

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

Alert Digest

No. 5 of 2007

9 May 2007

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Senate Standing Committee for the Scrutiny of Bills

Members of the Committee

Senator R Ray (Chair)
Senator J Adams (Deputy Chair)
Senator G Barnett
Senator A McEwen
Senator A Murray
Senator S Parry

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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Committee under its terms of reference is invited to do so.

Australian Wine and Brandy Corporation Amendment Bill (No. 1) 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Agriculture, Fisheries and Forestry

Background

This bill amends the *Australian Wine and Brandy Corporation Act 1980* to implement the outcomes of an assessment of the Australian Wine and Brandy Corporation (AWBC) against the recommendations of the *Review of Corporate Governance of Statutory Authorities and Office Holders* (the Uhrig Review).

The bill:

- abolishes the position of Government member on the AWBC;
- increases the number of AWBC members (excluding the Chair) from six to seven;
- expands the skills set required by an AWBC member to include government policy processes and public administration; and
- requires the AWBC Selection Committee to provide the Minister with an annual report on its operations (if any).

The bill also contains application provisions.

The Committee has no comment on this bill.

Broadcasting Legislation Amendment (Digital Radio) Bill 2007

Introduced into the House of Representatives on 28 March 2007
Portfolio: Communications, Information Technology and the Arts

Background

Introduced with the Radio Licence Fees Amendment Bill 2007, this bill implements the Government's policy framework, announced in October 2005, for the introduction of digital radio services in Australia. The bill amends the *Broadcasting Services Act 1992*, the *Radiocommunications Act 1992* and the *Trade Practices Act 1974* to:

- enable the provision of digital radio services by commercial and wide-coverage community radio broadcasting licensees, and by the national broadcasters, using Digital Audio Broadcasting (DAB) technology;
- establish a new category of service, restricted datacasting, on the digital radio platform;
- establish a new multiplex transmitter licence category to accommodate the shared transmission platforms of the DAB system;
- establish minimum access rights to multiplex transmission capacity for the commercial, wide-coverage community and national broadcasters on relevant multiplex licences;
- require incumbent commercial radio broadcasters and multiplex licensees to commence, and to continue to provide, digital radio services on or before specified dates;
- provide the Australian Communications and Media Authority (ACMA) with powers to undertake planning and licence allocation activities for digital radio, determine technical standards relating to digital radio, and to require industry to develop and register voluntary codes of practice dealing with a range of digital radio and restricted datacasting issues or

to determine standards where such codes are not developed or do not operate effectively; and

- provide the Australian Competition and Consumer Commission (ACCC) with powers to enforce the multiplex access regime.

The bill also contains transitional provisions.

Legislative Instruments Act—declarations Schedule 1, items 26, 151, 155 and 172

Proposed new subsections 8AC(5) and (7) of the *Broadcasting Services Act 1992*, to be inserted by item 26 of Schedule 1, provides that a declaration under new subsection 8AC(1), and a notice under new subsection 8AC(6), are not legislative instruments. The explanatory memorandum (page 41) merely states that fact, but does not indicate the reason for that declaration and notice not being legislative instruments. Similarly:

- proposed new subsections 31(7) and (8) of the *Radiocommunications Act 1992*, to be inserted by item 151, provide that instruments and declarations made under other provisions of that section are not legislative instruments, but the explanatory memorandum (page 61) states only that those subsections ‘clarify’ that such is the case, and do not indicate the reason for the clarification;
- proposed new subsections 98C(3) and 98D(3) of the same Act, to be inserted by item 155, provide that declarations made under new subsections 98C(1) and 98D(1) are not legislative instruments, but the explanatory memorandum (pages 62 to 63) does not acknowledge the existence of new subsections 98C(3) and 98D(3); and
- proposed new subsection 118PD(2) of the same Act, to be inserted by item 172, provides that an authorisation given under new subsection 118PD(1) is not a legislative instrument, but the explanatory memorandum (pages 83 to 84) does not acknowledge the existence of new subsection 118PD(2).

Where a provision specifies that an instrument is not a legislative instrument, the Committee would expect the explanatory memorandum to explain whether

the provision is merely declaratory (and included for the avoidance of doubt) or expresses a policy intention to exempt an instrument (which is legislative in character) from the usual tabling and disallowance regime set out in the *Legislative Instruments Act 2003*. Where the provision is a substantive exemption, the Committee would expect to see a full explanation justifying the need for the provision.

The Committee **seeks the Minister's advice** whether the above mentioned provisions are declaratory in nature or provide for substantive exemptions and whether it would be possible to include this information, together with a rationale for any substantive exemptions, in the explanatory memorandum.

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

Trespass on rights and liberties

Schedule 1, item 172

Proposed new paragraphs 118ND(1)(c) and (d) of the *Radiocommunications Act 1992*, to be inserted by item 172 of Schedule 1, would require a digital radio multiplex transmitter licensee to give to the ACCC an undertaking that 'any future holder of the licence', and 'any person authorised by a future holder of the licence' will comply with such terms and conditions as are ascertained by the Commission.

It is unclear how licensees can reasonably be expected to give such an undertaking. The licensee may be able to give the ACCC a commitment that they will include, in any contract or agreement transferring the licence, a requirement that any future licence holder or person authorised by a future licence holder will comply with such terms and conditions, but they have no real control over the actions of the persons referred to in 118ND(1)(c) and (d). Furthermore, if the licence is transferred by the current licensee to a future holder of the licence by means of a contract, the principles of the law of contract operate only between the parties to that contract, and (other than in

exceptional circumstances) cannot bind non-parties thereto. As such, these new paragraphs may be considered to trespass unduly on the rights and liberties of licensees.

The Committee notes, however, that it would appear that paragraphs 118ND(1)(c) and (d) are, in any event, unnecessary, because proposed new subsection 118NG(3) of the same Act, also to be inserted by item 172, would statutorily declare that any transferee of a digital radio multiplex transmitter licence is bound by any undertakings given by the transferor. The Committee **seeks the Minister's advice** whether proposed new paragraphs 118ND(1)(c) and (d) are necessary in light of proposed new subsection 118NG(3) and, if so, whether they might be considered to trespass unduly on the rights and liberties of licensees.

Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they 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.

Building and Construction Industry Improvement Amendment (OHS) Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Employment and Workplace Relations

Background

This bill amends the *Building and Construction Industry Improvement Act 2005* to:

- extend the application of the Australian Government Building and Construction Industry Occupational Health and Safety Accreditation Scheme to cover building projects indirectly funded by the Commonwealth or a Commonwealth authority;
- prohibit the Commonwealth or a Commonwealth authority from funding building work unless the contract is with builders who are accredited under the Scheme;
- require that the Commonwealth or Commonwealth authority take appropriate steps to ensure that builders remain accredited while the work is carried out;
- enable the Federal Safety Commissioner to appoint consultants and then appoint the person as a Federal Safety Officer, if considered appropriate; and
- allow the Federal Safety Commissioner, Federal Safety Officers and other designated officials to disclose certain information to the Minister.

The bill also contains transitional provisions.

The Committee has no comment on this bill.

Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Treasury

Background

This bill amends the *Corporations Act 2001*, the *Radiocommunications Act 1992* and the *Trade Practices Act 1974* to support closer economic relations between Australia and New Zealand, with the possibility of extending them to other countries, through increased co-ordination of business law. The bill:

- establishes a mutual recognition regime for the issue of securities and interests in managed investment schemes;
- provides for mutual recognition of company registrations, allowing companies in Australia and New Zealand to do business in the other jurisdiction without complying with the filing requirements applicable to other foreign companies;
- enhances the Australian Competition and Consumer Commission's (ACCC) ability to share certain information with other domestic and international regulators, including the New Zealand Commerce Commission; and
- provides for the protection of certain information given, or obtained by, the ACCC, including from a foreign government body such as the New Zealand Commerce Commission.

'Henry VIII' clauses

Schedule 1, item 18

Proposed new subsection 1200F(2) of the *Corporations Act 2001*, to be inserted by item 18 of Schedule 1, and proposed new section 1200M of the same Act, also to be inserted by item 18, are 'Henry VIII' clauses. A 'Henry VIII' clause is an express provision which authorises the amendment of either

the empowering legislation, or any other primary legislation, by means of delegated legislation. Since its establishment the Committee has consistently drawn attention to ‘Henry VIII’ clauses and other provisions which (expressly or otherwise) permit subordinate legislation to amend or take precedence over primary legislation. Such provisions clearly involve a delegation of legislative power and are usually a matter of concern to the Committee. Proposed new subsection 1200F(2) and proposed new section 1200M create such a delegation of legislative power.

The Committee notes, however, that the explanatory memorandum (paragraphs 5.36 and 5.41) indicates that although the bill is intended, in the first instance, to apply provisions of the *Corporations Act 2001* to offers of securities made by New Zealand companies, it is drafted in such a way that they could be extended to other countries if comparable arrangements were reached with them. As such, as outlined in Paragraph 5.40 of the explanatory memorandum, ‘[t]his regulation making power is included principally to address the possible application of the regime to foreign countries other than New Zealand. The fundraising requirements in another country may be largely comparable with those of Australia but may need supplementation in particular minor respects.’

Similarly, proposed new subsection 1200T(2) of the *Corporations Act 2001*, also to be inserted by item 18, is a ‘Henry VIII’ clause, as it would also allow for modification of that Act by regulation in the case of an Australian company making offers of securities in a foreign country. The explanatory memorandum, at paragraph 5.71, also justifies this ‘Henry VIII’ clause on the grounds that ‘the regulation making power is essential to the flexibility of this regime and its possible expanded operation [to countries other than New Zealand]. The authority contained in subsection 1200T(2) is intended to be for necessary minor alterations to make a good fit with the requirements of any potential recognised jurisdiction.’

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

Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Families, Community Services and Indigenous Affairs

Background

This bill amends the *Child Support (Assessment) Act 1989*, the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*, the *Child Support (Registration and Collection) Act 1988*, the *Family Law Act 1975*, the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *A New Tax System (Family Assistance) Act 1999*, the *A New Tax System (Family Assistance) (Administration) Act 1999*, the *Social Security Act 1991*, the *Social Security (Administration) Act 1999* and the *Veterans' Entitlements Act 1986* to:

- clarify and refine the operation of the child support scheme;
- transfer to primary child support legislation provisions currently contained in regulations relating to overseas maintenance arrangements;
- clarify the meaning of a number of terms and the impact of maintenance income on the family tax benefit (FTB);
- provide for the baby bonus to be paid in 13 fortnightly instalments to claimants under 18 years of age and require registration of birth as a condition of eligibility for the baby bonus;
- allow the usual 13 week period for full payment of FTB while temporarily outside of Australia to be extended for members of the Australian Defence Force and certain Australian Federal Police who are deployed overseas as part of their duties and remain overseas for longer than 13 weeks;

- ensure that a remote area allowance is payable for each FTB child and regular care child of a person from 1 July 2008;
- provide a discretion to extend the assets test exemption for proceeds from the sale of a person's principal home, from 12 months to up to 24 months in certain circumstances, and to extend the current 12 months absence from the principal home rule for absences of up to 24 months, in relation to people who have suffered loss of, or damage to, their homes; and
- make various amendments of a minor or technical nature to the social security law and child support Acts.

The bill also contains application, consequential and technical provisions and a transitional provision relating to court orders made before 1 July 2008 (item 21).

Retrospective commencement

Schedule 1, part 1

Item 2 in the table to subclause 2(1) of this bill provides that Part 1 of Schedule 1 would commence retrospectively on 6 December 2006, immediately after the commencement of section 2 of the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.

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 (page 9) notes that all that Part 1 of Schedule 1 of this bill does is to change the commencement of the earlier Act from 1 July 2008 to 1 January 2008. The explanatory memorandum goes on to observe that 'there is no practical disadvantage caused [by this apparent retrospectivity] to any parent.'

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

Retrospective commencement
Schedule 5, part 3

Item 19 in the table to subclause 2(1) of this bill provides that Division 1 of Part 3 of Schedule 5 would commence retrospectively on 1 July 2006, immediately after the commencement of Schedule 5 of the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006*.

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 instance the explanatory memorandum (page 76) notes that, because of the interaction between the maintenance income credit provisions and the family tax benefit provisions, this retrospective commencement ‘will not have an adverse ... effect on families.’

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

Retrospective commencement
Schedule 12

Items 32, 34, 35, 36, 38 and 39 in the table to subclause 2(1) of this bill provide that various amendments proposed in Schedule 12 would commence retrospectively on various dates ranging from 1 October 1997 to 1 December 2006.

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 (page 112) notes that the various amendments are technical only and that ‘there is no adverse impact on any person.’

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

Strict liability
Schedule 1, item 20

Proposed new subsection 4(4) of the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*, to be inserted by item 20 of Schedule 1, would declare the offence created by subsection 4(3) to be an offence of strict liability. The Committee generally draws to Senators' attention provisions that create strict liability offences. Where a bill creates such an offence the Committee considers that the reasons for its imposition should be clearly set out in the explanatory memorandum that accompanies the bill.

Unfortunately the explanatory memorandum, while describing the broad thrust of the amendment (pages 8-9), does not refer to the fact that the offence is to be one of strict liability. Consequently, there is no indication of whether Part 4.5 of the *Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers* was taken into consideration in determining whether strict criminal liability was necessary in these circumstances.

The Committee **seeks the Minister's advice** whether strict liability is justified in these circumstances and whether the *Guide* was taken into account in framing this provision.

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.

Retrospective application
Schedule 5, items 8 and 14

Item 8 of Schedule 5 would apply the amendments proposed in item 7 'to maintenance income credit balances for registered entitlements at the end of the 2005-2006 income year and later income years'. Item 14 of the same Schedule would apply the amendments proposed in items 9 to 13 to 'family tax benefits for the 2000-2001 income year and later income years'.

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, in respect to item 8 the explanatory memorandum (page 76) notes that because of the way in which the maintenance income credit is calculated, the ‘change is ... not retrospective in its effect on families’. In respect to item 14, the explanatory memorandum (page 78) notes that, because of the interaction between the maintenance income credit provisions and the family tax benefit provisions, the changes proposed in items 9 to 13 will ‘not have a retrospective adverse effect on families.’

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

Wide delegation of power Schedule 12, item 17

Item 17 of Schedule 12 would permit the Executive Director of the Social Security Appeals Tribunal (SSAT) to delegate his or her powers to ‘a member of the staff of the SSAT’. The Committee has consistently drawn attention to legislation which allows delegations to a relatively large class of persons, with little or no specificity as to their qualifications or attributes.

The explanatory memorandum (page 111) notes, however, that it is not feasible for the delegation to be to an officer at Senior Executive Service level, as there are only five such officers throughout the Tribunal structure. The explanatory memorandum continues by stating that it is intended that the power of delegation would be limited to administrative matters, and would be to SSAT Office Managers, ‘who are senior administrative staff’ and that ‘powers that go to the substance of the consideration of reviews would continue to be exercised strictly by SSAT members.’

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

Food Safety (Trans Fats) Bill 2007

Introduced into the Senate on 26 March 2007

By Senator Nettle

Background

This bill prohibits constitutional corporations from manufacturing, distributing, selling or otherwise trading, food containing synthetic trans fatty acids.

Commencement

Clause 2

Clause 2 would provide that this bill commence one year after Assent. The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will generally comment where the period of delayed commencement is greater than six months. The Committee notes, however, that the explanatory memorandum states that the purpose of this delayed commencement is ‘to give industry a transitional period to change over to the new system.’

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

Food Standards Australia New Zealand Amendment Bill 2007

Introduced into the Senate on 28 March 2007

Portfolio: Health and Ageing

Background

This bill amends the *Food Standards Australia New Zealand Act 1991* and the *Agricultural and Veterinary Chemicals Code Act 1994* to implement changes to the regulatory framework of Food Standards Australia New Zealand (FSANZ). The bill:

- removes the ‘one size fits all’ approach for developing or amending food standards, allowing FSANZ to assess applications and proposals differently depending on their nature and scope;
- aligns the policy setting processes of the Australia and New Zealand Food Regulation Ministerial Council (the Council) and the standard development and approval process of FSANZ;
- aligns the processes for setting of Maximum Residue Limits of the Australian Pesticides and Veterinary Medicines Authority and of FSANZ;
- recognises the potential need to develop urgent standards due to unforeseen negative impacts on trade;
- removes the option for the Council to request a second review of a draft standard or variation, subject to changes to the Food Treaty between Australia and New Zealand; and
- creates a process for expert scientific assessment of future high level health claims.

The bill also contains application, consequential and transitional provisions.

Commencement on Proclamation Schedule 2

Item 7 in the table to subclause 2(1) of this bill provides that Schedule 2 will commence on Proclamation, but must commence within 18 months of Assent in any event. The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will generally comment where the period of delayed commencement is greater than six months.

In this instance the explanatory memorandum (page 16) seeks to justify this delayed commencement on the ground that '[s]chedule 2 describes a new process for the assessment of high level health claims. The Food Standard under which such claims would be permitted has not yet been finalised. It is expected that 18 months will be sufficient time to enable the proper consideration and finalisation of the standard'.

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

Uncertain commencement Schedule 3, part 1

Item 8 in the table to subclause 2(1) of this bill provides that Part 1 of Schedule 3 will commence on the 'day on which an amendment of the Agreement between the Government of Australia and the Government of New Zealand Establishing a System for the Development of Joint Food Standards...enters into force...'. Subclause 2(3) requires the Minister to announce by notice in the *Gazette* when that amendment of the Agreement enters into force.

The Committee takes the view that Parliament is responsible for determining when laws are to come into force and that commencement provisions should contain appropriate restrictions on the period during which legislation might commence. In this instance, however, the explanatory memorandum (page 16) indicates that '[w]hile there is in-principle agreement to amend the Treaty in the manner required, no time limits have been placed on the period within

which the Treaty is to be amended because of the extensive requirements of both Australia and New Zealand before such international treaties can be amended.’

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

Legislative Instruments Act—disallowance and sunset provisions Schedule 1, items 16 and 74 and Schedule 3, item 5

Various provisions of this bill propose that Ministerial declarations are legislative instruments, but that neither section 42 of the *Legislative Instruments Act 2003* (which provides for disallowance of such an instrument), nor Part 6 of that Act (which provides for sunset), apply to such a declaration. The relevant provisions of the *Food Standards Australia New Zealand Act 1991* are:

- proposed new subsection 3B(4) of the Act, to be inserted by item 16 of Schedule 1;
- proposed new subsection 23(4) of the Act, to be inserted by item 74 of Schedule 1;
- proposed new subsections 87(8), 97(6) and 106(6) of the Act, all to be inserted by item 74 of Schedule 1; and
- proposed new section 94 of the Act, to be inserted by item 5 of Schedule 3.

Where a provision specifies that a legislative instrument is not to be subject to the usual disallowance and/or sunset regime set out in the *Legislative Instruments Act 2003*, the Committee would expect the explanatory memorandum to explain the reason for exempting these instruments. Unfortunately the explanatory memorandum does not make any reference to these subsections or section and, consequently, no reason is provided for their inclusion.

A possible explanation is provided at page 19 of the explanatory memorandum which, when discussing the amendments proposed by items 20 and 22, neither of which contain amendments in the form of the provisions referred to above, states that ‘instruments issued by the [Australia New Zealand Food] Authority are generally legislative instruments (but are not subject to disallowance or sun setting because of the bi-national nature of the scheme).’ The Committee **seeks the Minister’s advice** whether this is the explanation for each of the above provisions (and if not, what is the explanation) and whether it would be useful to readers to include an explanation in the explanatory memorandum in respect of each of these provisions.

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

Legislative Instruments Act—declarations **Schedule 1, item 74 and Schedule 3, item 5**

Various provisions of this bill propose that instruments made by various bodies are not legislative instruments. The relevant provisions are proposed subsections 86(4), 103(3) and 111(4) of the *Food Standards Australia New Zealand Act 1991*, to be inserted by item 74 of Schedule 1, and proposed subsection 88(2) of the same Act, to be inserted by item 5 of Schedule 3.

Where a provision specifies that an instrument is *not* a legislative instrument, the Committee would expect the explanatory memorandum to explain whether the provision is merely declaratory (and included for the avoidance of doubt) or expresses a policy intention to exempt an instrument (which is legislative in character) from the usual tabling and disallowance regime set out in the *Legislative Instruments Act 2003*. Where the provision is a substantive exemption, the Committee would expect to see a full explanation justifying the need for the provision. Unfortunately, the explanatory memorandum does not make any reference to these subsections and it is unclear to the reader the reasons for their inclusion. The Committee **seeks the Minister’s advice**

whether these provisions are declaratory in nature or provide for substantive exemptions and whether it would be possible to include this information, together with a rationale for any substantive exemptions, in the explanatory memorandum.

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

'Henry VIII' clause Schedule 1, item 76

Proposed new subsection 112(6) of the *Food Standards Australia New Zealand Act 1991*, to be inserted by item 76 of Schedule 1, is a 'Henry VIII' clause as it would enable regulations to modify all, or specified provisions of, part 3 of the Act. A 'Henry VIII' clause is an express provision which authorises the amendment of either the empowering legislation, or any other primary legislation, by means of delegated legislation. Since its establishment the Committee has consistently drawn attention to 'Henry VIII' clauses and other provisions which (expressly or otherwise) permit subordinate legislation to amend or take precedence over primary legislation. Such provisions clearly involve a delegation of legislative power and are usually a matter of concern to the Committee.

The explanatory memorandum, at page 41, seeks to justify this provision on the grounds that the whole of proposed section 112 'retains the current requirement by replacing the current section 36A'. While this may be the case, it does not provide the reader with an understanding of why a 'Henry VIII' clause was considered necessary. The Committee **seeks the Minister's advice** as to why it was considered necessary to be able to modify Part 3 of the *Food Standards Australia New Zealand Act 1991* by regulations, rather than by making amendments to the primary legislation as required, and whether this explanation could be included in the explanatory memorandum.

Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the Committee's terms of reference.

Forestry Marketing and Research and Development Services Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Fisheries, Forestry and Conservation

Background

Introduced with the Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Bill 2007, this bill replaces the Forest and Wood Products Research and Development Corporation (FWPRDC) with a forestry industry services company to provide marketing and promotion, research and development and other industry services to the forestry industry.

The bill provides the Minister with the power to enter into a funding contract with a company to enable it to receive and administer levies and state grower contractual payments, collected by the Commonwealth for industry promotion, research and development, and the Commonwealth's matching funding for research and development expenditure. The Minister may then declare the company with which the contract is made to be the industry services body.

Insufficient scrutiny of contract Subclause 8(1)

Subclause 8(1) permits the Minister, on behalf of the Commonwealth, to enter into a contract with a company yet to be formed, under which the Commonwealth would make 'forestry service payments' and 'matching payments' (as defined in the bill) to the company. The explanatory memorandum indicates that one reason for setting up such a contract is that the company will replace the FWPRDC, (a Commonwealth statutory authority), because that Corporation is unable to undertake marketing and promotion activities. The proposed new company would have such a power.

Subclause 8(6) obliges the Minister to table a copy of the contract 'in each House of the Parliament within 15 sitting days of that House after the day on

which the contract was entered into', thereby giving Senators and Members notice of the terms of the contract. However, such a contract is not subject to any other sort of review by any parliamentary committee nor is it subject to disallowance. Given the contract will replace the existing legislative and administrative provisions which govern the FWPRDC, the Committee **seeks the Minister's advice** whether subclause 8(1) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

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

Non-reviewable decisions

Clause 12

Clause 12 gives the Minister the power, in effect, to terminate the contract between the Commonwealth and the company that is the industry services body if (among other reasons) the Minister 'has reasonable grounds to believe' either that the company has contravened this measure, or the terms of the contract, or that the company has failed to comply with its own constitution. The bill does not provide any grounds for challenge to the exercise of this discretion. The Committee **seeks the Minister's advice** whether it might be appropriate to include some mechanism of review of the exercise of this discretion.

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

Non-reviewable decisions

Subclause 13(1)

Subclause 13(1) gives the Minister the power to issue a direction to the industry services body, with which that body must comply (refer subclause 13(2)), if the Minister is satisfied as to various matters specified in subparagraphs 13(1)(a)(i) and (ii), and if the Minister has given the body ‘an adequate opportunity to discuss with the Minister the need for the proposed direction and the impact of compliance with [notification provisions in] subsections (3) and (4) on the body’s commercial activities’. The bill does not provide any grounds for challenge to the exercise of this discretion. The Committee **seeks the Minister’s advice** whether it might be appropriate to include some mechanism of review of the exercise of this discretion.

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

Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Bill 2007

Introduced into the House of Representatives on 29 March 2007
Portfolio: Fisheries, Forestry and Conservation

Background

Introduced with the Forestry Marketing and Research and Development Services Bill 2007, this bill provides for the termination of the Forest and Wood Products Research and Development Corporation (FWPRDC) and the transfer of assets, liabilities and employees from the FWPRDC to the new industry services body.

The Committee has no comment on this bill.

Gene Technology Amendment Bill 2007

Introduced into the Senate on 28 March 2007

Portfolio: Health and Ageing

Background

This bill amends the *Gene Technology Act 2000* to implement a number of recommendations from the 'Statutory Review of the *Gene Technology Act 2000* and the Gene Technology Agreement 2001'. The bill:

- provides emergency powers, giving the minister the ability to expedite the approval of dealing with a genetically modified organism (GMO) in an emergency;
- combines the Gene Technology Ethics Committee and the Gene Technology Community Consultative Committee into a single advisory committee - the Gene Technology Ethics and Community Consultative Committee - and outlines the membership, remuneration and procedures for the Committee;
- revises the process for the initial consideration of licence applications;
- introduces a new category of licence to distinguish between licences for a limited and controlled release of a GMO, and licences for intentional release;
- clarifies the circumstances in which licence variations can be made;
- clarifies the circumstances under which the Regulator can direct a licence-holder, or a person covered by a licence, to comply with the Act or Regulations; and
- authorises the Regulator to grant a temporary permit to persons who find themselves inadvertently dealing with an unlicensed GMO, for the purpose of appropriately disposing of that organism.

The bill also contains technical provisions.

Non-reviewable discretion
Schedule 1, part 3, item 39

Proposed new section 50A of the *Gene Technology Act 2000*, to be inserted by item 39, in part 3 of Schedule 1 to this bill, would give the Gene Technology Regulator a discretion to determine whether an application for a licence under the legislation is for a limited and controlled release of genetically modified organisms. If the Regulator is so satisfied, the applicant would not need to satisfy such a rigorous risk assessment process as is the case with an unlimited release. However, the exercise by the Regulator of the discretion to determine the nature of such a release does not appear to be subject to merits review under the *Administrative Appeals Tribunal Act 1975*. The Committee **seeks the Minister's advice** whether the exercise of that discretion should be subject to such review.

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

Non-reviewable discretion
Schedule 1, part 6, item 56

Proposed new section 40A of the *Gene Technology Act 2000*, to be inserted by item 56, in part 6 of Schedule 1 to this bill, would give the Gene Technology Regulator a discretion to determine whether a person has come into possession of a genetically modified organism inadvertently. If the Regulator is satisfied that such is the case, he or she may, with the agreement of that person, treat the latter as having made an inadvertent dealings application. However, the exercise by the Regulator of the discretion to determine how the person came into possession of the organism does not appear to be subject to merits review under the *Administrative Appeals Tribunal Act 1975*. The Committee **seeks the Minister's advice** whether the exercise of that discretion should be subject to such review.

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

Governance Review Implementation (Science Research Agencies) Bill 2007

Introduced into the House of Representatives on 28 March 2007
Portfolio: Education, Science and Training

Background

This bill amends the *Australian Institute of Marine Science Act 1972*, the *Australian Nuclear Science and Technology Organisation Act 1987*, and the *Science and Industry Research Act 1949* to implement changes to the governance arrangements of the Australian Institute of Marine Science (AIMS), the Australian Nuclear Science and Technology Organisation (ANSTO) and the Commonwealth Scientific and Industrial Research Organisation (CSIRO) in response to the recommendations of the *Review of the Corporate Governance of Statutory Authorities and Office Holders* (the Uhrig Review).

In respect of the Australian Institute of Marine Science the bill:

- provides for the AIMS Council to appoint and remove the Chief Executive Officer, who is currently appointed by the Governor General; and
- removes the requirement for Ministerial approval of contracts and expenditure above a prescribed value (currently \$1 million).

In respect of the Australian Nuclear Science and Technology Organisation the bill:

- changes the name of the chief executive of ANSTO from Executive Director to Chief Executive Officer;
- increases the number of ANSTO Board members to at least 6, but no more than nine (including the Chief Executive Officer); and
- removes the requirement for Ministerial approval of contracts above a prescribed value (currently \$5 million).

In respect of the Commonwealth Scientific and Industrial Research Organisation the bill:

- provides for the CSIRO Board to appoint and remove the Chief Executive, who is currently appointed by the Governor General;
- creates the position of Deputy Chairperson of the CSIRO Board;
- removes the requirement for Ministerial approval of contracts above a prescribed value (currently \$5 million);
- requires the Chief Executive to seek the approval of the Board (rather than the Minister as is currently the case) for the payment of bonuses or intellectual property rewards to CSIRO staff and removes the need for Ministerial approval for the CSIRO to accept gifts; and
- authorises the Board to delegate all or any of the Board's powers to an eligible person or to a committee of eligible persons.

The bill also contains application provisions.

The Committee has no comment on this bill.

Great Barrier Reef Marine Park Amendment Bill 2007

Introduced into the House of Representatives on 28 March 2007
Portfolio: Environment and Water Resources

Background

This bill amends the *Great Barrier Reef Marine Park Act 1975* to implement recommendations of a 2006 review of the Act. The bill:

- makes amendments consequential to the *Financial Management and Accountability Act 1997* being applied to the operations of the Great Barrier Reef Marine Park Authority, in place of the *Commonwealth Authorities and Companies Act 1997*;
- implements recommendations of the 2003 report, the *Review of the Corporate Governance of Statutory Authorities and Office Holders* (the Uhrig review);
- outlines the process for the development of zoning plans, including the development of operational principles and environmental, economic and social assessments;
- outlines the process for the amendment or revocation of zoning plans;
- requires production of a periodic 'Great Barrier Reef Outlook Report' as a means of assessing performance in the long-term protection of the Great Barrier Reef; and
- abolishes the Great Barrier Reef Consultative Committee.

The bill also contains application and transitional provisions.

The Committee has no comment on this bill.

Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Health and Ageing

Background

This bill amends the *Health Insurance Act 1973* to establish a legislative framework for the introduction of an accreditation scheme for practices providing diagnostic imaging services covered by the Radiology Quality and Outlays Memorandum of Understanding and to allow for the introduction of accreditation schemes for other diagnostic imaging services in the future.

The bill also contains application and transitional provisions.

Commencement

Schedule 1, item 5

Item 3 in the table to subclause 2(1) of this bill provides that item 5 of Schedule 1 would not commence until 1 July 2008. The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will generally comment where the period of delayed commencement is greater than six months. The Committee notes, however, that the explanatory memorandum (page 21) indicates that the reason for the delayed commencement is that it ‘will allow time for the necessary infrastructure for accreditation to be put in place before Medicare benefits cease to be payable.’

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

Wide delegation of power Schedule 1, item 11

Proposed new subsection 23DZZIAA(5) of the *Health Insurance Act 1973*, to be inserted by item 11 of Schedule 1, would permit the Minister to delegate any power or function conferred on him or her under proposed new subsection 23DZZIAA(1) to ‘an officer within the meaning of section 131’ of that Act. The explanatory memorandum notes that an officer, for these purposes, includes an officer or acting officer in the Department of Health and Ageing, the Chief Executive Officer of Medicare Australia or an employee of Medicare Australia.

The Committee has consistently drawn attention to legislation which allows delegations to a relatively large class of persons, with little or no specificity as to their qualifications or attributes. Where such delegations are made, the Committee considers that an explanation of why these broad delegations are considered necessary should be included in the explanatory memorandum. In this instance, the explanatory memorandum gives no reason for this extremely wide range of persons to whom Ministerial powers and functions may be delegated. The Committee **seeks the Minister’s advice** as to the reason for this wide power of delegation and whether it should be limited in some way.

Pending the Minister’s advice, the Committee draws Senators’ attention to the provision, as it may be considered to make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the Committee’s terms of reference.

Non-reviewable decisions Schedule 1, item 11

Proposed new section 23DZZIAD of the *Health Insurance Act 1973*, to be inserted by item 11 of Schedule 1, would grant to the Minister the power to review a decision by an accreditation provider not to grant accreditation for diagnostic imaging, not to renew accreditation, or to revoke or vary an existing accreditation. The explanatory memorandum (page 27) indicates that the Minister’s decision will not be reviewable by the Administrative Appeals

Tribunal. The Committee consistently draws attention to provisions which explicitly exclude review by relevant appeal bodies or otherwise fail to provide for administrative review. However the explanatory memorandum explains this lack of review on the basis that the Minister's decision 'is a review of a decision of an approved accreditation provider, which itself will be required to have a full and proper review mechanism in place...'

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

Wide delegation of power Schedule 1, subitem 12(6)

Subitem 12(6) of Schedule 1 would permit the Minister to delegate, either to the Secretary of the Department or to an Australian Public Service employee in the Department, the Minister's power to designate a person with whom notices for the registration of diagnostic imaging premises may be lodged. The Committee has consistently drawn attention to legislation which allows delegations to a relatively large class of persons, with little or no specificity as to their qualifications or attributes. Where such delegations are made, the Committee considers that an explanation of why this broad delegation is considered necessary should be included in the explanatory memorandum. In this instance the explanatory memorandum, while noting this subitem, does not provide any rationale for the wide power of delegation given to the Minister by it. The Committee **seeks the Minister's advice** as to the reason for this wide power of delegation and whether it should be limited in some way.

Pending the Minister's advice, the Committee draws Senators' attention to the provision, as it may be considered to make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the Committee's terms of reference.

Health Insurance Amendment (Inappropriate and Prohibited Practices and Other Measures) Bill 2007

Introduced into the House of Representatives on 29 March 2007
Portfolio: Health and Ageing

Background

This bill amends the *Health Insurance Act 1973*, the *Medicare Australia Act 1973* and the *Veterans' Entitlements Act 1986* to replace existing prohibitions on the payment of Medicare benefits between providers and requesters of pathology and diagnostic imaging services with new provisions to:

- prohibit certain practices in relation to the rendering of pathology and diagnostic imaging services, including prohibiting inducements between requesters and providers of those services;
- prevent payments for pathology and diagnostic imaging services that do not benefit patients;
- encourage competition between pathology/diagnostic imaging providers on the basis of quality of service provided and cost to patients; and
- provide for an expanded range of penalties.

The bill also contains application, saving and transitional provisions.

Commencement Schedule 1

Item 2 in the table to subclause 2(1) of this bill provides that Schedule 1 would not commence until 1 March 2008. The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will generally comment where the period of delayed commencement is greater than six months. In this instance, the Committee notes that the explanatory memorandum (page 17) indicates that the purpose of the delayed commencement is:

- ‘to provide certainty for providers and requesters about when the new offence provisions will take effect;
- to enable requesters and providers of pathology and diagnostic imaging services to make any adjustments to their business practices to ensure that they are not in contravention of the new legislation; and
- to ensure that there are at least six months between passage of the legislation and date of effect (as is consistent with Commonwealth Government criminal law policy in circumstances where new criminal offences are being created).’

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

Retrospective effect

Schedule 2, subitems 2 and 3

It appears that the effect of subitems 2 and 3 of Schedule 2 is to validate anything done under the *Health Insurance (Pathology Services) Regulations 1989*. If that is the case, the items would have retrospective effect. 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 Committee notes that the explanatory memorandum merely repeats the substance of the terms of subitems 2 and 3, and does not provide any further explanation for their inclusion in this bill. The Committee **seeks the Minister’s advice** whether the items do indeed have a retrospective effect and, if so, whether these will have an adverse effect on any person.

Pending the Minister’s advice, the Committee draws Senators’ attention to the provisions, as they 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.

International Tax Agreements Amendment Bill (No. 1) 2007

Introduced into the House of Representatives on 29 March 2007
Portfolio: Treasury

Background

This bill amends the *International Tax Agreements Act 1953* to give legislative authority to renegotiated tax treaties between Australia and the Republic of France and Australia and Norway in relation to the avoidance of double taxation and the prevention of fiscal evasion.

The Committee has no comment on this bill.

Liquid Fuel Emergency Amendment Bill 2007

Introduced into the House of Representatives on 28 March 2007

Portfolio: Industry, Tourism and Resources

Background

This bill amends the *Liquid Fuel Emergency Act 1984* to implement recommendations of the 2004 'ACIL Tasman Review of the *Liquid Fuel Emergency Act 1984*'. The changes aim to improve the administrative and economic efficiency of the Australian Government's national liquid fuel emergency response arrangements.

The bill also contains transitional provisions.

Retrospective application

Schedule 1, items 14, 15 and 21

A great number of provisions proposed to be inserted in the *Liquid Fuel Emergency Act 1984* by various items in Schedule 1 would permit the Minister to make legislative instruments of various kinds that may be expressed to take effect before the day that they are registered under the *Legislative Instruments Act 2003*. This retrospective effect is to be granted, despite subsection 12(2) of the *Legislative Instruments Act 2003* which states that:

'A legislative instrument, or a provision of a legislative instrument, has no effect if, apart from this subsection, it would take effect before the date it is registered and as a result:

- a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of registration would be affected so as to disadvantage the person; or
- b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of registration.'

The enabling provisions are:

- proposed new subsections 9(2), 10(5) and 11(6), to be inserted by item 14;
- proposed new subsections 12(7), 13(4), 14(5) and 14A(5), to be inserted by item 15; and
- proposed new subsections 17(6), 20(6), 21(8), 22(8), 23(8) and 24(8), all to be inserted by item 21.

The Committee notes that in each case the explanatory memorandum explains the need for this possible retrospectivity in terms similar to those used in respect of proposed new subsection 10(5). That is, that it will ‘enable the Minister to revise and amend [existing instruments]... and allow them to take effect prior to their registration. This enables the Minister to respond quickly to changing circumstances, such as where the circumstances of the national liquid fuel emergency had not been previously contemplated and the existing [instruments]... cause an unforeseen and/or unintended effect.’

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

Legislative Instrument Act—declarations

Schedule 1, items 14, 15 and 21

Various provisions proposed to be inserted in the *Liquid Fuel Emergency Act 1984* by various items in Schedule 1 would permit the Minister to make instruments which are stated not to be legislative instruments for the purposes of the *Legislative Instruments Act 2003*. The enabling provisions are:

- proposed new subsections 10(2) and 11(2), to be inserted by item 14;
- proposed new subsections 12(4), 13(8) and 14A(2), to be inserted by item 15; and

- proposed new subsections 17(3), 18(5), 19(4) and 20(3), to be inserted by item 21.

Where a provision specifies that an instrument is *not* a legislative instrument, the Committee would expect the explanatory memorandum to explain whether the provision is merely declaratory (and included for the avoidance of doubt) or expresses a policy intention to exempt an instrument (which is legislative in character) from the usual tabling and disallowance regime set out in the *Legislative Instruments Act 2003*. Where the provision is a substantive exemption, the Committee would expect to see a full explanation justifying the need for the provision

In respect of proposed new subsections 10(2) and 11(2), the explanatory memorandum states, at pages 37 and 38 respectively, that the instruments are ‘not intended to be legislative instruments’, for the purpose, apparently, of enabling the instruments to take effect ‘immediately, rather than having to wait until the [relevant] instrument is registered.’ With regard to all of the other subsections referred to, the explanatory memorandum merely states that the relevant instrument ‘is not a legislative instrument.’ The Committee **seeks the Minister’s advice** whether the above mentioned provisions are declaratory in nature or provide for substantive exemptions and whether it would be possible to include this information, together with a rationale for any substantive exemptions, in the explanatory memorandum.

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

Legislative Instruments Act—disallowance and sunset provisions Schedule 1, items 15 and 21

Various provisions proposed to be inserted in the *Liquid Fuel Emergency Act 1984* by various items in Schedule 1 would permit the Minister to make instruments which are legislative in character, but neither section 42 of the *Legislative Instruments Act 2003* (which provides for disallowance of such an

instrument), nor Part 6 of that Act (which provides for sunset), would apply to them. The enabling provisions are:

- proposed new subsections 13(2) and 14(2), to be inserted by item 15; and
- proposed new subsections 21(5), 22(5), 23(5) and 24(5), to be inserted by item 21.

Where a provision exempts instruments that are legislative in nature from the disallowance and sunset provisions of the *Legislative Instruments Act 2003*, the Committee would expect the explanatory memorandum to include a full explanation justifying the need for the provision.

In respect of proposed new subsection 13(2), the explanatory memorandum (page 40) cites section 42 of the *Legislative Instruments Act 2003* and explains that the ‘effect of this amendment is that a direction to a relevant fuel industry corporation to develop bulk allocation procedures can not be disallowed by the Parliament and will remain in force until revoked by the Minister.’ However the explanatory memorandum does not provide any reason for why a direction given under subsection 13(1) of the *Liquid Fuel Emergency Act 1984* needs to be exempted from the provisions of section 42 and Part 6 of the *Legislative Instruments Act 2003*. In respect of all of the other proposed subsections referred to above, the explanatory memorandum states merely that the relevant instrument ‘can not be disallowed by the Parliament and will remain in force until revoked by the Minister’, but in no instance is the reason for this provision provided.

The Committee notes that one possible explanation for these clauses is that they are merely declaratory and included to remind the reader that under item 41 in the table to subsection 44(2) of the *Legislative Instruments Act 2003*, ‘Ministerial directions to any person or body’ are legislative instruments that are not subject to disallowance. Similarly, under item 46 in the table to subsection 54(2) of the Act, such Ministerial directions are also not subject to sunset. It is not clear from the explanatory memorandum, however, whether these references have been included for the avoidance of doubt or whether they are in fact creating substantive exemptions.

The Committee **seeks the Minister’s advice** whether these provisions are declaratory in nature or provide for substantive exemptions and whether it

would be possible to include this information, together with a rationale for any substantive exemptions, in the explanatory memorandum.

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

The Committee further notes that in respect to each of these provisions the proposed new section of the bill also refers to the Minister making guidelines by legislative instrument. The Committee **seeks the Minister's confirmation** that these guidelines will be subject to the disallowance and sunset provisions of the *Legislative Instruments Act 2003*.

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

Wide delegation of power

Schedule 1, item 88

Proposed new subsection 49(1) of the *Liquid Fuel Emergency Act 1984*, to be inserted by item 88 of Schedule 1, would permit the Minister to delegate all or any of his or her powers or functions (other than those powers or functions listed in the four paragraphs in the subsection) to 'a person'. Proposed new subsection 49(2) would permit that delegate to sub-delegate 'any of those powers or functions' to 'another person'. In neither case does the relevant subsection state any attributes or qualifications to be possessed by the delegate or sub-delegate, thereby granting the Minister and his or her delegate an unfettered discretion to determine to whom to delegate powers and functions.

The Committee has consistently drawn attention to legislation which allows delegations to a relatively large class of persons, with little or no specificity as to their qualifications or attributes. Where such delegations are made, the Committee considers that an explanation of why such broad delegations are considered necessary should be included in the explanatory memorandum. In this instance the explanatory memorandum provides no explanation as to why this extremely wide power of delegation is considered necessary. The Committee **seeks the Minister's advice** as to the reason for this wide power of delegation and whether it should be limited in some way.

Pending the Minister's advice, the Committee draws Senators' attention to the provision, as it may be considered to make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the Committee's terms of reference.

Native Title Amendment (Technical Amendments) Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Attorney-General

Background

This bill amends the *Native Title Act 1993*, the *Native Title Amendment Act 2007* and the *Native Title Amendment Act 1998* to implement a number of the changes to the native title system announced by the Attorney-General on 7 September 2005. These changes are aimed at improving existing processes for resolving native title claims, improving the effectiveness of representative Aboriginal and Torres Strait Islander bodies and encouraging the effective functioning of prescribed bodies corporate, the bodies established to manage native title once it is recognised.

Schedule 1 contains numerous minor and technical amendments to clarify existing provisions and provide for revised processes for making and resolving native title claims.

Schedule 2 further amends provisions governing representative Aboriginal and Torres Strait Islander bodies to: repeal inoperative provisions; ensure that representative bodies are not subject to provisions of the *Commonwealth Authorities and Companies Act 1997*; revise the process for reviewing decisions by representative bodies not to provide assistance to Aboriginal and Torres Strait Islander persons; and clarify the process for transferring documents from a former representative body to its replacement.

Schedule 3 clarifies the replacement of prescribed bodies corporate at the initiation of the common law holders and implements a number of recommendations from the Prescribed Bodies Corporate Report that was released by the Attorney-General and the Minister for Families, Community Services and Indigenous Affairs in October 2006.

Schedule 4 makes technical amendments consequential to the *Legislative Instruments Act 2003*.

The bill also contains application and transitional provisions.

Commencement
Schedule 3, item 7

Item 9 in the table to subclause 2(1) of this bill provides that the amendment proposed to be made by item 7 of Schedule 3 would not commence until 1 July 2008. The Committee takes the view that Parliament is responsible for determining when laws are to come into force. The Committee will generally comment where the period of delayed commencement is greater than six months. However the Committee notes that in this instance the explanatory memorandum provides an explanation for this delayed commencement on the ground that it ‘is designed to give the Office of the Registrar of Aboriginal Corporations time to develop procedures for implementing the role provided for it by this amendment.’

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

Retrospective application
Schedule 1, item 91

Item 134 of Schedule 1 provides that the amendment proposed to be made by item 91 of Schedule 1 applies to applications made to the Federal Court under section 61 of the *Native Title Act 1993*, for either a native title determination or a compensation determination, ‘regardless of whether the application is made before or after the commencing day.’ Item 134 may therefore permit the retrospective application of the amendment to be made by item 91.

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 (paragraph 1.384, page 65) states that ‘the amendments in item 91 [will] apply in relation to applications made under section 61 of the Native Title Act, regardless of whether the application is made before or after the commencing day’ and that this ‘would be consistent with the application provisions for item 35 of

Schedule 2 of the Native Title Amendment Bill 2006', which has not yet commenced. However, the explanatory memorandum does not indicate whether this possibly retrospective application would adversely affect any person. The Committee **seeks the Attorney-General's advice** whether the retrospective application of the amendment proposed to be made by item 91 of Schedule 1 will have an adverse effect on any person.

Pending the Attorney-General'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.

Retrospective application Schedule 1, item 138

Item 138 of Schedule 1 would retrospectively validate two determinations of the then Commonwealth Minister, made in 1995 and 1997.

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 instance the Committee notes that the explanatory memorandum (paragraph 1.391, page 66) indicates that 'these amendments are necessary to ensure the revocation provision under section 43 of the Native Title Act can, into the future, work effectively and in the manner that was intended.'

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

Legislative Instruments Act—declarations Schedule 3, item 7

Proposed new subsection 60AC(4) of the *Native Title Act 1993*, to be inserted by item 7 of Schedule 3, would provide that an opinion given by the Registrar

of Aboriginal and Torres Strait Islander Corporations is not a legislative instrument. Where a provision specifies that an instrument is *not* a legislative instrument, the Committee would expect the explanatory memorandum to explain whether the provision is merely declaratory (and included for the avoidance of doubt) or expresses a policy intention to exempt an instrument (which *is* legislative in character) from the usual tabling and disallowance regime set out in the *Legislative Instruments Act 2003*. Where the provision is a substantive exemption, the Committee would expect to see a full explanation justifying the need for the provision.

In this instance, the explanatory memorandum (paragraph 3.21, page 79) merely restates that the ‘Registrar’s opinion is not a legislative instrument’. The Committee **seeks the Minister’s advice** whether this provision is declaratory in nature or provides for a substantive exemption and whether it would be possible to include this information, together with a rationale for any substantive exemption, in the explanatory memorandum.

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

Radio Licence Fees Amendment Bill 2007

Introduced into the House of Representatives on 28 March 2007
Portfolio: Communications, Information Technology and the Arts

Background

Introduced with the Broadcasting Legislation Amendment (Digital Radio) Bill 2007, this bill makes a consequential amendment to the *Radio Licence Fees Act 1964* to amend the definition of ‘gross earnings’.

The Committee has no comment on this bill.

Repatriation of Citizens Bill 2007

Introduced into the Senate on 29 March 2007

By Senators Allison and Stott Despoja

Background

This bill provides for the repatriation of Australian citizens held in detention overseas, in circumstances where there is a risk of infringement of that citizen's human rights under international human rights treaties and conventions to which Australia is a party.

Explanatory memorandum

The Committee notes that this bill, introduced as a private Senator's bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the Parliament is assisted if they are accompanied by an explanation of the intent and operation of the proposed provisions, preferably in the form of an explanatory memorandum. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this instance, the Committee notes that the second reading speech provides some explanation of the intent and operation of the proposed amendments.

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

Tax Laws Amendment (2007 Measures No. 2) Bill 2007

Introduced into the House of Representatives on 29 March 2007

Portfolio: Treasury

Background

This bill implements a number of changes to Australia's taxation system.

Schedule 1 amends the *Income Tax Assessment Act 1997* to more closely align the decline in value deductions for mining, quarrying and prospecting rights with that for other depreciating assets.

Schedule 2 changes the taxation treatment of boating activities by amending the *Income Tax Assessment Act 1997* and the *A New Tax System (Goods and Services Tax) Act 1999* to allow certain boat owners to claim deductions for boating expenses up to the level of their boating income. These changes apply for income years starting on or after the bill receives Royal Assent.

Schedule 3 amends the *Income Tax Assessment Act 1936* to clarify provisions in relation to the refundable research and development tax offset for small and medium businesses and makes technical amendments to the *Income Tax Assessment Act 1997* and the *Taxation Administration Act 1953*.

Schedule 4 amends the *Income Tax Assessment Act 1997* to allow a tax deduction for donations of small parcels of shares in listed public companies to eligible deductible gift recipients.

Schedule 5 amends the *Income Tax Assessment Act 1997* and the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* to update the list of deductible gift recipients.

Schedule 6 amends the *Income Tax Assessment Act 1997* to extend the eligibility for tax deductions for contributions to deductible gift recipients where an associated minor benefit is received for an eligible fund-raising event.

Schedule 7 amends the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* to amend the definitions of ‘exempt entity’ and ‘excepted trust.’

Schedule 8 amends the *Income Tax Assessment Act 1997*, the *Income Tax Assessment Act 1936*, the *Venture Capital Act 2002* and the *Pooled Development Funds Act 1992* to: relax the eligibility requirements for concessional taxation treatment for foreign residents investing in venture capital limited partnerships and Australian venture capital funds of funds; provide taxation concessions for Australian and foreign residents investing in early stage venture capital activities through a new investment vehicle called an early stage venture capital limited partnership; and close the pooled development fund scheme to new applications.

The bill also contains application, technical and transitional provisions.

Retrospective commencement

Schedule 7, items 2 to 14

Item 4 in the table to subclause 2(1) of this bill provides that the amendments proposed in items 2 to 14 of Schedule 7 would commence on 1 July 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 instance the explanatory memorandum (page 6) notes that ‘transitional rules ensure that taxpayers are not retrospectively disadvantaged.’

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

Retrospective commencement

Schedule 8, part 5

Item 7 in the table to subclause 2(1) of this bill provides that the amendments proposed in Part 5 of Schedule 8 would commence on 19 December 2002,

immediately after the commencement of the *Venture Capital Act 2002*. Part 5 of Schedule 8 makes changes to the law relating to partners in venture capital partnerships and in other investment funds.

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 instance the explanatory memorandum (page 62) notes, under the heading ‘Technical amendment’, that the amendments proposed will be to the advantage of such partnerships.

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

Retrospective application Schedule 1

Item 7 of Schedule 1 provides that the amendments made by that Schedule apply ‘to assessments for the income year in which 1 July 2001 occurred and later income years.’ 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 instance the explanatory memorandum (page 3) notes that this retrospective application ‘does not disadvantage taxpayers as the intent of the law has always been followed and this measure clarifies the law.’

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

Retrospective application Schedule 3

Items 4, 9, 11 and 16 of Schedule 3 provide that various amendments in that Schedule would apply from various dates, ranging from 1 July 2001 to 9 May 2006.

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 instance the explanatory memorandum (page 4) notes that the various amendments are expected ‘to lead to an additional \$7 million per year in R & D tax offset payments and decreased revenue of \$2.5 million per year’.

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

Retrospective application Schedule 6

Item 10 of Schedule 6 provides that the amendments in that Schedule would apply to contributions made on or after 1 January 2007.

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 instance the explanatory memorandum (page 6) notes that these amendments will have a cost to revenue of \$1.5 million in the 2007-08 tax year, rising to \$6 million in the 2009-10 tax year.

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

Veterans' Affairs Legislation Amendment (2007 Measures No. 1) Bill 2007

Introduced into the House of Representatives on 28 March 2007

Portfolio: Veterans' Affairs

Background

This bill amends the *Veterans' Entitlements Act 1986*, the *Military Rehabilitation and Compensation Act 2004*, the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*, the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* to make changes to Veterans' Affairs administrative practices, align the *Veterans' Entitlements Act 1986* with the *Social Security Act 1991* and make minor changes to certain income support regimes. The bill also contains application and saving provisions and a number of minor and technical amendments.

Retrospective commencement

Schedule 1, item 2

Item 3 in the table to subclause 2(1) of this bill provides that the amendment proposed in item 2 of Schedule 1 would commence on 1 July 1998, immediately after the commencement of item 59 of Schedule 13 to the *Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 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 instance the explanatory memorandum (page 1) notes that the amendment merely deletes a Note to a legislative provision that had not been deleted on the repeal of the substantive provision.

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

Retrospective commencement

Schedule 3, items 1 and 2

Items 20 and 21 in the table to subclause 2(1) of this bill provide that the amendments proposed in items 1 and 2 of Schedule 3 would commence on 1 July 2004, immediately after the commencement of provisions in 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 instance the explanatory memorandum (page 35) notes that the effect of the amendments in this bill is to repeal provisions which, because of earlier amendments, had already become redundant.

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

Retrospective application

Schedule 1, items 70 and 71

Item 84 of Schedule 1 would provide that the amendments proposed in items 70 and 71 of the same Schedule ‘apply in respect of a claim for social security pension bonus that is made before, on or after the commencement’ of item 84.

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 Committee notes that the explanatory memorandum (page 30) does no more than repeat, in slightly different language, the terms of item 84, and does not explain whether this possibly retrospective application will have an adverse effect on any person.

As item 70 provides for a Defence Force Income Support Allowance bonus to be payable to the legal representative of a person after that person has died, even if the claim had not been determined at the time of the person’s death, it is likely that this retrospectivity will benefit people, however, this is not entirely clear. As such, the Committee **seeks the Minister’s advice** whether

this possibly retrospective application will have an adverse effect on any person.

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.

Retrospective application Schedule 2, item 1

Item 3 of Schedule 2 would provide that provisions of the *Military Rehabilitation and Compensation Act 2004* as amended by item 1 of Schedule 2 'apply in relation to an injury sustained, or disease contracted, before, on or after the commencement of that item.'

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 instance the explanatory memorandum (page 33) notes that this application provision is 'beneficial in nature' for claimants under the Act of 2004.

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

Workplace Relations (Restoring Family Work Balance) Amendment Bill 2007

Introduced into the Senate on 29 March 2007

By Senator Fielding

Background

This bill amends the *Workplace Relations Act 1996* with a view to ensuring that Australian workers are guaranteed: time off in lieu, paid at time and one half, for working on a public holiday; a meal break after five hours of continuous work; penalty rates for overtime; the preservation of existing redundancy entitlements; and a clear definition of ‘ordinary hours of work.’

Explanatory memorandum

The Committee notes that this bill, introduced as a private Senator’s bill, was accompanied only by a second reading speech and was introduced without an explanatory memorandum. The consideration of bills by the Committee and by the Parliament is assisted if they are accompanied by an explanation of the intent and operation of the proposed amendments, preferably in the form of an explanatory memorandum. The Committee recognises, of course, that private Senators and Members do not generally have access to the resources of departments and agencies to assist in the development of such documents. In this case, the Committee notes that the second reading speech provides some explanation of the intent and operation of the proposed amendments.

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

COMMENTARY ON AMENDMENTS TO BILLS

Airport Amendment Bill 2006

On 28 March 2007 the Senate agreed to 33 amendments to the bill. The amendments raise no issues within the Committee's terms of reference.

AusCheck Bill 2006

On 27 March 2007 the Senate agreed to thirteen amendments to the bill. The amendments raise no issues within the Committee's terms of reference.

Higher Education Legislation Amendment (2007 Measures No. 1) Bill 2007

On 28 March 2007 the House of Representatives agreed to two amendments to the bill. The amendments raise no issues within the Committee's terms of reference.

Migration Amendment (Border Integrity) Bill 2007

On 27 March 2007 the House of Representatives agreed to twelve amendments to the bill. The amendments raise no issues within the Committee's terms of reference.

Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006

On 27 March 2007 the Senate agreed to seven amendments to the bill. The amendments raise no issues within the Committee's terms of reference.

Tax Laws Amendment (2006 Measures No. 7) Bill 2006

On 28 March 2007 the Senate agreed to one amendment to the bill. The amendment raises no issues within the Committee's terms of reference.

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
*	Aged Care (Bond Security) Bill 2005 – clause 17
*	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 Participants in British Nuclear Tests (Treatment) Bill 2006 – clause 49
*	Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Bill 2005 – clause 23
*	Australian Trade Commission Legislation Amendment Bill 2006 – Schedule 4, item 16
*	Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006 – Schedule 5, subitem 20(3)
	Federal Magistrates Amendment (Disability and Death Benefits) Bill 2006 – Schedule 1, item 13, section 9G

*	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 Management and Accountability Act 1997</i>]
	Forestry Marketing and Research and Development Services Bill 2002 - clause 9
	Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Bill 2007 – Schedule 1, subitem 16(4)
*	Future Fund Bill 2006 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>
	Governance Review Implementation (Treasury Portfolio Agencies) Bill 2007 – Schedule 1, items 12 and 63 (CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>), and Schedule 2, subitems 2(3) and (4)
	Great Barrier Reef Marine Park Amendment Bill 2007 – Schedule 1, item 29 (CRF appropriated by virtue of section 28 of the <i>Financial Management and Accountability Act 1997</i>), Schedule 1, item 32 (CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>) and Schedule 2, subitem 2(4)
*	Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Bill 2006 – Schedule 2, subitem 1(3)
*	Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Bill 2006 – clause 9
*	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)
*	Medibank Private Sale Bill 2006 – Schedule 2, subitem 8(1)
	Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 – Schedule 1, subitem 43(3)
*	National Water Commission Bill 2004 – CRF appropriated by virtue of section 21 of the <i>Financial Management and Accountability Act 1997</i>
*	Offshore Petroleum Bill 2005 – clause 56
*	Plant Health Australia (Plant Industries) Funding Amendment Bill 2006 – Schedule 1, item 17, section 10B
	Private Health Insurance Bill 2006 – clause 282-40 and subclause 318-5
	Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006 – subclause 39(2)
*	Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004 – clause 133
*	Skilling Australia's Workforce Bill 2005 – clause 40

*	Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Bill 2006 – Schedule 4, subitem 1(4)
*	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 <i>Financial Management and Accountability Act 1997</i>

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 - 2006/2007

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Bills dealt with in 2006							
Airspace Bill 2006	15(6.12.06) 1(7.2.07)	29.11.06	6.2.06	Transport and Regional Services	7.12.06 8.2.07	26.2.07 26.2.07	2(28.2.07) 2(28.2.07)
Australian Energy Market Amendment (Gas Legislation) Bill 2006	15(6.12.06)	29.11.06	22.3.07	Industry, Tourism and Resources	7.12.06	6.2.07	1(7.2.07)
Australian Participants in British Nuclear Tests (Treatment) Bill 2006	11(11.10.06)	14.9.06	12.10.06	Veterans' Affairs	12.10.06	7.2.07	2(28.2.07)
Copyright Amendment Act 2006	13(8.11.06)	19.10.06	1.12.06	Attorney-General	--	29.1.07	1(7.2.07)
Fuel Quality Standards (Renewable Content of Motor Vehicle Fuel) Amendment Bill 2006	10(13.9.06)	4.9.06	--	Mr Katter	14.9.06	--	RNP
Trade Practices Legislation Amendment Bill 2006	7(9.8.06)	19.6.06	--	Mr Katter	10.8.06	--	RNP
Bills dealt with in 2007							
ACIS Administration Amendment (Unearned Credit Liability) Bill 2007	2(28.2.07)	7.2.07	26.2.07	Industry, Tourism and Resources	1.3.07	20.3.07	3(21.3.07)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Aged Care Amendment (Residential Care) Bill 2007	4(28.3.07)	21.3.07		Ageing	29.3.07	8.5.07	5(9.5.07)
Airport Development and Aviation Noise Ombudsman Bill 2007	2(28.2.07)	12.2.07		Mr Georganas	1.3.07	21.3.07	4(28.3.07)
Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007	2(28.2.07)	15.2.07	1.3.07	Justice and Customs	1.3.07	16.3.07	3(21.3.07)
Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007	2(28.2.07)	14.2.07	1.3.07	Transport and Regional Services	1.3.07	16.3.07	3(21.3.07)
Bankruptcy Legislation Amendment (Debt Agreements) Bill 2007	2(28.2.07)	15.2.07	20.3.07	Attorney-General	1.3.07	15.3.07	3(21.3.07)
Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006	1(7.2.07)	1.3.07	6.12.06	Attorney-General	8.2.07	26.2.07	2(28.2.07)
Classification (Publications, Films and Computer Games) Amendment Bill 2006	1(7.2.07)	7.12.06	8.2.07	Attorney-General	8.2.07	26.2.07	2(28.2.07)
Education Services for Overseas Students Legislation Amendment Bill 2007	4(28.3.07)	22.3.07		Education, Science and Training	29.3.07	26.4.07	5(9.5.07)
Employment and Workplace Relations Legislation (Welfare to Work and Vocational Rehabilitation Services) Bill 2006	1(7.2.07)	7.12.06	27.2.07	Employment and Workplace Relations	8.2.07 1.3.07	22.2.07 15.3.07	2(28.2.07) 3(21.3.07)
Higher Education Legislation Amendment (2007 Measures No. 1) Bill 2007	3(21.3.07)	28.2.07		Education, Science and Training	22.3.07	27.3.07	4(28.3.07)

NAME OF BILL	ALERT DIGEST	INTRODUCED		MINISTER	RESPONSE		REPORT NUMBER
		HOUSE	SENATE		SOUGHT	RECEIVED	
Human Services (Enhanced Service Service Delivery) Bill 2007	2(28.2.07)	7.2.07	28.2.07	Human Services	1.3.07	27.3.07	4(28.3.07)
Maritime Legislation Amendment (Prevention of Air Pollution from Ships) Bill 2006	1(7.2.07)	6.12.06	26.2.07	Transport and Regional Services	8.2.07	26.2.07	2(28.2.07)
Murray-Darling Basin Amendment Bill 2006	1(7.2.07)	7.12.06		Agriculture, Fisheries and Forestry	8.2.07	8.5.07	5(9.5.07)
Non-Proliferation Legislation Amendment Bill 2006	1(7.2.07)	1.3.07	6.12.06	Foreign Affairs	8.2.07	27.2.07	2(28.2.07)
<i>Private Health Insurance Act 2007</i> Amendments	1(7.2.07) 4(28.3.07)	7.12.06	26.2.07	Health and Ageing	8.2.07 29.3.07	26.2.07 8.5.07	2(28.2.07) 5(9.5.07)
Tax Laws Amendment (2006 Measures No. 7) 2006	1(7.2.07)	7.12.06	7.2.07	Treasury	8.2.07 1.3.07	27.2.07 15.3.07	2(28.2.07) 3(21.3.07)

