Orders—Orders Nos 5-7 of 2004.
Papua New Guinea (Staffing Assistance) Act—Regulations—Statutory Rules 2004 No. 124.
Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2004 Nos 118 and 120.
Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2004 No. 119.
Public Service Act—Regulations—Statutory Rules 2004 No. 133.
Therapeutic Goods Act—Regulations—Statutory Rules 2004 Nos 127 and 128.

29 GOVERNOR-GENERAL'S PROCLAMATION—COMMENCEMENT OF PROVISIONS OF AN ACT

A proclamation by His Excellency the Governor-General was tabled, notifying that he had proclaimed the following provisions of an Act to come into operation on the date specified:

- Comprehensive Nuclear Test-Ban Treaty Act 1998*—Sections 3 to 7; Part 2; Division 1 of Part 4; Division 1 of Part 5; sections 68 to 72, 74, 75 and 78; and Schedule 1—11 June 2004 (*Gazette* No. S 201, 11 June 2004).

30 COMMITTEES—APPOINTMENT OF MEMBER

The Acting Deputy President (Senator McLucas) informed the Senate that the President had received a letter nominating a senator to be a member of various committees.

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That Senator Barnett be appointed as a participating member of the Community Affairs References Committee and the Legal and Constitutional Legislation and References Committees.

Question put and passed.

31 TREASURY LEGISLATION AMENDMENT (PROFESSIONAL STANDARDS) BILL 2004

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

- Message no. 609, dated 17 June 2004—A Bill for an Act to limit certain liabilities in accordance with laws of the States and Territories, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) 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 Ellison moved—That this bill be now read a second time.

Explanatory memorandum: Senator Ellison tabled a revised explanatory memorandum relating to the bill.

On the motion of Senator Crossin the debate was adjourned.

On the motion of Senator Ellison the resumption of the debate was made an order of the day for a later hour.

32 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. 6 (Veterans' Entitlements (Clarke Review) Bill 2004).

Question put and passed.

33 VETERANS' ENTITLEMENTS (CLARKE REVIEW) 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.

The Leader of the Australian Democrats (Senator Bartlett) moved the following amendment:

At the end of the motion, add "but the Senate:

- (a) is of the view that the harsh and unsatisfactory indexation arrangements for totally and permanently incapacitated veterans require immediate adjustment so that these veterans obtain the full benefits of indexation to all components of their pension; and
- (b) condemns the Government for missing this opportunity of settling fair index arrangements for those veterans who are totally and permanently incapacitated".

Debate ensued.

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

Main question, as amended, 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.

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved the following amendments and requests for amendments together by leave:

Amendments:

Title, page 1 (line 4), omit “**related**”, substitute “**other**”.

Clause 2, page 2 (at the end of the table), add:

8. Schedule 6 At the same time as section 3 of the *Military Rehabilitation and Compensation Act 2004* commences.

Page 19 (after line 20), at the end of the bill, add:

Schedule 6—MRCA-related amendments

Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004

1 Subsection 7(1) (note)

Omit “section 9A”, substitute “sections 9A and 70A”.

2 Subsection 7(2) (note 1)

Omit “section 9A”, substitute “sections 9A and 70A”.

3 Subsection 8(1) (note)

Omit “section 9A”, substitute “sections 9A and 70A”.

4 Subsection 8(2) (note 1)

Omit “section 9A”, substitute “sections 9A and 70A”.

Veterans’ Entitlements Act 1986

5 At the end of subsections 70(4), (5) and (5A)

Add:

Note: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for some new defence-caused injuries, diseases and deaths: see section 70A.

6 After section 70

Insert:

70A Most defence-caused injuries, diseases and deaths of members of the Defence Force no longer covered by this Act

- (1) An injury, disease or death of a member of the Forces, or any other member or former member of the Defence Force, is taken not to be defence-caused if:
- (a) the injury is sustained, the disease is contracted, or the death occurs, on or after the MRCA commencement date; and
 - (b) the injury, disease or death either:
 - (i) relates to service rendered by the member on or after that date; or
 - (ii) relates to service rendered by the member before, and on or after, that date.

Note 1: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for such injuries, diseases and deaths.

Note 2: The other members (or former members) of the Defence Force mentioned in subsection (1) are or were also members of a Peacekeeping Force.

- (2) An injury or disease of a member of the Forces, or any other member or former member of the Defence Force, that has been aggravated, or materially contributed to, by service is taken not to be defence-caused if:
- (a) the aggravation or material contribution occurs on or after the MRCA commencement date (even if the original injury is sustained, or the original disease is contracted, before that date); and
 - (b) the aggravation or material contribution either:
 - (i) relates to service rendered by the member on or after that date; or
 - (ii) relates to service rendered by the member before, and on or after, that date; and
 - (c) if section 12 of the CTPA applies to the member—after receiving a notice under that section, the member makes a claim under section 319 of the MRCA (or continues with a claim already made under that section) in respect of the aggravated injury or disease.

Note 1: After the MRCA commencement date, compensation is provided under the MRCA (instead of this Act) for such aggravations and material contributions.

Note 2: The other members (or former members) of the Defence Force mentioned in subsection (2) are or were also members of a Peacekeeping Force.

- (3) To avoid doubt, service is rendered before, and on or after, the MRCA commencement date whether the service spans the commencement date or is rendered during separate periods before and on or after that date.

Requests:

That the House of Representatives be requested to make the following amendments:

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

3. Schedule 2, items 1 to 14	20 September 2004.	20 September 2004
3A. Schedule 2, item 15	The day on which this Act receives the Royal Assent.	
3B. Schedule 2, items 16 to 18	20 September 2004.	20 September 2004

3C. Schedule 2, items 19 and 20	The later of: (a) the start of 20 September 2004; and (b) immediately after the commencement of item 4 of Schedule 1 to the <i>Veterans’ Entitlements Amendment (Direct Deductions and Other Measures) Act 2004</i> .
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However, the provision(s)
do not commence at all if
the event mentioned in
paragraph (b) does not
occur.

3D. Schedule 2, items 21 to 44	20 September 2004.	20 September 2004
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Schedule 2, page 10 (line 2) to page 14 (line 10), omit the Schedule, substitute:

**Schedule 2—Defence Force Income Support Allowance
Part 1—Amendment of the Veterans’ Entitlements Act
1986**

1 Subsection 5H(1) (paragraph (b) of the definition of *adjusted income*)

Repeal the paragraph, substitute:

- (b) a payment that is disability pension under paragraph (d) of the definition of *disability pension* in section 5Q payable to the person;

2 Subsection 5H(1) (paragraphs (cc), (cd) and (ce) of the definition of *adjusted income*)

Repeal the paragraphs.

3 After paragraph 5H(8)(f)

Insert:

- (g) a payment under Part VIIAB, including a payment made under regulations made under that Part;

4 Subsection 5Q(1)

Insert:

Defence Force Income Support Allowance or *DFISA* means Defence Force Income Support Allowance under Part VIIAB.

5 Subsection 5Q(1)

Insert:

DFISA bonus means DFISA bonus under Part VIIAB.

6 At the end of paragraph 45TC(1)(e)

Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person's partner: see subsection 23(1D) of the Social Security Act.

7 After subparagraph 45TC(1)(f)(i)

Insert:

(ia) DFISA bonus; or

8 At the end of paragraph 45TC(2)(e)

Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person's partner: see subsection 23(1D) of the Social Security Act.

9 After subparagraph 45TC(2)(f)(i)

Insert:

(ia) DFISA bonus; or

10 At the end of paragraph 45TC(3)(e)

Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the person's partner: see subsection 23(1D) of the Social Security Act.

11 After subparagraph 45TC(3)(f)(i)

Insert:

(ia) DFISA bonus; or

12 At the end of section 53J

Add:

Note: Even though the partner may not actually have been receiving an amount of social security pension because the rate of the pension was nil, in some cases the partner will have been taken to be receiving the pension if adjusted disability pension (within the meaning of section 118NA) was payable to the person or the partner: see subsection 23(1D) of the Social Security Act.

13 At the end of section 53M

Add:

- (7) If DFISA was payable to the partner in relation to a social security pension the partner was receiving, then the rate of that pension on the last day of the last pension period that ended before the day of the partner's death is increased by the rate of DFISA that was payable to the partner on that day.

14 Paragraph 53NA(1)(a)

After "pension" (first occurring), insert ", DFISA".

15 After Part VIIA

Insert:

Part VIIAB—Defence Force Income Support Allowance and related payments

Division 1—Introduction

118N Simplified outline

The following is a simplified outline of this Part:

This Part is about payment of:

- (a) Defence Force Income Support Allowance (*DFISA*); and
- (b) DFISA bonus; and
- (c) DFISA-like payments under regulations made under this Part.

DFISA—see Division 2

DFISA is payable to a person if the rate of the person's social security pension or benefit has been reduced (including to nil) because the person, or the person's partner, has been paid adjusted disability pension (within the meaning of this Part).

Payment of DFISA is automatic: a person does not need to make a claim for it.

DFISA bonus—see Division 3

DFISA bonus is payable to a person if the amount of the person's social security pension bonus has been reduced (including to nil) because the person, or the person's partner, has been paid adjusted disability pension (within the meaning of this Part).

Payment of DFISA bonus is also automatic.

DFISA-like payments—see Division 4

Regulations made under this Part may provide for DFISA-like payments to be paid to a person if adjusted disability pension (within the meaning of this Part) payable to the person, or the person's partner, reduces the amount of a payment payable to the person under a Commonwealth Act, regulations or an instrument made under such an Act, or a Commonwealth administered program.

118NA Definitions

In this Part:

adjusted disability pension means:

- (a) a pension under Part II or IV (other than a pension that is payable under section 30 to a dependant of a deceased veteran); or
- (b) temporary incapacity allowance under Part VI; or
- (c) a pension payable because of subsection 4(6) or (8B) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* (other than a pension payable in respect of a child); or
- (d) a payment (either as a weekly amount or a lump sum) under section 68, 71, 75 or 80 of the MRCA (permanent impairment); or
- (e) a payment of a Special Rate Disability Pension under Part 6 of Chapter 4 of the MRCA.

amount includes a nil amount.

excluded amount means an amount that is not income for the purposes of the Social Security Act because of subsection 8(8) of that Act.

partner has the same meaning as in subsection 4(1) of the Social Security Act.

rate includes a nil rate.

social security age pension means age pension under Part 2.2 of the Social Security Act.

social security pension bonus means pension bonus under Part 2.2A of the Social Security Act.

Division 2—Defence Force Income Support Allowance**Subdivision A—Payment of Defence Force Income Support Allowance****118NB Payment of Defence Force Income Support Allowance**

- (1) Defence Force Income Support Allowance (**DFISA**) is payable to a person each day on or after 20 September 2004 if:
 - (a) adjusted disability pension is payable to the person, or the person's partner, on that day; and
 - (b) social security pension or social security benefit (the **primary payment**) is payable to the person on that day; and
 - (c) the adjusted disability pension reduces (including to nil) the rate of the primary payment on that day.

Note 1: For **adjusted disability pension** and **partner** see section 118NA.

Note 2: For **social security pension** and **social security benefit** see section 5Q.

Note 3: Even though the person may not actually be paid an amount of social security pension or benefit because the rate of the pension or benefit is nil, in some cases the pension or benefit will be taken to be payable to the person if adjusted disability pension is payable to the person or the person's partner: see subsection 23(1D) of the Social Security Act.

- (2) However, DFISA is not payable to the person on that day if:
 - (a) the rate of DFISA would be nil; or

- (b) section 1129, 1130B or 1131 of the Social Security Act (financial hardship) applies to the person in relation to the primary payment; or
- (c) before that day:
 - (i) the person had elected not to be covered by this Division; and
 - (ii) that election had not been withdrawn.
- (3) An election, or a withdrawal of an election, under paragraph (2)(c):
 - (a) must be by document lodged at an office of the Department in Australia in accordance with section 5T; and
 - (b) is taken to have been made on a day determined under that section.

Subdivision B—Rate of Defence Force Income Support Allowance

118NC Rate of Defence Force Income Support Allowance

DFISA rate where primary payment is neither compensation affected nor prescribed

- (1) The rate of DFISA on a day that is on or after 20 September 2004 is worked out using method statement 1 in this subsection, unless:
 - (a) Part 3.14 of the Social Security Act (compensation recovery) applies to reduce the rate of the primary payment on that day (in which case see method statement 2 in subsection (2)); or
 - (b) the primary payment is a social security pension or social security benefit that is prescribed for the purposes of this section (in which case, see subsection (3)).

Note: For *primary payment* see section 118NB.

Method Statement 1

Step 1. Work out the daily provisional payment rate for the primary payment on that day.

Note: For *daily provisional payment rate* see subsection (4).

Step 2. Work out what would have been the daily provisional payment rate (the *notional rate*) for the primary payment on that day if both of the following assumptions were made:

First assumption

The first assumption is that the adjusted disability pension payable to the person, or the person's partner, were an excluded amount (see section 118NA).

Note: This will mean the adjusted disability pension will not be treated as income when calculating the notional rate.

Second assumption

The second assumption is that, if an amount of rent assistance was included in the primary payment, that amount were reduced (but not to less than nil) by the rent reduction amount.

Note: For *rent assistance* and *rent reduction amount* see subsection (4).

Step 3. Subtract the daily provisional payment rate under step 1 from the notional rate under step 2. The difference is the rate of DFISA on that day.

DFISA rate where primary payment is compensation affected but not prescribed

- (2) The rate of DFISA on a day that is on or after 20 September 2004 is worked out using method statement 2 in this subsection if:
- (a) Part 3.14 of the Social Security Act (compensation recovery) applies to reduce the rate of the primary payment on that day; and
 - (b) the primary payment is not a social security pension or social security benefit that is prescribed for the purposes of this section.

Note: For *primary payment* see section 118NB.

Method Statement 2

- Step 1.* Work out the daily provisional payment rate for the primary payment on that day.
Note: For *daily provisional payment rate* see subsection (4).
- Step 2.* Work out the amount by which Part 3.14 of the Social Security Act reduces the daily primary payment rate on that day.
- Step 3.* Subtract the amount in step 2 from the rate in step 1.
- Step 4.* Work out what would have been the daily provisional payment rate (the *notional rate*) for the primary payment on that day if the 2 assumptions referred to in step 2 of method statement 1 in subsection (1) were made.
- Step 5.* Work out the amount by which Part 3.14 of the Social Security Act would have reduced the notional rate on that day if that rate had been the daily primary payment rate.
- Step 6.* Subtract the amount in step 5 from the rate in step 4.
- Step 7.* Subtract the amount in step 3 from the amount in step 6. The difference is the rate of DFISA on that day.

Regulations may prescribe other ways of calculating rate of DFISA

- (3) The regulations may prescribe a social security pension or social security benefit for the purposes of this section. If the regulations do so, the regulations must also prescribe the method to work out the daily rate of DFISA that is payable in relation to that pension or benefit.

Note: For *social security pension* and *social security benefit* see section 5Q.

Definitions

- (4) In this section:

daily provisional payment rate means the provisional payment rate, provisional annual payment rate or provisional fortnightly payment rate referred to in the Rate Calculator used under the Social Security Act to work out the rate of the primary payment, converted to a daily rate by dividing the rate by 364 (for a provisional annual payment rate) or 14 (for a provisional fortnightly payment rate).

rent assistance has the same meaning as in the Social Security Act.

rent reduction amount is the amount that would be a person's income reduction under the Social Security Act if that income reduction were worked out by applying the same income test or ordinary income test that was used under that Act in calculating the person's primary payment, but applying that test on the basis that the adjusted disability pension payable to the person, or the person's partner, were the person's only ordinary income for the purposes of that Act.

Subdivision C—Special rules for the Social Security Act**118ND Bereavement payments under the Social Security Act***Increase of bereavement payments to take account of DFISA*

- (1) If, immediately before a person dies:
- (a) a social security pension or social security benefit was payable to the person; and
 - (b) DFISA was payable to the person;

then, for the purposes of the bereavement payment provisions of the Social Security Act, the rate of the pension or benefit that, if the person had not died, would have been payable to the person on a day during the bereavement period is increased by the rate of DFISA that would also have been payable to the person on that day.

Note 1: For *social security pension* and *social security benefit* see section 5Q.

Note 2: For *bereavement payment provision* and *bereavement period* see subsection (4).

DFISA paid to person after the person dies

- (2) If:
- (a) a person is qualified for payments under a bereavement payment provision of the Social Security Act in relation to the death of the person's partner; and
 - (b) after the person's partner died, an amount of DFISA to which the partner would have been entitled if the partner had not died has been paid under this Part; and
 - (c) the Social Security Secretary is not satisfied that the person has not had the benefit of the DFISA amount;

the following provisions have effect:

- (d) the DFISA amount is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the DFISA amount exceeds the amount payable to the person under the bereavement payment provision;
- (e) the amount payable to the person under the bereavement payment provision is to be reduced by the DFISA amount.

Note: For *bereavement payment provision* and *Social Security Secretary* see subsection (4).

Financial institutions not liable

- (3) If:
 - (a) a person is qualified for payments under a bereavement payment provision of the Social Security Act in relation to the death of the person's partner; and
 - (b) the amount of DFISA to which the person's partner would have been entitled if the person's partner had not died has been paid under this Part into an account with a financial institution within the bereavement period referred to in the bereavement payment provision; and
 - (c) the financial institution pays to the person, out of the account, an amount not exceeding the total of the DFISA amounts paid as mentioned in paragraph (b);

the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Definitions

- (4) In this section:

bereavement payment provisions of the Social Security Act means the following provisions of that Act:

 - (a) Division 9 of Part 2.2 (age pension);
 - (b) Division 10 of Part 2.3 (disability support pension);
 - (c) Division 9 of Part 2.4 (wife pension);
 - (d) Division 9 of Part 2.5 (carer payment);
 - (e) Division 9 of Part 2.7 (bereavement allowance);
 - (f) Division 9 of Part 2.8 (widow B pension);
 - (g) Division 9 of Part 2.10 (parenting payment);
 - (h) Division 10 of Part 2.11 (youth allowance);
 - (i) Division 10 of Part 2.11A (austudy);
 - (j) Division 9 of Part 2.12 (newstart);
 - (k) Division 11 of Part 2.12B (mature age allowance);
 - (l) Division 9 of Part 2.14 (sickness allowance);
 - (m) Division 9 of Part 2.15 (special benefit);
 - (n) Division 9 of Part 2.15A (partner allowance);
 - (o) Division 10 of Part 2.16 (special needs pension).

bereavement period has the meaning given by subsection 21(2) of the Social Security Act.

Social Security Secretary means the Secretary of the Department administered by the Minister who administers the Social Security Act.

118NE Remote Area Allowance under the Social Security Act

- (1) If, on a day that is on or after 20 September 2004:
- (a) adjusted disability pension is payable to a person or a person's partner; and
 - (b) a social security pension or social security benefit is payable to the person; and
 - (c) the rate of the social security pension or social security benefit is nil; and
 - (d) the rate of the social security pension or social security benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) were made;

then, for the purposes of the remote area allowance provisions of the Social Security Act, the rate of the social security pension or social security benefit on that day is taken to be greater than nil.

Definitions

- (2) In this section:

remote area allowance provisions of the Social Security Act means the following provisions of that Act:

- (a) point 1064-H1;
- (b) point 1065-E1;
- (c) point 1066-H1;
- (d) point 1066A-I1;
- (e) point 1066B-F1;
- (f) point 1067G-K1;
- (g) point 1067L-F1;
- (h) point 1068-J1;
- (i) point 1068A-F1;
- (j) point 1068B-G1.

Division 3—DFISA bonus

Subdivision A—Payment of DFISA bonus

118NF Payment of DFISA bonus

- (1) DFISA bonus is payable to a person if:
- (a) on a day (the **critical day**) that is on or after 20 September 2004, adjusted disability pension is payable to the person or the person's partner; and
 - (b) on the critical day, social security age pension becomes payable to the person; and
 - (c) on or after the critical day, social security pension bonus is granted to the person in relation to that age pension; and
 - (d) the adjusted disability pension reduces (including to nil) the amount of that pension bonus.

Note: For **adjusted disability pension**, **partner**, **social security age pension** and **social security pension bonus** see section 118NA.

- (2) However, DFISA bonus is not payable to the person if, on the critical day, section 1129 of the Social Security Act (financial hardship) applies to the person in relation to that age pension.

118NG When DFISA bonus is to be paid

DFISA bonus is to be paid on:

- (a) the first pension payday after the social security pension bonus was granted; or
 (b) if the Commission considers it is not practicable to pay the DFISA bonus on that payday—the next practicable day.

Note: For *pension payday* see section 5Q.

118NH Payment of bonus after death

- (1) This section sets out the only circumstances in which DFISA bonus will be payable after the death of the person concerned.

DFISA bonus payable before person dies

- (2) If:
- (a) DFISA bonus is payable to a person; and
 (b) the person dies; and
 (c) at the time of the person's death, the person had not received the DFISA bonus;

the bonus is payable to the legal personal representative of the person.

Liability of Commonwealth

- (3) If DFISA bonus is paid under subsection (2), the Commonwealth has no further liability to any person in respect of that bonus.

Subdivision B—Amount of DFISA bonus

118NI Amount of DFISA bonus

- (1) The amount of DFISA bonus for a person is worked out as follows:

Method Statement

Step 1. Work out the amount of social security pension bonus payable to the person.

Step 2. Work out the amount of social security pension bonus (the *notional pension bonus*) that would have been payable to the person if the adjusted disability pension payable to the person, or the person's partner, were an excluded amount.

Note: For *excluded amount* see section 118NA.

Step 3. Subtract the amount of the pension bonus under step 1 from the amount of the notional pension bonus in step 2. The difference is the amount of the DFISA bonus.

Division 4—DFISA-like payments etc. under regulations

118NJ DFISA-like payments etc. under regulations

DFISA-like payments

- (1) The regulations may make provision for and in relation to a payment (*DFISA-like payment*) to a person on a day that is on or after 20 September 2004 if:

- (a) adjusted disability pension is payable to the person, or the person's partner, on that day; and
- (b) either:
 - (i) a payment (the *primary payment*) under a Commonwealth scheme is payable to the person on that day but, because of the adjusted disability pension, the rate of the primary payment is reduced (including to nil); or
 - (ii) apart from the adjusted disability pension, a payment (the *primary payment*) under a Commonwealth scheme would be payable to the person on that day.

Note 1: For *adjusted disability pension* and *partner* see section 118NA.

Note 2: For *Commonwealth scheme* see subsection (3).

Secondary benefits

- (2) The regulations may also make provision for and in relation to a payment, or the provision of a non-financial benefit, to the person on a day that is on or after 20 September 2004 if:
 - (a) a payment (other than the primary payment) or a non-financial benefit is not payable or provided to the person on that day under the Commonwealth scheme or another Commonwealth scheme, but only because the primary payment is not payable to the person on that day; and
 - (b) the primary payment is not payable to the person on that day, but only because adjusted disability pension is payable to the person, or the person's partner, on that day; and
 - (c) a DFISA-like payment is payable to the person on that day.
- (3) In this section:

Commonwealth scheme means:

- (a) an Act; or
- (b) regulations or an instrument made under an Act; or
- (c) a program administered by the Commonwealth.

16 After subsection 121(6)

Insert:

- (6A) For a pension that is DFISA:
 - (a) each instalment is to be rounded to the nearest cent (rounding half a cent upwards); and
 - (b) subsections (3), (4) and (6) do not apply.

17 Subsection 122A(2) (definition of *pension*)

After "Act", insert "or DFISA bonus".

18 Before section 123

Insert:

122C Payment of DFISA outside Australia

If DFISA is payable to a person who is physically outside Australia, then it may be paid:

- (a) in the manner determined by the Commission; and
- (b) in the instalments determined by the Commission.

122D Deductions of DFISA and DFISA bonus paid to Commissioner of Taxation

Deductions from DFISA because of notice from the Commissioner of Taxation

- (1) The Commission must, in accordance with Subdivision 260-A in Schedule 1 to the *Taxation Administration Act 1953*, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of DFISA:
 - (a) make deductions from instalments of DFISA payable to the recipient; and
 - (b) pay the amount deducted to the Commissioner of Taxation.

Deduction from DFISA bonus because of notice from the Commissioner of Taxation

- (2) The Commission must, in accordance with Subdivision 260-A in Schedule 1 to the *Taxation Administration Act 1953*, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of a DFISA bonus:
 - (a) make a deduction from the bonus payable to the recipient; and
 - (b) pay the amount deducted to the Commissioner of Taxation.

Deductions from DFISA because of recipient's request to do so

- (3) The Commission may make deductions from instalments of DFISA payable to a person if the person, by document lodged at an office of the Department in Australia in accordance with section 5T, requests the Commission:
 - (a) to make those deductions; and
 - (b) to pay the deductions to be deducted to the Commissioner of Taxation.

The Commission must pay to the Commissioner of Taxation an amount deducted under this subsection.

Deduction from DFISA bonus because of recipient's request to do so

- (4) The Commission may make a deduction from a DFISA bonus payable to a person if the person, by document lodged at an office of the Department in Australia in accordance with section 5T, requests the Commission:
 - (a) to make the deduction; and
 - (b) to pay the amount to be deducted to the Commissioner of Taxation.

The Commission must pay to the Commissioner of Taxation an amount deducted under this subsection.

122E Payments of DFISA at recipient's request

- (1) A DFISA recipient may, by document lodged at an office of the Department in Australia in accordance with section 5T, request the Commission to make deductions from instalments of DFISA for the purpose of making payments included in a class of payments approved by the Minister.

- (2) If such a request is made, the Commission may make the deductions and, if it does so, is to pay the amounts deducted in accordance with the request.
- (3) The Minister may, by writing, approve classes of payments for the purposes of this section.
- (4) An approval is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

19 Subsection 122D(3)

Repeal the subsection.

Note: If item 4 of Schedule 1 to the *Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Act 2004* does not commence, this item does not commence at all. See item 3C of the table in subsection 2(1).

20 Section 122E

Repeal the section.

Note: If item 4 of Schedule 1 to the *Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Act 2004* does not commence, this item does not commence at all. See item 3C of the table in subsection 2(1).

21 At the end of section 199

Add:

- ; and (e) payments made under Part VIIAB, and payments and benefits made under regulations made under that Part.

22 Point SCH6-C1 of Schedule 6

Repeal the point, substitute:

Application

SCH6-C1 Points SCH6-C2 to SCH6-C11 and point SCH6-C15 apply to a person who is in receipt of a service pension or an income support supplement. Points SCH6-C13 and SCH6-C14 apply only to a person who is in receipt of a service pension. Points SCH6-C14B and SCH6-C14C apply only to a person who is in receipt of an income support supplement.

23 Point SCH6-C2 of Schedule 6

Omit “to SCH6-C15 (which apply only to a person who is in receipt of a service pension)”, substitute “and SCH6-C14 (which apply only to a person who is in receipt of a service pension) and points SCH6-C14B and SCH6-C14C (which apply only to a person who is in receipt of an income support supplement)”.

24 Paragraph SCH6-C7(c) of Schedule 6

Repeal the paragraph, substitute:

- (c) whether or not the person, or the person's partner, receives one or more of the following payments:
 - (i) disability pension;
 - (ii) permanent impairment compensation;
 - (iii) adjusted disability pension.

25 Point SCH6-C7 of Schedule 6 (note 2)

After “For”, insert “*adjusted disability pension* and”.

26 Point SCH6-C12 of Schedule 6

Omit “to SCH6-C15”, substitute “and SCH6-C14”.

27 After point SCH6-C14 of Schedule 6

Insert:

Application

SCH6-C14A Points SCH6-C14B and SCH6-C14C apply only to a person who is in receipt of an income support supplement. If such a person, or the partner of such a person, receives adjusted disability pension, the amount of rent assistance worked out under Table C-2 may be reduced under point SCH6-C14B.

Note: For *adjusted disability pension* see point SCH6-C16.

Effect of adjusted disability pension on rate of rent assistance

SCH6-C14B This is how to work out the effect of a person’s adjusted disability pension on the person’s rate of rent assistance:

Method statement

Step 1. Work out the annual rate of the person’s adjusted disability pension: the result is the person’s *disability income*.

Note 1: For *adjusted disability pension* see point SCH6-C16.

Note 2: For the treatment of the amount of adjusted disability pension of members of a couple see point SCH6-C14C.

Step 2. Work out the person’s rent assistance free area (see point SCH6-C15 below).

Step 3. Work out whether the person’s disability income exceeds the person’s rent assistance free area.

Step 4. If the person’s disability income does not exceed the person’s rent assistance free area, the person’s rate of rent assistance worked out under Table C-2 is not affected.

Step 5. If the person’s disability income exceeds the person’s rent assistance free area, take the person’s rent assistance free area away from the person’s disability income: the result is the person’s *disability income excess*.

Step 6. Multiply the person’s disability income excess by 0.4: the result is the *rent assistance reduction amount*.

Step 7. Take the person’s rent assistance reduction amount away from the rate of rent assistance worked out under Table C-2: the result is the person’s *rate of rent assistance*.

Disability income

SCH6-C14C If a person is a member of a couple, the person’s disability income for the purposes of SCH6-C14B is worked out as follows:

- (a) if each member of the couple receives adjusted disability pension—by adding the couple’s annual rates of adjusted disability pension and dividing the result by 2;

- (b) if only one member of the couple receives adjusted disability pension—by dividing the member’s annual rate of adjusted disability pension by 2.

Note: For *adjusted disability pension* see point SCH6-C16.

28 Point SCH6-C16 of Schedule 6

Insert:

adjusted disability pension has the same meaning as in section 118NA.

Part 2—Amendment of other Acts

A New Tax System (Family Assistance) Act 1999

29 Subsection 3(1) (paragraph (a) of the definition of *receiving*)

After “subsections”, insert “23(1D),”.

30 After paragraph 7(h) of Schedule 3

Insert:

(ha) Defence Force Income Support Allowance under Part VIIAB of the *Veterans’ Entitlements Act 1986*;

Income Tax Assessment Act 1936

31 At the end of subsection 202EA(5)

Add:

; (j) Defence Force Income Support Allowance under Part VIIAB of the *Veterans’ Entitlements Act 1986*.

Income Tax Assessment Act 1997

32 Subsection 52-65(1)

After “pension bonus”, insert “or DFISA bonus”.

33 Subsection 52-65(1A)

After “Part IIIAB”, insert “, or DFISA bonus under Part VIIAB,”.

34 Section 52-65 (after table item 5.1)

Insert:

5A.1	Defence Force Income Support Allowance: the social security pension or social security benefit that is also payable to you on the day this allowance is payable to you is exempt from income tax under section 52-10	Exempt	Not applicable
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35 Section 52-75 (after table item 5)

Insert:

5A	Defence Force Income Support Allowance	Part VIIAB	Not applicable
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Social Security Act 1991**36 At the end of paragraph 8(8)(y)**

Add:

or (x) a payment under Part VIIAB (DFISA) of that Act (including a payment made under regulations made under that Part);

37 Subsection 23(1)

Insert:

Defence Force Income Support Allowance or **DFISA** means Defence Force Income Support Allowance under Part VIIAB of the Veterans' Entitlements Act.

38 After subsection 23(1C)

Insert:

(1D) If, on a day that is on or after 20 September 2004:

- (a) adjusted disability pension (within the meaning of section 118NA of the Veterans' Entitlements Act) is payable to a person or a person's partner; and
- (b) apart from this subsection, a social security pension or social security benefit is not payable to the person, but only because the rate of the pension or benefit would be nil; and
- (c) the rate of the social security pension or social security benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) of the Veterans' Entitlements Act were made;

then, despite any other provision of this Act:

- (e) the social security pension or social security benefit is taken to be payable to the person on that day; and
- (f) the person is taken to be receiving the social security pension or social security benefit on that day.

Note: This subsection overrides provisions of this Act (for example, sections 44 and 98) that provide that a social security pension or social security benefit is not payable where the rate of the pension or benefit would be nil, but only where the rate would not be nil if the 2 assumptions referred to in paragraph (c) were made.

39 At the end of paragraph 92C(e)

Add:

Note: Even though the person may not have actually received an amount of social security pension or benefit because the rate of the pension or benefit was nil, in some cases the person will be taken to have received the pension or benefit if adjusted disability pension (within the meaning of section 118NA of the Veterans' Entitlements Act) was payable to the person or the person's partner: see subsection 23(1D) of this Act.

40 At the end of paragraph 92C(f)

Add:

; or (iii) DFISA bonus under Part VIIAB of the Veterans' Entitlements Act.

41 After subparagraph 1134(1)(e)(i)

Insert:

- (ia) if DFISA under Part VIIAB of the Veterans' Entitlements Act is payable to the person—the maximum payment rate less the DFISA rate; or

42 Paragraph 1134(1)(e)

Omit “lower”, substitute “lowest”.

Part 3—Application and transitional provisions**43 Application of amendments in this Schedule**

- (1) The amendments made by items 1, 2, 22, 23, 24, 25, 26, 27 and 28 of this Schedule apply in relation to payments under the *Veterans' Entitlements Act 1986* payable on or after 20 September 2004.
- (2) The amendment made by item 29 of this Schedule applies in relation to social security payments under the *Social Security Act 1991* payable on or after 20 September 2004.

44 Transitional: claims made for social security pension or benefit that are not determined before 20 September 2004

If:

- (a) on a day (the *claim day*) that is before 20 September 2004, a person made a claim for a social security pension or a social security benefit; and
- (b) on the claim day, adjusted disability pension (within the meaning of section 118NA of the *Veterans' Entitlements Act 1986* (as amended by this Schedule)) was payable to the person or the person's partner; and
- (c) before 20 September 2004, a determination on the claim had not been made; and
- (d) apart from this item, the claim would be rejected on or after 20 September 2004, but only because the rate of the pension or benefit would be nil; and
- (e) the rate of the pension or benefit would not be nil if the 2 assumptions (that relate to the adjusted disability pension) referred to in step 2 of method statement 1 in subsection 118NC(1) of that Act (as amended by this Schedule) were made;

then, despite any provision of the *Social Security (Administration) Act 1999*, the claim is taken to have been made on 20 September 2004.

Debate ensued.

Explanatory memorandum: Senator Coonan tabled a supplementary explanatory memorandum relating to the government amendments and requests to be moved to the bill.

Question—That the amendments and requests be agreed to—put and passed.

Senator Greig moved the following amendments together by leave:

Schedule 1, page 8 (after line 4), before item 1, insert:

1A Section 5E (after the definition of *couple*)

Insert:

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

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

Schedule 1, page 8 (after line 4), before item 1, insert:

1B Subparagraphs 5E(2)(b)(i) to (iii)

Repeal the subparagraphs, substitute:

- (i) the person is living with another person (in this paragraph called the *partner*);
- (ii) the person is not legally married to the partner;
- (iii) the person and the partner are, in the Commission's opinion (formed as mentioned in section 11A), in an interdependence relationship.

Schedule 1, page 8 (after line 4), before item 1, insert:

1C After subsection 5R(3)

Insert:

- (3A) The determinations made under subsection (3) are to be applied to individual cases only and not to classes of persons.

Debate ensued.

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

Bill, as amended, agreed to, subject to requests.

Bill to be reported with amendments and requests and an amendment to the title.

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

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

34 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That intervening business be postponed till after consideration of government business order of the day no. 4 (Taxation Laws Amendment Bill (No. 7) 2003, consideration in committee of the whole of message no. 428 from the House of Representatives).

Question put and passed.

35 TAXATION LAWS AMENDMENT BILL (NO. 7) 2003

Order of the day read for the consideration of message no. 428 from the House of Representatives in committee of the whole (*see entry no. 36, 15 October 2003*).

In the committee

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

Debate ensued.

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

36 ADJOURNMENT

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

Debate ensued.

Time expired: The debate reached the limit of 40 minutes.

The Senate adjourned at 10.30 pm till Tuesday, 22 June 2004 at 12.30 pm.

37 ATTENDANCE

Present, all senators except Senators Denman*, Harris, Stott Despoja and Tierney* (* on leave).

HARRY EVANS
Clerk of the Senate