



SENATE STANDING COMMITTEE

FOR THE

SCRUTINY OF BILLS

EIGHTH REPORT

OF

2004

23 June 2004

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MEMBERS OF THE COMMITTEE

Senator T Crossin (Chair)
Senator B Mason (Deputy Chairman)
Senator G Barnett
Senator D Johnston
Senator J McLucas
Senator A Murray

TERMS OF REFERENCE

Extract from **Standing Order 24**

- (1) (a) At the commencement of each Parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
 - (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The Committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

EIGHTH REPORT OF 2004

The Committee presents its Eighth Report of 2004 to the Senate.

The Committee draws the attention of the Senate to clauses of the following bill which contains provisions that the Committee considers may fall within principles 1(a)(i) to 1(a)(v) of Standing Order 24:

Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004

Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004

Introduction

The Committee dealt with this bill in *Alert Digest No. 5 of 2004*, in which it made various comments. The Minister for Veterans' Affairs has responded to those comments in a letter dated 21 April 2004. A copy of the letter is attached to this report. An extract from the *Alert Digest* and relevant parts of the Minister's response are discussed below.

Extract from Alert Digest No. 5 of 2004

[Introduced into the House of Representatives on 25 March 2004. Portfolio: Veterans' Affairs]

The bill amends the *Veterans' Entitlements Act 1986* to give effect to a range of minor policy measures that will enhance services to veterans and their dependants, correct minor policy flaws or align the Act with the social security law.

The bill also contains application and transitional provisions.

Retrospective commencement

Schedule 1, items 38, 39, 40 and 42

By virtue of items 9 and 11 in the table in subclause 2(1), the amendments proposed in items 38, 39, 40 and 42 of Schedule 1 to this bill would commence retrospectively on 1 July 1995. As a matter of practice the Committee draws attention to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people.

In this case, the Explanatory Memorandum points out the purpose of these amendments is to "align the income and assets test treatment of ATO small superannuation accounts and private rental income" in the *Veterans' Entitlements Act 1986* with that in the *Social Security Act 1991*. However, neither in the Explanatory Memorandum nor in the Second Reading speech is there any indication of whether the retrospectivity of these amendments would detrimentally affect any person.

The Committee **seeks the Minister's advice** as to whether any person would be adversely affected by the retrospective commencement of these amendments.

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.

Relevant extract from the response from the Minister

I am able to confirm that the proposed amendments do not adversely affect any person and will ensure that persons with small superannuation accounts under the scheme will receive the same asset and income test exemptions that are extended to persons who hold accounts with superannuation and similar funds.

The Committee thanks the Minister for this response.

Trish Crossin
Chair



MINISTER FOR VETERANS' AFFAIRS

RECEIVED

23 APR 2004

Standing C'ttee
for the Scrutiny of Bills

Senator Trish Crossin
Chairman
Senate Standing Committee
for the Scrutiny of Bills
Parliament House
CANBERRA ACT 2600

Dear Senator Crossin

In your Alert Digest (No. 5 of 2004) of 31 March 2004, you sought confirmation that the retrospective amendments to be made by items 38, 39, 40 and 42 of Schedule 1 of the Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004, consequential to the enactment of the *Small Superannuation Accounts Act 1995*, will not adversely affect any person.

I am able to confirm that the proposed amendments do not adversely affect any person and will ensure that persons with small superannuation accounts under the scheme will receive the same asset and income test exemptions that are extended to persons who hold accounts with superannuation and similar funds.

Yours sincerely

DANNA VALE MP

21 APR 2004