

2008-09

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 83

WEDNESDAY, 19 AUGUST 2009

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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 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That consideration of government business continue from 6.50 pm till 7.20 pm today.

Question put and passed.

**3 RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009
RENEWABLE ENERGY (ELECTRICITY) (CHARGE) AMENDMENT BILL 2009**

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009—

Bill taken as a whole by leave.

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

Bill debated.

Senator Milne moved the following amendments together by leave:

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

10. Schedule 4 The day on which this Act receives the
Royal Assent.

Clause 3, page 3 (lines 1 to 5), omit the clause, substitute:

3 Schedule(s)

- (1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

Schedule 1, page 4 (after line 25), after item 3, insert:

3AAA Subsection 5(1) (definition of solar water heater)

Repeal the definition, substitute:

solar water heater means a device that heats water using solar energy and includes heat pump water heaters.

Schedule 1, page 5 (after line 2), after item 3A, insert:

3AA Section 8

Omit “solar water heaters or”.

Schedule 1, page 6 (after line 12), after item 3L, insert:

3LA At the end of subsection 17(2)

Add:

- ; (c) solar energy used by solar water heaters, including heat pump water heaters;
- (d) biomass from native vegetation of any kind.

Schedule 1, page 7 (after line 14), after item 3Q, insert:

3R Subdivision B of Division 4 of Part 2

Repeal the Subdivision.

Schedule 1, page 8 (after line 10), after item 7, insert:

7AA Subdivision BB of Division 4 of Part 2

Repeal the Subdivision, substitute:

Subdivision BB—Small generation unit return

23F Small generation unit return

- (1) If the sum of the number of certificates created by a person during a year under Subdivision BA exceeds 250, the person must give a return for the year to the Regulator on or before:
 - (a) 14 February in the following year; or
 - (b) any later day allowed by the Regulator.
- (2) The return must include details of:
 - (a) the number of certificates the person created under that Subdivision during the year; and
 - (b) the number of certificates the person is entitled to create that Subdivision because of rights assigned to the person under subsection 23C(2) during the year; and
 - (c) any other information specified by the regulations.

Schedule 1, page 8 (lines 14 to 16), omit item 7B, substitute:

7B Section 25A

Repeal the section, substitute:

25A Form and content of certificates—small generation units

- (1) Certificates under Subdivision BA of Division 4 are to be created in an electronic form approved in writing by the Regulator.
- (2) Each certificate is to contain:
 - (a) the registered person’s registration number; and
 - (b) the year; and

- (c) a number in an unbroken sequence that is used for all certificates created in respect of the small generation unit concerned in that year and that starts at one and has increments of one; and
- (d) the electronic signature of the registered person who created the certificate; and
- (e) the date on which the small generation unit concerned was installed; and
- (f) details of the eligible energy source in respect of which the certificate was created; and
- (g) the date on which the certificate was created.

Page 24 (after line 20), at the end of the bill, add:

Schedule 4—Amendment of the Renewable Energy (Electricity) Regulations 2001

Part 1—Solar water heaters

1 Subregulation 3(1) (definition of *accredited body*)

Repeal the definition.

2 Subregulation 3(1) (definition of *component certification*)

Repeal the definition.

3 Subregulation 3(1) (definition of *product certification*)

Repeal the definition.

4 Subregulation 3(1) (definition of *Register of solar water heaters*)

Repeal the definition.

5 Regulation 3A

Repeal the regulation.

6 Subdivision 2.3.2

Repeal the Subdivision.

7 Application of item 6

To avoid doubt, the repeal of Subdivision 2.3.2 of the Renewable Energy (Electricity) Regulations 2001 made by item 6 means that certificates can no longer be created for the installation of heat pump water heaters.

8 Division 2.4

Repeal the Division, substitute:

Division 2.4 Small generation unit returns

20C Information to be included in return (Act s 23F)

For paragraph 23F (2) (d) of the Act, a small generation unit return must include the following information:

- (a) the year to which the return relates;
- (b) the person's registration number;
- (c) the telephone number, fax number and e-mail address (if any) of the person;
- (d) the number and type of unit for which a certificate was created in the year and the period of time for which the certificate was created;

- (e) details of any certificates assigned under subsection 23C (2) of the Act;
- (f) the number of certificates found ineligible for registration in the year;
- (g) the reasons for certificates being found ineligible for registration in the year;
- (h) the process used by the person to ensure that certificates created or assigned under Subdivision BA of Division 4 of Part 2 of the Act are eligible for registration.

Note: For other information that must also be included in the return, see Act, subsection 23F (2).

9 Paragraph 28(1)(b)

Omit “23 (2) or”.

10 Subregulation 28(2) (table)

Omit “or solar water heater” (twice occurring).

11 Subregulation 28(2) (table item 1)

Omit “23 (2) or”.

12 Schedule 4

Repeal the Schedule.

Part 2—Wood waste

13 Paragraph 8(1)(d)

Omit “; and”, substitute “.”.

14 Paragraph 8(1)(e)

Repeal the paragraph.

15 Subregulations 8(2), (3) and (4)

Repeal the subregulations.

16 Subregulation 9(2)

Repeal the subregulation, substitute:

- (2) For section 17 of the Act, biomass from native vegetation is not an energy crop.

Debate ensued.

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

4 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) the sitting of the Senate was suspended at 1.57 pm till 2 pm.

At 2 pm—

5 QUESTIONS

Questions without notice were answered.

6 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Coonan moved—That the Senate take note of the answer given by the Assistant Treasurer (Senator Sherry) to a question without notice asked by Senator Coonan today relating to taxation.

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 Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Bob Brown today relating to Afghanistan.

Question put and passed.

7 PETITION

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

From 30 715 petitioners, requesting that the Senate support a national plan of action to eliminate violence against women.

Statement by leave: The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, made a statement relating to the petition.

8 NOTICES

The Special Minister of State (Senator Ludwig): To move on the next day of sitting—That the Senate—

(a) notes that:

(i) Thursday, 3 September 2009 marks Australian National Flag Day, commemorating 108 years since the Australian national flag was flown for the first time, and

(ii) the national flag is Australia's primary national symbol and over the years has become an expression of Australian identity and pride;

(b) further notes that Merchant Navy Day is also commemorated on 3 September; and

(c) encourages schools and businesses, cities and towns across Australia to mark National Flag Day with a flag raising ceremony.

The Chair of the Economics Legislation Committee (Senator Hurley): To move on the next day of sitting—That the Economics Legislation Committee be authorised to meet during the sitting of the Senate on Thursday, 20 August 2009, from 5 pm, for a private briefing. (*general business notice of motion no. 525*)

The Chair of the Economics References Committee (Senator Eggleston): To move on the next day of sitting—That the Economics References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 20 August 2009. (*general business notice of motion no. 526*)

Senator Xenophon: To move on 7 September 2009—That the following bill be introduced: A Bill for an Act to place a moratorium on the issuing and reactivation of water licences, and for related purposes. **Water Licence Moratorium Bill 2009.** (*general business notice of motion no. 527*)

Senator Siewert: To move on 9 September 2009—That the Threat Abatement Plan for disease in natural ecosystems caused by *Phytophthora cinnamomi* (2009), made under section 279 of the *Environment Protection and Biodiversity Conservation Act 1999*, be disallowed.

Senator Fierravanti-Wells: To move on 7 September 2009—That the Migration Amendment Regulations 2009 (No. 6), as contained in Select Legislative Instrument 2009 No. 143 and made under the *Migration Act 1958*, be disallowed.

The Leader of the Family First Party (Senator Fielding): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend product information standards to remove brands, trademarks and logos from tobacco packaging, and for related purposes. **Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009.** (*general business notice of motion no. 528*)

Senator Hanson-Young: To move on the next day of sitting—That the Senate calls on the Australian Government to urge the Indonesian Government to allow the International Red Cross full and unfettered access into West Papua. (*general business notice of motion no. 529*)

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

- (1) That the Senate notes the Remuneration Tribunal's failure to provide a financial or economic justification for the proposed increases in the Members of Parliament travelling allowance.
- (2) That Remuneration Tribunal Determination 2009/11: Members of Parliament – Travelling Allowance, made pursuant to subsections 7(1), 7(2) and 7(4) of the *Remuneration Tribunal Act 1973*, be disapproved.

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

- (a) an international petition with 275 signatories, expressing the view that the presence of warlords, corrupt officials and incompetent leaders will not win freedom, peace, stability and prosperity for the people of Afghanistan;
- (b) the petitioners' call to the international community, the United Nations and the International Court of Justice to help the people of Afghanistan by bringing those warlords and criminals, implicated in the Human Rights Watch report *Blood stained hands*, to the International Court of Justice; and
- (c) the Human Rights Watch report implicates former warlords in crimes against humanity which should preclude them from running in the election for the post of Vice President. (*general business notice of motion no. 530*)

Senators Boswell and Macdonald: To move 10 sitting days after today—That the Proclamation dated 14 May 2009 [Coral Sea Conservation Zone], made under subsection 390D(1) of the *Environment Protection and Biodiversity Conservation Act 1999* declaring an area to be a conservation zone, be disallowed.

Senator Ludlam: To move on the next day of sitting—That the following matters be referred to the Joint Standing Committee on Foreign Affairs, Defence and Trade for inquiry and report by 26 November 2009:

- (a) the human rights situation in Tibet subsequent to the events of March 2008;
- (b) the status of dialogue between the Government of the People's Republic of China and representatives of the Dalai Lama; and
- (c) the policy and dialogue options by which the Australian Government can preserve a positive relationship with China while supporting genuine progress towards a peaceful and mutually agreed resolution on the Tibet-China issue. (*general business notice of motion no. 531*)

9 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator O'Brien, by leave and at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), moved—That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 5 pm.

Question put and passed.

10 LEAVE OF ABSENCE

Senator Parry, by leave, moved—That leave of absence be granted to Senators Scullion and Ryan from 19 August to 21 August 2009, for personal reasons.

Question put and passed.

11 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Colbeck for 20 August 2009, proposing the disallowance of the Export Control (Fees) Amendment Orders 2009 (No. 1), postponed till 15 September 2009.

Business of the Senate notice of motion no. 2 standing in the name of Senator Milne for 20 August 2009, proposing the disallowance of certain legislative instruments, postponed till 15 September 2009.

Government business notice of motion no. 1 standing in the name of the Minister for Climate Change and Water (Senator Wong) for today, relating to a proposal for capital works in the parliamentary zone, postponed till 29 October 2009.

General business notice of motion no. 488 standing in the names of Senator Xenophon and the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2009, postponed till 20 August 2009.

12 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—REFERENCE

Senator Colbeck, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 14 September 2009:

The Australian Government's management of the removal of the 40 per cent fee rebate for the Australian Quarantine and Inspection Service (AQIS) export certification functions, having regard to:

- (a) the level of industry support for the removal of the 40 per cent rebate prior to the implementation of comprehensive reform of AQIS's export inspection and certification services;
- (b) the adequacy of consultation by the Government in the development of industry work plans;
- (c) the capacity of the Government, including AQIS, to implement efficiency proposals;
- (d) the adequacy of government funding to implement industry work plans;
- (e) any progress on meeting targets in industry work plans;
- (f) the financial or other impact on industry sectors of the failure to meet reform targets; and
- (g) any other relevant matter.

Question put and passed.

Statements by leave: Senator O'Brien and the Leader of the Australian Greens (Senator Bob Brown), by leave, made statements relating to the motion.

13 FOREIGN AFFAIRS—JAPAN—COMFORT WOMEN

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 506—That the Senate—

- (a) notes that:
 - (i) 15 August 2009 was the 64th anniversary of the conclusion of World War II, and
 - (ii) during the war up to 200 000 women and girls were forced into sexual slavery by the Japanese military and kept in 'comfort stations';
- (b) recognises that:
 - (i) the Japanese 'comfort women' have yet to receive an apology or any official acknowledgement of the grave human rights abuses that were suffered at the hands of the Japanese military, and
 - (ii) since 2007, the United States of America, the Netherlands, the United Kingdom, Canada, the European Union (with 27 member countries), South Korea, Taiwan and three city councils in Japan have all passed similar motions calling on the Japanese Government to accept full responsibility and apologise for the abuses of comfort women; and
- (c) calls on the Australian Government to urge the Japanese Government to:
 - (i) accept full responsibility for the abuses of comfort women,
 - (ii) officially apologise for the crimes committed against the women,
 - (iii) provide adequate compensation to comfort women or their immediate families, and
 - (iv) accurately teach the history of comfort women in schools.

Statements by leave: The Special Minister of State (Senator Ludwig), the Leader of the Australian Greens (Senator Bob Brown) and Senators Parry and Hanson-Young, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 7

Senators—

Brown, Bob
Fielding

Hanson-Young
Ludlam

Milne
Siewert (Teller)

Xenophon

NOES, 37

Senators—

Adams
Back
Bernardi
Bilyk
Birmingham
Boswell
Brown, Carol
Bushby
Cameron
Cash

Colbeck
Collins
Cormann
Eggleston
Evans
Feeney
Ferguson
Fierravanti-Wells
Fisher
Furner

Humphries
Hurley
Ludwig
Lundy
Marshall
McEwen
McLucas
Moore
O'Brien
Parry (Teller)

Polley
Pratt
Stephens
Sterle
Troeth
Williams
Wortley

Question negatived.

14 **HEALTH—HEARING AWARENESS WEEK**

Senator Siewert amended general business notice of motion no. 519 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

- (i) the week beginning Sunday, 23 August 2009 is Hearing Awareness Week,
- (ii) one in six Australians has some form of hearing impairment, a total of 3.55 million people,
- (iii) noise injury is the single most common cause of hearing loss, with a total of 37 per cent of hearing loss due to noise injury, and
- (iv) captioning increases the ability of people with a hearing impairment to access broadcast messages; and

(b) calls on the Government to:

- (i) ensure access to suitable technologies to assist eligible people with a hearing impairment,
- (ii) investigate the feasibility of expanding government-funded hearing services and aids to those over the age of 21, and
- (iii) investigate the feasibility of expanding captioning to include all government media.

Question put and passed.

15 HEALTH—NATIONAL PREVENTATIVE HEALTH TASKFORCE—ORDER FOR PRODUCTION OF DOCUMENT

Senator Cormann, also on behalf of Senator Barnett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 523—

That there be laid on the table by the Minister representing the Minister for Health and Ageing, no later than 12 pm on Thursday, 20 August 2009, the report of the Government's National Preventative Health Taskforce as received by the Government on 30 June 2009.

Question put and passed.

Statement by leave: Senator O'Brien, by leave, made a statement relating to the motion.

16 HEALTH—AGED CARE PROVIDERS—GENERAL PURPOSE ACCOUNTS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 524—That the Senate—

(a) notes that:

- (i) the Department of Health and Ageing has been collecting audited General Purpose Accounts from aged care providers since the 2004-05 financial year,
- (ii) this information has to be submitted by aged care providers as a condition of receiving Conditional Adjustment Payments (CAP),
- (iii) national de-identified comparative data from those accounts was expected to be made available every financial year to assist in performance benchmarking and in industry planning and investment decisions,
- (iv) only the 2004-05 data was made available to the aged care industry (Bentleys MRI report), and
- (v) subsequently, even though the information has been collected and analysed (in 2005-06 by Grant Thornton, in 2006-07 by Access Economics and KPMG) these reports, and any subsequent analysis, do not appear to have been made publicly available;

(b) considers publication of the national de-identified data from the audited General Purpose Accounts to be in the public interest; and

(c) orders that there be laid on the table by the Minister representing the Minister for Health and Ageing, by no later than noon on 20 August 2009, the following documents:

National de-identified data from the audited General Purpose Accounts of aged care providers for:

- 2005-06, including report/analysis by Grant Thornton,
- 2006-07, including report/analysis by Access Economics and KPMG,
- 2007-08, including any report/analysis by the department and/or any third party consultant, and
- 2008-09, including any report/analysis by the department and/or any third party consultant.

Question put and passed.

Statement by leave: Senator O'Brien, by leave, made a statement relating to the motion.

17 COMMUNITY AFFAIRS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of the Chair of the Community Affairs References Committee (Senator Siewert) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 520—That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 20 August 2009, from 3.30 pm, to take evidence for the committee's inquiry into the impact of gene patents on the provision of healthcare in Australia.

Question put and passed.

18 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Parry, at the request of the Chair of the Environment, Communications and the Arts References Committee (Senator Birmingham) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 521—That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on forestry and mining operations on the Tiwi Islands be extended to 26 October 2009.

Question put and passed.

19 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of the Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Mason) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 522—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to meet during the sitting of the Senate on Wednesday, 19 August 2009, from 5.30 pm, for a private briefing.

Question put and passed.

20 SCRUTINY OF BILLS—STANDING COMMITTEE—9TH REPORT AND ALERT DIGEST NO. 10 OF 2009

Senator Parry, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Coonan), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

9th report of 2009, dated 19 August 2009.

Alert Digest No. 10 of 2009, dated 19 August 2009.

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

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

Question put and passed.

**21 VETERANS' AFFAIRS—EXCAVATION AND REINTERMENT OF WORLD WAR I
REMAINS—MINISTERIAL STATEMENT—DOCUMENT**

The Minister for Immigration and Citizenship (Senator Evans) tabled the following document:

Veterans' affairs—Progress on the excavation and reinterment of World War I remains discovered in Fromelles, France—Ministerial statement by the Minister for Defence Personnel, Materiel and Science (Mr Combet), dated 19 August 2009.

**22 SOCIAL ISSUES—SUPPORTING AUSTRALIANS UNDER FINANCIAL PRESSURE—
MINISTERIAL STATEMENT—DOCUMENT**

The Minister for Immigration and Citizenship (Senator Evans) tabled the following document:

Social issues—Supporting Australians under financial pressure—Ministerial statement by the Minister for Families, Housing, Community Services and Indigenous Affairs (Ms Macklin), dated 19 August 2009.

Senator Siewert, by leave, moved—That the Senate take note of the document.

Question put and passed.

**23 HEALTH—CHEMOTHERAPY TREATMENT—BUDGET CUTS—ORDER FOR
PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Immigration and Citizenship (Senator Evans), by leave, made a statement relating to the order of the Senate of 18 August 2009 for the production of documents concerning Budget cuts for chemotherapy treatment (*see entry no. 14, 18 August 2009*).

24 DOCUMENTS

The following documents were tabled by the Clerk:

Commonwealth Authorities and Companies Act—Notices under section 45—

Australian Rail Track Corporation Limited, dated 24 June 2009.

Australian Rail Track Corporation Limited, dated 11 August 2009.

Parliamentary Entitlements Act—Parliamentary Entitlements Regulations—Advice of decision to pay assistance under Part 3, dated 27 July 2009.

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

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2009—Statement of compliance—Health and Ageing portfolio agencies.

**26 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF
DOCUMENTS—DOCUMENTS**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2008-09—Letters of advice—

Finance and Deregulation portfolio agencies.

Foreign Affairs and Trade portfolio agencies.

27 COMMITTEE MEMBERSHIP

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

The Minister for Immigration and Citizenship (Senator Evans), by leave, moved—That senators be discharged from and appointed to the Community Affairs Legislation Committee as follows:

Appointed—Substitute members:

Senator Wortley to replace Senator Furner for the consideration of the 2009-10 supplementary Budget estimates on 21 October 2009

Senator McEwen to replace Senator Furner for the consideration of the 2009-10 supplementary Budget estimates on 22 October and 23 October 2009.

Question put and passed.

**28 HIGHER EDUCATION SUPPORT AMENDMENT (2009 BUDGET MEASURES)
BILL 2009**

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

Message no. 381, dated 19 August 2009—A Bill for an Act to amend the law in relation to higher education and research funding, and for related purposes.

The Minister for Immigration and Citizenship (Senator Evans) 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 Evans moved—That this bill be now read a second time.

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

**29 VETERANS' AFFAIRS AND OTHER LEGISLATION AMENDMENT (PENSION REFORM)
BILL 2009**

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

Message no. 382, dated 19 August 2009—A Bill for an Act to amend the law relating to veterans' affairs, social security, military rehabilitation and compensation and aged care, and for related purposes.

The Minister for Immigration and Citizenship (Senator Evans) 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 Evans moved—That this bill be now read a second time.

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

30 **RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009**
RENEWABLE ENERGY (ELECTRICITY) (CHARGE) AMENDMENT BILL 2009

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

—
In the committee

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009—

Consideration resumed of the bill—and of the amendments moved by Senator Milne (see entry no. 3).

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob
Hanson-Young

Ludlam

Milne

Siewert (Teller)

NOES, 38

Senators—

Abetz
Back
Barnett
Bilyk
Birmingham
Bishop
Boswell
Brown, Carol
Bushby (Teller)
Cameron

Colbeck
Collins
Crossin
Farrell
Feeney
Fielding
Furner
Heffernan
Humphries
Hurley

Hutchins
Kroger
Lundy
Marshall
McEwen
McLucas
Moore
O'Brien
Parry
Payne

Polley
Pratt
Sterle
Troeth
Trood
Wong
Wortley
Xenophon

Question negatived.

Senator Xenophon moved the following amendments together by leave:

No. 1—Schedule 1, page 4 (after line 22), after item 2C, insert:

2D Subsection 5(1)

emerging renewable energy technology means a technology specified by the regulations to be an emerging renewable energy technology.

No. 2—Schedule 1, page 7 (after line 3), after item 3M, insert:

3MA Before section 18 in Subdivision A of Division 4 of Part 2

Insert:

17B Application of Subdivision

This Subdivision does not apply to an accredited power station that generates electricity using an emerging renewable energy technology source.

Note: Subdivision BC applies to an accredited power station that generates electricity using an emerging renewable energy technology source.

3MC Subsection 18(1)

Omit “whole”, substitute “1.25”.

3MD Subsection 18(1A)

Omit “whole MWh”, substitute “1.25 MWh quantity”.

3ME Subsection 18(2)

Omit “1 MWh”, substitute “1.25 MWh”.

3MF Subsection 18(2)

Omit “0.5 MWh”, substitute “0.625 MWh”.

No. 3—Schedule 1, page 7 (after line 14), after item 3Q, insert:

3T Subsection 22(1)

Omit “1 MWh”, substitute “1.25 MWh”.

No. 4—Schedule 1, page 7 (after line 19), after item 5, insert:

5A Section 23B

Omit “1 MWh”, substitute “1.25 MWh”.

No. 5—Schedule 1, item 7, page 8 (line 9), omit “4 to 6”, substitute “4, 5 and 6”.

No. 6—Schedule 1, page 8 (after line 10), after item 7, insert:

7AA After Subdivision BB of Division 4 of Part 2

Insert:

Subdivision BC—Electricity generation using an emerging renewable energy technology source**23G Application of Subdivision**

This Subdivision applies to an accredited power station that generates electricity using an emerging renewable energy technology source.

Note: Subdivision A applies to an accredited power station that generates electricity using an energy source other than an emerging renewable energy technology source.

23H Creating certificates for additional renewable electricity

- (1) The nominated person for an accredited power station that uses an emerging renewable energy technology source may create a certificate for each 0.75 MWh amount of electricity generated by the power station during a year.
- (2) A certificate must not be created in respect of a 0.75 MWh amount of electricity generated partly in 1 year and partly in the following year.
- (3) If the amount of electricity generated during a year by an accredited power station that uses an emerging renewable energy technology source is less than 0.75 MWh but greater than or equal to 0.375 MWh, the nominated person for the power station may create 1 certificate in respect of the electricity generated during the year.
- (4) The amount of electricity generated by an accredited power station that uses an emerging renewable energy technology source is to be worked out in accordance with the regulations.
- (5) Electricity is to be excluded from all calculations under this section:

- (a) to the extent that the electricity was generated using any energy sources that are not emerging renewable energy technology sources; or
 - (b) to the extent that the electricity was generated during any period of suspension of the accreditation of the accredited power station under section 30D or 30E.
- (6) The nominated person for an accredited power station that uses an emerging renewable energy technology source must not create any certificates during any period of suspension of the person's registration under section 30 or 30A.

23I When certificates may be created

A certificate may be created at any time after the generation of the final part of the electricity in relation to which it is created and before the end of the year after the year of generation.

Note: For offences related to the creation of certificates, see section 24.

23J Electricity generation return

- (1) The nominated person for an accredited power station that uses an emerging renewable energy technology source must give an electricity generation return for a year to the Regulator on or before:
 - (a) 14 February in the following year; or
 - (b) any later day allowed by the Regulator.
- (2) The return must include details of:
 - (a) the amount of electricity generated by the power station during the year; and
 - (b) the amount of that electricity that was generated using an emerging renewable energy technology source; and
 - (c) the number of certificates created during the year in respect of the electricity generated by the power station using an emerging renewable energy technology source during the year; and
 - (d) the number of certificates created during the year in respect of any electricity generated by the power station using an emerging renewable energy technology source during the previous year; and
 - (e) any other information specified by the regulations.

23K Amending electricity generation returns

- (1) The Regulator may amend an electricity generation return if the nominated person for the accredited power station concerned requests, in writing, an amendment within 12 months of the return being given.
- (2) The Regulator may also amend an electricity generation return on his or her own initiative if the amendment is made within 4 years of the return being given.
- (3) If the Regulator refuses to amend an electricity generation return upon a request by a nominated person for an accredited power station, the Regulator must notify the person accordingly.

No. 7—Schedule 1, page 4 (after line 22), after item 2C, insert:

2D Subsection 5(1)

emerging renewable energy technology means a technology specified by the regulations to be an emerging renewable energy technology.

No. 8—Schedule 1, page 10 (after line 13), after item 8D, insert:

8DA Before section 155 in Part 16

Insert:

154A Regulations to provide assistance to emerging renewable energy technologies

- (1) The regulations must determine a scheme of assistance to be provided to emerging renewable energy technologies based on a provider's capacity to meet criteria determined in the regulations to consistently provide baseload power.
- (2) Regulations made for the purpose of subsection (1) must commence on or before 1 July 2012, which must be after the end of the disallowance period for the regulations (subject to section 42 of the *Legislative Instruments Act 2003*).
- (3) In this section:
disallowance period for regulations means the period:
 - (a) beginning on the earliest day on which the regulations are laid before a House of the Parliament in accordance with section 38 of the *Legislative Instruments Act 2003*; and
 - (b) ending on the day on which 15 sitting days of each House of the Parliament have passed since the regulations were laid before the particular House of the Parliament.

Debate ensued.

The question was divided—

Question—That amendments nos 1 to 6 be agreed to—put and negatived.

Question—That amendments nos 7 and 8 be agreed to—put and negatived.

Senator Xenophon moved the following amendments together by leave:

Schedule 1, page 4 (after line 14), after item 2A, insert:

2AA Subsection 5(1)

Insert:

air source heat pump water heater means a device that uses a vapour compression cycle incorporating a compressor, an evaporator that collects energy from the latent and sensible heat of the atmosphere and a condenser that delivers heat either directly or indirectly to a hot water storage container.

Schedule 1, page 7 (after line 14), after item 3Q, insert:

3R At the end of subsection 21(3)

Add “which must not be before the actual date of installation”.

3S At the end of section 21

Add:

- (4) Certificates must only be created for the installation of an air source heat pump water heater having a volumetric capacity of not more than 700 litres.

Schedule 1, page 7 (after line 14), after item 3Q, insert:

3U At the end of Subdivision B of Division 4 of Part 2

Add:

23AB Regulations to phase out air source heat pump water heaters from scheme

- (1) The regulations must provide for air source heat pump water heaters to be phased out of the scheme constituted by this Act by the end of 16 February 2010.
- (2) For the purposes of subsection (1), the regulations must provide that each month the number of certificates that can be created for the installation of an air source heat pump water heater having a volumetric capacity of not more than 700 litres are proportionally reduced, so that no certificates can be created for such an installation after the end of 16 February 2010.

Debate ensued.

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

Question—That the bill be agreed to—divided, at the request of the Leader of the Australian Greens (Senator Bob Brown), in respect of Schedule 1, items 4 to 7.

Schedule 1, items 4 to 7 debated and agreed to.

Senator Bob Brown moved the following amendment:

Schedule 1, page 9 (after line 17), after item 7E, insert:

7F After Part 3

Insert:

Part 3A—Acquisition of electricity from owners of qualifying generators

34A Object of Part

The object of this Part is to support the commercialisation of a broad range of prospective renewable energy technologies by:

- (a) providing specifically tailored support for a range of renewable energy technologies that are currently not adequately assisted by the mandatory renewable energy target;
- (b) requiring electricity distributors to permit owners of both small and large scale qualifying generators to supply the electricity grid with electricity generated from selected renewable energy sources;
- (c) providing a payment or a rebate to owners of qualifying generators after the commencement of this Part for the renewable electricity which they produce after the commencement of this Part from renewable energy sources;
- (d) establishing an effective regime to monitor the extent of production of renewable electricity by owners of qualifying generators.

34B Definitions

In this Part:

direct customer means a person or company who:

- (a) is directly connected to an electricity distribution network other than by means of the distribution system of the electricity retailer; and
- (b) satisfies other criteria (if any) prescribed by the regulations for the purposes of this definition.

electricity distributor means:

- (a) a company or other entity licensed for the distribution of electricity through an electricity network; and
- (b) in relation to an electricity connection service for premises—a company or other entity licensed to provide the service for the premises.

electricity retailer means a company or other entity that supplies electricity to customers.

excluded network means an electricity distribution network that supplies electricity to less than 10,000 retail customers.

feed-in-tariff rate scheme means the scheme established by section 34F.

kWh means kilowatt hour.

qualifying generator means a renewable energy electricity generator:

- (a) that complies with the relevant Australian Standard; and
- (b) that is connected to an electricity distribution network in a manner that allows electricity generated by the renewable energy electricity generator to be fed into the electricity distribution network, other than where the electricity distribution network is an excluded network; and
- (c) that generates electricity from a source listed in subsection 17(1) as an eligible renewable energy source; and
- (d) that forgoes participation in the mandatory renewable energy target scheme; and
- (e) for which an application for registration has been made under section 34D after the commencement of the *Renewable Energy (Electricity) Amendment Act 2009*.

quarter means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October of a year.

quarterly return means a return for a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October of a year.

retail customer means a customer who:

- (a) ordinarily acquires electricity primarily for domestic or business use; and
- (b) is not a direct customer; and
- (c) satisfies other criteria (if any) prescribed by the regulations for the purposes of this definition.

34C Feeding-in of electricity to grid by owners of qualifying generators

- (1) Electricity distributors must, subject to compliance by the owner of a qualifying generator with any relevant technical, safety or other requirements imposed by or under this or any other Act or relevant instrument, connect the qualifying generator to the grid and permit the owner to feed into the grid electricity generated by the qualifying generator.
- (2) Electricity retailers must:
 - (a) purchase, on application in the prescribed form by an owner of a qualifying generator connected to the grid under subsection (1), any electricity fed into the grid by that qualifying generator; and
 - (b) comply with any reporting requirements in this Act or that are prescribed in the regulations.
- (3) Payment for electricity purchased by an electricity retailer under paragraph (2)(a) is to be made under section 34J or 34K, as the case may be.
- (4) An owner of a qualifying generator who feeds into the grid under subsection (1) must install a meter, of a type prescribed by the regulations for the purposes of this subsection, to measure the total amount of renewable electricity energy generated by the qualifying generator.

34D Registration of qualifying generators

The owner of a qualifying generator must apply in the prescribed form for registration of the qualifying generator in the Feed-in-Tariff Register established under section 34I.

34E Eligibility for payment or rebate of feed-in-tariff rate

- (1) The owner of a qualifying generator who feeds into the grid electricity generated by the qualifying generator is eligible to receive payments or rebates of the feed-in-tariff rate under section 34J or 34K, as the case may be, subject to:
 - (a) registration of the qualifying register under section 34D; and
 - (b) compliance with any relevant technical, safety or other requirements imposed by or under this or any other Act or relevant instrument.
- (2) If a qualifying generator has been registered under section 34D and included in the Feed-in-Tariff Register established under section 34I and there is a change to the installed capacity of that qualifying generator, the owner of the qualifying generator must advise the Regulator, in the prescribed form, of the new installed capacity of the qualifying generator.

34F Feed-in-tariff rate scheme

- (1) The feed-in-tariff rate scheme is established by this section.
- (2) The feed-in-tariff rate scheme is the payment under section 34J or the rebate under section 34K of an amount to the owner of a qualifying generator that is registered with the Regulator, calculated by reference to:

- (a) the relevant feed-in-tariff rate set by the Minister under section 34G; and
- (b) all the electricity produced by that qualifying generator, not just the electricity which is fed into the electricity grid.

34G Feed-in-tariff rates

- (1) The Minister must, within 28 days of the commencement of the *Renewable Energy (Electricity) Amendment Act 2009*, set the feed-in-tariff rates for qualifying generators that are to be paid or rebated under the feed-in-tariff rate scheme in respect of a qualifying generator that is registered for the first time during the financial year in which that Act commences.
- (2) The Minister must, by the end of each financial year:
 - (a) review the current feed-in-tariff rates for qualifying generators, taking into account the following factors:
 - (i) the prospect of the technology reliably producing competitively priced electricity by the end of the calendar year 2020; and
 - (ii) the environmental cost or impact of the technology; and
 - (b) set the feed-in-tariff rates for qualifying generators that are to be paid or rebated under the feed-in-tariff rate scheme in respect of a qualifying generator that is registered for the first time during the following financial year.
- (3) In setting the feed-in-tariff rates under subsection (1) or (2), the Minister may take into account:
 - (a) any Commonwealth, State or Territory government payments or rebates already made or received in respect of a qualifying generator; and
 - (b) the type of renewable energy technology used by the qualifying generator; and
 - (c) the location of a qualifying generator; and
 - (d) the installed capacity of a qualifying generator.
- (4) If the Minister has set the feed-in-tariff rates that are to apply for a financial year, the Minister must not vary those rates during that financial year.
- (5) In setting the feed-in-tariff rates under subsection (2) that are to apply for the following financial year, the Minister may increase, vis-à-vis the current financial year feed-in-tariff rates, a feed-in-tariff rate that is to apply during that following financial year.
- (6) Subject to section 34E, the relevant feed-in-tariff rate is payable or rebateable to an owner of a qualifying generator for each kWh of electricity generated by the qualifying generator during a billing period.
- (7) In setting the feed-in-tariff rates under subsection (1) or (2), the primary objective of the Minister is to support the economic viability of a range of prospective renewable energy technologies.
- (8) If the Minister reduces a feed-in-tariff rate, the reduction must not be more than 5% of the rate that applied before the reduction.

- (9) A feed-in-tariff rate set under subsection (1) or (2) and payable or rebateable to the owner of a qualifying generator at the date of the registration of the qualifying generator is fixed and guaranteed for a period of 20 years from the date of that registration. That period of 20 years does not restart if the installed capacity of that qualifying generator is increased at any time.
- (10) The Minister must provide a statement explaining how the feed-in-tariff rates are calculated and must table that statement in both Houses of Parliament within 15 sitting days after the end of each financial year.
- (11) The feed-in-tariff rates set under subsections (1) and (2) are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

34H Feed-in-tariff levy rate

- (1) The Minister must, within 28 days of the commencement of the *Renewable Energy (Electricity) Amendment Act 2009*, set the feed-in-tariff levy rate per MWh of electricity acquired from the electricity grid, to fund payments under the feed-in-tariff rate scheme in section 34H for that financial year. The feed-in-tariff levy is to be imposed by the *Renewable Energy (Electricity) Feed-in-Tariff Levy Act 2009*.
- (2) The Minister must, by the end of each financial year, set a feed-in-tariff levy rate per MWh of electricity acquired from the electricity grid, to fund payments under the feed-in-tariff rate scheme in section 34H for the following financial year. The feed-in-tariff levy is to be imposed by the *Renewable Energy (Electricity) Feed-in-Tariff Levy Act 2009*.
- (3) The Minister must ensure that the feed-in-tariff levy rate set under subsection (1) or (2) is sufficient to cover the estimated cost of payments under the feed-in-tariff rate scheme under section 34J.
- (4) The feed-in-tariff levy is payable by all electricity retailers and direct customers, calculated by reference to the amount of electricity acquired by an electricity retailer or a direct customer, as the case may be, as set out in its annual energy acquisition statement lodged under section 44.
 Note: The annual energy acquisition statement is used to calculate the renewable energy shortfall charge of an electricity retailer or a direct customer (a *liable entity*). The same statement is to be used to calculate the amount of the feed-in-tariff levy.
- (5) The Minister must provide a statement explaining how the feed-in-tariff levy rate is calculated and must table that statement in both Houses of Parliament within 5 sitting days after:
 - (a) in the case of the levy rate set under subsection (1)—setting the rate; or
 - (b) in the case of a levy rate set under subsection (2)—the end of each preceding financial year.
- (6) The feed-in-tariff levy rates set under subsections (1) and (2) are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

34I Establishment of a Feed-in-Tariff Register

- (1) The Regulator must establish a register to be known as the Feed-in-Tariff Register (the *Register*).
- (2) The Regulator must record in the Register:
 - (a) details of all qualifying generators for which an application for registration has been made under section 34D, including the name and address of the owner of the qualifying generator, the date of registration of the qualifying generator, the type of renewable energy technology used by the qualifying generator and the installed capacity of the qualifying generator; and
 - (b) in the case of a qualifying generator with an installed capacity equal to or greater than 1MW, the total amount of electricity produced each quarter by that qualifying generator, as notified in the quarterly return lodged under subsection 34J(1); and
 - (c) the feed-in-tariff rate to be paid to the owner of a qualifying generator and the period for which the feed-in-tariff rate will be paid; and
 - (d) if there is any change to the installed capacity of a qualifying generator, the new installed capacity of the qualifying generator.
- (3) The Regulator must provide details of the amount of total payments made under the feed-in-tariff scheme under subsection 34J(2) for inclusion in a report prepared under subsection 34L(1).

34J Feed-in-tariff rate payments—installed capacity equal to or greater than 1MW

- (1) The owner of a qualifying generator with an installed capacity equal to or greater than 1MW must lodge with the Regulator within 15 days after the end of each quarter that ends after the date of registration of the qualifying generator a quarterly return in the prescribed form indicating the metered electricity produced by the qualifying generator in respect of that quarter.
- (2) The Regulator must make a payment, calculated in accordance with the feed-in-tariff rate, to the owner of a qualifying generator within 30 days of receiving from the owner a quarterly return under subsection (1).
- (3) Payments under subsection (2) are to be made from money appropriated by the Parliament for that purpose.

34K Feed-in-tariff rate rebates—installed capacity of less than 1MW

- (1) The owner of a qualifying generator with an installed capacity of less than 1MW is entitled to payment for electricity purchased by an electricity retailer under paragraph 34C(2)(a), in the form of a rebate against charges payable by the owner for the supply of electricity by the electricity retailer to the owner.
- (2) An electricity retailer must read a meter installed under subsection 34C(4) by the owner of a qualifying generator at the same time as the electricity retailer reads the meter for the supply of electricity to the owner.

- (3) The rebate under subsection (1) must be calculated in accordance with the feed-in-tariff rate, and credited to the account of the owner of the qualifying generator for a billing period on the same day as any charge for the supply of electricity is debited against the account for the billing period and before the account for the billing period is sent to the owner of the qualifying generator.
- (4) If the whole of an amount to be credited to the owner of a qualifying generator under subsection (3) in a particular billing period has not been set-off against the charges payable by the owner for the supply of electricity by the expiration of 12 months after the end of that billing period, the owner is entitled to the payment of the outstanding balance.

34L Review of operation of Part

- (1) The Minister must cause to be prepared an independent report on the operation of this Part for the period beginning on the date of the commencement of the *Renewable Energy (Electricity) Amendment Act 2009* and ending on the next 30 June after that date, and for each subsequent 12 month period ending on 30 June in a later year.
- (2) If the day on which the *Renewable Energy (Electricity) Amendment Act 2009* commences is on or after 1 January in a year, the report prepared under subsection (1) in relation to the period from that day to 30 June in that year must be included in and presented with the report prepared under subsection (1) for the year beginning on 1 July next following the commencement of this Act.
- (3) The Minister must cause a copy of a report prepared under subsection (1) to be laid before each House of the Parliament within 5 sitting days of that House after the day on which he or she receives the report.
- (4) A report prepared under subsection (1) must include:
 - (a) details of total renewable energy produced from each source listed in section 17; and
 - (b) total payments made under the feed-in-tariff rate scheme under section 34J; and
 - (c) total amounts of feed-in-tariff levies received under the *Renewable Energy (Electricity) Feed-in-Tariff Levy Act 2009*.

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

Senator Bob Brown moved the following amendments together by leave:

Schedule 1, item 6, page 8 (lines 1 to 3), omit subsection 23B(3), substitute:

- (3) However, the regulations may provide for a number of certificates to be multiplied only if the certificates relate to:
 - (a) in the case of a small generation unit whose energy source is hydro—the first 10kW of the rated power output of the unit;
 - (b) in the case of a small generation unit whose energy source is wind—the first 10kW of the rated power output of the unit;
 - (c) in the case of a small generation unit whose energy source is solar (photovoltaic)—the total rated power output of the unit.

Schedule 1, page 10 (before line 1), after item 8, insert:

8AA After section 40

Insert:

40A Required GWh of renewable source electricity for 2011 to 2016

- (1) The required GWh of renewable source electricity in section 40 for the years 2011, 2012, 2013, 2014, 2015 and 2016 must be increased as specified in a declaration made under subsection (3).
- (2) The Regulator must, by the 30 September next after each period specified in column 1 in subsection 23B(2) (a *relevant column 1 period*), calculate the number of certificates created in accordance with the regulations as mentioned in subsection 23B(2) and publish the result of that calculation on the Internet.
- (3) The Regulator must, within 15 days of complying with subsection (2), make a declaration increasing the required GWh of renewable source electricity in section 40 for the following year to offset the certificates created in accordance with the regulations as mentioned in subsection 23B(2) for the relevant column 1 period.
- (4) A declaration made under subsection (3) is not a legislative instrument.

Debate ensued.

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

Senator Bob Brown moved the following amendments together by leave:

Schedule 1, item 6, page 8 (line 1), after “However,”, insert “subject to subsection (3A),”.

Schedule 1, item 6, page 8 (after line 3), after subsection 23B(3), insert:

- (3A) However, in the case of an off-grid small generation unit, the regulations must provide for a number of certificates to be multiplied in relation to the first 20kW of the rated power output of the unit.
- (3B) In subsection (3A):
off-grid small generation unit means:
 - (a) a small generation unit at least 1 kilometre from the nearest main-grid line; or
 - (b) in the case of a small generation unit less than 1 kilometre from a main-grid line—the owner has provided written evidence from the local network service provider that the total cost of connecting the unit to the main-grid is more than \$30,000, making it uneconomic to connect the unit to the main-grid.

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

Senator Bob Brown moved the following amendments together by leave:

Schedule 1, page 8 (after line 10), after item 7, insert:

7AB At the end of Division 4 of Part 2

Add:

Subdivision D—Period of validity of certificates**24A Period of validity of certificates**

A certificate created in accordance with this Division is a valid certificate for the period ending 4 years from the date of its creation.

Schedule 1, page 10 (before line 1), after item 8, insert:

8AB Section 45

Before “A certificate”, insert “(1)”.

8AC At the end of section 45

Add:

- (2) For the purpose of paragraph (1)(a), a certificate is a valid certificate for the period ending 4 years from the date of its creation.

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

Senator Bob Brown moved the following amendment:

Schedule 1, item 8, page 9 (line 18) to page 10 (before line 1), omit the item, substitute:

8 Section 40

Repeal the section, substitute:

40 Required GWh of renewable source electricity

- (1) The *required GWh of renewable source electricity* for the years 2001 to 2009 is set out in the following table:

Required GWh of renewable source electricity	
Year	GWh
2001	300
2002	1100
2003	1800
2004	2600
2005	3400
2006	4500
2007	5600
2008	6800
2009	8100

- (2) The *required GWh of renewable source electricity* for the years 2010 to 2030 is set out in the following table:

Required GWh of renewable source electricity as a percentage of total electricity produced	
Year	GWh
2010	11.4%
2011	13.2%
2012	15.1%

**Required GWh of renewable source electricity
as a percentage of total electricity produced**

Year	GWh
2013	16.9%
2014	18.8%
2015	20.7%
2016	22.5%
2017	24.4%
2018	26.3%
2019	28.1%
2020	30%
2021	30%
2022	30%
2023	30%
2024	30%
2025	30%
2026	30%
2027	30%
2028	30%
2029	30%
2030	30%

- (3) The Minister by 30 September each year must cause to be prepared and tabled a report estimating for subsequent years the GWh of renewable source electricity to which the percentage targets in subsection (2) are likely to equate.
- (4) The Minister must review and increase the target specified in subsection (2) for a year if the value of a renewable energy certificate is below \$40 for more than 6 months.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob
Hanson-Young

Ludlam

Siewert (Teller)

Xenophon

NOES, 38

Senators—

Abetz
Adams (Teller)
Arbib
Back
Barnett
Bilyk
Birmingham
Bishop
Boswell
Brown, Carol

Cash
Colbeck
Crossin
Farrell
Faulkner
Feeney
Ferguson
Fielding
Fisher
Furner

Humphries
Hurley
Hutchins
Johnston
Joyce
Lundy
Marshall
McEwen
McLucas
Moore

Polley
Pratt
Stephens
Sterle
Trood
Williams
Wong
Wortley

Question negatived.

Senator Bob Brown moved the following amendment:

Schedule 1, item 9, page 11 (lines 1 to 16), omit section 162, substitute:

162 Biennial review of operation of renewable energy legislation

- (1) The Minister must cause an independent review of the following to be undertaken as soon as practicable after 30 June 2012 and every 2 years after that date:
 - (a) the operation of this Act and the scheme constituted by this Act;
 - (b) the adequacy of the renewable energy target set by this Act;
 - (c) the operation of the regulations;
 - (d) the operation of the *Renewable Energy (Electricity) (Charge) Act 2000*;
 - (e) the diversity of renewable energy access to the scheme constituted by this Act;
 - (f) a cost benefit analysis of the environmental impact of that access.
- (2) A review must be undertaken by a person who, in the Minister's opinion, possesses appropriate qualifications to undertake the review.
- (3) The person undertaking a review must give the Minister a written report of the review before 31 December in that year.
- (4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the report is given to the Minister.
- (5) The report is not a legislative instrument.

Debate ensued.

At 7.20 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Moore) reported progress.

31 NOTICE

Senators Xenophon and Heffernan gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 29 November 2009:

The ability of the Commonwealth, across state borders, to sustainably manage water resources in the national interest, with particular reference to:

- (a) the issuing and sustainability of water licences under any government draft resource plans and water resource plans;
- (b) the effect of relevant agreements and Commonwealth environmental legislation on the issuing of water licences, trading rights or further extraction of water from river systems;
- (c) the collection, collation and analysis and dissemination of information about Australia's water resources, and the use of such information in the granting of water rights;
- (d) the issuing of water rights by the states in light of Commonwealth purchases of water rights; and
- (e) any other related matters.

32 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.51 pm till Thursday, 20 August 2009 at 9.30 am.

33 ATTENDANCE

Present, all senators except Senators Boyce*, Forshaw*, Ryan* and Scullion* (* on leave).

HARRY EVANS
Clerk of the Senate