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**SITTING DAYS—2015**

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SIXTH PERIOD

Governor-General
His Excellency General the Hon. Sir Peter Cosgrove AK, MC (Retd)

Senate Office holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Gavin Mark Marshall
Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachian Gallacher, Susan Lines, Deborah Mary O'Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams
Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon. Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator the Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator the Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O'Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
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</table>
Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives.

**Casual vacancy

(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.

**Casual vacancy to be filled (vice B. Mason, resigned 15.4.15), pursuant to section 15 of the Constitution.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
## ABBOTT MINISTRY

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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon. Tony Abbott MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon. Nigel Scullion</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon. Michaelia Cash</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Charles Porter MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Alan Tudge MP</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon. Warren Truss MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon. Jamie Briggs MP</td>
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<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon. Julie Bishop MP</td>
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<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon. Andrew Robb AO MP</td>
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<td>The Hon. Steven Ciobo MP</td>
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<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
<td>The Hon. Steven Ciobo MP</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon. George Brandis QC</td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon. George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
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<td>The Hon. Michael Keenan MP</td>
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<td><strong>Treasurer</strong></td>
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<td><strong>Minister for Small Business</strong></td>
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<td>The Hon. Joshua Frydenberg MP</td>
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<td>The Hon. Kelly O'Dwyer</td>
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<td>The Hon. Barnaby Joyce MP</td>
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<td>Senator the Hon. Richard Colbeck</td>
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<tr>
<td><strong>Minister for Education and Training</strong></td>
<td>The Hon. Christopher Pyne MP</td>
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<tr>
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<tr>
<td><strong>Assistant Minister for Defence</strong></td>
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<tr>
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<td>Minister for Sport</td>
<td>The Hon. Sussan Ley MP</td>
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<tr>
<td>Assistant Minister for Health</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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<tr>
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<td>Shadow Minister for Tourism</td>
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Monday, 11 May 2015

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling
The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

Details of the documents also appear at the end of today's Hansard.

COMMITTEES
Environment and Communications Legislation Committee
Foreign Affairs, Defence and Trade Joint Committee
Public Works Committee
Treaties Committee

Meeting
The Clerk: A notification has been lodged for the Environment Communications Legislation Committee to hold a public meeting today from 11 am; the Joint Standing Committee on Foreign Affairs, Defence and Trade for a public meeting today from 4 pm; the Parliamentary Standing Committee on Public Works for a private briefing and public meeting today from 6 pm; and the Joint Standing Committee on Treaties for a public meeting today from 11 am.

The PRESIDENT (10:01): I remind senators that the question may be put on any proposal at the request of any senator.

PARLIAMENTARY REPRESENTATION
New South Wales
The PRESIDENT (10:02): I have received through the Governor-General from the Governor of New South Wales a copy of the certificate of the choice by the houses of parliament of New South Wales of Jennifer McAllister to fill the vacancy caused by the resignation of Senator Faulkner. I table the document.

Senators Sworn
Senator McAllister made and subscribed the oath of allegiance.

PARLIAMENTARY REPRESENTATION
Queensland
The PRESIDENT (10:07): I inform the Senate that I have received a letter from Senator Mason resigning his place as a senator for the state of Queensland. Pursuant to the provision of section 21 of the Constitution, I have notified the Governor of Queensland of the vacancy in the representation of that state caused by his resignation. I table the letter and a copy of my letter to the Governor of Queensland.
PARTY OFFICE HOLDERS
Australian Greens

Senator DI NATALE (Victoria—Leader of the Australian Greens) (10:08): by leave—I
wish to inform the chamber that following Senator Milne's resignation as leader, I am now
Leader of the Australian Greens. Senators Ludlam and Waters are co-deputy leaders, and
Senator Rachel Siewert continues as the whip.

BILLS

Construction Industry Amendment (Protecting Witnesses) Bill 2015
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator CAMERON (New South Wales) (10:08): I rise to indicate Labor's opposition to
the Construction Industry Amendment (Protecting Witnesses) Bill 2015. The bill will
continue state discrimination against building and construction industry workers by
maintaining a coercive power that applies to no other Australian worker.

Labor appointed the respected former Justice Murray Wilcox QC, to undertake
consultation and prepare a report on matters related to the creation of a specialist division of
the inspectorate of Fair Work Australia. Justice Wilcox provided a report to the Labor
government in 2009. The report recommended a continuation of compulsory interrogation
powers, subject to a sunset clause and an inquiry into their continuance or otherwise. In
addition to the sunset clause, checks and balances were included such as the issuing of
compulsory attendance for interrogation only by a presidential member of the Administrative
Appeals Tribunal. The government must conduct a properly established independent inquiry
into the merits or otherwise of extending the sunset clause. We will not support this bill when
the recommendation for a review is being ignored for political and ideological reasons.

Six years on, and despite the best efforts of the coalition government to denigrate building
workers and their unions, no evidence exists that the continuation of discrimination against
building and construction workers is in the national interest.

The government and government senators, in their Senate Education and Employment
Legislation Committee report on this bill, made it clear that they want a return to the
draconian Australian Building and Construction Commission. The ABCC bill will remove the
important safeguards Justice Wilcox identified and Labor enacted in relation to the
Administrative Appeals Tribunal. Arguments from government senators that this is simply
about extending the operation of the powers under the act are patiently untrue. Just read the
coalition senators' report in the bill to see the true agenda.

This is a government that cannot be trusted, a government addicted to deception. I will not
repeat the concerns raised by the Parliamentary Joint Committee on Human Rights and the
Senate Scrutiny of Bills Committee, suffice to say that none of the deep concerns raised by
these joint party committees have been addressed by the government.

The government is determined to trample the human rights and the industrial rights of a
group of Australian workers in what can only be viewed as an attempt to increase the share of
income going to the profits of the building companies at the expense of building and construction workers around the country.

Is it any wonder that workers' rights are being trashed when the Liberal National Party receives massive election funding from the industry? An example of this is the $430,000 paid to the coalition front company, the Altum property trust, by Walton Construction. This cosy relationship between the coalition and the building industry continued even when Walton Constructions was about to collapse, owing Sunshine Coast subcontractors $2.9 million. This collapsed building company donated more than $1.4 million to the Liberal National Party between 2009 and 2013. Is it any wonder that the coalition want to do the bidding of the building industry?

I would call on Senator Lazarus to consider this outrageous position prior to making any decision to support this legislation.

Queensland workers and Queensland small businesses were ripped off at the same time as the Liberal National Party were pocketing $430,000 of this distressed company's money. This money should have been helping to feed and clothe the families of Queensland construction workers, and it should have been maintaining small businesses in their capacity to employ construction workers.

I call on the Liberal National Party to give the money back to the small businesses and the construction workers who were ripped off by this company. They should do that as a matter of morality and as a matter of natural justice.

This bill is the precursor to extremist industrial legislation. It is being justified as being in the national interest and improving productivity. There is no evidence that this is the case. The approach taken by this government against building and construction workers is nothing more than modern McCarthyism. They have established a royal commission with narrow terms of reference designed to inflict maximum damage on workers' rights to form a union and collectively bargain. They have made allegation upon allegation without evidence or corroboration. They are using parliamentary privilege to name CFMEU officials and to link them, without evidence, to criminal activity—including threats of rape. They have manufactured evidence of productivity gains by funding flawed and discredited econometric modelling. They are overstating the threat to the economy. They are removing individual rights. They are discriminating and intimidating building workers. They are using the so-called 'national interest' to diminish the human rights of building workers. They are favouring employers at the expense of employees. They are legislating to diminish equality at law and they are establishing a biased, politically-driven regulatory body.

The government have used a range of arguments to justify this McCarthyism. They continually use the Econtech report, which was based on flawed analysis, to argue that productivity, industrial lawlessness, health and safety and fatalities have been positively affected by the introduction of the ABCC. The Econtech report and its methodology have been criticised and critiqued by the Productivity Commission, PricewaterhouseCoopers, the Grattan Institute, Professor David Peetz, Justice Wilcox and a range of other eminent economists. The critiques have been so strong that Econtech changed its name to KPMG Econtech and then to Independent Economics. Is it any wonder that this company has changed its name to run away from its flawed analysis?
If ever there were evidence that hired-gun economists will produce econometric modelling to justify their client’s case then this is it. There was no magical 9.4 per cent increase in productivity as a result of the ABCC or other reforms. And there was no equally magical seven per cent drop in productivity as a result of the fair work building commission coming into effect—absolutely no evidence.

In their recent productivity scorecard focused on the construction industry, PricewaterhouseCoopers made a number of observations. You would not argue that PricewaterhouseCoopers was a supporter of the CFMEU. But PricewaterhouseCoopers said that growth in labour productivity in the construction industry has tracked closely with the market sector over the past 15 years aside from a dip around the introduction of the GST, when housing construction was brought forward. They went on to say that, in relative terms, capital productivity outperformed the market sector between 1994-95 and 2004-05, due to the poor performance of the market sector generally. However, since 2005-06 it has declined at a similar rate as the market sector. Multifactor productivity for the construction industry has tracked closely with the market sector since 2007-08.

In 2013 Econtech cited a Grattan Institute report as supportive evidence. However, PricewaterhouseCoopers made the following observation on the construction industry and the relevance of external research:

The Grattan Institute notes that at the macro (i.e. economy-wide) level, ‘there is no clear link between labour productivity growth and IR laws’, and also ‘at a firm level there is no obvious link between IR reform and productivity changes.’

Despite these observations, industrial relations (IR) is one of the key productivity battlegrounds in the construction industry.

So PricewaterhouseCoopers said it is a battleground for productivity and that it really has no basis to be that battleground. PricewaterhouseCoopers said:

Much of the focus in recent times has been on the potential reinstatement of the Australian Building and Construction Commission (ABCC).

There has been considerable debate about the degree to which the ABCC is a positive for productivity in the construction industry. A series of benchmarking studies commissioned by the ABCC and the Master Builders Association have sought to portray the ABCC as the driver of improved productivity in the construction industry. These studies have been critiqued and the analysis found wanting on a number of methodological grounds.

That is from PricewaterhouseCoopers, 2013, pages 7 to 8.

The fair work building commission, under its current regime, has selectively chosen data to give the impression that, under the ABCC and the recent iteration of the fair work building commission, workplace deaths in the industry have declined. This is part of a political campaign and political lobbying conducted by the fair work building commissioner, Mr Nigel Hadgkiss. Mr Hadgkiss has been politically lobbying crossbench senators and using flawed, incorrect and misleading overheads in presentations to crossbench senators.

It is disgusting that a so-called ‘public servant’ would deliberately use selective statistics on workplace fatalities to advance his career and the extremist policies of the government. Using manipulated and flawed workplace fatality statistics as part of a political campaign is disgusting and reprehensible. It demonstrates how low this government and its attack dogs
will go to attack collective bargaining and trade unionism in the building and construction industry.

Safe Work data shows that over the period of compulsory interrogations—that is, 2006 to 2009—the rate of fatalities was 32 percent higher than the subsequent period when the compulsory interrogations ceased. The fair work building commission data also suggests that construction has one of the lowest fatality rates of any industry. But many industries are missing from the chart that they use. In fact, over the period 2004 to 2014 construction fatality rates were always above the national average, unfortunately so.

The claim that coercive powers have led to more successful prosecutions and that they are necessary for proceedings to take place is also false. It is based on the data analysis through the various iterations of the building industry tribunal, ABCC and fair work building commission. In fact, more successful prosecutions occurred during the period after 2009, without the use of coercive powers. The arguments for coercive powers do not stack up. Treating building and construction workers differently from the rest of the community is unjustified and unfair.

The government should look at the real issues affecting the building and construction industry. Recent analysis shows that in the last 10 years more than one in five of all insolvency events occurred in the construction industry, with an estimated $2.72 billion owed to creditors in 2013-14 alone. Administrators have reported that in 2013-14 some $137 million was owed to construction workers and their families, including $63 million in superannuation. More than three-quarters of these reports also identify some type of civil or criminal misconduct by a company director. The Australian Securities and Investments Commission reports only two 'enforcement outcomes' under the insolvency category for the full two-year period 2013 to 2014.

The government has cut ASIC's funding by $120 million over four years, with a loss of 209 staff. In the same budget, the fair work building commission received a 17.25 per cent increase in funding, to $34.3 million, including a 32.6 per cent increase in spending on staff. So the enforcement agency for employers gets cut; the enforcement agency against workers get an increase. How fair is that? How tenable is that? This is another example of this government's bias and unacceptable position. Pursuing its ideological vendetta against the trade union movement is more important to this government than ensuring the rule of law is enforced against corrupt employers.

A 2010 report using ASIC insolvency data showed that the six most commonly reported reasons for corporate failure in the construction sector were (1) inadequate cash flow or high cash use, (2) poor strategic management of business, (3) poor financial control, including lack of records, (4) poor economic conditions and (5) trading losses. The big bad CFMEU do not come onto the radar. They are not the issue. The issues are the issues outlined by the ASIC investigation. The sixth area was undercapitalisation. Industrial relations did not make the first six issues.

I want to now turn to the current operation and leadership of the ABCC. I have never seen a more biased, politically driven and incompetent public servant than the current fair work building commissioner. Mr Hadgkiss in his appearances before Senate estimates and in Senate inquiries has demonstrated either that he is incompetent or that he holds the Senate and parliament in contempt. Mr Hadgkiss, in his appearances before estimates and committee

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CHAMBER
hearings, has been evasive, arrogant, contemptuous and incompetent. If crossbench senators approve this bill then they will be giving power to a public servant who will abuse it. Nigel Hadgkiss is nothing more than a puppet of the government. He is the government's attack dog in the industry, using legislative power to intimidate workers exercising their rights to belong to a union, collectively bargain and be safe at work.

Nigel Hadgkiss is the perfect example of the problems of regulatory capture. According to the Australian National Audit Office in its *Administering regulation: better practice guide*:

- **regulatory capture**—occurs when an official inappropriately identifies with a regulated entity's interests rather than the public interest

I was absolutely gobsmacked when during the February additional estimates I asked him whether he had heard of regulatory capture. The exchange goes like this. I asked Mr Hadgkiss:

... you meet with the industry players on a regular basis—some 50-odd times—and you have got Master Builders providing training for your people. Have you heard of a regulatory capture?

He replied: 'A what, sorry?' I responded: 'Regulatory capture.' Mr Hadgkiss said:

I am not sure what you are talking about, Senator.

I asked again:

You do not know what a regulatory capture is? I think Mr Corney is trying to explain it to you.

Mr Hadgkiss conceded:

I am not familiar with it, Senator, no.

In disbelief, I asked again:

You are not familiar?

Mr Hadgkiss said no. This is a regulator with immense power overseeing an industry where employers have significant power and control over their employees. This is an industry that has captured the regulator. The regulator has absolutely no clue about the serious implications of this failure of leadership. For a regulator to have no understanding of regulatory capture is beyond belief. This simply demonstrates that Mr Hadgkiss is unfit for office. *(Time expired)*

**Senator RICE** (Victoria) (10:28): I rise to speak on the Construction Industry Amendment (Protecting Witnesses) Bill 2015. This bill arises from a desperate attempt of the government to retain the draconian powers that arose out of the establishment of the Australian Building and Construction Commission, which was subsequently abolished by the parliament and which the government has sought to re-establish. Because it was clear that the Senate would not support the reinstatement of the ABCC, the government has done a deal to retain the remaining coercive powers continued after the ABCC was abolished by extending the sunset clause in the act.

I want to make it crystal clear that, unlike others in this place, the Australian Greens will not participate in an attack on workers' rights. There is no justification for the coercive powers that cover the building industry to be extended for another two years. The powers and the criminal sanctions which attach to it are excessive, unnecessary and inconsistent with internationally recognised labour standards and the industrial norms of a modern democracy.

We will be opposing the bill. The current powers of inspectors operating under the Fair Work Act 2009 are adequate to allow for satisfactory investigations. These inspectors are able
to enforce industrial laws. The Fair Work Ombudsman as an industrial regulator has the necessary powers to be an effective body for the industry.

Under current federal legislation there are two separate and separately funded statutory agencies enforcing one set of industrial laws. The Fair Work Ombudsman was established under the Fair Work Act, and the Office of the Fair Work Building Industry Inspectorate was created by that act. Although the Office of the Fair Work Building Industry Inspectorate is confined in its role to laws applying to building workers, its statutory mandate is virtually identical to that of the Fair Work Ombudsman.

Since the introduction of the Fair Work Amendment Act 2012 there is no difference in the laws that the Fair Work Ombudsman and the Office of the Fair Work Building Industry Inspectorate enforce or the penalties which apply to any contravention of these laws. In particular, it is important to note that neither the Fair Work Ombudsman nor the Office of the Fair Work Building Industry Inspectorate has any role in enforcing criminal laws covering such things as intimidation, blackmail or offences under the Corporations Act. These are matters that are being discussed as justification for this bill's passage.

It is really important to realise that, if this bill is rejected, the Office of the Fair Work Building Industry Inspectorate inspectors will have the same powers in respect of building matters as those available to inspectors of the Fair Work Ombudsman under the Fair Work Act. There has never been any suggestion that these powers are ineffective or inadequate for an industrial inspectorate. To the contrary, the Fair Work Ombudsman has proved an effective regulator and has used all of its available powers to investigate and prosecute industrial matters in an uncontroversial and apolitical way.

Further, the Office of the Fair Work Building Industry Inspectorate's own records show that there has been very limited recent use of these powers at all. The most recently published report of the FWBII shows that its coercive notices were relied on only four times in 2013-14 and only twice in 2012 and 2013. The fact is the Office of the Fair Work Building Industry Inspectorate has not used these notices to cover for large numbers of witnesses, as it is claimed, who would not come forward without them.

The Greens are opposed to the use of coercive powers in the industrial context. These powers and the associated criminal sanctions have no place in a democratic society. There is no justification for introducing this measure which allows certain workers to be secretly interrogated. These measures are inconsistent with international labour standards. The civil penalty supporting the power to require production of documents and records is an adequate deterrent.

The powers and the criminal sanctions behind them represent a serious incursion into the civil liberties of Australian citizens which is unwarranted in a workplace context. They are plainly not critical to the investigation and enforcement processes of the FWBII. The powers conferred by the Fair Work Act are adequate and proportionate to the purpose of industrial investigations.

Workers in the construction industry should come under the same laws as all other workers. If this bill is passed, it will mean that workers could be subject to arbitrary interrogations. This is a form of harassment and intimidation that runs counter to the norms of a fair society. It is relevant to consider where support for this legislation is coming from.
Vigorous support is coming from those who profit enormously in the construction industry. As many construction company owners mistakenly equate union activity with reduced profitability, they have in turn supported coercive powers, executed by a publicly funded prosecutor of unions and workers.

The regulation of the construction industry should come under the same regime as that which covers all workers and their employers. The Combined Construction Unions noted in their submission that the Wilcox inquiry did not support the extension of coercive powers beyond 2015. They stated:

… Wilcox was satisfied that the Parliament, in introducing the Fair Work Act, had recently considered what the federal labour inspectorate should look like and what the necessary and appropriate powers of such a body would be. His view was that whilst there might be some temporary short term focus on the construction industry, this should be through administrative arrangements only and could be carried out through the FWO. There should be no ongoing statutory agency like the FWBII and no ongoing need for coercive powers of the kind provided for by this Bill.

There is no good reason to extend these coercive powers for a further two years. The existing powers of inspectors under the Fair Work Act are more than adequate to allow for effective investigation and enforcement of industrial laws. The idea that there should be coercive powers above and beyond those enjoyed by the Fair Work Ombudsman, especially when these are focused on employee and union conduct, offends against the most basic principle of equality before the law.

The proper objective should be to do away with these extraordinary powers and return the regulation of the construction industry to the same regime as applies to all other Australian employees and employers. There should be no separate agency and no separate powers in the form outlined in this legislation; therefore, the Australian Greens will absolutely be opposing this bill.

**Senator McKenzie** (Victoria) (10:37): It gives me great pleasure to rise to speak in support of the Construction Industry Amendment (Protecting Witnesses) Bill 2015. This is important and urgent legislation to preserve the existing investigative powers of Fair Work Building and Construction. This stopgap bill will allow more time for senators to consider the broader problems with the current regulation of the building and construction industry—problems that can only be rectified through re-establishing effective legislation and re-establishing the Australian Building and Construction Commission. The pressing issue today, however, is that the compulsory powers of the current regulator are due to expire on 31 May 2015.

The Labor Party would have been happy to do away with these compulsory powers when it abolished the ABCC in 2012 but its own review of the construction industry recommended against this course. In the Labor inquiry into the ABCC in 2009 former Federal Court judge Murray Wilcox QC said that he could not recommend getting rid of the compulsory powers because to get rid of them—and it is a pity that Senator Cameron has left the chamber and cannot hear the words of Justice Wilcox—’would not be a responsible course’. He went on to say, 'The reality is that, without such a power, some types of contravention would be almost impossible to prove.'

So Labor were in a sticky place. They wanted to abolish the powers to appease the ETU and the CFMEU but only by flying in the face of the evidence in their own report and
ignoring its recommendations. It is very quiet on the other side. This is why Labor retained the ABCC powers. Let us be very clear—the powers we want to extend today are the very powers Labor introduced in their legislation. Even though Labor kept the former ABCC's powers, they included a sunset date of 31 May 2015. Labor also watered down the industry regulator's authority, cut the maximum penalty for wrongdoing by two-thirds, removed a third of the regulator's staff and cut a third of its funding.

Any independent observer will agree that the level of respect for the law in the industry has not improved since Justice Wilcox made his recommendations to Labor. There remains an unacceptable level of unlawfulness and disregard for the rule of law exhibited by some in the building industry. The reality is that the present legislation is simply not enough to deter certain elements from repeatedly breaking the law as and when it suits them. For this reason the coalition government is committed to re-establishing an effective regulator in the ABCC.

But while senators take the necessary time to consider the ABCC legislation we cannot afford to lose the compulsory powers that are necessary for the FWBC to carry out its role. This is what the protecting witnesses bill will do.

Whilst this stopgap measure is important, we must not lose focus on the underlying problem—a problem that the former ABCC was starting to address before it was abolished in 2012. Labor experimented with a weaker replacement framework and regulator after it abolished the ABCC but that experiment has not been successful in bringing the rule of law back to the industry. Labor gave the construction unions an opportunity to improve their conduct. It was quite literally only weeks after Labor abolished the ABCC in 2012 that the CFMEU, supported by the ETU and other construction unions, shut down part of the Melbourne CBD for days in the infamous Grocon dispute. We have all seen the footage of the violence and thuggery unleashed on the streets of Melbourne by the CFMEU and ETU as part of the CFMEU's attack on Grocon and its workers.

What made this worse was that the blockade occurred in defiance of court orders—court orders, mind you, that the then newly weakened regulator did not seek. Indeed, the CFMEU has been before the courts 87 separate times since 1999. Just this year we heard from the Director of the FWBC that at that one time 72 CFMEU officials, including almost all of the union's state secretaries, were before the courts or industrial tribunals in a number of cases.

The courts have repeatedly made reference to the CFMEU's blatant disregard for the law. The Heydon royal commission found in its interim report that 'a culture of wilful defiance of the law appears to lie at the core of the CFMEU'. In a decision delivered by the Federal Court only the week before last the Federal Court found:

Mr Latham asked what the ramifications would be if—

the company—

did not enter into an enterprise agreement with the CFMEU. Mr Edwards—

the then CFMEU Victorian President—

answered that the CFMEU was going to 'f*** you over'.

My apologies to Hansard. The court also said:

This is but one of many examples of the CFMEU's sense of entitlement to pursue its objectives by any means, lawfully or unlawfully.

This is yet further evidence of the failure of Labor's watered-down legislation.
The FWBC is already weak. We cannot let it lose even more of its powers. So there is no misunderstanding I once again highlight that this stopgap bill simply extends powers which Labor retained from the former ABCC and which Labor gave to the FWBC. There is false outrage from those opposite—and Senator Cameron did quite a job. I love the fact that he regaled us with his interpretation of the Senate estimates process and his interactions with Nigel Hadgkiss. I encourage anyone who is interested in this issue to go to that transcript. It is fascinating reading. Despite the false outrage from those opposite, the Gillard government understood the need for the compulsory powers in this particular industry. Labor preserved and retained the ABCC compulsory powers. The coalition is now seeking to preserve these powers today until the ABCC is re-established.

The Senate Education and Employment Legislation Committee recently handed down its report on this bill. This is a committee that I chair. Labor members of the committee delivered a one-page dissenting report recommending that the bill not pass, which is somewhat extraordinary given, as I have said before, that we are dealing with the continuation of their own policy, of legislation introduced by Labor under the Gillard government. The Labor senators on the committee relied on two arguments to oppose the bill, both of which misstate and misunderstand the problem in the industry and history.

This is, frankly, a desperate and dishonest approach that has been taken by Labor senators, and it ought to be called out for what it is. Labor needs to write more than one page to explain why something that was good enough for Gillard Labor is not good enough for Shorten Labor. The two false arguments the Labor senators relied on were, firstly, that there is not a need for special powers in the construction industry. What an extraordinary position to take. I have spoken in this place a number of times, for anybody who has taken the time to listen, on what the CFMEU and other unions have been doing; their behaviour within the industry and external to the industry itself is unlawful. It seems these Labor senators have been absent for the last number of years and have missed the repeated instances of unlawful industrial conduct in this industry by construction unions, most of which is backed by intimidation, thuggery and the coercion of those too weak or too scared to stand up to the CFMEU and its thugs for fear of retribution.

It is incredible that Labor senators could ignore the mountain of evidence disclosing this enormous problem and this specific issue in the industry. It is a problem which Labor’s own 2009 review highlighted and relied upon in recommending the retention of the ABCC powers. There was then and, regrettably, there still is now a culture of industrial unlawfulness in the construction industry. For many years it has been only too clear that the commercial building and construction sector provides the worst examples of industrial unlawfulness. No other industry comes close.

If Labor and its senators have not lost all credibility on this issue by suggesting there is nothing unique about the level and type of unlawfulness in the construction industry, one only needs to look at their second reason for not supporting the bill. The second, absurd, reason is that the government has not consulted enough. Seriously, what a joke! What an absolute joke. I cannot believe you could stand there with a straight face and make that accusation or assertion. The legislation to re-establish the ABCC, which retains the same compulsory powers we are talking about extending today, was introduced into the House of Representatives in the first sitting week of this coalition government. These compulsory
powers have been a clear feature of the ABCC legislation from day one, and the powers have been discussed, explored and consulted upon. And, I might add—as the senator who chairs the committee responsible for this type of legislation and the deputy chair of the references committee which also examines this type of issue at the wot of Labor Party senators—they have been discussed in excruciating detail in both houses of parliament and numerous consultative forums. The bill that deals with these compulsory powers has been subject to not one, not two, but three separate Senate inquiries—two inquiries by the legislation committee and one by the Labor controlled references committee. These three Senate inquiries, each of which considered the compulsory powers, have received hundreds of pages of submissions from employer groups, employees, unions, industry and government. There have been numerous days of hearings in Canberra and elsewhere, and dozens and dozens of pages of reports have been published, yet Labor senators of the committee have the gall to say there has not been enough consultation and that is the reason they are opposing the bill. What a joke! What makes the Labor senators’ dissenting report and the Labor position so intellectually dishonest is that these same Labor senators were part of the three other reviews.

The honourable thing for Labor senators to do today would be to vote for the extension of powers given to the FWBC by their own former Prime Minister—to stand by their own legacy. But I guess, when construction unions are the Labor Party’s loan sharks, there has to be a payoff. You have to pay the piper, even if it results in witnesses and whistleblowers in the construction industry not having protection from reprisal by Labor’s favourite union thugs for daring to speak out.

Senator XENOPHON (South Australia) (10:49): I would like to indicate my support for the measures in the Construction Industry Amendment (Protecting Witnesses) Bill 2015. I want to make it clear that I do not have a final position on the Building and Construction Industry (Improving Productivity) Bill and associated legislation; however, I do think it is useful to amend the sunset provision relating to the investigative powers of the Fair Work Building Industry Inspectorate so the current conditions can continue while the ABCC bills are debated.

I am a strong supporter of unions, and I believe they form a vital part of Australia’s workplace relations framework. It is incredibly important that workers have the power of union representation, and the long history of unions in fighting for better pay and conditions speaks for itself. However, I do believe there are some unscrupulous operators within some unions—as there are in any organisation—and, insofar as there may be systemic issues in respect of some unions or industries, they need to be dealt with in a way that is fair and comprehensive, and that is why this sunset clause needs to be extended.

All of the union officials I have spoken to are strongly against any kind of illegal or unconscionable activity and, indeed, have taken significant steps to investigate and address any such allegations. I have met and worked with Michael O’Connor, the head of the CFMEU nationally in this country, whom I have a lot of time for. We have worked together closely on issues such as dumping, which is costing Australians good jobs because products are being dumped in our market below cost in breach of WTO rules which I do not think are being enforced adequately in this country. I have worked with him on issues such as imported products which are of inferior quality, and we have seen in the building sector some cladding that is not fireproof, which is a real issue. That is an issue that transcends ideology or
politics—that is an issue we need to look at very, very closely. So there are issues we work together on very closely, but fundamentally I do not support the CFMEU's position in terms of the sunset clause. I think it is essential we maintain it.

The willingness on the part of union leaders such as Michael O'Connor to address these issues does not mean that the powers currently held by the Fair Work Building Industry Inspectorate are redundant. I note that both the opposition and the Greens, in their separate dissenting reports to the committee inquiry into this bill, stated that, as these powers have not been used extensively, they should not be maintained. I disagree. I am glad there has not been an extensive need for the inspectorate to use these powers, but that does not mean they should not exist. We do not just wear seatbelts when we have a crash; we wear seatbelts in case we have a crash. In my view, these investigative powers are an important part of the inspectorate's toolkit. The fact that they have not been used excessively is actually a good sign; a sign that the inspectorate takes these powers seriously and uses them sparingly.

I acknowledge the concerns that have been raised in the context of the building and construction industry bills. I look forward to further debate on these matters. As I mentioned earlier, I have not yet reached a final position on the measures in those bills, although I can say that if you have people being paid well, people being treated fairly and increased levels of productivity then that must be a good thing in terms of the national interest. If our buildings are being built more productively and if people are being paid well that has to be good for our nation's wealth as a whole. In the context of this bill it is useful, it is necessary, in fact it is essential that the status quo continue until the vote on these bills is finalised. As such, I will be supporting this bill, and I look forward to debating the building and construction industry bills at a later date.

The final point I wish to make is this: when this debate came up under the former government, under the Gillard government, it was acknowledged that these powers should exist. These powers of compelling witnesses to give evidence are not unusual in other pieces of legislation. ASIC, our corporate regulator, has them and the ACCC, our consumer and competition watchdog, has those powers. I think it is appropriate that similar powers exist in this sector. So with those comments it seems to me to be illogical not to allow the sunset clause to be extended pending further consideration of other measures for the construction industry. I think that if this bill is defeated it will be an issue of real concern in terms of those minority elements in the sector that are not doing the right thing, and I include a number of rogue employers who are involved in agreements and conduct that would be improper. I think these powers need to be maintained. That is why I strongly support this bill.

**Senator BERNARDI** (South Australia) (10:54): It gives me great pleasure to follow Senator Xenophon on one of those occasions when we are both supporting the same bill. I think the conclusion that we come to is that the construction industry is too important to be overrun by those that simply choose to ignore the rules as and when it suits them and then target those that dare to stand up and speak out. The FWBC compliance powers that exist to protect witnesses must be preserved until they can be provided to a re-established ABCC. These are the same compulsory powers of the former ABCC that were then retained by the Gillard Labor government and given to the FWBC. Because these powers, as has been explained, will sunset before the Senate can deal with the ABCC legislation in the coming
weeks, we need to pass this protecting witnesses bill so that any current investigations are not prejudiced.

In researching these powers, I had occasion to watch a video that the CFMEU has put out on the compliance powers of the ABCC. To say it was rife with dishonesty would be an understatement. It was filled with dishonesty and false assertions. It was a work of fiction and, may I say, it was not a very good one at that. During my speech, I want to touch on the most egregious falsehoods in the video. Firstly, the dramatised clip shows three people literally standing over a witness and aggressively asking questions. This is completely dishonest. This indeed may reflect or disclose how the CFMEU conducts itself and its interviews but it is certainly not the case with the public officials at the FWBC and the ABCC. The irony of the CFMEU complaining about intimidation would be laughable if it were not that the consequences for victims of the CFMEU’s intimidation and thuggery were not so devastating.

The video falsely claims that the ABCC powers would subject construction workers to laws which no-one else is subject to in Australia. This is nonsense. It is a complete fabrication. Firstly, let me be very clear: the ABCC powers are the same powers Labor gave the FWBC. Secondly, these powers are not new nor are they unique to the construction industry. The power to compel people to attend interviews and answer questions exists in ACCC, ASIC and APRA amongst others. These agencies have had those powers for longer than either the ABCC or the FWBC. So to suggest that these powers are unique to the construction industry is a deliberate falsehood.

The CFMEU also fails to disclose the important safeguards that apply to the FWBC and ABCC powers; the most significant being that any information given by a witness cannot be used against them in legal proceedings. Let me say that again: any evidence given by a witness cannot be used against them in legal proceedings. They are given an automatic immunity. This is why no-one who is suspected of breaking the law is ever examined. Even if a witness incriminates themselves by answering a question that information cannot be used against them. We should not forget that any witness can have a lawyer attend with them and that most FWBC and ABCC examinations are conducted by members of the independent bar. The CFMEU video also fails to mention that the FWBC pays witnesses their reasonable expenses, including the cost of their lawyer, their travel and any lost wages. Each interview is also tape and video recorded and witnesses are given a copy of the transcript to review and check.

I would also like to address an outrageous CFMEU falsehood I have heard; namely, that the ABCC or FWBC can come, and I quote, ‘Take people off the street.’ It is utter nonsense. This is nothing more than a desperate CFMEU ploy to scare and mislead people. If they have got nothing to hide why do they have to make stuff up?

But the worst and most dishonest aspect of the video is that it tries to piggyback off the important issue of workplace safety to oppose the powers. The video ends saying, ‘Standing up for a safer workplace should never be a crime.’ That is an absurd statement in that context. Of course it should not be a crime, and it is not a crime. It was not a crime under the former ABCC, it is not a crime under Labor’s FWBC, and it will not be a crime under a re-established ABCC. This is just another terrible example of the unions misusing safety to promote a self-interested and purely industrial agenda. The CFMEU video ends by saying that those that stand up for safety should not be treated as criminals. Let me tell you they are not. For too
long the unions have falsely cried safety as a lazy defence for their unlawful and unethical industrial conduct. They have cried wolf so often that they can no longer be believed.

Just so there can be no misunderstanding, I want to get a few facts onto the record. The former ABCC, Labor's Fair Work Act 2009, Labor's FWBC and the proposed ABCC all use the same standard when it comes to safety. If an employee has a reasonable concern about an imminent risk to his or her health or safety, it is not industrial action for that worker to stop work. This is the same rule that applied to construction workers under the former ABCC, that currently applies under Labor's current legislation and that will apply under a re-established ABCC.

In misusing safety for industrial purposes, unions only do their members a great disservice. On the broader need to re-establish an effective framework, I noted with interest that the Victorian State Secretary of the CFMEU, Mr John Setka, has sought to justify and excuse his unlawful conduct with a rather pathetic statement, 'I'm no choirboy,' as though this somehow justifies his intimidation and threatening conduct.

I would like to examine for a moment some of this conduct. Someone stands over others, intimidates and coerces them and then threatens them with reprisal if they speak out but then seeks to deprecate their behaviour with the words, 'I'm no choirboy,' as if that makes it okay. In 2003 it was reported that Setka, acting as a CFMEU official, threatened to 'fix up' two construction managers who were witnesses in an industrial relations case—but hang on: under Mr Setka's logic, he is no choirboy and we accept that, so it must be okay. Setka was charged with two counts of threatening the two Grocon employees as well as two counts of conduct 'calculated to improperly influence' the two witnesses to the commission case. Mr Setka was reported to have said to a manager: 'You effing watch, I'll get you. I've got a 12-year-old son and I swear on his effing life. You watch; I'll fix you up.' But don't worry about it; it's okay to make such threats because Mr Setka wants us to accept, as he accepts, that he's no choirboy! Thankfully, the court saw Mr Setka's threatening of witnesses for what it was and, choirboy or no choirboy, he was found guilty. Let's not forget this was conduct by the now State Secretary of the CFMEU targeted towards people who were going to stand up and speak out as witnesses in a commission case.

But I cannot pretend it is just one individual. It is not just John Setka. This is not a case of one rogue individual; it is a case of an endemic culture pervading this union and its officials. The royal commission interim report found in respect of senior CFMEU official Shaun Reardon:

In the weeks following the accident Mr Shaun Reardon (the Assistant State Secretary of the CFMEU) attended the site, shook the fence and yelled obscenities and threatening comments.

A witness statement further elaborates on Mr Reardon's behaviour and states, 'Shaun Reardon, who was an organiser, would regularly attend the Pentridge Village site and taunt, by shaking the fence and yelling, "We're going to get you and your family!" to a subcontractor and other staff on site.' In New South Wales we heard of the on-site conduct of CFMEU official Luke Collier—conduct aimed at sexually harassing and intimidating female FWBC inspectors on site. This is the same individual who failed to disclose serious criminal convictions in his application for a right-of-entry permit despite signing a statement acknowledging that he did not have any prior convictions.
We remember footage coming out of the royal commission of a South Australian CFMEU organiser physically assaulting an FWBC inspector on a construction site in Adelaide, verbally abusing and intimidating the independent public official. We recall the history of Craig Johnston, the former AMWU official who was jailed for a violent and destructive ‘run through' of an employer's premises during an industrial dispute—a run through which left a pregnant worker cowering under her desk during the violent incident. After prison the CFMEU welcomed him with open arms to join the ranks of its officials.

And, back in Victoria, Setka's heir apparent at the CFMEU, Shaun Reardon—let's consider him again for a moment. Let me remind the Senate and ask people to recall the CFMEU dispute with Grocon. We remember—or we should—seeing images of workers on the news having to be bussed into the site through a back entrance because the CFMEU did not let them through. And who was waiting for the workers at the back entrance as the police escorted their bus? None other than Mr Shaun Reardon. And what was he doing? He was using his phone to take video recordings of the faces of those workers that were coming off the bus and going to work.

I wonder why Mr Reardon and the CFMEU were so interested in identifying who the workers were that were going to work despite the CFMEU's blockade. Why was it necessary for the union's second in command to take video identifying who wanted to work? One would hope it would have absolutely nothing to do with creating scab sheets and organising retribution. Regrettably, that appears to be precisely what has happened. There was a poster—and I will not use it as a prop, but I will refer to it here—named 'Grocon's scabs named and shamed', in which photos of construction workers were put on a sheet of paper, and it says: Get rid of these scabs out of our industry. They will never be forgotten.

That sort of shameful outing of people who just want to go to work, get on with it and not be part of the CFMEU's scandalous and outrageous conduct is a shameful thing. The same thing happened in Queensland, where it says:

Grocon flew these grubs to Queensland to cross a picket line and is paying them to do its dirty work in Victoria. Get rid of these scabs out of our industry. They will never be forgotten.

I can only presume that the photos and names appearing on this were taken from Mr Reardon's mobile phone footage.

It is a shame on the CFMEU to pursue this sort of activity in this country. It is a shameful confirmation of the mentality of the industry: that you do what the union tells you and, if you stand up or you speak out or, God forbid, you just want to go to work to put some food on the table for your family, you are going to be targeted. Who can deny, with the overwhelming amount of evidence that is available, that there is a culture of intimidation, threats, fear and reprisal for speaking out against injustice in the CFMEU?

That is why the compulsory powers are so necessary to protect witnesses. As a first step, we have to pass this stopgap protecting witnesses bill. As a necessary second step, we must re-establish the ABCC and return the rule of law to this industry. I will be supporting this bill.

Senator LINES (Western Australia) (11:09): Mr Acting Deputy President Sterle, thank you for taking my chair's duty. I rise this morning to oppose the Construction Industry Amendment (Protecting Witnesses) Bill 2015, and I think we just need some background on this bill. What we have seen from the Abbott government is that it attacks all sections of the
Australian community. If it is not pensioners it is attacking, it is families; if it is not families it is attacking, it is young people; if it is not young people it is attacking, it is the unemployed; if the unemployed are not under attack, it is the homeless; and if the homeless are not under attack then it is refugees, workers and unions, particularly the CFMEU. They are all under attack from this government. It is indeed a partisan government, a government that governs only for the big end of town, and any group or any individual who threatens to disrupt that partisan relationship comes under attack from the Abbott government. This bill does just that—seeks to protect the interests of only one group.

The Construction Industry Amendment (Protecting Witnesses) Bill 2015 is another example of the Abbott government’s ideology and its Tea Party agenda—its agenda to simply agree with its mates at the big end of town. This bill, regardless of what you will hear from the government, seeks to extend the coercive powers which Justice Wilcox said required not just a sunset clause but a review, a proper review that took into account all points of view—not just a chat with the Abbott government’s mates at the big end of town but a proper review—with terms of reference and an independent chair. But, of course, we have never seen any independence from the Abbott government—never. It takes a partisan view on every single thing it does.

Let’s have a look at what is at stake here. We have heard from the other side today all sorts of innuendo, exaggeration and untruths about a whole range of matters. But the simple facts are that there are currently laws in place which deal with corruption wherever it occurs, and Labor are on the record, as are the unions, as saying that we do not support corruption. Labor are on the record as saying that we do not support illegal behaviour. Indeed, there are powers within the current Fair Work regime and the Fair Work (Building Industry) Act to deal with the whole manner of complaints where people assert there has been some kind of illegal behaviour, whether that is employer behaviour, union behaviour or worker behaviour. The laws are there. But, of course, we never hear that from the Abbott government. You certainly never hear about the bad behaviour of employers, where lockouts occur, people have their rosters illegally changed and they get underpaid. None of that ever comes within the remit of the Abbott government, because they like to demonise unions and particularly the CFMEU.

The Labor government did act when we were in power, but certainly what we did was fair and just. We abolished the draconian Australian Building and Construction Commission that was established by the former Liberal government, and we established the Fair Work Building Industry Inspectorate. In establishing the new body, we acted on our election commitment at the time to consult widely on its operations and its functions. To that end, as many in here have mentioned, we asked the respected former Justice Wilcox to undertake consultation and prepare a report on matters related to the creation of a specialist division of the inspectorate of Fair Work Australia. Mr Wilcox provided a report to government in 2009, and the bill which gave effect to Mr Wilcox’s principal recommendations was legislated in 2012. That sunset clause was put into the legislation, and it required—and it should require—any government to justify, with evidence, the need to extend that clause.

We heard this morning that there has been consultation. Well, there simply has not been consultation. There have been chats with the big end of town. There has been no formal consultation with the ACTU. There has been no formal consultation with any of the construction unions, because the government do not believe in formal independent processes;
they just believe in innuendo and exaggeration. That is what they have done; they have simply exaggerated and continued to tell the stories they like to tell in here, which are half-truths and exaggerations, and say that somehow there has been some kind of consultation.

There has been no formal independent review of the very serious issues that Justice Wilcox entertained, and there has been no serious proper independent review of the legislation that Labor put in place. All we have heard from the Abbott government is hearsay, exaggeration, innuendo and untruths. Until the government provide evidence as to the merits or otherwise of extending the sunset clause, Labor will not be in a position to have an informed view on this matter. Of course, the government would rather keep making it up, keep the exaggeration and innuendo going, because that suits their political agenda. So Labor calls on the government to conduct the review, rather than using the sunset provisions as a political stunt in their never-ending crusade against the union movement.

Additionally, the government's bill, which they try to say is some kind of replication of what is already in place, seeks to reinstate the draconian Australian Building and Construction Commission. It removes the important safeguard, which Mr Wilcox identified and Labor enacted, that the ABC Commissioner needs to apply to a president member of the AAT for an examination note. The government also seek to remove the privilege against self-incrimination. So what we have here is the government saying that they merely want to extend the operation of the powers—and we have heard that this morning from government senators—but that is patently untrue. In reality, what the Abbott government really want to do—and it is clearly evident in their bill to reinstate the ABCC—is to impose more coercive powers with fewer protections and safeguards on their use.

It is important to note that, even if this bill is not successful, the Fair Work Ombudsman and those within the Office of the Fair Work Building Industry Inspectorate who are appointed as Fair Work inspectors currently have the power to compel the production of records or documents to assist in investigating industrial contraventions. We never hear about that; we hear stories, but we never hear where matters have been referred. Of course, there is also the Australian Crime Commission, which has significant coercive powers available to investigate allegations of criminality. It is also worth noting that Fair Work Building and Construction's annual report details that coercive powers were used only four times in 2013-14. So all the stories that we have heard in here this morning, of course, did not require the use of those coercive powers. All of those stories did not require workers to be pursued in the way that the government wants to pursue them with this bill. Of course, we know, from Senate inquiries and other areas, that the failure of the government to review is typical of the partisan manner in which the FWBII has operated since the election of the Abbott government.

We have heard in this place the demonisation of unions—particularly the CFMEU—go on and on this morning under the guise of parliamentary privilege. Labor has said over and over again, 'If matters are serious, they should be investigated.' If the Abbott government have evidence or information about serious matters that they have not made available to the proper authorities, they ought to do so as a matter of urgency. The only time the Abbott government attack the CFMEU, or indeed officials of the CFMEU, is under the guise of parliamentary privilege. That tells you, in and of itself, that they have nothing to justify these continued attacks. If they did, their obligation would be to report; their obligation would be to have the
proper independent authorities investigate these matters. But that does not suit their political agenda. Their political agenda is about demonising particular parts of our community. In this case, it is the unions.

This particular bill has been shrouded in secrecy. It was introduced into the parliament in March, but there has been no public hearing on this bill. Not only have we not had the proper independent review that should have been conducted, we also have not had an open public inquiry into this bill, despite having had the time to do so. The bill was introduced in March, and the reporting date to the Senate from the committee was May. And, yes, we have had inquiries into other aspects of the building and construction industry, but this bill should have had a public review in and of itself where we could have had witnesses talk further to their submissions and where we could have had additional information brought to the committee. Of course, that did not suit the government. It did not suit the Abbott government to have that public inquiry, because their attacks under parliamentary privilege might well have been challenged in that Senate inquiry. But we will never know that, because we never had the opportunity of a public open inquiry process, despite there being ample time.

When I looked at the submissions from the employers, it was almost as if the government, the employers, the big end of town, ACCI, Master Builders and so on were speaking with one voice. So all I saw in the submissions from the employers and employer associations was further innuendo, further exaggeration and further hearsay about this general nature of industrial unrest in the construction industry. And nothing could be further from the truth: there has been a decline in days lost to industrial action, but you do not hear that from the Abbott government. There has been a decline in the number of days lost to industrial action—industrial action properly constituted as a bargaining process—but you will not hear from that from the Abbott government either.

Of course the serious issue of the increasing number of deaths in the construction industry is not something you will ever hear the Abbott government speak about. Last year there were 28 tragic deaths in the building industry. What did the Abbott government have to say about that? Not one word—there was not one single word from the Abbott government about those deaths. Shamefully, the number of deaths is up—11 more deaths than in the previous calendar year. In the previous calendar year there were 17; last year there were 28. Do we have legislation before us to urgently address those deaths in the construction industry? No, of course we don’t—because it does not suit the government's political agenda. Their political agenda is about demonising unions, not protecting workers. If they were genuine about protecting workers, they would do something immediately about those 28 deaths in the construction industry. Indeed, in all industries the number of deaths is much higher than that. No Australian worker should lose their life earning their livelihood, and yet this issue goes completely unnoticed by the Abbott government.

When I asked the Department of Employment what they were doing about this increase in deaths in the workplace, they told me they were continuing to apply their 10-year plan. When I suggested to the department that because of this tragic and unnecessary increase in deaths perhaps their plan needed to be reviewed, they did not think that was the case. That was because the government is not leading on this issue; the government is not leading on workplace deaths. I cannot imagine the effect on families, on friends and on workplaces of a death that occurs in the workplace. We are better than this. Australian workplaces should be
death free, but that is not the agenda of this Abbott government. There has been complete silence—not even condolences to those families or a plan saying, 'This is a national tragedy, and we are going to act on it.' No, the demonisation of the unions continues. The unions are trying to do something about deaths in the construction industry, and yet when they use their right of entry to investigate a health and safety matter the Abbott government accuses them of not pursuing health and safety. The record speaks for itself. You cannot have 28 deaths in an industry and suggest that that industry is a safe place to work. Clearly it is not. Union officials have a right to go in, but going in after a death is too late. We need to stop the deaths occurring right now. I want to see action from the Abbott government on that. I suspect there will continue to be silence.

The coercive powers have been used just four times. Of late, we have also seen workers in this country being ripped off, being underpaid and treated appallingly. The emphasis still remains on the construction industry, where we have seen less industrial action—proper legal industrial action as per Fair Work rights in relation to enterprise bargaining—and less lost time. That is not something you will hear about from the Abbott government. They will not admit that. It is time they started to admit that the construction industry in Australia is a dangerous place to work. We should be reviewing all our workplace health and safety and acting immediately to stop any more deaths in this industry. But, no, the demonisation will continue. I stand proudly, as many Labor senators do, in support of unions and workers. I want to see action on health and safety issues, and of course where allegations are made that individuals have broken the law then there are proper procedures in place to deal with that—but we do not hear about that either from those opposite, because they would rather, under the guise of parliamentary privilege, continue telling untruths, exaggerations and hearsay. If they have evidence it is not appropriate to be raising it in this place and not raising it with the appropriate agencies that are there to deal with these issues. Their Tea Party ideology fools nobody anymore. If there is a state election coming up, you can bet your bottom dollar that unions will be demonised in this place. Their agenda is so transparent that they do not fool anyone with their right-wing Tea Party ideology of demonising unions. They do not fool workers and they do not fool the Australian voters.

The government should look at some of the programs the CFMEU has in place. FIFO suicides are a big problem in Western Australia, but they are not even regarded as deaths in the workplace. The CFMEU have done some fabulous work on putting mentors in place to ask their workmates if they are okay—good programs. They have good programs in place concerning domestic violence, but you will not hear about that from the Abbott government. They have good programs on health and safety, but the Abbott government would rather say they are abusing their powers when they enter the workplace to talk about health and safety. So let us hear about some of the good things that are going on. If the law is being broken, yes, let us pursue that, but let us stop demonising and pretending.

Senator MUIR (Victoria) (11:29): I rise to speak on the Construction Industry Amendment (Protecting Witnesses) Bill 2015. The Fair Work (Building Industry) Act 2012 was passed by the Labor Party when it was last in government. It contains coercive powers which make it a criminal offence not to cooperate and also provides for a maximum penalty of six months imprisonment if somebody is found guilty of failing to cooperate. These powers are subject to a sunset clause which takes effect on 31 May 2015.
The purpose of this bill is to extend that sunset clause for a further two years. This means that the Director of the Fair Work Building Industry Inspectorate can apply to a nominated Administrative Appeals Tribunal presidential member for an examination notice until 1 June 2017.

The debate surrounding the coercive powers has a long and complicated history and it is not going to be resolved during the debate on this bill. In its submission to the Education and Employment Legislation Committee, the Combined Construction Unions said that they have: … consistently opposed the introduction and use of these powers in industrial matters since their inception. The power, and the criminal sanction which attaches to it, are excessive, unnecessary and inconsistent with internationally recognised labour standards and the industrial norms of a modern democracy.

The Department of Employment, in its submission to the same committee, stated:
The ability to compel a person to provide information is vital to protecting workers and witnesses who stand up to unlawfulness and intimidation and assist the regulator in its investigations. The powers also ensure the Fair Work Building Industry Inspectorate is able to carry out its investigations effectively and break down the ‘culture of silence’ and retribution that exists in the industry.

I want to make it clear that, as a person with a strong working-class background, these powers do not sit comfortably with me; however, the debate over whether these powers should continue to exist is far from over.

I would also like to take this opportunity to raise some of the issues I have observed during the debate over whether the ABCC should be reinstated and replace the current body, Fair Work Building and Construction. In my opinion, the government have muddied the waters of this debate by throwing around allegations of corruption, bikie gangs and criminal behaviour within the construction industry in order to justify the return of the ABCC. There may be instances of corruption and bikie gangs in the construction industry—there are a lot of colourful characters, I am sure—but the ABCC is not the body that is responsible for investigating and prosecuting these types of offences.

I agree with Mr Dave Noonan, the National Secretary of the Construction General Division, when he said that CFMEU members work in an industry full of risk—both physical and financial—on a daily basis. It is the union that chases companies for lost wages and entitlements; it is the union which tries to instil safety measures and regulations on sites; and it is the union which has to deal with unscrupulous employers who take shortcuts to increase their bottom line.

My vote today does not represent supporting the government on changes to workplace relations laws; it represents the continuing support of a law introduced by the Labor Party in 2012. I call on the government to conduct an independent review into the continued use of these powers within the next 12 months. FWBC has rarely used its coercive powers; however, that is beginning to change. If the government and Mr Hadgkiss claim that these powers are necessary, then I look forward to seeing the evidence.

I want to finish by making it clear that my support for this bill does not mean that I will support the reintroduction of the ABCC, and I look forward to contributing to that debate.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (11:33): I thank
honourable senators for their contributions, especially Senator Muir—except, I think for the last line of his speech; I would have liked him to have absolutely committed himself to support of the ABCC legislation of which in fact this bill is part and parcel.

As the Senate continues its consideration of the ABCC legislation, it has become necessary to address the expiry of the Fair Work Building and Construction's compulsory powers later this month—namely, on 31 May. It is crucial the Senate passes this stopgap bill so current and ongoing investigations are not compromised.

The compulsory powers of the FWBC and ABCC are essential to piercing the sinister veil of silence from witnesses and victims because they fear retribution and reprisal for speaking out against the intimidation that we so often see in this industry, most commonly on the part of the CFMEU. These powers are essential to give witnesses the protection of saying to union thugs and unscrupulous figures who threaten them not to cooperate with authorities that they were compelled and did not have a choice.

We heard, in the royal commission, Assistant Commissioner of Police Fontana give evidence that the Victoria Police were unable to continue numerous investigations because, even though witnesses were happy to tell police their story, the witnesses were too scared to sign their name to the statements. One wonders why they were too scared. The answer of course is: they would be targeted if they spoke out, and this is regrettablly indicative of the state of the industry.

This same sentiment was expressed by FWBC Director Hadgkiss when he gave evidence in Senate estimates recently—and I note that Senator Cameron, true to form, once again attacked Mr Hadgkiss under parliamentary privilege, and doing so to a statutory office holder indicates the depths to which Mr Shorten will sink in asking his frontbench to come in and make those sorts of comments. What Mr Hadgkiss told Senate estimates is this:

We certainly have people in mind who have told us things off the record, but who are not prepared to go that one step further to provide a statement or to give an affidavit. But they have indicated that were we to exercise a compulsory examination that, obviously, they would come in and tell us what they saw and what they witnessed.

I simply say that these powers that we are seeking to extend are nothing new. Indeed, compulsory powers of a very similar, if not identical, nature—which includes failure to comply having a consequent term of imprisonment—are not rare. That sort of power exists with other regulators such as ASIC, APRA and the ACCC. Where is the cry of human rights when we impose that sort of legislative framework on company directors? There is no problem there according to Labor and the Greens. But yet when you want a similar situation for the construction union of this country and employers engaged in that sector—and it is a sword that cuts both ways that is both for the trade union movement and employers—there is this squeal of human rights.

What none of the Labor contributors said today, nor will they ever admit publicly, is that Labor's very own Fair Work Act, which they all campaigned for and voted for in the late 2000s, provides terms of imprisonment if a person fails to attend the Fair Work Commission or refuses to answer questions. Where is the outrage there? No problem there. It nearly seems as though the construction union, the CFMEU, should be sacred territory on which the law that applies to virtually every other citizen should not apply to them. I simply ask, rhetorically: where is the confected outrage from Labor and the Greens or the unions in
relation to these compulsory powers that exist in the Fair Work Act? It is legislation they championed through this place.

Unlike the Fair Work Commission, the FWBC and ABCC compliance powers have significant safeguards. Key amongst them is that any evidence they give in an ABCC compulsory interview cannot be used against the witness. The other safeguards under the FWBC and ABCC compulsory powers are that witnesses are provided with at least 14 days written notice, entitled to have a lawyer present and reasonable expenses, including legal fees and travel, are covered. They receive conduct money to cover wages. The hearings are taped and video recorded. And a witness gets a copy of the transcript and an opportunity to correct it to their satisfaction. All of this is overseen by the Commonwealth Ombudsman. Not all of those provisions apply in relation to the other compulsory powers that I have just referred to.

There are many other aspects of the FWBC framework that we must also fix. Labor’s weak regulator experiment of abolishing the former ABCC and replacing it with a weak imitation has been a monumental failure. Since the abolition of the ABCC, respect for the rule of law in the industry has become worse. One of the reasons is that the penalties clearly have not worked to deter people from breaking the law, and repeatedly so. The courts have said time and time again that the CFMEU continues to ignore the law despite the imposition of penalties. The maximum penalties are not acting as a deterrent and that must be addressed.

We must also establish an effective building code to ensure that those contractors that want to do taxpayer funded work pay their employees correctly, strictly comply with safety laws and do not violate migration laws. We must make an emphatic statement to everyone in the industry that cutting corners on any legal obligations is no longer an option. We must also ensure that those contractors do not engage in antiquated practices that only delay and add costs to the taxpayer. An effective building code means more public infrastructure gets built for the taxpayer and more jobs for the industry. If projects are not delayed and cost blow-outs are avoided, everyone benefits.

The CFMEU and ETU falsehoods about the code, including fanciful assertions that it bans days off on Christmas or that it bans penalty rates and rostered days off, have been debunked for the desperate scare campaign that they are.

Another problem with the current legislation is the completely absurd and unprecedented limitation imposed on the FWBC and its ability to enforce the law. The FWBC currently has no power to commence proceedings when someone who breaks the law reaches a ‘private settlement’ of legal proceedings with a person affected by the breach—that is, private parties can prevent the independent regulator from starting legal proceedings or, if it has commenced proceedings, from continuing them. These changes create the perverse outcome where wrongdoers have an incentive to also pressure their victims into so-called settlements to stop FWBC from holding them to account for breaking the law. It is the equivalent of an employer underpaying an employee, then pressuring that employee to settle for a nominal $5 payment and the regulator being unable to pursue the employer for a breach of workplace laws, or of a motorist running a red light and crashing into another car, settling with the other driver to pay for the damage and then the police losing the power to prosecute the driver for running the red light because of the private settlement. No other government regulator has the same limit on its powers. Why would you impose such a limit on the powers of the FWBC? An answer has

CHAMBER
never been given by the Australian Labor Party or the Australian Greens, who forced that through the Senate in the death throes of the previous government.

These amendments were introduced and then rushed through the House of Representatives in one day. The absurd limitation was condemned at the time, including by the Law Council of Australia, and this must also be addressed through the re-establishment of the ABCC.

We should not be surprised that Labor introduced this ridiculous amendment limiting the powers of the FWBC. After all, we heard a few weeks ago in the royal commission evidence from a senior former ETU official, Dean Mighell, when he disclosed that Labor traded policy positions for loans and donations from the CFMEU and ETU. Mr Mighell was quite open when he gave evidence that:

Given that the Federal ALP is desperate for funds, surely we can say that we will help them if and only if, they abolish the ABCC.

Out of a trade union official's mouth, under oath, is the evidence for all to see. I continue the quote:

I can tell you for a fact that unions are donating to Federal Labor for outcomes not promises.

And here they are—and undoubtedly later today they will vote according to the ETU and CFMEU wishes, courtesy of the money that has been paid over.

And, just in case you think that might be fanciful, let me join Senator Cameron’s contribution earlier—and let him say that all those donations should be returned to the union. He spoke of a figure of $400,000. Let me give some context—and I call on Labor to return donations it has received from its key backers in the CFMEU and ETU. In 2010-11 the unions donated $11 million to the ALP, including $1.72 million from the CFMEU, $1.73 million from the ETU and $932,000 from the CEPU. Indeed, in recent times we have heard how the ETU made loans available to the then secretary of the ALP in New South Wales, now Senator Dastyari, who projects himself as the man for all financial rectitude. The loan was dealt with by a post-it note and not even recorded in the official minutes. The $500,000 and the other hundreds of thousands of dollars that he was able to get from the various trade unions were so desperately needed for the Labor Party to stay afloat, but of course $350,000 of that money went to pay for legal fees for one Craig Thomson so that the Gillard government could remain in power. This is the power of money talking and that is why, regrettably, the ALP and the Greens are going to vote the way that they will, I am assuming, later on today.

Can I simply say that Senator Cameron and Labor have lost all credibility in relation to this issue. We have seen, regrettably, Senator Cameron, on behalf of Mr Shorten, going into Senate estimates and running a defence for Luke Collier—for his despicable actions at a New South Wales site where all sorts of inappropriate, sexist and foul language was directed at a female public servant. Labor does not seem to want to condemn that but ran arguments about privacy when it was discovered that this particular person, who was an official of the CFMEU, had not disclosed prior convictions in his application for a right-of-entry ticket.

Those are the sorts of issues that we are dealing with in the construction sector. The construction sector is a vital sector. It is important. It is jobs-rich. And that is why it should not be subjected to the sort of blackmail that we have now seen over the years. Indeed, the Labor Party had its own inquiry under Justice Wilcox as to whether or not it was necessary for these coercive powers to continue. I confess I was one of those who assumed that it would
be a foregone conclusion what Mr Wilcox would determine. But he himself was mugged by the overwhelming evidence, and he said that the coercive powers need to be retained.

So the question then is: having made that determination, what has occurred since Justice Wilcox's findings and Labor's own legislation that would lead you to a conclusion that these coercive powers are no longer necessary? Indeed, all the evidence is that things are getting worse, courtesy of Labor pulling the teeth of this very important watchdog that the Howard government had implemented to protect workers, to protect businesses and to protect those union officials who actually wanted to do the right thing by their workers and not engage in the sort of funny-money games that Dean Mighell and others have now exposed.

Can I say briefly in response to Senator Lines: of course we all support workers; of course we all support safety; and of course we all acknowledge the trade unions have a place. But if this legislation is, as she tried to say, 'Tea Party, right-wing ideology', can I simply remind her that her party introduced this legislation and voted for it only a matter of a few years ago. So does she say that she and her party were Tea Party propagandists only a few years ago? Of course not. The evidence is there. It is clear and it is regrettable. In my ideal world there would be no need for such a body. But the evidence is overwhelming and, given the overwhelming evidence, I encourage all honourable senators to support this stopgap measure, which simply extends the current powers of the Fair Work Building and Construction body to be able to protect witnesses when they give their evidence for another period of two years, during which time we will, hopefully, see the reintroduction of the full Australian Building and Construction Commission.

Mr Acting Deputy President, I notice Senator Lambie coming into the chamber. In the event that she would seek to make her contribution now, I can indicate we would give leave.

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): Thank you for pre-empting that, Senator Abetz. Senator Lambie did approach the chair and ask to speak, so, with permission of the chamber, Senator Lambie, please go ahead and speak.

Senator LAMBIE (Tasmania) (11:51): Thank you, Senator Abetz. I was actually wrapped up with the Minister for Defence, Minister Andrews, this morning. I thank him for his time, because he gave me a whole hour and some more.

I rise to contribute to the second reading debate on the Construction Industry Amendment (Protecting Witnesses) Bill 2015. This is one of a number of bills before this parliament and Senate which will have a significant impact on the Australian building and construction industry. I have spent many hours hearing from both employers and union leaders whose members work in the building and construction industry. As I have mentioned in previous speeches, this is one of the most difficult issues and pieces of legislation I have had to consider and make decisions about.

There is much disagreement between builders and union bosses in the construction industry, but it is fair to say they agree on the purpose of this bill. The CFMEU say in their briefing documents:

… the Construction Industry Amendment (Protecting Witnesses) Bill 2015 … amends the Fair Work (Building Industry) Act 2012 (FW (BI) Act) to extend the period during which the Director of the Fair Work Building Industry Inspectorate (FWBII) can apply to a nominated Administrative Appeals Tribunal presidential member for an examination notice by a period of two years. Under the current
provisions of the FW (BI) Act, the capacity for the Director to make such an application will expire on 31 May 2015.

3. The FW (BI) Act now provides that the Director may apply for an examination notice in circumstances where he/she wants to obtain information relevant to an investigation into a suspected contravention of the FW (BI) Act or a designated building law by a building industry participant. Once issued, these examination notices can compel a person to give certain information or documents to the Director, or to attend in person before the Director to answer questions relevant to an investigation not less than 14 days after the examination notice is given. A failure to comply with these notices is a criminal offence attracting a penalty of up to six months imprisonment. The common law privilege against self-incrimination which would otherwise apply is overridden by the FW (BI) Act.

4. The power to issue coercive notices in construction-related industrial matters, supported by a criminal sanction for non-compliance, has existed since the introduction of the Building and Construction Industry Improvement Act in 2005.

5. In 2012, following the Wilcox review, the FW (BI) Act came into effect. This Act retained the coercive powers/criminal sanction until May 2015. It also introduced a number of statutory safeguards designed to minimise the chances of this intrusive power being abused.

Minister Abetz, in his second reading speech, essentially agreed with the CFMEU’s description of the bill’s purpose and powers when he told the Senate:

… this Bill, the Construction Industry Amendment (Protecting Witnesses) Bill 2015, will extend the period during which the Director of the Fair Work Building Industry Inspectorate can exercise the agency’s compulsory powers.

The Bill will extend the powers for a further two years. All other aspects of the current legislation are unchanged, including the automatic immunity given to a witness over their evidence.

However, that is where the agreement between the CFMEU and the government stops. The common ground is exhausted. The CFMEU say:

The power, and the criminal sanction which attaches to it—this legislation—are excessive, unnecessary and inconsistent with internationally recognised labour standards and the industrial norms of a modern democracy.

The government, through its minister in his second reading speech, counters the union’s argument that the laws breach fundamental civil rights, including the right to silence and the right to be presumed innocent until proven guilty, by stating:

The ability to compel a person to provide information is vital to protecting workers and witnesses who dare to stand up to unlawfulness and intimidation and assist the regulator to clean up the industry. The powers also ensure Fair Work Building and Construction is able to carry out its investigations effectively and break down the ‘culture of silence’ and retribution that exists in the sector.

So the key question that must be answered is: what is the level of corruption, crime and dysfunction in the building industry and is there an involvement of organised criminals in the Australian building industry? If, as the government says, the construction industry has been affected by unlawful conduct, thuggery and intimidation for too long, and if there is an involvement of organised criminals in the Australian building industry, then there is a strong case to support these extraordinary laws which take away basic civil liberties.

The best independent authority today to make that call and make those findings is the current royal commission. Their findings are not handed down until later this year. I would
prefer that legislation which establishes the ABCC is debated in this Senate after those royal commission findings are made public. A previous royal commission headed by the Hon. Justice Terence Cole RFD, QC did make the case that the industry was characterised by lawlessness in the conduct of industrial relations and it recommended significant changes to industrial relations laws, which resulted in the current system. However, the Cole royal commission in the early 2000s found no evidence of organised criminal activity.

The acknowledgement of organised criminal activity in the Australian building and construction industry today by a royal commissioner would, in my mind, justify extraordinary action and legislation. However, until that official acknowledgement happens, I will be very cautious in my approach to any legislation which comes before this Senate which affects the basic human rights of building workers.

Apart from the current royal commission, I am aware of an official report that could answer with some credibility the question: are organised criminals involved in Australia's building and construction industry today? I have been informed by many, including the report's author, that the Victorian government have a copy of that report. I have written to the Victorian government, to Premier Andrews, requesting that they release that report. To date they have acknowledged my letter, but I have had no further reply. The content of that letter to Premier Andrews is as follows:

Dear Premier

I refer you to what is allegedly a secret report, as well as a Cabinet in Confidence Report, authored by Nigel Hadgkiss, a former Construction Code Compliance Chief. Mr Hadgkiss is now a Director of the Fair Work Building and Construction Commission.

I have been reliably informed that one of the main purposes of the Report was to examine the connection between organised criminal gangs and the building and construction industry in Victoria.

A number of media stories have alleged that the Report given to the Victorian Government in 2013 warned of illegal behaviour during the Grocon dispute was "the tip of the iceberg" in an industry where "unlawful activity extends beyond unlawful industrial relations conduct into serious criminal activity". Media reports in the Herald Sun on 1 April 2014 allege that strong links between a number of outlaw bikie gangs and the provision of drugs and prostitutes to the workers during the construction of the desalination plant also occurred.

I am very concerned about the alleged links between organised criminal gangs and Australia's Building and Construction industry and would appreciate if you could provide me with a copy of Mr Hadgkiss' Report.

I believe that Mr Hadkiss' Report is an important document which would allow me to become fully informed as I prepare to cast my vote and make a decision in the Federal Senate regarding the Australian Building Construction Code legislation. I understand the original terms of reference included:

- conduct at the recent blockades of Grocon construction sites, including conduct that may be unlawful and/or a breach of the Government's construction industry guidelines;
- the use of violence, intimidation or harassment within the industry;
- the obligations of other employers whose workers took part in the Grocon blockades;
- breaches of industrial and other laws that may have occurred during the Grocon blockades;
- the effectiveness of current Commonwealth regulation of the building industry, including whether action could be taken by the Commonwealth in relation to the Grocon blockades
recommendations for immediate actions to strengthen compliance with the law and the guidelines
I also believe that an updated final report was submitted by Mr Hadkiss in August 2013 with additional
terms of reference:
- practices that create a tolerance of unlawful conduct;
- other conduct and practices in breach of the guidelines;
- possible involvement of organised crime elements within the industry;
- the current state of compliance with legal obligations within the industry in comparison with historic
  compliance levels;
- the impact of recent changes to the Guidelines to the National Code and the abolition of the Office of
  the Australian Building and Construction Commissioner (ABCC); and
- recommendations for future actions to enhance compliance with the law and the guidelines.
I would appreciate it if you could please provide both these reports by return.

Yours sincerely
Senator Jacqui Lambie

Failing the receipt of a final report and recommendation from the current royal commissioner,
the report held by the Victorian government may be enough to make an informed vote on the
Abbott government’s full legislative plan to manage the Australian building and construction
industries.

So today I ask Minister Abetz to support my call for the Victorian government to make
public Mr Hadgkiss’s document. It is one thing to receive pressure from a crossbench senator;
it is another to receive pressure from a federal government. So I think us working together
could ensure that the document is made available to the public either through this Senate or
through the existing royal commission, which may have powers to seize or at least request
this important document.

Of course, this explosive report was initially made available to a Liberal state government,
which then used the old technique of ‘cabinet-in-confidence’ to cover up its contents—which
prompts the question: why? If the report does contain evidence of organised criminal
involvement in the Victorian building industry, why would the Liberal Party want that
evidence covered up? Up until now, the Liberal Party has been able to take the high moral
ground when debate and community discussion focus on the Australian building industry, but
the actions of the former state Liberal government in officially covering up this report at the
very least must raise a few eyebrows.

I have had conversations with people who say they contributed to the secret Hadgkiss
report. They have confirmed to me that the report would be damaging to both the Labor and
Liberal governments. And that report is a tipping point and pivotal to the debate on the
introduction of a strong regulator. So, if this government really wants to clean up the building
industry, my message is loud and clear: find a way to make the information in the Hadgkiss
secret report public. If the Liberal government fails to do that, then it is open to legitimate
criticism that the Liberals, as well as Labor, have plenty to hide when it comes to corruption
and organised crime connections in the building and construction industries.

Perhaps we should look at the high-rise building approvals granted to developers and
fuelled by Chinese money during the time that the Liberals were in caretaker mode in the
lead-up to the last state election. Did any of those big dollars find their way to any political parties? I guess we will not know that until the Hadgkiss report has been released, and I need to see that. I am sure that the crossbenchers would like to view that document as well. Thank you.

The PRESIDENT: The question is that the bill be now read a second time.

The Senate divided. [12:08]

(The President—Senator Parry)

Ayes ..................36
Noes ..................30
Majority .............6

AYES

Abetz, E
Bernardi, C
Bushby, DC
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
Lazarus, GP
Madigan, JJ
McKenzie, B
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Seselja, Z
Smith, D
Williams, JR

NOES

Brown, CL
Cameron, DN
Collins, JMA
Gallacher, AM
Hanson-Young, SC
Lines, S
Marshall, GM
McEwen, A (teller)
Milne, C
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE
Whish-Wilson, PS

Bullock, J.W.
Carr, KJ
Di Natale, R
Gallagher, KR
Ketter, CR
Ludlam, S
McAllister, J
McLucas, J
Moore, CM
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wright, PL
Senator Conroy did not vote, to compensate for the vacancy caused by the resignation of Senator Mason.

Question agreed to.

Bill read a second time.

Third Reading

The PRESIDENT (12:11): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (12:11): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Limitation of Liability for Maritime Claims Amendment Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (12:12): The opposition is happy to support the Limitation of Liability for Maritime Claims Amendment Bill 2015. On 11 March 2009, as Cyclone Hamish bore down on south-eastern Queensland, a freight vessel called the Pacific Adventurer began losing the first of 30 shipping containers containing ammonium nitrate. At least one of those containers damaged the ship as it tumbled into the water. The result was a 60-kilometre oil slick that hit the beaches of the Sunshine Coast and the northern part of Moreton Bay. The cost of cleaning up that spill reached about $34 million. The bill before us today is partly as a result of that dreadful incident. In 2009 the maximum liability applying to the Pacific Adventurer's owners was $17.5 million, leaving the public to fund the difference. That is not good enough. In an island nation like Australia, a nation endowed with fantastic coastal assets, including the Great Barrier Reef, we must do everything we can to prevent accidents but when accidents happen, either through misfortune or negligence, we must ensure that those responsible pay to clean up the damage.

After the Pacific Adventurer accident the former Labor government brought forward a proposal to increase the liability limit under the 1996 Convention on Limitation of Liability for Maritime Claims. The federal minister at the time, my colleague Anthony Albanese, pressed for that change at an International Maritime Organization meeting in London on 2 December 2009. In a speech to the organisation he explained the damage that had been done to the Australian coast in recent accidents and praised the work of Australian authorities who cleaned up the mess. He also pointed out that liability levels were inadequate. The
international community agreed and the change before us today is a result of that advocacy. Labor acknowledges that the current Minister for Infrastructure and Regional Development recognised that background in his second reading speech.

The bill amends Australian law to reflect the increased international limits. It increases the liability for a medium-sized vessel, defined as one of 55,000 gross tonnes, by about $33.6 million in respect of claims relating to loss of life or personal injury. The limit with respect to what is defined as 'any other claims' will increase by $16.8 million. That is a 50 per cent increase. It will allow for fair compensation for accidents without lifting the limits so high that shipowners will be unable to obtain insurance cover. That is only proper.

Australian moves 99 per cent of the volume of its exports, worth 75 per cent of its export income, by sea. An effective maritime sector is central to the health of our economy. Moving goods by sea in an efficient manner supports jobs not only in the maritime sector but also in our vast resources and food production industries. But, at the same time, the health of our coastal areas is also critical to our economy. For example, the Great Barrier Reef is the No. 1 drawcard for tourists, especially in the booming Chinese market. Tourism related to the reef earns this nation $5.7 billion a year. It supports 65,000 jobs. The reef itself is the size of Italy.

On 3 April 2010, just a year after the Pacific Adventurer incident, a Chinese bulk coal carrier, the Shen Neng 1, ran aground on the Great Barrier Reef east of Rockhampton. The vessel was 10 kilometres away from normal shipping lanes. It gouged a hole in the reef that was three kilometres long and 250 metres wide—the equivalent of 58 football fields—and it created an oil slick more than three kilometres long. There was no Australian pilot on board. The seaman in charge at the time was later sentenced to 18 months in jail for his negligence. That is the kind of incident that underlines the importance of ensuring the proper protection of our coastal waterways.

The stakes for my state are so high. Imagine the sinking feeling if you had been a tourism business operator on the Sunshine Coast back in March 2009 as you watched that oil slick from the Pacific Adventurer encroaching on the beaches of that beautiful and economically important coastal strip. Imagine wondering about the viability of your business as the media reported the growing cost of the spill. But this bill is not just about preserving the tourism industry. It is also about making sure that, a century from now, our descendants will have the same access to the same natural wonder we enjoy right now—the Great Barrier Reef, the Sunshine Coast and coastal wonders right around our country. That is why Labor is so pleased to be supporting this bill, which, as I have said, is the result of the advocacy and common sense of the former Labor government.

I acknowledge the current government's good sense in carrying this legislation forward. It does make sense. The health of our environment and the safety of our shipping lanes are not a political issue, or at least they should not be a political issue. So, while the opposition will be pleased to support this bill, I question this government's sincerity in its broader approach to maritime issues. On several occasions since the 2013 change of government, the minister for infrastructure has foreshadowed his intentions to wind back Labor reforms to coastal shipping arrangements. These arrangements are designed to protect the viability of the Australian shipping industry by requiring foreign-flagged ships working our coastal trade routes to pay Australian-level wages. The former Labor government also amended the permit system applying to foreign-flagged vessels to require foreign ships to take on Australian officers and
trainee mariners while working in Australian waters. We also provided tax breaks for Australian shippers. The intent of these laws is very simple: we want Australian companies to operate on a level playing field. We want a viable Australian shipping industry. We want to see the Australian flag flown off the back of our maritime fleet, crewed by Australians.

In a series of speeches clearly designed to undermine the current system, the minister for infrastructure has attacked these arrangements as 'red tape'. The truth is that the minister does not care about the viability of the Australian shipping industry. He wants a free-for-all on our coastal waters: 'Work Choices on water'. We know this from comments he made to the PacShip conference not long after his election. In that speech the minister said that, while he wanted a domestic shipping industry in Australia, his greatest concern was lower costs for exporters. The minister said:

To put it bluntly, there is no point in artificially propping up our coastal shipping industry if it is unable to compete—it will have an impact on our broader economy.

On this side, we do not see the shipping industry as some sort of ledger entry in the cost structure of other industries. We want a healthy domestic shipping industry and booming exports—not one or the other.

That brings me back to the bill before us and its bipartisan approach to ensuring that, when shipping accidents happen, our nation is properly empowered to send the bill to those who are responsible. Not one of the major shipping accidents that have occurred around our coast in recent times involved Australian-flagged vessels that were crewed by Australian mariners. That is because local mariners and ships' captains have years of experience working our coastal waterways. Unlike the crew of the *Shen Neng 1*, for example, they are familiar with the use of the proper sea lanes when it comes to ship movements around the Great Barrier Reef. They understand the environmental sensitivity of the Great Barrier Reef. They understand the importance of tourism to this nation—to communities like the Sunshine Coast and right across the country. So it makes sense to ensure that, when foreign-flagged ships are used to ship freight, there is someone on board who knows something about our waterways.

On this side we know that the minister for transport is preparing to unleash an ideologically motivated attack on our maritime industry. We know he wants to use reform of the maritime sector as a stalking horse for broader industrial relations reforms across the economy down the track. Today, as we think about the practicalities of caring for our environment, I urge those opposite to rein in this dangerous ideology.

Despite the claims of those opposite, Labor's position on domestic shipping is not an exercise in protectionism. If you want that go to that bastion of the free market, the United States, where the Jones Act prohibits all foreign vessels and foreign crews from working domestic trade routes. Nor is our position an exercise in the creation of red tape. Labor's position is based on fairness and caution—fairness in terms of maintaining a level playing field for Australian shipping companies and caution in maintaining an Australian presence on our waterways in the circumstances where producers engage foreign flagged vessels for domestic trade. I commend the bill to the Senate.

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (12:23): I thank senators for their contributions to the Limitation of Liability for Maritime Claims Amendment Bill 2015. Australia is party to the 1996 protocol to the Convention on Limitation of Liability for
Maritime Claims, which allows a shipowner—including the charterer, manager or operator of the ship—or salvor to limit the total amount they can be required to pay for damage caused by the ship, the shipowner or the ship salvor. Allowing shipowners to limit their liability in respect of ship sourced damages balances the tension between compensating those who suffer loss or damage caused by the shipowners or their representatives and ensuring ship operators are able to access insurance to cover liability for that damage.

Australia implemented the 1996 limitation of liability for maritime claims protocol through the Limitation of Liability for Maritime Claims Act 1989. The purpose of the bill is to implement amendments to the 1996 limitation of liability for maritime claims protocol which will enter into force internationally on 8 June 2015. Australia was the leading advocate of increasing the liability limits under the 1996 protocol at the IMO. Following the Pacific Adventurer incident off the Queensland coast on 11 March 2009 which involved a bunk oil spill, the costs for cleaning up the spill were estimated at $34 million. However, under the 1996 LLMC protocol the shipowner was legally entitled to limit its liability to approximately $17.5 million.

The 1996 LLMC protocol uses special drawing rights to quantify the liability limits. Based on conversion rates as of 5 February 2015, the financial liability for a medium sized vessel of 50,000 gross tonne in respect of claims for loss of life or personal injury amounts to an increase of approximately A$33,600,000. A claim for the same sized vessel made in regard to any other claims amounts to an increase of approximately A$16,800,000. The maximum liability of a shipowner is usually calculated based on the size of the ship. The amendments were expected to have a minor impact, if any, on insurance costs for ships. Insurance for the global shipping industry is organised through insurance pools whereby premiums respond to calls on those insurance pools rather than fluctuating as a direct result of increases in liability limits.

There was wide support amongst signatory states to the 1996 protocol on the need to review the limits of liability in order to ensure the availability of adequate compensation to victims. The Australian Shipowners Association and the International Chamber of Shipping support the increase in liability limits. Ensuring the LLMC liability limits are raised in Australia as soon as they enter into force will reduce the risk of having to seek an increase to the protection of the sea levy in the event that the shipowner's liability and/or insurance for an incident is insufficient or absent. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (12:27): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (12:27): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
Debate resumed on the motion:
That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (12:27): Labor is pleased to support the Tribunals Amalgamation Bill 2014. I will touch on some of its history before I go into some more detailed considerations. Proposals for the amalgamation of Commonwealth administrative tribunals into one super tribunal have been made since the very creation of the current administrative law framework in the 1970s. This bill stems from work begun by the Keating government, which referred tribunal reform to the Administrative Review Council, or the ARC. The ARC reported in late 1995 recommending that an amalgamated administrative review tribunal be formed. That was around time I entered the Senate, 20 years ago. The Labor government did not have the time to respond to that report, but the incoming Howard government picked up the proposal for amalgamation. While Labor in opposition supported the principle of amalgamation it objected to the detail of the bill brought forward by the Liberal government of the day which departed from the ARC recommendations and would have compromised the independence of the proposed ART. The bill was defeated in the Senate back in 2001.

This bill is much less controversial. For the most part, its provisions affect a simple consolidation of existing tribunal architecture. As has been longstanding Labor policy, we have no objection to such consolidation. It is clear that this has several advantages. Amalgamation will, in time, lead to savings through the reduction of duplication; amalgamation will reduce confusion among tribunal litigants, many of whom are unrepresented; and it will prove more convenient for practitioners. Amalgamation, Labor hopes, will improve the quality and the reputation of the entire Commonwealth merits reviews system.

While Labor support the principle of this legislation, we do support some small changes, particularly where the bill effects changes to the current AAT practices. Senators who have read through this bill will appreciate its complexity. Intertwining four large Commonwealth merit review jurisdictions is indeed easier said than done. Given the complexity of the legislation, the broad range of stakeholders who stand to be affected and the unhappy history of tribunal amalgamation proposals, Labor referred the bill to the Senate Legal and Constitutional Affairs Legislation Committee. I would like to thank each of the organisations that participated in the committee's inquiry. The committee tabled its report back in March.

The committee supported the passage of this bill. Notably, two amendments to the bill were unanimously recommended by senators on the committee. The committee recommended first that the parliament remove the amendment in the bill which would allow the AAT to determine second-tier reviews of social security matters on papers only, even where the parties do not consent. We welcome this recommendation. It is important not only that justice be done but that it be seen to be done. Tribunal applicants should have a right to a hearing where they consider this to be necessary to their claim being properly considered.

Second, the committee recommended that the parliament remove the amendment in the bill which would reduce the maximum term of appointment of AAT members from seven to five
years. Labor appreciates that the government wishes to standardise terms of appointment. It has been pointed out that the standard practice in statutory appointments is for five-year terms, and that is also the case in the SSAT and the MRT-RRT at present. However, this measure goes to the independence of the tribunal. The AAT is distinct from normal statutory bodies. We support seven-year maximum terms both to ensure the independence of the AAT and as a means of attracting high-quality tribunal members. I thank government members of the committee for agreeing to these proposals.

There are, however, further changes to the bill which Labor supports and which government members of the committee did not concur with. I will consider each of those in turn. I ask government senators and senators of the crossbench to support these proposals. We are of the sincere opinion that each of these amendments is a serious, considered and worthwhile improvement to what is already a good bill. The first recommendation, as foreshadowed in the additional comment, is that Labor move an amendment to remove the measure in the bill which provides for appointment of the registrar of the AAT by the Governor-General. The current act provides for the registrar to be appointed on the nomination of the president. This is appropriate as the registrar is tasked by section 24B of the act with assisting the president in the management of the tribunal. This relationship and by extension the position of the president and the independence of the tribunal are protected by the nomination required in the act. No compelling reason has been provided for why this practice should be departed from.

The second recommendation, again as foreshadowed in the additional comment, is that Labor move an amendment to remove the measure in the bill which changes the venue for certain appeals from the Family Court to the Federal Court. The bill would remove the Federal Court jurisdiction to hear appeals from the Federal Circuit Court following an appeal from a child support first review and to hear referrals on questions of law. While this measure would be consistent with the general jurisdiction of the Federal Court over matters arising from the AAT, the Family Court has noted that it is the court with expertise in child support matters. It is not clear that any convenience achieved by the change in venue for what the department concedes is a small number of matters would outweigh the disruption of accepted practice.

A third recommendation, again foreshadowed in Labor senators’ additional comments, is that Labor move an amendment to remove the measure in the bill which removes the requirement for an address by each house of parliament before an AAT member can be removed, instead allowing the Governor-General to dismiss a member. This proposed change goes to the independence of the tribunal and, while the SSAT and MRT-RRT presently allow for removal of members by the Governor-General, amalgamation should lift those tribunals to the present standard of the AAT rather than lowering the standards of the entire jurisdiction.

A fourth recommendation, again foreshadowed in our additional comments, will remove an amendment in the bill to create a specialist FOI division in the new, amalgamated AAT. If passed, the government's Freedom of Information Amendment (New Arrangements) Bill 2014, presently in the Senate, would confer responsibility for determining disputes about FOI applications in the first instance on the AAT. At present the specialist body of the Office of the Australian Information Commissioner fulfils that role. To alleviate concerns about the loss
of specialist expertise in handling FOI disputes which would be caused by the FOI bill, a specialist division of the AAT should be created.

In conclusion, as I said, Labor supports the spirit of this bill. Now and in the past we have supported in principle the amalgamation of Commonwealth merits review tribunals. In the main we support the detail with which it implements amalgamation. This bill effects implementation with minimal ancillary changes to current working arrangements. We thank the government for the work they have done on this. However, as I have said, we do have a handful of positive suggestions, and I commend the bill and those amendments to the Senate.

Senator WRIGHT (South Australia) (12:36): I rise to speak on the government's Tribunals Amalgamation Bill 2014, which provides the legislative framework for very significant reforms to Australia's merits review system. If enacted, this bill will amalgamate four separate specialist Commonwealth tribunal systems into one mega-administrative appeals tribunal. As a lawyer and as a former deputy president of the Guardianship Board, I care deeply about ensuring that those who are tasked with administering the law in Australia, from Centrelink officers right through to ministers, do so fairly and in a way that preserves and promotes the idea of natural justice. I also understand the need to make sure that our system of administrative review is efficient and a productive use of public moneys.

For these reasons, I support many aspects of this bill that have been designed following targeted consultation to improve the efficiency of the system, and I commend the government for undertaking that targeted consultation. However, this bill is not just about back-end amalgamation; it also changes how people who will be affected or are affected by government decisions—such as decisions about their welfare payments, whether or not they can get a visa or whether they can access certain information—can seek independent review of those decisions to ensure that they were made fairly and properly in accordance with the law. That is essentially what a merits review of government decisions means: it means that it is a check and balance on the powers and decisions of executive government.

I am a big rap for tribunals, and it is because of my experience as a lawyer who had clients who experienced tribunals and then later in my legal career, when I worked extensively as a member of tribunals. I worked on the Social Security Appeals Tribunal. I worked on the Residential Tenancies Tribunal, which is a state tribunal in South Australia, and on the South Australian Guardianship Board. I believe that, at their best, tribunals and boards provide a means of resolving disputes or achieving legal outcomes and of having important reviews and checks on government actions that affect people's rights, in a way—and I am going to borrow the terminology of the Social Security Appeals Tribunal for this—that is fair, just, economical, informal and quick.

I have always considered that tribunals are, indeed, what I would call the coalface of the legal system. They do a huge bulk of work in Australia. Their work and decisions affect many people in very practical matters that are very important to individuals in Australia. For many people, their appearance at a tribunal and the resolution of their dispute or the case that is being heard at a tribunal will be the first, and perhaps the only, experience that they will have of courts or the legal system in Australia. So I have always considered it absolutely vital that people have a fair and good experience of work right at the tribunal level, because essentially it is that experience which will reinforce people's view that Australia has a strong, fair, just, impartial and effective legal system, which will then of course encourage people to have more
respect for the rule of law in Australia and go about their lives in that way. So I have always considered that, although perhaps there is not as much glory associated with the hard work and the many cases that tribunal members carry out, their work, as an important experience for Australian citizens of the legal system, is absolutely vital and that people go away feeling that they have been heard fairly, that their case has been considered without fear or favour and that they can have faith in the results of that decision-making process.

For these reasons, the changes that are proposed in this bill need to be carefully considered before we can be sure that they will result in a fair and just system, as well as a quick and cheap one. There are some issues that have been raised by people examining this particular bill. For example, certain reviews will be conducted 'on the papers', as it is called. Rather than having a dedicated hearing where the parties are given a chance to front up and put their case orally to tribunal members, the decision will be made on the basis of papers that are submitted, without the ability to interrogate orally or ask the parties to explain further the case that they are involved with. As Legal Aid New South Wales points out, this can make things much more difficult for a large number of tribunal users. That is particularly the case for people who may have limited education or written skills, because a lot of people are not particularly adept at putting their case—at knowing what is relevant and putting things in writing to best present the merits of their particular case. It will have an effect on people who have limited finances, because they will not necessarily be able to pay someone else to assist them in making their case on the papers. It will particularly affect, of course, people with limited English language skills—for obvious reasons—and people who may have serious physical or mental health issues.

As a previous member of a tribunal, and having worked on tribunals for a significant period of my legal career, I know from my own experience the benefits of having hearings where people can appear in person and put their case. Because it is usually an inquisitorial process whereby the tribunal member is very involved in asking the parties about the basis of their case, elucidating further information that may be necessary and clarifying things that are perhaps confused or not clear, it is a very important process of people feeling that they have had an opportunity to put their case as well as they can and to be heard. It is also very important that tribunal members engage in a process of active listening, and then people are likely to leave that experience and that process with their heads held high, feeling that, no matter what the outcome of the process—no matter what the decision—they have been properly heard. It is also often very useful to have the people there and to be able to question them, clarify things that are not clear and uncover information that otherwise would not be evident from the papers.

Another area of concern about this bill is that the proposed amalgamation will lead to a loss of specialist expertise which has been built up over time under the current specialist merits review system. An example of this is in the submission from the Family Court to the Senate Standing Committee on Legal and Constitutional Affairs, where they raise concerns that transferring the jurisdiction from the Family Court to the Federal Court would result in:

... greater fragmentation in the child support appellate jurisdiction, and a squandering of the considerable expertise already developed in the Appeal Division of the Family Court ...

This bill also places limitations on the right of a party to be represented by a lawyer at a hearing in the proposed Social Services and Child Support Division of the amalgamated
tribunal. Concerns that have been raised by interested parties and stakeholders are various, but there is one raised in the submission from Victoria Legal Aid, and I refer to that:

Given the inherently complex nature of social security law, access to legal representation for the preparation and conduct of hearings before the Tribunal is a proportionate response to addressing the structural inequality associated with the social security review processes.

As I said, I had the experience of working on the Social Security Appeals Tribunal in the mid-2000s. At that time, the tribunal dealt with hugely complex legislation with layers of decision making before those decisions even came to the tribunal, and I know those have increased since those times.

There are 12 social security acts alone, with significantly over 1,500 sections—I did not go through and count how many sections—that are within the jurisdiction of the Social Security Appeals Tribunal. The way that legislation interacts is hellishly complicated—the Social Security Act, the Social Security (Administration) Act, the A New Tax System (Family Assistance) Act, the A New Tax System (Family Assistance) (Administration) Act, the child support act, the Student Assistance Act and the Farm Household Support Act, and I could go on and on. The point is that it is an extremely complex jurisdiction. My experience was that people coming along to those hearings often did not have any real idea about the complexity of the jurisdiction. Having legal advice in some cases, where it is appropriate, was extremely helpful not only to the parties appearing but also to the tribunal members.

There are also concerns that I will raise about the independence of the newly amalgamated Migration and Refugee Division of the tribunal and concerns that they may be compromised by the requirement for the Attorney-General to get the okay of the Minister for Immigration and Border Protection before assigning a tribunal member to the division. What is that about? Why would the immigration minister be in a position to vet the appointment of an independent tribunal member whose competence and experience could properly and appropriately be judged by the Attorney-General, given that it is going to be legal competence and legal experience that would presumably mean that that person is suited to be able to fulfil a task which is about interpreting law?

These concerns are only heightened by the fact that, as a result of decisions by this government, many users of this tribunal are no longer able to access legal advice and information that they need beforehand to be able to understand tribunal procedures, present their case in a clear way or understand their rights if they receive an unfavourable decision. This government has axed the Immigration Advice and Application Assistance Scheme. As a result, many vulnerable users of the proposed Migration and Refugee Division of the amalgamated AAT will be left to navigate the complexity of refugee and immigration law without access to the independent assistance or legal advice of lawyers. That is why, too, the issue about security of tenure is extremely important for tribunal members. If people are to have an experience in tribunals and boards in Australia whereby they know that decisions have been made without fear or favour, without improper considerations like whether someone's job is on the line within a short period of time, we need to ensure that there is independence of appointment and security of tenure as long as possible. In this regard, I will be supporting the opposition amendment in relation to the AAT.

This bill has also been introduced against a backdrop of other changes to the landscape of administrative law at the Commonwealth level. These changes, if pursued, will see the
abolition of the Office of the Australian Information Commissioner. This could have the effect of an increased number of applications for review of government decisions to refuse access to public information. These are all genuine concerns that have been raised by individuals and organisations with expertise and experience in the system of merits review at the Commonwealth level. They give rise to the need to be vigilant as to whether, in fact, this bill does preserve the rights and interests of tribunal users and does not jeopardise its fair decision making or its valuable specialist expertise, which can then lead to more effective and appropriate decision making.

I would like to quote from a significant stakeholder in this arena, the National Welfare Rights Network, who observed:

… access to a fair and effective tribunal for our vulnerable clients requires more than legislative rights of appeal. It is critical that tribunals are adequately resourced, that members are equipped with the necessary skills and expertise, that welfare rights services are well resourced and that there are appropriate case management procedures in place. Efficiency driven changes within the SSAT over recent years have, in our opinion, undermined the accessibility, efficacy and fairness of the SSAT.

So it would be deeply regrettable and have far-reaching consequences for the administration of law in Australia if the efficiency driven changes which are behind this bill were to undermine the accessibility, efficacy and fairness of the broader tribunal system. It would not just have an individual impact on those people who use the system. Arguably, it would have a detrimental effect on the system of rule of law and the attitude of Australians towards the legal system more generally.

For these reasons, the Australian Greens want to see this amalgamated tribunal system subject to comprehensive review within 24 months of coming into operation. That would be an important opportunity to hear from tribunal users, members and practitioners, as well as other interested parties, on whether the bill has been successful in meeting its objectives of enhancing the efficiency and effectiveness of the Commonwealth merits review jurisdiction while at the same time preserving what is absolutely fundamental—that is, fair decision making, procedural fairness rights and specialist expertise, which makes tribunals so effective at what they do. The Greens will be moving an amendment for such a review—a comprehensive review—within 24 months of the new tribunal coming into operation. I urge all senators to support that Greens amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:51): May I thank honourable senators for their contributions. Although the Tribunals Amalgamation Bill is not a very controversial piece of legislation, it is in fact a very significant one because it represents the most significant reform to Australian administrative law since the creation of the Administrative Appeals Tribunal in 1975. In many ways the legislation before the Senate chamber today is a tale of two Kerrs—a tale of two Justice Kerrs. The first of them is the President of the Administrative Appeals Tribunal, Justice Duncan Kerr. He was appointed to that position with the support of the then opposition during the period of the Labor government, Justice Kerr himself being a former Minister for Justice and briefly Attorney-General. I want to take the opportunity of these remarks to thank Justice Duncan Kerr for the exceptional level of involvement he has had with these reforms. We have had many meetings in the last year or more and it is not an exaggeration to say that the bill in its current shape
would not have been possible without the very considerable input and intellectual effort and engagement of Justice Duncan Kerr. There is another Justice Kerr lurking in the background of this debate—that is, of course, the great Sir John Kerr. It was Sir John Kerr who, I think as a member of the Commonwealth Court of Conciliation and Arbitration in the 1970s, was the author of the Kerr report of 1971. The Kerr report of 1971 was the basis of the wholesale reform to the Australian administrative law enacted, I am reasonably confident in saying, with bipartisan support in 1975 during the period of the Whitlam government. The work of this bill is in a sense to recapture the simplicity which Sir John Kerr envisaged for the Australian system of administrative law when he wrote the Kerr report in 1971.

This has been a very long time coming. The law reform to which this bill gives effect was first foreshadowed as long ago as 1995 during the dying days of the Keating government. It has taken many turns of the political cycle to see it come to fruition, but it does come to fruition in the Senate today. I want to thank those who have been involved over all those many long years in the process of enabling this law reform to come to completion today. I want to thank the opposition for their support for the bill—this has been a largely bipartisan endeavour. As I said earlier, it should not be a particularly controversial bill. It has the benefit of rationality and simplicity—although that seems to have escaped Senator Wright, and I will return to her remarks in a moment. Can I on behalf the government thank Senator Collins and through her Mr Dreyfus, who has shown a spirit of cooperation in relation to this proposal. Indeed, but for the change of government in 2013, it may well have been Mr Dreyfus who was introducing this bill rather than me. This is, as I say, an example of healthy cooperation between the two sides of politics.

A number of Labor Party amendments have been circulated in the chamber. Can I indicate that the government supports all but one of those amendments. The amendment that the government does not support is in relation to the destination of an appeal in relation to children’s matters. When Senator Collins moves that amendment I will use that occasion to explain why the government does not think it is a good idea. Otherwise, the opposition amendments are supported.

Can I deal with a couple of the observations that fell from Senator Penny Wright on behalf of the Australian Greens. Senator Wright, you missed the point when you said that the consolidation of the various merits review tribunals into a single tribunal might run the risk of a loss of expertise. What you did not say, and evidently you are unaware of this, is that the new amalgamated tribunal will be divisionalised. All the members of the Refugee Review Tribunal, the Migration Review Tribunal and the Social Security Appeals Tribunal who sit in those topic-specific tribunals at the moment will be incorporated into the amalgamated tribunal—so the very self-same members who adjudicate those matters at the moment in their own stand-alone tribunals will continue to adjudicate the same matters as members of relevant divisions of the unified Administrative Appeals Tribunal. The loss of professional expertise which you apprehend simply will not occur. I am surprised that you, Senator, as somebody who tells the Senate that you have practised extensively in tribunal matters, would say that there is some risk in amalgamating into a single unified tribunal various topic-specific subject matters, because not only will there be specific divisions to maintain the relevant expertise but also, of course, the principles of merits review are uniform across all topic-specific matters.
We have in Australia, and this has been observed by international commentators not seldom, an excellent system of administrative law. The system created as a result of the Kerr report of 1971 was at the time regarded as world leading and it remains the case that Australian administrative law, by comparison with the British system and by comparison with analogous European systems for example, is greatly admired. But if there is one problem that Australian administrative law has faced, which has perhaps diminished its efficacy, it is the profusion in more recent years of a multiplicity of topic-specific tribunals. There is one set of rules for administrative review. The rules governing administrative review are generic. They are applicable equally, whatever the subject matter might be. In fact, there is a risk that, if those principles are applied by different tribunals sitting in a jurisdictionally self-contained way, an inconsistency of approach may develop. That can only then be corrected when there is an appeal to the Federal Court. That is not world's best practice.

What is best practice is to have the generic principles governing administrative review uniformly applied by the same tribunal, while recognising the specialist expertise in certain particular fields by allocating the members of the tribunal among particular divisions. That is the very thing that this legislation does. It recaptures in a lineal and crystalline way the very essence of the recommendations of the Kerr report of 1971, which was embodied in the original Administrative Appeals Tribunal Act.

I will not detain the Senate with reflecting on either observations you have made, but the principal observation you have made not only is wrong but in fact attacks the principle of uniformity and integrity of approach across the whole of Australian administrative law. It is for the same reason, by the way, Senator Wright, that state governments—including state governments in the states controlled by the Labor Party—have consolidated administrative review functions into single tribunals which deal with a wide range of topic-specific legislation.

With those words, I will sum up the debate. It is nice to be able to conjure, in 2015, the spirit of that great Australian Sir John Kerr once again. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:02): I table a supplementary explanatory memorandum relating to the government amendments to the bill.

Senator WRIGHT (South Australia) (13:02): I want to ask a question regarding government amendment (1) on sheet EH158, relating to section 9A(3)(1). I am hoping that I am clear in what I am asking there. I apologise, but we did only receive these amendments very recently and I am trying to get my head around them. I am interested in clarifying. Does that particular amendment, which links the definition of the person who made the decision to a specific legislative regime, affect review rights?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:03): No.
Senator WRIGHT (South Australia) (13:03): Apart from that, I do not have particular questions to ask about the government's proposed amendments. I move the Australian Greens amendment (1) on sheet 7680:

(1) Page 6 (after line 5), after clause 3, insert:

4 Review of operation of amendments

(1) The Minister must cause a review of the operation of the amendments made by this Act to be undertaken as soon as practicable after the end of the period of 3 years after the commencement of Schedule 1.

(2) The review must consider:

(a) the effect of the amendments made by this Act; and

(b) any other related matter that the Minister specifies.

(3) The person who undertakes the review must give the Minister a written report of the review within 6 months after the end of the 3-year period.

(4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of receiving it.

This is the amendment that I foreshadowed in my speech in the second reading debate regarding a review of the newly amalgamated tribunal within 24 months of that tribunal being established to give users, practitioners, tribunal members and other interested stakeholders an opportunity to have input as to whether the stated aims of efficiency, efficacy and cost saving have been met, as well as whether or not the other objectives of a fair and reliable tribunal system have been met.

I would urge the committee to support this amendment. As we have heard from various people who have contributed to the debate, it is a significant change. As I indicated too, it is not one that the Greens are necessarily opposed to. I think there is always a risk in these things that, once the deed has been done and significant changes have been made, there are significant aspects that have been lost as well. I would be urging the committee to support the Greens amendment to have a comprehensive review within 24 months of the establishment the tribunal.

Senator JACINTA COLLINS (Victoria) (13:06): As indicated by Senator Wright, this amendment would require the Attorney-General to order an independent review of the operation of the AAT two years after the bill commences. We thank the Greens for what we think is a sensible amendment. This is a complex piece of legislation. We are dealing with four large bodies; their consolidation can be expected to involve some teething issues. It will be prudent for a review to be conducted after an appropriate time to ensure that the amalgamation is proceeding as intended and that the objectives of the legislation are being achieved.

I note that the amendment does not stipulate who should conduct the review. We would respectfully suggest to the Attorney-General that the appropriate body would be the Administrative Review Council. This organisation, with a long and distinguished background in overseeing Commonwealth administrative law, is well equipped to conduct the proposed review. I notice—I think I indicated it in my contribution to the second reading debate—that this amalgamation proposal, which has a very long history indeed, was first seriously proposed by the ARC in a 1995 report commissioned by the Keating government.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:07): The government does not support this amendment, merely because it is unnecessary. A review is already provided for and $150,000 of funding has already been allocated for the conduct of a review to commence in the 2016-17 year with an obligation to report to government by 31 December 2017. Senator Wright, you propose a review after two years. This was already announced, by the way, in the additional estimates. There is going to be review in 2016-17 with a reporting date of 31 December 2017—you were obviously unaware of it. In view of that, perhaps you might care to reflect on whether you wish to persist with this amendment.

Senator WRIGHT (South Australia) (13:08): I indicate to the chamber that I do intend to persist with the Greens amendment. It is the view of the Australian Greens that an independent review, certainly conducted by the body that Senator Collins referred to, would be the most appropriate way to proceed, given the significance of the changes that are going to be effected if this legislation is passed.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:09): by leave—I move government amendments (1), (3) to (6) and (8) to (21) on sheet EH158 together:

1. Schedule 1, page 9 (after line 6), after item 9, insert:

   9A Subsection 3(1)

   Insert:

   person who made the decision has a meaning affected by:

   (a) if a review of the decision is or would be an AAT first review within the meaning of the A New Tax System (Family Assistance) (Administration) Act 1999—section 111B of that Act; and

   (b) if a review of the decision is or would be an AAT first review within the meaning of the Paid Parental Leave Act 2010—section 224A of that Act; and

   (c) if a review of the decision is or would be an AAT first review within the meaning of the Social Security (Administration) Act 1999—section 142A of that Act; and

   (d) if a review of the decision is or would be an AAT first review within the meaning of the Student Assistance Act 1973—section 311A of that Act.

2. Schedule 1, item 27, page 21 (after line 3), after subsection 18B(1), insert:

   (1A) Before the President does so, the President must consult the head of any Division to which the direction would apply.

3. Schedule 1, item 28, page 27 (after line 3), at the end of section 24A, add:

   (4) However, the Registrar must consult with the President in relation to the Registrar's performance of those functions or exercise of those powers.

4. Schedule 1, item 40, page 30, (lines 1 and 2), omit the item, substitute:

   40 Subsection 25(4)

   Repeal the section.

   40A Subsection 25(6)

   After "29,", insert "29AB, 29AC, ".

CHAMBER
(6) Schedule 1, item 46, page 31 (lines 20 and 21), omit "and the proceeding is not a child support first review".

(8) Schedule 3, page 101 (after line 17), after item 4, insert:

4A Subsection 23(1) (paragraphs (a) and (b) of the definition of Secretary)

Omit "Division 4 of Part 4", substitute "Subdivision D of Division 2 of Part 4A".

(9) Schedule 3, page 106 (after line 17), after item 35, insert:

35A After section 142

Insert:

142A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to:

(a) the Secretary; and

(b) if the decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the Human Services (Centrelink) Act 1997) as a delegate of the Secretary or the Employment Secretary—the Chief Executive Centrelink.

(10) Schedule 5, item 22, page 150 (after line 20), before section 112, insert:

21A Before section 112

Insert:

111B Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to:

(a) the Secretary.

(11) Schedule 5, item 22, page 153 (after line 10), after section 116, insert:

116A Parties to AAT first review

The parties to an AAT first review of a care percentage decision include, in addition to the parties referred to in subsection 30(1) of the AAT Act, each person who is a responsible person (within the meaning of the Child Support (Assessment) Act 1989) for the child to whom the decision relates.

(12) Schedule 6, item 20, page 172 (after line 15), before section 225, insert:

224A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to:

(a) the Secretary; and

(b) either of the following, if applicable:

(i) if the decision was made by the Chief Executive Centrelink or an APS employee in the Human Services Department—the Chief Executive Centrelink;

(ii) if the decision was made by the Chief Executive Medicare—the Chief Executive Medicare.

(13) Schedule 7, item 11, page 184, (after line 16), after section 311, insert:

311A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to the Secretary.

(14) Schedule 9, page 204 (before line 4), before item 1, insert:

Part 1—Preliminary

(15) Schedule 9, item 1, page 204 (after line 7), after the definition of AAT Act, insert:
affected law:
(a) means an Act that this Act amends; and
(b) includes an instrument made under such an Act.

(16) Schedule 9, item 1, page 204 (after line 17), after the definition of Deputy Principal SSAT member, insert:

discontinued Tribunal means the MRT, RRT or SSAT.

(17) Schedule 9, item 1, page 205 (after line 3), after the definition of MRT member, insert:

officer, in relation to the SSAT, means a person who performs functions or exercises powers of the SSAT or performs duties for the SSAT.

(18) Schedule 9, item 1, page 205 (after line 5), after the definition of President of the AAT, insert:

proceeding includes any of the following:
(a) an application or purported application made to a discontinued Tribunal under an Act;
(b) a matter referred to a discontinued Tribunal for inquiry or review under an Act;
(c) an incidental application to a discontinued Tribunal made in the course of, or in connection with, an application or proposed application, or matter, referred to in paragraph (a) or (b).

For this purpose, a reference to a proceeding that is before a tribunal includes a reference to an application made or matter referred to the tribunal.

(19) Schedule 9, page 205 (after line 29), after item 2, insert:

Part 2—Tribunal members and certain officers

(20) Schedule 9, item 13, page 214 (after line 8), after subitem (3), insert:

(3A) Despite subitem (3), the Minister may, by writing, determine different terms and conditions (other than terms and conditions covered by a determination referred to in subitem (3B)) that are to apply to the person for any part of the remaining balance of the person's term of appointment.

(3B) A determination in operation under the Remuneration Tribunal Act 1973 immediately before the commencement day in relation to the person:
(a) continues in operation until another determination comes into operation in substitution for it; and
(b) before then, may be varied in accordance with that Act.

(21) Schedule 9, page 214 (after line 24), after item 15, insert:

Part 3—Review of decisions

15AA General provision—application of amendments from commencement day

(1) Except as otherwise provided by this Schedule, the amendments made by this Act apply on and after the commencement day:
(a) including in relation to proceedings commenced before the commencement day; and
(b) including in relation to decisions made before the commencement day.

(2) However, and despite anything else in this Schedule, an amendment or insertion of an offence by this Act does not apply in relation to conduct engaged in before the commencement day.

15AB General provision—continuation in AAT of proceedings before discontinued Tribunals

(1) This item applies to a proceeding that was before a discontinued Tribunal immediately before the commencement day.

(2) From the start of the commencement day, the proceeding:
(a) is taken to be a proceeding (a continued proceeding) before the AAT; and
(b) if the proceeding was before the MRT or RRT—is taken to be a proceeding in the Migration and Refugee Division; and

(c) if the proceeding was before the SSAT:

(i) is taken to be a proceeding in the Social Services and Child Support Division; and

(ii) except to the extent it is not a proceeding for review of a decision—is taken to be a proceeding on application for AAT first review within the meaning of the Act that authorised the application for review.

(3) Anything done by the discontinued Tribunal or a member or officer of the discontinued Tribunal for the purposes of the proceeding is taken, for the purposes of the continued proceeding and the operation of an affected law on and after the commencement day:

(a) to have been done, at the time it was done by the discontinued Tribunal or member or officer, by the AAT or a member or officer of the AAT for the purposes of the continued proceeding; and

(b) to have effect accordingly under an affected law.

(4) Anything done by the applicant, another party to the proceeding or any other person for the purposes of the proceeding is taken, for the purposes of the continued proceeding and the operation of an affected law on and after the commencement day:

(a) to have been done, at the time it was done by the applicant, other party or person, by the applicant, other party or person for the purposes of the continued proceeding; and

(b) to have effect accordingly under an affected law.

(5) Without limiting subitem (3) or (4), if, immediately before the commencement day:

(a) a discontinued Tribunal or a member or officer of a discontinued Tribunal had not yet met a requirement that was imposed on the Tribunal, member or officer by an affected law in relation to the proceeding; or

(b) a discontinued Tribunal or a member or officer of a discontinued Tribunal had not yet responded to a request or invitation under an affected law to do something in relation to the proceeding;

then, except to the extent to which no such requirement, request or invitation is imposed or authorised by an affected law as amended by this Act, the AAT or a member or officer of the AAT must meet the requirement, or may respond to the request or invitation, for the purposes of the continued proceeding as if the requirement, request or invitation had been imposed or authorised by a provision of an affected law as amended by this Act.

(6) Without limiting subitem (3) or (4), if, immediately before the commencement day:

(a) a person had not yet met a requirement that was imposed on the person by an affected law in relation to the proceeding; or

(b) a person had not yet responded to a request or invitation issued under an affected law to do something in relation to the proceeding;

then, except to the extent to which no such requirement, request or invitation is imposed or authorised by an affected law as amended by this Act, the person must meet the requirement, or may respond to the request or invitation, for the purposes of the continued proceeding as if the requirement, request or invitation had been imposed or authorised by a provision of an affected law as amended by this Act.

(7) Without limiting subitem (3) or (4), if, before the commencement day, a discontinued Tribunal or a member or officer of a discontinued Tribunal had met a requirement imposed by an affected law to give a notice or document to a person, then, from the start of the commencement day, the requirement is taken to have been met, at the time it was met by the discontinued Tribunal or member or officer, by (as applicable under the affected law as amended by this Act) the AAT or a member or officer of the AAT.
(8) Without limiting subitem (3) or (4), if, before the commencement day, a person had received or was taken to have received a notice or document from a discontinued Tribunal or a member or officer of a discontinued Tribunal, then, from the start of the commencement day, the person is taken to have received the document, at the time it was received or taken to have been received, from (as applicable under the affected law as amended by this Act) the AAT or a member or officer of the AAT.

(9) This item does not apply to the extent to which another item of this Schedule (other than item 15AC) has a different effect.

15AC General provision—operation of affected law in relation to things done etc. before commencement day

(1) For the purposes of the operation of an affected law on or after the commencement day:
   (a) a reference to a decision that is or would be reviewable by the AAT includes a reference to a decision made before the commencement day that was or would have been reviewable by a discontinued Tribunal; and
   (b) a reference to a decision made or other thing done by or in relation to the AAT includes a reference to a decision made or other thing done before the commencement day by or in relation to a discontinued Tribunal.

(2) For the purposes of subitem (1), it does not matter whether the AAT is expressly referred to, or referred to by that exact expression.

(3) Without limiting subitem (1), if, immediately before the commencement day, a person was entitled under an Act to make an application to the AAT or a discontinued Tribunal for review of a decision made before the commencement day, the person may make an application for review of the decision to the AAT on or after the commencement day in accordance with the Act as amended by this Act.

(4) To avoid doubt, neither paragraph (1)(a) nor subitem (3) of itself authorises an application to be made to the AAT for review of a decision. In particular, it does not authorise an application to be made in circumstances referred to in item 15AD.

(5) Subitem (1) does not apply to the extent to which item 15AB applies.

15AD Duplicate applications for review

(1) A person may not make an application to the AAT for review of a decision on or after the commencement day if the person made an application or a purported application to a discontinued Tribunal for review of a decision made before the commencement day.

(2) A person may not make an application to the AAT for review of a decision on or after the commencement day if:
   (a) the time for the person to apply to a discontinued Tribunal for review of the decision had expired before the commencement day without such an application having been made; and
   (b) there is no enactment that permits the AAT to extend the time for making the application.

(3) Subitems (1) and (2) do not prevent a person from making an application to the AAT for second review of a decision made by the AAT in a proceeding referred to in paragraph 15AB(2)(c).

15AE Notices referring to discontinued Tribunal

(1) This item applies to a notice given to a person before, on or after the commencement day if:
   (a) the notice includes a statement to the effect that the person is entitled to apply for review of a decision to a discontinued Tribunal; and
   (b) the last day for the person to make such an application is on or after the commencement day, or there is no time limit for the person to make such an application.
(2) On and after the commencement day, the notice is taken to meet any requirement in an affected law to give a person a notice that includes a statement to the effect that the person is entitled to apply for review of the decision to the AAT.

15AF Continuation of Immigration Assessment Authority

Although this Act has the effect that the Immigration Assessment Authority is established from the start of the commencement day within the AAT rather than the RRT, this does not affect:

(a) the continued existence of the Authority on and after the commencement day; or

(b) a review that was being conducted by the Authority immediately before the commencement day; or

(c) the ongoing effect on and after the commencement day of anything else done by or in relation to the Authority, its Principal Member or a reviewer before the commencement day.

15AG Remission of discontinued Tribunal decisions

A decision of a discontinued Tribunal that a court decides on or after the commencement day to remit for reconsideration is to be remitted to the AAT.

Part 4—Matters specific to particular Acts

15BA Relationship between this Part and Part 3

An item in this Part that has the same effect as an item in Part 3 in relation to a particular matter does not limit the operation of the item in Part 3 in relation to any other matter.

15BB Continued protection of confidential information of discontinued Tribunals

(1) If, immediately before the commencement day, any of the following provisions applied to a person:

(a) section 377 of the Migration Act 1958;

(b) section 439 of the Migration Act 1958;

(c) clause 19 of Schedule 3 to the Social Security (Administration) Act 1999;

the provision as in force immediately before the commencement day continues to apply to the person on and after the commencement day, in relation to information or documents obtained before that day, despite the repeal of the provision by this Act.

(2) For the purposes of the continued operation of clause 19 of Schedule 3 to the Social Security (Administration) Act 1999, clause 19A also continues to apply.

15BC Changes to AAT Divisions

A proceeding that was before the AAT immediately before the commencement day in a Division referred to in column 1 of the table is taken, from the start of the commencement day, to be a proceeding before the AAT in the Division referred to in column 2 of the table.

<table>
<thead>
<tr>
<th>AAT Divisions</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>A proceeding that was in this Division:</td>
<td>Is taken to be in this Division:</td>
</tr>
<tr>
<td>1</td>
<td>General Administrative Division</td>
<td>General Division</td>
</tr>
<tr>
<td>2</td>
<td>Security Appeals Division</td>
<td>Security Division</td>
</tr>
<tr>
<td>3</td>
<td>Taxation Appeals Division (including that</td>
<td>Taxation and Commercial Division</td>
</tr>
<tr>
<td></td>
<td>Division when known as the Small</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Taxation Claims Division)</td>
<td></td>
</tr>
</tbody>
</table>

15BD Small Taxation Claims Tribunal

If, immediately before the commencement day, an order was in force under subsection 24AD(1) of the AAT Act in relation to an application for review of a relevant taxation decision, then, despite the
amendments made by this Act, paragraphs 24AD(2)(b) and (c) and subsection 24AD(3) of the AAT Act as in force immediately before the commencement day continue to apply on and after the commencement day in relation to the application for review.

15BE Continuation of provisions regarding presiding members

If, immediately before the commencement day, a person was presiding in relation to a proceeding before the AAT because of any of the following provisions of the AAT Act:

(a) paragraph 21AB(9)(a), (b) or (c);
(b) paragraph 22(1)(a), (aa) or (b);
(c) subparagraph 22(1)(c)(i);

then the provision continues to apply in relation to the proceeding on and after the commencement day despite the amendments made by this Act.

15BF Limit on new AAT Act powers in relation to agreements

The following provisions of the AAT Act as amended by this Act do not apply in relation to a decision made by the AAT before the commencement day:

(a) subsection 34D(4);
(b) subsection 42C(5).

15BG Notices and summonses under amended provisions of AAT Act

(1) If, before the commencement day, a notice was given under subsection 29(11) of the AAT Act, then, from the start of the commencement day, the notice is taken to have been given, at the time it was given, under section 29AC of the AAT Act as amended by this Act.

(2) If, immediately before the commencement day, in relation to an order made by the AAT under section 38 of the AAT Act, the period for lodging an additional statement has not ended and the person has not yet lodged the additional statement, then:

(a) the order continues in effect on and after the commencement day despite the amendments made by this Act; and
(b) from the start of the commencement day, the order is taken to have been given, at the time it was given, under section 38 of the AAT Act as amended by this Act.

(3) If, immediately before the commencement day, in relation to a summons issued under subsection 40(1A) of the AAT Act:

(a) the period for complying with the summons had not ended and the person had not yet complied;
(b) the occasion for complying with the summons had not arisen;
then:
(c) the summons continues in effect on and after the commencement day despite the amendments made by this Act; and
(d) from the start of the commencement day, the summons is taken to have been given, at the time it was given, under section 40A of the AAT Act as amended by this Act.

15BI Ongoing requirement for lodging material documents with AAT

(1) Section 38AA of the AAT Act applies in relation to documents a person obtains possession of on or after the commencement day.

(2) Section 38AA of the AAT Act also applies in relation to documents a person obtained before the commencement day, if, immediately before the commencement day:
(a) a requirement to give the documents to the SSAT was imposed on the person by an affected law in relation to a proceeding before the AAT; and
(b) the person had not yet met the requirement; and
(c) item 15AB of this Schedule has the effect that the person must meet the requirement in relation to the proceeding as continued before the AAT by that item.

15BJ Application for reinstatement
The amendments of the AAT Act made by item 114 of Schedule 1 to this Act apply in relation to the dismissal of an application whether the dismissal occurred before, on or after the commencement day.

15BK Changes to penalties in the AAT Act
The following provisions of the AAT Act as in force before the commencement day continue to apply in relation to conduct engaged in before that day, despite the amendments made by this Act:
(a) section 61;
(b) section 62;
(c) section 62A;
(d) section 62B;
(e) section 63.

15BL Section 67 of the AAT Act
Regulations made before the commencement day for the purposes of section 67 of the AAT Act continue in force on and after the commencement day in relation to a summons issued before that day, despite the amendment by this Act of section 67 of that Act.

15BM Character of privative clause and other decisions under the Migration Act 1958
If a decision made before the commencement day was, when made:
(a) a privative clause decision; or
(b) a purported privative clause decision; or
(c) a non-privative clause decision;
within the meaning of the Migration Act 1958 at that time, the decision continues to be such a decision on and after the commencement day despite the amendments made by this Act. The Migration Act 1958 applies in relation to the decision accordingly.

15BN Sections 351 and 417 of the Migration Act 1958
The Minister referred to in section 351 or 417 of the Migration Act 1958 may exercise a power conferred by that section on or after the commencement day in relation to a decision made by a discontinued Tribunal before the commencement day.

15BO Sections 477, 477A and 486A of the Migration Act 1958
If, immediately before the commencement day, a particular date was, for a migration decision, the date of the migration decision for the purposes of section 477, 477A or 486A of the Migration Act 1958, that particular date continues to be the date of the migration decision for the purposes of the section on and after the commencement day, despite the amendment by this Act of the definition of date of the migration decision in subsection 477(3) of the Migration Act 1958.

15BP Section 486D of the Migration Act 1958
For the purposes of the operation of section 486D of the Migration Act 1958 on and after the commencement day, and despite the amendment by this Act of the definition of tribunal decision in
subsection 486D(5) of the Migration Act 1958, a reference to a tribunal decision includes a reference to a decision made before the commencement day by:
(a) the MRT; or
(b) the RRT; or
(c) the Immigration Assessment Authority as established within the RRT.

15BQ Continuation of payment declarations
(1) If, immediately before the commencement day, a declaration under section 112 of the A New Tax System (Family Assistance) (Administration) Act 1999 was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:
(a) under section 113 of that Act as amended by this Act; and
(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.
(2) If, immediately before the commencement day, a declaration under section 145 of the Social Security (Administration) Act 1999 was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:
(a) under section 145 of that Act as amended by this Act; and
(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.
(3) If, immediately before the commencement day, a declaration under section 314 of the Student Assistance Act 1973 was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:
(a) under section 314 of that Act as amended by this Act; and
(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.

15BR Review by AAT of SSAT decisions
(1) If, on or after the commencement day, a person makes an application to the AAT for review of a decision made by the SSAT before the commencement day:
(a) the application is taken to be an application for:
(i) AAT second review within the meaning of the Act that (together with this Act) authorised the making of the application; and
(ii) second review within the meaning of the AAT Act; and
(b) the amendments of those Acts made by this Act apply in relation to the application.
(2) If, immediately before the commencement day, a proceeding is before the AAT for review of a decision made by the SSAT, then, from the start of the commencement day:
(a) the proceeding is taken to be a proceeding for:
(i) AAT second review within the meaning of the Act that (together with this Act) authorised the making of the application for review; and
(ii) second review within the meaning of the AAT Act; and
(b) the amendments of those Acts made by this Act apply in relation to the proceeding.

15BS Subsection 109D(6) of the A New Tax System (Family Assistance) (Administration) Act 1999
A decision that, immediately before the commencement day, was an excepted decision within the meaning of subsection 109D(6) of the A New Tax System (Family Assistance) (Administration) Act
continues to be an excepted decision on and after the commencement day, despite the amendments made by this Act.

15BT Saving provision for regulations under section 103T of the Child Support (Registration and Collection) Act 1988

Despite the repeal of section 103T of the Child Support (Registration and Collection) Act 1988 by this Act, a provision referred to in a regulation in force immediately before the commencement day for the purposes of that section is taken, on and after the commencement day and until the regulation referring to the provision is amended or repealed, to be a prescribed provision for the purposes of section 95E of that Act.

Part 5—Continuation of directions

15CA Continuation of AAT directions

(1) A direction given by the President of the AAT under section 20 or 34C of the AAT Act that was in effect immediately before the commencement day continues in effect on and after the commencement day for the purposes of any proceeding before the AAT, other than a proceeding in the Migration and Refugee Division or the Social Services and Child Support Division, as if it had been given by the President:

(a) under section 18B of the AAT Act as amended by this Act; or

(b) to the extent to which a direction made under section 34C relates to the person who is to conduct an alternative dispute resolution process—under subsection 34A(2) of the AAT Act as amended by this Act.

(2) A direction given by the President of the AAT under any of the following provisions that was in effect immediately before the commencement day continues in effect on and after the commencement day, as if it had been given under section 19A of the AAT Act as amended by this Act:

(a) section 20B;
(b) subsection 21AA(6);
(c) subsection 21AB(6);
(d) subsection 21AB(9);
(e) subsection 21AB(10);
(f) subsection 21A(3);
(g) subsection 21A(9);
(h) section 22;
(i) section 23;
(j) section 23A.

(3) A direction given by the President of the AAT under section 23F of the AAT Act that was in effect immediately before the commencement day continues in effect on and after the commencement day, as if it had been given under section 19C of the AAT Act as amended by this Act.

(4) Any other direction or order given by the AAT or the President of the AAT that was in effect immediately before the commencement day for the purposes of a proceeding before the AAT continues in effect on and after the commencement day for the purposes of that proceeding, as if it had been given by the AAT or the President under a provision of the AAT Act as amended by this Act that authorises the making of such a direction or order.

15CB Continuation of Principal Member directions constituting a discontinued Tribunal

(1) This item applies in relation to a direction that:
(a) was given before the commencement day by the Principal Member of a discontinued Tribunal and did either or both of the following for the purposes of a proceeding:

(i) constituted the discontinued Tribunal;

(ii) specified the presiding member of the discontinued Tribunal; and

(b) was in effect immediately before the commencement day.

(2) Despite the amendments made by this Act, the direction continues in effect on and after the commencement day for the purposes of the proceeding as continued before the AAT by item 15AB of this Schedule, as if:

(a) the direction had been given by the President of the AAT under section 19A of the AAT Act as amended by this Act; and

(b) references to the discontinued Tribunal were references to the Migration and Refugee Division or the Social Services and Child Support Division (as appropriate) of the AAT.

15CC Continuation of discontinued Tribunal practice directions

(1) This item applies in relation to a direction that:

(a) was given before the commencement day by the Principal Member of a discontinued Tribunal under an Act in relation to proceedings before the Tribunal; and

(b) was a direction of general application; and

(c) was in effect immediately before the commencement day; and

(d) is not covered by item 15CB of this Schedule.

(2) Despite the amendments made by this Act, the direction continues in effect on and after the commencement day for the purposes of the proceeding as continued before the AAT by item 15AB of this Schedule, as if:

(a) the direction had been given by the President of the AAT under section 18B of the AAT Act as amended by this Act; and

(b) references to the discontinued Tribunal were references to the Migration and Refugee Division or the Social Services and Child Support Division (as appropriate) of the AAT.

15CD Continuation of other discontinued Tribunal directions or orders

(1) This item applies in relation to a direction or order that:

(a) was given by a discontinued Tribunal or the Principal Member of a discontinued Tribunal; and

(b) was in effect immediately before the commencement day for the purposes of a proceeding before the discontinued Tribunal; and

(c) is not covered by item 15CB or 15CC of this Schedule.

(2) The direction or order continues in effect on and after the commencement day for the purposes of the proceeding as continued by item 15AB of this Schedule, as if it had been given by the AAT or the President of the AAT under a provision of an affected law as amended by this Act that authorises the giving of such a direction or order.

Part 6—Other transitional matters

15DA References in instruments to discontinued Tribunal

(1) If an instrument in effect immediately before the commencement day contains a reference to a discontinued Tribunal, the instrument has effect on and after the commencement day as if the reference were a reference to the AAT.
(2) If an instrument in effect immediately before the commencement day contains a reference to the Principal Member of a discontinued Tribunal, the instrument has effect on and after the commencement day as if the reference were a reference to the President of the AAT.

(3) Subitems (1) and (2) do not, by implication, prevent the instrument from being varied or terminated on or after the commencement day.

(4) Without limitation, subitems (1) and (2) include a reference to an instrument that is a direction made by the Minister under section 499 of the Migration Act 1958.

(5) In this item:

*instrument* does not include:

(a) an Act; or
(b) regulations made under this Act or the AAT Act; or
(c) a contract of employment; or
(d) an enterprise agreement.

15DB Transfer of records and documents

Any records or documents that were in the possession of a discontinued Tribunal immediately before the commencement day are, from the start of the commencement day, taken to have been transferred to the AAT.

Note: The records and documents are Commonwealth records for the purposes of the Archives Act 1983.

15DC Registries

(1) Any place that is a registry of a discontinued Tribunal immediately before the commencement day is, from the start of the commencement day, taken to be a registry of the AAT established under section 64 of the AAT Act as amended by this Act.

(2) Subitem (1) does not, by implication, prevent the Minister from varying the registries of the AAT on or after the commencement day.

15DD Additional material for next AAT reports

(1) The statements and reports given for the AAT under section 42 or 46 of the Public Governance, Performance and Accountability Act 2013 for the reporting period ending immediately before the commencement day must include the statements and reports that those sections would have required for the MRT and RRT for that reporting period, had the MRT and RRT not ceased to exist.

Note: Information about the SSAT for the period will be included in the statements and reports given by the Secretary of the Department of Social Services.

(2) A report given by the President of the AAT under section 24R of the AAT Act for the year ending immediately before the commencement day must include information about the discontinued Tribunals for that year.

15DE Existing and new modifications of AAT Act

(1) A provision of an enactment that:

(a) immediately before the commencement day, has the effect of adding to, excluding or modifying the operation of a provision of the AAT Act; and

(b) is not amended by this Act;

continues to have that effect in relation to the AAT Act as amended by this Act, despite the amendments made by this Act.

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CHAMBER
(2) If:

(a) a provision of an Act appears to have the effect of adding to, excluding or modifying the operation of a provision of the AAT Act; and

(b) the Act in which the provision occurs is amended by a Schedule to this Act;

then, to avoid doubt, the provision has the effect referred to in paragraph (a).

**15DF Section 7 of the Acts Interpretation Act 1901**

Section 7 of the *Acts Interpretation Act 1901* applies in relation to the amendments and repeals made by this Act to the extent to which this Schedule or regulations made under it do not deal with a matter arising in relation to those amendments or repeals.

The government amendments implement certain recommendations of the Senate Legal and Constitutional Affairs Legislation Committee and the Senate Scrutiny of Bills Committee, in particular that seven-year terms of appointment for members be retained—that is the maximum term for appointment—and that the provision allowing the tribunal to hear second reviews of social services matters on the papers without the consent of the parties be removed. These amendments demonstrate the government’s commitment to ensuring an independent and fair tribunal that meets the needs of applicants. The amendments also include transitional provisions in respect of proceedings on foot in tribunals as at 1 July 2015 and other matters. The government flagged these amendments in the second reading speech. The government has also taken the opportunity to make certain other minor changes to the bill that will support the effective operation of the tribunal and enhance the needs of users.

The **TEMPORARY CHAIRMAN (Senator Bernardi):** Senator Brandis, in the interest of facilitating the running of the committee, I would invite you to move amendments (2) and (7) on sheet EH158 also.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:11): by leave—The government oppose schedule 1 in the following terms:

(2) Schedule 1, item 19, page 11 (lines 21 and 22), to be opposed.

(7) Schedule 1, items 64 and 65, page 36 (lines 12 to 17), to be opposed.

**Senator JACINTA COLLINS** (Victoria) (13:11): Labor will be supporting the government amendments, which, as Senator Brandis indicated, cover some minor inconsequential matters and transitional issues in relation to the bill. I should clarify, though, that my understanding in relation to opposition amendments is that the amendment that Senator Brandis referred to in relation to the seven-year terms is not actually within this bundle of amendments. My most recent advice is that we will be dealing with them in the opposition’s amendment, with government support.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:12): I am sorry, Senator Collins, there seems to be a little bit of confusion: my advice is to the contrary.

The **TEMPORARY CHAIRMAN:** We do have quite a broad suite of opposition amendments. We will deal with the initial question whilst the minister is getting advice.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:12): I am told they are in government amendments (5) and (2), Senator Collins.
The TEMPORARY CHAIRMAN: Just to be clear for the committee, we are considering government amendments. The question is that amendments (1), (3) to (6) and (8) to (21) on sheet EH158 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: I will now put the question in relation to amendments (2) and (7) on sheet EH158. The question is that items 19, 64 and 65 of schedule 1 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN: We will now go to opposition amendment (1) on sheet 7696.

Senator JACINTA COLLINS (Victoria) (13:14): I can indicate that we will not be proceeding with that amendment. The issues that we clarified earlier with the government and that this is incorporated in the government's batch of amendments, as Senator Brandis indicated when he moved the last batch, has satisfied our concerns on that one.

The TEMPORARY CHAIRMAN: Senator Collins, it appears to me that the Clerk is looking earnestly in your direction and it may be an opportunity for some advice to be given.

Senator Brandis: The ball is in your court, Jacinta.

Senator JACINTA COLLINS: We are happy to move to the next amendment, which is opposition amendment (2). I should say that there should be a revised amendment being circulated.

The TEMPORARY CHAIRMAN: Senator Collins, I understand that it has a new sheet number, 7696, which is what I referred to and what I was prompting you to move previously. It is now amendment (1).

Senator JACINTA COLLINS: I move opposition amendment (1) on sheet 7696:

(1) Schedule 1, item 26, page 14 (lines 2 to 6), omit subsection 13(1), substitute:

The Governor-General may terminate the appointment of a member if an address praying for the termination, on one of the following grounds, is presented to the Governor-General by each House of the Parliament in the same session:

(a) proved misbehaviour;

(b) the member is unable to perform the duties of his or her office because of physical or mental incapacity.

This amendment has been revised to reflect some advice we received back from the government about the most appropriate way to deal with the termination of a member but without compromising disability discrimination matters. My original advice, if it please the Senate, was that it was perhaps a bit too late to do this. I did not accept that that was the case, Attorney, and so we have sought through this revision to accept your advice on this point.

This amendment reflects a recommendation contained in the Labor senators' additional comments to the report of the Senate Legal and Constitutional Affairs Legislation Committee. It would retain the current arrangements for dismissal of AAT members only on the address of each house of parliament, with the change I referred to a moment ago so that we are accommodating changes to disability discrimination matters. The bill would allow dismissal simply by the Governor-General.
Participants in the committee process raised concerns about the new arrangement proposed in the bill. Again, the explanatory memorandum explains that this change is intended to reflect standard practice with other statutory officers. However, this proposed change goes to the independence of the tribunal, which has a role very distinct from many other statutory bodies. No case has been made either in the committee or in this place which would justify departing from the current arrangements in the AAT.

The explanatory memorandum also makes the point that in the SSAT and the MRT-RRT removal of members is already by the Governor-General alone. However, as I said, I think in my second reading contribution, Labor believe that the amalgamation should see standards of independence raised across the board where possible and we see no reason to depart from the current practice in the AAT.

Senator WRIGHT (South Australia) (13:18): I indicate that the Australian Greens strongly support this amendment from the opposition. As I said in my second reading contribution, the independence of tribunals across Australia is absolutely fundamental to respect for the rule of law. I think this amendment does enhance the independence and security of tenure of tribunal members for the length of their appointment. I commend the opposition for moving this amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:18): This is not controversial. The government supports this amendment, and of course we support the independence of the tribunal. I do not know why Senator Wright raises an issue about this, because I am unaware of any suggestion that the AAT or the other merits review tribunals which will be amalgamated with it have ever had their independence compromised. It has never been suggested. Permitting members to be terminated for mental or physical incapacity only on an address by both houses of parliament is the established practice. It is a good practice in the view of the government. I note in passing the submissions of the Law Institute of Victoria and the Bar Association of Queensland, among others, who have commended this approach. This is an amendment that the government agrees to.

The TEMPORARY CHAIRMAN: The question is that amendment (1) on sheet 7696 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: We will now move to opposition amendment (2) on sheet 7673.

Senator JACINTA COLLINS (Victoria) (13:19): We will not be proceeding with that one on the basis that we dealt with the substantive matter in the previous amendment.

The TEMPORARY CHAIRMAN: Thank you, Senator Collins. We will now move to opposition amendments (3) to (6) on sheet 7673.

Senator JACINTA COLLINS (Victoria) (13:20): by leave—I move opposition amendments (3) to (6) together:

(3) Schedule 1, item 27, page 16 (before line 7), before paragraph 17A(a), insert:

(aa) Freedom of Information Division;

(4) Schedule 1, item 27, page 17 (after line 13), after section 17C, insert:

CHAMBER
17CA Assignment to Freedom of Information Division

The Minister must not assign a member to the Freedom of Information Division unless the Minister is satisfied that the member:

(a) has training, knowledge or experience relating to the Freedom of Information Act 1982; or

(b) has other relevant knowledge or experience that will assist the member in considering matters relating to the operation of that Act.

(5) Schedule 1, item 27, page 19 (line 3), omit "subsection 17E(2) or section 17F", substitute "section 17CA, subsection 17E(2) or section 17F".

(6) Schedule 1, item 27, page 19 (line 32), omit "subsection 17E(2) or section 17F", substitute "section 17CA, subsection 17E(2) or section 17F".

These amendments reflect a recommendation contained in the Labor senators’ additional comments to the report of the Senate Legal and Constitutional Affairs Legislation Committee. It would create a specialist division of the AAT to deal with freedom of information matters.

Labor moves this amendment to deal with the fallout from the government’s Freedom of Information Amendment (New Arrangements) Bill 2014, which would abolish the Office of the Australian Information Commissioner and make the AAT the first port of call for those seeking independent review of FOI decisions. We oppose that bill and the crossbench opposes the bill. The government has been unable to explain, in the face of its failure to pass the ill-fated measure from last year’s budget, how it will proceed. If the government is happy to undertake now that it will withdraw its freedom of information bill, the need for this amendment will fall way. But whilst the government persists with that bill this amendment is necessary. If the AAT is to be the main jurisdiction for handling FOI appeals, we must support the AAT to develop sufficient expertise, experience and specialisation in handling those matters. This amendment would go some way towards achieving that, though we are clear that the best case scenario is the withdrawal of the freedom of information bill itself.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:21): The government is happy to support this amendment. We think it is not strictly necessary. What it does is establish in addition to the six core divisions of the tribunal an additional division dealing with Freedom of Information Act matters. Senator Collins refers to the government’s proposal to abolish the Office of the Australian Information Commissioner. Although this is perhaps not the place to have that debate, can I respond to the observation you have made, Senator Collins, by pointing out the anomaly in the existing law that, unlike almost every other area of merits review, there was a double level of merits review in relation to FOI matters. If the government’s other legislation would be passed, there would be a single level of merits review, and that merits review would be conducted by the AAT. You propose that there be an FOI division. We would have thought that that could be perfectly well accommodated within the general division of the AAT. Nevertheless, rather than have a fight about it, if you are of the view that there should be an FOI division, as well as the other six divisions, of the AAT, we are happy to support your proposal.

Senator WRIGHT (South Australia) (13:22): I indicate that the Australian Greens support this amendment.
The TEMPORARY CHAIRMAN: The question is that opposition amendments (3) to (6) on sheet 7673 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN: We now move to opposition amendment (7) on sheet 7673.

Senator JACINTA COLLINS (Victoria) (13:23): The opposition opposes schedule 1 in the following terms:

(7) Schedule 1, item 30, page 27 (lines 10 and 11), to be opposed.

This amendment reflects a recommendation contained in the Labor senators' additional comments to the Legal and Constitutional Affairs Legislation Committee's report. The bill, for no clear reason we can discern, removes the present requirement for the registrar of the court to be appointed on the nomination of the president. This amendment would retain the present arrangement. Again, this amendment goes to the independence of the tribunal and, again, the explanatory memorandum to the bill explains that the nomination requirement in the current AAT Act is not a standard feature of statutory appointments. But, as we say, AAT appointments are not standard statutory appointments. The registrar is tasked by section 24B of the AAT Act with assisting the president in the management of the tribunal. This relationship and, by extension, the position of the president and the independence of the tribunal is protected by the nomination requirement in the act. No compelling reason has been provided for why this practice should be departed from.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:24): The government supports this amendment. In practice, as is the case with federal courts, invariably the views of the head of jurisdiction would be consulted. They will be consulted whether there is a statutory requirement or not. We see no harm in having the statutory requirement, but the requirement merely reflects existing practice.

Senator WRIGHT (South Australia) (13:25): The Australian Greens will also be supporting this amendment.

The TEMPORARY CHAIRMAN: The question is that item 30 of schedule 1 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN: We now move to opposition amendments (9) to (11) and (13) on sheet 7673.

Senator JACINTA COLLINS (Victoria) (13:25): by leave—I move opposition amendments (9) to (11) and (13) together:

(9) Schedule 1, item 125, page 52 (line 13), after "(see section 44AAA)", insert "or to the Family Court (see section 44AAB)".

(10) Schedule 1, item 129, page 53 (after line 7), at the end of subsection 44AAA(1), add:

Note: A party to the proceeding may also apply to the Family Court of Australia, see section 44AAB.

(11) Schedule 1, item 129, page 53 (after line 21), after section 44AAA, insert:
Appeals to Family Court from decisions of the Tribunal in relation to child support first reviews

(1) If the Tribunal as constituted for the purposes of a proceeding that is a child support first review does not consist of or include a presidential member, a party to the proceeding may appeal to the Family Court of Australia, on a question of law, from any decision of the Tribunal in that proceeding.

Note: A party to the proceeding may also apply to the Federal Circuit Court of Australia, see section 44AAA.

(2) The following provisions of this Part apply in relation to any such appeal as if the appeal were an appeal under subsection 44(1) and a reference in those provisions to the Federal Court of Australia were a reference to the Family Court of Australia:

(a) subsections 44(2A) to (10) (other than paragraphs 44(3)(a) to (c));
(b) section 44A (other than subsection (2A));
(c) paragraphs 46(1)(a) and (b).

(3) Paragraph 44(2A)(b) applies in relation to any such appeal as if the reference in that paragraph to rules of court made under the Federal Court of Australia Act 1976 were a reference to rules of court made under the Family Law Act 1975.

(4) Subsection (1) does not affect the operation of subsection 44(1) in relation to a proceeding that is a child support first review.

(13) Schedule 4, item 68, page 142 (line 6), omit "paragraph 44AAA(2)(b)", substitute "paragraphs 44AAA(2)(b) and 44AAB(2)(b)".

These amendments reflect the recommendation contained in the Labor senators' additional comments. The amendments would retain current arrangements for the jurisdiction of the Family Court in referrals of law relating to child support matters and appeals from jurisdiction review applications of the AAT in decisions relating to child support matters. We understand the government's attraction to the simplicity of having just one line of appeal out of the AAT. We see the appeal of simplicity and uniformity, but we do not want litigants or practitioners to be confused by appeal arrangements.

However, we note that the Family Court has raised serious objections to this proposal, which have not been adequately answered by the government—unless, Senator Brandis, they are in the revised explanatory memorandum, which I have not had a chance to address. The Family Court rightly notes that it has great expertise in child support matters and is therefore the natural jurisdiction. We are not convinced that this consideration is outweighed by the appeal of simplicity and streamlining. We would hope that the government would be able to come to the review of the amalgamation, which we propose for two years hence, and make a case for this change, if experience shows that it is required at that stage.

Senator WRIGHT (South Australia) (13:27): The Australian Greens will be supporting this amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:27): The government does not support this amendment, because in our view it is unnecessary and will complicate the system for judicial review of tribunal decisions. The number of appeals heard by the Family Court in child support matters at the moment is very small—not more than about two per year. In practice, almost all child support appeals from the tribunal go to the Federal Circuit Court. Transferring the child support appeals workload to the Federal Court
makes sense. These appeals are first and foremost about judicial review of decision making. The Federal Court has expertise in administrative law matters across a wide range of subjects and will capably handle these appeals within its existing resources. The Family Court will be free to focus on the more complex and intractable disputes between parties in relation to property and the shared care of children, which is where its core expertise lies.

I suppose this is a question of characterisation: ought this to be characterised as primarily dealing with child support matters or is the task to be characterised as the appropriate application of administrative law principles? We take the view that the appropriate characterisation is the latter, which is why we do not support this amendment. In our view, the amendment would result in child support matters being treated as both family law matters and administrative law matters with appeals available in two superior courts, which also raises the risk of inconsistent treatment of the same subject matter. For the reasons I have outlined, I hope that explains to you, Senator Collins, why the government does not support the amendment you have moved.

The TEMPORARY CHAIRMAN: The question is that opposition amendments (9) to (11) and (13) on sheet 7673 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: We now move to opposition amendment (12) on sheet 7673.

Senator JACINTA COLLINS (Victoria) (13:29): I am not proceeding with this amendment on the basis that the previous amendments failed.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:30): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:30): I move:

That the sitting of the Senate be suspended until 2 pm.

Question agreed to.

Sitting suspended from 13:31 to 14:00

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—I advise the Senate that the Minister for Finance, Senator Cormann, will be absent from question time today and tomorrow in connection with preparation for the 2015-16 budget. I will take questions for the Finance, Treasury and Small Business portfolios in Senator Cormann's absence.
The Minister for Veterans' Affairs, Senator Ronaldson, is also absent from question time today as he is returning from representing Australia in Europe at commemorations relating to the centenary of the Gallipoli landings and the Great War. In Senator Ronaldson's absence, I will take questions in the Special Minister of State portfolio. Senator Brandis will represent the Veterans' Affairs and Centenary of Anzac portfolios, and Senator Birmingham will represent the Minister for Industry and Science.

**QUESTIONS WITHOUT NOTICE**

**Budget**

*Senator WONG* (South Australia—Leader of the Opposition in the Senate) (14:01): My question is to the Minister representing the Prime Minister, Senator Abetz. I refer to the Prime Minister's pre-election pledge that there would be no change to pensions under a coalition government. Will tomorrow's budget break that promise, just like last year's budget?

*Senator ABETZ* (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): Senator Wong has, to a large extent, answered her own question, by confirming that the budget will be brought down tomorrow night. I would invite Senator Wong to wait and see what is in the budget.

What we have said to the Australian people is very, very clear, and that is that there is a task in front of us as a nation to ensure that budget parameters are brought into line. We as a government, we as a coalition, do not want to leave a legacy of debt and deficit around the necks of the next generation. The Australian Labor Party had us on a trajectory which would have seen this nation descend into $667,000 million worth of debt.

And, Mr President, do you know who the architect was of that policy? None other than Australia's worst finance minister ever, Senator Wong. Australia's failed finance minister, Senator Wong, has the audacity to come into this place and ask budget questions as though somehow she was the author of all expenditure rectitude. We know what Senator Wong left this nation. The Australian people understand what Senator Wong and the Labor Party left this nation, and we as a government are determined to fix that for the benefit of the next generation. What we also want to do is to ensure that there is fairness for those most in need, such as the pensioners of Australia—and they will be very well looked after in tomorrow's announcements.

*Senator WONG* (South Australia—Leader of the Opposition in the Senate) (14:03): Mr President, I ask a supplementary question. Given the minister is unable to confirm the Prime Minister's pre-election pledge on pensions, is he now able to confirm that the Prime Minister also pledged there would be no cuts to education under a coalition government? Will tomorrow's budget break that promise, just like last year's budget?

*Senator ABETZ* (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:03): I am not exactly sure I heard the senator correctly. I am not sure whether she asked about 'no carbon tax', something which she would be very well acquainted with and which she, as a government minister in this place, promised and then introduced and ran through this place—something which attacked the cost of living of every single Australian, including pensioners.

The **PRESIDENT**: Pause the clock. Senator Moore on a point of order.
Senator Moore: Mr President, my point of order is on direct relevance. The question was specifically about the issue of education. I do believe the minister did mention the word as he sat down, but we would like to have an answer to the question, which was about education.

The PRESIDENT: I remind the minister of the question. Minister, you have 35 seconds in which to answer.

Senator ABETZ: Of course, the carbon tax impacted every educational institution in this country—a tax which has now been removed. But, what is more, I can inform the honourable senator that education in fact got a boost in last year's budget, and we will have to wait and see what happens tomorrow night. But the sort of unfunded trajectory that the Australian Labor Party had a lot of expenditures on was completely unachievable, and they know it.

(Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:05): Mr President, I ask a further supplementary question. I refer to another pre-election pledge by the Prime Minister: 'There will be no cuts to health under a coalition government.' Will tomorrow's budget break that promise, just like last year's budget?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:05): Last year's budget did not breach that promise in any way, shape or form. What we did do, quite rightly, was reallocate funding within the Health portfolio to deliver better services to where they were needed. What we have with the Australian Labor Party is: when you see a dollar of health expenditure here that could be spent better over there for better value for the taxpayer, the Labor Party has the audacity to say that somehow that is a broken election promise. The health budget envelope remained, but we reallocated within it. Of course, I refer to the very good work of the Assistant Minister for Health in this place, Senator Nash, who did a very good job in that area.

In relation to health announcements tomorrow night, I remind Senator Wong again that she will have to wait until tomorrow night for any announcements in relation to health.

National Security

Senator REYNOLDS (Western Australia) (14:06): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on the counter-terrorism operation in Melbourne on Friday? And can he advise the Senate what this latest episode tells us about the need to be vigilant?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:07): Thank you very much, Senator Reynolds. On Friday, in the execution of Operation Amberd, the Australian Federal Police and the Victoria Police found three explosive devices during a search of a residence in Greenvale in Melbourne. Those devices were then rendered safe by police during a controlled detonation in a nearby park. A 17-year-old male was taken into custody and has today faced court in Melbourne charged with engaging in an act in preparation for a terrorist act, in contravention of section 101.6 of the Criminal Code, and another charge, of possessing things connected with a terrorist act, in contravention of section 101.4 of the Criminal Code.
So far 23 people have been charged as a result of eight counter-terrorism operations since the terror threat level was raised to high last September. The people of Australia can be assured that our law enforcement and security agencies are doing everything they can to keep our people safe. They can be reassured that the government, with, I am pleased to say, the support of the opposition, has taken strong measures to ensure that that remains so. However, we must remain vigilant, in particular in light of a concerning trend which is increasingly seeing young people forming an intent to undertake terrorist acts. Young people as young as 14, without criminal records or strong links to known terror networks, are being groomed online by terrorist organisations and presenting a new challenge for security and law enforcement agencies. If any members of the public have any concerns, they can contact the National Security Hotline on 1800123400.

Senator REYNOLDS (Western Australia) (14:09): Mr President, I ask a supplementary question. Can the Attorney-General inform the Senate whether there are any known links between last Friday's operation and the alleged Anzac Day terrorist plot?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:09): Of course, the investigation is still ongoing and the matter is now before the court, but what we can say is that, so far, there are no apparent links between last Friday's alleged plot and the alleged planning of an onshore attack on police members on or around Anzac Day. As you know, Senator Reynolds, on 18 April the Joint Counter Terrorism Team in Melbourne executed seven search warrants as part of Operation Rising, resulting in two men being charged with conspiracy to commit acts done in preparation for or planning terrorist acts, in contravention of section 101.6 of the Criminal Code. One man was charged with 19 weapons offences as well.

The AFP and Victoria Police have confirmed a link between the arrest of a 14-year-old male person in the United Kingdom and Operation Rising, following the identification of alleged communications between the two. (Time expired)

Senator REYNOLDS (Western Australia) (14:10): Mr President, I ask a further supplementary question. Can the Attorney-General also inform the Senate what actions the government is taking to counter the threat of home-grown terrorism?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): I have mentioned the legislative measures, but it is also important that there are other measures and programs as well which the government have introduced. We have invested more than $40 million over four years in countering violent extremism programs, tripling previous investment in this area. This includes a commitment of $21.7 million to combat terrorist propaganda online. It also includes the Living Safe Together diversion program, which seeks to identify radicalised individuals and intervene early with targeted services, including mentoring, counselling and education support. On 2 May I announced grants to 34 community organisations to assist them to develop skills to divert individuals from ideologies of hate and violence. This work is in addition to the $545 million support for social cohesion programs.
Budget

Senator KIM CARR (Victoria) (14:11): Mr President, my question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm that the Chief Government Whip, Mr Buchholz, has delivered a message to the Prime Minister's office that, if tomorrow's budget is received badly, the Prime Minister must sack the Treasurer or his own job will again be at risk?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:12): No, I cannot.

Senator KIM CARR (Victoria) (14:12): Niki Savva clearly thinks that is the matter; she seems to be extremely well informed. But I ask a supplementary question: can the minister confirm that before Christmas the foreign minister urged the Prime Minister to sack the Treasurer?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:12): Here we are, the day before the federal budget, and where do the Labor Party get their questions from? The gossip columns in the newspapers. The gossip columns in the newspapers are the feedstock for the Labor Party's question time in this place. When we were promised by the Leader of the Opposition that 2015 would be the year of ideas, what are their ideas? To trawl through the gossip columns of the newspapers and ask questions and say, 'Is this bit of tittle-tattle true?' rather than asking, 'How can we help the government restore the economy?'

The PRESIDENT: Pause the clock. Senator Moore, a point of order?

Senator Moore: Thank you, Mr President. Again it goes to direct relevance. The minister was asked a particular question about confirming a statement; he has not gone even close to making an answer to that question.

The PRESIDENT: Thank you, Senator Moore. I remind the minister of the question. He has 21 seconds in which to answer.

Senator ABETZ: Mr President, I thought I had answered it very clearly. Just in case I have not, for the benefit of Senator Moore, let me say: this is a government that does not engage in the gossip columns of the newspapers and rely on the sort of tittle-tattle that the Labor Party use as their stock in trade. What we do is: we get on with the business of fixing the economy. (Time expired)

Senator KIM CARR (Victoria) (14:14): Mr President, I ask a further supplementary question. Does the minister agree with the cabinet colleague who was quoted in yesterday's Sunday Telegraph that the Treasurer is 'the hole at the heart of the Abbott government'? Can he confirm that the Treasurer will be shifted from his position before August, in a deal reached between the Prime Minister and the Minister for Social Services?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:14): Here we go again, a third attempt at relying on gossip columns to ask questions. Can I say yet again: what is the source? 'An unnamed source.' It always is with the Labor Party. When they want to deal with the issues of gossip, we on this side want to deal with the issues of repairing the economy, reducing the cost of living and getting on with the job of creating jobs for our
fellow Australians. That is what we are focused on. That is what we dedicate ourselves to. And the budget tomorrow night will indicate that we have been concentrating on job creation rather than tittle-tattle creation.

**The PRESIDENT:** Pause the clock. Senator Moore, a point of order?

**Senator Moore:** Mr President, again it is on direct relevance. I look back with pleasure on the minister's first answer, which was a straight response to the question. I ask you to draw his attention to the question.

**The PRESIDENT:** Thank you, Senator Moore. The minister has 15 seconds in which to complete his answer.

**Senator ABETZ:** When a senator is unable to name the source and just relies on some sort of gossip column—

**Senator Kim Carr:** He did name the source.

**Senator ABETZ:** The source is 'unnamed'; that is pretty accurate, isn't it! That is typical of Labor policy formulation.

**The PRESIDENT:** Pause the clock. A point of order, Senator Carr?

**Senator Kim Carr:** On a point of order, on relevance: the question was about a cabinet colleague quoted in the *Sunday Telegraph* yesterday. The source was clearly named.

**The PRESIDENT:** That is not a point of order; that is a debating point. Minister, have you concluded your answer? You have two seconds.

**Senator ABETZ:** Simply to repeat: 'unnamed, unsourced'.

## Budget

**Senator BACK** (Western Australia) (14:16): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. Can the minister inform the Senate of any significant savings in the Immigration portfolio? How has the government achieved these savings?

**Senator O'Neill:** Another replay.

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:16): I can assure you, Senator, it is not a replay, but it is very good news for the Australian taxpayer. If it were a replay, I would be telling you about the $2.5 billion this government returned to the Australian taxpayer in the budget as a result of last year's budget and the savings made by Operation Sovereign Borders. If it were a replay, I would be telling you about the $11 billion budget blow-out that you incurred in this portfolio when you were in government. But this is not a replay. This is a new figure for the benefit of all Australians.

Given the ongoing success of Operation Sovereign Borders, we will now provide the Australian taxpayer with savings of more than half a billion dollars in the 2015-16 budget. As I said, that is on top of the already $2.5 billion in savings that we provided to the budget in 2014-15. How has this been possible? When you stop the boats, the people stop coming. That is something that those on the other side just failed to comprehend. In stopping the boats and in stopping those arriving here illegally, the government has now managed to close many of the—
The PRESIDENT: Pause the clock. Senator Wright, a point of order?

Senator Wright: Mr President, a point of order: the minister is misleading the chamber; it is not illegal to seek asylum in Australia.

The PRESIDENT: That is not a point of order; it is a debating point. Senator Cash.

Senator CASH: Thank you, Mr President. The Greens hate fiscal responsibility, they hate the truth and they hate responsible border protection policy. In terms of closing down detention centres, we have managed to close down 13 detention centres under this government. In terms of the further impact on the budget, logistics and service requirements across the detention network adds a further $112 million in savings. In terms of the reduced requirement for charter flights, it is another $66 million in savings. So, yet again: $2.5 billion last year, half a billion dollars this year. That is what you get when you stop the boats. (Time expired)

Senator BACK (Western Australia) (14:19): Mr President, I ask a supplementary question. Will the minister advise the Senate of any alternative approaches to the government's border protection policies that have delivered these amazing savings?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:19): Yes, unfortunately, I can. It would appear that the left-wing tail continues to wag the Labor dog. Proof of that is that the Left continue to be in charge of Labor's border protection policies. Most recently we have seen Melissa Parke, the member for Fremantle, warning the current opposition leader, Bill Shorten, not to embrace the coalition's successful turn-back policy on asylum seekers, saying there would be enormous ramifications if the Labor Party reversed its opposition to turn-backs at the ALP's national conference in July.

We know that in relation to temporary protection visas the shadow minister has revealed that he wants to rubber-stamp Labor's plans to abolish temporary protection visas. Those on the other side fail to learn from their mistakes. If you do not embrace turn-backs, if you abolish temporary protection visas, as your stated policies do, we return to the chaos— (Time expired)

Senator BACK (Western Australia) (14:20): Mr President, I ask a further supplementary question. Will the minister explain to the Senate why it is important that Australians retain confidence in the integrity of our immigration system?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:20): Just by way of statistics I can do that. Under the former Rudd-Gillard-Rudd governments, 50,000 people arrived here illegally by boat. Under the coalition government, one vessel has successfully arrived. Under Labor, in excess of 1,200 people tragically died at sea. Under the coalition, Operation Sovereign Borders has seen deaths at sea stopped. Under Labor, children in detention peaked at 1,992 children in one month alone, July 2013. Under the coalition, as of last Friday, I am advised that there were 120 children in detention on the mainland.

Of course we yet again go to the budget blow-outs. Under those opposite in just 5½ years there was $11 billion in budget blow-outs—versus us with responsible government on this side; we saved the Australian taxpayer $2.5 billion last year and we will save the Australian taxpayer an additional half a billion dollars this year. (Time expired)
Budget

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:21): My question is to Senator Abetz, the Minister representing the Prime Minister and it seems half of the frontbench today. Minister, budgets are about choices. Why does the Prime Minister persist with choosing to attack the most vulnerable members of our community, for example by slashing support for sole parents, rather than asking large multinationals to pay their fair share?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:22): Despite the question, I will congratulate the new Leader of the Australian Greens on his ascension to the leadership and wish him not too much success in the role but all the best in the role. Also on behalf of the government I wish the former leader, Senator Milne, all the best for her future as she determines what occurs with that.

The Leader of the Australian Greens is refreshingly correct when he says that a budget is about choices. We as a government are determined not to saddle the next generation with a burden of debt and deficit because this generation could not act responsibly, so be assured that we as a government are concerned about making the right choices for today and especially for the next generation.

In relation to some of the matters that the Leader of the Greens seeks to ventilate in his question, I say to him: 'Watch this space tomorrow night and see what may or may not be announced.' But it is indicative that the Greens have already started their negative mantra on the budget before it has even been delivered. Senator Di Natale had said that he was going to be cooperative and willing to work with government. I look forward to that, but I must say that I am not sure that question is a good start down that track. But we will have a look at the supplementary questions to see if they are any better than the first.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:24): Mr President, I ask a supplementary question. Thank you, Minister Abetz. Given that your government has clearly got a revenue rather than a spending problem, here is some advice. Will you now consider revenue measures such as abolishing the $10 billion subsidy that provides cheap fuel to multinational mining companies who are making superprofits?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:24): Did I hear that right? Was that an invitation for the Greens to vote for our fuel excise tax? I think it was, but I will have some further discussion with the new Leader of the Australian Greens. You talk about subsidising certain fuels. When we brought into this place a tax for fuel or to index fuel excise I thought the Greens voted against that measure and were opposed to that measure. Here he is telling us that we somehow have a revenue problem. In the past when we gave the Australian Greens the opportunity to counteract that revenue problem, what did the Australian Greens do? They voted against it. Under your leadership, Senator Di Natale, we look forward to a fresh approach. From this government's perspective overall and my personal view—(Time expired)

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:25): Mr President, I ask a further supplementary question. Minister Abetz, why won't the government learn the
lessons from the last budget? Why does it continue to link unfair and harsh spending cuts to pay for essential services such as child care?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:25): Of course I do not agree with the description by the Leader of the Australian Greens of some of the changes that have been suggested for tomorrow night's budget. I say to the Leader of the Australian Greens: 'Watch this space. Let us see what happens tomorrow night.' The leader may well change his tune in relation to some of these matters.

Having said that, I say to the Australian Greens that the most important choice we have with this budget and in future budgets is intergenerational accountability and responsibility. We want to ensure that we look after the next generation without burdening them with a legacy of deficit and debt, which the Labor-Green government inflicted on the Australian people and would have inflicted on the next generation had we not taken the sort of action that we had to take. (Time expired)

Asylum Seekers

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:27): My question is to the Leader of the Government in the Senate, Senator Abetz. Can the minister advise the Senate of the benefits of stopping the boats both in terms of lives saved and an orderly and defensible immigration program?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:27): I thank Senator Bushby for his question. Thanks to the success of Operation Sovereign Borders in stopping this criminal trade the government has been able to announce additional savings measures of $500 million. Even more important than the financial dividend is the humanitarian dividend. We do not have men, women and children drowning at sea, we have smashed the people smugglers' business model and we can now provide refuge to those most in need.

Only one people-smuggling venture has reached Australia since Operation Sovereign Borders began turning back the boats. There has only been the one and it carried just 157 illegal maritime arrivals. That was compared to 534 boats loaded with 35,000 people in just the last 18 months of the Labor government. Over the course of the Labor government we saw 8,400 children arrive by boat, their young lives put at risk by making that dangerous journey. At the height of their immigration failure, Labor's mishandling of border security resulted in almost 2,000 children in detention. Under us this has now reduced to only 120, but we agree that is 120 too many. Our strong and effective policy has allowed the coalition government to empty and close many of the 17 additional detention centres opened by Labor at great cost to the Australian people.

We have now got a proper border security policy. Our borders are stronger. Countless lives have been saved and our costs are down. Under the coalition you get good humanitarian policy with good economic policy.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:29): Mr President, I ask a supplementary question. Given these important benefits, can the minister...
advise the Senate whether he is aware of any plans to reopen detention facilities and of the impact of any decision to do so?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:29): I was interested to read in Senator Bushby's and my home paper, the Hobart Mercury, last week that the shadow minister for immigration, on a visit to Pontville, was 'very warm' about the idea of reopening the Pontville detention centre as a reception centre. We know from Labor's recent foray into recommencing transportation to Van Diemen's Land that this centre cost more than $50 million—$112,500 per detainee. Health costs were more than $4 million, and more than $1 million was spent on flights from the far north all the way to Tasmania. Make no mistake: Mr Shorten's frontbencher wants to send the clear message to the criminal people smugglers that they will be back in business under Labor, including another detention centre opening in Tasmania.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:30): Mr President, I ask a further supplementary question. Can the minister advise the Senate how the savings from such measures can be spent to the benefit of taxpayers, particularly in my home state of Tasmania?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:30): Budgets and policies are about choices. The $500 million additional savings in the 2015-16 budget are on top of the $30 billion of savings over the forward estimates. This is money that could be better invested in supporting the priorities of Australian families, which we will have more to say about later this week. But, from a Tasmanian perspective, every dollar spent on the Pontville detention centre was a missed opportunity to invest that money in upgrading the Midland Highway or the Hobart airport or in funding irrigation schemes. These are all things this government is able to deliver as a result of better management of taxpayers' dollars. Make no mistake: every single dollar that was wasted by Labor propping up the criminal people smugglers was a dollar not able to be spent on education, health, roads or the people of Tasmania.

Paid Parental Leave

Pensions and Benefits

Senator HANSON-YOUNG (South Australia) (14:31): My question is to the Minister representing the Minister for Social Services, Senator Fifield. My question is in relation to the government's decision to fund its new childcare package by cutting family payments and access to paid parental leave. Yesterday, mothers around Australia were shocked to wake up to the news that Joe Hockey's Mother's Day gift to them was to strip them of their PPL benefits. The government's stunning backflip on PPL will mean that half of all new mothers will lose up to $11,500 a year from July 2016. Can the assistant minister please explain how he expects families to manage losing thousands of dollars, ripped from their family budgets?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:32): On indulgence for a moment, I know that we all in this place like to encourage an interest in civic and public affairs amongst young people.
and, in that stead, I acknowledge the members of the Australian Liberal Students Federation here in the gallery today.

Opposition senators interjecting—

The PRESIDENT: Order! On my left! Pause the clock.

Senator Whish-Wilson: Mr President, I rise on a point of order. I was going to ask you to stop the clock and go back to the beginning, please.

The PRESIDENT: Thank you, Senator Whish-Wilson. We will give plenty of time for Senator Hanson-Young's answer to be given.

Senator FIFIELD: I thank Senator Hanson-Young for her question and for highlighting the very important package that the Prime Minister and Minister Morrison announced yesterday in relation to child care. One thing we know on this side of the chamber is that governing is all about choices. It is all about prioritising. There are many things that, whoever the government of the day is, the government would like to do. But the difficult business of government is about prioritising, and that is why the Treasurer and the Prime Minister have made clear that the childcare package that has been announced will be funded through savings which were proposed in the last year.

Senator Hanson-Young also makes reference to the announcement yesterday by the Treasurer in relation to paid parental leave, and I can confirm that, from 1 July 2016, employees will no longer be able to access the full value of the Paid Parental Leave scheme if they are also entitled to an employer provided paid parental leave scheme. This has been colloquially referred to as 'double dipping'. We think it is reasonable that, if someone has an employer provided paid parental leave scheme which is more generous than the government's Paid Parental Leave scheme, it should be sufficient. You know, and I think every colleague in this place knows, that there is no-one who is more supportive of paid parental leave schemes than the Prime Minister. What we are seeking to do here is to strike a balance. We want to make sure there is paid parental leave for everyone who is entitled, but we also want to make sure that, when there is already a generous paid parental leave scheme provided by employers, people will not double dip. (Time expired)

Senator HANSON-YOUNG (South Australia) (14:35): Mr President, I ask a supplementary question. The government has announced that the cuts to PPL benefits will take place in July 2016, but the childcare package will not commence until July 2017. Families will be left out of pocket for at least a year with no PPL, no family payments and, of course, no reduction in childcare fees?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:36): I thank Senator Hanson-Young for her supplementary question. I do not entirely follow Senator Hanson-Young's question, because Senator Hanson-Young said there would be no PPL. We have made it clear that all we are doing is preventing the capacity of people to, in effect, double dip. So, whenever there is already an employer provided scheme that is more generous than the government's PPL scheme, people have that employer supported scheme. If they do not have the benefit of an employer scheme then they will, as they do now, continue to have an entitlement to the government's Paid Parental Leave scheme.
Senator HANSON-YOUNG (South Australia) (14:36): Mr President, I ask a further supplementary question. All children currently have access to two days of early learning per week. How does the government justify to low-income families that their children deserve only one day of early learning per week under the government's new scheme?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:37): I assume Senator Hanson-Young is making an oblique reference to the new activity test that will come into being. I am pleased to let you, Senator Hanson-Young, and colleagues in this place know that those families who do not meet the activity test will be assisted through the child care safety net. Also, up to 24 hours per fortnight will be provided to children from families with incomes less than approximately $65,000 per year, who do not meet the activity test, to ensure continued access to early childhood learning for these low-income families. The 24 hours is equivalent to two six-hour sessions, which is the same period provided for K to 12 public school education, and service providers will have the flexibility to deliver those sessions. I am pleased to have the opportunity to share that with the chamber.

Centrelink

Senator SESELJA (Australian Capital Territory) (14:37): My question is to the Minister for Human Services, Senator Payne. Will the minister update the Senate on progress with replacing the Centrelink computer system which was announced last month?

Senator PAYNE (New South Wales—Minister for Human Services) (14:38): I thank Senator Seselja very much for the question. On 10 April the Minister for Social Services, Scott Morrison, and I made this announcement, and I am very pleased to be able to advise that preliminary work is indeed already underway on the project. We are talking about the streamlining of approximately 40 payments and 38 add-ons, which is currently the structure around which we make payments to 7.3 million Australian Centrelink customers. This is ultimately a very important long-term investment in government infrastructure that will have the capacity to underpin our welfare system for a generation.

The system we have now, as many people have heard previously, is over 30 years old. It is extraordinarily expensive to maintain and it is increasingly unable to meet the requirements not just of customers but also of government. This will be one of the largest IT projects of its type in the world. We estimate that it will take about seven years to complete in total from inception to decommissioning, if you like, in terms of the current system and introducing a new system. There are three major benefits that government will achieve by making these changes. Government will be able to properly address the challenges that face Australia's welfare system; we will maximise the benefits of e-government; and we will reduce the costs of administering the system for taxpayers, which is a benefit to customers, to taxpayers and to government.

What we have is a patchwork of hundreds of different systems tacked on, added on, stuck on, pinned on—any way people could find to do it over 30 years. It is unnecessarily complex and it creates extraordinary additional red tape for customers as well. Ultimately, we expect this will pay for itself within 10 years and it will continue to deliver savings at the end of that period of construction. (Time expired)
Senator SESELJA (Australian Capital Territory) (14:40): Mr President, I ask a supplementary question. Could the minister explain to the Senate how Australians will benefit from this major investment in new technology?

Senator PAYNE (New South Wales—Minister for Human Services) (14:40): I think that the most important thing is that customers will actually start to see benefits from the end of 2016. As well as what they see there will be benefits to government and benefits to taxpayers. From a government perspective, it will be a much faster process and it will mean less costly implementation of social policy. That will place us in a much better position to meet the constantly changing needs of the 7.3 million customers who currently rely on the system. Customers will also benefit from improved access to real-time information about their payments and a reduction in the amount of paperwork that they are required to currently submit manually—which any constituent will tell any member of parliament would be a good thing. If you are a parent who is engaged with the system you will end up with more time to spend with your children. If you are a carer, instead of lodging more forms, you will end up with more time to look after the people who depend upon you the most. If you are a job seeker, it will give you more time to spend looking for a job. Most importantly—(Time expired).

Senator SESELJA (Australian Capital Territory) (14:41): Mr President, I ask a further supplementary question. Can the minister advise the Senate how Centrelink's replacement computer system will help combat welfare fraud?

Senator PAYNE (New South Wales—Minister for Human Services) (14:41): I thank Senator Seselja for that question. This is a very good news announcement for a whole range of people that I have referred to earlier, but for those people who try to defraud the welfare system, quite frankly, it is very bad news. We will be greatly enhanced in our ability to catch those people who are deliberately trying to rip off the government and taxpayers for their own gain.

We already have a very extensive fraud and compliance program. We saved over $870 million in the last financial year with that program and we conducted over 3,000 criminal investigations and sent in excess of 1,100 matters to the Commonwealth DPP for further investigation and potential prosecution—all of those steps taken in the current system. The new system will give us an ability to do real-time monitoring or risk profiling. Due to the age of the system, we will be able to do away with the need for our staff to be manually manipulating data from other agencies, so that we have much more effective compliance—(Time expired).

Child Care

Senator GALLAGHER (Australian Capital Territory) (14:42): My question is to the Minister representing the Prime Minister, Senator Abetz. I refer to yesterday's announcement by the Prime Minister and the de facto Treasurer, Mr Morrison, which links the government's childcare package with its cruel and unfair cuts to family tax benefits. Does the decision to link the childcare package with family tax cuts have the full support of the coalition party room?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:43): First of all,
I congratulate the honourable senator on her first question and thank her for it. In relation to the matter that the honourable senator raises, I must say she does herself no credit in referring to an excellent Treasurer who has to clean up the mess of the failed finance minister who sits in this place. Mr Hockey is doing an exceptionally good job, as is Mr Morrison, as is the whole team, apart possibly from the Minister for Employment, and I will allow others to comment about him.

In relation to the coalition generally, we are united to ensure that we can get the best possible deal for the Australian people. It stands to reason that there will be people who would want us to do even more. Indeed, I recognise Senator Williams and Senator Canavan—great representatives of the National Party in this place—who want to do even more.

Regrettably, because of the financial mess we inherited from those opposite, we are unable to do everything that we otherwise might like to do. So, in this task of repairing the budget, in this task of getting a sustainable financial framework for our nation, we have to do it step by step. Does that mean that we cannot take every step immediately that we would like to? Does that frustrate some of my colleagues? The chances are: yes. But we are a good, united, cohesive team, and I simply say to the new senator that a left-wing Labor Party that is devoid of proper policies will face a similar fate in this country as it did in the United Kingdom and—for the benefit of Senator Cameron—the Scottish Labour Party. (Time expired)

Senator GALLAGHER (Australian Capital Territory) (14:45): Mr President, I ask a supplementary question. Is Nationals Senator Canavan correct when he says, 'The system we are proposing massively penalises families where a parent stays home to look after children, and we think it does not properly value the benefits of unpaid work'?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:46): One of the great things that we enjoy on the coalition side is the ability for people not to have to read from the trade union handbook for their public comments. We actually allow our senators and members to say what they think and why they think it. Senator Canavan, of course, is a very good exponent of that and is supportive of that principle, as am I.

Does that mean that Senator Canavan always agrees with everything I say? I hope not, and the chances are not. Similarly, while Senator Canavan makes a lot of good sense and is an exceptionally good senator in this place with a great future in front of him for the benefit of the Australian people whom he seeks to serve, Senator Canavan has made some—

Opposition senators interjecting—

The PRESIDENT: Order! The time for your question had basically expired.

Senator ABETZ: What a pity!

The PRESIDENT: I can give you four extra seconds if you think that would assist; otherwise I will go to the supplementary.

Senator ABETZ: No.

Senator GALLAGHER (Australian Capital Territory) (14:47): Mr President, I ask a further supplementary question. Is Nationals senator John Williams right to be disappointed that stay-at-home mums will lose almost all the childcare assistance they now get?
Senator Canavan: Mr President, I rise on a point of order. That is the second time now I believe we have been misquoted in questions, and I do not understand. It is a new senator, but we should not be misquoted.

The PRESIDENT: That is not a point of order.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:48): There was I, going on the assumption that a brand new Labor senator would not misrepresent the situation in this place. Sadly, my hopes have been dashed. Senator Canavan has just pointed out that the honourable senator has grievously misrepresented the position of both Senator Canavan and Senator Williams. In those circumstances, I will have to have a very close look at exactly what they said, but, if the gist of what they said was that they would like this government to be able to do more for stay-at-home mums, I would say I agree with them. Regrettably, the financial circumstances left to us by Senator Wong, Senator Cameron and others deny us that opportunity, but I look forward to the day when we can do more for the stay-at-home mums of Australia.

Apprenticeships

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:49): My question is to the Assistant Minister for Education and Training, Senator Birmingham. Can the minister update the Senate on how the Australian Apprenticeship Support Network will better assist apprentices looking to undertake an apprenticeship and employers looking to employ them?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:49): I thank Senator Ruston for that question on the Australian Apprenticeship Support Network, which represents a profound shift in the way government provides support and assistance to employers and apprentices in Australia to drive a boost and lift in the completion rate of apprenticeships around Australia. Our government will from now on invest around $200 million per annum to train, retain and attract quality apprentices and support them through the life of their apprenticeship.

Last month I announced 11 successful tenderers to deliver on the support network, and those companies will provide support and assistance from precommencement services of apprenticeships right through to apprenticeship completion. New precommencement services, including screening, testing and job matching, will be available to targeted clients to get the right apprentice in the right apprenticeship with the right employer. New training support services such as mentoring will help apprentices and employers at risk of not completing the apprenticeship arrangement to work through their issues and their difficulties.

Senator Cameron: Oh, there's a new idea!

Senator BIRMINGHAM: Indeed, Senator Cameron, it is a new idea, and we are very pleased to be delivering on it, just as we will help those who may be unsuited to an apprenticeship to have the support to be identified and directed into alternative VET pathways.

Completions of apprenticeships have hovered at around just 50 per cent for far too long. Under Labor's old model of supporting apprenticeships, only around 50 per cent of those who started an apprenticeship completed the apprenticeship. Our determination through this
network is to drive an improvement in completion rates. At the heart of that are the improved services and a new, outcomes based payment structure that will ensure that those we have tendered are actually encouraged to provide the right support to both apprentices and employers. (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:51): Mr President, I ask a supplementary question. Can the minister advise how this historic shift in services will benefit Australian apprentices and their employers across metropolitan and rural Australia?

Senator Cameron: Because of a 20 grand debt. That's what you're going to do—$20,000 in debt.

The President: Order! You were not asked the question, Senator Cameron.

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:52): The new apprenticeship network will be used by more than 100,000 employers, three-quarters of whom are small businesses, and around 350,000 apprentices around Australia. The network will provide support services at more than 100 additional locations compared with the services that were provided under the old Australian Apprenticeship Centre model of the Labor Party. That is 100 additional locations around Australia where employers and apprentices will be able to access support: some 280 network provider sites and an additional 160 outreach servicing arrangements to provide particular coverage in rural, regional and remote Australia. Under the three years of the previous government's program, just 41,000 apprentices received mentoring. Over the next three years, under our program, 88,000 apprentices will, in targeted situations, be able to receive mentoring or other assistance to help them through their apprenticeship.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:53): Mr President, I ask a further supplementary question. Can the minister advise the Senate how this approach to apprenticeships differs from the old schemes and incentives?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:53): More locations, more support services, more pre-screening, more mentoring—a lot of differences in what this government is providing to help more apprentices to the completion of their apprenticeship compared with what the previous government did. It is clear that those opposite still do not get it. They still do not get it, because the shadow minister, when I announced this tender, put out a statement that disparagingly criticised the fact that 'the new network is also expected to do additional tasks such as providing job matching, mentoring and support'. That is exactly what we want the new network to do. We want to take those tenderers away from having to do a lot of paperwork. We want to stop those employers from having to do a lot of paperwork around their apprenticeship and actually give them the time and the support to provide quality training and quality mentoring so that we get more Australians who start apprenticeships completing those apprenticeships and more qualified and skilled tradespeople available right around Australia.

Pensions and Benefits

Senator POLLEY (Tasmania) (14:54): My question is to the Minister representing the Minister for Social Services, Senator Fifield. The Prime Minister has argued for a year that his cuts to the pension indexation were fair. Now that Labor has shamed the government into
scrapping its cuts to pension indexation, will the minister finally admit the government got it wrong by trying to cut pensions by $80 a week?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:55): I thank Senator Polley for her question, but at the outset I must clear up a misconception that I think Senator Polley is still labouring under, and that is that the government at any stage put forward a proposition to cut pensions. It did not. Pensions have continued to go up under this government and, even under the proposition of the previous budget, would have continued to go up. But it was clear that the proposition in relation to indexation did not enjoy the favour of this place and would have enjoyed a challenging future here.

But one of the great things of the last three, four or five months is that there are a number of senators in this place—and I am looking particularly at the crossbench—who have been very prepared and very willing to engage in discussions about how to put the pension on a more sustainable basis. Minister Morrison has had very fruitful discussions with senators across the chamber—including on occasion with the Australian Greens, it is important to add. We have always made it clear that, for a proposition to come off the table, there had to be something else on the table. We now have something else on the table, and we have made it clear that if colleagues of goodwill and, indeed, stakeholders, including ACOSS, had propositions that they thought could achieve a similar outcome in a different or even a better way then we were only too happy to engage in that discussion. Minister Morrison, I think, has brought forward a very good and positive package in relation to pensions that will see them more sustainable, will see them fairer and will see a lot of pensioners get more money. (Time expired)

Senator POLLEY (Tasmania) (14:57): Mr President, I ask a supplementary question. Does the government stand by its plan to give Australia the highest pension age in the world by increasing the pension age to 70?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:57): It is important to note that the first party in this place—and I am looking particularly at the crossbench—who have been very prepared and very willing to engage in discussions about how to put the pension on a more sustainable basis. Minister Morrison has had very fruitful discussions with senators across the chamber—including on occasion with the Australian Greens, it is important to add. We have always made it clear that, for a proposition to come off the table, there had to be something else on the table. We now have something else on the table, and we have made it clear that if colleagues of goodwill and, indeed, stakeholders, including ACOSS, had propositions that they thought could achieve a similar outcome in a different or even a better way then we were only too happy to engage in that discussion. Minister Morrison, I think, has brought forward a very good and positive package in relation to pensions that will see them more sustainable, will see them fairer and will see a lot of pensioners get more money. (Time expired)

Senator POLLEY (Tasmania) (14:57): Mr President, I ask a supplementary question. Does the government stand by its plan to give Australia the highest pension age in the world by increasing the pension age to 70?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:57): It is important to note that the first party in this place that actually put forward a proposition to increase the qualifying age for the pension was in fact the Australian Labor Party. So clearly, as a matter of logic, there is nothing wrong in principle with increasing the qualifying age for the age pension, because the Australian Labor Party did that.

I should also point out that we have always been in the position of seeking to honour our aged-care pension commitments, because our commitment before the election was that we would not make any changes that would apply in the current term of parliament, and we have not put forward at any stage a proposition that would see pensions change in this term of parliament.

Senator POLLEY (Tasmania) (14:58): Mr President, I ask a further supplementary question. Does the Abbott government stand by its $1.3 billion in cuts to concessions for pensioners and seniors?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:58): I think Senator Polley is referring to some changes to partnership agreements with the states and territories in relation to certain
concessions, and I think the position of the government on that is well known: on concessions for services which are primarily state services, delivered by states, we have taken the view that it is appropriate that the states have prime management of things that they have the responsibility for providing.

**Aged Care**

**Senator SMITH** (Western Australia) (14:59): Mr President, my question is also to the Assistant Minister for Social Services, Senator Fifield. Can the minister update the Senate on what the government is doing to support innovation and capacity building in Australia's aged-care sector?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:59): I am pleased to advise colleagues that last month, with Minister Morrison, I announced $34 million of grants under the healthy ageing program. The grants have been awarded for 54 projects that will allow aged-care providers to develop, trial and innovate different ways of supporting older people, and particularly different ways of helping older people stay at home for longer, which—Mr President, as you know—is the objective of most people.

This program has a particular focus on regional and rural communities, Senator Canavan will be pleased to know, as well as other projects. They are actually quite exciting. When I was announcing this funding, I was in Sydney at an organisation called HammondCare, who do great work. A project that they submitted an application for, which was successful, is a pilot called Dogs 4 Dementia, where assistance dogs are provided to people living at home with dementia where they have a family carer present. The dementia dogs are able to undertake daily living tasks, which has a few good benefits: it provides greater independence for the person with dementia, and it also provides greater independence, importantly, for the person who is caring for them. It has also been demonstrated that dementia dogs have a significant impact on reducing stress levels and supporting the emotional wellbeing of both the person with dementia and also the person who is the unpaid family carer. So that is just one example of some of the innovative things which are being trialled and piloted through these healthy ageing grants.

**Senator SMITH** (Western Australia) (15:01): Mr President, I ask a supplementary question. Can the minister provide any examples of how these grants are helping improve access to aged care for Indigenous Australians?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:01): As part of this investment, there is also $5 million in funding directed to help the aged-care providers who meet the needs of Aboriginal and Torres Strait Islander people. There are nine organisations who will deliver projects that give support to these members of the community. An example includes a significant capital works project for one particular provider which supports Indigenous Australians. In this case, the organisation is receiving $2 million to assist with its staff accommodation. I should point out that this funding is in addition to the $33.7 million provided in 2014-15 under the National Aboriginal and Torres Strait Islander Flexible Aged Care Program. *(Time expired)*
Senator SMITH (Western Australia) (15:02): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any grants aimed at ensuring that Australians from culturally and linguistically diverse backgrounds can access culturally appropriate care?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:03): Ten projects have also been funded aimed at supporting people from CALD backgrounds: $3.9 million for 10 organisations to deliver projects to benefit 600,000 people aged over 65 who were not born in Australia. Often, as people age, they can lose their English language capacities if English is not their first language, so it is important to provide good support. For example, the Alzheimer's Australia South Australian branch is developing a smartphone app to help the provision of CALD services to older people with dementia, and the Multicultural Centre for Women's Health will receive funding to help working carers from CALD backgrounds manage their multiple responsibilities of working, family and care. It is a great program and it is one that I know, from talking to Mr Neumann, that the opposition also strongly supports.

Senator Abetz: Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CAMERON (New South Wales) (15:04): I move:

That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today relating to the 2015-16 Budget.

This really is a government in chaos. This really is a dysfunctional government. This is a government who would stand here and tell the Australian public and this Senate that budgets are about choices. We know budgets are about choices, and what Labor has chosen to do is not cut pensions, not cut the health system, not cut the education system, and make sure that young kids that cannot get a job do not end up with six months with absolutely no income. These are the choices that Labor takes.

What about the federal government? They went to the last election and they argued that there would be no cuts to pensions, no cuts to health and no cuts to education. Then we did not even find out about the cuts until the first budget—the worst budget in living memory; the worst budget this country has ever seen. We are about to go to the second coalition budget tomorrow, and the first budget is still a shambles. The first budget was so bad that almost one-third of the coalition backbench moved against the Prime Minister—including six ministers. That is how bad the budget was. The budget was a budget that the government could not sustain. It was a budget that the public looked at and said, 'We are not prepared to accept cuts to health, cuts to education, cuts to welfare, when these were areas the Abbott government promised not to touch.'

This is a dysfunctional government which cannot be trusted—they continually misrepresent their position to the Australian public. We saw an example of that again today when Senator Abetz responded to Senator Wong, who asked about cuts to the health system. Senator Abetz indicated there were no cuts to the health system; we have simply had a reallocation. I would put to Senator Abetz: have a look at your own budget paper. Have a look at the chart on page 7 of the 2014-15 budget overview. What does that chart show? It shows a cut to health funding for public hospitals of $57 billion. This is a reallocation, according to
Senator Abetz. According to the government's own budget papers, it is a cut of $57 billion—and that was not the end of it for this government in terms of attacks on the health system. A $7 co-payment was supposedly going to fund some massive research funding. We have seen the big backflip on that. Every doctor you speak to, every group you speak to and every eminent health economist you speak to will tell you that putting a $7 cost on going to see a doctor will result in even bigger costs when people end up not getting timely medical intervention and end up in hospital. That leads to massive costs.

This is a government that has no credibility when it comes to economic matters. This is a government that said it would reduce the budget deficit—and what do we have? We have an increase in the budget deficit of $68 billion under this dysfunctional government—a government that is now split between the National Party and the Liberal Party. Let us see how the National Party stands up for those families on $65,000 a year who will lose $6,000 a year because of the blackmail that this government is going to try and impose on this Senate. They say there will be no improvements to their budget bottom line unless we give in to their blackmail. We will not be giving in to the coalition's blackmail. (Time expired)

Senator SINODINOS (New South Wales) (15:10): The first point I make is that the context was missing from the questions we received from the Labor Party today—and the context is very clear. The terms of trade, export prices to import prices, peaked in 2011. The national income of the country, the stimulus coming from the terms of trade, peaked, and ever since then the terms of trade have been coming off. What did Labor do during the period 2011 through to 2013, when they were in charge of the budget? They continued to spend. They did not trim their cloth accordingly. They kept promising budget surpluses. They kept raising the expectations of the Australian people. At the Press Club the Treasurer, Mr Swan, talked about how he would keep cutting until he got to a surplus, even if it meant offsetting the impact of the economy on the budget—the automatic stabilisers. Those are the lengths to which he was prepared to go in order to claim that he would get a surplus. They kept spending in the face of the revenue pressures that they were under. The result was to bequeath us an emerging spending and budget problem that had to be met.

This is the context. The context for us today is that we have to get spending under control and we have to get productivity up. We have to double the rate of productivity growth if we are to get the average annual increase in national income that we have had for the last few decades. That is the equation we face—and we face that against an ageing population. There is this idea that we can be in denial of these budget questions, as if the good old days can just roll on. Well, they are not rolling on. The Australian economy has been like a balloon that the air is coming out of as the terms of trade have turned. We have to adjust to that emerging reality. We have to adjust to an ageing population, so spending has to be sustainable.

In the short term, what has the government been doing in areas like education? School funding was going up: by 9.3 per cent from 2014 to 2015, 8.2 per cent from 2015 to 2016 and 9.1 per cent from 2016 to 2017. The government was trying to protect the economy in the short term while also seeking to put in place longer-term measures, including measures like raising the retirement age to 70 by 2035—not by tomorrow. The pension changes that were talked about last year were about adjusting the rate of indexation. They were not about cutting pensions; they were about adjusting the rate at which pensions continue to increase. That was
the basis of the debate. It was a complete red herring to talk about cuts. Pensions have continued to go up.

Senator Conroy: You are a fibber!

Senator Abetz: Mr Deputy President, on a point of order—

The DEPUTY PRESIDENT: Order! There is no need for the point of order. Senator Conroy, the President has ruled that words that infer the inference that you are making in those comments are in fact disorderly, and I would ask you to withdraw.

Senator Conroy: I withdraw.

The DEPUTY PRESIDENT: Thank you, Senator Conroy.

Senator SINODINOS: That is the challenge that we face. As a country we have to face up to it, because, if our debt-to-GDP ratio continues to rise, long before it gets to 50 or 60 per cent the ratings agencies and others will be asking: is this sustainable? Can we keep borrowing to fund the ordinary expenses of government? The fact is we cannot. We have to rein that spending in. We do have to do things on the revenue side as well—and that is where the tax discussion paper comes in. That is the proper context in which to have a look at the balance between the different types of taxes and the issue of the costs and benefits of the various tax concessions that are around. That debate will occur, and there is a structured process under this government for doing that. There is a structured process through the tax paper.

But what there will not be under this government is a denial of our responsibility in the face of an ageing population to make spending as sustainable as possible and, where possible, to increase the productivity of government spending and still deliver the service but in a more effective and efficient way, so that we are saving those resources and putting them to better use.

There is no point spending billions and billions on public debt interest which could ultimately go on better health, education and welfare. We cannot live in a fool's paradise. Labor want the fool's paradise to roll on. They think something will always bail us out. We are taking control of and managing our destiny so it does not fall into the hands of ratings agencies and others who would dictate much harsher terms. That is the point of what the government is doing—taking control of our destiny.

Senator POLLEY (Tasmania) (15:15): That was a remarkable contribution. The speaker was talking about managing the Prime Minister's destiny, because he is about removing him from being Prime Minister of this country. The budget that will be brought down tomorrow is a budget that is all about saving Tony Abbott's job. It is not about doing the right thing. If Senator Sinodinos was honest with the Australian community, he would now acknowledge that changing the indexation of the pension in this country was about cutting pensioners' benefits. There is not a pensioner in this country who believes Tony Abbott and this government. They know that he cannot be trusted.

In answer to my question in relation to cuts to the pension, Senator Fifield said, 'We haven't made any cuts that were going to have effect in this term.' That is not what Tony Abbott said as Leader of the Opposition when he went out the night before the election and promised that there would be no change to the pension, no cuts to education and no cuts to health. We know that he has failed that test, because there have been cuts to education and there certainly have
been cuts to the health budget. We know that they were about changing the indexation of the
pension, which meant—

Senator Conroy: Cutting them!

Senator POLLEY: It was a cut. You are quite right, Senator Conroy: it was a cut. Eighty
dollars a week was going to be the real impact for Australian pensioners.

As we know—and, yes, one could be forgiven for thinking that Mr Morrison was actually
the Treasurer—the Treasurer, Mr Hockey, has been sidelined.

Senator Conroy: That's generous!

Senator POLLEY: That's just me; I am a generous person. This government is all about
saving the Prime Minister's job and trying to keep people like Senator Sinodinos at bay. But
the Australian community are the ones who are left wanting. Australia's pensioners do not
trust this government. They do not trust them. We will wait and see what the detail is in this
budget, but my theory is that cuts to the pension have not been shelved; they have just been
put in the bottom drawer, because this budget is all about saving Tony's job.

Cuts of $1.3 billion from pensioners' concessions—concessions which have helped to pay
their rates, transport costs, electricity costs and water bills—have been a big blow. The
government has said that the states should really cover those costs while, at the same time,
they are cutting the funding to the state governments—as part of their grand plan to put the
pressure on the states to increase the GST. That is what it is all about.

But the Australian community are much smarter than that. They are onto this government.
They do not trust Tony Abbott, they do not trust Malcolm Turnbull—

Senator Abetz: Mr Abbott. Mr Turnbull.

Senator POLLEY: and they do not trust Ms Bishop. It does not matter who leads this
government. I think August is when they are thinking about rolling the Treasurer and the
Prime Minister. But it will not matter who the Prime Minister is of this government, because
the Australian community have lost faith in it, because quite clearly they were lied to. There
are no ifs and buts. They were not just misled; it was a lie to say that there would be no
change to the pension in this country and no cuts to health and education.

In my home state of Tasmania, we have the notorious 'three amigos': Mr Nikolic, Mr
Whiteley and Mr Hutchinson. They have all denied that there was going to be any change. In
fact, they have come out and accused other senators and me of misleading the Tasmanian
community.

Senator CONROY: No!

Senator POLLEY: They have.

Senator LINES: What have you been doing?

Senator POLLEY: I have actually been out talking to the pensioners and listening to their
concerns and telling them the truth, and that is that this government cannot be trusted and this
change to the indexation of pensions—which the government have now finally put in the
bottom drawer—was all about reducing their benefits.

Mr Hockey—I think he is still the Treasurer today and at least for a few more weeks—has
been described by a cabinet colleague as a 'hole in the heart of the government.' I would have
to say that I do not believe this government has a heart, because last year's budget was a totally unfair budget. It was unfair, and I have no doubt tomorrow's budget will be nothing different. (Time expired)

Senator REYNOLDS (Western Australia) (15:20): I too rise to take note of answers in question time today, and I have to say that I do it with a very heavy heart. Having just returned from a week at Gallipoli with thousands of other Australians, where our spirit of national unity, patriotism and pride was almost overwhelming, I came back with a modicum of optimism that 12 months after the last budget and after 12 months of mindless obstructionism and blocking good government and budget measures to fix your mess—

Senator Conroy: You're going to cut the pension!

Senator REYNOLDS: With the interjections of Senator Conroy and the previous two Labor speakers, it is very clear that the optimism with which I returned is already very sadly shattered. It was supposed to be the year of big ideas—remember that: Bill Shorten and the 'year of big ideas'? Quite frankly, I do not seem to recall a single one, apart from some tax increases

Far from coming back to finding an opposition who is now willing to work with the government, there is still an absence of policy ideas on how to start living within our means and continuing to grow the economy—

Senator Conroy interjecting—

Senator REYNOLDS: Senator Conroy, you are just playing the man not the policy ideas. Let me remind you that when you came to government not only was the country living within its means but it had about $20 billion in the bank and no debt. You wasted that with pink batts, school halls, an NBN that did not deliver any broadband to the nation—a litany of wasted money. Consequently for taxpayers, and some are sitting in the gallery now, we are now borrowing $100 million a day. I bet you they did not know that. The government are borrowing $100 million a day to pay for your prolific expenditure. That is the situation we now find ourselves in.

Senator Cameron was right: it is a matter of choice. But it is a choice of how we start to find better ways to live within our means and to grow the economy. That is exactly what this budget will be about tomorrow. It is making choices on how to best spend our money. We spend $150 billion a year of taxpayers' money. In fact, nearly nine out of 10 income taxpayers in this country now pay for our welfare benefits. Welfare benefits are not entitlements; they are there as benefits for people who need the assistance. Government always has to make sure that the money of those people sitting in the gallery today is best spent for those who best need it.

It is also about a choice between infrastructure investment, encouraging small business and creating new jobs. You conveniently like to forget that we have now created something like 80,000 more jobs than when you left government.

Senator Conroy: Unemployment is going up.

Senator Lines interjecting—

Senator REYNOLDS: The truth hurts, doesn't it? By you very disappointedly playing the Treasurer and the Prime Minister and not talking about policy options—
Senator Conroy: It's you lot!

Senator REYNOLDS: If you do not like what we are coming up with, come up with other options of where we can find the savings for the new expenditures. If you want it, start stumping up and stop this ridiculous playing of individuals and start providing options. If you do not like what this side is coming up with, stop playing the individuals and come up with policy. We still have not heard a single thing. You know as well as I know that the budget, like the rest of government, is a team activity. It is not just about the Treasurer, the finance minister, the Prime Minister, the members of the Expenditure Review Committee of cabinet or about all government members; it is also about everybody in parliament. Every single one of us who were elected by the people of Australia have a role to play in the budget.

We have been doing our role, and it is time at this budget for the opposition to stump up. Instead of taking great pride in destroying the budget and not playing your part in the team, you have got to start playing your role as an opposition and as elected representatives of the people of Australia and of your states. You have just as much a role in passing a budget that is good for Australia and good for the economy. Instead, you pick off individuals because you have absolutely no policies with which to contribute. Taking pride in destroying the economy is nothing to be proud of, Senator Conroy. (Time expired)

Senator LINES (Western Australia) (15:25): If it was not so serious it would be amusing being invited to be on the Liberal team. We are in the Labor team. Today in question time it was as if Mr Hockey is not the Treasurer anymore. We barely heard his name mentioned. And today on Sky News it seemed that Senator Birmingham well and truly outlined the Abbott government's economic credentials when he said that Joe Hockey will deliver a budget that 'continues to show a steady trajectory back towards deficit'. Anyone can work out what Senator Birmingham meant when he said that—

Senator Conroy: Back towards deficit?

Senator LINES: Yes, that is what he said—back towards deficit. Finally, we have a frontbencher acknowledging the chaos and dysfunction of the Abbott government. They cannot even get their message right. Then Mr Barnaby said of Mr Hockey—

Senator Conroy: Mr Barnaby Joyce?

Senator LINES: Yes—Mr Barnaby Joyce. He said: 'I don't want him cartwheeling around in front of the media. I want him behind his desk.'

Here we have Mr Hockey being accused of doing cartwheels. Mr Hockey has been described in the media as the 'phantom' Treasurer. Mr Hockey has been described as being the hole in the heart of the Abbott government. What about that awkward photo last week? That awkward photo of our Prime Minister and our Treasurer—thank goodness I am not in that team—with that awkward hand on the arm. What was that about? It certainly looked to me as if the Treasurer was definitely not part of the story. And where have the key budget announcements come from?

Senator Conroy: Not from Joe!

Senator LINES: They certainly have not come from Mr Hockey. They have come largely from Mr Morrison, so perhaps Mr Morrison is the Treasurer who will take up that formal role once the budget is out. So we have had Mr Morrison and the Prime Minister making all of the announcements. We certainly have not seen very much of Mr Hockey at all, except Mr
Hockey is quoted in the media as saying, 'The electorate realised that good policy needs to be implemented.' They sure have. We know that voters in Australia have completely lost faith that the Abbott government is ever going to deliver good policy. The Australian voters sure know that, and they know that good policy has not been delivered since this government was elected. They know the Abbott government is absolutely incapable of delivering good policy.

Here we are, I think for the first time in our history, still debating last year's budget on the eve of the next budget, the second budget of the Abbott government. Here we are still with an unsettled budget from last year, and what we have seen from the government is backflips on budgets. We were going to have this GP tax, but after we attacked this government day in day out in this parliament suddenly we saw the backflip on that—although I do not think we have seen the last of that; I think there will be a GP tax at some point.

We have seen the government having to be bludgeoned into backflipping on some of its more harsh budget measures. For example, where is the budget measure not to have young people under 30 eligible for payment for six months? Presumably, that is still in a drawer somewhere. Will that try to come out, sneakily? And there is this whole absolute dishonesty around cuts to pensions. If you change the way that pensions are calculated in a way that reduces the pensioners' entitlement then that is a cut. If you are used to getting $200 into your bank account and suddenly you start to get $180, that is a cut. And yet, day after day, we see the Abbott government trying to put a spin on it, trying to say to Australian pensioners, 'No, we are not cutting your pension.' They know better.

And what about the dishonesty about superannuation in this country, where the employer contribution has been frozen? That is a cut too from a government who try to pretend they are responsible. They are not. All we have seen from the Abbott government is that they cannot manage anything. They cannot manage their frontbench, they cannot manage their Prime Minister and they cannot manage their Treasurer. Hiding them away means that they are still there. (Time expired)

Question agreed to.

Budget

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:31): I move:

That the Senate take note of the answers given by the Minister for Employment (Senator Abetz) and the Assistant Minister for Social Services (Senator Fifield) to questions without notice asked by the Leader of the Australian Greens (Senator Di Natale) and Senator Hanson-Young today relating to the 2015-16 Budget.

We asked questions about the budget and child care in the context of the budget. The government, once again, is on a selling job for the budget, trying to say that they are being fairer now and that this is about jobs and delivering for the community. The only jobs it is about, really—the job-saving messages—are those of Mr Abbott and Mr Hockey, because it is clearly their jobs that they are trying to save, given the community so totally rejected their budget from last year.

Let's not forget that while the government talk about the budget being dull and boring, and looking after intergenerational debt, the issues that they had on the table last year are still there. So the government still plan a large number of changes to family tax benefits—and I will come back to those issues as they relate to child care in a minute. But they also have their
cruel measures still on the table—their earn-or-learn measures—around kicking young people under the age of 30 off income support for six months. They are still carrying on with their cruel Work for the Dole measures, which we know are not going to work. And we hear calls from industry that—surprise, surprise!—they want to have Work for the Dole into businesses. I wonder how the government is going to respond to that?

But we are now seeing the talk of earn or learn in childcare and the impact of trying to increase the activity. You need to undertake a certain amount of activity, and nobody with children is fooled that in fact 24 hours a fortnight still relates to two days a week. It is quite clear that the government is cutting funding to and support for some of our most vulnerable families by bringing in the activity test. That is a cut, again, to vulnerable families—just like the budget last year had the most impact on vulnerable Australians. We know that from the work that NATSEM did last year. The government did not carry this out last year and did not show Australians what impact the budget had on families, and particularly on vulnerable families. It was left up to NATSEM. That was a critical part missing from the budget on budget night. I wonder if the government are going to do that this budget—whether they are going to be brave enough to look at the impact of the budget, particularly on the most vulnerable members of our community?

This brings me to the issue of inequality, because that was one of the recommendations that came out of the Senate inequality inquiry. When the government talk about intergenerational issues, what about intergenerational inequality? What about intergenerational poverty? We know from the research that inequality in Australia is increasing, and is particularly high in my home state of Western Australia. That is what we need to look at: what are the intergenerational impacts of poverty and inequality? You entrench people in poverty and in inequality by measures that impact most strongly on vulnerable families.

So what will the government's response be? Will they actually articulate in their budget tomorrow what the impacts on the most vulnerable Australians will be, beyond actually looking at the impact that this budget has on the future of the Prime Minister and of Mr Hockey? That is clearly how the government have been funding and looking at this budget. It is the future of the Treasurer and the future of the Prime Minister. They know that their futures are on the line if they bring down a budget that Australians do not like. But they are actually still going for the most vulnerable Australians. They are still making cuts, as you can see from them saying, 'We're actually putting the acid on the Senate to pass those cruel measures from last year.' Those measures impacted in particular on single parents: single parents would be dropped off family tax benefit part B when their youngest child turns six. They said, 'Oh, we'll give you a bit of compensation.' No-one was fooled by that. So the government are saying, 'You pass that and you'll get the childcare package,' once again blackmailing the Senate into supporting cruel measures.

For anybody who thinks that the government have changed their spots, they have not. They are still unprepared to go for the wealthiest in the community and to go for the tax rorters. (Time expired)

Question agreed to.
BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:36): by leave—I move:

That intervening business be postponed till after consideration of government business order of the day no. 6 (Biosecurity Bill 2014 and related bills—second reading speeches only).

Mr Deputy President, I will speak briefly to the motion before it is put just to indicate, as colleagues are probably aware, that this additional sitting day today—the day before the budget—was occasioned through the goodwill of crossbench senators, who thought this would be an opportunity to transact business. I would like to thank them for putting the proposition forward and facilitating today.

In the spirit of that, there were three bills that those colleagues agreed would be the business transacted. Given the chamber has made such good and quick work of the three pieces of legislation before us—if only it were ever thus, and it is good to see more goodwill more often—we thought that there could be the opportunity to use this time. Indeed, the opposition also put forward that we should explore what it may be possible to do. Given the government's undertaking during discussions with the crossbench senators was that we would not seek to do anything other than those three bills unless there were complete consent and unanimity in this place, it does appear, following consultations with colleagues, parties and crossbenchers, that that is indeed the case. I just want to make clear that we are putting forward this motion because it represents the will of colleagues. We would not have sought for a moment to seek to do anything contrary to the agreement that we had reached earlier in relation to today. I will leave my remarks there and thank colleagues for their goodwill and cooperation.

Senator MOORE (Queensland) (15:39): I would not wish to spoil the goodwill that has burst out around the Senate chamber, but I want to put on record that, as the chamber knows, the Labor Party had sought to have a full day of sitting today. The will of the chamber at the time was not to support that. As we put forward at the time, we felt there was sufficient business for us to use the whole day if we were going to take the expense and time to have this sitting today. That was voted down by the chamber, and of course we support that result. In view of that, when the government came to us about what was going to happen because of the speed with which we were dealing with the three bills that were before us, we supported the will of the chamber again to say that we make as much use of today as we can and move forward on the biosecurity bills. But I just wanted to remind the chamber that it was the view of the Labor Party that this should have been a full day.

Question agreed to.
BILLS

Biosecurity Bill 2014
Quarantine Charges (Imposition—General) Amendment Bill 2014
Quarantine Charges (Imposition—Customs) Amendment Bill 2014
Quarantine Charges (Imposition—Excise) Amendment Bill 2014

Second Reading

Debate resumed on the motion:
That these bills be now read a second time.
to which the following amendment was moved:

At the end of the motion, add "but the Senate calls on the Government to enshrine the independence of the Inspector General in legislation by re-introducing the Inspector-General of Biosecurity Bill 2012."

Senator XENOPHON (South Australia) (15:40): I indicate that I will support the second reading of the Biosecurity Bill 2014, because our biosecurity framework does need to be revamped. I know enormous work has been done by the previous government and, indeed, by this government and the Minister for Agriculture, the Hon. Barnaby Joyce. I support the second reading stage of this bill being passed, but I still reserve my position in terms of a number of amendments that have been put up by the opposition relating to the framework of this bill and how it would work. I expect that I will be speaking to the agriculture minister later today or this evening—in fact, by tomorrow morning—in respect of those matters.

I have attended a number of inquiries in respect of biosecurity, and a number of my colleagues have been at these inquiries too. The most recent that I recollect was about potatoes. There is a real concern that bringing in fresh potatoes from New Zealand could subject our potato industry to the real risk of zebra chip disease. Zebra chip disease, for those who are not familiar with it, is a pretty nasty disease that can affect potatoes. It is a disease that Australia is free of at the moment, but in New Zealand they have a real problem in managing the zebra chip disease. The disease means that once you cook a potato it has black-and-white stripes like a zebra in the potato. It is rendered inedible because of the high sugar content. That is something that, if it gets into Australia, if it infects our potato crops, will have disastrous implications. It will affect the viability of the potato industry; it will mean enormous costs in dealing with zebra chip disease and the like.

There is another disease from New Zealand—I am not picking on the Kiwis—

Senator Moore: You are.

Senator XENOPHON: I am not picking on the Kiwis, Senator Moore. The fact is we have close economic relationships with New Zealand. We have deep bonds that were forged in blood from the time of the Anzacs, from the time of Gallipoli, and since then. Fire blight is a disease that affects the apple industry. We do not have it here in Australia. New Zealand apples do have it. It causes enormous damage to the apple and pear industries in that nation. We do not want it here.

What concerns me is that at the potato inquiry—my understanding is that there was a bureaucrat who took one of the witnesses from the potato sector to task. I think Senator
Colbeck, as the Parliamentary Secretary to the Minister for Agriculture, would be appalled by this. The bureaucrat took one of the witnesses aside and said words to the effect: 'How dare you raise this issue! Do you realise that this sort of inquiry, this sort of evidence, actually damages our reputation internationally in free trade forums?' I am sorry, but if it is the Department of Agriculture involved in biosecurity, then its priority ought to be preventing pests and diseases coming into this country and affecting Australian agriculture. Issues of free trade are not its business; it is the issue of protecting Australian industry from pests and diseases.

An enormous amount of work has been done by the current minister and the previous minister in getting to this stage. This bill is a very comprehensive piece of legislation. It needs to be revamped, I understand that, but there are issues in terms of the degree of supervision of this bill, the degree to which this framework ought to be subject to independent scrutiny in a watchdog or ombudsman type role, and I am sure that will be the subject of vigorous debate in the committee stage.

I just want to raise an issue in relation to my position on this. Unambiguously, I can state what my preferred position is. We ought to look at the matters raised in a bill introduced in this place: the Quarantine Amendment (Disallowing Permits) Bill 2011. What that bill effectively did was insert provisions into the act which:

… effectively make the Biosecurity Policy Determinations legislative instruments and provide that any import or removal permit issued otherwise than in accordance with such a disallowable Biosecurity Policy Determination are themselves disallowable by the Parliament.

That is not about political decisions being made; it is about having an extra level of protection in this nation in respect of biosecurity. Once a disease comes into this country—if it is zebra chip, if it is fire blight, if it is foot-and-mouth—that is it; it irrevocably changes that industry and that sector and it damages our clean, green reputation internationally. And we do not want that. I do not think anyone in this place wants that.

My concern is with the risk matrix that has been applied. I remember the strong advocacy by former Senator Boswell in this regard, for the pineapple industry and for bananas in particular. He expressed those concerns time and time again. Former Senator Boswell was absolutely right in respect of those concerns. We are mugs internationally and we are schmucks internationally when we take such a literal view of free trade. In fact, at international forums Australians have been referred to as a 'free trade Taliban' because we take such a fundamentalist approach to free trade issues and because we do not protect our national interest, which obviously intersects with ensuring a clean, green, disease-free reputation that we have fought very hard to maintain.

So it is my view that the best way of dealing with this is an extra layer of protection. I know that it is opposed by my colleagues—both government and opposition. My preference is to have that extra level of scrutiny, that extra level of safeguard, by allowing for these instruments to be disallowable.

The question that I wish to raise with the government is: will they support such an approach being investigated? If not, why not? At the very least, I want to ask whether they consider that having that extra layer of safeguard would be a preferable approach. In my view it ought to be. In my view, you ought to have it as a disallowable instrument so that there can
be a risk analysis tabled in both houses of parliament and cause a motion to be moved to refer it to the relevant committee in each House. That is the sort of thing we ought to be looking at.

My view is that we cannot be too careful in relation to this. I think that there are some in the biosecurity sphere, in the Department of Agriculture, that have confused their roles between looking after the biosecurity of this nation and being tied up with free trade negotiations. We cannot sacrifice just one part of the agricultural sector for another on the altar of free trade. We have to be extremely vigilant about this.

It is not just about whether the disease comes in or not. If New Zealand potatoes are allowed into this country, you actually change the economics of the potato industry, because they must manage that risk. They must factor in future investment decisions and what the potential is for zebra chip disease to come into this country. They make decisions accordingly. It is an investment killer and a job killer, because it is an extra level of risk for that industry. We must avoid that at all costs.

We also need, in the context of our agricultural sector, to look at issues of countervailing duties and to pursue those aggressively. It is related, in the sense that the European Union spend a lot of money supporting their wine industry—for instance, promoting their wine industry. We have a situation where overwhelmingly the wine grape sector and our wineries are doing it very tough because of an unlevel playing field. That is another issue which makes our sectors more vulnerable and less profitable. That lower degree of profitability makes them particularly vulnerable to any biosecurity threats as well.

If this is going to be the ultimate renewable resource—which I believe agriculture is—we cannot afford for anything to go wrong. That is why I support the second reading stage of this bill. I look forward to speaking to the minister and the shadow minister in relation to some of the key amendments in respect of this. I still believe we need to ultimately have a method of disallowing permits and having a degree of parliamentary scrutiny of this so that, if there is a move to bring in New Zealand potatoes with the risk of zebra chip, then the parliament ought to have a role to play. Do not leave it just to the bureaucrats, some of whom have confused their roles in biosecurity with that of being free trade advocates, and that is a very dangerous path to go down.

The DEPUTY PRESIDENT: Senator Xenophon, there is a second reading amendment that Senator Siewert has put before the chair at the moment, so I cannot ask you to move your foreshadowed second reading amendment at this time. There is also a foreshadowed second reading amendment that Senator Waters had indicated she will move. So, when we get to the point of dealing with the second reading amendment before the chair, I will give Senator Waters or someone on her behalf an opportunity to move that amendment. Once that is disposed of, or if it is moved and disposed of, I will then give you an opportunity to move your amendment if you are in the chamber.

Senator XENOPHON: Sorry; we were just waiting for it to be drafted. I seek your guidance on this, Mr Deputy President. I would like to foreshadow an amendment, which would add to the end of the motion: 'But the Senate calls on the government to review the biosecurity framework to provide that biosecurity policy determinations are subject to disallowance and, therefore, parliamentary scrutiny.' As I understand it, that means that it can only be dealt with after Senator Siewert's second reading amendment?
The DEPUTY PRESIDENT: Yes, and, as I was saying, there is already another second reading amendment foreshadowed by Senator Waters. So I will go to Senator Waters first, because that was foreshadowed earlier than yours. Once that is disposed of—if it is moved—I will then give you an opportunity to move yours. I am really just saying to everybody now: senators who want to move second reading amendments that have been foreshadowed need to be in the chamber when we dispose of Senator Siewert’s amendment, because that is the only opportunity people will have to then move a second reading amendment.

Senator XENOPHON: I will superglue myself to my seat.

The DEPUTY PRESIDENT: Thank you, Senator Xenophon.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (15:52): I think it has already been acknowledged through this debate that Australia has a world-class biosecurity system. I acknowledge the work that was done by the previous government in commencing the development of this biosecurity legislation. I did have the opportunity to sit on the Senate inquiry that was not completed prior to the 2013 election but did raise a number of the issues that were subsequently dealt with in the final drafting of this legislation.

I commend the work of our officials in the Department of Agriculture who have put a lot of work into this. This is extremely important legislation for Australia. The protection of our biosecurity status is something that we all hold extremely dear. That was demonstrated quite clearly through the Senate inquiry that occurred in the previous parliament and through the Senate inquiry that occurred in this parliament. I know the Senate Rural and Regional Affairs and Transport Committee are red-hot when it comes to biosecurity issues and how they might impact on Australia environmentally and from an agriculture perspective.

I refute Senator Xenophon’s comments that the parliament does not have an opportunity to scrutinise import risk assessments. I understand where he is going in wanting to make an import risk assessment a disallowable instrument. I have sat on many inquiries in this place, including Senate Rural and Regional Affairs and Transport Legislation Committee inquiries into biosecurity matters, and I know that the work of those committee inquiries has made a difference. It has changed the outcome of the import risk assessments for the better. Those committees have brought down recommendations that have been useful as part of the process. While we might agree to do a review, Senator Xenophon, we already know the outcome of the review and it is effectively not possible to make an import risk assessment a disallowable instrument. So, while we might agree to do a review, we effectively know the outcome.

The work that was done by the committee, particularly the review of the risk matrix, needs to be recognised. It did some very good work. We as a government have also set up the national centre of risk assessment at the University of Melbourne, which makes a significant contribution as well. We need to recognise the work that has gone on in the past in developing our biosecurity system. We made a number of commitments going into the last election around a review of the import risk assessment process. That work is being done. There is consultation occurring nationally on that because we understand it is a very important element in ensuring our biosecurity status, it is very important to the Australian farming sector and, as I indicated before, it has a very important role in protecting our broader environment. We have seen some examples of incursions into Australian native bushland, and they can be quite devastating. We do understand the importance of this legislation.
I am appreciative of the approach that the previous government took when there were some concerns raised about the drafting of this legislation. They basically said to the committee, ‘You take as long as you like to review this, because we understand it is important.’ The previous government and certainly this one appreciate the work that the committee in the previous government did in identifying the issues that needed to be resolved and then going about doing it, which is what we have done in government.

We have continued to consult with industry during the finalisation of the legislation and bringing it to the parliament. We have consulted very broadly because that has been an important part of ensuring broad confidence in the legislation. During the finalisation of the bills we consulted with the NFF and the NSW Farmers biosecurity committee and quite closely with senators, particularly those engaged in the Senate inquiry process. We made changes where we had recommendations that made sense and it was reasonable to do so. This will be demonstrated by the introduction of an amendment to establish a statutory Inspector-General of Biosecurity, which we know is a concern for the opposition and for some of our stakeholders.

The inspector-general will be appointed by the agriculture minister and report directly to the minister, ensuring the position remains independent from regulatory functions of the Department of Agriculture. The government amendment also provides that the inspector-general may compel a person to provide information and documents or to answer questions relevant to a review. This is crucial to the inspector-general's ability to review the performance of functions and the exercise of powers by biosecurity officials. The Director of Biosecurity would also be required to comply with any reasonable request from the inspector-general for assistance for the purpose of conducting a review.

The government can assure stakeholders that the regulations will state that the inspector-general is to set an annual review program in writing in consultation with the Director of Biosecurity and the minister. The review program will be publicly available to stakeholders so stakeholders are aware of review topics in advance and, importantly, the inspector-general will not be subject to the direction of either the minister or the Director of Biosecurity, so reviews will be independently conducted.

The inspector-general will be empowered to invite submissions, from stakeholders generally and from particular organisations, in relation to a review. Such submissions may be made public unless the submission is made in confidence or withdrawn. The inspector-general will also be required to consider all evidence provided. After conversations with key stakeholders like the National Farmers' Federation and the NSW Farmers Biosecurity Committee, the government would also like to assure the Senate and stakeholders that regulations concerning the biosecurity import risk analysis process will include requirements around expert scientific advice, stakeholder engagement and reasons for conclusions. I know that there has been some concern expressed over a period of time, particularly to the Senate committee, around reasons for conclusions.

The biosecurity regulation will require the Director of Biosecurity to appoint external persons to an expert scientific advisory group and allow the director to request that this group examine and provide comments on a biosecurity import risk analysis. As this is a procedural requirement relating to the process for conducting a biosecurity risk analysis, it is appropriate to include it in the regulations rather than in the primary legislation. All policy development,
decision making and service delivery undertaken by the agriculture department is underpinned by science. The government has complete confidence in the skill and expertise of its officers, employing some of Australia's most knowledgeable and experienced plant scientists, veterinarians and medical and clinical experts. All import risk analyses are conducted by officers with relevant technical and scientific expertise, and expert scientific advice is sought to supplement this internal expertise if it is required.

Regulations and administrative guidance will also require each biosecurity import risk analysis report to set out the scientific findings and assessments made during the process and all of the information and evidence that led to the conclusions reached in the report, as recommended by the Senate committee. During key industry consultation for examination of the import risk analysis process, a key government election commitment, we heard about the importance of all stakeholders being given reasonable opportunity to comment on a biosecurity import risk analysis report. This was also raised by the Senate committee. The government can assure both the Senate and industry stakeholders that the regulations will include a period of at least 60 days for stakeholders to comment on draft reports—a period that can be extended if required.

As is currently the case, stakeholders will always be welcome to provide information at any point before, during or after a biosecurity import risk analysis process. The biosecurity regulation will allow for people who believe their direct interests have been adversely affected by a failure to conduct a biosecurity import risk analysis in accordance with the regulated process to request a review of that process. This review will be undertaken by the Inspector-General of Biosecurity, ensuring an independent examination of the process.

The opposition has also proposed an amendment which is drawn substantially from the former Inspector-General of Biosecurity Bill, which was introduced into parliament in 2012 and lapsed with the change of government. This bill was always a separate piece of legislation and was never proposed to be integrated into the Biosecurity Bill. If the opposition's amendment were adopted, changes to the Biosecurity Bill would be needed and the entire bill would require careful review, resulting in a substantial diversion of resources to determine if the amendment causes any unintended consequences. The opposition has criticised the government for taking time to further consider and consult on the bill prior to its introduction, yet its amendment would cause further delays in the implementation of this crucial legislation.

The proposed opposition amendments do not repeal powers for ministerial review, creating duplicate powers to review the biosecurity system, with the potential to cause confusion and further waste of resources. The proposed opposition amendments remove the privilege against self-incrimination. This important privilege protects an individual's right to freely give information pertinent to the inspector-general's review without fear of incrimination. The abrogation of this privilege, as proposed by the opposition, is neither appropriate nor necessary. The proposed opposition amendments give the inspector-general the power to seek a warrant to enter premises when the owner of those premises does not consent. The current inspector-general does not have that power and has never needed it. This power is not required in order for the inspector-general to fulfil their function. Proposed opposition amendments do not take into account legislative developments that have taken place since 2012—in particular, the passage of the regulatory powers act—which results in the duplication of powers and provisions. This proposed amendment may result in significant
redrafting of the Biosecurity Bill and would provide the inspector-general with unnecessary coercive powers. As such, the government will not support the opposition amendment should it be brought forward.

We have said a number of times how important this piece of legislation is. We are confident the bill has been drafted using the best advice and represents best legislative practice. In the context of Senator Xenophon's comments around trade and biosecurity: I do not believe that any government, of any colour, has ever traded off Australia's biosecurity for trade. It is never on the table, but we do push hard for free and open markets. There is no question about that. In fact, I had the opportunity to again push for free and open trade at the G20 Agriculture Ministers Meeting only last week. It is very important. Australia relies enormously on its export markets. We export 60 per cent of what we grow, so, if we do not have free and open trade, it is our farmers who are going to suffer because they will not have access to those important international markets. We work very hard to gain access to those international markets, but we do not put biosecurity on the table. I know that because I have had the conversations, and I know that governments do not put biosecurity on the table as part of any negotiating process. I have not seen it happen on either side of politics. I applaud that approach. We cannot trade off our biosecurity. We have a very strong, appropriate level of protection, and we do not apologise for that, nor should we; we need to maintain the strength of our biosecurity system. It is what gives us access to those important international markets. It is what gives us respect globally when we are looking to trade into some of those new and emerging markets, because people understand our systems and the efficacy of those systems ensuring that the product that we produce is not only clean but also safe. So it is very vital that we maintain that.

I do not want any suggestion to stand that we in any way as a country trade our biosecurity status off for free and open trade. They are two separate things. They are treated in that way. Countries might like to criticise us for our strong biosecurity system and our very strong appropriate level of protection, but we do not apologise for it, and we are quite frank with anyone who wants to go down that path. Our biosecurity system is not up for trade.

I table two addenda to explanatory memoranda, responding to the concerns raised by the Scrutiny of Bills Committee, and I commend the bills to the Senate.

The DEPUTY PRESIDENT: I can advise senators that the earlier advice I gave about how we deal with the second reading amendments is correct, but I understand we are not going to do it today, though.

Debate adjourned.

NOTICES

Presentation

Senator Brown to move:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold public meetings during the sittings of the Senate, as follows:

(a) Thursday, 14 May 2015;
(b) Thursday, 18 June 2015; and
(c) Thursday, 25 June 2015.
Senator Fawcett to move:

That the Joint Standing Committee on Treaties be authorised to hold private meetings otherwise than in accordance with standing order 33(1), followed by public meetings, during the sittings of the Senate, as follows:
(a) Monday, 15 June 2015; and
(b) Monday, 22 June 2015.

Senator Madigan to move:

That the resolution of the Senate of 24 November 2014, appointing the Select Committee on Wind Turbines, be amended to omit "24 June 2015", and substitute "3 August 2015".

Senator Leyonhjelm to move:

That the Senate declares its opposition to the fuel duty rates for excise and customs contained in the Excise Tariff Proposal (No. 1) 2014 and the Customs Tariff Proposal (No. 1) 2014 respectively, and tabled in the House of Representatives on 30 October 2014.

Senator Wright to move:

That the Senate—
(a) welcomes, after significant delay, the release of the National Mental Health Commission's Report of the National Review of Mental Health Programmes and Services, which found:
(i) mental health care in Australia often comes too late, is fragmented, fails to prevent crisis situations, and often does not take into account a person's broader social needs,
(ii) inadequate responses to significantly higher rates of mental distress, trauma, suicide and intentional self-harm among Aboriginal and Torres Strait Islander people, and
(iii) mental health funding is concentrated in expensive acute care services, and too little is directed towards prevention and early intervention strategies; and
(b) calls on the Government to expeditiously progress reform of the mental health sector and address the significant unmet mental health needs of Australians.

Senator Williams to move:

That the Senate notes—
(a) for over 100 years the Australian economy was said to be 'riding on the sheep's back';
(b) wool is Australia's third largest agricultural export;
(c) the gross value of wool produced in Australia in 2013-14 was $2.53 billion;
(d) the value of Australian wool exported in 2013-14 was $2.87 billion;
(e) shearers and wool producers are hard-working people with strong animal welfare ethics;
(f) the activist group People for the Ethical Treatment of Animals (PETA) has admitted its picture of a supposed bloodied lamb is a fake; and
(g) PETA's scurrilous and blatant misinformation campaign is an unwarranted attack on the shearing and wool industries and should be condemned.

Senator Siewert to move:

That there be laid on the table by the Minister representing the Minister for Health, by noon on 14 May 2015, a copy of the advice generated by the Office of the Gene Technology Regulator stating that crops developed using EXZACT Delete technology would not contain introduced foreign nucleic acid, once the ZFN genes are no longer present, and would not be considered GMO and therefore not subject to regulation under the Gene Technology Act 2000.
Senator Rhiannon to move:

That, in accordance with the recommendation of the Legal and Constitutional Affairs Legislation Committee in the report *International Aid (Promoting Gender Equality) Bill 2015*, the International Aid (Promoting Gender Equality) Bill 2015 be referred to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 17 June 2015.

Senator Gallagher to move:

That the order of the Senate of 20 June 2001, as amended on 27 September 2001, 18 June 2003, 26 June 2003, 4 December 2003 and 1 March 2007 for the production of documents relating to departmental and agency contracts, be amended as follows:

1. Paragraph (1) omit "agency", insert "entity".
2. Paragraph (1), omit "a list of contracts in accordance with paragraph (2) has been placed on the Internet, with access to the list through the department's or agency's home page", insert ":
   a) a list of contracts in accordance with paragraph (2) has been placed on the Internet, with access to the list through the entity's home page; and
   b) includes an assurance by the minister that the listed contracts do not contain any inappropriate confidentiality provisions".
3. Paragraph(2)(a) omit "agency", insert "entity".
4. Insert paragraph "(2A) For the purposes of paragraph (1)(a), access from an entity's home page may include a link to a complying report on AusTender.”.
5. Paragraph (3)(b) omit "agencies", insert "entities".
6. Paragraph (4) omit "a department or agency", insert "an entity".
7. Paragraph (5) omit "each year", insert "2016 and 30 September 2018".
8. Paragraph (7) after the word "Administration" insert "References".
9. Paragraph (9) omit ""agency" means an agency within the meaning of the Financial Management and Accountability Act 1997; and", insert
   ""complying report on AusTender" means a report in respect of an individual entity that meets the requirements of this order in respect of procurement contracts.
   "entity" means a Commonwealth entity within the meaning of the Public Governance, Performance and Accountability Act 2013;
   "inappropriate confidentiality provision" means a confidentiality provision that is not in accordance with guidance issued by the Department of Finance on compliance with this order and approved by the Finance and Public Administration References Committee; and".

Senate adjourned at 16:09

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.*


Australian Prudential Regulation Authority Act 1998—
Australian Prudential Regulation Authority (confidentiality) determinations—
   No. 4 of 2015 [F2015L00343].
   No. 5 of 2015 [F2015L00591].

Australian Prudential Regulation Authority instrument fixing charges—No. 1 of 2015 [F2015L00504].

Australian River Co. Limited Act 2015—Australian River Co. Limited Commencement Proclamation 2015 [F2015L00575].


Autonomous Sanctions Act 2011—
   Autonomous Sanctions Amendment (Russia, Crimea and Sevastopol) Regulation 2015—Select Legislative Instrument 2015 No. 30 [F2015L00356].


Banking Act 1959—Banking exemption No. 1 of 2015 [F2015L00331].

Broadcasting Services Act 1992—Broadcasting Services (Events) Notice (No. 1) 2010—
   Amendment No. 3 of 2015 [F2015L00488].
   Amendment No. 4 of 2015 [F2015L00507].
   Amendment No. 5 of 2015 [F2015L00612].

Carbon Credits (Carbon Farming Initiative) Act 2011—
   Carbon Credits (Carbon Farming Initiative—Avoided Deforestation 1.1) Methodology Determination 2015 [F2015L00347].
   Carbon Credits (Carbon Farming Initiative—Domestic, Commercial and Industrial Wastewater) Methodology Determination 2015 [F2015L00352].
Carbon Credits (Carbon Farming Initiative—Industrial Electricity and Fuel Efficiency) Methodology Determination 2015 [F2015L00346].


Civil Aviation Act 1988—

Civil Aviation Regulations 1988—

Civil Aviation Order 20.18 Amendment Instrument 2015 (No. 2) [F2015L00605].

Civil Aviation Order 100.27 (Non-destructive testing authorities) Instrument 2015 [F2015L00597].

Direction—parallel runway operations at Sydney (Kingsford Smith) Airport—CASA 41/15 [F2015L00583].

Repeal—permission to carry firearms in aircraft and to discharge firearms from aircraft (Western Australia Police Air Wing)—CASA 40/15 [F2015L00581].

Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—

Directions—relating to the dropping of articles from gyroplanes at ASRA National Championships—CASA 29/15 [F2015L00369].

Exemption and permission—AOC holders with winching and rappelling privileges and the Australian Transport Safety Bureau (ATSB)—CASA EX50/15 [F2015L00451].

Civil Aviation Safety Regulations 1998—

Engine Mount Fire Seal Washer—AD/GA8/8 Amdt 1 [F2015L00359].

Exemption—carriage of passengers on training flight—CASA EX74/15 [F2015L00608].

Exemption—flight in class D airspace within 16 kilometres of an aerodrome—CASA EX62/15 [F2015L00515].


Exemption—from holding an aerial application rating for aerial baiting operations and from Part 137 of CASR 1998—CASA EX70/15 [F2015L00619].

Exemption—maintenance on limited category and experimental aircraft—CASA EX5115 [F2015L00340].

Exemption—requirement to wear seat belt and safety harness—CASA EX4615 [F2015L00422].

Exemption—solo flight training using ultralight aeroplanes registered with the RAA at Archerfield Aerodrome—CASA EX63/15 [F2015L00613].

Exemption—solo flight training using ultralight aeroplanes registered with the RAA at Moorabbin Aerodrome—CASA EX61/15 [F2015L00616].

Exemption—weigh aircraft and determine the centre of gravity—CASA EX49/15 [F2015L00530].

Main Rotor Blades—AD/R44/25 Amdt 2 [F2015L00529].

Manual of Standards Part 173 Amendment Instrument 2015 (No. 1) [F2015L00381].

Repeal of Airworthiness Directives—

CASA ADCX 004/15 [F2015L00513].

CASA ADCX 005/15 [F2015L00514].

Statement of Expectations for the Board of the Civil Aviation Safety Authority for the period 16 April 2015 to 30 June 2017 [F2015L00582].

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Commissioner of Taxation—Public Rulings—
Goods and Services Tax Ruling GSTR 2015/1.

Miscellaneous Taxation Rulings—Addenda—MT 2008/1, MT 2008/2, MT 2011/1 and MT 2012/3.

Product Rulings—
Addendum—PR 2013/16.
PR 2015/2-PR 2015/5.

Taxation Determinations—
Notices of Withdrawals—TD 92/181, TD 93/7, TD 93/73 and TD 96/22.
Taxation Ruling (old series)—Notice of Withdrawal—IT 2505.
Taxation Rulings—Addenda—TR 2006/10 and TR 2006/11.


Control of Naval Waters Act 1918—Control of Naval Waters Regulation 2015—Select Legislative Instrument 2015 No. 27 [F2015L00365].

Corporations Act 2001—
Amendments to Australian Accounting Standards—Extending Related Party Disclosures to Not-for-Profit Public Sector Entities—March 2015—AASB 2015-6 [F2015L00539].

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ASIC Corporations (Amendment No. 3) Instrument 2015 [F2015L00600].
ASIC Market Integrity Rules (APX Market) Amendment 2015 (No. 1) [F2015L00624].
ASIC Market Integrity Rules (ASX Market) Amendment 2015 (No. 1) [F2015L00622].
ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2015 (No. 1) [F2015L00620].
ASIC Market Integrity Rules (NSXA Market) Amendment 2015 (No. 1) [F2015L00625].
ASIC Market Integrity Rules (SIM VSE Market) Amendment 2015 (No. 1) [F2015L00627].


Currency Act 1965—
Currency (Royal Australian Mint) Determination 2015 (No. 4) [F2015L00382].
Currency (Royal Australian Mint) Determination 2015 (No. 5) [F2015L00637].
Customs Act 1901—
Customs (International Obligations) Regulation 2015—Select Legislative Instrument 2015 No. 32 [F2015L00373].
Customs Regulation 2015—Select Legislative Instrument 2015 No. 33 [F2015L00375].
Defence and Strategic Goods List Amendment Instrument 2015 [F2015L00499].
Defence Act 1903—
Section 58B—
Disturbance allowance and vehicle allowance—amendment—Defence Determination 2015/17.
Operation MAZURKA deployment allowance—amendment—Defence Determination 2015/16.
Overseas transport costs—amendment—Defence Determination 2015/18.
Post indexes—amendment—Defence Determination 2015/19.
Removal—amendment—Defence Determination 2015/11.
Salary non-reduction—amendment—Defence Determination 2015/12.
Trainee's dependant allowance, post indexes, benchmark schools and technical adjustments—amendment—Defence Determination 2015/14.
Section 58H—
Woomera Prohibited Area Rule 2014—Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2015-2016 [F2015L00357].
Environment Protection and Biodiversity Conservation Act 1999—
Amendment of List of Exempt Native Specimens—New South Wales Abalone Fishery (30 March 2015)—EPBC303DC/SFS/2015/09 [F2015L00525].
Amendment of List of Exempt Native Specimens—Queensland River and Inshore (Beam) Trawl Fishery (7 April 2015)—EPBC303DC/SFS/2015/12 [F2015L00506].
Amendment of List of Exempt Native Specimens—South Australian Blue Crab Fishery (30 March 2015) (deletion)—EPBC303DC/SFS/2015/05 [F2015L00524].
Amendment of List of Exempt Native Specimens—South Australian Blue Crab Fishery (30 March 2015) (inclusion)—EPBC303DC/SFS/2015/06 [F2015L00523].
Amendment of List of Exempt Native Specimens—Southern Squid Jig Fishery (21 April 2015)—EPBC303DC/SFS/2015/13 [F2015L00601].
Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (164) (25 March 2015) [F2015L00502].

Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (167) (25 March 2015) [F2015L00503].

Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (169) (25 March 2015) [F2015L00505].

Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (170) (22 April 2015) [F2015L00628].

Amendments to the list of threatened ecological communities under section 181 (EC127) (30 April 2015) [F2015L00643].

Amendments to the list of threatened ecological communities under section 181 (EC130) (30 April 2015) [F2015L00646].


Federal Court of Australia Act 1976—
Federal Court (Bankruptcy) Amendment (Examination Summons and Other Measures) Rules 2015—Select Legislative Instrument 2015 No. 51 [F2015L00623].


Financial Framework (Supplementary Powers) Act 1997—


Fisheries Management Act 1991—
Fisheries Management Amendment (Super Trawlers) Regulation 2015—Select Legislative Instrument 2015 No. 42 [F2015L00576].

Fisheries Management (International Agreements) Amendment (2012 to 2014 Measures) Regulation 2015—Select Legislative Instrument 2015 No. 43 [F2015L00544].

Small Pelagic Fishery Management Plan 2009—
Small Pelagic Fishery Overcatch and Undercatch Determination 2015 [F2015L00611].

Small Pelagic Fishery Total Allowable Catch (Quota Species) Determination 2015 [F2015L00610].

Southern and Eastern Scalefish and Shark Fishery (Closures) Direction No. 1 2015 [F2015L00520].

Food Standards Australia New Zealand Act 1991—
Australia New Zealand Food Standards Code—Schedule 1—RDIs and ESADDIs [F2015L00491].

Australia New Zealand Food Standards Code—Schedule 2—Units of measurement [F2015L00492].

Australia New Zealand Food Standards Code—Schedule 3—Identity and purity [F2015L00493].

Australia New Zealand Food Standards Code—Schedule 4—Nutrition, health and related claims [F2015L00474].

Australia New Zealand Food Standards Code—Schedule 5—Nutrient profiling scoring method [F2015L00475].

Australia New Zealand Food Standards Code—Schedule 6—Required elements of a systematic review [F2015L00476].

Australia New Zealand Food Standards Code—Schedule 7—Food additive class names (for statement of ingredients) [F2015L00477].

Australia New Zealand Food Standards Code—Schedule 8—Food additive names and code numbers (for statement of ingredients) [F2015L00478].

Australia New Zealand Food Standards Code—Schedule 9—Mandatory advisory statements [F2015L00479].

Australia New Zealand Food Standards Code—Schedule 10—Generic names of ingredients and conditions for their use [F2015L00480].

Australia New Zealand Food Standards Code—Schedule 11—Calculation of values for nutrition information panel [F2015L00481].

Australia New Zealand Food Standards Code—Schedule 12—Nutrition information panels [F2015L00482].

Australia New Zealand Food Standards Code—Schedule 13—Nutrition information required for food in small packages [F2015L00483].

Australia New Zealand Food Standards Code—Schedule 14—Technological purposes performed by substances used as food additives [F2015L00436].

Australia New Zealand Food Standards Code—Schedule 15—Substances that may be used as food additives [F2015L00439].

Australia New Zealand Food Standards Code—Schedule 16—Types of substances that may be used as food additives [F2015L00442].

Australia New Zealand Food Standards Code—Schedule 17—Vitamins and minerals [F2015L00449].

Australia New Zealand Food Standards Code—Schedule 18—Processing aids [F2015L00452].

Australia New Zealand Food Standards Code—Schedule 19—Maximum levels of contaminants and natural toxicants [F2015L00454].

Australia New Zealand Food Standards Code—Schedule 20—Maximum residue limits [F2015L00468].

Australia New Zealand Food Standards Code—Schedule 21—Extraneous residue limits [F2015L00471].

Australia New Zealand Food Standards Code—Schedule 22—Foods and classes of foods [F2015L00433].

Australia New Zealand Food Standards Code—Schedule 23—Prohibited plants and fungi [F2015L00435].

Australia New Zealand Food Standards Code—Schedule 24—Restricted plants and fungi [F2015L00438].
Australia New Zealand Food Standards Code—Standard 1.4.4—Prohibited and restricted plants and fungi [F2015L00416].

Australia New Zealand Food Standards Code—Standard 1.5.1—Novel foods [F2015L00403].

Australia New Zealand Food Standards Code—Standard 1.5.2—Food produced using gene technology [F2015L00404].

Australia New Zealand Food Standards Code—Standard 1.5.3—Irradiation of food [F2015L00406].

Australia New Zealand Food Standards Code—Standard 1.6.1—Microbiological limits for food [F2015L00411].

Australia New Zealand Food Standards Code—Standard 1.6.2—Processing requirements for meat [F2015L00412].

Australia New Zealand Food Standards Code—Standard 2.1.1—Cereal and cereal products [F2015L00420].

Australia New Zealand Food Standards Code—Standard 2.2.1—Meat and meat products [F2015L00427].

Australia New Zealand Food Standards Code—Standard 2.2.2—Eggs and egg products [F2015L00428].

Australia New Zealand Food Standards Code—Standard 2.2.3—Fish and fish products [F2015L00429].

Australia New Zealand Food Standards Code—Standard 2.3.1—Fruit and vegetables [F2015L00458].

Australia New Zealand Food Standards Code—Standard 2.3.2—Jam [F2015L00459].

Australia New Zealand Food Standards Code—Standard 2.4.1—Edible oils [F2015L00460].

Australia New Zealand Food Standards Code—Standard 2.4.2—Edible oil spreads [F2015L00461].

Australia New Zealand Food Standards Code—Standard 2.5.1—Milk [F2015L00462].

Australia New Zealand Food Standards Code—Standard 2.5.2—Cream [F2015L00470].

Australia New Zealand Food Standards Code—Standard 2.5.3—Fermented milk products [F2015L00413].

Australia New Zealand Food Standards Code—Standard 2.5.4—Cheese [F2015L00414].

Australia New Zealand Food Standards Code—Standard 2.5.5—Butter [F2015L00423].

Australia New Zealand Food Standards Code—Standard 2.5.6—Ice cream [F2015L00424].

Australia New Zealand Food Standards Code—Standard 2.5.7—Dried milk, evaporated milk and condensed milk [F2015L00425].

Australia New Zealand Food Standards Code—Standard 2.6.1—Fruit juice and vegetable juice [F2015L00426].

Australia New Zealand Food Standards Code—Standard 2.6.2—Non-alcoholic beverages and brewed soft drinks [F2015L00465].

Australia New Zealand Food Standards Code—Standard 2.6.3—Kava [F2015L00466].

Australia New Zealand Food Standards Code—Standard 2.6.4—Formulated caffeinated beverages [F2015L00467].

Australia New Zealand Food Standards Code—Standard 2.7.1—Alcoholic beverages [F2015L00469].

Australia New Zealand Food Standards Code—Standard 2.7.2—Beer [F2015L00384].
Australia New Zealand Food Standards Code—Standard 2.7.3—Fruit wine, vegetable wine and mead [F2015L00388].

Australia New Zealand Food Standards Code—Standard 2.7.4—Wine and wine product [F2015L00391].

Australia New Zealand Food Standards Code—Standard 2.7.5—Spirits [F2015L00399].

Australia New Zealand Food Standards Code—Standard 2.8.1—Sugars and honey [F2015L00405].

Australia New Zealand Food Standards Code—Standard 2.8.2—Honey [F2015L00407].

Australia New Zealand Food Standards Code—Standard 2.9.1—Infant formula products [F2015L00409].

Australia New Zealand Food Standards Code—Standard 2.9.2—Food for infants [F2015L00417].

Australia New Zealand Food Standards Code—Standard 2.9.3—Formulated meal replacements and formulated supplementary foods [F2015L00419].

Australia New Zealand Food Standards Code—Standard 2.9.4—Formulated supplementary sports foods [F2015L00421].

Australia New Zealand Food Standards Code—Standard 2.9.5—Food for special medical purposes [F2015L00472].

Australia New Zealand Food Standards Code—Standard 2.9.6—Transitional standard for special purpose foods (including amino acid modified foods) [F2015L00473].

Australia New Zealand Food Standards Code—Standard 2.10.1—Vinegar and related products [F2015L00484].

Australia New Zealand Food Standards Code—Standard 2.10.2—Salt and salt products [F2015L00485].

Australia New Zealand Food Standards Code—Standard 2.10.3—Chewing gum [F2015L00486].

Australia New Zealand Food Standards Code—Standard 2.10.4—Miscellaneous standards for other foods [F2015L00487].


Food Standards Australia New Zealand Amendment (High Level Health Claims and Other Measures) Regulation 2015—Select Legislative Instrument 2015 No. 61 [F2015L00633].

Food Standards (Proposal M1010—Maximum Residue Limits (2014)) Variation [F2015L00599].

Health Insurance Act 1973—

Health Insurance (Diagnostic Imaging Accreditation) Amendment Instrument 2015 [F2015L00606].

Health Insurance (IncobotulinumtoxinA) Determination 2015 [F2015L00448].

Higher Education Support Act 2003—

VET Guidelines 2015 [F2015L00430].

VET Provider Approvals—

No. 1 of 2015 [F2015L00374].

No. 3 of 2015 [F2015L00517].

No. 6 of 2015 [F2015L00501].

No. 7 of 2015 [F2015L00341].

No. 8 of 2015 [F2015L00518].

No. 9 of 2015 [F2015L00536].
No. 10 of 2015 [F2015L00516],
No. 11 of 2015 [F2015L00578].


Jervis Bay Territory Acceptance Act 1915—Administration Ordinance 1990—Water and Wastewater Services Fees Determination 2015 (Jervis Bay Territory) [F2015L00490].

Legislative Instruments Act 2003—
Legislative Instruments (Deferral of Sunsetting—Sydney Airport Curfew Dispensation Guidelines) Certificate 2015 [F2015L00380].
List of legislative instruments due to sunset on 1 October 2016.

Loans Securities Act 1919—Loans Securities Regulation 2015—Select Legislative Instrument 2015 No. 64 [F2015L00632].


Migration Act 1958—
Determination 2015—IMMI 15/073 [F2015L00354].
Determination of Protection (Class XA) and Refugee Humanitarian (Class XB) Visas 2014—IMMI 14/117 [F2014L01819]—Revised explanatory statement.

Migration Amendment (2015 Measures No. 1) Regulation 2015—Select Legislative Instrument 2015 No. 34 [F2015L00351].

Migration Amendment (Protection and Other Measures) Regulation 2015—Select Legislative Instrument 2015 No. 47 [F2015L00542].

Migration Amendment (Resolving the Asylum Legacy Caseload) Regulation 2015—Select Legislative Instrument 2015 No. 48 [F2015L00551].

Migration Regulations 1994—
Arrangements for Applications for Bridging Visas 2015—IMMI 15/044 [F2015L00561].
Arrangements for Business Skills Visas Applications 2015—IMMI 15/029 [F2015L00546].
Arrangements for Child Visa Applications 2015—IMMI 15/030 [F2015L00547].
Arrangements for E-Visitor and Subclass 676 Applications—IMMI 15/038 [F2015L00559].
Arrangements for Employer Nomination and Regional Employer Nomination Skilled Visas 2015—IMMI 15/032 [F2015L00549].
Arrangements For Maritime Crew And Superyacht Visa Applications 2015—IMMI 15/041 [F2015L00554].
Arrangements for Medical Treatment Visa Applications 2015—IMMI 15/037 [F2015L00558].
Arrangements for New Zealand (Family Relationship) Visa Applications 2015—IMMI 15/046 [F2015L00568].
Arrangements for Other Family Visa Applications 2015—IMMI 15/034 [F2015L00553].
Arrangements for Other Visas 2015—IMMI 15/031 [F2015L00548].
Arrangements for Resident Return Visa Applications 2015—IMMI 15/033 [F2015L00550].
Arrangements for Skilled and Temporary Graduate Visa Applications 2015—IMMI 15/035 [F2015L00556].
Arrangements for Special Category Visa Applications 2015—IMMI 15/039 [F2015L00560].
Arrangements for Temporary Work (Short Stay Activity) (Subclass 400) Visa Applications 2015—IMMI 15/036 [F2015L00565].
Arrangements for Temporary Work Visa Applications 2015—IMMI 15/042 [F2015L00555].
Arrangements for Visitor Visa Applications 2015—IMMI 15/043 [F2015L00557].
Arrangements for Work and Holiday and Working Holiday Visa Applications 2015—IMMI 15/040 [F2015L00552].
Determination—Meaning of Enrolled in Full-Time Study at an Educational Institution 2015—IMMI 15/070 [F2015L00526].
Disclosure of Information to Prescribed Bodies 2015—IMMI 15/050 [F2015L00569].
Eligible Education Providers and Educational Business Partners 2015—IMMI 15/003 [F2015L00537].
English Language Tests, Scores and Passports 2015—IMMI 15/062 [F2015L00564].
Specified Place 2015—IMMI 15/054 [F2015L00387].
Specified Place to Provide a Personal Identifier 2015—IMMI 15/080 [F2015L00647].
Tests, Scores, Period, Level of Salary and Exemptions to the English Language Requirement for Subclass 457 (Temporary Work (Skilled)) Visas 2015—IMMI 15/028 [F2015L00563].
Migration Amendment (Protection and Other Measures) Act 2015—Migration Amendment (Protection and Other Measures) Commencement Proclamation 2015 [F2015L00541].
National Greenhouse and Energy Reporting Act 2007—
National Greenhouse and Energy Reporting (Measurement) Amendment Determination 2015 (No. 1) [F2015L00598].
National Health Act 1953—
National Health (Botulinum Toxin Program) Special Arrangement Amendment Instrument 2015 (No. 1)—PB 33 of 2015 [F2015L00431].
National Health (Claims and under co-payment data) Amendment (Medication Chart Prescriptions) Rule 2015—PB 19 of 2015 [F2015L00437].


National Health Determination under paragraph 98C(1) (b) Amendment 2015 (No. 3)—PB 28 of 2015 [F2015L00589].

National Health Determination under paragraph 98C(1) (b) Amendment 2015 (No. 4)—PB 41 of 2015 [F2015L00604].


National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2015 (No. 4)—PB 44 of 2015 [F2015L00604].

National Health (Growth Hormone Program) Special Arrangement Amendment Instrument 2015—PB 34 of 2015 [F2015L00443].

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2015—PB 30 of 2015 [F2015L00457].

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2015 (No. 5)—PB 43 of 2015 [F2015L00607].


National Health (Listed drugs on F1 or F2) Amendment Determination 2015 (No. 3)—PB 35 of 2015 [F2015L00377].


National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2015 (No. 4)—PB 39 of 2015 [F2015L00595].

National Health (Multiple Hospitals Paperless Claiming Trial) Special Arrangement 2015—PB 37 of 2015 [F2015L00432].


National Health (Pharmaceutical Benefits—Early Supply) Amendment Instrument 2015 (No. 3)—specification under subsection 84AAA(2)—PB 36 of 2015 [F2015L00334].

National Health (Pharmaceutical Benefits—Early Supply) Amendment Instrument 2015 (No. 4)—specification under subsection 84AAA(2)—PB 46 of 2015 [F2015L00593].


National Health (Payments for prescriber bag supplies) (Repeal) Determination 2015—PB 25 of 2015 [F2015L00441].

National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 3)—PB 29 of 2015 [F2015L00339].
National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 4)—PB 42 of 2015 [F2015L00588].
National Health (Price and Special Patient Contribution) Amendment Determination 2015 (No. 2)—PB 27 of 2015 [F2015L00333].
National Health (Price and Special Patient Contribution) Amendment Determination 2015 (No. 3)—PB 40 of 2015 [F2015L00590].
National Health (Residential Medication Chart) (Repeal) Determination 2015—PB 20 of 2015 [F2015L00446].

National Land Transport Act 2014—
Roads to Recovery List 2014 Variation Instrument No. 2015/1 [F2015L00500].
Roads to Recovery List 2014 Variation Instrument No. 2015/2 [F2015L00519].


Parliamentary Contributory Superannuation Act 1948—Parliamentary Superannuation Age Factors (Division 293 Tax Law) Determination 2015 (No. 1) [F2015L00521].

Primary Industries (Customs) Charges Act 1999—Primary Industries (Customs) Charges Amendment (Honey) Regulation 2015—Select Legislative Instrument 2015 No. 56 [F2015L00618].


Privacy Act 1988—
Privacy (Department of Veterans' Affairs Contestability Review) Temporary Public Interest Determination 2015 [F2015L00332].

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Private Health Insurance Act 2007—Private Health Insurance (Prostheses) Amendment Rules 2015 (No. 1) [F2015L00540].

Private Health Insurance (Council Administration Levy) Act 2003—Private Health Insurance (Council Administration Levy) Amendment Rules 2015 (No. 1) [F2015L00596].

Public Governance, Performance and Accountability Act 2013—


Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2012-2013 (No. 1) [F2015L00363].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (No. 2) [F2015L00361].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 1) [F2015L00360].


Public Governance, Performance and Accountability Legislation Amendment (Enactment of the Public Governance and Resources Legislation Amendment Act (No. 1) 2015) Rule 2015 [F2015L00577].

Radiocommunications Act 1992—


Radiocommunications (Spectrum Access Charges—2.3 GHz Band) Determination 2015 (No. 1) [F2015L00494].


Safety, Rehabilitation and Compensation Act 1988—


Social Security Act 1991—

Social Security (Australian Government Disaster Recovery Payment) Determination 2015 (No. 4) [F2015L00594].


Social Security (Class of Visas—Qualification for Special Benefit) Determination 2015 [F2015L00531].

Social Security (Declaration of Visa in a Class of Visas—Special Benefit Activity Test) Determination 2015 [F2015L00532].
Social Security (Personal Care Support—Victorian Transport Accident Commission—Scheme for Payment of Medical and Like Benefits to Persons Injured as a result of a Transport Accident and Scheme for Individualised Funding) Determination 2015 [F2015L00587].

Social Security (Specified Class of Persons in Australia in Specified Circumstances—Health Care Card) Amendment Declaration 2015 [F2015L00535].

Student Identifiers Act 2014—Student Identifiers (Exemptions) Amendment Instrument 2015 (No. 1) [F2015L00545].

Succession to the Crown Act 2015—Succession to the Crown Commencement Proclamation 2015 [F2015L00337].


Telecommunications Act 1997—
Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 2015) [F2015L00456].

Telecommunications (Relay Service Provision for the National Relay Service—Section of the Telecommunications Industry) Determination 2015 [F2015L00366].

Telecommunications (Carrier Licence Charges) Act 1997—Repeal of determinations made under paragraph 15(1) (b) [F2015L00418].


Veterans’ Entitlements Act 1986—

Statements of Principles concerning alkaptonuria—
No. 47 of 2007 - Revocation [F2015L00639].
No. 48 of 2007 - Revocation [F2015L00640].

Statements of Principles concerning congenital cataract—
No. 49 of 2007 - Revocation [F2015L00641].
No. 50 of 2007 - Revocation [F2015L00642].

Statements of Principles concerning hepatitis A—
No. 63 of 2015 [F2015L00645].
No. 64 of 2015 [F2015L00648].

Statements of Principles concerning hereditary spherocytosis—
No. 67 of 2015 [F2015L00649].
No. 68 of 2015 [F2015L00650].

Veterans’ Entitlements (DFISA-like Payment) Regulation 2015—Select Legislative Instrument 2015 No. 40 [F2015L00348].

Veterans’ Entitlements (DFISA-like Payment) Repeal Regulation 2015—Select Legislative Instrument 2015 No. 41 [F2015L00349].


Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]

Auditor-General—Audit reports for 2014-15—

No. 28—Performance audit—Management of interpreting services: Department of Immigration and Border Protection; Department of Social Services. [Received 15 April 2015]

No. 29—Performance audit—Funding and management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project: Department of the Environment. [Received 21 April 2015]

No. 30—Performance audit— Materiel Sustainment Agreements: Department of Defence; Defence Materiel Organisation. [Received 21 April 2015]

No. 31—Performance audit—Administration of the Australian Apprenticeships Incentives Program: Department of Education and Training. [Received 23 April 2015]

No. 32—Performance audit—Administration of the Fair Entitlements Guarantee: Department of Employment. [Received 23 April 2015]

No. 33—Performance audit— Organ and tissue donation: Community awareness, professional education and family support: Australian Organ and Tissue Donation and Transplantation Authority. [Received 29 April 2015]

No. 34—Performance audit—Administration of the Natural Disaster Relief and Recovery Arrangements by Emergency Management Australia: Attorney-General's Department. [Received 30 April 2015]

No. 35—Performance audit—Delivery of the Petrol Sniffing Strategy in remote Indigenous communities: Department of the Prime Minister and Cabinet. [Received 5 May 2015]

No. 36—Performance audit—Administration of the Assistance for Isolated Children scheme: Department of Human Services. [Received 6 May 2015]

Departmental and agency grants—Additional estimates—Letter of advice pursuant to the order of the Senate of 24 June 2008—Department of Agriculture. [Received 17 April 2015]

Environment—New South Wales—Shenhua Watermark coal mine—Letter to the President of the Senate from the Minister for the Environment (Mr Hunt), dated 5 May 2015, responding to the resolution of the Senate of 25 March 2015.

Estimates hearings—Unanswered questions on notice—Additional estimates 2014-15—Statements pursuant to the order of the Senate of 25 June 2014—

Australian Public Service Commission. [Received 29 April 2015]

Finance portfolio. [Received 5 May 2015]

Industry and Science portfolio. [Received 1 May 2015]

Foreign Investment Review Board—Report for 2013-14. [Received 5 May 2015]

Gene Technology Regulator—Quarterly report for the period 1 October to 31 December 2014. [Received 31 March 2015]

Health—Access to mental health services—Letter to the President of the Senate from the Minister for Health (Ms Ley), dated 21 April 2015, responding to the resolution of the Senate of 3 March 2015.
Immigration—Detention centres—Allegations of abuse—Letter to the President of the Senate from the Minister for Immigration and Border Protection (Mr Dutton), dated 2 April 2015, responding to the resolution of the Senate of 4 March 2015.

Indexed lists of departmental and agency files for the period 1 July to 31 December 2014—Statements of compliance, pursuant to the order of the Senate of 30 May 1996, as amended—Office of the Official Secretary to the Governor-General. [Received 15 April 2015]

Treasary portfolio. [Received 29 April 2015]


Norfolk Island Administration—Financial statements for 2013-14—Independent report of the Australian National Audit Office. [Received 20 April 2015]

Northern Land Council—Report for 2013-14. [Received 29 April 2015]

Outback Stores Pty Ltd—Report for 2013-14. [Received 29 April 2015]

Productivity Commission—Report No. 74—Natural disaster funding arrangements (2 volumes), dated 17 December 2014. [Received 1 May 2015]

Regional forest agreements between the Commonwealth and Victoria—Joint Australian and Victorian Government response to the independent review on progress with implementation of the Victorian Regional Forest Agreements—Final report May, 2010—Report of independent assessor, dated October 2014. [Received 16 April 2015]


Tiwi Land Council—Report for 2013-14. [Received 29 April 2015]

Transport—Cyclist safety—Letter to the President of the Senate from the Assistant Minister for Infrastructure and Regional Development (Mr Briggs), dated 16 April 2015, responding to the resolution of the Senate of 5 March 2015.

Order for the Production of Documents
The following document received on 22 April 2015 was tabled:

Industry—Automotive Transformation Scheme—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 20 April 2015, responding to the order of the Senate of 17 March 2015 and raising a public interest immunity claim.

Indexed List of Files
The following document was tabled by the Clerk pursuant to the order of the Senate of 25 June 2014:


COMMITTEES
Report
The following reports and document were presented and authorised for publication on the dates indicated pursuant to standing order 38(7)(a):

Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs—Select Committee—Report, dated March 2015, Hansard record of proceedings, additional information and submissions. [Received 27 March 2015]
Environment and Communications Legislation Committee—Australian Broadcasting Corporation Amendment (Local Content) Bill 2014—Report, dated March 2015; Hansard record of proceedings, additional information and submissions. [Received 27 March 2015]

Economics Legislation Committee—Reserve Bank Amendment (Australian Reconstruction and Development Board) Bill 2013—

Report, dated March 2015; Hansard record of proceedings, additional information and submissions. [Received 31 March 2015]

Additional information. [Received 13 April 2015]

Legal and Constitutional Affairs Legislation Committee—International Aid (Promoting Gender Equality) Bill 2015—Report, dated March 2015. [Received 2 April 2015]

Intelligence and Security—Parliamentary Joint Committee—Inquiry into the authorisation of access to telecommunications data to identify a journalist’s source—Report, dated March 2015. [Received 8 April 2015]

Legal and Constitutional Affairs References Committee—Ability of Australian law enforcement authorities to eliminate gun-related violence in the community—Report, dated April 2015; Hansard record of proceedings, additional information and submissions. [Received 9 April 2015]

Economics References Committee—Out of Reach? The Australian housing affordability challenge—

Interim report, dated 13 April 2015. [Received 13 April 2015]

Report, dated May 2015, Hansard record of proceedings, documents presented to the committee, additional information and submissions. [Received 8 May 2015]

Education and Employment Legislation Committee—Fair Work Amendment (Bargaining Processes) Bill 2014 [Provisions]—Report dated April 2015, Hansard record of proceedings, document presented to the committee, additional information and submissions. [Received 13 April 2015]

Electoral Matters—Joint Standing Committee—Conduct of the 2013 election and matters related thereto—Report, dated April 2015. [Received 15 April 2015]

Environment and Communications Legislation Committee—Additional estimates 2014-15—Interim report, dated 20 April 2015. [Received 20 April 2015]

Environment and Communications References Committee—Performance and management of electricity network companies—

Interim report, dated April 2015, Hansard record of proceedings, documents presented to the committee, additional information and submissions. [Received 20 April 2015]

Second interim report, dated 5 May 2015. [Received 5 May 2015]

Education and Employment Legislation Committee—Additional estimates 2014-15—Report, dated April 2015, Hansard record of proceedings, documents presented to the committee, and additional information. [Received 21 April 2015]

Legal and Constitutional Affairs Legislation Committee—Additional estimates 2014-15—Report, dated April 2015, Hansard record of proceedings, documents presented to the committee, and additional information. [Received 24 April 2015]

Finance and Public Administration Legislation Committee—Department of Parliamentary Services—Interim report, dated April 2015. [Received 28 April 2015]

Corporations and Financial Services—Joint Statutory Committee—Examination of the 2013-14 annual reports of bodies established under the ASIC Act—Report, dated April 2015, Hansard record of proceedings and additional information. [Received 30 April 2015]

Economics Legislation Committee—Customs Amendment (Anti-dumping Measures) Bill (No. 1) 2015 and Customs Tariff (Anti-Dumping) Amendment Bill 2015—
Interim report, dated 30 April 2015. [Received 1 May 2015]
Report, dated May 2015, Hansard record of proceedings, documents presented to the committee, additional information and submissions. [Received 8 May 2015]
Rural and Regional Affairs and Transport Legislation Committee—Food Standards Amendment (Fish Labelling) Bill 2015—Report dated May 2015. [Received 7 May 2015]

Government Response to Report

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated.]
Economics References Committee—Report—Future of Australia's naval shipbuilding industry: Tender process for the navy's new supply ships (part 1)—Government response, dated April 2015. [Received 7 May 2015]
Finance and Public Administration References Committee—Report—Commonwealth procurement procedures—Government response, dated April 2015. [Received 30 April 2015]
Rural and Regional Affairs and Transport References Committee—Reports
Auditor-General's reports on Tasmanian forestry grants programs—Government response, dated March 2015. [Received 22 April 2015]
Operational issues in export grain networks—Government response. [Received 8 May 2015]
The documents read as follows—

Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report:

Auditor-General's reports on Tasmanian Forestry Grants Programs
MARCH 2015

Introduction
Audit of Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program 2011-12 (IGACEP)
In 2012, the Australian National Audit Office (ANAO) conducted a performance audit of IGACEP.
The report of the audit was tabled in Parliament on 21 February 2013. The response of the Department of Agriculture agreeing to the three recommendations of the report was included in the tabled report. The report's recommendations were:

**Recommendation 1**
To improve the quality and transparency of grant assessment processes for future grants programs, the ANAO recommends that DAFF reinforce the:
- obligations to manage programs in accordance with approved program guidelines and the Commonwealth Grant Guidelines; and
- importance of retaining documentation to appropriately evidence the assessment of grant applications and decisions made.

**Recommendation 2**
To enhance the transparency of future grants programs, the ANAO recommends that the Department of Agriculture advise applicants of any significant changes to the:
- method used to determine grant funding offers; and
- assessment process outlined in the program guidelines.

**Recommendation 3**
To enable the Department of Agriculture, Fisheries and Forestry to monitor compliance with the terms and conditions of funding, the ANAO recommends that the department reinforce the importance of:
- preparing compliance strategies and determining the basis for funding ongoing compliance activities early in the design phase of grants programs; and
- incorporating compliance obligations into program guidelines and funding agreements.

Following the release of the report, Senator Milne notified the Senate on 14 March 2013 that she would move to refer the Auditor-General's reports on IGACEP and on an earlier Tasmanian forestry grants program to a Senate Committee.

**Terms of Reference for the Committee**
On 19 March 2013, the Senate agreed to the following motion:
"That the findings of the Auditor-General's audit report No. 26 of 2007-08, *Tasmanian forest industry development and assistance programs*, and the Auditor-General's audit report No. 22 of 2012-13, *Administration of the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program*, be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 6 May 2013."

The Senate subsequently agreed to motions to extend the time for reporting until 11 June 2013 and then to 19 June 2013.

Following a request for submissions by 9 April 2013, the Senate Committee held hearings on 7 May and 15 May 2013.

On 19 June 2013, the Senate Committee tabled a final report, which made three recommendations with a further six recommendations made in additional comments by the Australian Greens.

**Government Response to Recommendations of the Committee**
The government has considered the recommendations of the Senate Committee report and this response addresses each recommendation individually.
Recommendation 1

3.41 The committee recommends that DAFF thoroughly investigate all alleged cases of fraud and all alleged cases of non-compliance resulting from the two programs. The committee further recommends that DAFF resolve these matters as soon as possible.

_The Australian Government agrees with this recommendation._

The Department of Agriculture (the department) assesses, and investigates where appropriate, all the allegations of fraud and non-compliance that it receives. The department has a documented process against the Australian Government Investigations Standards. All allegations, whether true or false, are documented from the time they are received.

The department will retain overall responsibility for compliance activities relating to the Tasmanian Forestry Contractor Exit Assistance Program (TFCEAP) and the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program (IGACEP).

The department has implemented a structured monitoring and compliance program for the TFCEAP and IGACEP. The monitoring and compliance program aims to ensure that the terms and conditions of both exit programs are met. The monitoring and compliance program will run for the life of the funding deeds of the two exit programs. Funding deeds for the TFCEAP expire in 2016 and funding deeds for the IGACEP expire in 2022.

There are two elements to the TFCEAP and IGACEP monitoring and compliance program. Annual declarations are requested from grantees confirming that they have exited and have remained out of the industry. In addition, on-ground compliance visits to grantee business premises are undertaken to monitor grantees' compliance.

It is important to note the difference between fraud and non-compliance in relation to Commonwealth grants programs. Fraud occurs when people misrepresent themselves to get benefits inappropriately from the Commonwealth government. Non-compliance is when a person or business receives a grant but then does not comply with the conditions of that grant.

The department has received fraud allegations in relation to the TFCEAP and the IGACEP. No allegations of fraud have been reported in relation to the Tasmanian Community Forest Agreement Industry Development Program (TCFA IDP).

The department has thoroughly assessed and investigated each allegation of fraud in relation to the TFCEAP and the IGACEP. The department is currently considering an appropriate course of action in relation to one fraud allegation. If an assessment of an allegation identifies that a receiver of a grant may not be complying with the terms of the funding deed, the matter is referred for consideration and appropriate action under the TFCEAP and IGACEP monitoring and compliance program.

The TFCEAP and IGACEP monitoring and compliance program will be re-examined and renewed after July 2014 to take into account the results of the program.

Recommendation 2

3.48 The committee recommends that the Department of Finance and Deregulation implement the Auditor-General's proposal to develop guidelines on the impact of government programs. The guidelines should ensure that the Parliament is able to assess whether programs are achieving the objectives set by government.

_The Australian Government agrees this recommendation._

The Department of Finance will shortly be releasing a range of guidance material to assist Commonwealth entities and companies improve the quality of their performance information and reporting.

This guidance will support the introduction of the Enhanced Commonwealth Performance Framework, which is being implemented under the _Public Governance, Performance and Accountability Act 2013_.
(PGPA Act). A draft copy of the proposed guidance material was included in a submission on the Enhanced Commonwealth Performance Framework made by the Department of Finance to the Joint Committee of Public Accounts and Audit (JCPAA) on 21 November 2014.

The performance framework seeks to improve the quality of planning, performance information and evaluation within government. Ministers, Parliament and the public will be able to better assess whether activities and initiatives undertaken by Commonwealth entities are contributing to the achievement of programme goals and other objectives set by government.

The performance framework will be introduced in stages through 2015 and 2016, and will include corporate plans and annual performance statements, the requirements for which will be outlined in the rule made for the PGPA Act, for each Commonwealth entity. The new elements will be supported by the release of a set of integrated guidance materials which will include new technical guidance for the development of performance measures and tools.

These documents will be public, and are intended to improve the standard of planning and reporting for Commonwealth entities, especially in relation to the management of their affairs and the achievement of their purpose and objectives.

The new guidance for Commonwealth entities will be issued in the first part of 2015. This work is being done in consultation with the JCPAA, the Australian National Audit Office and all Commonwealth entities.

Tabling the Australian Government Response to the Senate Report on the Tasmanian Forestry Exit Grants—Ref MS15-000156

Response to questions from Senator Colbeck

(1) The TFCEAP and IGACEP monitoring compliance and program will be re-examined and renewed after July 2014 to take into account the results of the program.

Q: Has this occurred? What were the results?

The review

- In February 2015, the department initiated a desk-top review of the monitoring and compliance actions to date that have occurred under the monitoring and compliance program.

- Once this desk-top review has been completed, a broader assessment of the current monitoring and compliance program will follow. This may result in alterations to the existing monitoring and compliance program, including the possibility of bolstering the requirement for further on-ground compliance checks of individuals and/or businesses likely to be considered at risk of non-compliance.

- This work is expected to be completed by July 2015.

The results

- To date, the desk top review has resulted in two funding deed non compliance notices being issued to individuals across both the TFCEAP and the IGACEP and is also likely to result in more non compliance notices being sent to grantees in coming weeks.

- Over March and April 2015, the department will also be sending letters to all grantees (from both programs) requesting the completion of a statutory declaration stating that they are in compliance with the terms of their funding deed.

- As detailed in the response, the department is still in the process of considering an appropriate course of action relating to one serious fraud allegation. External lawyers with specific expertise in this area are being consulted on the matter.
The new guidance for Commonwealth entities will be issued in the first part of 2015. This work is being done in consultation with the JCPAA, the ANAO and all Commonwealth entities.

Q: How far off are these guidelines?

- The Department of Finance has advised that the timing of the release of the guidance is dependent on the approval of the Joint Committee of Public Accounts and Audit (JCPAA). Ideally this will occur before 1 July 2015 when the enhanced performance framework is expected to commence.

Recommendation 3

3.76 The committee recommends that the ANAO continue to include DAFF’s administration of its grants programs in its future work programs.

The Australian Government notes this recommendation.

The ANAO adopts an ongoing and integrated approach to planning its audit coverage. In this context, the ANAO endeavours to maintain a balance between planning and delivering audits that address the key risks and challenges facing the Australian Government public sector while also producing contemporary reports that cover matters of significant public interest. The ANAO gives consideration to the changing Australian Government public sector environment and seeks to be responsive to stakeholder requests where priorities and resources permit.

The ANAO undertakes approximately 50 performance audits on an annual basis. The program of audits seeks to achieve coverage across a wide range of entities and portfolios, either as agency-specific audits or as part of broader cross-agency audits. As core elements of government activity, procurement and grants management have featured strongly in the ANAO’s work programme over recent years. While ANAO audits have highlighted examples of effective procurement and grants management approaches, they have also identified opportunities for entities to undertake these activities more efficiently and effectively and to achieve more consistent compliance with relevant guidelines and government policies.

Accordingly, the program continues to focus on procurement and grants management, either as individual topics, or as part of audits examining broader program management. The ANAO’s 2014 Audit Work Program includes coverage of grant administration by the Department of Agriculture.

Government Response to Additional Recommendations of the Australian Greens

1. The Department of Agriculture, Fisheries and Forestry appoint an independent auditor to its internal audit committee.

No further Australian Government action is required.

The Department of Agriculture has two independent members on the department’s audit committee. Also, an audit service provider provides a representative to attend the meetings of the audit committee. This meets with better practice recommended by the ANAO in its Better Practice Guide Public Sector Audit Committees—Independent assurance and advice for Chief Executives and Boards. The department’s audit structure is compliant with Government requirements.

2. The department be restructured to remove forestry from the Department of Agriculture, Fisheries and Forestry and its current responsibilities be re-allocated to the departments of Environment, Climate Change and Industry.

The Australian Government does not agree with this recommendation.

The structure and portfolio responsibilities of government departments are matters for the executive government of the day.
3. No government program be permitted to proceed unless compliance and risk management plans are finished before applications open, regardless of any political time limits that may be imposed and any prior approval from the Minister.

*The Australian Government does not support this recommendation.*

The Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Programme was undertaken under the original Commonwealth Grant Guidelines (CGGs). The CGGs establish the overarching grants policy framework under which government agencies undertook their grants administration activities.

The CGGs were updated on 1 June 2013 to address concerns raised by the Australian National Audit Office and the Joint Committee of Public Accounts and Audit, stakeholder feedback and policy and legislative changes which have occurred since their introduction in 2009. The CGGs were updated a second time on 1 July 2014 to reflect the implementation of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and became the *Commonwealth Grants Rules and Guidelines 2014* (CGRGs). As a result of the recent updates, the CGRGs contain a greater emphasis on appropriate risk management and proportionality, particularly when planning and designing granting activities. For example, the updated CGRGs state that: “Officials should ensure that the party best placed to manage a specific risk is identified, the risks are assigned to that party, and that they manage those risks. Identifying the party best able to manage a risk and assigning that risk is an active process that should occur through all phases of grants administration” (*Commonwealth Grants Rules and Guidelines*, July 2014, p. 23).

Three broad categories of risk are now identified in the CGRGs: grant programme risk; grantee/recipient risk; and project/task/services risk. The CGRGs propose that officials ensure that risk identification and engagement is supported by performance information, procedures and systems that continuously identify and treat emerging risks throughout the grants administration processes. This renewed focus on risk is supported by the Commonwealth Risk Management Policy which has been developed as part of the implementation of the PGPA Act.

The updated CGRGs also mandate that officials must develop grant guidelines for all new granting activities, including grant programmes. The CGRGs provide guidance on what should be included in grant guidelines, for example, officials should ensure that grant guidelines clearly inform potential grant recipients of terms and conditions that the recipient will need to meet during the life of the grant, such as financial and performance reporting. Commonwealth entities may not publish their grant programme guidelines or seek applications before the Departments of Finance and Prime Minister and Cabinet agree the risk rating for a grant programme and the respective approval process being undertaken.

Further, the CGRGs continue to emphasise the need for clear accountability, transparency and probity. For example, the CGRGs state that officials should develop policies, procedures and documentation necessary for the effective and efficient governance and accountability of granting activities. The CGRGs further note that accountable authorities should establish internal control mechanisms for grants and guard against fraudulent use of grant payments.

Guidelines and operational guidance should clearly set out who are the decision makers for different activities involving grants administration.

Given the recent review and changes to the CGRGs, new guidance issued by the Department of Finance (see Resource Management Guides RMG 411 and RMG 412) and the commencement of the PGPA Act, the addition of a further prescriptive and ad hoc requirement in relation to grants administration, is not justified at this stage.

4. The Tasmanian Parliament Select Committee established to investigate the contractor payments also probe the process within Forestry Tasmania for deciding which contractors were
to be supported and which contractors were to be allocated extra volume and the extent to which that opportunity to access extra volume was known to the contracting community.

No further Australian Government action is required.

5. The new federally-funded $20 million contractor exit program to be administered by the Tasmanian Government to consider these contractors in the new round of applications.

No further Australian Government action is required.

6. Exit means exit. The new federally-funded $20 million contractor exit program to be administered by the Tasmanian Government will be transparent and include clear compliance criteria before being issued and will ensure:

(a) contractors leave the industry and grants received not be used for investment in the industry in any circumstances

(b) compliance criteria includes surprise visits to contractors

(c) a focus on retiring contracts permanently rather than shifting volume to other contractors

(d) contractors are prevented from working in the industry anywhere in Australia

(e) the amount of any grants previously received for purchase of equipment be deducted from the exit grant.

The Australian Government notes this recommendation.

The Senate Inquiry Report has been passed to the Tasmanian Government for it to consider and address as appropriate the findings in both the development and implementation of the workers and contractors program.

Australian Government response to the Senate Finance and Public Administration References Committee Report:

Commonwealth procurement procedures
April 2015

The Government is committed to building a stronger, more prosperous and resilient economy where Australian businesses can be competitive on a domestic and international level. With this in mind, the Government is focussed on reducing the cost of doing business with the Commonwealth.

Procurement is a mechanism that allows Commonwealth entities to deliver the Government's policies, programmes and services. Commonwealth entities are responsible for achieving value for money in their procurement activities through consideration of both the financial and non-financial costs and benefits of each submission. This requires Australian businesses to be successful on the basis of genuine competitiveness.

The Government is focused on reducing red tape, improving the operating environment, and enhancing government engagement with business, especially small business, to build capability. It is by establishing the policy settings that remove the impediments to efficient business operation that the Government can most effectively encourage businesses to build competitive advantage and help position them to be successful in accessing government contracts.

The Commonwealth Procurement Rules (CPRs) are not intended to target specific categories of goods or services, nor specific industries. A core principle for the Government is to ensure that it provides full, fair and reasonable opportunities to businesses to bid for Commonwealth contracts. The CPRs specifically require Government entities to apply procurement practices that do not unfairly
discriminate against small and medium size enterprises (SMEs) and provide appropriate opportunities for them to compete. The CPRs also outline the Government's commitment to source at least 10 per cent of procurement by value from SMEs. This benchmark has consistently been met—in 2013-14, 34.4 per cent of contracts valued at or above $10,000 were awarded to SMEs to the value of $16.8 billion (55.2 per cent of the 66,047 contracts by volume). Further, small businesses were awarded 11.6 per cent of contracts by value ($5.7 billion) and 30.1 per cent of contracts by volume (19,887 contracts).

The Government strongly supports the committee's recommendation that the Department of Finance (Finance) work with Commonwealth entities to raise the general awareness of good procurement processes and improve the capability of officers that provide procurement advice to line areas. The Government supports auditing practices and regularly reviewing initiatives implemented as well as learning from best practice of other jurisdictions. In addition, the Government is committed to stakeholder engagement and regularly engages with external stakeholders via various forums such as the Australian Government Procurement Coordinator's blog available at www.finance.gov.au/category/procurement-coordinator/.

The Government also supports in-principle the committee's recommendation that Finance work with the lead agencies for procurement-connected policies and the Department of the Prime Minister and Cabinet to develop a whole of government annual reporting framework for monitoring of and compliance with these policies. The Government is currently reviewing all procurement-connected policies to test their currency and suitability to remain linked to the procurement framework. PCPs are government policies which Commonwealth entities must take into account when undertaking certain procurement activities. They are specific policies for which procurement has been identified as a means of delivering broad social commitments and other objectives indirectly related to procurement. Further, a robust framework will be established for the approval of any new procurement-connected policies with a focus on minimising the impost to business and the not-for-profit sector and ensuring effective monitoring of and compliance with these policies.

The Government cannot support the committee's recommendations to implement initiatives that preference local suppliers when procuring goods and services valued above the procurement thresholds ($80,000 for general goods and services and $7.5 million for construction services). Any recommendation to treat suppliers inequitably through schemes that preference local suppliers, beyond those that are specifically included in the 17 exemptions listed at Appendix A of the CPRs, would be inconsistent with Australia's international obligations.

Senate Finance and Public Administration References Committee Report on Commonwealth procurement procedures

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<th>No.</th>
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<tbody>
<tr>
<td>1.</td>
<td>2.34—The committee recommends that the Department of Finance (Australian Government Procurement Coordinator) consult with Australian industry, and in particular Australian manufacturers, to develop an alternate test which can provide more meaningful information on the quantity of Australian content in goods and services procured by the Commonwealth government,</td>
<td>Not supported. From a practical perspective, any alternate test for capturing data on the quantity of Australian goods and services procured would be impractical to implement and impose significant compliance costs. In particular, a consensus definition of what is 'Australian' is difficult to achieve. For example, 'Australian' businesses may be resellers of goods manufactured entirely or partially overseas; equally, non-Australian businesses may deliver services that are developed and delivered within Australia, by Australians. In addition, the creation and maintenance of a supplier register, along with the associated authorisation and data quality controls, would impose significant red tape on suppliers for limited benefit.</td>
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<td>2.</td>
<td>3.19—The committee recommends that the Department of Finance provide a detailed explanation of the barriers to developing a preferencing scheme, which takes into account Australia's free trade obligations.</td>
<td>Not supported. The Department of Finance (Finance) has previously advised that international agreements limit the extent to which the Government can preference local suppliers. Finance has also advised that the CPRs incorporate relevant provisions from the Australia and New Zealand Government Procurement Agreement, Australia Chile Free Trade Agreement, Australia United States Free Trade Agreement, and Singapore Australia Free Trade Agreement. The texts of these agreements are publicly available and detail the commitments entered into by Australia. Free trade agreements (FTAs) give Australian producers and manufacturers access to a market of billions of consumers rather than just Australia's 23 million. To achieve the full potential of our trade, we must overcome any barriers that face our exporters, whether tariffs or other impediments, which are attached to our goods and services. Reduced tariffs give Australian companies greater opportunities for expansion into previously protected markets.</td>
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<td>3.</td>
<td>3.56—The committee recommends that the government review the application of the non-discrimination principle to ensure that it does not inadvertently discriminate against Australian manufacturers.</td>
<td>Not supported. Paragraph 5.3 of the CPRs states that all potential suppliers to government must be treated equitably. If a supplier has concerns regarding the application of this requirement during a tender process, they should advise the procuring entity of their concerns. It is important that objective, rules-based criteria are used in all government procurement processes, which are required to achieve value for money through non-discriminatory, competitive, open, transparent, efficient and publicly-accountable processes. However, as a general rule procurements under the procurement thresholds ($80,000 for general goods and services and $7.5 million for construction) can be contracted via direct approaches to suppliers without the need to openly approach the market as long as value for money is achieved.</td>
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<td>4.</td>
<td>3.61—The committee recommends that the government continue to fund the Australian Industry Participation policies and programs and reinstitute funding for the Enterprise Solutions Program.</td>
<td>Not supported. The Government is simplifying and streamlining industry support to improve productivity and competitiveness. The new Entrepreneurs' Infrastructure Programme aims to improve the capabilities of small and medium enterprises (SMEs) to become more productive, competitive and growth focused. In addition, the Government has commissioned an independent review into costs, benefits, and effectiveness of Australian Industry Participation policies and programmes. Further, the Australian Small Business Advisory Services (ASBAS) programme funds not-for-profit registered business organisations to improve their capacity to deliver low-cost advice and information services to new and established small</td>
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<td>5.</td>
<td>3.64—the committee recommends that the Commonwealth Procurement Rules be redrafted to provide an explicit exemption for practices to benefit or preference small and medium businesses.</td>
<td>Not supported. The Government is committed to making it easier for businesses to access the Commonwealth procurement market. A key principle of the Commonwealth procurement framework is to provide full, fair and reasonable opportunities to businesses to bid for Commonwealth work. The CPRs require officials to apply procurement practices that do not unfairly discriminate against SMEs, as well as a commitment for non-corporate Commonwealth entities to source at least 10% of procurement by value from SMEs. This target has consistently been met—SME participation in 2013-14 was 34.4% by total contract value and 55.2% by total number of contracts. The Government's productivity agenda encompasses a specific small business policy agenda, focused on reducing red tape burdens, improving the operating environment, and enhancing government engagement with small business to build capability. It is by establishing the policy settings that remove the impediments to efficient business operation that the Government can most effectively assist small businesses build competitive advantage and help position them to bid for government work.</td>
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<td>6.</td>
<td>3.67—the committee recommends the Department of Finance provide education and training to agencies and their staff regarding the inclusion of Australian standards, or the equivalent, in tender documentation.</td>
<td>Supported. Finance has included a specific requirement in the Commonwealth Contracting Suite to include relevant standards in any approach to market. Finance will also include information on the use of standards in procurement in any future training programmes developed by the Department.</td>
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<td>7.</td>
<td>4.36—the committee recommends that the government develop a methodology to quantify the factors used to assess whole-of-life costs.</td>
<td>Not supported. Achieving value for money is the core rule in the CPRs requiring Commonwealth entities to consider the relevant financial and non-financial costs and benefits of each submission and document how value for money was considered and achieved. Due to the large range of goods and services procured by Commonwealth entities, a one-size fits all cost benefit analysis methodology would not be feasible to implement. Further, the CPRs require Commonwealth entities to include in request documentation a complete description of the evaluation criteria to be considered in assessing submissions. The CPRs (paragraph 4.6) detail the types of whole-of-life costs to be considered as part of the value for money assessment when undertaking a procurement. Whole of life costs include:</td>
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<td>a.</td>
<td>the initial purchase price of goods and services;</td>
<td>a. supported. Finance is constantly seeking input from non-corporate Commonwealth entities as they implement the Commonwealth Contracting Suite.</td>
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<td>b.</td>
<td>maintenance costs;</td>
<td>b. Finance is also working with the Australian Small Business Commissioner to take into account issues raised by small business relating to tender processes and with other industry bodies to reduce complexity and red tape.</td>
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<td>c.</td>
<td>transition out costs;</td>
<td>c. The Government has committed to transform and enhance the existing Australian Small Business Commissioner role into a Small Business and Family Enterprise Ombudsman (Ombudsman) with real power. A key role of the Ombudsman is to be a Commonwealth-wide advocate for small business.</td>
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<td>d.</td>
<td>licencing costs (when applicable);</td>
<td>d. The Ombudsman will be well positioned to advise the Government on procurement practices that reduce complexity and assist businesses to find opportunities and competitively bid for work.</td>
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<td>e.</td>
<td>the cost of additional features procured after the initial procurement;</td>
<td>e. The Government is committed to making it easier for business to access the Commonwealh procurement market and engage with the Government. The introduction of the Commonwealth Contracting Suite is one example of how contract documentation and insurance requirements have been significantly simplified. The use of colour-coding in contract documentation makes it easier for businesses to understand their rights and obligations, saving businesses time and money.</td>
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<td>f.</td>
<td>consumable costs; and</td>
<td>f. Supported. Finance constantly reviews better practice examples from other jurisdictions and from international organisations such as the OECD and the IMF to assess their applicability to the Australian environment, particularly in relation to</td>
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<td>g.</td>
<td>disposal costs.</td>
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<td>11</td>
<td>5.52—The committee recommends that, following consultation with stakeholders, the Department of Finance establish an independent and effective complaints mechanism for procurement processes.</td>
<td>Not supported. There is an existing framework for suppliers to raise complaints regarding procurement processes. The CPRs require Commonwealth entities to apply equitable and non-discriminatory complaints-handling procedures. Entities should aim to manage the complaint process internally, when possible, through communication and conciliation. Suppliers should, in the first instance, take their concerns to the procurement officer undertaking the tender process. If a supplier's concerns are not resolved, the supplier can put their concerns in writing to the entity's Chief Executive Officer for a formal review. If the complaint is still not resolved, the supplier can refer the complaint to the Australian Government Procurement Coordinator who can act as an intermediary between the supplier and the entity. Information on how to lodge a complaint is provided on the Finance website (refer <a href="http://www.finance.gov.au/procurement/procurement-coordinator/complaints-handling-charter.html">http://www.finance.gov.au/procurement/procurement-coordinator/complaints-handling-charter.html</a>). If a supplier is not satisfied with the outcome, they can approach the Commonwealth Ombudsman, who has extensive powers to investigate procurement related complaints. Additionally, the Australian Small Business Commissioner offers information and advice to small businesses, including referral to dispute resolution services. Once established, the Small Business and Family Enterprise Ombudsman will be a concierge to help smaller businesses with issues, complaints and disputes, find the best organisation to deal with their complaint, and will offer its own alternative dispute resolution service in limited circumstances.</td>
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<td>12</td>
<td>5.54—The committee recommends that the government provide an explanation as to whether there are any reasons why the operation of the <em>Competition and Consumer Act 2010</em> should not apply to Commonwealth procurement.</td>
<td>Supported. A schedule to the <em>Competition and Consumer Act 2010</em> (CCA), the Australian Consumer Law (ACL), prohibits certain conduct, such as engaging in conduct that is misleading and deceptive, which may be relevant in the procurement context. However, the courts have held that the Commonwealth is not ordinarily 'carrying on business' when procuring goods and services (<em>JS McMillan Pty Ltd v Commonwealth</em> (1997) 77 FCR 337). Accordingly, the CCA would not generally apply to the Commonwealth in its procurement activities (see section 2A of the CCA). Although not bound by the Act, Commonwealth officials are still prevented from engaging in misleading and deceptive conduct when undertaking procurement. The CPRs require officials to act ethically and for procuring entities to apply equitable and non-discriminatory complaint-handling procedures if a complaint is received about the conduct of a</td>
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The Competition Policy Review Final Report was released on 31 March 2015 and discussed similar issues. The Government will consider this recommendation alongside recommendations and views contained in the Competition Review Final Report, after which time the Government will assess its response.

The Auditor General has responded directly to the committee indicating his support of this recommendation.

Supported in-principle. As part of the Government's Spring red tape repeal day initiatives announced on 22 October 2014, all procurement-connected policies are actively being reviewed to test their currency and suitability to remain linked to the procurement framework. Further, a robust framework will be established for the approval of any new procurement-connected policies with a focus on minimising the impost to business and the not-for-profit sector and ensuring effective monitoring of and compliance with these policies.

The Auditor General has responded directly to the committee indicating his support of this recommendation.

Additional recommendations from Senators Xenophon and Madigan

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<tr>
<th>No.</th>
<th>Recommendation</th>
<th>Government Response</th>
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<tr>
<td>1</td>
<td>That the Government urgently redraw the CPRs specifying a range of 'whole-of-life' factors that must be addressed in a procurement.</td>
<td>Not supported. Refer response to recommendation 7 above. The CPRs are not intended to target specific categories of goods or services, nor specific industries. The CPRs require procuring officials to treat suppliers equitably and not</td>
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<td>No.</td>
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<td>Government Response</td>
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<td>1.</td>
<td>That the Government, including the social and economic benefits of locally sourced procurement.</td>
<td>discriminate in relation to the degree of foreign affiliation or ownership, location, or the origin of the goods and services being procured. Achieving value for money is the core principle of the CPRs, however price is not the sole determining factor in assessing value for money. A comparative analysis of the relevant financial and non-financial costs and benefits inform a value for money assessment. These factors include quality of goods and services, fitness for purpose, innovation and adaptability over the life of lifecycle of the procurement, environmental impact and whole of life costs. From a practical perspective, any proposal to include social and economic benefits of locally sourced procurement would require procuring officials to consider many uncertain variables in each procurement evaluation which would demand very specific expertise and impose significant compliance costs.</td>
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<td>2.</td>
<td>That the Government, as an appendix to the CPRs, specify a methodology as to how a procurer must quantify or 'score' these 'whole-of-life' factors in procurement decisions and how they are to be assessed in comparison to quality and cost measures as part of the overall procurement decision.</td>
<td>Not supported. Refer response to recommendation 7 above.</td>
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<td>3.</td>
<td>That the Government consider the adoption or integration into the methodology from recommendation 2 a 'holistic, whole of life, cost benefit analysis'. This form of analysis is used commonly in the mining, resources, energy and infrastructure sectors.</td>
<td>Not supported. Refer response to recommendation 7 above.</td>
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<td>4.</td>
<td>That the Department of Finance introduce a simple check with suppliers to track the true number and percentage of Australian suppliers to government.</td>
<td>Not supported. Self declaration by suppliers is a less robust and accurate mechanism than current processes (using ABN, if available, of each supplier and their business address) to estimate Australian content in Government procurement contracts. Further, a consensus definition of what is 'Australian' is difficult to achieve. For example, 'Australian' businesses may be resellers of goods manufactured entirely or partially overseas; equally, non-Australian businesses may deliver services that are developed and delivered within Australia, by Australians. In addition, the creation and maintenance of a supplier register, along with the associated authorisation and data quality controls, would impose significant red tape on</td>
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suppliers. In 2012-13, Australian Government entities reported 67,854 procurement contracts valued at $39.3 billion on AusTender. Analysis of AusTender data indicates that Australian suppliers are competitive on their own merits in winning contracts and are well represented in Commonwealth procurement:

- 92.0% of services are likely to have been sourced from Australian suppliers;
- 70.1% of goods are likely to have been sourced from Australian suppliers; and
- Of the 11,460 suppliers contracted, 10,212 (89.1%) were SMEs.

5. That the Government make it a rule that overseas suppliers must comply with Australian product standards without exception.

Not supported. Under the CPRs, which incorporate Australia's international free trade obligations, request documentation must include a complete description of the procurement, including the nature, scope and (where known), the quantity of the goods and services to be procured, and any requirements to be fulfilled, including any technical specification, conformity certification, plans, drawings or instructional materials. When prescribing specifications for goods and services a relevant entity must base technical specifications on international standards, when they exist and apply to the relevant procurement, except when the use of international standards would fail to meet the relevant entity's requirements or would impose greater burdens than the use of recognised Australian standards.

When specifications are included in the tender documentation, all suppliers regardless of their origin, must comply with these specifications.

Under Australia's current system, standards are voluntary until mandated by law. While voluntary standards are a type of quality assurance and self-regulation that suppliers may use to ensure product safety, mandatory standards are made for products that are likely to be especially hazardous. It would be difficult to make Australian product standards mandatory for all suppliers and this would greatly increase costs for businesses and the Government. Furthermore, regulation in certain sectors, including the extent to which they mandate Australian Standards, is a matter for state and territory authorities.

6. That potential overseas suppliers are required to bear a reverse onus of proof, making them responsible to prove to Australian procurement officials that the claims made about their product are correct.

Not supported. Under the CPRs, procuring Commonwealth entities must include in request documentations any technical specifications which are required for the procurement. When specifications are included in tender documentation, all suppliers regardless of their origin, must comply with these specifications. The onus of proof of the required specifications applies to all potential suppliers.
7. That the Government apply a comprehensive and transparent system of efficacy testing and quality assurance to verify the claims made by overseas suppliers about their products' quality, environmental sustainability and fitness for purpose.

Government Response

regardless if they are Australian or overseas suppliers. Not supported. Australia’s system works on the basis of post-market surveillance and not all products (either imported or domestically produced) are tested before they enter the Australian marketplace. The Australian Consumer Law (ACL—a schedule to the Competition and Consumer Act 2010) provides a system of guarantees for consumers who acquire goods and services from Australian suppliers, importers or manufacturers. This includes a guarantee that goods will be of acceptable quality, fit for a particular purpose and match their description. In addition, it is illegal under the ACL for a supplier to make a false or misleading claim, including stating that their products meet a standard if they do not.

8. That the Government appoint an Australian Industry Participation Advocate, and an office to support him or her, to work with Australian businesses to better position them for bidding for procurement work and with governments to constantly revise procurement rules so as to maximise Australian involvement.

Government Response

Not supported. Establishment of a new position is unnecessary. The new Entrepreneurs’ Infrastructure Programme aims to improve the capabilities of SMEs to become more productive, competitive and growth focused. Also refer to the response to the Committee’s main Recommendations 4 and 15 above.

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Australian Government response to the Senate Economic References Committee report:

Part I—Inquiry into the Future of Australia’s Naval Shipbuilding Industry Tender Process for the Navy’s New Supply Ships

April 2015

Recommendation 1

The committee recommends that the tender process for the two replacement replenishment ships:

- be opened up to allow all companies, including Australian companies, to compete in the process; and
- make clear that a high value will be placed on Australian content in the project.

Government Response—Disagree

Part 1—"be opened up to allow all companies, including Australian companies, to compete in the process"

The key determinants in reaching the decision to go off-shore were the schedule and cost impact of an Australian build and the imperative to replace HMAS Success in the 2021-22 timeframe.

The replacement of both HMA Ships Success (in particular) and Sirius is Navy’s highest priority because they are essential enablers of operational capability.

It is important to note that Defence has commenced a program to improve Success’s materiel state, allocating around $365 million to sustain the ship to financial year 2021-22 (forecast Initial Operational Capability of the first replacement ship). This work is being undertaken by companies in Australia.
Activities to sustain Success even further past its planned withdrawal from service, to accommodate an open tender process, are yet to be assessed. However, due to the obsolescence of equipment fitted to HMAS Success, these activities are likely to come at a considerable cost above what has already been committed.

The Government's decision regarding a limited tender for the replacement replenishment ships was announced simultaneously with its decisions to bring forward work to keep open the option of building the Future Frigates in Australia; an open competition with Australian industry to construct the replacement Pacific Patrol Boats; and the development of an enterprise-level Naval Shipbuilding Plan as part of the White Paper 2015 process.

Defence is continuing to pursue all three of these activities to allow the Government to consider competitive Australian business to participate in future naval shipbuilding, sustainment and upgrade projects.

Schedule Impact

Defence has advised that the extended schedule associated with the construction of a supply ship in Australia is highly unlikely to meet the required in-service date for Success's replacement leading to the risk of a gap in the Royal Australian Navy's capability to deploy combat power.

It is also assessed that, given the lead time to commence construction of an Australian build, a decision to conduct an open tender would have no impact on impending job losses in Australian shipyards.

Experience with AWD and the ANZAC Ship Projects and more recently the Canadian Joint Support Ship (JSS) Project (two supply ships for the Canadian Navy) suggests five to six years is required from the initial approval to industry for a design through to the contract award and "cut steel". For example:

- The initial Risk Reduction studies for AWD were commenced in early 2004, yet construction did not start until Jan 2010.
- Designs for the ANZAC Ship Project were tendered in 1986, with Defence selecting Blohm+Voss (Germany) as the designer. Work (cut steel) started approximately six years later in March 1992 (Note: production started well before the detailed design was completed in September 1993, resulting in significant rework). Although delivered in March 1996, HMAS ANZAC was not accepted into naval service until mid-2000.
- In November 2010, Canada announced a decision to commence design studies through release of a Request for Proposal to Navantia and TKMS for the JSS Project. The JSS specification is closely aligned with that produced for SEA1654-3. The JSS build contract is currently scheduled for December 2016.

These extended schedules for construction of a supply ships are associated with the requirement to adapt the design and where appropriate the shipyard facilities to achieve productivity gains associated with larger block construction.

Based on this, Australian industry would be unable to deliver the capability sought by SEA1654-3 prior to 2022-23; whereas unsolicited proposals from Navantia and DSME for an offshore design and build suggest 2019-20 delivery is achievable.

Cost Impact

In 2007 Defence commissioned a report by Appledore International from the UK to undertake an assessment of Australia's capacity to build the forward section of the LHD. In 2013 Defence commissioned a further report (by leading internationally recognised consultancy within Royal Haskoning DHV, First Marine International (FMI)) to undertake an assessment of the Australian shipyards' capacity to support construction of the supply ships.
The conclusions of both the Appledore and FMI reports was that "Australian Shipyards currently do not have the capacity to build these ships at similar productivity levels to those achieved during the construction of the Spanish Supply Ship Cantabria without making a significant investment in infrastructure, which is unlikely to be amortized over a two ship build".

Defence SA has previously advised that upgrade options (to support construction of the supply ships) for the shiplift include a $20m upgrade for lift capacity increase, a $50m upgrade for lift and length capacity increase and up to a $175m upgrade for the shiplift to be useful for sustainment of any naval ship. It is acknowledged that there would be some return on investment in facilities for future sustainment of the ships; however experience on the ANZAC Ship Project suggests that productivity saving associated with learning curve effects including facilities upgrades will not be realised with a two-ship build.

Preliminary analysis of unsolicited proposals from Navantia/BAE, Navantia and DSME indicate an approximately 40 percent cost premium, compared with a full off-shore build, if 40 percent of the build was undertaken in Australia. Noting that the specific details of the unsolicited proposals remain commercial-in-confidence, Defence has not quantified the additional cost premium associated with fully building the supply ships in Australia.

**Part 2—"make clear that a high value will be placed on Australian content in the project."**

Defence has sought to influence the designer's commitment to Australian content through the "commonality" requirements set out in the Risk Reduction Design Study statement of work:

The ship design shall investigate commonality with equipment currently in service, or planned to be in service in the Royal Australian Navy.

- This may include areas of commonality leading to lower life-cycle costs, such as with training requirements, through life support (including sustainment) and other areas that would contribute to lowering the cost of ownership of the capability.

  Prospects for Australian content include, but are not limited to:

- design and installation of C4I systems,
- specialist Integrated Logistics Support (ILS) Systems,
- development and support of Royal Australian Navy-specific 'support products'.

**Recommendation 2**

The committee recommends further that the government require that an open tender process be used for any future naval acquisitions.

**Government Response—Disagree**

The Government is supportive of open tendering whenever it is assessed as the best procurement method available to attain the core principle of achieving value for money for the Australian taxpayer. However, in the case of the Future Submarine Program an open tender process which involves approaching all submarine producers is clearly not an option.

A formal request for tender to design and build the future submarine would be a lengthy process. It would involve extensive work to fully define submarine specifications against which competitors would then have to develop detailed designs that could be evaluated for performance and then priced with any degree of reliability.

All of this would take at least five years before reaching the point of selecting the international design partner. The competitive evaluation process for the Future Submarine Program as recently announced by the Government will run for at least 10 months after which the international partner will be selected. A competitive evaluation process is the only way forward that ensures that a submarine capability gap
will not occur while at the same time delivering the best capability to the ADF and value for money to Australian taxpayers.

Moreover, to require that all future naval acquisitions occur via open tender would limit the ability of the Government to choose to go directly to Australian Industry as was the case with the Landing Helicopter Dock (LHD), Air Warfare Destroyer (AWD) and ANZAC Frigate procurements. In addition, this decision would also impact the current procurement activities in support of ANZAC Class and Future Frigates, which are specifically supporting Priority Industry Capabilities within Australia with studies such as the CEA Technologies Phased Array Radar.

Pacific Patrol Boat replacement is also planned to be a limited tender to Australian Industry which, as identified in Senator Edwards' Dissenting Report, would be impacted.

Without the ability to limit tenders through the use of the Commonwealth Procurement Rules there is a potential that the cost of tendering for industry will increase. This is a constant concern expressed by industry in relation to DMO procurement. Procurement strategies are developed on a case-by-case basis in consideration of the global market and the ability of industry to deliver the capability that is required on time and on budget. The ability to limit tenders is also paramount to Commonwealth National Security, with sensitive capability requirements and considerations being classified, and specifically quarantined from non-allied nations.

An inability to use limited tender will also impact interoperability and the ability for the Commonwealth to meet international obligations. Specifically, we would be unable to draw on Government to Government procurement arrangements for supply of naval weapons, and communications systems.

Recommendation 3
The committee notes that Defence has identified areas where potential exists for Australian industry to become involved as sub-contractors in the replenishment ship project. In this regard, the committee recommends that Defence become actively involved in encouraging and supporting Australian industry to explore such opportunities.

Government Response—Agreed in principle
Prospects for Australian content include:
- design and installation of C4I systems,
- specialist Integrated Logistics Support (ILS) Systems,
- development and support of RAN specific 'support products'.

Overall, decisions on industry options will consider Value for Money assessments and the trade off between enhancing local industry capability and the delivery of the required capability on time and within budget.

In accordance with Defence's Australian Industry Capability policy, Defence continues to encourage support Australian industry. Prospects for Australian content in Project SEA1654-3 will be further developed during the preparations leading up to the release of Requests for Tender for both the Prime Acquisition and Sustainment contracts. It is expected that both designers will engage with Australian industry during the development of their responses to the Prime Acquisition and Sustainment RFT’s.

Recommendation 4
The committee recommends that the government release the report of the independent review of the AWD program undertaken by Professor Don Winter and Dr John White.

Government Response—Disagree
Release of the independent report (Winter/White Report) could damage the commercial interests of the Commonwealth, as its contents relate to a range of sensitive commercial negotiations that are currently
underway. The Government considers the report is highly sensitive in relation to current and future shipbuilding tenders and negotiations.

*Senate adjourned at 16:09*