

Senate Standing Committee
for the
Scrutiny of Bills

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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 or the provisions of bills not yet before 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 on its terms of reference, may consider any proposed law or other document or information available to it, including an exposure draft of proposed legislation, notwithstanding that such proposed law, document or information has not been presented to the Senate.
- (c) The committee, for the purpose of reporting on term of reference (a)(iv), shall take into account the extent to which a proposed law relies on delegated legislation and whether a draft of that legislation is available to the Senate at the time the bill is considered.

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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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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

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Australian Crime Commission Amendment (Criminology Research) Bill 2015

Introduced into the House of Representatives on 15 October 2015

Portfolio: Justice

Background

This bill amends the *Australian Crime Commission Act 2002* to merge the functions of the Australian Institute of Criminology (AIC) into the Australian Crime Commission, including carrying out criminology research, sharing and publishing that research and carrying out commissioned research.

The bill also repeals the *Criminology Research Act 1971* to abolish the AIC as a statutory agency.

Trespass on personal rights and liberties—privacy Schedule 1, item 5, proposed section 59AE

The overarching purpose of Schedule 1 is to make amendments necessary to enable the functions currently performed by the Australian Institute of Criminology (AIC) to be undertaken by the Australian Crime Commission (ACC) and to ensure that the merged agency can carry out the existing functions of the AIC (in particular the conduct and dissemination of criminological research).

Item 5 of schedule 1 inserts a provision which authorises the CEO of the ACC to disclose and publish criminological research if so doing would not be contrary to:

- subsection 25A(9) of the *Australian Crime Commission Act 2002* (the ACC Act);
- another law of the Commonwealth that would otherwise apply; or
- a law of a State or Territory that would otherwise apply.

This authorisation may apply in relation to research that contains personal information. Given that the Privacy Act does not apply to the ACC this raises a matter of concern, which is addressed by proposed subsection 59AE(2). Under this provision the ACC CEO will be prohibited from disclosing personal information that was collected for the purpose of criminological

research for another purpose except if certain circumstances apply. These additional requirements are modelled on the information use and dissemination provisions of the Privacy Act, particularly Australian Privacy Principle 6. The explanatory memorandum gives the assurance that the inclusion of this provision ‘will ensure that personal information collected by the ACC for research purposes remain subject to the same disclosure protections that currently apply to the AIC’ (at p. 3). **In light of this assurance, the committee leaves the general question of whether the approach is appropriate to the Senate as a whole.**

However, it is unclear why the jurisdiction of the Information Commissioner, who is empowered to investigate breaches of the Privacy Act, should not be extended to investigate breaches of the disclosure regime that applies to the ACC in relation to criminological research. The explanatory memorandum notes that the ACC is subjected to a robust accountability framework which includes oversight by the Ombudsman, Integrity Commissioner and the Parliamentary Joint Committee on Law Enforcement. Nevertheless, it is not clear that the coverage by these oversight bodies would be coextensive with that of the Information Commissioner whose jurisdiction covers privacy issues expressly and has therefore developed extensive relevant expertise.

Additionally, the explanatory memorandum suggests that the ACC has experience in dealing with sensitive information and that it is well placed to put in place technical and administrative mechanisms to ensure that personal information collected for research is collected, used and stored appropriately. Although this may be accepted, it is not clear how this supports the conclusion that the Information Commissioner should not be given oversight of the new disclosure regime in the ACC Act.

The committee therefore seeks the Minister’s advice as to whether the Information Commissioner can be given appropriate jurisdiction to investigate breaches of the proposed disclosure regime.

Pending the Minister’s reply, 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.

Commonwealth Grants Commission Amendment (GST Distribution) Bill 2015

Introduced into the Senate on 13 October 2015

By: Senator Wang

Background

This bill amends the *Commonwealth Grants Commission Act 1973* to require the Commonwealth Grants Commission, when considering the capacity of a State or Territory to raise mining revenue in preparing its annual recommendation on the distribution of goods and services tax revenue, to only take into account the most recent financial year for which mining revenue data is available.

The committee has no comment on this bill.

Crimes Legislation Amendment (Harming Australians) Bill 2015

Introduced into the Senate on 15 October 2015

Portfolio: Attorney-General and Senator Xenophon

Background

This bill amends the *Criminal Code Act 1995* to extend the retrospective application of the offences of murder and manslaughter of an Australian citizen or resident overseas to crimes that occurred before 1 October 2002.

Retrospective application

General comment

This bill extends the retrospective application of the offences in sections 115.1 and 115.2 of the *Criminal Code Act 1995* so that they will apply to conduct occurring overseas, ‘whether before or after 1 October 2002 or the commencement of this Code’. The offence in section 115.1 relates to the murder of an Australian citizen or a resident of Australia. The offence in section 115.2 relates to the manslaughter of an Australian citizen or resident.

As explained in the statement of compatibility (at p. 3) these offences were introduced into the Criminal Code on 14 November 2002 and were, at that time, give limited retrospective application (from 1 October 2002). The purpose of so doing was so they could apply to crimes committed against Australians associated with the 2002 Bali bombings.

The statement of compatibility states that the purpose of the proposed ‘retrospective extension of these offences’ is to ‘ensure that cases involving the murder or manslaughter of Australian citizens or residents of Australia are treated in a consistent way under the Criminal Code’ (at p. 3).

The statement of compatibility contains a detailed justification for the retrospective application of these offences. It is accepted that retrospective offences are generally not appropriate. However, the statement suggests that retrospective application is justified in this case as the conduct which is being criminalised—murder and manslaughter—is ‘conduct which is universally known to be conduct which is criminal in nature’ (at p. 4). Central to the

overall justification is the inclusion of a number of safeguards or limitations on the applicability of the retrospective application of the offences.

First, the offences are subject to a double jeopardy safeguard which means that a person who has been convicted or acquitted in another jurisdiction in relation to conduct constituting the offence cannot be convicted of an offence against the sections as amended in respect of that conduct (see item 7).

Second, an additional element for the offences is required where the relevant conduct was engaged in before 1 October 2002. In order for the offence to be established, the conduct must have also constituted an offence against the law of the foreign country in which the conduct occurred (see item 2). The statement of compatibility describes this as a dual criminality protection which operates to 'ensure that a person cannot be prosecuted for conduct that was not otherwise a criminal offence at the time of its commission' (at pp 4–5).

Third, if a person is convicted of one of the offences on the basis of conduct that occurred before 1 October 2002, that person cannot be sentenced to a term of imprisonment that exceeds the term of imprisonment that applies for the foreign country (if that term is lower) (see item 5). The explanatory memorandum explains that if the conduct is punishable in the foreign jurisdiction by a non-custodial sentence with no Australian equivalent, the maximum penalties for the offences will be life imprisonment (for murder) and 25 years (for manslaughter). The statement of compatibility suggests that it is impractical to anticipate all possible non-custodial punishments which may be applied in foreign jurisdictions, and that where a foreign law would impose a punishment that is not consistent with international human rights obligations that it is appropriate for the defendant to be liable to the same maximum penalty which would apply to offences as if they had been committed on or after 1 October 2002 given the seriousness of the conduct involved and the definition of the offences (at p. 5). It is also emphasised that these terms of imprisonment 'are subject to general sentencing principles in Commonwealth law' and that these principles enable the court to consider all the circumstances of the offence, 'including the penalty applicable in the jurisdiction in which the conduct occurred'. The statement of compatibility therefore concludes that as 'not all possible punishments can be foreshadowed and prescribed, [the general approach taken in relation to instances where the penalty set by foreign law is non-custodial] provides a mechanism to ensure

that it will be open to the court to impose a term of imprisonment commensurate with the penalty applicable in the foreign jurisdiction’.

On the basis that the conduct is universally known to be criminal in nature, and in light of the above safeguards and limitations, the statement of compatibility concludes that the retrospective application of these offences is ‘consistent with the prohibition against retrospective criminal offences’ contained in the ICCPR.

In the circumstances, the committee leaves the question of whether the proposed approach is appropriate to the Senate as a whole.

The committee draws Senators’ attention to this matter 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.

Absolute liability

Items 6 and 13

The bill will apply absolute liability to the new element of both offences, namely, that the conduct constituting the offence must also have constituted an offence against the law of the foreign country. This means that the prosecution need not prove a fault element in relation to these physical elements and the defence of mistake of fact will not be available.

The committee usually expects that the application of absolute liability will be comprehensively justified in the explanatory material accompanying the bill, with particular reference to the matters outlined in the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*. In this instance, the explanatory memorandum merely notes the effect of absolute liability and that it is already applied in relation to an existing element of the offences: that ‘the other person is an Australian citizen or a resident of Australia’.

Although the explanatory materials do not expressly include a justification for the proposed approach, absolute liability is arguably not inappropriate as the element is essentially a precondition of an offence and the state of mind of the defendant does not seem relevant to it. The new element to which absolute liability applies is thus arguably analogous to a jurisdictional element.

The committee notes that it would have been preferable for the explanatory memorandum to include information directly addressing the grounds for including absolute liability for these items, but in the circumstances leaves the question of whether the approach is appropriate to the Senate as a whole.

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

Criminal Code Amendment (Private Sexual Material) Bill 2015

Introduced into the House of Representatives on 12 October 2015

By: Mr Watts and Ms TM Butler

Background

This bill amends the *Criminal Code Act 1995* to introduce three new offences in relation to the use of a carriage service to distribute private sexual material.

Trespass on personal rights and liberties—absolute liability Proposed subsections 474.24E(5) and 474.24F(5)

The use of absolute liability in relation to whether the person engaged in the relevant conduct using a carriage service is fully explained in the explanatory materials (at paragraph 25). That explanation notes that the element to which absolute liability applies is a ‘jurisdictional element’ and that intention in relation to such an element does not relate to the culpability of a defendant. The use of absolute liability is consistent with the principles set out in the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*.

The same issue arises in relation to proposed subsection 474.24F(5).

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

Trespass on personal rights and liberties—evidential onus Proposed section 474.24H

Proposed section 474.24H introduces a number of defences in respect of the new offences relating to private sexual material. In relation to each defence the defendant bears an evidential burden in relation to the relevant matters. The explanatory memorandum states that it ‘will generally be much easier for a defendant, rather than the prosecution to produce evidence showing that the circumstances to which the defences apply do in fact exist’. **While the committee notes this advice, this explanation is insufficiently detailed and the committee therefore requests further information from the Members that more clearly addresses the principles in relation to offence-specific**

defences outlined in the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*.

Pending the Members' reply, 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.

Defence Legislation Amendment (First Principles) Bill 2015

Introduced into the Senate on 14 October 2015

Portfolio: Defence

Background

This bill seeks to implement recommendations from the *First Principles Review – Creating One Defence* report by:

- amending the *Defence Act 1903* to:
 - give full command of the Australian Defence Force to the Chief of the Defence Force (CDF); and
 - consolidate the statutory treatment of the components of the Defence Force Cadets;
- amending 27 Acts to make consequential amendments; and
- repealing the *Naval Defence Act 1910* and the *Air Force Act 1923* and incorporating relevant provisions of these Acts into the *Defence Act 1903*.

The committee has no comment on this bill.

Fair Work Amendment (Prohibiting Discrimination Based On Location) Bill 2015

Introduced into the House of Representatives on 19 October 2015

By: Mr Christensen

Background

This bill amends the *Fair Work Act 2009* to ensure that employers cannot take adverse action against an employee or potential employee based upon where they live.

The committee has no comment on this bill.

Fair Work Amendment (Recovery of Unpaid Amounts for Franchisee Employees) Bill 2015

Introduced into the House of Representatives on 12 October 2015

By: Mr Bandt

Background

This bill amends the *Fair Work Act 2009* to provide for employees employed by a franchisee to recover unpaid remuneration from the franchisor or head office entity.

The committee has no comment on this bill.

Health Insurance Amendment (Safety Net) Bill 2015

Introduced into the Senate on 21 October 2015

Portfolio: Health

Background

This bill amends the *Health Insurance Act 1973* to introduce a new Medicare safety net on 1 January 2016 to replace the Extended Medicare Safety Net, the Original Medicare Safety Net and the Greatest Permissible Gap.

The committee has no comment on this bill.

High Speed Rail Planning Authority Bill 2015

Introduced into the House of Representatives on 12 October 2015

By: Mr Albanese

Background

This bill establishes the High Speed Rail Planning Authority and provides for its functions, appointment and terms and conditions of appointment of members, staff and consultants, conduct of meetings, and reporting and information requirements.

The bill also enables the minister to make rules prescribing matters.

Delegation of legislative power

Clause 29

Clause 29 provides for the making of rules, but without the standard restrictions now outlined in Office of Parliamentary Counsel Drafting Direction 3.8, which states:

27 If your Bill will contain a power to make instruments other than regulations, and the instructor's policy is that [a significant provision (as described in paragraph 3 of Drafting Direction 3.8)] is not required to be included in the instrument, you should include the following provision:

- (2) To avoid doubt, the [*name of legislative instrument e.g. rules*] may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) [*for Acts, but not Ordinances*] set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) amend this [*Act/Ordinance*].

28 You should include this provision in this form even if not all paragraphs are relevant to your Bill (such as because your Bill does not contain an appropriation).

29 Alternatively, if the instructor's policy is that a [a significant provision (as described in paragraph 3 of Drafting Direction 3.8)] should be able to be dealt with by subordinate instrument, then you should include a

regulation-making power in addition to the instrument-making power, and specifically allow the regulations to provide for that kind of provision.

As this wording includes important safeguards in relation to the use of subordinate legislation that is not in the form of a regulation, **the committee seeks the Member's advice as to whether the provision can be amended so that it aligns with the requirements in Drafting Direction 3.8.**

Pending the Member'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.

Higher Education Legislation Amendment (Miscellaneous Measures) Bill 2015

Introduced into the House of Representatives on 22 October 2015

Portfolio: Education and Training

Background

This bill amends various higher education and research Acts.

Schedule 1 amends the *Higher Education Support Act 2003* to allow certain New Zealand Special Category Visa holders to access the HELP scheme from 1 January 2016.

Schedule 2 amends the *Higher Education Support Act 2003* to add Torrens University Australia to the list of Table B providers.

Schedule 3 amends the *Higher Education Support Act 2003* to reflect the name change of the University of Ballarat to the Federation University Australia.

Schedule 4 inserts a provision that confirms the relevant heads of constitutional power that Part 2-3 (Other Grants) of the *Higher Education Support Act 2003* relies upon, in addition to the effect that Part 2-3 otherwise has.

Schedule 5 makes consequential amendments to corporate reporting requirements under the *Tertiary Education Quality and Standards Agency Act 2011* following the passage of the *Public Governance, Performance and Accountability Act 2013*.

Schedule 6 amends the *Australian Research Council Act 2001* to update appropriation amounts by applying indexation to existing funding caps and inserting new funding caps for the financial years starting on 1 July 2017 and 1 July 2018.

The committee has no comment on this bill.

Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015

Introduced into the House of Representatives on 15 October 2015

Portfolio: Education and Training

Background

This bill amends the *Higher Education Support Act 2003* to:

- require VET FEE-HELP approved training providers to establish minimum prerequisites for enrolment for each course;
- require parent's or guardian's approval of students under the age of 18 before the student can request a VET FEE-HELP loan;
- provide a two day 'cooling off period' from 1 January 2016;
- amend the circumstances in which students can have their loan cancelled;
- introduce a scheme of infringement notices attached to civil penalties for VET FEE-HELP providers that engage in improper conduct; and
- introduce a new minimum registration and trading history requirement for new VET FEE-HELP provider applicants.

The committee has no comment on this bill.

Migration Amendment (Complementary Protection and Other Measures) Bill 2015

Introduced into the House of Representatives on 14 October 2015

Portfolio: Immigration and Border Protection

Background

This bill amends the statutory framework in the *Migration Act 1958* relating to the protection status determination process for persons seeking protection on complementary protection grounds.

Merits review

Item 31, subparagraph 502(1)(a)(ii)

Section 502 of the Migration Act authorises the Minister to declare a person to be an ‘excluded person’ in circumstances where the Minister intends to refuse a protection visa on character grounds and decides that, because of the seriousness of the circumstances, it is in the national interest to make that declaration. As a consequence of being declared an ‘excluded person’, a person is not able to seek merits review of a decision in the AAT.

Item 32 expands the scope of this provision so that it applies not only to persons seeking a protection visa under the Refugee Convention but also to those seeking ‘complementary’ protection. The statement of compatibility explains that this amendment is designed to ‘ensure consistency in the Ministers powers when dealing with non-citizens of serious character concern’ (at paragraph 53). The statement of compatibility further states that ‘it is expected [the power to declare that a person is an ‘excluded person’] will only be used in limited situations where there is a clear national interest reason to limit access merits review’ (at paragraph 55).

The committee has a longstanding interest in limiting broad discretionary decisions which impact directly on individuals that are not subject to merits review. Merits review provides a level of assurance that judicial review cannot, given the restricted grounds on which courts are able to review decisions. For example, in general, judicial review cannot correct for factual errors even when those errors are serious and material. For this reason the committee does not consider that consistency with existing powers in the Migration Act which exclude ministerial decisions on character grounds from

merits review is a compelling justification for the introduction of further, similar powers.

In light of the limited capacity of judicial review to ensure administrative justice in the context of broad discretionary powers, the committee expects a more detailed justification for proposals to further limit the availability of merits review. As the justification for the approach is limited to (1) ensuring consistency, (2) the ‘expectation’ that the powers will be used infrequently, and (3) a claim that Australia’s treaty obligations do not require merits review of such decisions, **the committee seeks more detailed advice from the Minister which explains why an appropriate form of merits review is not warranted in relation to the making of these decisions.**

Pending the Minister’s reply, 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.

Migration Amendment (Mandatory Reporting) Bill 2015

Introduced into the House of Representatives on 12 October 2015

By: Mr Marles

Background

This bill amends the *Migration Act 1958* to require the reporting of child abuse in onshore and offshore immigration detention facilities.

Trespass on personal rights and liberties—reversal of onus Item 1, proposed subsection 268D(4)

The explanatory material does not address the justification for imposing an evidential burden on defendants in relation to matters relevant to whether they honestly and reasonably believed that the reportable assault had been reported by another person. **While the committee expects that an explanation for a reversal of onus should be included in explanatory material, as this is clearly a matter which may be said to be peculiarly within the knowledge of a defendant on this occasion the committee leaves this matter to the consideration of the Senate.**

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

Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2015

Introduced into the House of Representatives on 21 October 2015

Portfolio: Social Services

Background

This bill amends the *A New Tax System (Family Assistance) Act 1999*; the *Social Security Act 1991* and the *A New Tax System (Family Assistance)(Administration) Act 1999*.

Schedule 1 increases the fortnightly rates from 1 July 2018 for:

- Family Tax Benefit (FTB) Part A by \$10.08 for each child up until the age of 19 years; and
- certain youth allowances and disability support pensions by \$10.44 for recipients aged under 18 years.

Schedule 2 introduces a new rate structure for FTB Part B, and makes other amendments to the rule for Part B including:

- increasing the standard rate by \$1,000.10 per year for families with a youngest child aged under one;
- introducing a reduced rate of \$1,000.10 per year for single parent families with a youngest child aged 13 to 16, and extending the \$1,000.10 rate to couple grandparents with an FTB child in this age range; and
- removing FTB Part B for couple families (other than grandparents) with a youngest child aged 13 or over.

Schedule 3 phases out FTB Part A and B supplement by reducing the rate annually and then withdrawing it from 1 July 2018.

The committee has no comment on this bill.

Tax and Superannuation Laws Amendment (2015 Measures No. 5) Bill 2015

Introduced into the House of Representatives on 15 October 2015

Portfolio: Treasury

Background

This bill amends various taxation laws.

Schedule 1 amends the calculation of work related car expense deductions by applying a single rate for the calculation of the cents per kilometre rate.

Schedule 2 restricts the application of the Zone Tax Offset to people whose usual place of residence is within a Zone or a prescribed area within a Zone.

Schedule 3 amends the *Fringe Benefits Tax Assessment Act 1986* to limit the concessional treatment of salary packaged entertainment benefits.

Schedule 4 creates a new reporting regime requiring third parties to report a range of transactions.

Retrospective application

Schedules 1 and 2

Schedule 1 to the bill seeks to amend the methods for calculating work-related car expense deductions by:

- repealing the ‘12 per cent of original value method’;
- repealing the ‘one-third of actual expenses method’; and
- amending the process for calculating the ‘cents per kilometre method’.

Schedule 2 to the bill seeks to restrict the application of the Zone Tax Offset to people whose usual place of residence is within a Zone.

The amendments made by both of these schedules will apply in relation to the 2015-16 income year, that is, they will apply retrospectively from 1 July 2015 (schedule 1, item 45; schedule 2, item 15). Beyond noting that these measures were announced in the Budget, the explanatory memorandum does not address the retrospective application of these schedules.

In the context of tax law, reliance on ministerial announcements and the implicit requirement that persons arrange their affairs in accordance with such announcements, rather than in accordance with the law, tends to undermine the principle that the law is made by Parliament, not by the executive. Retrospective commencement, when too widely used or insufficiently justified, can work to diminish respect for law and the underlying values of the rule of law.

However, in outlining scrutiny issues around this matter previously, the committee has been prepared to accept that some amendments may have some retrospective effect when the legislation is introduced if this has been limited to the introduction of a bill within six calendar months after the date of that announcement. In fact, where taxation amendments are not brought before the Parliament within six months of being announced the bill risks having the commencement date amended by resolution of the Senate (see Senate resolution no. 44).

In the circumstances, the committee draws the retrospective commencement of these provisions to the attention of the Senate and leaves the question of whether the proposed approach is appropriate to the Senate as 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.

COMMENTARY ON AMENDMENTS TO BILLS

Fair Work Amendment Bill 2014

[Digest 2/14 – no comment]

On 12 October 2015 the Senate agreed to:

- 16 Australian Motoring Enthusiast Party, Family First Party, Independent (Senators Lazarus and Madigan) amendments; and
- one Australian Motoring Enthusiast Party, Family First Party, Palmer United Party, Independent (Senators Xenophon, Lazarus and Madigan) amendment.

On 13 October 2015 the Senate agreed to one Independent (Senator Lazarus) amendment and the bill was read a third time.

The committee has no comment on these amendments.

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*.

Bills introduced with standing appropriation clauses in the 44th Parliament since the previous Alert Digest was tabled:

Nil

Other relevant appropriation clauses in bills

Nil