

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



Alert Digest

No. 9 of 2005

17 August 2005

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Members of the Committee

Senator R Ray (Chair)
Senator B Mason (Deputy Chair)
Senator G Barnett
Senator D Johnston
Senator A McEwen
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.

Australian Workplace Safety Standards Bill 2005

Introduced into the House of Representatives on 11 August 2005
Portfolio: Employment and Workplace Relations

Background

This bill establishes the Australian Safety and Compensation Council (ASCC) to replace the National Occupational Health and Safety Commission. The ASCC will provide policy advice to the Workplace Relations Ministers' Council on national occupational health and safety (OHS) and workers' compensation arrangements.

The bill provides for the ASCC to declare national standards and code of practice relating to OHS matters. These will be advisory only, requiring separate legislative action by Commonwealth, state and territory governments to implement the standards and codes within their jurisdiction.

The bill was introduced with the National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Bill 2005.

The Committee has no comment on this bill.

Corporations (Aboriginal and Torres Strait Islander) Bill 2005

Introduced into the House of Representatives on 23 June 2005
Portfolio: Immigration and Multicultural and Indigenous Affairs

Explanatory memorandum

The Committee considered this bill at its meeting on 10 August 2005 and sought an explanation of provisions relating to the imposition of strict liability and the declaration of various determinations not to be legislative instruments [see Alert Digest No. 8 of 2005, at pp. 11 to 14].

The Committee observed that the explanatory memorandum appeared not to explain the justification for these provisions. It has subsequently been brought to the attention of the committee that these matters are, in fact, well explained in the explanatory memorandum, although not in the section of the document dealing with the detail of the provisions.

The Committee notes that the introductory section of the memorandum adequately explains both the nature of strict criminal liability and the reasons for its imposition in this bill. It also points out that provisions of the bill which state that various instruments are not legislative instruments are merely declaratory. These explanations meet the committee's concerns, although the committee considers it may have been useful for the material on the detail of provisions to provide cross-references to the relevant explanation.

The Committee accordingly **advises the Minister** that it is no longer seeking further explanation of these matters. The committee does, however, continue to seek a fuller explanation of the matter raised on page 14 of *Alert Digest No. 8 of 2005*, relating to clause 566-20 and the abrogation of the privilege against self-incrimination for a body corporate.

Customs Amendment (Extension of Import Cut-over Time) Bill 2005

Introduced into the Senate on 10 August 2005

Portfolio: Justice and Customs

Background

This bill amends the *Customs Legislation Amendment (Application of International Trade Modernisation and Other Measures) Act 2004* to extend the transitional phase of the imports component of Customs new Integrated Cargo System. The delay will provide a further transition period for industry to introduce new systems software, train staff and adjust any business processes before use of the new system becomes mandatory.

The bill must commence prior to the current 'cut-over time' on 28 August 2005, and provides for the new cut-over time to be 2am on 12 October 2005, or a later time specified by legislative instrument but no later than 7 November 2005.

The Committee has no comment on this bill.

National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Bill 2005

Introduced into the House of Representatives on 11 August 2005
Portfolio: Employment and Workplace Relations

Background

This bill repeals the *National Occupational Health and Safety Commission Act 1985* and deals with consequential and transitional matters arising from that repeal and from the enactment of the *Australian Workplace Safety Standards Act 2005*.

The Committee has no comment on this bill.

Truth in Food Labelling Bill 2003 [2005]

Introduced in the Senate on 13 October 2003 by Senator Brown as a Private Senator's bill and restored to the Notice Paper on 11 August 2005

Background

The bill provides for a comprehensive food labelling system for Australia that requires the labelling of all genetically-modified foods and not just those foods that still have detectable levels of genetically-modified protein or DNA left after processing. The bill also requires the Minister to establish a monitoring plan and establishes the public's right of access to information on food products; and residues and contaminants in foods.

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	
Bills dealt with in 2004							
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)
<i>James Hardie (Investigations and Proceedings) Act 2004</i>	12(8.12.04)	2.12.04	8.12.04	Treasury	9.12.04	1.7.05	7(10.8.05)
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)
Bill dealt with in 2005							
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)
Asbestos-related Claims (Management Of Commonwealth Liabilities) Bill 2005	5(1.6.05)	25.5.05	14.6.05	Employment and Workplace Relations	1.6.05	14.6.05	5(15.6.05)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
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)
Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005	2(9.3.05)	17.2.05	11.5.05	Fisheries, Forestry and Conservation	10.3.05	4.5.05	4(11.5.05)
Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Bill 2005	8(10.8.05)		23.6.05	Transport and Regional Services	11.8.05		
Corporations (Aboriginal and Torres Strait Islander) Bill 2005	8(10.8.05)	23.6.05		Immigration and Multicultural and Indigenous Affairs	11.8.05		
<i>Defence Amendment Act 2005</i>	2(9.3.05)	10.2.05	7.3.05	Defence	10.3.05	22.6.05	7(10.8.05)
Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Bill 2005	5(1.6.05)	26.5.05	15.6.05	Family and Community Services	1.6.05	20.6.05	6(22.6.05)
Film Licensed Investment Company Bill 2005	5(1.6.05)	26.5.05	16.6.05	Communications, Information Technology and the Arts	1.6.05	21.6.05	6(22.6.05)
Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005	8(10.8.05)	23.6.05		Education, Science and Training	11.8.05		
Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005	5(1.6.05)	26.5.05		Justice and Customs	1.6.05	26.7.05	7(10.8.05)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Maritime Transport Security Amendment Bill 2005	5(1.6.05)	25.5.05	14.6.05	Transport and Regional Services	1.6.05	21.6.05	6(22.6.05)
<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)
New International Tax Arrangements (Foreign-owned Branches and Other Measures) Bill 2005	4(11.5.05)	17.3.05	20.6.05	Treasurer	12.5.05	31.5.05	5(15.6.05)
Offshore Petroleum Bill 2005	8(10.8.05)	23.6.05		Industry, Tourism and Resources	11.8.05		
Offshore Petroleum (Annual Fees) Bill 2005	8(10.8.05)	23.6.05		Industry, Tourism and Resources	11.8.05		
Offshore Petroleum (Registration Fees) Bill 2005	8(10.8.05)	23.6.05		Industry, Tourism and Resources	11.8.05		
Payment Systems (Regulation) Amendment Bill 2005	3(16.3.05)	10.3.05	14.6.05	Treasury	17.3.05	10.6.05	5(15.6.05)
Superannuation Bill 2005	5(1.6.05)	12.5.05	14.6.05	Finance and Administration	1.6.05	14.6.05	5(15.6.05)
Tax Laws Amendment (2005 Measures (No. 4) Bill 2005	8(10.8.05)	23.6.05	11.8.05	Treasury	11.8.05	16.8.05	8(17.8.05)
Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Bill 2005	8(10.8.05)	23.6.05	11.8.05	Communications, Information Technology and the Arts	11.8.05		
Trade Practices Amendment (National Access Regime) Bill 2005	6(15.6.05)	2.6.05		Treasury	15.6.05	11.8.05	8(17.8.05)