

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

Alert Digest

No. 1 of 2003

5 February 2003

Senate Standing Committee
for the
Scrutiny of Bills

Alert Digest No. 1 of 2003

5 February 2003

ISSN 1329-668X

Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

Senator J McLucas (Chair)
Senator B Mason (Deputy Chairman)
Senator G Barnett
Senator T Crossin
Senator D Johnston
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

Agriculture and Veterinary Chemicals Legislation Amendment Bill 2002	5
• Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 200	6
Appropriation Bill (No. 3) 2002-2003	9
Appropriation Bill (No. 4) 2002-2003	10
Broadcasting Legislation Amendment Bill (No. 3) 2002	11
Commonwealth Electoral Amendment (Members of Local Government Bodies) Bill 2002	12
Corporations (Fees) Amendment Bill 2002	13
• Corporations Legislation Amendment Bill 2002	14
Corporations (Review Fees) Amendment Bill 2002	16
• Criminal Code Amendment (Terrorism) Bill 2002	17
• Customs Legislation Amendment Bill (No. 2) 2002	19
Designs Bill 2002	20
Designs (Consequential Amendments) Bill 2002	21
Governor-General Amendment Bill 2002	22
Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002	23
Maritime Legislation Amendment Bill 2002	24

- **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.

Medical Indemnity (Prudential Supervision and Product Standards) Bill 2002	25
Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002	26
• Migration Legislation Amendment (Protected Information) Bill 2002	27
National Blood Authority Bill 2002	28
National Residue Survey (Customs) Levy Amendment Bill 2002	29
National Residue Survey (Excise) Levy Amendment Bill 2002	30
• New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002	31
• New Business Tax System (Venture Capital Deficit Tax) Bill 2002	32
Public Interest Disclosure (Protection of Whistleblowers) Bill 2002	33
• Snowy Hydro Corporatisation Amendment Bill 2002	34
Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002	35
Superannuation Industry (Supervision) Amendment Bill 2002	36
Superannuation Legislation Amendment (Family Law) Bill 2002	37
Terrorism Insurance Bill 2002	38
Wheat Marketing Amendment Bill 2002	39

• **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.

Provisions of bills which impose criminal sanctions for a failure to provide information	40
Parliamentary amendments and the Committee's terms of reference	41

Agricultural and Veterinary Chemicals Legislation Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

The bill proposes to amend the *Agricultural and Veterinary Chemicals Code Act 1994*, the *Agricultural and Veterinary Chemicals (Administration) Act 1992* and the *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994* to:

- streamline the operation of the Agricultural and Veterinary Chemicals (Agvet) Code, its functions and the modernisation of review provisions;
- introduce a regime for the management of agricultural and veterinary chemicals categorised as low regulatory activity; and
- correct technical and minor typographical errors.

The Committee has no comment on this bill.

Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

Schedule 1 to the bill proposes to amend the *Australian Wine and Brandy Corporation Act 1980* to increase the Corporation's powers to:

- amend the Register of Protected Names;
- extend the time to commence a prosecution for breaches of export provisions;
- provide a regulation-making power; and
- make technical amendments.

Schedule 2 to the bill proposes to amend the *Export Control Act 1982* to insert a provision to enable orders to be made that apply, adopt or incorporate, with or without modification, the Codex Alimentarius or the Food Standards Code as in force at a particular time or as in force from time to time.

Schedule 3 to the bill proposes to amend the *National Residue Survey Administration Act 1992* in relation to payments from the National Residue Survey Reserve; and to update provisions relating to the protection of personal information, consistent with other Commonwealth legislation.

Schedule 4 to the bill proposes to amend the *Quarantine Act 1908* to comply with the *Criminal Code*.

Schedule 5 to the bill proposes to amend the proposed *Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2002* and the *Quarantine Act 1908* to make contingent amendments relating to the application of the *Quarantine Act 1908* to Christmas Island.

Schedule 6 to the bill proposes to amend the *Dairy Industry Legislation Amendment Act 2002* to correct a misdescribed amendment.

Retrospective commencement

Subclause 2(1), item 10

By virtue of item 10 in the table to subclause 2(1) of this bill, the amendment proposed by Schedule 6 would commence immediately after the commencement of item 4 of Schedule 1 to the *Dairy Industry Legislation Amendment Act 2002*. However, the amendment proposed by Schedule 6 does no more than amend an incorrect heading, and is thus wholly technical in nature.

In the circumstances, the Committee makes no further comment on this provision.

Parliamentary scrutiny

Schedule 2

The amendment proposed by Schedule 2 to this bill would permit Orders made under the *Export Control Act 1982* to incorporate any matter contained in either the Australia New Zealand Food Standards Code (made by Food Standards Australia New Zealand, under the authority of the *Food Standards Australia New Zealand Act 1991*) or the Codex Alimentarius issued by the United Nations Food and Agriculture Organisation and the World Health Organisation, as in force from time to time. Neither that Code nor the Codex Alimentarius is subject to Parliamentary oversight, hence the Orders made under the *Export Control Act 1982*, to the extent to which they incorporate matter from those documents, would not be subject to any Parliamentary scrutiny. The Explanatory Memorandum seeks to justify this departure from the terms of section 49A of the *Acts Interpretation Act 1901* by observing that “it will not be necessary to amend the Orders each time the standards [specified in either of those external documents] change to ensure their currency.” The Committee may be prepared to accept that justification, but it **seeks the Minister’s advice** about aspects of the process under which the Food Standards Code and the Codex Alimentarius may be incorporated into Commonwealth legislation.

In particular, the Committee would appreciate advice on how often and the procedures under which the two Codes are amended. Also, how are

amendments initiated and by whom? In addition, the Committee would be grateful for advice on the extent to which the two codes are made available to those likely to be affected by the terms of any Order. For instance, are the codes available on the internet? Finally, the Committee asks whether it is intended to table in Parliament information on the number and effect of amendments of the codes, either directly or, say, through the annual report of the agency which administers the Orders.

Pending the Minister's advice, the Committee draws Senators' attention to the provision, as it may be considered to insufficiently subject the exercise of legislative power to parliamentary scrutiny, in breach of principle 1(a)(v) of the Committee's terms of reference.

Appropriation Bill (No. 3) 2002-2003

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Finance and Administration]

The bill proposes to appropriate money (\$1,191 million) out of the Consolidated Revenue Fund, additional to the appropriation made by the *Appropriation Act (No. 1) 2002-2003*, to meet payments for the ordinary services of the government for the year ending on 30 June 2003.

The Committee has no comment on this bill.

Appropriation Bill (No. 4) 2002-2003

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Finance and Administration]

The bill proposes to appropriate money (\$263.8 million) out of the Consolidated Revenue Fund, additional to the appropriation made by the *Appropriation Act (No. 2) 2002-2003*, to enable agencies to meet:

- expenses in relation to grants to the States and for payments to the Northern Territory and the Australian Capital Territory; and
- non-operating purposes such as equity injections and loans.

The balance of the amount included in the bill is made up of capital adjustments and other estimates variations.

The Committee has no comment on this bill.

Broadcasting Legislation Amendment Bill (No. 3) 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Treasurer. [Portfolio responsibility: Communications, Information Technology and the Arts]

The bill proposes to amend the *Broadcasting Services Act 1992* to:

- change the high-definition television (HDTV) quota from a weekly to an annual quota;
- clarify the requirements for program content to be counted towards the HDTV quota;
- allow advertising and promotional material to count towards the quota; and
- delay the commencement date for the statutory review of HDTV quota arrangements.

The Committee has no comment on this bill.

Commonwealth Electoral Amendment (Members of Local Government Bodies) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Health and Ageing. [Portfolio responsibility: Special Minister of State]

The bill proposes to amend the *Commonwealth Electoral Act 1918* to ensure that eligible members of a local government body do not suffer any penalty arising from their decision to stand as candidates for election to either the House of Representatives or the Senate.

The Committee has no comment on this bill.

Corporations (Fees) Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Health and Ageing. [Portfolio responsibility: Treasury]

Introduced as part of a package of three bills to implement the seventh stage of the Corporate Law Economic Reform Program, known as ‘Streamlined Lodgements and Compliance’ or ‘CLERP7’, the bill proposes to amend the *Corporations (Fees) Act 2001* to expand the range of fees that may be prescribed.

The Committee has no comment on this bill.

Corporations Legislation Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Health and Ageing. [Portfolio responsibility: Treasury]

The bill was introduced as part of a package of three bills to implement the seventh stage of the Corporate Law Economic Reform Program, known as 'Streamlined Lodgements and Compliance' or 'CLERP7'.

Schedules 1 to 4 to the bill propose to amend the *Corporations Act 2001* to:

- abolish company annual returns;
- modify the fees regime;
- make a number of minor and technical amendments to harmonise provisions relating to the new tax system; and
- streamline document lodgment requirements.

Schedule 5 to the bill proposes amendments to the:

- *Australian Securities and Investments Commission Act 2001* to increase the financial cap for ASIC financial transactions not requiring financial approval; and authorise the ASIC Chairperson to appoint an alternate person to attend meetings of the Corporations and Markets Advisory Committee; and the
- *Corporations Act 2001* to make consequential amendments relating to registers of members; repeal upper age restrictions on the appointment and re-appointment of directors of public companies or their subsidiaries; and remove application charges applied to certain uncertificated securities.

Retrospective commencement

Subclause 2(1), item 6

By virtue of item 6 in the table to subclause 2(1) of this bill, the amendments proposed by items 4, 5 and 6 of Schedule 5 would commence on 1 July 2001, immediately after the commencement of the *Corporations Act 2001*.

However, the proposed amendments are technical in nature and do not affect the rights of any person.

In the circumstances, the Committee makes no further comment on this provision.

Corporations (Review Fees) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Health and Ageing. [Portfolio responsibility: Treasury]

Introduced as part of a package of three bills to implement the seventh stage of the Corporate Law Economic Reform Program, known as ‘Streamlined Lodgements and Compliance’ or ‘CLERP7’, the bill proposes to impose review fees (to be prescribed by regulations) to be payable by companies, registered schemes, registered Australian bodies, persons registered as auditors and/or liquidators, and holders of a financial services licence, when lodging documents with the Australian Securities and Investments Commission.

The Committee has no comment on this bill.

Criminal Code Amendment (Terrorism) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Attorney-General. [Portfolio responsibility: Attorney-General]

The bill proposes to amend the:

- *Criminal Code Act 1995* to re-enact counter-terrorism offences as Commonwealth provisions capable of operating throughout Australia, without any constitutional limitations, by virtue of the reference of powers by the States in accordance with section 51(xxxvii) of the Constitution; and
- *Security Legislation Amendment (Terrorism) Act 2002* to add this proposed Act to the list of counter-terrorism legislation that is subject to a public and independent review mechanism.

The bill also contains transitional provisions.

Indeterminate commencement

Subclause 2(1)

By virtue of item 2 in the table to subclause 2(1) of this bill, the amendments proposed by this bill would commence on Proclamation, without any time being fixed within which they must commence in any event. However, the Explanatory Memorandum points out that the purpose of this bill is to allow the States to pass legislation referring their powers relating to the subject matter of this bill to the Commonwealth under section 51(xxxvii) of the Constitution. The Committee notes that the enactment of complementary State legislation is one of the circumstances referred to in Drafting Direction 2002, No. 2, where such commencement provisions are acceptable.

The Committee would, however, **appreciate the Minister's advice** as to the desirability of providing some form of time limit within which the legislation would either commence automatically or, alternatively, be subject to a sunset provision. The Committee would also be grateful for advice about when it is presently expected that it will be possible to proclaim the legislation. The Committee accepts that the Government reports to Parliament every six

months on unproclaimed legislation, but such legislation is usually subject in any event to a fixed period or date for commencement.

The Committee draws Senators' attention to the provision, as it may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the Committee's terms of reference.

Legislation by regulation

Proposed new section 100.7

Proposed new section 100.7 of the *Criminal Code*, to be inserted by this bill, would permit the operation of Part 5.3 of the *Code* to be modified by regulation. Although any such regulation would be subject to Parliamentary scrutiny, and disallowance if necessary, the modification in such a regulation would not be subject to amendment but simply to acceptance or rejection. It may therefore be thought that proposed new section 100.7 is an inappropriate delegation of Parliamentary powers. However, the section limits the power of modification by regulation to those circumstances where the modification will ensure that both State and Commonwealth provisions relating to terrorism will apply to the fullest extent possible.

In the circumstances, the Committee makes no further comment on this provision.

Customs Legislation Amendment Bill (No. 2) 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Justice and Customs]

Schedules 1 and 3 to the bill propose to amend the *Customs Act 1901* to:

- introduce new provisions for determining the normal value of goods in countries with an economy in transition;
- ensure that anti-dumping legislation is consistent with the World Trade Organisation Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994; and
- make consequential amendments in relation to the commencement of the monitoring powers and infringement notice scheme; and make minor technical amendments and corrections as a result of the commencement of certain provisions of the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*.

Schedule 2 to the bill proposes to amend the *Passenger Movement Charge Collection Act 1978* to exempt air security officers, who provide security for civilian aircraft, from the passenger movement charge.

Retrospective commencement

Subclause 2(1), item 6

By virtue of item 6 in the table to subclause 2(1) of this bill, the amendment proposed by Schedule 2 would commence on 1 December 2002. However, the Explanatory Memorandum points out that the purpose of the amendment is to exempt protective service officers on international flights from having to pay Passenger Movement Charge (formerly known as Departure Tax). The Explanatory Memorandum also notes that it is expected that such air security officers “will commence duties on international flights some time in December 2002”.

In the circumstances, the Committee makes no further comment on this provision.

Designs Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Minister for Industry, Tourism and Resources. [Portfolio responsibility: Industry, Tourism and Resources]

Introduced with the Designs (Consequential Amendments) Bill 2002, the bill repeals the *Designs Act 1906* and implements a new registration system for industrial designs. The bill derives from an exposure draft issued in 2001 and proposes a more streamlined registration system, better enforcement and dispute resolution procedures, stricter eligibility and infringement tests and clearer definitions. The bill also contains transitional and saving provisions.

The Committee has no comment on this bill.

Designs (Consequential Amendments) Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Minister for Industry, Tourism and Resources. [Portfolio responsibility: Industry, Tourism and Resources]

Introduced with the Designs Bill 2002, the bill amends the *Copyright Act 1968* to correct anomalies that may defeat the policy intent of a number of provisions that operate generally to limit copyright protection for essentially industrial products. The bill also makes minor amendments to 14 Acts consequential on the proposed *Designs Act 2002* and repeal of the *Designs Act 1906*.

The Committee has no comment on this bill.

Governor-General Amendment Bill 2002

This bill was introduced into the House of Representatives on 9 December 2002 by Mr Albanese as a Private Member's bill.

The bill proposes to amend the *Governor-General Act 1974* to provide for the automatic referral of the annual report of the Office of the Official Secretary to the Governor-General to the House of Representatives Standing Committee on Legal and Constitutional Affairs.

The Committee has no comment on this bill.

Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Minister representing the Minister for Health and Ageing. [Portfolio responsibility: Health and Ageing]

The bill proposes to amend the *Health Insurance Act 1973* to:

- require the registration of practice sites for diagnostic imaging procedures and for radiation oncology services in order for Medicare benefits to be payable;
- implement the recommendations requiring legislative amendment resulting from the Diagnostic Imaging Referral Arrangements Review in relation to the referral arrangements for diagnostic imaging services funded through Medicare; and
- restore referral access for osteopaths to diagnostic imaging services.

The bill also contains application and transitional provisions.

The Committee has no comment on this bill.

Maritime Legislation Amendment Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Minister for Regional Services, Territories and Local Government. [Portfolio responsibility: Transport and Regional Services]

Schedule 1 to the bill proposes to amend the:

- *Protection of the Sea (Civil Liability) Act 1981* and the *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993* to increase the monetary liability and compensation limits for pollution damage resulting from the escape or discharge of “persistent oil” (heavy oils which do not evaporate readily) from oil tankers; and the
- *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* to:
 - expand the definition of **plastics** to prohibit absolutely the disposal from a ship into the sea of incinerator ashes from plastic products which may contain toxic or heavy metal residues; and
 - allow garbage disposal placards which are currently required to be displayed on a ship in either English or French, to be written also in Spanish.

Schedule 2 to the bill proposes to amend the *Trade Practices Act 1974* to amend Part X of the Act to make it clear that stevedoring operators are not permitted to collude in setting charges for stevedoring services.

Schedule 3 to the bill proposes to:

- repeal the *Bass Strait Sea Passenger Service Agreement Act 1984* which no longer has any application; and
- amend the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* to convert penalties that are currently expressed in monetary amounts to the equivalent amounts in penalty units.

The Committee has no comment on this bill.

Medical Indemnity (Prudential Supervision and Product Standards) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Introduced with the Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002, the bill provides for:

- medical indemnity cover to be provided only by general insurers under contracts of insurance, which will ensure that providers are subject to appropriate prudential supervision by the Australian Prudential Regulation Authority;
- transitional arrangements for certain current providers to meet minimum capital requirements;
- minimum product standards for medical indemnity insurance contracts;
- offers of compulsory retroactive or run-off cover where such cover is required to ensure continuous cover is available; and
- anti-avoidance provisions to ensure that the bill's objectives are not circumvented.

The bill also contains a regulation-making power.

The Committee has no comment on this bill.

Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Introduced with the Medical Indemnity (Prudential Supervision and Product Standards) Bill 2002, the bill proposes consequential amendments to the *Australian Prudential Regulation Authority Act 1998*, the *Financial Sector (Collection of Data) Act 2001*, the *Insurance Act 1973* and the *Insurance Contracts Act 1984* to:

- require medical defence organisations (MDOs) to provide data to the Australian Prudential Regulation Authority; and
- prevent MDOs with discretionary liabilities from becoming authorised insurers.

The Committee has no comment on this bill.

Migration Legislation Amendment (Protected Information) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Immigration and Multicultural and Indigenous Affairs. [Portfolio responsibility: Immigration and Multicultural and Indigenous Affairs]

The bill proposes to amend the *Migration Act 1958* to provide increased protection to confidential information given to the Minister for the purposes of making decisions to refuse a visa application or to cancel an existing visa on the basis of the character or conduct of a non-citizen, by extending the statutory protection scheme in section 503A of the Act to the Federal Court of Australia and the Federal Magistrates Court.

The bill also contains application provisions.

Non-reviewable discretion Schedule 1, items 1 and 2

The effect of the additions to the *Migration Act 1958* proposed to be made by items 1 and 2 of Schedule 1 to this bill is to create a further circumstance in which the exercise (or failure to exercise) a power vested in the Minister cannot be called into question in any way before the Courts. The relevant power is one to permit the disclosure of information about an applicant for, or holder of, a visa which has been provided on a confidential basis, and which the Minister may take into account in deciding whether to refuse the visa application, or cancel an existing visa, on the basis of the character or conduct of a non-citizen. In seeking to ensure that the Minister's discretion is non-reviewable, these amendments are the same as other privative clauses already in the Act. The Committee notes that these provisions make rights and liberties dependent upon non-reviewable decisions, but has decided to leave to the Senate as a whole the issue of whether they do so unduly.

The Committee draws Senators' attention to the provisions, as they may be considered to make rights, liberties or obligations unduly dependent upon non-reviewable decisions, in breach of principle 1(a)(iii) of the Committee's terms of reference.

National Blood Authority Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Minister representing the Minister for Health and Ageing. [Portfolio responsibility: Health and Ageing]

The bill proposes to establish the National Blood Authority (NBA) to manage and coordinate Australia's blood supply in accordance with the National Blood Agreement agreed by the Commonwealth, States and Territories. The bill also extends to all external territories except Norfolk Island.

The NBA will be established as a Commonwealth Agency under the *Financial Management and Accountability Act 1997* and will be subject to the *Public Service Act 1999* and the *Auditor-General Act 1997*. The principal roles of the NBA will be to manage national blood arrangements, ensure sufficient supply and provide a new focus on the safety and quality of blood products and services. The bill also contains a regulation-making power.

The Committee has no comment on this bill.

National Residue Survey (Customs) Levy Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

Introduced with the National Residue Survey (Excise) Levy Amendment Bill 2002, the bill proposes to amend the *National Residue Survey (Customs) Levy Act 1998* to restate the operative and maximum rates of national residue survey customs levy on apples and pears from a per box rate to a per kilogram rate.

The Committee has no comment on this bill.

National Residue Survey (Excise) Levy Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

Introduced with the National Residue Survey (Customs) Levy Amendment Bill 2002, the bill proposes to amend the *National Residue Survey (Excise) Levy Act 1998* to restate the operative and maximum rates of national residue survey excise levy on apples and pears from a per box rate to a per kilogram rate.

The Committee has no comment on this bill.

New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Introduced with the New Business Tax System (Venture Capital Deficit Tax) Bill 2002, the bill amends the *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997* and 5 other Acts to implement the final stage of the consolidation regime which commenced on 1 July 2002 in relation to consolidated groups (including the taxation of life insurance companies) and the simplified imputation system (including venture capital franking).

The bill also contains transitional provisions and makes consequential amendments.

Retrospective commencement Subclause 2(1)

By virtue of the table to subclause 2(1) of this bill, the amendments proposed by it would commence on 1 July 2002, at the same time as other related amendments to legislation seeking to reform the taxation of businesses. However, it appears that the effect of the legislation is generally beneficial.

In the circumstances, the Committee makes no further comment on this provision.

New Business Tax System (Venture Capital Deficit Tax) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Introduced with the New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002, the bill imposes a tax in relation to venture capital sub-account deficits of pooled development funds.

Retrospective commencement Subclause 2(1)

By virtue of item 2 in the table to subclause 2(1) of this bill, the amendment proposed by clauses 3 to 5 would commence on 1 July 2002, at the same time as the New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002. This bill has been introduced separately because it imposes a tax, and cannot therefore, for constitutional reasons, be incorporated with that bill. However, like that bill, the present bill appears to be generally beneficial compared to the arrangements which it replaces.

In the circumstances, the Committee makes no further comment on this provision.

Public Interest Disclosure (Protection of Whistleblowers) Bill 2002

This bill was introduced into the Senate on 11 December 2002 by the Senator Murray as a Private Senator's bill.

The bill proposes a Commonwealth public sector whistleblowing scheme, which is a refined version of the scheme proposed by the earlier Public Interest Disclosure Bill 2001 [2002]. The bill includes protection measures for persons who disclose conduct adverse to the public interest in the public sector.

The Committee has no comment on this bill.

Snowy Hydro Corporatisation Amendment Bill 2002

This bill was introduced into the House of Representatives on 11 December 2002 by the Parliamentary Secretary to the Minister for Industry, Tourism and Resources. [Portfolio responsibility: Industry, Tourism and Resources]

The bill proposes to amend the *Snowy Hydro Corporatisation Act 1997* (the Act) to exempt from GST certain transactions and transfers associated with the corporatisation of the Snowy Mountains Hydro-electric Authority.

As part of the agreement between the Commonwealth, New South Wales and Victorian governments to allow for the corporatisation of the Snowy Mountains Hydro-electric Authority on 28 June 2002, the Commonwealth undertook, by agreement of all parties, to introduce a bill to exempt certain transactions specified under the Act from GST. The original intent conveyed in the *Snowy Hydro Corporatisation Act 1997* was that all corporatisation transactions should be exempt from tax. This intent was overruled when *A New Tax System (Goods and Services Tax) Act 1999* came into force. The measures contained in this bill will ensure that the original intent is restored.

Retrospective commencement

Clause 2

By virtue of clause 2, this Bill will be taken to have commenced on 26 July 2001. However, the Explanatory Memorandum notes that the reason for this retrospectivity is to ensure that GST does not apply to any transaction associated with the corporatisation of the Snowy Mountains Hydro-electric Authority.

In the circumstances, the Committee makes no further comment on this provision.

Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Treasury]

Introduced with the Superannuation Industry (Supervision) Amendment Bill 2002, the bill proposes to amend the *Superannuation (Financial Assistance Funding) Levy Act 1993* to:

- allow for the specifying of a minimum and maximum levy payable in respect of any levies imposed; and
- enable aggregate amounts of financial assistance to be collected in one levy in each financial year, rather than individually.

The Committee has no comment on this bill.

Superannuation Industry (Supervision) Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Trade. [Portfolio responsibility: Treasury]

Introduced with the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002, the bill amends the *Superannuation Industry (Supervision) Act 1993* to make minor consequential amendments, to clarify a reference and remove and replace certain terms.

The Committee has no comment on this bill.

Superannuation Legislation Amendment (Family Law) Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Parliamentary Secretary to the Minister for Health and Ageing. [Portfolio responsibility: Finance and Administration]

The bill proposes to amend the following Acts in relation to Commonwealth civilian and Australian Defence Force superannuation schemes as a consequence of new legislative arrangements for the splitting of superannuation on marriage breakdown:

- *Defence Act 1903*;
- *Defence Force Retirement and Death Benefits Act 1973*;
- *Defence Forces Retirement Benefits Act 1948*;
- *Military Superannuation and Benefits Act 1991*;
- *Superannuation Act 1922*;
- *Superannuation Act 1976*; and
- *Superannuation Act 1990*.

The bill proposes a framework within each relevant superannuation scheme for dealing with an agreement made by separating parties or a Family Court order that provides for an amount of the member's superannuation to be allocated and paid to the member's former spouse.

The bill also contains disallowable instrument-making provisions.

The Committee has no comment on this bill.

Terrorism Insurance Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Treasurer. [Portfolio responsibility: Treasury]

The bill proposes a framework to implement the scheme for replacement terrorism insurance announced by the Treasurer on 25 October 2002. The bill deems all eligible insurance contracts to include terrorism risk cover and implements a framework for reinsurance for terrorist acts for commercial properties and infrastructure, including business interruption and public liability risks. The bill also establishes the Australian Reinsurance Pool Corporation which will provide reinsurance cover; and contains a regulation-making power.

The Committee has no comment on this bill.

Wheat Marketing Amendment Bill 2002

This bill was introduced into the House of Representatives on 12 December 2002 by the Minister for Agriculture, Fisheries and Forestry. [Portfolio responsibility: Agriculture, Fisheries and Forestry]

The bill proposes to amend the *Wheat Marketing Act 1989* to provide for an appropriation out of the Consolidated Revenue Fund to the Wheat Export Authority (WEA), of monies equivalent to a charge to be imposed on exports of wheat through regulations to be made under the *Primary Industries (Customs) Charges Act 1999*. The bill also includes minor technical amendments relating to the operations of the WEA and its compliance-monitoring powers.

The Committee has no comment on this bill.

PROVISIONS OF BILLS WHICH IMPOSE CRIMINAL SANCTIONS FOR A FAILURE TO PROVIDE INFORMATION

REPORT NO 1/2003

The Committee's *Eighth Report of 1998* dealt with the appropriate basis for penalty provisions for offences involving the giving or withholding of information. In that Report, the Committee recommended that the Attorney-General develop more detailed criteria to ensure that the penalties imposed for such offences were 'more consistent, more appropriate, and make greater use of a wider range of non-custodial penalties'. The Committee also recommended that such criteria be made available to Ministers, drafters and to the Parliament.

The Government responded to that Report on 14 December 1998. In that response, the Minister for Justice referred to the ongoing development of the Commonwealth *Criminal Code*, which would include rationalising penalty provisions for 'administration of justice offences'. The Minister undertook to provide further information when the review of penalty levels and applicable principles had taken place.

For information, the following Table sets out penalties for 'information-related' offences in the legislation covered in this *Digest*. The Committee notes that imprisonment is still prescribed as a penalty for some such offences.

TABLE

Bill/Act	Section/Subsection	Offence	Penalty
National Blood Authority Bill 2002	Subclause 10(5)	Fail to provide information to a public authority	30 penalty units

PARLIAMENTARY AMENDMENTS AND THE COMMITTEE'S TERMS OF REFERENCE

AMENDMENTS IN THE HOUSE OF REPRESENTATIVES (9-13 December 2002)

Migration Legislation Amendment Bill (No. 1) 2002:

On 12 December 2002, the House of Representatives agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Taxation Laws Amendment Bill (No. 6) 2002:

On 12 December 2002, the House of Representatives agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

AMENDMENTS IN THE SENATE (9-13 December 2002)

Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002

On 12 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002

On 12 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002

On 12 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Inspector-General of Taxation Bill 2002

On 13 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Renewable Energy (Electricity) Amendment Bill 2002

On 13 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Telecommunications Competition Bill 2002

On 9 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Trade Practices Amendment (Liability for Recreation Services) Bill 2002

On 12 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

Workplace Relations Amendment (Fair Termination) Bill 2002

On 13 December 2002, the Senate agreed to amend this bill. The amendments raise no issues within the Committee's terms of reference.

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2003

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT RECEIVED		REPORT NUMBER
		HOUSE	SENATE				
Bills dealt with in 2002							
Charter of the United Nations Amendment Bill 2002	15(4.12.02)	14.11.02	5.12.02	Foreign Affairs	5.12.02		
Communications Legislation Amendment Bill (No. 1) 2002	7(21.8.02)	27.6.02		Communications, Information Technology and the Arts	22.8.02	16.9.02	
Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Bill 2002	16(11.12.02)	4.12.02		Justice and Customs	17.12.02		
Criminal Code Amendment (Offences Against Australians) Act 2002	15(4.12.02)	12.11.02	13.11.02	Attorney-General	5.12.02	3.2.03	1(5.2.03)
Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002	3(20.3.02)	14.3.02		Special Minister of State	21.3.02	30.4.02	
Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002	15(4.12.02)		19.11.02	Senator Bartlett	5.12.02	4.2.03	1(5.2.03)
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2002	13(13.11.02)	21.10.02		Mr Katter	14.11.02		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002	15(4.12.02)	27.6.02	11.11.02	Health and Ageing re Amendments	5.12.02	31.1.03	1(5.2.03)
Intellectual Property Laws Amendment Bill 2002	7(21.8.02)	27.6.02		Industry, Tourism and Resources	22.8.02	17.9.02	
<i>International Criminal Court Act 2002</i>	7(21.8.02)	25.6.02	26.6.02	Attorney-General	22.8.02	13.1.03	1(5.2.03)
<i>International Criminal Court (Consequential Amendments) Act 2002</i>	7(21.8.02)	25.6.02	26.6.02	Attorney-General	22.8.02	13.1.03	1(5.2.03)
Migration Legislation Amendment Bill (No. 1) 2002	3(20.3.02)	13.3.02		Immigration and Multicultural and Indigenous Affairs	21.3.02	27.5.02	
<i>Quarantine Amendment Act 2002</i>	3(20.3.02)	14.3.02	21.3.02	Agriculture, Fisheries and Forestry	21.3.02	24.1.03	1(5.2.03)
<i>Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act 2002</i>	2(13.3.02)	21.2.02	19.6.02	Finance and Administration	14.3.02 20.6.02	16.5.02 20.12.02	5(19.6.02) 1(5.2.03)
Taxation Laws Amendment Bill (No. 8) 2002	16(11.12.02)	5.12.02		Treasury	12.12.02	30.1.03	
<i>Taxation Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Act 2002</i>	5(19.6.02)	14.5.02	19.6.02	Treasurer	20.6.02	24.12.02	1(5.2.03)