

Senate Standing Committee
for the
Scrutiny of Bills

Alert Digest No. 4 of 2014

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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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Senate Standing Legislation Committee Inquiries

The committee will forward any comments it has made on a bill to any relevant legislation committee for information.

- **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.

Amending Acts 1901 to 1969 Repeal Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Attorney-General

Background

This bill repeals over 1,000 amending and repeal Acts.

The committee has no comment on this bill.

Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Attorney-General

Background

This bill amends the *Classification (Publications, Films and Computer Games) Act 1995* (Classification Act) to:

- broaden the scope of existing exempt film categories and amend exemption arrangements for festivals and cultural institutions;
- enable certain content to be classified using classification tools;
- create an explicit requirement in the Classification Act to display classification markings on all classified content;
- expand the exceptions to the modifications rule so that films and computer games which are subject to certain types of modifications do not require classification again; and
- enable the Attorney-General's Department to notify law enforcement authorities of potential Refused Classification content without having the content classified first, to help expedite the removal of extremely offensive or illegal content from distribution.

The bill also makes consequential amendments to the *Broadcasting Services Act 1992*.

Delegation of legislative power

Schedule 1, item 4, proposed subsection 22CA(4)

This item provides that in deciding whether to approve a classification tool under subsection 22CA(1), the Minister must consider any matters specified in written guidelines made by the Minister for this purpose. The committee prefers that important content is included in primary legislation unless a compelling justification for the use of delegated legislation is provided. In this

instance, the reasons why the considerations relevant to this question cannot be included in the legislation are not addressed in the explanatory memorandum. **The committee therefore seeks the Attorney-General's advice as to the justification for the proposed approach.**

Pending the Attorney-General's reply, the committee draws Senators' attention to the provision as it may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the committee's terms of reference.

Delegation of legislative power Schedule 1, item 4, proposed subsection 22CA(7)

This proposed provision states that the Guidelines made under subsection 22CA(4) (also discussed above) are not a legislative instrument. The explanatory memorandum indicates that this provision clarifies that guidelines do not fall within the definition of 'legislative instrument' for the *Legislative Instruments Act*.

The subsection 5(2) of the *LIA* provides that an instrument is taken to be of a legislative character if '(a) it determines the law or alters the content of the law, rather than applying the law in a particular case; and (b) it has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right'. The Guidelines made under subsection 22CA(4) arguably fall within this definition as they provide for matters which must be considered by the Minister when making approval decisions. The relevant matters that must be considered affect the making of decisions and, thus, indirectly affect the interests of persons whom rely upon, or wish to rely upon, the operation of particular classification tools. The Guidelines also directly impose an obligation on the Minister in making approval decisions. The basis on which it is concluded, in the explanatory memorandum, that the Guidelines are not within the definition of legislative instruments is not explained.

The *Legislative Instruments Act* includes disallowance and sunseting processes, which will not apply to the Guidelines if that document is not, or is not deemed to be, a legislative instrument.

The committee therefore seeks the Attorney-General's advice as to the justification for the conclusion that subsection 22CA(4) Guidelines are

not legislative instruments, including why such Guidelines should not be subject to the requirements of the LIA, given that they may be characterised as legislative instruments in the sense explained above.

Pending the Attorney-General's reply, the committee draws Senators' attention to the provision as it may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the committee's terms of reference.

**Delegation of legislative power
Schedule 3, item 18, proposed section 6G**

This section empowers the Minister to make rules, by legislative instrument, prescribing matters required or permitted by this Division to be prescribed by the conditional cultural exemption rules, or necessary or convenient to be prescribed for carrying out or giving effect to this Division. The explanatory memorandum does not give details or examples of the sort of matters that it is envisaged will be covered in in these rules. **The committee therefore seeks the Attorney-General's further explanation of the nature and scope of matters to be dealt with in the rules so as to better assess whether this is an appropriate delegation of legislative power.**

Pending the Attorney-General's reply, the committee draws Senators' attention to the provision as it may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the committee's terms of reference.

**Delegation of legislative power
Schedule 3, item 18, proposed subsection 6H(4)**

This item provides that a decision to exempt a particular classifiable item, event or organisation from:

- any or all or the provisions of this Division;
- or the conditional cultural exemption rules;
- or to declare that these provisions apply subject to specified modifications

is not a legislative instrument.

Although the explanatory memorandum accepts that these decisions, though primarily of an administrative character are also ‘legislative in character’, it is argued that it is not necessary or appropriate for the exemptions or declarations to be subject to the requirements of the *LIA*. There is a compelling justification provided for this conclusion in the explanatory memorandum at p. 27). In light of this justification, the committee makes no further comment about this matter.

In the circumstances, the committee makes no further comment on this item.

Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2]

Introduced into the House of Representatives 20 March 2014

Portfolio: Treasury

This bill is identical to a bill introduced into the House of Representatives on 13 November 2013. The committee considered the bill in *Alert Digest No. 8 of 2013* and made no comment on the bill.

Background

This bill repeals the *Clean Energy Finance Corporation Act 2012*. The bill also transfers the Clean Energy Finance Corporation's existing contractual assets and liabilities to the Commonwealth to hold and manage.

The committee has no comment on this bill.

Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014

Introduced into the House of Representatives 20 March 2014

Portfolio: Veterans' Affairs

Background

This bill amends the *Defence Force Retirement Benefits Act 1948* and the *Defence Force Retirement and Death Benefits Act 1973* to index Defence Forces Retirement Benefits and Defence Force Retirement and Death Benefits pensions for recipients aged 55 and over from 1 July 2014.

The committee has no comment on this bill.

End Cruel Cosmetics Bill 2014

Introduced into the Senate 18 March 2014

By: Senator Rhiannon

Background

This bill amends the *Industrial Chemicals (Notification and Assessment) Act 1989* to prohibit developing, manufacturing, selling, advertising or importing into Australia cosmetics, or ingredients for cosmetics, which have been tested on live animals.

The committee has no comment on this bill.

Environment Protection and Biodiversity Conservation Amendment Bill 2014

Introduced into the Senate 19 March 2014

By: Senator Ludwig

Background

This bill ‘amends the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) to repeal a sunset clause and thereby provide for the Minister to conduct an assessment into the potential environmental impacts of a declared commercial fishing activity and to prohibit the declared commercial fishing activity while the assessment is undertaken’ (Statement of Compatibility p. 4).

Strict liability

Item 1

The effect of the bill is that it restores the Ministerial powers and procedures contained with Chapter 5B and a criminal offence in respect of persons who engage in ‘declared commercial fishing activities’ in the Commonwealth marine area while the assessment (outlined above) is undertaken.

The offence is one of strict liability in relation to whether or not the action is taken in a Commonwealth marine area. The Statement of Compatibility elaborates the justification for this use of strict liability and the level of the penalty in considerable detail. The Statement of Compatibility also argues that a ‘declared commercial fishing activity is likely to specify the commercial fishing activity by reference to a number of criteria which will ‘mitigate against the possibility of a declaration applying arbitrarily to a particular operator who is not intended to be caught in the declaration’. Furthermore, there are consultation requirements which must be satisfied prior to a final declaration being made.

The Statement of Compatibility addresses the matters set out in the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*, which are relevant to establishing the justification for the use of strict liability.

In light of the detailed justification provided the committee leaves the question of whether the proposed approach is appropriate to the Senate as a whole.

In the circumstances, the committee makes no further comment on this matter.

G20 (Safety and Security) Complementary Bill 2014

Introduced into the House of Representatives 20 March 2014

Portfolio: Justice

Background

This bill will clarify any overlap between provisions in the *G20 (Safety and Security) Act 2013* (Qld) and existing Commonwealth legislation in their application to the relevant part or parts of the Brisbane Airport, which is a Commonwealth place.

Delegation of legislative power

Subclause 5(6)

The purpose of this bill is to clarify the interaction between provisions of the *G20 (Safety and Security) Act 2013* (Qld) and existing Commonwealth legislation at the Brisbane Airport during the G20 Summit in 2014 in Queensland. The bill is designed to enable the Queensland legislation to operate despite any inconsistency with applicable Commonwealth aviation legislation. The Queensland Act 'provides police officers and appointed persons special powers for the purposes of the G20 Summit.' The bill can therefore be seen as potentially giving an extended operation to the Queensland laws that may engage the committee's terms of reference.

In terms of the provisions in the bill, pursuant to subclause 5(1), the Infrastructure Secretary may, by writing, make a declaration specifying an area for the purposes of defining 'designated Brisbane Airport area'. The area must be a security area situated at Brisbane Airport.

Subclause 5(6) provides that such a declaration is not a legislative instrument. This appears to constitute a substantive exemption of such an instrument from the operation of the *Legislative Instruments Act 2003* (see explanatory memorandum, 5). This exemption is justified by reference to an argument that the need to declare an area under subclause 5(1) 'is likely to be time critical and in response to an existing or emerging operational situation'. For this reason it is argued that 'it would be impractical for such a declaration to only have effect following registration in the Federal Register of Legislative Instruments or at the expiry of a disallowance period'.

The explanatory memorandum also notes that the exemption ‘is consistent with aviation security-related instruments, other than regulations, made under the *Aviation Transport Security Act 2005* (i.e. section 28(2) of that Act)’. More generally, it is noted that a declaration under this subsection would only have effect until the Act ceases operation on 18 November 2014.

In light of the justification provided, the committee draws this matter to the attention of Senators and leaves the question of whether the proposed approach is appropriate to the Senate as a whole.

The committee draws Senators’ attention to the provision, as it may be considered to delegate legislative powers inappropriately, in breach of principle 1(a)(iv) of the committee’s terms of reference.

Independent National Security Legislation Monitor Repeal Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Prime Minister

Background

This bill repeals the *Independent National Security Legislation Monitor Act 2010* and abolishes the Office of the Independent National Security Legislation Monitor.

The committee has no comment on this bill.

Intellectual Property Laws Amendment Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Industry

This bill is substantially the same as the Intellectual Property Laws Amendment Bill 2013, except that some provisions of the previous bill have been removed (including the Crown Use provisions in former schedule 1) and a small number of additions have been made.

This *Digest* refers to the committee's previous comments and notes any updates arising from the terms of the new bill and its accompanying explanatory material. See *Alert Digest No. 6* and the *Seventh Report of 2013* for the committee's previous comments.

Background

This bill amends the *Patents Act 1990*, *Trade Marks Act 1995*, *Designs Act 2003* and the *Plant Breeder's Rights Act 1994*.

Schedules 1 and 2 implement the Protocol amending the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Protocol) to enable Australian pharmaceutical manufacturers to obtain a licence from the Federal Court to make generic versions of patented medicines and to export these medicines to countries with a demonstrated need.

Schedule 3 amends the *Plant Breeder's Rights Act 1994* to extend the jurisdiction of the Federal Circuit Court to include plant breeder's rights.

Schedule 4 allows for single patent application and examination processes for Australia and New Zealand, and a single trans-Tasman patent attorney regime.

Schedule 5 makes a number of minor administrative amendments to the *Patents Act 1990*, *Trade Marks Act 1995* and the *Designs Act 2003*.

**Trespass on personal rights and freedoms—retrospectivity
Schedule 6, item 14, proposed new paragraph 119(3)(b)**

This amendment to paragraph 119(3)(b) of the *Patents Act* will ‘correct an inadvertently created inconsistency’ between that provision and a related provision created when the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* came into operation on 15 April 2013. As stated in the explanatory memorandum, the amendment will ensure that the longstanding provisions of section 24 and 119 of the *Patents Act* continue to be aligned.

When this provision was previously introduced, the committee sought clear advice from the Minister about whether a person’s rights could be adversely affected and the extent of any possible effect. In his response at the time the then Minister provided useful information addressing this point, and **the committee thanks the current Minister for including it in the explanatory memorandum accompanying this bill, which has assisted in scrutinising the proposed provision.**

In the circumstances, the committee makes no further comment on this matter.

**Rights liberties or obligations unduly dependent on non-reviewable decisions—accountability arrangements
Schedule 5, item 25**

This item permits the Australian Patents Commissioner to delegate all or any of his or her powers and functions to a New Zealand patents official. When this provision was previously introduced, the committee sought advice as to whether it could result in a reduction in accountability for decision-making under the *Patents Act*. In his response at the time the then Minister provided detailed and useful information addressing this and related points. **The committee thanks the current Minister for including key parts of this information in the explanatory memorandum accompanying this bill, which has assisted in scrutinising the proposed provision.**

In the circumstances, the committee makes no further comment on this matter.

Marriage Amendment (Celebrant Administration and Fees) Bill 2014

Introduced into the House of Representatives 20 March 2014

Portfolio: Attorney-General

A similar bill was previously introduced into the House of Representatives on 20 March 2013. The committee commented on the bill in *Alert Digest No. 5 of 2013* and received a response from the then Attorney-General which was published in the committee's *Seventh Report of 2013*.

Background

This bill amends the *Marriage Act 1961* to:

- set up the celebrant registration charge and to deregister marriage celebrants who do not pay the celebrant registration charge or obtain an exemption from paying the charge;
- allow the imposition of a registration application fee for aspiring marriage celebrants who apply for registration;
- provide for exemptions (including internal review of exemption decisions) and to allow the imposition of processing fees for applications for exemptions;
- enable the responsible Minister to approve, in writing, a form for the purposes of specific provisions of the Act; and
- amend the requirements relating to performance reviews of marriage celebrants.

The committee has no comment on this bill.

Marriage (Celebrant Registration Charge) Bill 2014

Introduced into the House of Representatives 20 March 2014
Portfolio: Attorney-General

A similar bill was previously introduced into the House of Representatives on 20 March 2013. The committee considered the bill in *Alert Digest No. 5 of 2013* and made no comment on the bill.

Background

This bill implements a 2011-12 Budget measure to introduce cost recovery for the regulation of Commonwealth-registered marriage celebrants that was to commence from 1 July 2013. The bill provides legislative authority for the Government to charge Commonwealth-registered marriage celebrants an annual cost recovery levy, the celebrant registration charge. It is proposed that this Act commences simultaneously with Part 1 of Schedule 1 to the Marriage Amendment (Celebrant Administration and Fees) Act 2014 commences, which will be by Proclamation or 6 months after the Act receives the Royal Assent.

The committee has no comment on this bill.

Omnibus Repeal Day (Autumn 2014) Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Prime Minister

Background

This bill amends or repeals legislation across ten portfolios including:

- two Acts administered in the Agriculture portfolio to update and remove obsolete references;
- 10 Acts administered in the Communications portfolio in relation to: access arrangements, investigations, the Advanced Mobile Phone System, standard agreements, protected carrier information, protection schemes for residential customers, the Universal Service Regime, consultation requirements and variation of instruments, completed reviews, publication requirements, the National Relay Service, and notification and account keeping requirements;
- the *Defence (Special Undertakings) Act 1952* to make amendments consequential on a repeal;
- six Acts administered in the Environment portfolio in relation to: sea installations, licensing, reporting and administrative obligations of licensees, and water studies in the Murray-Darling Basin;
- two Acts administered in the Industry portfolio to make amendments consequential on repeals;
- the *Indigenous Education (Targeted Assistance) Act 2000* in relation to reporting requirements;
- two Acts administered in the Social Services portfolio in relation to the certification of residential aged care services; and
- six Acts administered in the Treasury portfolio in relation to: the Education Expenses Tax Offset, the Sugar Industry Reform Program, the Financial Services Reform roll-over, and the Superannuation Safety Reform roll-over.

The bill also repeals 43 Acts administered in nine portfolios.

Delegation of legislative power

Part 2, schedule 2, item 3, proposed subsection 152BEA(6) of the *Competition and Consumer Act 2010*

This proposed subsection provides that an instrument made by the ACCC for the purposes of specifying information that must be included in quarterly reports about access agreements is not a legislative instrument. This constitutes a substantive exemption from the LIA and there is a detailed explanation of the exemption in the explanatory memorandum (at p. 9).

The reason for exempting this type of instrument from the LIA is that the ACCC, as the independent expert regulator responsible for administering and enforcing compliance with Part XIC of the CCA, is best placed to decide what additional information should, from time to time, be included in the quarterly reports... The ACCC has the relevant technical and industry expertise to determine what additional information would assist it in performing its role.

Subjecting these decisions of the ACCC to disallowance would not be consistent with the operation of the ACCC as an independent regulator and would cause some uncertainty for the regulated companies. The proposed exemption from the LIA is consistent with other substantive exemptions in respect of the written statements made by the ACCC under existing paragraphs 152BEA(4), (5), (6) and (7) for the purposes of existing paragraphs 152BEA(1)(d), (2)(d) and (3)(b).

The explanatory memorandum also notes that written instruments made by the ACCC under new subsection 152BEA(3) operate for a maximum of five years and that it is anticipated that the instruments will be reviewed more regularly than would be the case under the sunset provisions of the LIA. Finally it is noted that the instruments must be published on the ACCC's website.

In light of this detailed justification, the committee leaves the question of whether the proposed approach is appropriate to the Senate as a whole.

In the circumstances, the committee makes no further comment on this item.

Parliamentary Joint Committee on the Australia Fund Bill 2014

Introduced into the House of Representatives 17 March 2014

By: Mr Palmer

Background

This bill establishes a Joint Committee to investigate the need for establishing a special purpose fund (Australia Fund) to assist in the support and reconstruction of Australian rural and manufacturing industries in times of crisis, including natural disaster and world financial crisis.

The committee has no comment on this bill.

Personal Property Securities Amendment (Deregulatory Measures) Bill 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Attorney-General

Background

This bill amends the *Personal Property Securities Act 2009* repeals the provision deeming leases of serial numbered goods of 90 days or more to be security interest for the purposes of the Act.

The committee has no comment on this bill.

Regulatory Powers (Standard Provisions) Bill 2014

Introduced into the House of Representatives 20 March 2014

Portfolio: Attorney-General

A similar bill was previously introduced into the House of Representatives on 10 October 2012. The committee commented on the bill in *Alert Digest No. 13 of 2012* and received a response from the then Attorney-General which was published in the committee's *First Report of 2013*. This *Digest* includes the committee's previous comments to the extent that they are applicable to this bill and notes any updates arising from the terms of the new bill and its accompanying explanatory material.

Background

This bill establishes a framework of standard regulatory powers exercised by Commonwealth agencies by providing for: monitoring and investigative powers; and enforcement provisions including civil penalties, infringement notices, enforceable undertakings and injunctions.

General

The purpose of this bill is to provide for standard regulatory powers that can be exercised across Commonwealth agencies. The bill will not apply to any particular legislation unless its provisions are specifically triggered through amendment or the introduction of new legislation.

Given the nature of regulatory powers, the bill contains a number of coercive powers, which - while they are standard powers in some contexts - do have the potential to have an impact on individual rights and liberties. **The appropriateness of coercive regulatory powers will depend on the particular statutory context to which they are applied.** Thus, although in general it does not appear that the bill departs in any significant detail from the broad principles set out in the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*, whether or not the approach taken to particular questions is appropriate is difficult to assess without reference to a particular statutory context and the nature of the regulatory regime.

In its *Alert Digest No. 13 of 2012* the committee noted that it considers that where future legislation applies part or all of the powers in the bill, such bills should be accompanied by detailed consideration in the explanatory memorandum explaining the appropriateness of the standard provisions adopted. This will facilitate adequate Parliamentary scrutiny of such legislation.

In its March 2013 report into the 2013 bill, the Senate Legal and Constitutional Affairs Committee also made two recommendations directed at ensuring that the explanatory memorandum to the Regulatory Powers Bill, and the explanatory memorandum to any future bill seeking to trigger its provisions, explicitly articulate that the relevant bill seeks to rely on these powers and that the explanatory memorandum addresses the following key matters:

- the agency's current regulatory powers;
- a comparison with the powers in the Regulatory Powers (Standard Provisions) Bill that will be triggered; and
- a detailed explanation of the reasons for any proposed expansion of powers.

The committee notes that the explanatory memorandum to the current bill clearly outlines these requirements (e.g. at p. 2) and thanks the Attorney-General for recognising the importance of these requirements.

In the circumstances, the committee makes no further comment on these matters.

Delegation of legislative power

Multiple provisions

The committee previously noted that the bill provided that its provisions may be activated by regulation. As the committee generally expects to see important matters dealt with in primary legislation rather than regulations, the committee sought the then Attorney-General's advice as to why this approach was considered appropriate.

In addition, in its March 2013 report into the 2013 bill, the Senate Legal and Constitutional Affairs Committee recommended that the bill be amended to remove the power to trigger the provisions of the bill by regulation.

The committee notes that the current bill does not include this provision and thanks the Attorney-General for recognising the significance of this matter.

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

Undue trespass on personal rights and liberties Clause 59

Clause 59 provides that an investigation warrant may continue to have effect even if the authorised person, and all persons assisting with the execution of the warrant, cease the execution and leave the premises. The continuation of the warrant is allowable in limited circumstances, including ‘if the authorised person and all persons assisting are absent from the premises for...one hour or less in any situation other than an emergency’, and for up to 12 hours in an emergency situation, without the need for additional authorisation from an issuing officer.

The explanatory memorandum argues that ‘some flexibility is required to ensure that an authorised person can leave the premises if required, for example to fetch necessary equipment or avoid a dangerous situation’ (see p. 24). Although it may be the case that flexibility is appropriate in some contexts, it is important to ensure (as the explanatory memorandum also recognises) that searches are undertaken in a ‘timely fashion and that a warrant does not authorise an authorised person to search a premises on multiple occasions from time to time’ (see also p. 24).

The committee notes that the importance of flexibility may vary depending on the details of a particular regulatory context and that this can be assessed case-by-case as relevant legislation is brought before Parliament. **However, in circumstances in which repeat access without the need for additional authorisation from an issuing officer will be permitted, the committee notes its future interest in whether any reporting requirements will apply to these situations.**

In terms of the current bill, the committee leaves the appropriateness of this provision to the Senate as a whole.

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.

Statute Law Revision Bill (No. 1) 2014

Introduced into the House of Representatives 19 March 2014

Portfolio: Attorney-General

Background

This bill corrects technical errors that have occurred in Acts as a result of drafting and clerical mistakes and to repeal spent and obsolete provisions and Acts.

The bill also:

- removes specific references in Acts to Ministers and to replace them with generic, more robust, references and reduce the need for Orders under section 19B or 19BA of the *Acts Interpretation Act 1901* to be made and read in conjunction with the Acts; and
- modernises language and to make other technical amendments in certain legislation (see Schedules 4 and 5); and
- makes amendments consequential on amendments to the *Acts Interpretation Act 1901* which enable the repeal of redundant provisions.

The committee has no comment on this bill.

COMMENTARY ON AMENDMENTS TO BILLS

Export Market Development Grants Amendment Bill 2014

[Digest 3/14 – no comment]

On 20 March 2014 the House of Representatives agreed to one Government amendment and the Minister for Trade and Investment (Mr Robb) tabled a supplementary explanatory memorandum. The committee has no comment on the amendment or additional material.

Social Services and Other Legislation Amendment Bill 2013

[Digest 8/13 – Report 1/14]

On 4 March 2014 the Parliamentary Secretary to the Minister for Foreign Affairs (Senator Mason) tabled an addendum to the revised explanatory memorandum.

On 5 March 2014 the Senate agreed to 50 Government and 14 Opposition amendments and the Assistant Minister for Social Services (Senator Fifield) tabled a supplementary explanatory memorandum.

On 18 March 2014 the House of Representatives agreed to Senate amendments Nos. 1-4, 6-40 and 42-48 and disagreed to Senate amendments Nos. 5 and 41. On the same day the House of Representatives agreed to two Government amendments.

On 20 March 2014 the House of Representatives presented a further supplementary memorandum.

On 25 March 2014 the Senate did not insist on its amendments Nos. 5 and 41 and agreed to the amendments the House of Representatives made in their place.

The committee has no comment on the amendments or additional material.

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 42nd Parliament.

Bills introduced with standing appropriation clauses in the 43rd Parliament since the previous *Alert Digest*

Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2]

Other relevant appropriation clauses in bills

Nil