

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

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**1 MEETING OF SENATE**

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

**2 GOVERNMENT DOCUMENTS**

The following documents were tabled:

Australian Fair Pay Commission—Report for 2007-08.

Australian Fair Pay Commission Secretariat—Report for 2007-08.

Cotton Research and Development Corporation—Report for 2007-08.

*National Security Information (Criminal and Civil Proceedings) Act 2004*—

Non-disclosure and witness exclusion certificates—Report for 2007-08.

**3 NATIONAL FUELWATCH (EMPOWERING CONSUMERS) BILL 2008  
NATIONAL FUELWATCH (EMPOWERING CONSUMERS) (CONSEQUENTIAL  
AMENDMENTS) BILL 2008**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Faulkner)—That these bills be now read a second time.

Debate resumed.

Question put.

The Senate divided—

**AYES, 34**

Senators—

|              |              |                 |         |
|--------------|--------------|-----------------|---------|
| Arbib        | Crossin      | Hurley          | Polley  |
| Bilyk        | Evans        | Hutchins        | Pratt   |
| Bishop       | Farrell      | Ludlam          | Sherry  |
| Brown, Bob   | Faulkner     | Ludwig          | Siewert |
| Brown, Carol | Feeney       | Lundy           | Sterle  |
| Cameron      | Fielding     | Marshall        | Wong    |
| Carr         | Forshaw      | McEwen (Teller) | Wortley |
| Collins      | Furner       | Milne           |         |
| Conroy       | Hanson-Young | Moore           |         |

**NOES, 34**

Senators—

|            |                   |                |           |
|------------|-------------------|----------------|-----------|
| Abetz      | Cash              | Humphries      | Ronaldson |
| Adams      | Colbeck           | Johnston       | Ryan      |
| Barnett    | Cormann           | Macdonald      | Scullion  |
| Bernardi   | Eggleston         | Mason          | Troeth    |
| Birmingham | Ellison           | McGauran       | Trood     |
| Boswell    | Ferguson          | Minchin        | Williams  |
| Boyce      | Fierravanti-Wells | Nash           | Xenophon  |
| Brandis    | Fifield           | Parry (Teller) |           |
| Bushby     | Fisher            | Payne          |           |

The ayes and noes were equal and so the question was negatived.

**4 SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas)—That this bill be now read a second time.

Debate resumed.

*At 12.45 pm:* Debate was interrupted while the Leader of the Australian Greens (Senator Bob Brown) was speaking.

**5 COMMUNITY AFFAIRS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Farrell, by leave and at the request of the Chair of the Community Affairs Committee (Senator Moore), moved—That the Community Affairs Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today.

Question put and passed.

**6 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Parliamentary Secretary for Social Inclusion and the Voluntary Sector (Senator Stephens) the sitting of the Senate was suspended at 1.53 pm till 2 pm.

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*At 2 pm—*

**7 QUESTIONS**

Questions without notice were answered.

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

Industry—Carbon Pollution Reduction Scheme—Media release—Nyrstar Australia Pty Ltd—‘Threat to Hobart and Port Pirie Smelters’, dated 12 November 2008.

**8 MOTIONS TO TAKE NOTE OF ANSWERS**

Senator Johnston moved—That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) to questions without notice asked by Senators Johnston, Birmingham and Cameron today relating to the Carbon Pollution Reduction Scheme.

Debate ensued.

Question put and passed.

The Leader of the Australian Greens (Senator Bob Brown) moved—That the Senate take note of the answer given by the Minister for Climate Change and Water (Senator Wong) to a question without notice asked by Senator Bob Brown today relating to the proposed Traveston Crossing Dam, Queensland.

Question put and passed.

**9 PETITION**

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

From 817 petitioners, requesting that the Senate ensures all disabled pensioners are granted a substantial increase in their fortnightly pension.

**10 NOTICES**

Senator Crossin: To move on the next day of sitting—That the exposure draft of the Personal Property Securities Bill 2008 be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 24 February 2009.

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

- (a) notes that in October 2008, 13-year-old Aisha Ibrahim Duhulow was stoned to death for adultery in Kismayo, Somalia, by 50 men in front of 1 000 spectators, after her father reported she had been raped by three men, none of whom were arrested;
- (b) expresses profound distress at this barbaric act against a child;
- (c) condemns the Al-Shabaab militia rebels who arranged the stoning; and
- (d) backs international action to restore peace and human dignity to Somalia. (*general business notice of motion no. 274*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate calls on the Government to develop a white paper on population during this period of government which takes into account:

- (a) projections of a global population of between 9 to 10 billion people by 2050;
- (b) the inability of the Earth to provide for 9 to 10 billion people if average resource consumption is to be at current levels in Australia;
- (c) climate change;
- (d) Australia's inability to host exponential population growth; and
- (e) the wellbeing of future generations and life on Earth. (*general business notice of motion no. 275*)

Senator Bernardi: To move on the next day of sitting—

- (1) That a select committee, to be known as the Select Committee on Men's Health, be established to inquire into and report by 30 May 2009 on:  
General issues related to the availability and effectiveness of education, supports and services for men's health, including but not limited to:
  - (i) level of Commonwealth, state and other funding addressing men's health, particularly prostate cancer, testicular cancer, and depression,
  - (ii) adequacy of existing education and awareness campaigns regarding men's health for both men and the wider community,
  - (iii) prevailing attitudes of men towards their own health and sense of wellbeing and how these are affecting men's health in general, and
  - (iv) the extent, funding and adequacy for treatment services and general support programs for men's health in metropolitan, rural, regional and remote areas.
- (2) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, and 1 nominated by any minority party or independent senators.

- (3) (a) Participating members may be appointed to the committee on the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;
- (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
- (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
- (5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.
- (6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.
- (7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
- (8) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to examine.
- (9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommendations as it may deem fit.
- (10) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (11) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public. (*general business notice of motion no. 276*)

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

- (a) notes that:
  - (i) Thursday, 20 November 2008, marks the 10th International Transgender Day of Remembrance, and
  - (ii) this day of action was established as a reminder of those who have been killed as a result of anti-gender hatred or prejudice; and
- (b) calls on the Government to act on the recommendations of the Human Rights and Equal Opportunity Commission report, *Sex and Gender Diversity*. (*general business notice of motion no. 277*)

Senators Barnett and Wortley: To move on the next day of sitting—That the Senate—

- (a) notes that:
- (i) on 20 December 2006, a landmark decision was made by the United Nations General Assembly to adopt Resolution 61/225,
  - (ii) the resolution recognised the risks that diabetes and its complications pose to families, member states and world health and was adopted by consensus,
  - (iii) the resolution declared 14 November as World Diabetes Day,
  - (iv) this resolution joins HIV/AIDS and autism as the only other diseases having its own resolution and declared day of observation,
  - (v) an estimated 246 million people aged between 20 and 79 worldwide have diabetes and this number is expected to grow by 44 per cent reaching 380 million by 2025,
  - (vi) each year 3.8 million adults die from diabetes-related illnesses, representing one death every 10 seconds,
  - (vii) an estimated 7.4 per cent of the Australian population has diabetes, according to the Australian Diabetes, Obesity and Lifestyle (AusDiab) study in 2000, and
  - (viii) according to an AusDiab study the social and medical costs in Australia were estimated in 2002 to total \$6 billion annually;
- (b) acknowledges the work of Professor Martin Silink, AM, MD, FRACP, as President of the International Diabetes Federation and his colleagues worldwide for their work to ensure that this united resolution was carried;
- (c) recognises that:
- (i) in the catalogue of chronic illness few conditions would be more needful of attention than the scourge of diabetes,
  - (ii) the prevention and management of diabetes are the responsibility of the whole of society,
  - (iii) parliaments should play a leading role in promoting community education and implementing effective policies and health care for sufferers of this worldwide scourge,
  - (iv) left undiagnosed and untreated, diabetes dramatically affects quality of life and shortens lifespan and its malevolent course inevitably leads to many serious associated health complications, including heart disease, stroke, renal failure, limb amputation and blindness, and
  - (v) unless national governments act to deliver comprehensive policies, the implications for health budgets will be calamitous; and
- (d) calls on the Government to:
- (i) continue to make diabetes a national health priority,
  - (ii) commission a report by the Australian Institute of Health and Welfare into the health costs of diabetes,
  - (iii) adequately fund best-practice medicine for the treatment of diabetes, and
  - (iv) continue to promote healthy lifestyle programs, especially targeted to children and young people. (*general business notice of motion no. 278*)

The Chair of the Rural and Regional Affairs and Transport Committee (Senator Sterle): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on natural resource management and conservation challenges be extended to 12 March 2009. (*general business notice of motion no. 279*)

The Leader of the Family First Party (Senator Fielding): To move on the next day of sitting—

- (1) That a select committee, to be known as the Select Committee on the Integrity of the Prime Minister's Office, be established to inquire into and report by 3 December 2008 on:
  - (a) the reported leak of the telephone conversation between the Prime Minister of Australia and the President of the United States of America on 10 October 2008;
  - (b) the role and any involvement of the Prime Minister's office in relation to the leak;
  - (c) the role and any involvement of the 'Note Taker', who was with the Prime Minister listening in on the telephone conversation, and any other person present or listening (if any) in regards to the leak;
  - (d) the role and any involvement of any of the persons, present at the location where and when the telephone conversation was made, in regards to the leak;
  - (e) the role of any ministerial staffer or public servant in regards to the leak;
  - (f) the role of any member of the media in regards to the leak;
  - (g) why the Australian Federal Police have not been asked to investigate the leak, especially if it is the view the conversation was leaked by either a ministerial staffer or public servant without the authority of the Prime Minister;
  - (h) the reported complaint by the United States Ambassador about the leak;
  - (i) the impact of the leak on undermining Australia's reputation and trustworthiness of the Prime Minister's office; and
  - (j) the ongoing consequences of the leak for relationships between Australia and the United States and any other country.
- (2) That the committee consist of 8 members, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of Family First in the Senate and 1 nominated by any other minority party or independent senator.
- (3)
  - (a) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and any minority party and independent senators, participating members may be appointed to the committee;
  - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of committee, but may not vote on any questions before the committee; and
  - (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (4) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (5) That the committee elect a Government member as its chair.



- (6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.
- (7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
- (8) That the quorum of the committee be 5 members.
- (9) That the committee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and interim recommendations.
- (10) In exercising its power in accordance with paragraph (9), for the avoidance of doubt, the committee is empowered to send for:
  - (a) ministers and ministerial advisers; and
  - (b) officers of the security and police services.
- (11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public. (*general business notice of motion no. 280*)

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

- (a) notes that:
  - (i) 14 November is World Diabetes Day, which in 2008 is focusing on children and adolescents particularly,
  - (ii) there are currently 250 million people worldwide who are living with diabetes,
  - (iii) in Australia an estimated 1.5 million people have the disease,
  - (iv) people with diabetes are at an increased risk of cardiovascular disease, foot complications, blindness, dental problems, kidney failure and amputations,
  - (v) 2 per cent of all Australian deaths are due to diabetes,
  - (vi) Indigenous Australians are three times more likely to suffer from diabetes than non-Indigenous Australians,
  - (vii) 8 per cent of all Indigenous Australian deaths are due to diabetes, and
  - (viii) the relatively low use of the National Diabetes Services Scheme by Indigenous patients; and
- (b) calls on the Government to continue:
  - (i) its efforts to ensure that people in regional, rural and remote communities have adequate access to the National Diabetes Services Scheme, and
  - (ii) to explore means through which the access of Indigenous people to the National Diabetes Services Scheme can be improved. (*general business notice of motion no. 281*)

Senator Parry: To move on the next day of sitting—That the resolutions of appointment of the following select committees, agreed to on the dates indicated, be varied as follows:

- (a) Select Committee on Agricultural and Related Industries, agreed 14 February 2008—omit paragraphs (7) and (9);
- (b) Select Committee on Fuel and Energy, agreed 25 June 2008—omit paragraphs (9) and (11);
- (c) Select Committee on the National Broadband Network, agreed 25 June 2008—omit paragraph (8) and in paragraph (11), omit “, and that the quorum of a subcommittee be 2 members”; and
- (d) Select Committee on Regional and Remote Indigenous Communities, agreed 19 March 2008—omit paragraph (9). (*general business notice of motion no. 282*)

#### 11 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 272 standing in the name of Senator Ludlam for today, relating to the National Rental Affordability Scheme, postponed till 27 November 2008.

#### 12 DAYS OF MEETING

The Minister for Human Services (Senator Ludwig), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the days of meeting of the Senate for 2009 be as follows:

**Autumn sittings:**

Tuesday, 3 February to Thursday, 5 February  
 Monday, 23 February to Thursday, 26 February  
 Tuesday, 10 March to Thursday, 12 March  
 Monday, 16 March to Thursday, 19 March

**Budget sittings:**

Tuesday, 12 May to Thursday, 14 May

**Winter sittings:**

Monday, 15 June to Thursday, 18 June  
 Monday, 22 June to Thursday, 25 June

**Spring sittings:**

Tuesday, 11 August to Thursday, 13 August  
 Monday, 17 August to Thursday, 20 August  
 Monday, 7 September to Thursday, 10 September  
 Monday, 14 September to Thursday, 17 September

**Spring sittings (2):**

Monday, 26 October to Thursday, 29 October  
 Monday, 16 November to Thursday, 19 November  
 Monday, 23 November to Thursday, 26 November.

*Statements by leave:* The Leader of the Opposition in the Senate (Senator Minchin) and Senator Ludwig, by leave, made statements relating to the motion.

Question put and passed.

**13 COMMITTEES—ESTIMATES HEARINGS**

The Minister for Human Services (Senator Ludwig), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—

- (1) That estimates hearings by standing committees for 2009 be scheduled as follows:

**2008-09 additional estimates:**

Monday, 9 February and Tuesday, 10 February 2009, and, if required, Friday, 13 February 2009 (*Group A*)

Wednesday, 11 February and Thursday, 12 February 2009, and, if required, Friday, 13 February 2009 (*Group B*).

**2009-10 Budget estimates:**

Monday, 25 May to Thursday, 28 May 2009, and, if required, Friday, 29 May 2009 (*Group A*)

Monday, 1 June to Thursday, 4 June 2009, and, if required, Friday, 5 June 2009 (*Group B*)

Monday, 19 October and Tuesday, 20 October 2009 (*supplementary hearings—Group A*)

Wednesday, 21 October and Thursday, 22 October 2009 (*supplementary hearings—Group B*).

- (2) That the committees consider the proposed expenditure in accordance with the allocation of departments and agencies to committees agreed to by the Senate.
- (3) That committees meet in the following groups:

**Group A:**

Environment, Communications and the Arts

Finance and Public Administration

Legal and Constitutional Affairs

Rural and Regional Affairs and Transport

**Group B:**

Community Affairs

Economics

Education, Employment and Workplace Relations

Foreign Affairs, Defence and Trade.

- (4) That the committees report to the Senate on the following dates:
- (a) Tuesday, 17 March 2009 in respect of the 2008-09 additional estimates; and
- (b) Tuesday, 23 June 2009 in respect of the 2009-10 Budget estimates.

Question put and passed.

**14 CULTURE AND THE ARTS—AUSTRALIAN NATIONAL ACADEMY OF MUSIC**

Senator Ronaldson, also on behalf of Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 270—That the Senate—

- (a) notes the importance of the Australian National Academy of Music as a unique institution for the cultivation of Australia's finest classical musicians;
- (b) deplures statements by the Minister for the Environment, Heritage and the Arts (Mr Garrett) casting aspersions on the efficiency and effectiveness of the academy; and

- (c) calls on the Government immediately to reinstate Commonwealth funding to the Australian National Academy of Music for the 2008-09 financial year in the amount of \$2 545 000, as originally promised by the Rudd Government.

*Statements by leave:* Senator Ronaldson and the Minister for Human Services (Senator Ludwig), by leave, made statements relating to the motion.

Question put and passed.

#### 15 HEALTH—NATIONAL SKIN CANCER ACTION WEEK

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 271—That the Senate—

- (a) notes that:
- (i) the week beginning 16 November 2008 is National Skin Cancer Action Week,
  - (ii) Australia has the highest incidence of skin cancer in the world,
  - (iii) within Australia, Queensland has the highest rate of skin cancer, followed by Western Australia,
  - (iv) skin cancers currently account for 80 per cent of all newly diagnosed cancers,
  - (v) more than 1 600 Australians die from skin cancer each year,
  - (vi) an estimated 950 000 visits to general practitioners each year are for the treatment of preventable non-melanoma skin cancers, and
  - (vii) annually 281 new melanoma cases, 43 melanoma-related deaths and 2 572 new cases of squamous cell carcinoma are attributable to the use of solaria; and
- (b) calls on the Government to:
- (i) support the recommendations of the Australasian College of Dermatologists and Cancer Council Australia by working with the states towards effecting tighter regulation of solaria, and
  - (ii) implement and fund an ongoing national level skin cancer prevention campaign.

Question put and passed.

#### 16 NUCLEAR WEAPONS—URANIUM EXPORTS

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 273—That the Senate—

- (a) notes the uranium study conducted by Newspoll for the Australian Conservation Foundation over the weekend of 1 November and 2 November 2008, which shows that:
- (i) Australians are 2:1 against uranium exports to countries with nuclear weapons,
  - (ii) 40 per cent of Australians are against the export of Australian uranium to any country for use in nuclear power plants for electricity generation,
  - (iii) a majority of Australians in every state are opposed to uranium exports to countries with nuclear weapons or against any uranium exports at all, and

- (iv) results show 48 per cent of women are against uranium exports to any country, and a total of 73 per cent of women are against uranium exports to countries with nuclear weapons that have signed the Nuclear Non-Proliferation Treaty; and
- (b) calls on the Government to take this strong indication of public opinion into account as it makes a decision on the clear recommendations provided by the Joint Standing Committee on Treaties on the Australia-Russia uranium agreement signed by former Prime Minister Howard and the then President Putin in 2007.

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob  
Hanson-Young

Ludlam  
Milne

Siewert (Teller)

Xenophon

NOES, 35

Senators—

Adams  
Arbib  
Barnett  
Bilyk  
Bishop  
Boswell  
Boyce  
Brown, Carol  
Bushby

Cameron  
Cash  
Collins  
Coonan  
Cormann  
Crossin  
Ellison  
Farrell  
Feeney

Ferguson  
Forshaw  
Furner  
Hurley  
Joyce  
Ludwig  
Lundy  
McEwen  
Moore

Parry (Teller)  
Payne  
Polley  
Pratt  
Ronaldson  
Stephens  
Troeth  
Wortley

Question negatived.

#### 17 PROCEDURE—STANDING COMMITTEE—THIRD REPORT OF 2008

The Chair of the Procedure Committee (Senator Ferguson) tabled the following report:

Procedure—Standing Committee—Third report of 2008—Restructuring question time, dated November 2008.

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

Senator Ferguson, by leave, moved—That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

Question put and passed.

#### 18 SCRUTINY OF BILLS—STANDING COMMITTEE—12TH REPORT AND ALERT DIGEST NO. 12 OF 2008

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Coonan) tabled the following report and document:

Scrutiny of Bills—Standing Committee—

12th report of 2008, dated 12 November 2008.

Alert Digest No. 12 of 2008, dated 12 November 2008.

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

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

Question put and passed.

**19 ENVIRONMENT—GLOBAL FOOD SECURITY—MINISTERIAL STATEMENT—DOCUMENT**

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) tabled the following document:

Environment—Global food security—Ministerial statement by the Minister for Agriculture, Fisheries and Forestry (Mr Burke), dated 12 November 2008.

**20 DOCUMENTS**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

*Appropriation (Northern Territory National Emergency Response) Act (No. 1)—Determination to reduce appropriations upon request (No. 6 of 2008-2009) [F2008L04293]\*.*

*Appropriation (Northern Territory National Emergency Response) Act (No. 2)—Determination to reduce appropriations upon request (No. 7 of 2008-2009) [F2008L04294]\*.*

Banking Act—Declaration of covered financial products [F2008L04298]\*.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part—

105—

AD/A330/93—Spoiler Servo Maintenance Cover [F2008L03970]\*.

AD/B717/31—Elevator Standby Cable [F2008L03974]\*.

AD/B747/384 Amdt 1—Number 3 Main Entry Doors [F2008L04307]\*.

AD/BELL 206/9 Amdt 1—Tail Rotor Control Tube – Inspection [F2008L03981]\*.

AD/BELL 206/36 Amdt 1—Emergency Flotation Solenoid Valve – Inspection [F2008L03983]\*.

AD/BELL 206/47 Amdt 1—Hydraulic Servo Actuator Piston P/N41000005 – Inspection and Replacement [F2008L04008]\*.

AD/CESSNA 150/49—BRS-150 Parachute System [F2008L04306]\*.

AD/DH 104/2—Siebe Gorman Safety Belt – Modification [F2008L04010]\*.

AD/DH 104/8 Amdt 1—Fin Attachment Brackets – Inspection [F2008L04011]\*.

AD/DH 104/9—Aileron, Rudder and Elevator Hinge Links and Brackets and Tailplane Upper Attachment Fittings – Inspection [F2008L04012]\*.

AD/DHC-6/2—Fuel System Crossfeed Thermal Relief – Modification [F2008L04045]\*.

AD/DHC-6/3—Airstair Door Safety Guard – Modification [F2008L04046]\*.

AD/DHC-6/4—Nose Landing Gear – Modification [F2008L04047]\*.

AD/DHC-6/5—Fuselage Frame and Wing Strut – Modification [F2008L04049]\*.

AD/DHC-6/19—Propeller and Power Control Lever Interlock – Modification [F2008L04056]\*.

AD/DHC-6/28—Engine Compressor Inlet Screens – Icing Restrictions [F2008L04069]\*.

- AD/DHC-6/29—Airframe De-Icing System – Modification [F2008L04070]\*.
- AD/DHC-6/42—Inboard Trailing Flap – Inspection and Modification [F2008L04071]\*.
- AD/DHC-6/44—Lower Wing Skin to Spar Rivets – Inspection [F2008L04132]\*.
- AD/DHC-6/55—Fuel Boost Pumps – Inspection, Replacement, Modification [F2008L04072]\*.
- AD/DHC-6/57—Voltage Regulators – Inspection and Provision of Ground Wires [F2008L04111]\*.
- AD/ERJ-170/18—Electrical Wiring and ARINC 429 Data Bus [F2008L04112]\*.
- AD/ERJ-190/17—Internal Wing Spars and Rib Flanges [F2008L04073]\*.
- AD/P68/32 Amdt 1—Longitudinal Trim System [F2008L04074]\*.
- AD/PA-25/1—Fin Post – Modification [F2008L04075]\*.
- AD/PA-25/2 Amdt 1—Main Undercarriage Vee Assemblies – Inspection [F2008L04076]\*.
- AD/PA-25/4—Front Spar Attachment Fittings – Modification [F2008L04077]\*.
- AD/PA-25/11 Amdt 2—Hopper Modification – Dump Requirement [F2008L04085]\*.
- AD/PA-25/12 Amdt 2—Exhaust System – Inspection [F2008L04114]\*.
- AD/PA-25/13—Fuel Line – Modification [F2008L04115]\*.
- AD/PA-25/16 Amdt 2—Tail Wheel Spring Bolts – Replacement [F2008L04086]\*.
- AD/PA-25/18—Jury Strut – Modification [F2008L04087]\*.
- AD/PA-25/19—Engine Mount – Inspection [F2008L04088]\*.
- AD/PA-25/21 Amdt 3—Top Longeron – Modification [F2008L04090]\*.
- AD/PA-25/24—Elevator Control Cable Rear Turnbuckles – Inspection [F2008L04092]\*.
- AD/PA-25/25—Fuel Cell Vent – Modification [F2008L04119]\*.
- AD/PA-25/28—Inertia Reel Installation [F2008L04105]\*.
- AD/PA-25/29—Wing Strut – Inspection [F2008L04106]\*.
- AD/PA-25/30—Primary Control Cable Turnbuckles – Inspection [F2008L04107]\*.
- AD/PA-25/31—Rapid Throttle Movement – Warning Placard [F2008L04120]\*.
- AD/PA-25/32—Fuselage Structure – Inspection [F2008L04108]\*.
- AD/PA-25/33 Amdt 2—Wing Forward Spar – Inspection and Modification [F2008L04109]\*.
- AD/PA-25/35 Amdt 2—Modification – Placard and Spray Equipment [F2008L04121]\*.
- AD/PA-25/38—Fuel System [F2008L04126]\*.
- AD/PA-25/39 Amdt 1—Fuel Tank [F2008L04127]\*.
- AD/PA-25/43—Exhaust System and Related Areas – Inspection [F2008L04128]\*.
- AD/ROCK-114/14 Amdt 1—Rudder Spar [F2008L04110]\*.
- AD/S-PUMA/80—Coupling Shaft Hardware [F2008L04131]\*.
- 106—AD/RB211/38—Engine – High Pressure Turbine Disc [F2008L04130]\*.

Corporations Act—Accounting Standard AASB 2008-10—Amendments to Australian Accounting Standards – Reclassification of Financial Assets [F2008L04295]\*.

Customs Act—Tariff Concession Orders—

0803213 [F2008L04220]\*.  
 0812463 [F2008L03900]\*.  
 0812469 [F2008L04218]\*.  
 0812761 [F2008L03897]\*.  
 0812995 [F2008L03800]\*.  
 0813445 [F2008L03871]\*.  
 0814158 [F2008L03926]\*.  
 0815156 [F2008L03987]\*.  
 0815257 [F2008L04096]\*.  
 0815767 [F2008L04097]\*.  
 0815769 [F2008L03973]\*.  
 0815983 [F2008L03986]\*.  
 0816489 [F2008L04093]\*.  
 0816491 [F2008L04061]\*.  
 0816576 [F2008L04222]\*.  
 0816603 [F2008L04139]\*.  
 0816606 [F2008L04219]\*.  
 0816608 [F2008L04091]\*.  
 0816637 [F2008L04095]\*.  
 0816639 [F2008L04083]\*.  
 0816836 [F2008L04094]\*.  
 0816893 [F2008L04060]\*.  
 0816955 [F2008L04063]\*.  
 0817141 [F2008L04057]\*.  
 0817640 [F2008L04142]\*.  
 0817644 [F2008L04050]\*.  
 0817651 [F2008L04054]\*.  
 0817656 [F2008L04048]\*.  
 0817657 [F2008L04044]\*.  
 0817914 [F2008L04082]\*.  
 0818803 [F2008L04089]\*.  
 0821697 [F2008L04221]\*.

Defence Act—Determination under section 58B—Defence Determination 2008/58—Member with dependants (unaccompanied) – amendment.

National Health Act—Instruments Nos PB—

108 of 2008—Amendment declaration and determination – drugs and medicinal preparations [F2008L04300]\*.  
 109 of 2008—Amendment determination – pharmaceutical benefits [F2008L04301]\*.

Navigation Act—Marine Order No. 10 of 2008—Additional safety measures for bulk carriers [F2008L04291]\*.

*Superannuation Act 1990*—PSS Rules—Superannuation (PSS) Maximum Benefits (2008-2009) Determination 2008 [F2008L04182]\*.

\* Explanatory statement tabled with legislative instrument.



**21 COMMITTEE MEMBERSHIP**

The Deputy President (Senator Ferguson) informed the Senate that the President had received a letter requesting changes in the membership of a committee.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas), by leave, moved—That Senator Fierravanti-Wells be discharged from and Senator Fifield be appointed to the Select Committee on Fuel and Energy.

Question put and passed.

**22 FAMILY LAW AMENDMENT (DE FACTO FINANCIAL MATTERS AND OTHER MEASURES) BILL 2008**  
**OFFSHORE PETROLEUM AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008**

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

Message no. 195, dated 11 November 2008—Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008.

Message no. 196, dated 11 November 2008—Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008.

**23 SAFE WORK AUSTRALIA BILL 2008**

A message from the House of Representatives was reported insisting on disagreeing to the amendments made and insisted on by the Senate to the following bill:

Message no. 197, dated 11 November 2008—Safe Work Australia Bill 2008.

On the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.

**24 TAX LAWS AMENDMENT (EDUCATION REFUND) BILL 2008**  
**TRANSPORT SECURITY AMENDMENT (2008 MEASURES NO. 1) BILL 2008**  
**CUSTOMS AMENDMENT (AUSTRALIA-CHILE FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2008**  
**CUSTOMS TARIFF AMENDMENT (AUSTRALIA-CHILE FREE TRADE AGREEMENT IMPLEMENTATION) BILL 2008**

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

Message no. 201, dated 12 November 2008—A Bill for an Act to amend the law relating to taxation, and for related purposes.

Message no. 198, dated 12 November 2008—A Bill for an Act to amend the law relating to the security of aviation and maritime transport and offshore facilities, and for related purposes.

Message no. 200, dated 12 November 2008—A Bill for an Act to amend the *Customs Act 1901*, and for related purposes.

Message no. 199, dated 12 November 2008—A Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

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

*Consideration of legislation:* Senator McLucas moved—That the Customs Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 and the Customs Tariff Amendment (Australia-Chile Free Trade Agreement Implementation) Bill 2008 be listed on the *Notice Paper* as one order of the day, and the remaining bills be listed as separate orders of the day.

Question put and passed.

**25 ECONOMICS—STANDING COMMITTEE—REPORT—AUSTRALIA’S SPACE SCIENCE AND INDUSTRY SECTOR**

Pursuant to order, the Chair of the Economics Committee (Senator Hurley) tabled the following report and documents:

Economics—Standing Committee—Lost in Space? Setting a new direction for Australia’s space science and industry sector—Report, dated November 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

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

**26 SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas)—That this bill be now read a second time.

Question put and passed.

Bill read a second time.

On the motion of the Minister for Climate Change and Water (Senator Wong) consideration of the bill in committee of the whole was made an order of the day for a later hour.

**27 SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—SUPERANNUATION) BILL 2008**

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

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*In the committee*

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Climate Change and Water (Senator Wong) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bill.

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Senator Brandis moved the following amendment:

Clause 2, page 2, omit the table, substitute:

| <b>Commencement information</b>   |  |                     |
|---|--|---------------------|
| <b>Column 1</b>   | <b>Column 2</b>                                      | <b>Column 3</b>     |
| <b>Provision(s)</b>   | <b>Commencement</b>                                  | <b>Date/Details</b> |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent. |                     |
| 2. Schedule 1   | 1 July 2008.   | 1 July 2008         |
| 3. Schedules 2 and 3  | 1 July 2008.   | 1 July 2008         |
| 4. Schedule 4   | 1 July 2008.   | 1 July 2008         |
| 5. Schedule 5   | 1 July 2008.   | 1 July 2008         |

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 37

Senators—

|            |              |                |          |
|------------|--------------|----------------|----------|
| Adams      | Ellison      | Ludlam         | Ryan     |
| Barnett    | Ferguson     | Macdonald      | Scullion |
| Birmingham | Fielding     | Mason          | Siewert  |
| Boyce      | Fifield      | McGauran       | Troeth   |
| Brandis    | Fisher       | Milne          | Trood    |
| Brown, Bob | Hanson-Young | Minchin        | Williams |
| Bushby     | Heffernan    | Nash           | Xenophon |
| Colbeck    | Humphries    | Parry (Teller) |          |
| Coonan     | Johnston     | Payne          |          |
| Eggleston  | Joyce        | Ronaldson      |          |

NOES, 26

Senators—

|              |          |                 |          |
|--------------|----------|-----------------|----------|
| Arbib        | Evans    | Lundy           | Sherry   |
| Bilyk        | Farrell  | Marshall        | Stephens |
| Bishop       | Feeney   | McEwen (Teller) | Sterle   |
| Brown, Carol | Forshaw  | McLucas         | Wong     |
| Cameron      | Furner   | Moore           | Wortley  |
| Collins      | Hurley   | Polley          |          |
| Crossin      | Hutchins | Pratt           |          |

Question agreed to.

On the motion of Senator Wong the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment: Schedule 1, page 3 (line 2) to page 11 (line 21), omit the Schedule, substitute:

**Schedule 1—Finance and Deregulation amendments**

***Parliamentary Contributory Superannuation Act 1948***

**1 Subsection 4(1) (definition of *former spouse*)**

After “marital”, insert “or couple”.

**2 Subsection 4(1)**

Insert:

*marital or couple relationship* has the meaning given by section 4B.

**3 Subsection 4(1)**

Insert:

*partner*: a person is the *partner* of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

**4 Subsection 4(1)**

Insert:

*spouse* has a meaning affected by section 4C.

**5 Subsection 4B(1)**

After “*marital*”, insert “*or couple*”.

Note: The heading to section 4B is replaced by the heading “**Marital or couple relationship**”.

**6 Subsection 4B(1)**

After “husband or wife”, insert “or partner”.

**7 Subsection 4B(2)**

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

**8 Subsection 4B(3)**

After “marital”, insert “or couple”.

**9 After paragraph 4B(4)(b)**

Insert:

(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901*, as a kind of relationship prescribed for the purposes of that section;

**10 At the end of paragraph 4B(4)(c)**

Add:

or (iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;

**11 Subsections 4C(2) and (3)**

After “marital” (wherever occurring), insert “or couple”.

**12 Paragraph 19AA(2)(d)**

Repeal the paragraph, substitute:

- (d) was not or is not survived by a person with whom the deceased person had had a marital or couple relationship and who is:
  - (i) the natural or adoptive parent of that child; or
  - (ii) the parent of that child because the child is a child of the person within the meaning of the *Family Law Act 1975*;

**13 Paragraph 19AA(2B)(a)**

Repeal the paragraph, substitute:

- (a) the child:
  - (i) was born while the deceased person was having a marital or couple relationship with another person; or
  - (ii) was adopted by the deceased person or the deceased person with that other person during the duration of that relationship; or
  - (iii) was a child of the deceased person, and that other person, within the meaning of the *Family Law Act 1975*; and

**14 Subsection 19AA(5) (definition of *child*)**

Repeal the definition, substitute:

*child*, in relation to a person, means a child of the person, including:

- (a) an adopted child or an ex-nuptial child of the person; and
- (b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

**15 Application of amendments of the *Parliamentary Contributory Superannuation Act 1948***

The amendments of the *Parliamentary Contributory Superannuation Act 1948* made by this Schedule apply in relation to a benefit payable under that Act in respect of a person who dies on or after the commencement of this Schedule if the deceased person:

- (a) was entitled to a parliamentary allowance at the time of his or her death; or
- (b) was entitled to a retiring allowance (whether or not the retiring allowance was immediately payable) at the time of his or her death.

***Superannuation Act 1922*****16 After subsection 48AB(4)**

Insert:

- (4A) If a pensioner or contributor died before the day on which Schedule 1 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* commenced:

- (a) the amendments of the *Superannuation Act 1976* made by that Schedule do not apply in relation to any pension that, apart from this subsection, may be granted under this section in respect of the deceased pensioner or contributor; and

- (b) the *Superannuation Act 1976* as in force immediately before the commencement of Schedule 1 continues to apply in relation to any pension granted or that may be granted under this section in respect of the deceased pensioner or contributor.

**17 At the end of section 48ABA**

Add:

- (9) For the purposes of applying the definitions of *eligible child* and *spouse* in subsection (1) in relation to a deceased pensioner who died before the day on which Schedule 1 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* commenced:
- (a) the amendments of the *Superannuation Act 1976* made by that Schedule do not apply; and
- (b) the *Superannuation Act 1976* as in force immediately before the commencement of that Schedule continues to apply.

***Superannuation Act 1976***

**18 Subsection 3(1) (definition of *child*)**

Repeal the definition, substitute:

*child*, in relation to a person who has died, means:

- (a) a child of the person, including:
- (i) an adopted child, an ex-nuptial child, a foster child, a stepchild or a ward, of the person; and
- (ii) someone who is a child of the person within the meaning of the *Family Law Act 1975*; or
- (b) a child of a spouse of the person, including:
- (i) an adopted child, an ex-nuptial child, a foster child, a stepchild or a ward, of the spouse; and
- (ii) someone who is a child of the spouse within the meaning of the *Family Law Act 1975*.

**19 Subsection 3(1) (definition of *late short-term marital relationship*)**

Repeal the definition (including the note).

**20 Subsection 3(1)**

Insert:

*late short-term marital or couple relationship*, in relation to a deceased retirement pensioner, means a marital or couple relationship between the pensioner and his or her spouse that began:

- (a) less than 3 years before the pensioner's death; and
- (b) after the pensioner became a retirement pensioner and had reached the age of 60 years.

**21 Subsection 3(1)**

Insert:

*marital or couple relationship* has the meaning given by section 8A.

**22 Subsection 3(1)**

Insert:

*partner*: a person is the *partner* of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

**23 Subsection 3(1)**

Insert:

*spouse* has a meaning affected by section 8B.

**24 Subsection 3(1)**

Insert:

*stepchild*: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a partner of the person is the *stepchild* of the person, if he or she would be the person's stepchild except that the person is not legally married to the partner.

**25 Subsection 8A(1)**After "*marital*", insert "*or couple*".

Note: The heading to section 8A is replaced by the heading "**Marital or couple relationship**".

**26 Subsection 8A(1)**

After "husband or wife", insert "or partner".

**27 Subsection 8A(2)**

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

**28 Subsection 8A(3)**After "*marital*", insert "*or couple*".**29 After paragraph 8A(4)(b)**

Insert:

(ba) the persons' relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901*, as a kind of relationship prescribed for the purposes of that section;

**30 At the end of paragraph 8A(4)(c)**

Add:

or (iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;

**31 Subsections 8B(2) and (3)**After "*marital*" (wherever occurring), insert "*or couple*".**32 Subsections 94(2A), 95(1B) and 96(2A)**After "*marital*", insert "*or couple*".**33 Subsection 96AB(2) (paragraph (a) of the definition of *relevant period*)**After "*marital*", insert "*or couple*".

**34 Paragraph 96BA(1)(a)**

After “marital”, insert “or couple”.

**35 Subsection 96BA(2) (paragraph (a) of the definition of *relevant period*)**

After “marital”, insert “or couple”.

**36 Subsection 108A(1)**

After “marital”, insert “or couple”.

Note: The heading to section 108A is altered by inserting “or couple” after “marital”.

**37 Subsection 108A(5) (subparagraph (a)(i) of the definition of *relevant period*)**

After “marital”, insert “or couple”.

**38 Paragraph 109AB(2)(c)**

After “marital”, insert “or couple”.

**39 Paragraphs 109AB(3B)(b), (3C)(a) and (b), (5)(c), (5A)(b), (5B)(a) and (b)**

After “marital”, insert “or couple”.

**40 Paragraphs 110(4)(c) and (d) and (5B)(a)**

After “marital”, insert “or couple”.

**41 Subparagraph 110(5B)(b)(i)**

After “marital”, insert “or couple”.

**42 After subparagraph 110(5B)(b)(i)**

Insert:

- (ia) was not a child of the spouse, and the pensioner, within the meaning of the *Family Law Act 1975*; or

**43 Subparagraphs 110(5B)(b)(ii) and (iii)**

After “marital”, insert “or couple”.

**44 Paragraph 110(7)(c)**

After “marital”, insert “or couple”.

**45 Subparagraph 110(7A)(a)(ii)**

After “marital”, insert “or couple”.

**46 Subparagraph 110(7A)(b)(i)**

After “marital”, insert “or couple”.

**47 After subparagraph 110(7A)(b)(i)**

Insert:

- (ia) was, within the meaning of the *Family Law Act 1975*, a child of the pensioner and the person with whom the pensioner had that marital or couple relationship; or

**48 Subparagraphs 110(7A)(b)(ii) and (iii)**

After “marital”, insert “or couple”.

**49 Paragraph 110(7B)(a)**

After “marital”, insert “or couple”.



**50 Paragraph 110(14)(d)**

Omit “an adopted child, an ex-nuptial child, a foster child, a step-child or a ward”, substitute “a child of a kind referred to in subparagraph (b)(i) or (ii) of the definition of *child* in subsection 3(1)”.

**51 Paragraph 136(2B)(ma)**

After “marital” (wherever occurring), insert “or couple”.

**52 Application of amendments of the *Superannuation Act 1976***

The amendments of the *Superannuation Act 1976* made by this Schedule apply in relation to a benefit payable under that Act in respect of a person who dies on or after the commencement of this Schedule, if, at the time of his or her death, the deceased person was:

- (a) an eligible employee (within the meaning of that Act); or
- (b) a deferred benefit member (within the meaning of Division 4A of Part V of that Act); or
- (c) a retirement pensioner (within the meaning of that Act).

Senator Wong moved the following amendments together by leave:

No. 1—Clause 2, page 2 (table item 3), omit the table item, substitute:

|                |                                      |
|----------------|--------------------------------------|
| 3. Schedule 2, | At the same time as the provision(s) |
| Parts 1 and 2  | covered by table item 2.             |

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|             |  |
|-------------|--|
| 3A.         | The day on which this Act receives the |
| Schedule 2, | Royal Assent.                          |
| Part 3      |  |

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|                |                                      |
|----------------|--------------------------------------|
| 3B. Schedule 3 | At the same time as the provision(s) |
|                | covered by table item 2.             |

No. 2—Schedule 2, page 12 (line 2) to page 17 (line 8), omit the Schedule, substitute:

**Schedule 2—Attorney-General’s amendments****Part 1—Amendment of the Acts Interpretation Act 1901*****Acts Interpretation Act 1901*****1 After section 22**

Insert:

**22A References to de facto partners**

For the purposes of a provision of an Act that is a provision in which de facto partner has the meaning given by this Act, a person is the *de facto partner* of another person (whether of the same sex or a different sex) if:

- (a) the person is in a registered relationship with the other person under section 22B; or
- (b) the person is in a de facto relationship with the other person under section 22C.

**22B Registered relationships**

For the purposes of paragraph 22A(a), a person is in a *registered relationship* with another person if the relationship between the persons is registered under a prescribed law of a State or Territory as a prescribed kind of relationship.

**22C De facto relationships**

- (1) For the purposes of paragraph 22A(b), a person is in a *de facto relationship* with another person if the persons:
  - (a) are not legally married to each other; and
  - (b) are not related by family (see subsection (6)); and
  - (c) have a relationship as a couple living together on a genuine domestic basis.
- (2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of their relationship are to be taken into account, including any or all of the following circumstances:
  - (a) the duration of the relationship;
  - (b) the nature and extent of their common residence;
  - (c) whether a sexual relationship exists;
  - (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
  - (e) the ownership, use and acquisition of their property;
  - (f) the degree of mutual commitment to a shared life;
  - (g) the care and support of children;
  - (h) the reputation and public aspects of the relationship.
- (3) No particular finding in relation to any circumstance mentioned in subsection (2) is necessary in determining whether 2 persons have a relationship as a couple for the purposes of paragraph (1)(c).
- (4) For the purposes of paragraph (1)(c), the persons are taken to be living together on a genuine domestic basis if the persons are not living together on a genuine domestic basis only because of:
  - (a) a temporary absence from each other; or
  - (b) illness or infirmity of either or both of them.
- (5) For the purposes of subsection (1), a de facto relationship can exist even if one of the persons is legally married to someone else or is in a registered relationship (within the meaning of section 22B) with someone else or is in another de facto relationship.
- (6) For the purposes of paragraph (1)(b), 2 persons are *related by family* if:
  - (a) one is the child (including an adopted child) of the other; or
  - (b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
  - (c) they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

- (7) For the purposes of subsection (6), *adopted* means adopted under the law of any place (whether in or out of Australia) relating to the adoption of children.

## **Part 2—Amendment of other Acts**

### ***Federal Magistrates Act 1999***

#### **2 Section 5**

Insert:

*marital or couple relationship* has the meaning given by subclause 9E(5) of Schedule 1.

#### **3 Section 5 (definition of *marital relationship*)**

Repeal the definition.

#### **4 Section 5**

Insert:

*partner*: a person is the *partner* of another person if the 2 persons have a relationship as a couple (whether the persons are the same sex or different sexes).

#### **5 Subclauses 9E(2), (3) and (4) of Schedule 1**

After “marital” (wherever occurring), insert “or couple”.

#### **6 Subclause 9E(5) of Schedule 1**

After “*marital*”, insert “*or couple*”.

Note: The heading to subclause 9E(5) of Schedule 1 is replaced by the heading “*Meaning of marital or couple relationship*”.

#### **7 Subclause 9E(5) of Schedule 1**

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

#### **8 Subclause 9E(6) of Schedule 1**

After “marital”, insert “or couple”.

#### **9 After paragraph 9E(7)(b) of Schedule 1**

Insert:

(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

#### **10 At the end of paragraph 9E(7)(c) of Schedule 1**

Add:

or (iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;

#### **11 After subparagraph 9F(1)(b)(i) of Schedule 1**

Insert:

(ia) the person is a child of the Magistrate within the meaning of the *Family Law Act 1975*;

**12 Application of amendments of the *Federal Magistrates Act 1999***

The amendments of the *Federal Magistrates Act 1999* made by this Schedule apply in relation to any payment payable under clause 9D of Schedule 1 to that Act in respect of a person who dies on or after the commencement of this Schedule if, at the time of his or her death, the deceased person:

- (a) held office as a Federal Magistrate; or
- (b) was a retired disabled Federal Magistrate.

***Judges' Pensions Act 1968*****13 Subsection 4(1)**

Insert:

*child of a marital or couple relationship*, in relation to a marital or couple relationship, means:

- (a) a child born of the marital or couple relationship; or
- (b) a child adopted by the people in the marital or couple relationship during the period of the relationship; or
- (c) someone who is, within the meaning of the *Family Law Act 1975*, a child of both of the people in the marital or couple relationship.

**14 Subsection 4(1) (definition of *child of a marital relationship*)**

Repeal the definition.

**15 Subsection 4(1)**

Insert:

*marital or couple relationship* has the meaning given by section 4AB.

**16 Subsection 4(1)**

Insert:

*partner*: a person is the *partner* of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

**17 Subsection 4(1)**

Insert:

*spouse* has a meaning affected by section 4AC.

**18 After paragraph 4AA(a)**

Insert:

- (aa) the child is a child of the deceased Judge within the meaning of the *Family Law Act 1975*; or

**19 Subsection 4AB(1)**

After "*marital*", insert "*or couple*".

Note: The heading to section 4AB is replaced by the heading "**Marital or couple relationship**".

**20 Subsections 4AB(1) and (2)**

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

**21 Subsection 4AB(3)**

After “marital”, insert “or couple”.

**22 After paragraph 4AB(4)(b)**

Insert:

- (ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

**23 At the end of paragraph 4AB(4)(c)**

Add:

- or (iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;

**24 Subsections 4AC(2) and (3)**

After “marital” (wherever occurring), insert “or couple”.

**25 Subsections 10(2), 11(3) and 12(3)**

After “marital” (wherever occurring), insert “or couple”.

**26 Application of amendments of the *Judges’ Pensions Act 1968***

- (1) The amendments of the *Judges’ Pensions Act 1968* made by this Schedule apply in relation to any pension payable under that Act in respect of a person who dies on or after the commencement of this Schedule if, at the time of his or her death, the deceased person was a Judge or a retired Judge.
- (2) The amendments of the *Judges’ Pensions Act 1968* made by this Schedule apply in relation to any pension payable under the *Building and Construction Industry Improvement Act 2005* in respect of a person who dies on or after the commencement of this Schedule if, at the time of his or her death, the deceased person was or had been the ABC Commissioner.

***Law Officers Act 1964*****27 Subsection 16(1)**

Omit “other than subsection 6(3) (including the provisions relating to widows and children)”, substitute “other than subsection 4(2) (including the provisions relating to spouses and children)”.

**28 Application of amendments of the *Law Officers Act 1964***

The amendments of the *Law Officers Act 1964* made by this Schedule apply in relation to any pension payable under section 16 of that Act because of the application of the *Judges’ Pensions Act 1968* in respect of a person who:

- (a) was appointed as Solicitor-General before 1 January 1998; and
- (b) dies on or after the commencement of this Schedule.

**Part 3—Regulations****29 Regulations may deal with transitional, saving or application matters**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to amendments and repeals made by this Schedule or any other Schedule to this Act.

Debate ensued.

The question was divided—

Question—That amendment no. 1 be agreed to—put and negatived.

Question—That amendment no. 2 be agreed to—put and passed.

Senator Hanson-Young moved the following amendment:

Schedule 2, as amended, item 1, omit section 22A, substitute:

**22A References to couple relationships**

For the purposes of a provision of an Act that is a provision in which couple relationship has the meaning given by this Act, a person is a partner of a *couple relationship* with another person (whether of the same sex or a different sex) if:

- (a) the person is in a registered relationship with the other person under section 22B; or
- (b) the person is in a de facto relationship with the other person under section 22C.

Debate ensued.

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

Senator Hanson-Young moved the following amendment:

Schedule 2, as amended, item 1, omit section 22B, substitute:

**22B Registered relationships**

- (1) For the purposes of paragraph 22A(a), a person is in a *registered relationship* with another person if the relationship between the persons is:
  - (a) registered under a prescribed law of a State or Territory as a prescribed kind of relationship; or
  - (b) registered in a foreign country where, under the local law, the relationship was, at the time when it was registered, recognised as valid.
- (2) To avoid doubt, paragraph 22B(1)(b) does not provide for the recognition of marriages under foreign law which are recognised under Part VA of the *Marriage Act 1961*.

Debate ensued.

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

On the motion of Senator Wong the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:  
Schedule 3, items 1 to 17, page 18 (line 5) to page 20 (line 12), omit the items, substitute:

**1 Subsection 3(1) (subparagraph (a)(ii) of the definition of *child*)**

Omit “and”, substitute “or”.

**2 Subsection 3(1) (after subparagraph (a)(ii) of the definition of *child*)**

Insert:

- (iii) was, immediately before the member's death, someone who would have been the stepchild of the member except that the member was not legally married to a spouse who survives the member; or
- (iv) is a child of the member within the meaning of the *Family Law Act 1975*; and

**3 Subsection 3(1) (at the end of the definition of *child*)**

Add:

; and (c) a person who:

- (i) is, within the meaning of the *Family Law Act 1975*, a child of a spouse who survives the member; and
- (ii) was wholly or substantially dependent upon the member at the time of the member's death.

**4 Subsection 3(1) (definition of *eligible orphan*)**

After "pension", insert "or spouse pension".

**5 Subsection 3(1)**

Insert:

*marital or couple relationship* has the meaning given by section 6A.**6 Subsection 3(1)**

Insert:

*partner*: a person is the *partner* of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).**7 Subsection 3(1) (definition of *pension benefit*)**

After "widow's pension", insert ", spouse pension".

**8 Subsection 3(1)**

Insert:

*spouse* has a meaning affected by section 6B.**9 Subsection 6A(1)**Omit "**marital relationship**", substitute "*marital or couple relationship*".Note: The heading to section 6A is replaced by the heading "**Marital or couple relationship**".**10 Subsection 6A(1)**

After "husband or wife", insert "or partner".

**11 Subsection 6A(2)**

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

**12 Subsection 6A(3)**

After "marital", insert "or couple".

**13 After paragraph 6A(4)(b)**

Insert:

- (ba) the persons' relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901*, as a kind of relationship prescribed for the purposes of that section;

**14 At the end of paragraph 6A(4)(c)**

Add:

- ; or (iii) a child of both of the persons for the purposes of the *Family Law Act 1975*;

**15 Subsections 6B(2) and (3)**

After "marital" (wherever occurring), insert "or couple".

**16 Paragraph 6BA(1)(b)**

After "marital", insert "or couple".

Note: The heading to section 6BA is altered by omitting "marriages" and substituting "marital or couple relationships".

Senator Wong moved the following amendment:

Schedule 4, page 26 (line 2) to page 30 (line 14), omit the Schedule, substitute:

**Schedule 4—Treasury amendments****Part 1—Superannuation law*****Retirement Savings Accounts Act 1997*****1 Subsections 20(2) and (3)**

Repeal the subsections, substitute:

- (2) The *spouse*, in relation to a person, includes:
- (a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
  - (b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.
- (3) Any *child*, in relation to a person, includes:
- (a) a stepchild, an ex-nuptial child or an adopted child of the person; and
  - (b) a child of the person's spouse; and
  - (c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

**2 Application of amendments of the *Retirement Savings Accounts Act 1997***

The amendments of the *Retirement Savings Accounts Act 1997* made by this Schedule apply to the 2008-2009 year of income and later years.



***Small Superannuation Accounts Act 1995*****3 Section 4**

Insert:

*child*, of a person, means a child of the person within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

**4 Section 4 (definition of spouse)**

Repeal the definition (not including the note), substitute:

*spouse* of a person includes:

- (a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
- (b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

**5 Application of amendments of the *Small Superannuation Accounts Act 1995***

The amendments of the *Small Superannuation Accounts Act 1995* made by this Schedule apply to the 2008-2009 year of income and later years.

***Superannuation (Government Co-contribution for Low Income Earners) Act 2003*****6 Subsection 54(3) (definition of spouse)**

Repeal the definition, substitute:

*spouse* of a beneficiary of a Government co-contribution includes:

- (a) a person (whether of the same sex or a different sex) with whom the beneficiary is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
- (b) a person who, although not legally married to the beneficiary, lives with the beneficiary on a genuine domestic basis in a relationship as a couple.

**7 Application of amendments of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

The amendments of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* made by this Schedule apply to the 2008-2009 income year and later income years.

***Superannuation Industry (Supervision) Act 1993*****8 Subsection 10(1) (definition of child)**

Repeal the definition, substitute:

*child*, in relation to a person, includes:

- (a) an adopted child, a stepchild or an ex-nuptial child of the person; and
- (b) a child of the person's spouse; and
- (c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

#### 9 Subsection 10(1)

Insert:

*relative* of an individual means the following:

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the individual or of his or her spouse;
- (b) a spouse of the individual or of any other individual referred to in paragraph (a).

Note: Subsection (6) may be relevant to determining relationships for the purposes of paragraph (a) of the definition of *relative*.

#### 10 Subsection 10(1) (definition of *spouse*)

Repeal the definition, substitute:

*spouse* of a person includes:

- (a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
- (b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

#### 11 At the end of section 10

Add:

- (5) For the purposes of paragraph (a) of the definition of *relative* in subsection (1), if one individual is the child of another individual because of the definition of *child* in subsection (1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

#### 12 Subsection 17A(9) (paragraphs (b) and (c) of the definition of *relative*)

Repeal the paragraphs, substitute:

- (b) a spouse or former spouse of the individual, or of an individual referred to in paragraph (a).

#### 13 After subsection 17A(9)

Insert:

- (9A) For the purposes of paragraph (a) of the definition of *relative* in subsection (9), if one individual is the child of another individual because of the definition of *child* in subsection 10(1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

**14 Subsection 65(6)**

Repeal the subsection.

**15 Subsection 70E(4) (definition of *relative*)**

Repeal the definition.

**16 Application of amendments of the *Superannuation Industry (Supervision) Act 1993***

- (1) Subject to subitems (2) and (3), the amendments of the *Superannuation Industry (Supervision) Act 1993* made by this Schedule apply to the 2008-2009 year of income and later years.

*Amendments affecting section 65*

- (2) The amendments of the *Superannuation Industry (Supervision) Act 1993* made by this Schedule apply for the purposes of the operation of section 65 of that Act in relation to:
- (a) money lent on or after the day on which this Act receives the Royal Assent; and
  - (b) any other financial assistance commenced to be given on or after the day on which this Act receives the Royal Assent.

*Amendments affecting section 66*

- (3) The amendments of the *Superannuation Industry (Supervision) Act 1993* made by this Schedule apply for the purposes of the operation of section 66 of that Act in relation to assets acquired on or after the day on which this Act receives the Royal Assent.

**17 Transitional provision—in-house assets**

- (1) If:
- (a) an asset of a superannuation fund consists of:
    - (i) a loan or an investment made before the day on which this Act receives the Royal Assent; or
    - (ii) a loan or an investment made after that day under a contract entered into before that day; or
    - (iii) an asset that becomes subject to a lease or a lease arrangement before that day; and
  - (b) apart from this item, the asset would be an in-house asset of the fund at any time after the commencement of this Schedule; and
  - (c) the asset would be an in-house asset of the fund only because of the amendments of the *Superannuation Industry (Supervision) Act 1993* (the *SIS Act*) made by this Schedule;

then, for the purposes of the operation of Part 8 of the *SIS Act* on or after the commencement of this Schedule, the asset is not an in-house asset of the fund.

- (2) For the purposes of subparagraph (1)(a)(iii), if:
- (a) a lease or a lease arrangement, enforceable by legal proceedings, in respect of an asset was entered into before the day on which this Act receives the Royal Assent; and
  - (b) the lease or lease arrangement came into force on or after that day;

the asset is taken to have become subject to the lease or lease arrangement before that day.

## **Part 2—Taxation law**

### ***Income Tax (Transitional Provisions) Act 1997***

#### **18 After section 295-465**

Insert:

##### **295-485A Meaning of *spouse* and *child* for 2008-2009 income year**

- (1) This section applies only for the 2008-2009 income year.
- (2) For the purposes of section 295-485 of the *Income Tax Assessment Act 1997*, paragraph 295-485(1)(a) of that Act applies as if:
  - (a) the reference to a spouse or former spouse of the deceased were a reference to:
    - (i) a spouse of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*; or
    - (ii) an individual who was formerly such a spouse; and
  - (b) the reference to a child of the deceased were a reference to a child of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*.

#### **19 At the end of Division 302**

Add:

##### **302-195A Meaning of *death benefits dependant* for 2008-2009 income year**

- (1) This section applies only for the 2008-2009 income year.
- (2) For the purposes of Subdivision 82-B of Division 82, Division 302 and section 303-5 of the *Income Tax Assessment Act 1997*, the definition of ***death benefits dependant*** in section 302-195 of that Act applies as if paragraphs (a) and (b) of the definition were replaced with the following paragraphs:
  - (a) a spouse of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* or a person who was formerly such a spouse; or
  - (b) a child of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*, who is aged less than 18.

### **Part 3—Application of amendments of the Family Law Act 1975**

#### **20 Application of amendments of the *Family Law Act 1975***

For the purposes of an amendment made by this Schedule that refers to the *Family Law Act 1975*:

- (a) the amendments of that Act made by items 5 and 21 of Schedule 1, and Schedule 3A, to the *Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008* (the *De Facto Financial Matters Act*) are taken to have commenced on 1 July 2008; and
- (b) the first regulations made for the purposes of subparagraph 60H(1)(b)(ii) of the *Family Law Act 1975* inserted by Schedule 3A to the *De Facto Financial Matters Act* are taken to have commenced on 1 July 2008; and
- (c) the first regulations made for the purposes of subsection 60HB(1) of the *Family Law Act 1975* inserted by Schedule 3A to the *De Facto Financial Matters Act* are taken to have commenced on 1 July 2008.

Senator Hanson-Young moved the following amendment to Senator Wong's proposed amendment:

After item 13, insert:

#### **13A At the end of Part 4**

Add:

#### **36A Information on discrimination (private superannuation funds)**

- (1) A private sector fund must, within 60 days of the commencement of Schedule 4 of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*, provide to APRA a report containing the following information:
  - (a) whether the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined); and
  - (b) whether the trust deed by which the entity is constituted recognises members of the same sex as a couple (however defined); and
  - (c) any differences in the way the trust deed recognises as a couple (however defined) members of the opposite sex, as compared with members of the same sex.
- (2) APRA must place a copy of any report made under this section on the Internet with public access through APRA's home page.
- (3) If there is any material change to the information published by an entity under this Division, the entity must provide an up-to-date report within 7 days.

Debate ensued.

Question—That Senator Hanson-Young's amendment to Senator Wong's proposed amendment be agreed to—put.

The committee divided—

AYES, 5

Senators—

|              |        |       |                  |
|--------------|--------|-------|------------------|
| Brown, Bob   | Ludlam | Milne | Siewert (Teller) |
| Hanson-Young |        |       |                  |

NOES, 34

Senators—

|                |          |           |          |
|----------------|----------|-----------|----------|
| Adams (Teller) | Crossin  | Marshall  | Ryan     |
| Arbib          | Farrell  | Mason     | Scullion |
| Bilyk          | Feeney   | McEwen    | Stephens |
| Boyce          | Ferguson | Moore     | Troeth   |
| Brandis        | Fielding | Parry     | Trood    |
| Brown, Carol   | Fifield  | Payne     | Wong     |
| Cameron        | Furner   | Polley    | Wortley  |
| Colbeck        | Johnston | Pratt     |          |
| Collins        | Joyce    | Ronaldson |          |

Question negatived.

Senator Hanson-Young moved the following amendment to Senator Wong's proposed amendment:

After item 13, insert:

**13B After section 40**

Insert:

**40A Complying funds must not discriminate in couple definitions**

Despite any other provision in this Part, a private sector fund is not a complying fund unless, within 60 days of the commencement of Schedule 4 of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*:

- (a) the trust deed by which the entity is constituted adopts the definition of spouse contained in this Act; or
- (b) to the extent that the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined), the deed also recognises members of the same sex as a couple.

Debate ensued.

Question—That Senator Hanson-Young's amendment to Senator Wong's proposed amendment be agreed to—put and negatived.

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

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

Schedule 5, page 31 (line 2) to page 32 (line 16), omit the Schedule, substitute:

**Schedule 5—Prime Minister and Cabinet amendments**

***Governor-General Act 1974***

**1 Subsection 2A(2)**

Insert:

*marital or couple relationship* has the meaning given by section 2B.

**2 Subsection 2A(2)**

Insert:

*spouse* has a meaning affected by section 2C.

**3 Subsection 2B(2)**

After “*marital*”, insert “*or couple*”.

Note: The heading to section 2B is replaced by the heading “**Marital or couple relationship**”.

**4 Subsections 2B(2) and (3)**

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

**5 After paragraph 2B(4)(b)**

Insert:

(ba) the persons’ relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

**6 At the end of paragraph 2B(4)(c)**

Add:

or (iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;

**7 At the end of section 2B**

Add:

(6) For the purposes of this section, a person is the *partner* of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

**8 Section 2C**

After “marital” (wherever occurring), insert “or couple”.

**9 Application of amendments of the *Governor-General Act 1974***

The amendments of the *Governor-General Act 1974* made by this Schedule apply in relation to a person who is appointed as Governor-General on or after the commencement of this Schedule.

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

Bill to be reported with amendments and requests.

---

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

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

**28 SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008**

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

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*In the committee*

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Climate Change and Water (Senator Wong) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bill.

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Bill debated.

Question—That the bill be agreed to—divided in respect of Schedule 2, Part 1.  
Schedule 2, Part 1 negatived.

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

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

Senator Hanson-Young moved the following amendments together by leave:

Schedule 2, page 24 (before line 20), before item 76, insert:

**75A Title**

After “marital”, insert “or couple”.

**75B Preamble**

After “marital” (twice occurring), insert “or couple”.

**75C Subsection 3(b)**

After “marital”, insert “or couple”.

**75D Subsection 4(1) (definition of *de facto spouse*)**

Repeal the definition.

**75E Subsection 4(1) (definition of *marital status*)**

Repeal the definition, substitute:

*marital or couple status* means the status or condition of being:

- (a) single; or
- (b) married; or
- (c) married but living separately and apart from one’s spouse; or
- (d) divorced; or
- (e) widowed; or
- (f) in a registered relationship, in accordance with section 22B of the *Acts Interpretation Act 1901*; or
- (g) in a de facto relationship, in accordance with section 22C of the *Acts Interpretation Act 1901*.



**75F Subsection 4(1) (paragraph (b) of the definition of *near relative*)**

Repeal the paragraph, substitute:

- (b) the spouse of the first-mentioned person or of a person referred to in paragraph (a); or
- (c) a person who is a partner of the first-mentioned person or of a person referred to in paragraph (a):
  - (i) in a registered relationship, in accordance with section 22B of the *Acts Interpretation Act 1901*; or
  - (ii) in a de facto relationship, in accordance with section 22C of the *Acts Interpretation Act 1901*.

Schedule 2, page 25 (after line 25), after item 81, insert:

**81A Section 6**

After “marital” (wherever occurring), insert “or couple”.

Note: The heading to section 6 is altered by omitting “**marital status**” and substituting “**marital or couple status**”.

**81B Paragraph 7D(b)**

After “marital”, insert “or couple”.

Schedule 2, page 26 (after line 20), after item 83, insert:

**83A Subsection 11(2)**

After “marital”, insert “or couple”.

Schedule 2, page 27 (after line 27), after item 84, insert:

**84A Sections 14 to 27, 35, 38, 39, 41A, 41B, 42 and 48**

After “marital” (wherever occurring), insert “or couple”.

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

Senator Hanson-Young moved the following amendment:

Schedule 2, page 21 (after line 16), after item 60, insert:

***Marriage Act 1961*****60A Section 5 (definition of *marriage*)**

Omit “a man and a woman”, substitute “two persons, regardless of their sexuality or gender identity”.

**60B Subsection 47(1)**

Omit “a man and a woman”, substitute “two persons, regardless of their sexuality or gender identity”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob  
Hanson-Young

Ludlam

Milne

Siewert (Teller)

## NOES, 30

## Senators—

|                |          |          |          |
|----------------|----------|----------|----------|
| Adams (Teller) | Crossin  | Hutchins | Pratt    |
| Arbib          | Farrell  | Joyce    | Scullion |
| Bilyk          | Feeney   | Marshall | Stephens |
| Brandis        | Ferguson | McEwen   | Williams |
| Brown, Carol   | Fielding | McLucas  | Wong     |
| Cameron        | Furner   | Moore    | Wortley  |
| Colbeck        | Hogg     | Parry    |          |
| Collins        | Hurley   | Polley   |          |

Question negatived.

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*After 6.50 pm:* The Acting Deputy President (Senator Parry) resumed the chair and the Chair of Committees (Senator Ferguson) reported progress.

### 29 GOVERNMENT DOCUMENTS—CONSIDERATION

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

*National Security Information (Criminal and Civil Proceedings) Act 2004—*Non-disclosure and witness exclusion certificates—Report for 2007-08. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Cotton Research and Development Corporation—Report for 2007-08. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Australian Fair Pay Commission—Report for 2007-08. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Australian Fair Pay Commission Secretariat—Report for 2007-08. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

### 30 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.28 pm till Thursday, 13 November 2008 at 9.30 am.

### 31 ATTENDANCE

Present, all senators except Senators Kroger\* and O'Brien\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate