

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

Alert Digest

No. 2 of 2004

3 March 2004

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Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

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

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• **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.

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

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Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004

[Introduced into the House of Representatives on 11 February 2004. Portfolio: Agriculture, Fisheries and Forestry]

Introduced with the Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Bill 2004, the bill amends the *Agricultural and Veterinary Chemicals (Administration) Act 1992* to enable Australia to comply with the *Stockholm Convention on Persistent Organic Pollutants* (the Stockholm Convention) and the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Rotterdam Convention) by:

- extending provisions to include manufacture, use and other dealings in relation to pesticides because of particular human health or environmental concerns;
- expanding and clarifying information collecting provisions;
- providing powers for regulations to be made enabling the collection of prescribed information about prescribed chemicals;
- broadening the scope of the regulation-making power to ensure that the ‘use or other dealings’ relating to specified chemicals can also be appropriately controlled; and
- establishing offence and penalty regimes for not supplying required information or for supplying false and misleading information.

The Committee has no comment on this bill.

Appropriation Bill (No. 3) 2003-2004

[Introduced into the House of Representatives on 11 February 2004. Portfolio: Finance and Administration]

The bill appropriates money (\$944.9 million) out of the Consolidated Revenue Fund, additional to the appropriation made by the *Appropriation Act (No. 1) 2003-2004*, to meet payments for the ordinary services of the government for the year ending on 30 June 2004.

The Committee has no comment on this bill.

Appropriation Bill (No. 4) 2003-2004

[Introduced into the House of Representatives on 11 February 2004. Portfolio: Finance and Administration]

The bill appropriates money (\$485.4 million) out of the Consolidated Revenue Fund, additional to the appropriation made by the *Appropriation Act (No. 2) 2003-2004*, 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 Committee has no comment on this bill.

Appropriation (Parliamentary Departments) Bill (No. 2) 2003-2004

[Introduced into the House of Representatives on 11 February 2004. Portfolio: Finance and Administration]

The bill appropriates money (\$341,000) out of the Consolidated Revenue Fund, additional to the appropriation made by the *Appropriation (Parliamentary Departments) Act (No. 1) 2003-2004*, to meet payments for expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2004.

The Committee has no comment on this bill.

Australian Sports Drug Agency Amendment Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Arts and Sport]

The bill amends the *Australian Sports Drug Agency Act 1990* to enable the Australian Sports Drug Agency (ASDA) to perform particular functions required as a result of the introduction the World Anti Doping Code (the Code).

The bill:

- gives relevant powers and functions to ASDA and the Australian Sports Drug Medical Advisory Committee (ASDMAC) to enable them to adopt and implement the requirements of the Code by the commencement of the Athens Olympic Games in August 2004;
- provides for the implementation of the Code in a timely manner; and
- makes consequential amendments required as a result of the introduction of the Code.

The bill also contains transitional provisions.

Parliamentary scrutiny

Proposed new subsection 11(5)

By virtue of proposed new subsection 11(5) of the *Australian Sports Drug Agency Act 1990*, to be inserted by item 25 of Schedule 1 to this bill, regulations which formulate a drug testing scheme may apply, adopt or incorporate matter contained in the World Anti-Doping Code, an International Standard adopted by the World Anti-Doping Agency or any other instrument made by a sporting administration body. The proposed new subsection also permits the application, adoption or incorporation of such matter as in force from time to time. The effect of this amendment is therefore that the regulations formulating a drug testing scheme may, to a large extent, not have had the benefit of Parliamentary scrutiny. However, the Explanatory Memorandum points out that the alternative, of incorporating any changes of

the above instruments in legislation each time those instruments change, will deprive the Australian Sports Drug Agency of the ability to respond quickly to any changes, and may render the country non-compliant with, for instance, the World Anti-Doping Code.

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

Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004

[Introduced into the House of Representatives on 16 February 2004 by Mr Kerr as a Private Member's bill.]

The bill denies public funding to any candidate, group or political party that accepts a donation from a person who derives substantial revenue from the manufacture, distribution or retail of tobacco products.

The Committee has no comment on this bill.

Customs Tariff Amendment (Paraquat Dichloride) Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Justice and Customs]

The bill amends the *Customs Tariff Act 1995* to allow the chemical paraquat dichloride, with an added emetic, to be reclassified with effect from 24 March 2003 as free of customs duty. The chemical had previously attracted a 5% duty rate.

Retrospectivity Clause 2

By virtue of clause 2 of this bill, the measure would commence retrospectively on 24 March 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. The Explanatory Memorandum observes that the purpose of the bill is to correct an anomaly, and to ensure that paraquat dichloride containing an enema (for safety purposes) would not be subject to the current rate of customs duty of 5% but would instead attract no duties of customs. It is noted that the purpose of the retrospectivity is to ensure uniformity of treatment in relation to various safety measures concerning this herbicide.

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

Employee Protection (Employee Entitlements Guarantee) Bill 2004

[Introduced into the House of Representatives on 16 February 2004 by Mrs Crosio as a Private Member's bill.

The bill provides for the establishment and administration of a scheme to guarantee the payment of wages and other accrued liabilities owed to employees in the event of employer insolvency. The bill also contains a regulation-making power.

Explanatory Memorandum General Comment

This bill appears to be the same as one introduced by the same Member on 3 March 2003. The Committee has no comment but notes that its consideration of this bill would have been assisted if it had been accompanied by an Explanatory Memorandum.

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

Environment Protection and Biodiversity Conservation Act 1999

The Act implements the 1997 Council of Australian Governments Agreement relating to the Commonwealth's role by reference to certain matters of national environmental significance. The bill for the Act was previously considered by the Committee in *Alert Digest No. 10 of 1998* in which it made various comments. The Minister for Environment and Heritage responded to those comments in the Committee's *Seventh Report of 1999*. Since the publication of that *Report*, the following issue has come to the Committee's attention.

Delegation of legislative power Subsection 515(3)

Subsection 515(3) of this Act authorises the Director of National Parks to delegate all or any of his or her powers or functions under the Act 'to a person'. Generally, the Committee prefers to see a limit set either on the sorts of powers that might be delegated, or on the categories of people to whom those powers might be delegated. The Committee's preference is that delegates be confined to the holders of nominated offices or to members of the Senior Executive Service. The Committee **seeks the Minister's advice** as to the reason for this completely unfettered discretion being vested in the Director, and to inquire whether it would not be possible to limit the categories of persons or bodies to whom (or which) such a delegation may be made.

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.

Extension of Sunset of Parliamentary Joint Committee on Native Title Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Attorney-General]

The bill amends the *Native Title Act 1993* to extend the operation of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (the PJC) to 23 March 2006.

The Committee has no comment on this bill.

Great Barrier Reef Marine Park Amendment Bill 2004

[Introduced into the House of Representatives on 18 February 2004. Portfolio: Environment and Heritage]

The bill amends the *Great Barrier Reef Marine Park Act 1975* to clarify that GST is not payable on the Environmental Management Charge levied on standard tourism operations by:

- extending an existing regulation-making power to enable regulations to be made that specify who is liable to pay the Environmental Management Charge on the grant or transfer of a chargeable permission;
- establishing a process for the collection of the Environmental Management Charge;
- creating new offences and associated penalties for failure to collect or submit the Environmental Management Charge to the Authority;
- enabling the Authority to recover collected amounts that are due and payable;
- extending the power of inspectors to search, stop and detain aircraft and vessels, and enter premises; and
- extending the power of magistrates to issue search warrants.

The bill also contains an application provision.

The Committee has no comment on this bill.

House of Representatives (Northern Territory Representation) Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Special Minister of State]

The bill implements a recommendation of the Joint Standing Committee on Electoral Matters in its report entitled: *Territory Representation* to maintain the Northern Territory's representation in the House of Representatives at its current level of two members at the next federal election.

The Committee has no comment on this bill.

Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Bill 2004

[Introduced into the House of Representatives on 11 February 2004. Portfolio: Health and Ageing]

Introduced with the Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004, the bill amends the *Industrial Chemicals (Notification and Assessment) Act 1989* to:

- implement Australia's obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- establish a system of notification and assessment of industrial chemicals to protect health, safety and the environment;
- extend present information exchange and information gathering powers in the Act to facilitate the exchange of scientific, technical, economic and legal information concerning chemicals; and
- provide for the registration of certain persons proposing to introduce industrial chemicals.

The bill also contains an application provision.

Abrogation of the privilege against self-incrimination Proposed new section 100H

Proposed new section 100H of the *Industrial Chemicals (Notification and Assessment) Act 1989*, to be inserted by item 1 of Schedule 1 to this bill, would abrogate the privilege against self-incrimination for a person required to provide information under proposed new section 100G. At common law, people can decline to answer questions on the grounds that their replies might tend to incriminate them. Legislation which interferes with this common law entitlement trespasses on personal rights and liberties.

The Committee does not see this privilege as absolute, recognising that the public benefit in obtaining information may outweigh the harm to civil rights.

One of the factors the Committee considers is the subsequent use that may be made of any incriminating disclosures. In this case new section 100H limits the circumstances in which information so provided is admissible in evidence in proceedings against the affected person. The Committee accepts that the provision appears to strike a reasonable balance between the competing interests of obtaining information and protecting individuals' rights.

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

International Transfer of Prisoners Amendment Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Attorney-General]

The bill amends the *International Transfer of Prisoners Act 1997* to facilitate the transfer back to Australia of Australian citizens detained at locations such as Guantanamo Bay who may subsequently be convicted, found guilty and sentenced to a term of imprisonment by a military commission of the United States of America.

Retrospective application Schedule 1, item 5

By virtue of item 5 of Schedule 1 to this bill, the amendments proposed by it would apply to a sentence of imprisonment imposed by a foreign tribunal at any time, whether before or after the commencement of the Schedule. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, as the Explanatory Memorandum makes clear, the immediate purpose of the bill is to enable Australian citizens currently held by the United States at Guantanamo Bay, in Cuba, if they are convicted by a United States military commission and sentenced to serve a term of imprisonment, to serve that punishment in Australia rather than overseas. Since no such citizen has at present been tried, let alone convicted, it appears that item 5 has been included in order to guard against any delays which might befall this bill as it proceeds through the Parliamentary process.

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

Medical Indemnity Amendment Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Health and Ageing]

Introduced with the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2004, the bill amends the *Medical Indemnity Act 2002* to:

- replace the Incurred But Not Reported (IBNR) Claims Contribution scheme with the United Medical Protection (UMP) support payment;
- rename the Medical Indemnity Subsidy Scheme to become the Premium Support Scheme;
- clarify the definition of health care related vocation; and
- make consequential amendments to the *Health Insurance Act 1973*, the *Health Insurance Commission Act 1973* and the *National Health Act 1953*.

The Committee has no comment on this bill.

Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Health and Ageing]

Introduced with the Medical Indemnity Amendment Bill 2004, the bill amends the *Medical Indemnity (IBNR Indemnity) Contribution Act 2002* to impose the United Medical Protection support payment in place of the IBNR indemnity contribution.

The Committee has no comment on this bill.

Migration Amendment (Duration of Detention) Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Immigration and Multicultural and Indigenous Affairs]

The bill amends the *Migration Act 1958* to further clarify that an unlawful non-citizen must be kept in immigration detention unless a court makes a final determination that the detention is unlawful or he or she is not an unlawful non-citizen.

The bill also contains an application provision.

Abrogation of judicial power Proposed new subsection 196(4)

Proposed new subsection 196(4) of the *Migration Act 1958*, to be inserted by item 1 of Schedule 1 to this bill, seeks to ensure that a person in migration detention cannot be released by an interlocutory order of the Federal Court. In so doing, the bill seeks to abrogate the power which the Federal Court has in the past exercised of ordering the release of such a detainee on an interlocutory basis. It may therefore be suggested that the bill trespasses on the rights of some of those in migration detention. However, the Committee leaves for the Senate as a whole the question of whether the bill *unduly* trespasses on those rights.

The Committee draws Senators' attention to the provision, as it 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.

Tax Laws Amendment (2004 Measures No. 1) Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Treasury]

The bill amends various Acts to give effect to several taxation measures. The main provisions:

- broaden the list of eligible medical expenses under the medical expenses tax offset to include payments made in maintaining properly trained dogs for guiding or assisting people with a disability;
- provide an income tax deduction for certain expenses incurred in travel between workplaces;
- improve the operation of the test that is used to determine when an entity controls a discretionary trust for the purpose of applying the small business CGT concessions;
- correct an anomaly that may have seen an unintended entitlement to concessional treatment created in certain circumstances under the Energy Grants (Credits) Scheme that did not previously exist in the schemes that it replaced;
- ensure that GST net input tax credits are excluded from the cost base, reduced cost base and other relevant amounts used for the purposes of working out the amount of a capital gain or capital loss;
- clarify the scope of the purposes for which protected Australian Business Number (ABN) information is able to be disclosed to Commonwealth agency heads and States and Territory department heads;
- provide an income tax deduction for contributions of cash or property to a deductible gift recipient (DGR), where a minor benefit is received in return;
- include a new Subdivision dealing with certain loans, payments and forgiven debts by a trustee to a shareholder (or their associate) of a private company to ensure that a trustee cannot shelter trust income at the prevailing company tax rate;

- ensure that certain resident companies continue to be eligible for a deduction for on-payments of certain unfranked or partly franked non-portfolio dividends to their wholly-owned foreign parents;
- require that charities, including public benevolent institutions and health promotion charities, be endorsed by the Commissioner in order to access all relevant taxation concessions; and to require any charity so endorsed to display their charitable status on the Australian Business Register (ABR); and
- update the lists of specifically-listed deductible gift recipients (DGRs).

The bill also contains application and transitional provisions.

Retrospective commencement

Schedule 4, items 1 to 7

By virtue of item 3 in the table in subclause 2(1), items 1 to 7 of Schedule 4 to this bill would commence retrospectively on 1 July 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. The Explanatory Memorandum notes that the amendments proposed in that Schedule will rectify an anomaly and prevent an unintended entitlement to concessional treatment under the Energy Grants (Credits) Scheme.

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

Retrospective application

Schedule 1, item 2

By virtue of item 2 of Schedule 1 to this bill, the amendments proposed by that Schedule would apply from the 2002-2003 tax year. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, as the Explanatory Memorandum makes clear, these amendments are beneficial to taxpayers as they will

broaden the list of eligible medical expenses under the medical expenses tax offset to include expenses incurred in maintaining properly trained dogs for guiding or assisting people with a disability.

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

**Retrospective application
Schedule 2, item 11**

By virtue of item 11 of Schedule 2 to this bill, the amendments proposed by that Schedule would apply from the 2001-2002 tax year. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, as the Explanatory Memorandum makes clear, these amendments are beneficial to taxpayers as they allow an income tax deduction for transport expenses incurred in travel between workplaces.

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

**Retrospective application
Schedule 3, item 7**

By virtue of item 7 of Schedule 3 to this bill, the amendments proposed by that Schedule would apply from 11.45am on 21 September 1999. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum observes that, for one thing, the amendments are “expected to have minimal revenue impact” and, for another thing, item 8 of the Schedule provides for transitional arrangements under which taxpayers may elect to have the existing law apply to them, at least for capital gains tax events that occur before 30 June 2004.

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

Retrospective application
Schedule 6, item 5

By virtue of item 5 of Schedule 6 to this bill, the amendments proposed by that Schedule would apply from 15 October 2001. Those amendments extend the range of persons who may lawfully disclose a taxpayer's Australian Business Number. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the amendments put on a secure legislative base changes which were made by Regulation with effect from 15 October 2001, and the Explanatory Memorandum asserts that the changes are beneficial to small business proprietors.

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

Retrospective application
Schedule 8, item 8

By virtue of item 8 of Schedule 8 to this bill, the amendments proposed by that Schedule would apply from 12 December 2002. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, the Explanatory Memorandum observes that the "financial impact of the measure is expected to be negligible".

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

Retrospective application
Schedule 9, item 9

By virtue of item 9 of Schedule 9 to this bill, the amendments proposed by that Schedule would apply from 30 June 2003. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, as the Explanatory Memorandum makes clear, these amendments are beneficial to taxpayers as they will ensure that certain resident companies will be able to continue to claim a deduction for on-payments of certain franked or partly franked non-portfolio dividends to their wholly-owned foreign parents. This deduction was inadvertently made inoperative with the removal of the inter-corporate dividend rate paid within wholly-owned companies applying generally after 30 June 2003.

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

Retrospective application
Schedule 11

The amendments proposed by Schedule 11 would update the list of those recipients of gifts in respect of whom the gifts are tax-deductible. The dates of application of the changes vary with the particular donee. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. However, these amendments appear to be beneficial as taxpayers will be able to claim income tax deductions for gifts to specifically-listed deductible gift recipients allowing those organisations to attract public support for their activities.

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

Telecommunications (Interception) Amendment Bill 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Attorney-General]

The bill amends the *Telecommunications (Interception) Act 1979* to:

- include terrorist offences and offences involving dealings in firearms as offences in respect of which a telecommunications interception warrant may be sought;
- extend the definition of interception to include reading or viewing a communication;
- exclude from the definition of interception the act of listening to, recording, reading or viewing communications to publicly-listed ASIO numbers;
- clarify the application of the Act to delayed access message services such as email and SMS messaging; and
- facilitate the recording of calls to publicly-listed ASIO numbers.

The bill also contains transitional provisions.

The Committee has no comment on this bill.

Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004

[Introduced into the House of Representatives on 18 February 2004. Portfolio: Industry, Tourism and Resources]

The bill amends the *Textile, Clothing and Footwear Strategic Investment Program Act 1999* to establish an alternative cap for certain grants in respect of TCF value-adding for leather and technical textile firms for the 2003–04 and 2004–05 financial years of the Textile, Clothing and Footwear Strategic Investment Program Scheme.

The bill also contains an application provision.

The Committee has no comment on this bill.

Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004

[Introduced into the House of Representatives on 19 February 2004. Portfolio: Treasury]

The bill amends the *Trade Practices Act 1974* to provide for a nationally consistent approach to be taken to limitation periods and constraints on damages arising from personal injury or death.

Personal rights Schedule 1, item 9

The purpose of this bill, as is made quite clear from the Explanatory Memorandum and Second Reading speech, is to limit both the time within which a person injured or killed by a contravention of Part IVA, Division 1A or 2A of Part V or of Part VA of the *Trade Practices Act 1974* may commence proceedings against the corporation responsible for that contravention, and the amount of damages which may be recovered for that contravention. It may therefore be suggested that the bill trespasses on the rights of those who might suffer such injuries, or the dependants of anyone who dies as a result of such a contravention. However, the Committee leaves for the Senate as a whole the question of whether the bill *unduly* trespasses on those rights.

The Committee draws Senators' attention to the provision, as it 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.

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

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
Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2004	Proposed new subsection 69CD(1)	Failure to provide information	50 penalty units
Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Bill 2004	Proposed new subsection 100G(3)	Failure to provide information	60 penalty units

PARLIAMENTARY AMENDMENTS AND THE COMMITTEE'S TERMS OF REFERENCE

AMENDMENTS IN THE HOUSE OF REPRESENTATIVES (10 to 19 February 2004)

Workplace Relations Amendment (Choice of Award Coverage) Bill 2002: The House of Representatives amended this bill on 11 February 2004. The amendments raise no issues within the Committee's terms of reference.

Workplace Relations Amendment (Simplifying Agreement-Making) Bill 2002: The House of Representatives amended this bill on 12 February 2004. The amendments raise no issues within the Committee's terms of reference.

AMENDMENTS IN THE SENATE (10 to 12 February 2004)

Fisheries Legislation Amendment (High Seas Fishing Activities and Other Matters) Bill 2003 [2004]: The Senate amended this bill on 11 February 2004. The amendment raised no issues within the Committee's terms of reference.

Migration Legislation Amendment (Identification and Authentication) Bill 2003: This bill was introduced into the House of Representatives on 26 June 2003 and dealt with in *Alert Digest No. 9 of 2003*, which advised that the bill proposed to insert new sections into the principal Act to provide for a legislative framework for the collection from non-citizens of personal identifiers, such as fingerprints, photographs, measurements, recordings, signatures, iris scans and other personal identifiers as prescribed in the regulations. The Committee noted that the bill would permit a wide discretion to prescribe the circumstances in which identifiers must be supplied and sought advice from the Minister for Immigration and Multicultural and Indigenous Affairs on the scope of this power and whether the bill should include measures to limit the circumstances which might be prescribed.

The Minister responded in a letter dated 10 February 2004, which advised that the Committee's concerns reflected those of the Senate Legal and Constitutional Legislation Committee, which tabled its report on the bill on 18 September 2003. The Minister also advised that the Government proposed to introduce amendments to respond to the recommendation of that Committee. The Committee reported on this response in its *First Report of 2004*.

Subsequent to the Minister's letter the Government introduced amendments to the bill to specify the types of personal identifiers that may be collected at the different stages in the migration process, and the circumstances in which they are to be provided. On 10 February

2004 the Senate agreed to the amendments. The House of Representatives agreed to the amendments on 11 February 2004.

The Committee thanks the Minister for introducing these amendments which address its concerns.

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

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2004

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE SOUGHT		REPORT NUMBER
		HOUSE	SENATE		RECEIVED	RECEIVED	
Bill dealt with in 2002 still awaiting reporting							
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	
Bills dealt with in 2003 still awaiting reporting							
A Better Future for Our Kids Bill 2003	6(18.6.03)	26.5.03		Ms Roxon MP	19.6.03		1(11.2.04)
ASIO Legislation Amendment Act 2003	16(3.12.03)	27.11.03	3.12.03	Attorney-General	4.12.03	9.2.04	
Australian Protective Service Amendment Bill 2003 Amendments	8(13.8.03)	15.10.03	26.6.03	Justice and Customs	14.8.03 27.11.03	9.9.03 4.2.04	9(10.9.03) 1(11.2.04)
Aviation Transport Security Bill 2003 Amendments	5(14.5.03) 1(11.2.04)	27.3.03	10.2.04	Transport and Regional Services	15.5.03 12.2.04	20.6.03 27.2.04	1(11.2.04) 2(3.3.04)
Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2]	15(26.11.03)	5.11.03	2.12.03	Communications, Information Technology and the Arts	27.11.03		
Building and Construction Industry Improvement Bill 2003	15(26.11.03)	6.11.03	10.2.04	Employment and Workplace Relations	27.11.03	12.1.04	1(11.2.04)
Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003	8(13.8.03)	25.6.03		Transport and Regional Services	14.8.03	29.10.03	

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Corporate Responsibility and Employment Security Bill 2003	10(10.9.03)	18.8.03		Hon S F Crean MP	11.9.03		
Fisheries Legislation Amendment (High Seas Fishing Activities and Other Matters) Bill 2003	16(3.12.03)	16.2.04	28.11.03	Agriculture, Fisheries and Forestry	4.12.03	5.2.04	1(11.2.04)
Late Payment of Commercial Debts (Interest) Bill 2003	3(19.3.03)		6.3.03	Senator Conroy	27.3.03		
Migration Legislation Amendment (Identification and Authentication) Bill 2003	9(20.8.03)	26.6.03	7.10.03	Immigration and Multicultural and Indigenous Affairs	21.8.03	10.2.04	1(11.2.04)
Sexuality and Gender Identity Discrimination Bill 2003	16(3.12.03)		26.11.03	Senator Greig	4.12.03		
Superannuation Safety Amendment Bill 2003	16(3.12.03)	27.11.03	11.2.04	Treasurer/Revenue	4.12.03	1.3.04	2(3.3.04)
Trade Practices Amendment (Public Liability Insurance) Bill 2003	10(10.9.03)	18.8.03		Mr A Griffin MP	11.9.03		
Bills dealt with in 2004							
Australian Crime Commission Amendment Bill 2004	1(11.2.04)		4.12.03	Attorney-General/Justice & Customs	12.2.04	1.3.04	2(3.3.04)
Customs Legislation Amendment (Application of International Trade Modernisation and Other Measures) Bill 2003	1(11.2.04)	4.12.03		Justice and Customs	12.2.04		

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT
		HOUSE	SENATE		SOUGHT	RECEIVED	
Dairy Produce Amendment Bill 2003	1(11.2.04)	3.12.03		Agriculture, Fisheries and Forestry	12.2.04		
Military Rehabilitation and Compensation Bill 2003	1(11.2.04)	4.12.03	1.3.04	Veterans' Affairs	12.2.04		

