

**Senate Standing Committee
for the
Scrutiny of Bills**

Alert Digest

No. 12 of 2001

19 September 2001

**Senate Standing Committee
for the
Scrutiny of Bills**

Alert Digest No. 12 of 2001

19 September 2001

ISSN 1329-668X

Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

Senator B Cooney (Chairman)
Senator W Crane (Deputy Chairman)
Senator T Crossin
Senator J Ferris
Senator B Mason
Senator A Murray

Terms of Reference

Extract from **Standing Order 24**

- (1) (a) At the commencement of each parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
 - (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.

TABLE OF CONTENTS

Abolition of Compulsory Age Retirement (Statutory Officeholders) Bill 2001	5
• Border Protection Bill 2001	6
• Defence Legislation Amendment (Application of Criminal Code) Bill 2001	9
• Excise Tariff Amendment (Crude Oil) Bill 2001	11
Health and Other Services (Compensation) Legislation Amendment Bill 2001	12
Health Legislation Amendment Bill (No. 3) 2001	13
Interactive Gambling Amendment Bill 2001	15
Jurisdiction of the Federal Magistrates Service Legislation Amendment Bill 2001	16
Regional Forest Agreements Bill 2001	17
• Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001	18
• Taxation Laws Amendment Bill (No. 6) 2001	19
• Workplace Relations and Other Legislation Amendment (Small Business and Other Measures) Bill 2001	23
Parliamentary amendments and the Committee's terms of reference	26

- **The Committee has commented on these bills**

This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the attention of the Committee under its terms of reference is invited to do so.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Bill 2001

This bill was introduced into the House of Representatives on 29 August 2001 by the Attorney-General. [Portfolio responsibility: Attorney-General]

The bill proposes to amend a number of Acts which specify compulsory age retirement limits for Commonwealth statutory office holders. These amendments, which complement the removal of compulsory age retirement in the Australian Public Service, aim to remove unnecessary barriers to the continued appointment of those over 65 years of age to Commonwealth statutory appointments. The amendments will not affect the existing term of statutory office holders appointed before the commencement of the bill.

The bill also contains application provisions.

The Committee has no comment on this bill.

Border Protection Bill 2001

This bill was introduced into the House of Representatives on 29 August 2001 by the Prime Minister. [Portfolio responsibility: Immigration and Multicultural Affairs] and passed through all stages on that day.

The bill was then introduced into the Senate on 29 August but was negatived at the second reading stage.

The bill proposes measures to confirm the Government's ability to order ships to leave Australia's territorial sea, and includes provisions to avoid the possibility of legal action being taken in Australian courts as a result of any action taken under the bill.

Once assented to, the Act will operate from 9 am on 29 August 2001 (by legal time in the Australian Capital Territory). Transitional provisions ensure that actions taken in relation to ships during the period between the commencement time and Royal Assent are also covered by the substantive provisions of the Act.

Retrospective commencement **Clause 2**

Clause 2 provides that this bill is taken to have commenced retrospectively at 9 am on 29 August 2001 – the day on which it was introduced in the House of Representatives. It is the Committee's practice to draw the Senate's attention to legislation which commences retrospectively on the date of its introduction rather than after its passage through the legislative process.

Given that the Senate has not passed this bill, the Committee need make no further comment on this provision at this time.

Non-reviewable discretion **Clause 4**

Subclause 4(1) of this bill provides that an officer (as defined) may, in his or her absolute discretion, direct the master or other person in charge of a ship to

take the ship, and any person on board the ship, outside Australia's territorial sea.

Subclause 4(2) provides that this discretion "must not be called into question, or challenged, in any proceedings in any court in Australia". It is the Committee's practice to draw the Senate's attention to provisions which make rights, liberties or obligations unduly dependant on non-reviewable decisions.

Given that the Senate has not passed this bill, the Committee need make no further comment on this provision at this time.

Immunity from civil and criminal liability

Subclause 7(2)

Clause 5 of the bill provides that a direction to a ship to leave Australian territorial waters may be enforced using reasonable force. Clause 6 provides that persons who leave such a ship when a direction is given may be returned to the ship, using reasonable force if necessary.

Subclause 7(2) provides that no civil or criminal proceedings may be instituted against an officer (as defined) who takes such enforcement actions in good faith. It is the Committee's practice to draw the Senate's attention to provisions which provide such complete immunity from liability.

Given that the Senate has not passed this bill, the Committee need make no further comment on this provision at this time.

Denial of access to the courts

Clause 8

Clause 8 provides that proceedings may not be instituted or continued by any person in any court (including, it would seem, the High Court of Australia) to prevent a ship, or any persons on board that ship, being removed from Australian territorial waters. It is the practice of the Committee to draw the Senate's attention to provisions which diminish the jurisdiction of courts.

Given that the Senate has not passed this bill, the Committee need make no further comment on this provision at this time.

Defence Legislation Amendment (Application of Criminal Code) Bill 2001

This bill was introduced into the House of Representatives on 29 August 2001 by the Minister for Veterans' Affairs. [Portfolio responsibility: Defence]

The bill proposes amendments to:

- the *Defence Force Discipline Act 1982* to harmonise the offence-creating and related provisions of that Act with general principles of criminal responsibility as codified in the Criminal Code. The bill also makes a technical amendment to the definition of 'defence member'; and
- eleven other Acts within the defence portfolio so that those Acts will operate harmoniously with the Criminal Code. The amendments include repealing unnecessary offences; re-formulating offences into the *Criminal Code* drafting format in order that their physical and fault elements are readily apparent; and removing ambiguity with respect to their interpretation.

Strict liability offences

Various provisions

The effect of this bill is to include, in legislation administered within the Defence portfolio offences which are specified as offences of strict liability. An offence is one of strict liability where it provides that a person may be punished for doing something, or failing to do something, whether or not they have a guilty intent. The Committee is usually concerned at the imposition of strict liability and is currently inquiring generally into the issue.

The Explanatory Memorandum states that these particular amendments are intended to ensure that when Chapter 2 of the *Criminal Code* is applied to all Commonwealth criminal offences, from 15 December 2001, the relevant offences "continue to operate as intended by Parliament".

The Committee has considered a number of bills which make similar provision for legislation administered within other portfolio areas. With regard to this bill, the Committee **seeks the Minister's advice** as to whether any of

its provisions converts an offence which previously was not one of strict liability into such an offence.

Pending the Minister's advice, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.

Excise Tariff Amendment (Crude Oil) Bill 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Parliamentary Secretary to the Minister for Industry, Science and Resources. [Portfolio responsibility: Treasury]

The bill proposes to amend the *Excise Tariff Act 1921* to:

- adjust the rates of excise duty for ‘relevant’ (commonly known as old) and new crude petroleum oil;
- remove threshold price provisions for old oil; and
- correct minor technical deficiencies in the crude oil excise provisions.

The bill also contains application and transitional provisions.

Retrospective commencement

Subclause 2(2)

By virtue of subclause 2(2) of this bill, many of the amendments proposed in Schedule 1 will commence retrospectively on 1 July 2001. However, the Explanatory Memorandum states that these amendments are beneficial to those liable to pay excise duty.

In these circumstances, the Committee makes no further comment on these provisions.

Health and Other Services (Compensation) Legislation Amendment Bill 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Minister for the Arts and the Centenary of Federation. [Portfolio responsibility: Health and Aged Care]

Schedule 1 to the bill proposes to amend the *Health and Other Services (Compensation) Act 1995* to streamline the current administrative arrangements underpinning the Act in relation to the Compensation Recoveries Program.

Schedule 2 proposes to amend the *Health and Other Services (Compensation) Care Charges Act 1995* to make consequential amendments.

Schedule 3 proposes to amend the proposed *Administrative Review Tribunal (Consequential and Transitions Provisions) Act 2001* and the *Health and Other Services (Compensation) Act 1995*, contingent upon the commencement of the proposed Administrative Review Tribunal legislation, to reflect the proposed change from the ‘Administrative Appeals Tribunal’ to the newly structured ‘Administrative Review Tribunal’.

The bill also contains application and transitional provisions.

The Committee has no comment on this bill.

Health Legislation Amendment Bill (No. 3) 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Minister for the Arts and the Centenary of Federation. [Portfolio responsibility: Health and Aged Care]

Schedule 1 to the bill proposes to amend the *Therapeutic Goods Act 1989* and proposed *Therapeutic Goods Amendment (Medical Devices) Bill 2001* to:

- enable the Mutual Recognition Agreement, entered into between Australia and Singapore, to be implemented;
- allow the Secretary to give effect to any other Mutual Recognition Agreements ('MRAs') entered into between Australia and other countries that provide for arrangements similar to those applying under the Singapore MRA;
- enable collection of information and documents about blood and blood component manufacturing processes and practices; and
- clarify when the balance of evaluation fees, payable for the evaluation of registrable medicines, must be paid by applicants seeking to register their medicines in the Australian Register of Therapeutic Goods.

Schedule 2 proposes to amend the *Health Insurance Act 1973* and the *Health Insurance Amendment (Professional Services Review) Act 1999* to amend the provisions of the Professional Services Review (PSR) Scheme to clarify and improve the Scheme's operation.

Schedule 3 proposes to amend the *Health Insurance Commission (Reform and Separation of Functions) Act 1997* to substitute a reference to 7 Commissioners of the Health Insurance Commission for the reference to 5 such Commissioners, with effect from November 2002.

Schedule 4 proposes to amend the *Health Insurance Act 1973* to make minor technical amendments consequential upon changes to the administrative law arrangements made by the proposed Administrative Review Tribunal (ART) legislation. The amendments will provide for merits review by the ART in respect of a decision to refuse to accept an optometrist undertaking.

Schedule 5 proposes to amend the *National Health Act 1953* to remove ‘top up’ barriers to employee health benefit schemes and to allow private health funds to offer discounts for certain advance payments.

Schedule 6 proposes to amend the *Health Insurance Act 1973* to make a technical amendment correcting a reference.

The Committee has no comment on this bill.

Interactive Gambling Amendment Bill 2001

This bill was introduced into the Senate on 30 August 2001 by the Special Minister of State. [Portfolio responsibility: Communications, Information Technology and the Arts]

The bill proposes to amend the *Interactive Gambling Act 2001* to insert into Part 7A a regulation-making power relating to the prohibition on the advertising of interactive gambling services. The proposed regulation-making power provides that advertisements of a kind specified in the regulations are exempt from the definition of “interactive gambling service advertisement” in the Act.

The Committee has no comment on this bill.

Jurisdiction of the Federal Magistrates Service Legislation Amendment Bill 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Attorney-General]

Schedule 1 to the bill proposes to amend the *Migration Act 1958* to give jurisdiction to the Federal Magistrates Service in matters under Part 8 of the Act. The jurisdiction will be concurrent with the jurisdiction of the Federal Court.

Schedule 2 proposes to amend the *Administrative Appeals Tribunal Act 1975* (AAT Act) and the *Administrative Decisions (Judicial Review) Act 1997* (ADJR Act) to remove the restrictions on the Federal Magistrates Service hearing migration matters under the ADJR Act and hearing appeals in relation to migration matters under the AAT Act.

The bill also contains application provisions.

The Committee has no comment on this bill.

Regional Forest Agreements Bill 2001

This bill was introduced into the House of Representatives on 29 August 2001 by the Minister for Forestry and Conservation. [Portfolio responsibility: Forestry and Conservation]

The bill proposes to:

- give effect to certain Commonwealth obligations to ensure that forestry operations in regions subject to Regional Forest Agreements (RFAs) are excluded from Commonwealth legislation relating to export controls, the environment and heritage;
- provide legislative commitment and support to the National Forest Policy Statement and the Forest and Wood Products Action Agenda; and
- legislate for the continuation of the Forest and Wood Products Council.

The Committee has no comment on this bill.

Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001

This bill was introduced into the House of Representatives on 29 August 2001 by the Minister for Community Services. [Portfolio responsibility: Family and Community Services]

The bill proposes to amend the provisions of the Retirement Assistance for Farmers Scheme (the Scheme) in the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* to enable certain qualifying farmers and their partners who were unable to finalise the transfer of their farm by 30 June 2001, a specified time frame to finalise the transfer of the farm after 30 June 2001, without the delayed transfer affecting their eligibility under the Scheme.

Retrospective operation Schedules 1 and 2

This bill amends provisions in the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* which deal with the Retirement Assistance for Farmers Scheme. These substantive provisions are effectively retrospective in operation as they only apply to farmers who had already sought assistance before 1 August 2001. However, the purpose of the bill is beneficial to such farmers as it extends the deadline that would otherwise have applied to them.

In these circumstances, the Committee makes no further comment on these provisions.

Taxation Laws Amendment Bill (No. 6) 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Schedule 1 to the bill proposes to amend the:

- *Petroleum Resource Rent Tax Assessment Act 1997* to provide for a new methodology to determine the price of gas where there is no comparable uncontrolled price and certain others tests are satisfied; and the
- *Petroleum Resource Rent Tax Assessment Act 1997* and the *Petroleum (Submerged Lands) Act 1967* to modify the operation of the five year rule used to classify expenditures for the purposes of calculating petroleum resource rent tax liability.

Schedule 2 proposes to amend the *Income Tax Assessment Act 1936* to extend the income tax exemption to businesses that are owned or controlled at the local government level, and to make a minor technical amendment to correct a legislative reference.

Schedule 3 proposes to amend the *Income Tax Assessment Act 1936* to amend the definition of ‘resident superannuation fund’ and replace the definition of ‘active member’. These amendments will allow a fund to retain its residency status while trustees and/or members of the fund are temporarily overseas as long as certain conditions are met.

Schedule 4 proposes to amend the *Income Tax Assessment Act 1997* to provide shareholders in listed investment companies with the benefit of the CGT discount on the eligible gain component of a dividend paid to shareholders.

Schedule 5 proposes to amend the:

- *Income Tax Assessment Act 1997* to ensure that the income tax consequences of payments under the HIH rescue package are the same as if those payments had been made directly by HIH; and to exempt the HIH Trust from income tax; and the
- *A New Tax System (Goods and Services Tax) Act 1999* to ensure that GST provisions relating to insurance apply to transactions between an

HIH rescue entity and either HIH policy holders or third parties making insurance claims under HIH insurance policies; and payments or supplies from an HIH rescue entity are not included in the recipient's annual turnover.

Schedule 6 proposes to amend the *Income Tax Assessment Act 1997* to reduce compliance costs for taxpayers, and allow certain agents to be excluded from the personal services income rules.

The bill also contains application and transitional provisions.

Retrospective application

Schedule 1, Part 2

Item 15 of Schedule 1 to this bill provides that the amendments made in Part 2 of that Schedule will apply retrospectively from 23 December 1998 – the date of a Press Release issued by the Treasurer and the Minister for Industry, Science and Resources.

While this period is outside the '6 month rule' which the Senate has declared applicable to the retrospective application of tax legislation, these amendments are beneficial to payers of petroleum resource rent tax.

In these circumstances, the Committee makes no further comment on these provisions.

Retrospective application

Schedule 4

Under current tax law, a shareholder in a listed investment company who receives a dividend attributable to an eligible capital gain made by that company is subject to a different tax outcome to an investor in a managed fund who receives a similar amount from the managed fund.

In the 2001-02 Budget, and in a Press Release issued by the Treasurer on 22 May 2001, it was announced that shareholders in listed investment companies would benefit from the CGT discount on assets realised by the company on or after 1 July 2001, provided that those assets had been held for at least 12 months. Schedule 4 to this bill gives effect to this announcement.

While these amendments are to apply retrospectively from 1 July 2001 (see item 15) they are beneficial to those involved.

In these circumstances, the Committee makes no further comment on these provisions.

Retrospective application Schedule 5

As noted above, Schedule 5 to the bill makes certain amendments as a consequence of the financial collapse of the HIH group of companies. On 26 June 2001, the Government announced that it would legislate to ensure that Commonwealth payments from the HIH rescue entity to eligible policyholders did not attract additional income tax or GST. Schedule 5 gives effect to this announcement.

While these amendments are to apply retrospectively from 15 May 2001 (see items 9 and 14), they are beneficial to those involved.

In these circumstances, the Committee makes no further comment on these provisions.

Retrospective application Schedule 6

Schedule 6 to this bill makes amendments concerning the tax treatment of personal services income. Under the amendments, certain taxpayers may be

treated as conducting a personal services business without having to apply to the Commissioner for a personal services business determination.

These provisions are to apply retrospectively from the 2000-01 tax year (see Part 5 of the Schedule). However, these amendments are beneficial to taxpayers.

In these circumstances, the Committee makes no further comment on these provisions.

Workplace Relations and Other Legislation Amendment (Small Business and Other Measures) Bill 2001

This bill was introduced into the House of Representatives on 30 August 2001 by the Minister for Employment, Workplace Relations and Small Business. [Portfolio responsibility: Employment, Workplace Relations and Small Business]

The bill proposes to amend the *Workplace Relations Act 1996* (WR Act) and the *Trade Practices Act 1974* to enable the workplace relations system to better meet the needs and circumstances of small business. The key reforms include:

- the requirement for the Australian Industrial Relations Commission to take into account the circumstances of employers and employees in small business in the exercise of its powers;
- a provision to preclude employees in small business from an entitlement to apply for a remedy in respect of harsh, unjust or unreasonable termination ('unfair dismissal') under the WR Act;
- simplified procedures for Australian Workplace Agreements and certified agreements;
- allowing the Australian Consumer and Competition Commission to bring representative actions in respect of contraventions of certain sections of the *Trade Practices Act 1974*;
- restricting the ability of unions to tie small business employers to federal awards;
- reforming union right of entry to businesses; and
- preventing federal awards and certified agreements from restricting the use of contractors.

The bill also contains application and transitional provisions.

Entry provisions Schedule 7

Schedule 7 to this bill amends provisions in the *Workplace Relations Act 1996* which regulate the entry and inspection of workplaces by unions and other organisations. This issue was discussed by the Committee in its *Fourth Report of 2000* at paragraphs 2.19 to 2.26.

In general terms, the amendments provide that union officials may enter business premises:

- to investigate suspected breaches of the Act, an award, a certified agreement or an order of the Australian Industrial Relations Commission; or
- (where there is a federal award in operation) to hold discussions with employees once every 6 months.

Union officials may only enter if:

- the official has a current permit to enter premises; and
- the union has a written invitation (that is less than 3 months old) from a union member employed at the premises; and
- the union has given written notice to the employer and the occupier of the premises 5 working days before the proposed date of entry; and
- the union has stated in the notice whether it is entering to investigate a suspected breach or to hold discussions with employees.

If entry is not convenient on the nominated day, the employer and/or occupier may nominate an alternative day within 5 working days.

Employers and occupiers are entitled to see a copy of the union official's entry permit and a copy of the letter of invitation. Employers and occupiers are not entitled to refuse or unduly delay entry, or intentionally hinder or obstruct the union official, or refuse to let the union examine the records of union members that may be relevant to a suspected breach.

Union officials are entitled to:

- inspect and copy the relevant records of union members (but not an Australian Workplace Agreement); and

- inspect work, material, machinery or appliances relevant to a suspected breach; and
- interview employees about a suspected breach.

Union officials are not entitled to:

- inspect the records of non-members; or
- intentionally hinder or obstruct anyone; or
- enter premises outside normal working hours; or
- enter premises to hold discussions more than once in every 6 months; or
- hold discussions with employees other than during meal times and other breaks.

The Committee notes these amendments.

Other than this, the Committee makes no further comment on this Schedule.

PARLIAMENTARY AMENDMENTS AND THE COMMITTEE'S TERMS OF REFERENCE

AMENDMENTS IN THE HOUSE OF REPRESENTATIVES (27 August – 30 August)

Financial Sector (Collection of Data – Consequential and Transitional Provisions) Bill 2001: On 28 August 2001, the House of Representatives agreed to an amendment made by the Senate to this bill. This amendment raised no issues within the Committee's terms of reference.

Financial Services Reform Bill 2001: On 28 August 2001, the House of Representatives agreed to certain amendments made by the Senate to this bill. Most of these amendments raised no issues within the Committee's terms of reference.

One of these amendments proposed to insert a new section 845B in the *Corporations Act 2001*. This new section states that regulations may exempt a person or class of persons from certain provisions of the Act, or may provide that the Act may apply as if those provisions were omitted, modified or varied as specified in the regulations. In *Alert Digest No. 11 of 2001*, the Committee sought further advice from the Minister concerning this amendment as it may be considered to inappropriately delegate legislative power, in breach of principle 1(a)(iv) of the Committee's terms of reference.

Financial Services Reform (Consequential Provisions) Bill 2001: On 28 August 2001, the House of Representatives agreed to certain amendments made by the Senate to this bill. These amendments raised no issues within the Committee's terms of reference.

General Insurance Reform Bill 2001: On 29 August 2001, the House of Representatives agreed to certain amendments made by the Senate to this bill. These amendments raised no issues within the Committee's terms of reference.

Taxation Laws Amendment Bill (No 2) 2001: On 28 August 2001, the House of Representatives disagreed to an amendment made by the Senate to this bill. This amendment raised no issues within the Committee's terms of reference.

Taxation Laws Amendment Bill (No 4) 2001: On 28 August 2001, the House of Representatives agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

Workplace Relations (Registered Organisations) Bill 2001: On 27 August, the House of Representatives agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

AMENDMENTS IN THE SENATE

(27 August – 30 August)

Family and Community Services Legislation Amendment (Application of Criminal Code) Bill 2001: On 30 August 2001, the Senate agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

General Insurance Reform Bill 2001: On 27 August 2001, the Senate agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

International Maritime Conventions Legislation Amendment Bill 2001: On 30 August 2001, the Senate agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2001: On 27 August, the Senate agreed to amend this bill. These amendments raised no issues within the Committee's terms of reference.

AMENDMENTS RAISING ISSUES WITHIN THE COMMITTEE'S TERMS OF REFERENCE

Measures to Combat Serious and Organised Crime Bill 2001

Henry VIII clause

Proposed new paragraph 15HB(a)

The Committee considered this bill in its *Eighth Report of 2001* in which it made certain comments in relation to the width of the proposed amendments governing the conduct and authorisation of controlled operations, and certain other provisions in the bill.

On 27 August, the Senate agreed to amend this bill. Most of these amendments raised no issues within the Committee's terms of reference.

A number of amendments were directed at limiting the use of controlled operations to serious Commonwealth offences, establishing a tiered system for the authorisation of controlled operations, introducing new provisions for the monitoring of such operations by the Ombudsman, and removing access by Customs to the new controlled operations regime. Some of these amendments addressed issues which were identified by the Committee in its *Eighth Report*.

One amendment proposed to insert a new section 15HB in the Principal Act. This section defines a serious Commonwealth offence as, among other things, an offence “that is of any other prescribed kind”. This would permit the offence provisions of the Act to be amended by regulation.

In speaking to this amendment, the Minister for Justice and Customs observed that:

The government does support the opposition’s proposal to list the types of offences for which controlled operations can be undertaken. This might create difficulties for law enforcement; however the opposition has agreed with a government proposal that a list can be updated by regulation. Accordingly, the government will accept these amendments to secure passage of the bill. The government also undertakes that no operation will be authorised on the basis of a new category of offences added by regulation until the disallowance period for that regulation has ended.

Given this undertaking, the Committee makes no further comment on this provision.

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2001

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Bills Carried over from 1999/2000							
Aboriginal and Torres Strait Islander Commission Amendment Bill 2000	18(6.12.00)	29.11.00	6.2.01	Aboriginal and Torres Strait Islander Affairs	7.12.00	15.1.01 27.2.01	1(7.2.01) 2(28.2.01)
Administrative Review Tribunal Bill 2000	10(16.8.00)	28.6.00	6.2.01	Attorney-General	17.8.00	6.8.01	9(8.8.01)
Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000	15(1.11.00)	12.10.00	6.2.01	Attorney-General	2.11.00	6.8.01	9(8.8.01)
Aviation Noise Ombudsman Bill 2000	13(4.10.00)	4.9.00		Mr Albanese MP	5.10.00	6.10.00	DNP 2.4.01
Broadcasting Services Amendment Bill 2000 (previous citation: Broadcasting Services Amendment Bill (No. 4) 1999)	1(16.2.00)	9.12.99	7.11.00	Communications, Information and the Arts	17.2.00 9.11.00	4.5.00 8.1.01	16(8.11.00) 1(7.2.01)
Convention on Climate Change (Implementation) Bill 1999	14(22.9.99)		2 .9.99	Senator Brown	3.9.99		
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999 (new citation: Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 2000)	19(1.12.99)	24.11.99	30.10.00	Justice and Customs	2.12.99	15.3.00 11.00	15(1.11.00) 2(28.2.01)
Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000	17(29.11.00)	9.11.00	7.2.01	Defence	30.11.00 1.3.01	5.12.00 7.3.01	2(28.2.01) 3(7.3.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Job Network Monitoring Authority Bill 2000	16(8.11.00)	30.10.00		Ms Kernot	9.11.00		DC
Job Network Monitoring Authority Bill 2000 [No. 2]	16(8.11.00)		31.10.00	Senator Collins	9.11.00		
Migration Legislation Amendment Bill (No. 1) 2001 (previous citation: Migration Legislation Amendment Bill (No. 2) 2000)	4(5.4.00)	14.3.00	26.2.01	Immigration and Multicultural Affairs	6.4.00 1.3.01	26.4.00 20.4.01	2(28.2.01) 6(23.5.01)
Migration Legislation Amendment (Integrity of Regional Migration Schemes) Bill 2000	18(6.12.00)	29.11.00	27.3.01	Immigration and Multicultural Affairs	7.12.00	5.2.01	4(28.3.01)
Pig Industry Bill 2000	18(6.12.00)	30.11.00	8.3.01	Agriculture, Fisheries and Forestry	7.12.00	14.2.01	4(28.3.01)
Postal Services Legislation Amendment Bill 2000	5(12.4.00)	6.4.00	--	Communications, Information Technology and the Arts	13.4.00	--	DC
Remuneration Tribunal Amendment Bill 2000	18(6.12.00)	29.11.00	8.3.01	Finance and Administration	7.12.00	31.1.01	4(28.3.01)
<i>Roads to Recovery Act 2000</i>	18(6.12.00)	30.11.00	5.12.00	Transport and Regional Services	7.12.00	6.4.01	6(23.5.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Bills being dealt with in 2001							
Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001	9(8.8.01)	27.6.01	27.8.01	Agriculture, Fisheries and Forestry	9.8.01	29.8.01	12(19.9.01)
Australia New Zealand Food Authority Amendment Bill 2001	2(28.2.01)	24.5.01	8.2.01	Health and Aged Care	1.3.01	26.3.01	4(28.3.01)
Australian Securities and Investments Commission Bill 2001	6(23.5.01)	4.4.01	18.6.01	Treasurer	24.5.01	18.6.01	7(20.6.01)
Aviation Legislation Amendment Bill (No. 2) 2001	6(23.5.01)	5.4.01		Transport and Regional Services	24.5.01	19.6.01	
Communications and the Arts Legislation Amendment (Application of Criminal Code) Bill 2000	1(7.2.01)	7.12.00	8.2.01	Communications, Information Technology and the Arts	8.2.01	26.2.01	2(28.2.01)
Copyright Amendment (Parallel Importation) Bill 2001	3(7.3.01)	28.2.01	28.6.01	Attorney-General	8.3.01	15.5.01	9(8.8.01)
Crimes Amendment (Age Determination) Bill 2001	4(28.3.01)	7.3.01	4.4.01	Justice and Customs	29.3.01	2.4.01	5(4.4.01)
Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001 (previous citation: Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000)	1(7.2.01) 4(28.3.01)	6.12.00	26.3.01	Justice and Customs Amendments	8.2.01 29.3.01	27.3.01 12.6.01 7.8.01	4(28.3.01) 7(20.6.01) 9(8.8.01)
Customs Tariff Amendment Bill (No.2) 2001	4(28.3.01)	8.3.01	29.3.01	Justice and Customs	29.3.01	27.4.01	6(23.5.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Cybercrime Bill 2001	9(8.8.01)	27.6.01		Justice and Customs	9.8.01		
Dried Vine Fruits (Rate of Primary Industry (Customs) Charge) Validation Bill 2001	5(4.4.01)	29.3.01	18.6.01	Agriculture, Fisheries and Forestry	5.4.01	14.6.01	7(20.6.01)
Dried Vine Fruits (Rate of Primary Industry (Excise Levy) Validation Bill 2001	5(4.4.01)	29.3.01	18.6.01	Agriculture, Fisheries and Forestry	5.4.01	14.6.01	7(20.6.01)
Education, Training and Youth Affairs Legislation Amendment (Application of Criminal Code) Bill 2001	10(22.8.01)	8.8.01	29.8.01	Education, Training and Youth Affairs	23.8.01	17.9.01	12(19.9.01)
Electoral and Referendum Amendment Bill (No. 1) 2001	4(28.3.01)	7.3.01	2.4.01	Finance and Administration Further response required	29.3.01 24.5.01	4.5.01	6(23.5.01)
Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Bill 2001	11(29.8.01)	23.8.01		Employment, Workplace Relations and Small Business	30.8.01		
Environment and Heritage Legislation Amendment (Application of Criminal Code) Bill 2000	1(7.2.01)	8.2.01	6.12.00	Environment and Heritage	8.2.01	26.2.01	2(28.2.01)
Environment and Heritage Legislation Amendment Bill (No. 2) 2000	1(7.2.01) 8(27.6.01)		7.12.00	Environment and Heritage Further response required	28.6.01 23.8.01	20.8.01	10(22.8.01)
<i>Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001</i>	9(8.8.01)	25.6.01	24.5.01	Environment and Heritage re Amendments	9.8.01		
Excise Tariff Amendment Bill (No. 1) 2001	4(28.3.01)	8.3.01	29.3.01	Treasurer	29.3.01	27.4.01	6(23.5.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Fair Prices and Better Access for All (Petroleum) Bill 2001	8(27.6.01)		19.6.01	Senator Schacht	28.6.01	28.8.01	11(29.8.01)
Family and Community Services Legislation (Application of Criminal Code) Bill 2001	11(29.8.01)		22.8.01	Family and Community Services	29.8.01		
Family Law Legislation Amendment (Superannuation) Bill 2001 (previous citation: Family Law Legislation Amendment (Superannuation) Bill 2000)	*6(10.5.00) 7(21.6.01)	13.4.00	18.6.01	Attorney-General re Amendments	21.6.01	26.6.01	8(27.6.01)
Finance and Administration Legislation Amendment (Application of Criminal Code) Bill 2001 (previous citation: Finance and Administration Legislation Amendment (Application of Criminal Code) Bill (No. 1) 2001)	10(22.8.01)	4.4.01	21.8.01	Finance and Administration re Amendments	23.8.01		
Financial Sector (Collection of Data) Bill 2001	6(23.5.01)	5.4.01	20.8.01	Treasurer re Amendments	24.5.01 23.8.01	30.6.01	10(22.8.01)
Financial Services Reform Bill 2001	6(23.5.01)	5.4.01	9.8.01	Treasurer re Amendments	24.5.01 29.8.01	7.8.01	9(8.8.01)
Financial Services Reform (Consequential Provisions) Bill 2001	7(20.6.01)	7.6.01	9.8.01	Treasurer	21.6.01 9.8.01	7.8.01	9(8.8.01)
Foreign Affairs and Trade Legislation Amendment (Application of Criminal Code) Bill 2000	1(7.2.01)	6.12.00	5.4.01	Foreign Affairs and Trade	8.2.01	2.4.01	5(4.4.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
General Insurance Reform Bill 2001	9(8.8.01)	28.6.01	27.8.01	Treasurer re Amendments	9.8.01 29.8.01	27.8.01	11(29.8.01)
<i>Great Barrier Reef Marine Park Amendment Act 2001</i>	6(23.5.01)	4.6.01	5.4.01	Environment and Heritage	24.5.01	6.7.01	9(8.8.01)
Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001	10(22.8.01)	8.8.01	23.8.01	Health and Aged Care	23.8.01		
Health Legislation Amendment Bill (No. 2) 2001	6(23.5.01)	5.4.01	18.6.01	Health and Aged Care	24.5.01	21.6.01	8(27.6.01)
Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Bill 2001	11(29.8.01)		22.8.01	Industry, Science and Resources	29.8.01		
Innovation and Education Legislation Amendment Bill (No. 2) 2001	11(29.8.01)	22.8.01	29.8.01	Education, Training and Youth Affairs	29.8.01		
Intelligence Services Bill 2001	9(8.8.01)	27.6.01		Foreign Affairs	9.8.01		
International Maritime Conventions Legislation Amendment Bill 2001	6(23.5.01)	4.4.01	21.8.01	Transport and Regional Services	24.5.01	1.8.01	10(22.8.01)
Law and Justice Legislation Amendment (Application of Criminal Code) Bill 2000	1(7.2.01)	5.3.01	6.12.00	Justice and Customs	8.2.01	20.2.01	2(28.2.01)
Measures to Combat Serious and Organised Crime Bill 2001	6(23.5.01)	30.8.01	4.4.01	Justice and Customs	24.5.01	Briefing	8(27.6.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Migration Legislation Amendment (Application of Criminal Code) Bill 2001	6(23.5.01)	5.4.01	18.6.01	Immigration and Multicultural Affairs	24.5.01	13.6.01	7(20.6.01)
Migration Legislation Amendment (Electronic Transactions and Methods of Notification) Bill 2001	6(23.5.01)	5.4.01	18.6.01	Immigration and Multicultural Affairs	24.5.01	13.6.01	7(20.6.01)
Migration Legislation Amendment (Immigration Detainees) Bill 2001	6(23.5.01)	5.4.01	27.6.01	Immigration and Multicultural Affairs	Briefing	25.6.01	8(27.6.01) 11(29.8.01)
Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001	9(8.8.01)	27.6.01	28.8.01	Immigration and Multicultural Affairs	9.8.01	23.8.01	11(29.8.01)
National Crime Authority Legislation Amendment Bill 2000 [2001]	1(7.2.01)	20.8.01	7.12.00	Justice and Customs	8.2.01	13.2.01	7(20.6.01)
<i>New Business Tax System (Capital Allowances) Bill 2001</i>	7(20.6.01)	24.5.01	26.6.01	Treasurer	21.6.01	30.7.01	9(8.8.01)
Parliamentary (Choice of Superannuation) Bill 2001	4(28.3.01)	5.3.01		Mr P Andren MP	29.3.01	3.4.01	
Petroleum (Submerged Lands) Legislation Amendment Bill (No. 3) 2000	1(7.2.01)	6.12.00	5.4.01	Industry, Science and Resources	8.2.01	5.3.01	5(4.4.01)
Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Bill 2001	4(28.3.01)	24.5.01	8.3.01	Prime Minister	29.3.01	27.4.01	6(23.5.01)
Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001	7(20.6.01)	6.6.01	23.8.01	Reconciliation and ATSI Affairs	21.6.01	23.8.01	11(29.8.01)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2000	1(7.2.01)	7.12.00	24.5.01	Employment, Workplace Relations and Small Business	8.2.01 21.6.01	2.4.01 20.8.01	7(20.6.01) 10(22.8.01)
Superannuation Legislation Amendment (Post-retirement Commutations) Bill 2000	1(7.2.01)	7.12.00	1.3.01	Finance and Administration	8.2.01	28.2.01	3(7.3.01)
Taxation Laws Amendment Bill (No. 2) 2001	7(20.6.01)	7.6.01	26.6.01	Treasurer	21.6.01	27.6.01	9(8.8.01)
Taxation Laws Amendment Bill (No. 5) 2001	11(29.8.01)	23.8.01		Treasurer	29.8.01	18.9.01	
<i>Taxation Laws Amendment (Superannuation Contributions) Act 2001</i> (previous citation: Taxation Laws Amendment (Superannuation Contributions) Bill 2000)	*14(11.10.00) 2(28.2.01)	7.9.00	5.10.00	Treasurer Amendments	12.10.00 1.3.01	31.10.00 27.6.01	*15(1.11.00) 9(8.8.01)
Therapeutic Goods Amendment Bill (No. 4) 2000	1(7.2.01)	5.3.01	7.12.00	Health and Aged Care	8.2.01	20.2.01	2(28.2.01)
Therapeutic Goods Amendment (Medical Devices) Bill 2001	5(4.4.01)	29.3.01	7.8.00	Health and Aged Care	5.4.01	13.6.01	9(8.8.01)
Trade Practices Amendment (Telecommunications) Bill 2001	10(22.8.01)	9.8.01	19.9.01	Communications, Information Technology and the Arts	23.8.01	17.9.01	12(19.9.01)
Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001	6(23.5.01)	5.4.01	27.8.01	Treasurer	24.5.01	17.8.01	11(29.8.01)
Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001	9(8.8.01)	28.6.01	29.8.01	Treasurer	9.8.01	23.8.01	11(29.8.01)