

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



**Alert Digest**

**No. 4 of 2005**

**11 May 2005**



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# Senate Standing Committee for the Scrutiny of Bills

## Members of the Committee

Senator R Ray (Chair)  
Senator B Mason (Deputy Chair)  
Senator G Barnett  
Senator D Johnston  
Senator G Marshall  
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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## Civil Aviation Amendment Bill 2005

[Introduced in the House of Representatives 16 March 2005. Portfolio: Transport and Regional Services]

The bill amends the *Civil Aviation Act 1988* to enable regulations made under the Act to contain provisions that may be inconsistent with the *Disability Discrimination Act 1992* and the *Sex Discrimination Act 1984* if ‘the inconsistency is necessary for the safety of air navigation’ [proposed subsections 98(6A) and (6B)]. The bill would also retrospectively validate existing safety regulations and past actions based on those regulations.

These amendments are similar to those in the Civil Aviation Amendment (Relationship with Anti-discrimination Legislation) Bill 2004, which was introduced in the House of Representatives on 11 March 2004 but lapsed prior to the commencement of this Parliament. The Committee repeats below the comments it made in respect of the earlier bill.

The bill also inserts into the Act a requirement that holders of Air Operator’s Certificates continue to satisfy CASA that they meet statutory requirements. This requirement is currently contained only in delegated legislation. This provision was originally included in the Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003, introduced in the House on 25 June 2003.

Finally, the bill makes technical amendments relating to the definition of ‘foreign registered aircraft’.

### **Retrospective application** **Schedule 1, item 5**

By virtue of subitems 5(1) and (2) of Schedule 1 to this bill, the amendments proposed by the bill will have effect retrospectively from the making of the *Civil Aviation Regulations 1988* and the *Civil Aviation Safety Regulations 1998*. 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.

In this case, subitem 5(3) of Schedule 1 ensures that such retrospectivity would not affect any rights acquired by any person in reliance on the Regulations as originally made. The explanatory memorandum to the bill observes that the amendments are necessary to enable Australia to continue to comply with its international obligations.

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

## **Consular Privileges and Immunities Amendment Bill 2005**

[Introduced in the Senate 16 March 2005. Portfolio: Foreign Affairs]

The bill amends the *Consular Privileges and Immunities Act 1972* to extend the privileges and immunities available under the *Vienna Convention on Consular Relations*. Under the amendments proposed by the bill Australia will be able to negotiate more favourable treatment than the Convention would currently allow for Australian consular officers in another country on the basis of reciprocal treatment of that country's consular officers in Australia.

*The Committee has no comment on this bill.*

## **Copyright Amendment (Film Directors' Rights) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio:  
Attorney-General]

The bill amends the *Copyright Act 1968* to provide for the recognition of the directors of films as joint copyright owners, along with producers, for the purposes of certain retransmission rights.

*The Committee has no comment on this bill.*

## **Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Bill 2005**

[Introduced in the Senate 16 March 2005. Portfolio: Attorney-General]

The *Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act (No. 2) 2004* inserted into the *Criminal Code* a defence to certain telecommunications offences under Part 10.6 of the Code. This defence is available to law enforcement officers and intelligence or security officers acting in good faith and in the course of their duties. The bill amends the *Criminal Code Act 1995* to make that defence available to all agencies that exercise powers under the *Telecommunications (Interception) Act 1979* (the Interception Act).

The bill also amends the Interception Act to:

- enable all calls to or from an emergency call facility to be recorded;
- enable authorised inspectors under the Radiocommunications Act to intercept communications, where that interception is incidental to spectrum management functions;
- allow telecommunications interception warrants in connection with the investigation of the ancillary offence of ‘accessory after the fact’ for a class 1 offence;
- enhance oversight arrangements dealing with the provision of statistical information for named-person warrants and additional information to be included in the Commonwealth Ombudsman’s annual report; and
- clarify the meaning of the term ‘an employee of a carrier’.

### **Retrospectivity Schedule 1**

By virtue of item 2 of the table in subclause 2(1) of this bill, Schedule 1 would commence on 1 March 2005 and therefore retrospectively. Schedule 1 proposes to amend section 473.1 of the *Criminal Code*. To justify the choice of that date, the explanatory memorandum to the bill observes that other relevant amendments of the *Criminal Code*, made by other legislation, also

commenced on 1 March 2005. 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.

In this case, the explanatory memorandum goes on to note that ‘The amendment (with retrospective commencement) will not adversely impact on an individual or the community.’

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

### **Retrospectivity Schedule 2, item 15**

By virtue of item 10 of the table in subclause 2(1) of this bill, the amendment proposed by item 15 in Schedule 2 would commence on 1 June 1980 – introducing a substantial period of retrospectivity. That amendment would include within the notion of ‘employee’ of a telecommunications carrier a person who is engaged by the carrier or whose services are made available to the carrier. The explanatory memorandum suggests that this amendment does no more than clarify the law and put beyond doubt the question of who is included within the concept of an employee of a telecommunications carrier. The explanatory memorandum also provides an assurance that the amendment ‘does not adversely impact on individuals or the community as a whole.’

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

### **Legislative Instruments Act – Declarations and exemptions Schedule 2, item 4**

Item 4 of Schedule 2 to the bill inserts into the *Telecommunications (Interception) Act 1979* new subsections 7(3AA), (3AB) and (3AC). Proposed subsection 7(3AB) provides that the Attorney-General may declare

certain premises to be an emergency services facility. New paragraph 7(2)(d), to be inserted by item 3 of Schedule 2, authorises the interception (without a warrant) of communications to and from such a facility.

Proposed subsection 7(3AC) provides that such a declaration is not a legislative instrument. It appears that the declarations in question may be legislative in character. If so, the effect of the subsection is to exempt them from the operation of the *Legislative Instruments Act 2003* (LIA). This contrasts with identically-worded provisions in other legislation which merely declare that the instrument is not one which would ordinarily fall within the definition in the LIA: see the Committee's *Second Report of 2005, Legislative Instruments Act – Declarations*. As noted in that report, the Committee expects that the explanatory memorandum to a bill will set out the policy justification for any proposed exemption from the provisions of the LIA.

According to the explanatory memorandum, 'This exemption is to ensure that the locations of emergency services facilities are not made publicly available... These facilities represent critical operational infrastructure... There are few benefits in having the location of these facilities made public, and any that do exist are far outweighed by the potential risks.'

This explanation meets the Committee's concerns.

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

## **Environment and Heritage Legislation Amendment Bill 2005**

[Introduced in the Senate 16 March 2005. Portfolio: Environment and Heritage]

The bill amends the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* in relation to licence conditions for importers and exporters of recycled or used methyl bromide or hydrochlorofluorocarbons and reporting obligations for persons who manufacture synthetic greenhouse gases in Australia.

The bill also amends the *Sydney Harbour Federation Trust Act 2001* to permit the sale of a disused scout hall site in Mosman as part of a land swap proposal under the management plan for the area.

*The Committee has no comment on this bill.*

## Family Law Amendment Bill 2005

[Introduced in the Senate 16 March 2005. Portfolio: Attorney-General]

The bill is similar to the Family Law Amendment Bill 2004, which was introduced on 1 April 2004 but lapsed prior to the commencement of this Parliament. The Minister's second reading speech indicates that the recommendations of the Legal and Constitutional Legislation Committee inquiry into that bill have been incorporated into the new version.

According to the explanatory memorandum, the bill 'deals with a range of amendments to substantive and procedural aspects of the *Family Law Act 1975*.' The bill:

- provides courts with the power to vary certain orders relating to children at a hearing on a contravention application, and clarifies the court's power to send parties in contravention proceedings to counselling and post-separation parenting programs;
- introduces to the Act the term 'divorce', replacing the legalistic terms 'dissolution of marriage', 'decree nisi' and 'decree absolute';
- replaces the concept of 'proceedings for principal relief' with 'divorce or validity of marriage proceedings';
- empowers the court to order the repayment of monies paid under a child maintenance order where the person is found not to have been the parent of the child; and
- makes a number of technical amendments.

The bill also amends the *Bankruptcy Act 1966* to supplement amendments relating to bankruptcy and family law interaction contained in the Bankruptcy and Family Law Legislation Amendment Bill 2005.

### Retrospectivity Schedule 1, item 136

Item 136 of Schedule 1 to the bill inserts a new section 66X into Division 7 of Part VII of the *Family Law Act* dealing with recovery of amounts paid under child maintenance orders. Where the court has made an order that a person pay maintenance, and the court later determines that the person is not a parent

or step-parent of the child, the section provides that the amount paid may be recovered in a court with relevant jurisdiction. The new section has the effect of giving the person standing to bring an application to recover monies paid under a child maintenance order, and gives the court a wide discretion to make orders 'it considers just and equitable', including orders for full repayment or part repayment. It would also be open to a court to decline to make such an order.

The provision does not distinguish between the various circumstances which might have led to the person initially being identified as a parent of the child, although presumably the court will take account those circumstances in exercising its discretion.

There is some discussion of an earlier version of this provision in the report of the Legal and Constitutional Legislation Committee inquiry into the Family Law Amendment Bill 2004, at paragraphs 3.18-3.25.

Although an order to repay money is not strictly retrospective in its operation, the provision does enable a court to overturn the purported rights established by an earlier court order. The Committee notes that a repayment order may impose a significant financial burden on the custodial parent.

The Committee **draws to the attention of the Senate** the potential for an order made by a court under this provision to operate to the detriment of a person who has been the recipient of child maintenance payments in these circumstances.

*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.*

## **Fisheries Legislation Amendment (International Obligations and Other Matters) Bill 2005**

[Introduced in the Senate 17 March 2005. Portfolio: Agriculture, Fisheries and Forestry]

According to the explanatory memorandum, the principal purpose of this bill is ‘to implement Australia’s obligations under the *Convention on the Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean (WCPFC)*’.

The bill amends the *Fisheries Management Act 1991* to:

- introduce WCPFC management and conservation measures;
- extend the application of surveillance and enforcement provisions to the WCPFC area and boats registered to countries that are party to the WCPFC, and create related offences; and
- allow the suspension of fishing concessions after violations of the WCPFC.

The bill will also amend that Act and the *Fisheries Administration Act 1991* to allow the disclosure to foreign governments and intergovernmental organisations of information, including personal information, about suspected illegal fishers.

The bill also contains a number of amendments intended to enable the Australian Fisheries Management Authority to improve its management of Commonwealth fisheries.

### **Commencement by Proclamation**

#### **Schedule 1, items 5, 24 to 33, 37 to 41, 48 to 58 and 59**

By virtue of items 3, 5, 7, 9 and 10 of the table in subclause 2(1) of this bill, the amendments proposed by various items in Schedule 1 are to commence on Proclamation, but if any of those provisions do not commence within 2 years of assent, they are repealed on the first day after the end of that period.

The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will not usually comment where the period of delayed commencement is 6 months or less. Where the delay is longer the Committee expects that the explanatory memorandum to the bill will provide an explanation in accordance with paragraph 18 of Drafting Direction 2003, No. 3 from the Office of Parliamentary Counsel.

In this case, the explanatory memorandum observes, in paragraphs 2.4 to 2.7, that many of the items ‘cannot enter into force unless the Commission established by the WCPFC has determined a boarding and inspection regime similar or identical to the regime’ under the United Nations Fish Stocks Agreement and that the Commission must determine such a regime by June 2006.

The Committee accepts that this is an adequate reason for such a delay in commencement. The Committee has previously accepted similar explanations for delayed commencement, for instance, to allow for complementary legislation to be enacted in other jurisdictions or for international conventions to come into force.

The Committee’s concern with lengthy delays in the commencement of provisions is that the Executive may thereby have an unfettered discretion in determining when legislation will take effect. In this instance, that discretion is tempered by the fact that the relevant provisions will be automatically repealed 2 years after assent, if the necessary Proclamation has not been made.

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

### **Legislative Instruments Act – Declarations Schedule 1, items 26 and 43**

Proposed new subsections 87FC (3), 87FD(6) and 105J(2) of the *Fisheries Management Act 1991*, to be inserted by items 26 and 43 of Schedule 1 to this bill, declare certain instruments made under other provisions of the Act not to be legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

In its *Second Report of 2005, Legislative Instruments Act – Declarations*, the Committee noted that proper explanation of such provisions would be of great assistance to the Committee and to the Parliament generally. It appears that the proposed subsections are merely declaratory and included for the avoidance of doubt. In this case, the explanatory memorandum points out, at paragraphs 2.58, 2.60 and 2.104, that ‘the instruments do not have the character of legislative instruments, as specified by the *Legislative Instruments Act 2003*.’

This explanation meets the Committee’s concerns.

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

### **Strict liability Schedule 1, items 36, 42 and 43**

Proposed new subsection 105AA(3) of the *Fisheries Management Act 1991*, to be inserted by item 36 of Schedule 1, proposed new subsection 105DA(3) and 105DC(3) of the same Act, to be inserted by item 42 of Schedule 1, and proposed new subsection 105H(3), to be inserted by item 43 of Schedule 1 to this bill, all create criminal offences of strict liability.

The Committee will generally draw to Senators’ attention provisions which create strict liability and absolute liability offences. Where a bill creates such an offence, the Committee considers that the reasons for its imposition should be set out in the explanatory memorandum which accompanies the bill.

In this case, the explanatory memorandum, in paragraphs 2.78 and 2.79, 2.93 and 2.94 and 2.100 and 2.101, seeks to justify this imposition of strict criminal liability by noting that in each case the provisions introduce a two-tiered offence regime, of strict liability and fault-based liability, with the latter carrying a substantially higher penalty, and by claiming that ‘the requirement to prove all fault elements as part of an offence can create a substantial impediment to the prosecution of such offences’.

The explanations given appear to place the provisions within the principles proposed by the Committee in its *Sixth Report of 2002* on Absolute and Strict Liability Offences and, in particular, the recognition that:

- strict liability may be appropriate where it is necessary to ensure the integrity of a regulatory regime such as, for instance, those relating to public health, the environment or financial or corporate regulation'
- strict liability may be appropriate where it has proved difficult to prosecute fault provisions, particularly those involving intent; as with other criteria, however, all the circumstances of each case should be taken into account;
- strict liability may be appropriate to overcome the 'knowledge of law' problem, where a physical element of the offence expressly incorporates a reference to a legislative provision; in such cases the defence of mistake of fact should apply;
- two-tier or parallel offences are acceptable only where the strict liability limb is subject to a lower penalty than the fault limb, and to other appropriate safeguards; in addition, it should be clearly evident that the fault limb alone would not be sufficient to effect the purpose of the provision (*Sixth Report of 2002*, pp 284-5)

The explanatory memorandum also notes in each case that 'The strict liability offence is drafted consistently with Section 6.1 of the Criminal Code.'

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

## **Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005**

[Introduced in the House of Representatives 16 March 2005. Portfolio: Education, Science and Training]

The bill amends the *Higher Education Support Act 2003* to prohibit all higher education providers requiring a person to become a member of a student association or requiring a student to pay fees for non-academic student services. The bill also contains measures dealing with breaches of these provisions.

*The Committee has no comment on this bill.*

## **Higher Education Support Amendment (Melbourne University Private) Bill 2005**

[Introduced in the House of Representatives 16 March 2005. Portfolio: Education, Science and Training]

The bill amends the *Higher Education Support Act 2003* to allow Melbourne University Private access to Commonwealth funding for research and FEE-HELP student loan assistance.

*The Committee has no comment on this bill.*

## **New International Tax Arrangements (Foreign-owned Branches and Other Measures) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio: Treasury]

The bill contains five schedules, proposing amendments to four bills, arising out of the Government's review of international tax arrangements. The amendments deal with:

- the taxation treatment of dividends received by Australian branches of non-resident entities;
- controlled foreign companies rules;
- the taxation treatment of Australian branches of foreign non-bank financial institutions;
- the taxation treatment of employee shares and rights where individuals move between countries; and
- an error in the application of amendments contained in a previous instalment of reforms.

### **Retrospectivity Schedule 5**

By virtue of item 5 of the table in subclause 2(1) of this bill, the amendment proposed by Schedule 5 would commence on 29 June 2004, immediately after the commencement of earlier legislation. 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.

In this case, the explanatory memorandum to the bill notes, on page 5, that this amendment has no financial impact.

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

**Retrospective application  
Schedule 2, items 6, 7, 8 and 10**

By virtue of subitem 11(2) of Schedule 2, the amendments proposed by items 6, 7, 8 and 10 of that Schedule would apply ‘to things happening on or after 1 July 2004.’ 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.

In this case, it appears from the explanatory memorandum that those amendments correct ‘a deficiency in the law relating to “adjusted distributable profits” when a controlled foreign company changes residence from an unlisted country to a listed country or Australia.’ The explanatory memorandum does not, however, indicate whether this amendment will have any financial impact. Since the amendment is said to correct a deficiency in the law, it may be assumed that it has no financial impact, but the Committee **seeks the Minister’s assurance** that no-one will be disadvantaged by the retrospective application of the provisions.

*Pending the Minister’s advice, 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.*

## **Shortfall Interest Charge (Imposition) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio: Treasury]

Introduced with the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 1) 2005, this bill will impose the new shortfall interest charge as a tax to the extent to which the charge cannot, constitutionally, be validly imposed as other than a tax.

*The Committee has no comment on this bill.*

## **Social Security Amendment (Extension of Youth Allowance and Austudy Eligibility to New Apprentices) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio: Treasury]

The bill extends eligibility for Youth Allowance and Austudy payments to full time apprentices under the New Apprentice Scheme, subject to parental, personal and partner means testing.

The bill also exempts the value of the Commonwealth Trade Learning Scholarships and Tools for you Trade initiative from assessment as income under social security and veterans' entitlements legislation, and exempts the value of Commonwealth Trade Learning Scholarships from assessment as income under the *Income Tax Assessment Act 1997*.

### **Retrospective commencement Schedule 3**

By virtue of item 3 of the table in subclause 2(1) of this bill, the amendment proposed by Schedule 3 would commence on 20 March 2000, immediately after the commencement of earlier legislation. 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.

In this case, the explanatory memorandum to the bill notes that the amendment is technical only, in that it corrects a cross-reference in the earlier legislation, and makes no change to the substantive law.

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

## **Statute Law Revision Bill 2005**

[Introduced in the Senate 16 March 2005. Portfolio: Education, Science and Training]

The bill corrects technical errors that have occurred in Acts as a result of minor drafting and clerical mistakes, and removes or updates references to bodies that no longer exist or have been superseded. The amendments cover 24 principal Acts and 24 amending Acts.

### **Retrospective commencement**

#### **Subclause 2(1)**

By virtue of the table in subclause 2(1) of this bill, most of the amendments proposed by this bill would commence retrospectively on a variety of dates coinciding with the commencement of earlier legislation which is to be amended by this bill. 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.

In this case, as the explanatory memorandum explains ‘None of the corrections make any change to the substance of the law.’

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

## **Tax Laws Amendment (2005 Measures No. 2) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio: Treasury]

This bill is an omnibus tax laws amendment bill, comprising seven Schedules and making amendments to six Acts. Topics include:

- amendments to the simplified imputation system;
- capital gains tax roll-over for superannuation entities;
- capital allowance deductions for certain telecommunications rights;
- changing from annual to quarterly payments of pay-as-you-go instalments;
- the listing of new organisations as deductible gift recipients;
- goods and services tax liability for real property;
- taxation of superannuation annuities that have been split upon marriage breakdown; and
- fringe benefit tax exemptions for worker entitlement funds.

### **Retrospective application**

#### **Schedule 3, items 5 and 12; Schedule 5 and Schedule 6, item 28**

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 bill contains several relevant provisions:

- By virtue of items 5 and 12 of Schedule 3 to this bill, the amendments proposed by that Schedule would apply from 12 May 2004. The explanatory memorandum points out that the amendments will ‘pose a cost to revenue’ of some \$13 million over the next four tax years.
- The amendments proposed in Schedule 5 will render tax deductible gifts made to various bodies from various dates in 2004 and 2005. The proposed amendments are beneficial to those taxpayers who make donations to the relevant bodies.

- By virtue of item 28 of Schedule 6 to this bill, the amendments proposed by that Schedule would apply from the date on which this bill was introduced into the Parliament. Those amendments will to some extent therefore be retrospective in operation. The explanatory memorandum points out that the amendments are designed ‘to prevent entities from reducing or eliminating their goods and services tax liability on supplies of real property through unintended outcomes arising from the interaction of a number of special rules in’ the relevant legislation. The memorandum also notes that the ‘amendments are expected to result in an unquantifiable gain to GST revenue.’

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

## **Tax Laws Amendment (Improvements to Self Assessment) (No. 1) Bill 2005**

[Introduced in the House of Representatives 17 March 2005. Portfolio: Treasury]

Introduced with the Shortfall Interest Charge (Imposition) Bill 2005, the bill implements the first part of the Government's response to the *Report on Aspects of Income Tax Self Assessment*, released on 16 December 2004.

The bill introduces a new interest regime – the shortfall interest charge, set 4 percentage points below the general interest charge – that will apply to under-assessments of income tax for the period before the taxpayer is notified of the under-assessment.

The bill also amends the administrative penalty provisions of the tax laws and clarifies the definition of 'reasonably arguable', in the context of interest that may be charged for an underpayment where a claim was not 'reasonably arguable'.

*The Committee has no comment on this bill.*

## STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

## INDEX OF BILLS COMMENTED ON AND MINISTERIAL RESPONSES SOUGHT/RECEIVED - 2005

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
<b>Bills dealt with in 2004</b>							
Australian Communications and Media Authority Bill 2004	12(8.12.04)	2.12.04	7.3.05	Communications, Information Technology and the Arts	9.12.04	14.3.05	3(16.3.05)
<i>Copyright Legislation Amendment Act 2004</i>	12(8.12.04)	9.12.04	30.11.04	Attorney-General	9.12.04	2.2.05	1(9.2.05)
James Hardie (Investigations and Proceedings) Bill 2004	12(8.12.04)	2.12.04	8.12.04	Treasury	9.12.04		
Water Efficiency Labelling and Standards Bill 2004	9(4.8.04) 12(8.12.04)	24.6.04	12.8.04	Environment and Heritage Reintroduced – no response required	5.8.04	24.12.04	1(9.2.05)
<b>Bill dealt with in 2005</b>							
AusLink (National Land Transport) Bill 2004	1(9.2.05)	9.12.04	10.2.05	Transport and Regional Services	10.2.05	28.4.05	4(11.5.05)
Aged Care Amendment (Transition Care and Assets Testing) Bill 2005	2(9.3.05)	10.2.05	7.3.05	Ageing	10.3.05	15.3.05	3(16.3.05)
Agricultural and Veterinary Chemicals Legislation Amendment (Levy and Fees) Bill 2005	2(9.3.05)	17.2.05	9.3.05	Agriculture, Fisheries and Forestry	10.3.05	11.3.05	3(16.3.05)

Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005	2(9.3.05)	17.2.05		Fisheries, Forestry and Conservation	10.3.05	4.5.05	4(11.5.05)
Defence Amendment Bill 2005	2(9.3.05)	10.2.05	7.3.05	Defence	10.3.05		
<i>Medical Indemnity Legislation Amendment Act 2005</i>	2(9.3.05)	17.2.05	9.3.05	Health and Ageing	10.3.05	28.4.05	4(11.5.05)
Payment Systems (Regulation) Amendment Bill 2005	3(16.3.05)	10.3.05		Treasurer	17.3.05		