Senate Standing Committee for the Scrutiny of Bills



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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.

Defence (Road Transport Legislation Exemption) Bill 2005

Introduced into the Senate on 30 November 2005

Portfolio: Defence

Background

This bill clarifies the extent of Defence's exemption from the operation of particular state and territory road transport laws. It will underpin the Defence Road Transport Exemption Framework developed in consultation with the states and territories in accordance with the *Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport*.

Delegation of legislative power Clause 5

Clause 5 of this bill gives statutory force to the Australian Defence Force Road Transport Exemption Framework, a document which has been endorsed by the Australian Transport Council, but has not (apparently) been considered by either House of the Parliament. The Committee therefore considers that this bill delegates some legislative power to the Australian Transport Council. However, the second reading speech and the explanatory memorandum make it clear that the Exemption Framework has been negotiated and agreed to between the Department of Defence and State and Territory road transport authorities. It is therefore suggested that the bill does not *inappropriately* delegate legislative power.

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

Statute Law Revision Bill (No. 2) 2005

Introduced into the Senate on 30 November 2005

Portfolio: Attorney-General

Background

This bill corrects technical errors in Acts as a result of drafting and clerical mistakes. These amendments cover 14 principal Acts and 19 amending Acts. The bill also repeals 27 obsolete Acts, including 16 Acts that provided for special appropriations which, according to the explanatory memorandum, 'are now fully spent or no longer required.'

Retrospective commencement Schedules 1 and 2

The table to subclause 2(1) of this bill provides that many of the amendments proposed in Schedules 1 and 2 would commence retrospectively at various times, tied to the commencement of the defective provisions. 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 these provisions.

SCRUTINY OF STANDING APPROPRIATIONS

The committee has determined that, as part of its standard procedures for reporting on bills, it should draw senators' attention to the presence in bills of standing appropriations. It will do so under provisions 1(a)(iv) and (v) of its terms of reference, which require the committee to report on whether bills:

- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Further details of the Committee's approach to scrutiny of standing appropriations are set out in the committee's *Fourteenth Report of 2005*. The following is a list of the bills containing standing appropriations that have been introduced since the beginning of the 41st Parliament.

Bills introduced with standing appropriation clauses - 41st Parliament

*Indicates passed by Senate	Bills and Clauses
*	Appropriation (Regional Telecommunications Services) Bill 2005-2006
	- clause 13
*	Asbestos-related Claims (Management of Commonwealth Liabilities)
	Bill 2005 – subclause 8(2)
*	Asbestos-related Claims (Management of Commonwealth Liabilities)
	(Consequential and Transitional Provisions) Bill 2005 – subclause 5(3)
*	Australian Technical Colleges (Flexibility in Achieving Australia's
	Skills Needs) Bill 2005 – clause 23
*	Financial Framework Legislation Amendment Bill 2004 – Schedule 1,
	item 397, paragraphs 124(1)(b) and (c) and item 422, subsection 235(2)
	[also Schedule 1, items 58, 63, 82, 86, 95, 99, 114, 135, 136, 145, 153, 164,
	169, 182, 197, 205, 218, 261, 293, 317, 324, 370, 419, 437, 448, 484 and
	493 – CRF appropriated by virtue of section 21 of the <i>Financial</i>
	Management and Accountability Act 1997]
*	Human Services Legislation Amendment Bill 2005 – Schedule 2, subitem
	720(4)
	Indigenous Education (Targeted Assistance) Amendment Bill 2004 –
	Schedule 1, item 3, subsection 14A(1)
*	National Water Commission Bill 2004 – CRF appropriated by virtue of
	section 21 of the Financial Management and Accountability Act 1997

	Offshore Petroleum Bill 2005 – clause 56
*	Schools Assistance (Learning Together—Achievement Through Choice
	and Opportunity) Bill 2004 – clause 133
*	Skilling Australia's Workforce Bill 2005 – clause 40
*	Superannuation Bill 2005 – subclause 29(4)
*	Superannuation (Consequential Amendments) Bill 2005 – Schedule 5,
	item 1, subsection 4AA(5) and Schedule 6, item 1, subsection 12A(5)
*	Telecommunications Legislation Amendment (Future Proofing and
	Other Measures) Bill 2005 – Schedule 1, item 1, subsections 158ZO(4),
	158ZP(7) and 158ZQ(5) and Schedule 3, item 1, subsection 136C(4)
*	Textile Clothing and Footwear Strategic Investment Program
	Amendment (Post-2005 Scheme) Bill 2004 – Schedule 1, item 12, section
	37ZH and subsection 37ZJ(3)
*	Water Efficiency Labelling and Standards Bill 2004 – CRF appropriated
	by virtue of section 21 of the Financial Management and Accountability Act
	1997

Other relevant appropriation clauses

*Indicates Passed by Senate	Bills and Clauses
*	AusLink (National Land Transport—Consequential and Transitional
	Provisions) Bill 2004 – Schedule 2, item 3: special appropriation clause –
	for a finite amount and a finite period of time.
*	Social Security Legislation Amendment (One-off Payments for Carers)
	Bill 2005 – Schedule 2, item 1: special appropriation clause – for a finite
	period of time (i.e. for circumstances arising in a particular financial year).

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

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

NAME OF BILL	ALERT DIGEST	INTRO HOUSE	DDUCED SENATE	MINISTER	RESPO SOUGHT R		REPORT NUMBER
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)
Copyright Legislation Amendment Act 20	04 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) Act 2004	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)
Bills 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 Relation	as 1.6.05	14.6.05	5(15.6.05)

NAME OF BILL	ALERT DIGEST		ODUCED E SENATE	MINISTER	RESP SOUGHT	PONSE RECEIVED	REPORT NUMBER
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)
Australian Citizenship Bill 2005	14(30.11.05)	9.11.05		Citizenship and Multicultural Affairs	1.12.05		
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	8.9.05	10(14.9.05)
Commonwealth Radioactive Waste Management Bill 2005	13(9.11.05)	13.10.05	7.11.05	Education, Science and Training	10.11.05	29.11.05	13(30.11.05)
Corporations (Aboriginal and Torres Strait Islander) Bill 2005	8(10.8.05) 9(17.8.05)	23.6.05		Immigration and Multicultural and Indigenous Affairs	11.8.05		
Defence Amendment Act 2005	2(9.3.05)	10.2.05	7.3.05	Defence	10.3.05	22.6.05	7(10.8.05)
Energy Efficiency Opportunities Bill 2005	12(5.10.05)	14.9.05	7.11.05	Industry, Tourism and Resources	6.10.05	11.10.05	12(12.10.05)
Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Bill 200	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)

			ODUCED		RESF	REPORT	
NAME OF BILL	ALERT DIGEST	HOUSE	SENATE	MINISTER	SOUGHT	RECEIVED	NUMBER
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2005	11(14.9.05)	5.9.05		Mr Katter	15.9.05		
Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005	8(10.8.05)	23.6.05	12.10.05	Education, Science and Training	11.8.05	29.9.05	11(5.10.05)
Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005	5(1.6.05)	18.8.05	26.5.05	Justice and Customs	1.6.05	26.7.05	7(10.8.05)
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)
Medical Indemnity Legislation Amendment Act 2005	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	18.8.05	Industry, Tourism and Resources	11.8.05	19.8.05	9(7.9.05)
Offshore Petroleum (Annual Fees) Bill 2005	8(10.8.05)	23.6.05	18.8.05	Industry, Tourism and Resources	11.8.05	19.8.05	9(7.9.05)
Offshore Petroleum (Registration Fees) Bill 2005	8(10.8.05)	23.6.05	18.8.05	Industry, Tourism and Resources	11.8.05	19.8.05	9(7.9.05)
Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2005	11(14.9.05)	5.9.05		Mr Kerr	15.9.05		

NAME OF BILL	ALERT DIGEST		ODUCED SENATE	MINISTER	RESP SOUGHT	PONSE RECEIVED	REPORT NUMBER
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	7.9.05	10(14.9.05)
Telstra (Transition to Full Private Ownership) Bill 2005	11(14.9.05)	15.9.05	8.9.05	Communications, Information Technology and the Arts	15.9.05	10.10.05	12(12.10.05)
Therapeutic Goods Amendment Bill 2005	10(7.9.05)	17.8.05	28.11.05	Health and Ageing	8.9.05	10.10.05	12(12.10.05)
Trade Practices Legislation Amendment Bil (No. 1) 2005 – Supplementary comments	1 10(7.9.05)	10.2.05	10.3.05	Treasury	8.9.05	19.9.05	11(5.10.05)
Trade Practices Amendment (National Access Regime) Bill 2005	6(15.6.05)	2.6.05		Treasury	15.6.05	10.8.05	8(17.8.05)
Workplace Relations Amendment (Better Bargaining) Bill 2005 Amendments	11(14.9.05)	9.3.05	12.9.05	Employment and Workplace Relations	15.9.05	29.11.05	13(30.11.05)
Workplace Relations Amendment (Work Choices) Bill 2005	13(9.11.05)	2.11.05	10.11.05	Employment and Workplace Relations	10.11.05		