JOURNALS OF THE SENATE

No. 93

WEDNESDAY, 20 JUNE 2012

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1 **MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 **GOVERNMENT DOCUMENTS**

The following documents were tabled:

- Migration Act 1958—Reports for the period 1 November 2011 to 29 February 2012—Section 91Y—Protection visa processing taking more than 90 days.
  - Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days.
  - Section 486O—Assessment of detention arrangements—Personal identifiers 707/12, 710/12, 713/12, 714/12, 717/12, 718/12, 721/12, 722/12, 724-28/12, 732/12, 734/12, 736-38/12, 742/12, 747-49/12, 751/12, 752/12, 755/12, 758/12, 760/12, 763/12, 764/12, 768-71/12, 773/12, 777/12, 781/12, 784/12, 786/12 and 829/12—Commonwealth Ombudsman’s reports.
  - Government response to Ombudsman’s reports.

3 **ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator McEwen, by leave and at the request of the Chair of the Economics Legislation Committee (Senator Bishop), moved—That the Economics Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today.

Question put and passed.

4 **CORPORATIONS AMENDMENT (FUTURE OF FINANCIAL ADVICE) BILL 2012**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins)—That these bills be now read a second time—and on the amendment moved by Senator Cormann:

At the end of the motion, add “but that further consideration of these bills be an order of the day for the first sitting day after the Government has tabled, for these bills, a regulatory impact statement which has been assessed by the Office of Best Practice Regulation as compliant with its requirements”.

Debate resumed.

**Limitation of debate:** The time allotted for the consideration of these bills expired.

**Proposed suspension of standing orders:** Senator Cormann, at the request of the Leader of the Opposition in the Senate (Senator Abetz) and pursuant to contingent notice, moved—That so much of standing order 142 be suspended as would prevent further consideration of the bills without limitation of time.

**Closure:** Senator Collins moved—That the question be now put.
Question—That the question be now put—put.
The Senate divided—

AYES, 34

Senators—
Bilyk  Farrell  Lundy  Singh
Bishop  Faulkner  Marshall  Stephens
Brown (Teller)  Feeney  McEwen  Sterle
Cameron  Furner  McLucas  Thistlethwaite
Carr, Kim  Gallacher  Milne  Urquhart
Collins  Hanson-Young  Moore  Wong
Conroy  Hogg  Polley  Wright
Crossin  Ladlam  Pratt
Di Natale  Ludwig  Rhiannon

NOES, 29

Senators—
Abetz  Colbeck  Humphries  Ronaldson
Bernardi  Cormann  Kroger  Ryan
Birmingham  Edwards  Macdonald  Sinodinos
Bowen  Eggleston  Madigan  Smith
Boyce  Fawcett  Mason  Williams (Teller)
Brandis  Fierravanti-Wells  McKenzie
Bushby  Fifield  Parry
Cash  Heffernan  Payne

Question agreed to.

Question—That the motion to suspend standing orders be agreed to—put.
The Senate divided—

AYES, 29

Senators—
Abetz  Colbeck  Humphries  Ronaldson
Bernardi  Cormann  Kroger  Ryan
Birmingham  Edwards  Macdonald  Sinodinos
Bowen  Eggleston  Madigan  Smith
Boyce  Fawcett  Mason  Williams (Teller)
Brandis  Fierravanti-Wells  McKenzie
Bushby  Fifield  Parry
Cash  Heffernan  Payne

NOES, 34

Senators—
Bilyk  Farrell  Lundy  Singh
Bishop  Faulkner  Marshall  Stephens
Brown (Teller)  Feeney  McEwen  Sterle
Cameron  Furner  McLucas  Thistlethwaite
Carr, Kim  Gallacher  Milne  Urquhart
Collins  Hanson-Young  Moore  Wong
Conroy  Hogg  Polley  Wright
Crossin  Ladlam  Pratt
Di Natale  Ludwig  Rhiannon

Question negatived.
Question—That the amendment moved by Senator Cormann be agreed to—put.

The Senate divided—

**AYES, 29**

- Abetz
- Bernardi
- Birmingham
- Boswell
- Boyce
- Brandis
- Bushby
- Cash
- Colbeck
- Cormann
- Edwards
- Eggleston
- Fawcett
- Fierravanti-Wells
- Fifield
- Heffernan
- Humphries
- Kroger
- Macdonald
- Madigan
- Mason
- McKenzie
- Parry
- Payne

**NOES, 34**

- Abetz
- Bernardi
- Birmingham
- Boswell
- Boyce
- Brandis
- Bushby
- Cash
- Colbeck
- Cormann
- Edwards
- Eggleston
- Fawcett
- Fierravanti-Wells
- Fifield
- Heffernan
- Humphries
- Kroger
- Macdonald
- Madigan
- Mason
- McKenzie
- Parry
- Payne

Question negatived.

Question—That these bills be now read a second time—put.

The Senate divided—

**AYES, 34**

- Abetz
- Bernardi
- Birmingham
- Boswell
- Boyce
- Brandis
- Bushby
- Cash
- Colbeck
- Cormann
- Edwards
- Eggleston
- Fawcett
- Fierravanti-Wells
- Fifield
- Heffernan
- Humphries
- Kroger
- Macdonald
- Madigan
- Mason
- McKenzie
- Parry
- Payne

**NOES, 29**

- Abetz
- Bernardi
- Birmingham
- Boswell
- Boyce
- Brandis
- Bushby
- Cash
- Colbeck
- Cormann
- Edwards
- Eggleston
- Fawcett
- Fierravanti-Wells
- Fifield
- Heffernan
- Humphries
- Kroger
- Macdonald
- Madigan
- Mason
- McKenzie
- Parry
- Payne

Question agreed to.

Bills read a second time.
The following amendments in respect of the Corporations Amendment (Future of Financial Advice) Bill 2012 circulated by the Government were considered:

Schedule 1, item 10, page 9 (line 5), omit “the commencing day”, substitute “the application day”.

Schedule 1, item 10, page 9 (line 8), omit “a representative”, substitute “a person acting as a representative”.

Schedule 1, item 10, page 9 (line 11), omit “a representative”, substitute “a person acting as a representative”.

Schedule 1, item 10, page 9 (line 15), omit “the commencing day”, substitute “the application day”.

Schedule 1, item 10, page 9 (lines 16 and 17), omit subsection 962D(2), substitute:

(2) In this section:

application day means:

(a) where:

(i) the client enters into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and

(ii) the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions under this Part are to apply to the licensee and persons acting as representatives of the licensee, on and from a day specified in the notice; or

the day specified in the notice; or

(b) in any other case—1 July 2013.

Schedule 1, item 10, page 13 (line 24), omit “This Subdivision applies”, substitute “(1) This Subdivision applies, on and from the application day.”.

Schedule 1, item 10, page 13 (after line 25), at the end of section 962R, add:

(2) In this section:

application day means:

(a) where:

(i) the client has entered into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and

(ii) that licensee or representative is the fee recipient in relation to the arrangement on 1 July 2012; and

(iii) the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions under this Part are to apply to the licensee and persons acting as representatives of the licensee, on and from a day specified in the notice; or

the day specified in the notice; or

(b) where:

(i) the client has entered into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and
(ii) because the rights of the licensee or representative under the arrangement have been assigned, another person is the fee recipient in relation to the arrangement on 1 July 2012; and

(iii) a notice has been lodged with ASIC in accordance with subsection 967(1) or (3) that the obligations and prohibitions under this Part are to apply to the other person, on and from a day specified in the notice; or

the day specified in the notice; or

(c) in any other case—1 July 2013.

Schedule 1, item 10, page 14 (after line 23), at the end of Part 7.7A, add:

**Division 7—Transition**

966 **Transition period**

In this Division:

*transition period* means the period beginning on 1 July 2012 and ending on 30 June 2013.

967 **Best interests obligations and remuneration provisions to apply during transition period**

(1) A financial services licensee may, during the transition period, lodge notice in the prescribed form with ASIC that the obligations and prohibitions imposed under this Part are to apply to the licensee, and any person acting as a representative of the licensee, on and from a day that:

(a) falls on or after the day on which the notice is lodged with ASIC; and

(b) is specified in the notice.

(2) If a notice is lodged with ASIC in accordance with subsection (1), ASIC must, on its website:

(a) publish the name of the financial services licensee who lodged the notice; and

(b) include a statement that the obligations and prohibitions imposed under this Part are to apply to the licensee, and any person acting as a representative of the licensee; and

(c) state the day on and from which those obligations and prohibitions are to apply.

(3) A person:

(a) who would be subject to an obligation or prohibition under this Part, if it applied; and

(b) who would not be subject to the obligation or prohibition as a financial services licensee, or a person acting as a representative of a financial services licensee;

may, during the transition period, lodge notice in the prescribed form with ASIC that the obligations and prohibitions imposed under this Part are to apply to the person on and from a day that:

(c) falls on or after the day on which the notice is lodged with ASIC; and

(d) is specified in the notice.
(4) If a notice is lodged with ASIC in accordance with subsection (3), ASIC must, on its website:
   (a) publish the name of the person who lodged the notice; and
   (b) include a statement that the obligations and prohibitions imposed under this Part are to apply to the person; and
   (c) state the day on and from which those obligations and prohibitions are to apply.

968 Noticeto clients in transition period

(1) A financial services licensee who lodges a notice with ASIC in accordance with subsection 967(1) must ensure that any person in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under this Part during the transition period (the client) is given a notice that complies with this section.

(2) The notice:
   (a) must be in writing; and
   (b) must be given to the client on or before the notice day for the client; and
   (c) must state that the obligations and prohibitions imposed under this Part begin to apply to the licensee, and any person acting as a representative of the licensee, on a day specified in the notice given to the client.

(3) The day specified in the notice given to the client must be the same as the day specified in the notice lodged with ASIC in accordance with subsection 967(1).

(4) The notice is for a person to whom the licensee, or a person acting as a representative of the licensee, is obliged to give a fee disclosure statement during the transition period is:
   (a) unless paragraph (b) applies—the disclosure day for the arrangement in relation to which the fee disclosure statement is to be given that falls within the transition period; and
   (b) if a fee disclosure statement is given before the end of a period of 30 days beginning on that disclosure day—the day on which it is given.

Question—That the amendments be agreed to—put.
The Senate divided—

AYES, 34

Senators—

Bilyk           Farrell         Lundy           Singh
Bishop         Faulkner       Marshall       Stephens
Brown (Teller) Feeley         McEwen         Sterle
Cameron        Furner         McLucas        Thistlethwaite
Carr, Kim      Gallagher      Milne          Urquhart
Collins        Hanson-Young  Moore          Wong
Conroy          Hogg           Polley          Wright
Crossin        Ladagni        Pratt
Di Natale      Ludwig         Rhiannon
NOES, 28

Senators—
Abetz
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby
Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Humphries
Kroger
Macdonald
Madigan
Mason
McKenzie
Parry
Payne
Ronaldson
Ryan
Smith
Williams (Teller)

Question agreed to.

The following amendments in respect of the Corporations Amendment (Future of Financial Advice) Bill 2012 circulated by the Opposition were considered:

Clause 2, page 2 (table item 2), omit the item, substitute:

2. Schedule 1 1 July 2013.

Schedule 1, item 10, page 5 (line 14), omit the definition of *renewal notice*.

Schedule 1, item 10, page 5 (line 15), omit the definition of *renewal notice day*.

Schedule 1, item 10, page 5 (line 16), omit the definition of *renewal period*.

Schedule 1, item 10, page 9 (line 1), omit “Termination, disclosure and renewal”, substitute “Termination and disclosure”.

Schedule 1, item 10, page 9 (line 32), omit “or section 962K (the renewal notice obligation)”.

Schedule 1, item 10, page 10 (lines 4 and 5), omit “or section 962K”.

Schedule 1, item 10, page 10 (line 7), omit “or section 962K”.

Schedule 1, item 10, page 14 (line 5), omit “subsection (2)”, substitute “subsections (2) and (3)”.

Schedule 1, item 10, page 14 (after line 23), at the end of section 965, add:

(3) Subsection (1) does not apply to a scheme if any part of the scheme was entered into, begun to be carried out, or carried out, before the day on which this Part commences.

Schedule 1, item 11, page 14 (lines 28 and 29), omit paragraph (jaad).

Schedule 1, item 12, page 15 (lines 9 and 10), omit subparagraph (1E)(b)(ii).

Schedule 1, item 12, page 15 (line 14), omit “or (ii)”.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 28

Senators—
Abetz
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby
Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Humphries
Kroger
Macdonald
Madigan
Mason
McKenzie
Parry
Payne
Ronaldson
Ryan
Smith
Williams (Teller)
Question negatived.

Question—That Schedule 1, item 10, sections 962CA and 962K to 962N, and Subdivision C of the Corporations Amendment (Future of Financial Advice) Bill 2012 stand as printed—put.

The Senate divided—

AYES, 34

Senators—

Bilyk
Bishop
Brown (Teller)
Cameron
Carr, Kim
Collins
Conroy
Crossin
Di Natale
Farrell
Faulkner
Feeney
Furner
Gallacher
Hogg
Ladlam
Ludwig
Lundy
Marshall
McEwen
McLucas
Moore
Polley
Pratt
Rhiannon

NOES, 29

Senators—

Abetz
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby
Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Figarella-Wells
Fifield
Heffernan
Humphries
Kroger
Macdonald
Madigan
Mason
McKenzie
Parry
Payne
Ronaldson
Ryan
Sinodinos
Smith
Williams (Teller)

Sections and Subdivision agreed to.

The following amendments in respect of the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012 circulated by the Government were considered:

Schedule 1, page 25 (after line 10), after item 25, insert:

25A Subsection 968(4)

Repeal the subsection, substitute:

(4) The notice day is:

(a) for a person (the client) in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Division 2 of this Part in relation to personal advice provided on or after a day that
falls in the transition period—the first day on which personal advice is provided to the client during the transition period; and
(b) for a person to whom the licensee, or a person acting as a representative of the licensee, is obliged to give a fee disclosure statement during the transition period:
   (i) unless subparagraph (ii) applies—the disclosure day for the arrangement in relation to which the fee disclosure statement is to be given that falls within the transition period; and
   (ii) if a fee disclosure statement is given before the end of a period of 30 days beginning on that disclosure day—the day on which it is given; and
(c) for a person (the client) in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Subdivision B of Division 5 of this Part in relation to the charging of an asset-based fee during the transition period—the first day on which the client is charged an asset-based fee during the transition period; and
(d) for a person in relation to whom more than one of paragraphs (a), (b) and (c) is satisfied—the earliest of the days specified as the notice day under the paragraphs that are satisfied for that person.

Schedule 1, item 33, page 29 (lines 5 to 10), omit section 1527, substitute:

1527 Application of best interests obligations

(1) The following apply in relation to the provision of personal advice to a person as a retail client on or after the application day (whether or not the advice was sought before that day):
   (a) Division 2 of Part 7.7A, as inserted by item 23 of Schedule 1 to the amending Act;
   (b) the amendments made by items 6, 7, 8, 9 and 34 of Schedule 1 to the amending Act.

(2) In this section:

application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:
   (a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or
   (b) if the person has not lodged such a notice—1 July 2013.

Schedule 1, item 33, page 29 (line 17), omit “the day on which that item commences”, substitute “the application day”.

No. 93—20 June 2012
Schedule 1, item 33, page 29 (after line 28), at the end of section 1528, add:

(4) In this section:

application day:
(a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:
   (i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from a day specified in the notice—the day specified in the notice; or
   (ii) in any other case—1 July 2013; and
(b) in relation to any other person who would be subject to an obligation or prohibition under Division 4 of Part 7.7A if it applied, means:
   (i) if a notice has been lodged with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from a day specified in the notice—the day specified in the notice; or
   (ii) in any other case—1 July 2013.

Schedule 1, item 33, page 30 (line 2), omit “the day on which that item commences”, substitute “the application day”.

Schedule 1, item 33, page 30 (line 6), omit “the day on which that item commences”, substitute “the application day”.

Schedule 1, item 33, page 30 (after line 6), at the end of section 1529, add:

(3) In this section:

application day:
(a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:
   (i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from a day specified in the notice—the day specified in the notice; or
   (ii) in any other case—1 July 2013; and
(b) in relation to any other person who would be subject to an obligation or prohibition under Subdivision A of Division 5 of Part 7.7A if it applied, means:
   (i) if a notice has been lodged with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from the day specified in the notice—the day specified in the notice; or
   (ii) in any other case—1 July 2013.

Schedule 1, item 33, page 30 (line 19), omit “the day on which that item commences”, substitute “the application day”.


Schedule 1, item 33, page 30 (lines 23 and 24), omit “the day on which that item commences”, substitute “the application day”.

Schedule 1, item 33, page 30 (after line 28), at the end of section 1531, add:

(3) In this section:

application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

(a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or

(b) if the person has not lodged such a notice—1 July 2013.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 33

Senators—

Bilyk  Faulkner  Marshall  Stephens
Bishop  Feeney  McEwen  Sterle
Brown (Teller)  Fanner  McLucas  Thistlethwaite
Cameron  Gallacher  Milne  Urquhart
Carr, Kim  Hanson-Young  Moore  Wong
Collins  Hogg  Polley  Wright
Crossin  Ladlam  Pratt
Di Natale  Ludwig  Rhiannon
Farrell  Lundy  Singh

NOES, 28

Senators—

Abetz  Cash  Fifield  Parry
Bernardi  Colbeck  Humphries  Payne
Birmingham  Cormann  Kroger  Ronaldson
Boswell  Edwards  Macdonald  Ryan
Boyce  Eggleston  Madigan  Sinodinos
Brandis  Fawcett  Mason  Smith
Bushby  Fierravanti-Wells  McKenzie  Williams (Teller)

Question agreed to.

The following amendments in respect of the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012 circulated by the Opposition were considered:

Schedule 1, items 14 and 15, page 4 (lines 14 to 21), omit the items, substitute:

14 Section 960

Insert:

_life risk insurance superannuation product_ has the meaning given by subsection 963B(2).

15 Section 960

Insert:

_MySuper product_ has the meaning given by subsection 963B(3).
Schedule 1, page 4 (after line 21), after item 15, insert:

15A Section 960

Insert:

personal intra-fund superannuation advice has the meaning given by section 964N.

Schedule 1, item 21, page 5 (lines 18 and 19), omit “a meaning affected by section 964A”, substitute “the meaning given by subsection 964A(2)”.

Schedule 1, item 23, page 7 (line 6), after “identified”, insert “through instructions, so far as is reasonably possible in the circumstances”.

Schedule 1, item 23, page 7 (line 30), omit “circumstances;”, substitute “circumstances.”.

Schedule 1, item 23, page 7 (lines 31 to 33), omit paragraph 961B(2)(g).

Schedule 1, item 24, page 16 (after line 10), before paragraph 963B(1)(a), insert:

(aa) the benefit is given to the licensee or representative solely in relation to the provision of general advice;

Schedule 1, item 24, page 16 (lines 13 to 18), omit paragraph 963B(1)(b), substitute:

(b) the benefit is given to the licensee or representative solely in relation to a life risk insurance product, other than a life risk insurance superannuation product (see subsection (2));

(ba) each of the following is satisfied:

(i) the benefit is given to the licensee or representative solely in relation to a life risk insurance superannuation product;

(ii) the product is not issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.

Schedule 1, item 24, page 16 (lines 23 to 26), omit subparagraph 963B(1)(c)(ii), substitute:

(ii) the benefit is not for financial product advice in relation to the product, or products of that class, given to the person as a retail client by that licensee or representative;

Schedule 1, item 24, page 16 (after line 32), after paragraph 963B(1)(d), insert:

(da) the benefit is given to the licensee or representative by an authorised representative of the licensee (the purchaser) in relation to the sale of a financial services business by the licensee to the purchaser;

Schedule 1, item 24, page 16 (line 35) to page 17 (line 18), omit subsections 963B(2) and (3), substitute:

(2) A life risk insurance product is a life risk insurance superannuation product if the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.
(3) MySuper product has the same meaning as in the Superannuation Industry (Supervision) Act 1993, as in force on and after the commencement of item 6 of Schedule 1 to the Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012.

Schedule 1, item 24, page 17 (lines 34 and 35), omit “the provision of financial product advice to persons as retail clients”, substitute “carrying on a financial services business”.

Schedule 1, item 24, page 17 (line 37), at the end of subparagraph 963C(c)(iii), add “, which must not require the benefit, or the education or training, to be provided in Australia”.

Schedule 1, item 24, page 18 (lines 4 to 6), omit all the words from and including “in relation to” to the end of subparagraph 963C(d)(ii).

Schedule 1, item 24, page 18 (after line 14), after paragraph 963C(e), insert:
(ea) the benefit provider is the employer of the licensee or representative;

Schedule 1, item 24, page 21 (line 21), omit “a financial services licensee or an RSE licensee”, substitute “the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product”.

Schedule 1, item 24, page 22 (lines 11 to 29), omit subsections 964A(2) and (3), substitute:

(2) A volume-based shelf-space fee is a monetary product access payment which is not administrative in nature paid by a funds manager to the platform operator.

(3) To the extent that the benefit is not a volume-based shelf-space fee, a platform operator may accept an investment management fee scale discount on an amount payable or a rebate of an amount paid to the funds manager.

Schedule 1, item 24, page 25 (after line 7), at the end of Division 5, add:
Subdivision C—Fees for personal intra-fund superannuation advice

964J Application to a financial services licensee acting as an authorised representative

If a financial services licensee is acting as an authorised representative of another financial services licensee in relation to the provision of personal intra-fund superannuation advice, this Subdivision applies to the first licensee in relation to the advice in that licensee’s capacity as an authorised representative (rather than in the capacity of licensee).

964K Financial services licensees must not accept fees for personal intra-fund superannuation advice other than from member to whom advice provided

(1) A financial services licensee that is a trustee of a regulated superannuation fund must not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).
(2) A financial services licensee contravenes this subsection if:
   (a) the licensee is a trustee of a regulated superannuation fund; and
   (b) a representative, other than an authorised representative, of the
       licensee accepts a fee in relation to the provision of personal
       intra-fund superannuation advice to a member of the fund, other
       than from that member; and
   (c) the licensee is the, or a, responsible licensee in relation to the
       contravention.

Note: This subsection is a civil penalty provision (see section 1317E).

(3) The regulations may provide that subsections (1) and (2) do not apply
    in prescribed circumstances.

964L Licensee must ensure compliance

A financial services licensee that is a trustee of a regulated superannuation fund must take reasonable steps to ensure that representatives of the licensee do not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).

964M Authorised representatives must not accept fees for personal intra-fund superannuation advice other than from member to whom advice provided

(1) An authorised representative, of a financial services licensee that is a trustee of a regulated superannuation fund, must not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).

(2) The regulations may provide that subsection (1) does not apply in prescribed circumstances.

964N What is personal intra-fund superannuation advice?

(1) Advice is personal intra-fund superannuation advice if:
   (a) the advice is personal advice; and
   (b) the advice is provided by a trustee of a regulated superannuation
       fund, or an authorised representative of the trustee, to a member
       of the fund as a retail client; and
   (c) the trustee holds an Australian financial services licence that
       covers the provision of personal advice in relation to
       superannuation products; and
   (d) the advice relates to the member’s interest in the fund and does
       not also relate to:
      (i) any other financial product (except eligible insurance (see
          subsection (2)) in relation to the member’s interest in the
          fund); or
      (ii) anything mentioned in subsection 765A(1) that would be
          a financial product but for that subsection (except eligible
          insurance in relation to the member’s interest in the fund); or
(iii) any other matter specified in the regulations for the purposes of this subparagraph; and
(e) the fund is not a self-managed superannuation fund (within the meaning of section 17A of the Superannuation Industry (Supervision) Act 1993).

(2) For the purposes of subparagraphs (1)(d)(i) and (ii), eligible insurance is insurance of a kind that the trustee maintains in relation to the members of the fund for the purpose of financing benefits to the members that are within the scope of the Superannuation Industry (Supervision) Act 1993.

964P Meaning of trustee and member of a regulated superannuation fund

The following expressions have the same meaning when used in this Subdivision as they have in the Superannuation Industry (Supervision) Act 1993:

(a) member;
(b) regulated superannuation fund;
(c) trustee.

Schedule 1, item 28, page 26 (after line 26), after paragraph (jaap), insert:

(jaapa) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);
(jaapb) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice);
(jaapc) subsection 964M(1) (authorised representative must not accept fee for personal intra-fund superannuation advice other than from relevant member);

Schedule 1, item 30, page 27 (after line 30), after subparagraph (1E)(b)(xiii), insert:

(xiiia) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);
(xiiib) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice);
(xiiic) subsection 964M(1) (authorised representative must not accept fee for personal intra-fund superannuation advice other than from relevant member);

Schedule 1, item 33, page 29 (lines 15 to 18), omit all the words from and including “if:” to the end of subsection 1528(1), substitute “if the benefit is given under an arrangement entered into before the day on which that item commences”.

Schedule 1, item 33, page 29 (line 33) to page 30 (line 1), omit “a financial services licensee, or an RSE licensee”, substitute “the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product”.

Schedule 1, item 33, page 30 (lines 4 and 5), omit “a financial services licensee, or an RSE licensee”, substitute “the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product”.
Schedule 1, item 33, page 30 (after line 28), at the end of Part 10.18, add:

**1532 Application of ban on other remuneration—fees for personal intra-fund superannuation advice**

(1) Subdivision C of Division 5 of Part 7.7A, as inserted by item 24 of Schedule 1 to the amending Act, applies in relation to the provision of personal intra-fund superannuation advice on or after the day on which that item commences (whether or not the advice was sought before that day).

(2) Despite subsection (1), that Subdivision does not apply in relation to the provision of personal intra-fund superannuation advice to the extent that the operation of that Subdivision would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

Question—That the amendments be agreed to—put.

The Senate divided—

**AYES, 28**

Abetz
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby
Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Humphries
Kroger
Macdonald
Mason
McKenzie
Parry
Payne
Ronaldson
Ryan
Sinodinos
Smith
Williams (Teller)

**NOES, 33**

Bilyk
Bishop
Brown (Teller)
Cameron
Carr, Kim
Collins
Crossin
Di Natale
Farrell
Faulkner
Feeley
Furner
Gallacher
Hanson-Young
Hogg
Ladlam
Ladwig
Landy
Marshall
McEwen
McLucas
Milne
Moore
Polley
Pratt
Rhiannon
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Wong
Wright

Question negatived.

The Senate divided—

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Section agreed to.

Statement by leave: Senator Cormann, by leave, made a statement relating to the matter.

Question—That the remaining stages of these bills be agreed to and these bills, as amended, be now passed—put and passed.

Bills read a third time.

5 Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2012

Limitation of debate: The time allotted for the consideration of this bill expired.

Statement by leave: Senator Cormann, by leave, made a statement relating to the matter.

Question—That the remaining stages of this bill be agreed to and this bill be now passed—put and passed.

Bill read a third time.

6 Matters of Public Interest

Matters of public interest were discussed.

At 2 pm—

7 Questions

Questions without notice were answered.
8 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Payne moved—That the Senate take note of the answer given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) to a question without notice asked by Senator Payne today relating to housing.
Debate ensued.
Question put and passed.

Senator Bernardi moved—That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Opposition senators today relating to the carbon tax.
Debate ensued.
Question put and passed.

Senator Ludlam moved—That the Senate take note of the answer given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) to a question without notice asked by Senator Ludlam today relating to Mr Julian Assange.
Question put and passed.

9 NOTICES

Senator Bishop: To move on the next day of sitting—That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate as follows:

(a) on Wednesday, 15 August 2012, from 11 am to 11.45 am, followed by a private briefing till 1 pm; and

(b) on Wednesday, 22 August 2012, from 11 am to 11.30 am, followed by private briefings till 1 pm. (general business notice of motion no. 787)

The Chair of the Environment and Communications Legislation Committee (Senator Cameron): To move on the next day of sitting—That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 21 June 2012, from 1 pm. (general business notice of motion no. 788)

The Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall): To move on the next day of sitting—That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 22 June 2012, from 9.30 am to 1 pm, to take evidence for the committee’s inquiry into the provisions of the Fair Work (Registered Organisations) Amendment Bill 2012. (general business notice of motion no. 789)

The Chair of the Community Affairs Legislation Committee and the Deputy Chair of the Community Affairs References Committee (Senator Moore): To move on the next day of sitting—That the Community Affairs Legislation Committee and the Community Affairs References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 26 June 2012, from 12.30 pm. (general business notice of motion no. 790)

Senator Stephens: To move on the next day of sitting—That the Parliamentary Joint Committee on Human Rights be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 June 2012, from 5 pm to 7 pm. (general business notice of motion no. 791)
The Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Boyce): To move on the next day of sitting—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 28 June 2012, from 10 am. (general business notice of motion no. 792)

The Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Boyce): To move on the next day of sitting—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Friday, 22 June 2012, from 9.30 am. (general business notice of motion no. 793)

The Chair of the Select Committee on Australia’s Food Processing Sector (Senator Colbeck): To move on the next day of sitting—That the Select Committee on Australia’s Food Processing Sector be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Monday, 25 June 2012, from 4 pm, and on Wednesday, 27 June 2012, from 11.30 am. (general business notice of motion no. 794)

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of reports of the Rural and Regional Affairs and Transport References Committee be extended to 12 September 2012, as follows:

(a) management of the Murray-Darling Basin; and

(b) Foreign Investment Review Board national interest test. (general business notice of motion no. 795)

Senators Boswell and Furner: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) since 2002, Australia and the Socialist Republic of Vietnam (SRV) have held nine rounds of the Australia-Vietnam Human Rights Dialogue, and

(ii) the Australian Government, through the Department of Foreign Affairs and Trade, considers the improvements in human rights in the SRV ‘a high priority of the Australian government’; and

(b) calls on the Australian Government to:

(i) encourage the Minister for Foreign Affairs to ensure parliamentary supervision of the Australia-Vietnam Human Rights Dialogue by appointing members to take part in the Dialogue,

(ii) encourage more active community awareness of the work of the Dialogue,

(iii) ensure Australia’s overseas development aid to the SRV includes a focus on promoting human rights, and

(iv) improve the effectiveness of the initiative by encouraging a more whole of government approach. (general business notice of motion no. 796)

Senator Wright: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) 2012 marks the 40th anniversary of community legal centres, which started with the establishment of the Fitzroy Legal Service in Melbourne, and

(ii) there are over 200 community legal centres currently operating throughout Australia;
(b) recognises that:
   (i) community legal centres, and the passionate and committed lawyers and advocates working for them, provide essential legal assistance services and advocacy to some of the most marginalised and disadvantaged members of our community, and
   (ii) community legal centres remain under-resourced and continue to struggle to meet the rising demand for affordable and effective access to justice; and

(c) calls on the Government to conduct a comprehensive investigation of levels of demand and supply of legal assistance services, unmet need and gaps in service delivery, with a view to directing the improved use and funding of legal assistance services and consequently advancing access to justice. (general business notice of motion no. 797)

Senators Rhiannon and Wright: To move on the next day of sitting—That the Senate—
   (a) notes that:
      (i) uniform gun laws were introduced across all states and territories following the ground-breaking work undertaken by the former Prime Minister, Mr Howard, in the aftermath of the Port Arthur massacre,
      (ii) the New South Wales Government has sponsored a two-day ‘Shot Expo’ that promotes guns, knives and pistols, in conjunction with firearm manufacturers, including Beretta, a weapons supplier to the former Gaddafi regime, and
      (iii) the New South Wales Government has given its support to a longstanding Shooters and Fishers Party plan to allow recreational hunting with firearms in designated New South Wales national parks;
   (b) condemns the New South Wales Government’s plans to allow recreational hunting with firearms in its national parks; and
   (c) calls on:
      (i) the Federal Government to support the adoption of a global arms trade treaty at the United Nations, and
      (ii) the Attorney-General (Ms Roxon) to take the steps required to strengthen uniformity of Australian gun laws. (general business notice of motion no. 798)

Senators Rhiannon and Moore: To move on the next day of sitting—That the Senate—
   (a) notes that 2013 is:
      (i) the 110th anniversary of women winning the right to vote and the right to stand for election in Australia, and
      (ii) the 70th anniversary of the election of the first women to the Federal Parliament; and
   (b) encourages responsible agencies, including the Office for Women, the parliamentary departments and the Museum of Australian Democracy, to mark these anniversaries with suitable events such as displays, lectures, seminars and the updating of existing exhibitions. (general business notice of motion no. 799)
Senator Cormann: To move on the next day of sitting—That the Senate condemns the Labor Government for imposing the world’s biggest carbon tax on the Australian economy at the worst possible time, when the Prime Minister (Ms Gillard) promised before the 2010 election that there would be no carbon tax under a government she leads and when it will:

(a) push up the cost of living;
(b) push up the cost of doing business;
(c) make Australia less competitive internationally;
(d) cost jobs;
(e) result in lower real wages and cause a cumulative reduction in Australia’s gross domestic product in the order of $1 trillion between now and 2050, according to the Government’s own Treasury modelling; and
(f) shift economic activity and emissions overseas, therefore doing nothing to help reduce global emissions. (general business notice of motion no. 800)

Senator Ludlam: To move on the next day of sitting—That the Senate—

(a) notes that inconsistent or selective application of the Consular Services Charter leaves Australian citizens in doubt about the level of assistance they may receive if facing difficulties overseas; and
(b) calls on the Prime Minister (Ms Gillard) to:

(i) ensure that the Government’s efforts and engagement on behalf of Mr Julian Assange are consistent with the highest level of support provided to other Australians in difficulty overseas, and
(ii) retract prejudicial statements regarding the illegality of Wikileaks’ publishing endeavours, found to be groundless by the Australian Federal Police, which have the potential to seriously jeopardise the potential for any fair trial or hearing for Mr Assange. (general business notice of motion no. 801)

The Leader of the Australian Greens (Senator Milne): To move on the next day of sitting—That the Senate—

(a) notes that:

(i) more than a million people have signed a petition to governments convening at the Rio+20 summit calling on them to end fossil fuel subsidies,
(ii) the Rudd Government agreed at the G20 meeting in Pittsburgh in 2009 to phase-out inefficient fossil fuel subsidies that cause wasteful consumption,
(iii) similar language is being inserted into negotiating text at the Rio conference, and
(iv) the Government has acknowledged that fossil fuel producers benefit from economy or sector-wide concessions; and
(b) calls on the Government to explain how providing concessions to fossil fuel producers is consistent with pricing greenhouse gas pollution, efforts to tackle global warming, the G20 agreement, the intent of the Rio+20 negotiating text, and measures to build a clean energy economy. (general business notice of motion no. 802)
Senators Hanson-Young and Moore: To move on the next day of sitting—That the Senate—

(a) notes that international trade in arms, when undertaken irresponsibly, or diverted to illicit markets, contributes to unlawful armed violence, violations of international human rights law and international humanitarian law, acts of genocide and other crimes against humanity, forced displacement, terrorist attacks, patterns of organised and violent crime and corrupt practices;

(b) affirms that an effective arms trade treaty would strengthen the rule of law, peace and peace-building processes, human security, poverty reduction initiatives and prospects for sustainable socio-economic development;

(c) acknowledges:

(i) that a robust arms trade treaty would assist to reduce the extensive loss of human life and livelihoods caused by illegal weapons while at the same time not impeding the operation of the legitimate global arms trade as carried out with full respect for the rule of law and international legal obligations and standards, and

(ii) the important role that Australia has played as a co-author of every United Nations resolution on an arms trade treaty since 2006 and can continue to play as a champion of a robust, comprehensive and legally binding instrument;

(d) calls on states to adopt a treaty:

(i) at the United Nations in July 2012, whereby international transfers of arms will not be authorised if there is a substantial risk that the weapons will be used to commit or facilitate serious violations of international human rights law or international humanitarian law, or will seriously impair poverty reduction or socio-economic development,

(ii) that covers a comprehensive scope of conventional arms, including ammunition, small arms and light weapons, as well as a wide range of trade activities, including transfers and transhipments, and

(iii) that includes mechanisms to ensure full implementation, including transparent reporting, international cooperation, compliance and accountability; and

(e) notes the important contribution of non-government organisations, including Amnesty International, Oxfam and the International Committee of the Red Cross, in working towards the achievement of an effective and robust global arms trade treaty. (general business notice of motion no. 803)

10 NATIONAL BROADBAND NETWORK—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of Senator Cameron and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 782—that the Joint Standing Committee on the National Broadband Network be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 26 June 2012, from 6 pm to 8 pm, to take evidence for the committee’s inquiry into the review of the rollout of the NBN.

Question put and passed.
11 **Gambling Reform—Joint Select Committee—Leave to Meet During Sitting**

Senator McEwen, at the request of Senator Crossin and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 783—That the Joint Select Committee on Gambling Reform be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 26 June 2012, from 4 pm, to take evidence for the committee’s inquiry into the prevention and treatment of problem gambling, followed by a private meeting otherwise than in accordance with standing order 33(1).

Question put and passed.

12 **National Capital and External Territories—Joint Standing Committee—Leave to Meet During Sitting**

Senator McEwen, at the request of the Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Pratt) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 784—That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 27 June 2012, from 12.30 pm to 1.45 pm, to take evidence for the committee’s inquiry into the review of the Department of Sustainability, Environment, Water, Population and Communities annual report 2010-11.

Question put and passed.

13 **Diamond Jubilee Anniversary—Queen Elizabeth II**

Senator Smith, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 785—That the Senate notes that:

(a) the coronation of Queen Elizabeth II occurred on 2 June 1953;

(b) the Diamond Jubilee of Queen Elizabeth II was celebrated between 2 June and 5 June 2012;

(c) during this period, Australians expressed their respect and affection for Her Majesty and their thanks for the longevity of her reign as Queen of Australia; and

(d) 3 February 2014 will mark the 60th anniversary of the first arrival of Queen Elizabeth II in Australia.

Question put and passed.

14 **World Refugee Day 2012**

Senator Hanson-Young, also on behalf of Senator Lundy, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 786—That the Senate—

(a) notes that Wednesday, 20 June 2012 is World Refugee Day, recognising the importance of international commitment to worldwide protection of refugees under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees;
(b) notes that the 2012 theme of World Refugee Day is ‘Refugees Have No Choice: You Do’, which acknowledges the tragic conflicts and deadly persecution that lead people to seek protection in countries that are not their own, leaving behind their history, property and loved ones in search of a safe new life; and

(c) calls on the Government to reaffirm Australia’s commitments under the 1951 Convention.

Question put and passed.

15 **RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—REFERENCE**

Senator Boswell amended business of the Senate notice of motion no. 2 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 10 October 2012:

The effect on Australian pineapple growers of importing fresh pineapple from Malaysia, including:

(a) the scientific basis on which the provisional final import risk analysis report regarding the importation of fresh, decrowned pineapple has been developed;

(b) the risk and consequences of the importation possibly resulting in the introduction of pest species;

(c) the adequacy of the quarantine conditions recommended by the Department of Agriculture, Fisheries and Forestry; and

(d) any other related matter.

Question put and passed.

16 **RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—PROPOSED REFERENCE**

Senator Boswell amended business of the Senate notice of motion no. 1 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 19 July 2012:

The effect of the implementation of the marine park protected areas and marine bioregional plans on recreational and commercial fishing trawling, and associated industries, including:

(a) the scientific basis on which the marine bioregions have been developed, including the location of closures, and the development of a management policy for these parks;

(b) the policy underpinning the restrictions on fishing trawlers in the green, multiple-use, general purpose and special purpose zones, and the subsequent impact on fishing licences;

(c) the cost of buying out existing fishing licences, as a result of the Marine Bioregional Parks policy, and the development of a compensation framework for fishermen, allied seafood businesses (such as processors, wholesalers and retailers) and tourism operators who have been adversely affected by the Marine Bioregional Parks policy; and

(d) any other related matter.

Question put.
No. 93—20 June 2012

The Senate divided—

AYES, 28

Senators—

Abetz  Colbeck  Heffernan  Nash
Bernardi  Cormann  Humphries  Parry
Birmingham  Edwards  Kroger (Teller)  Payne
Boswell  Eggleston  Macdonald  Ronaldson
Boyce  Fawcett  Madigan  Ryan
Bushby  Fieravanti-Wells  Mason  Scullion
Cash  Fifield  McKenzie  Smith

NOES, 33

Senators—

Bilyk  Faulkner  Marshall  Stephens
Bishop  Feehey  McEwen (Teller)  Sterle
Brown  Fumer  McLucas  Thistlethwaite
Cameron  Gallacher  Milne  Unquhart
Carr, Kim  Hanson-Young  Moore  Wong
Collins  Hogg  Polley  Wright
Crossin  Ladlam  Pratt
Di Natale  Ludwig  Rhiannon
Farrell  Landy  Singh

Question negatived.

17 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ENVIRONMENT—MARINE PARKS—BOUNDARIES

The Deputy President (Senator Parry) informed the Senate that Senator Fifield had proposed that the following matter of public importance be submitted to the Senate for discussion:

The failure of the Gillard Government to properly consider the level of risk to Australia’s marine environment from the commercial, charter and recreational fishing sectors when establishing boundaries and zones for proposed marine parks and the capacity to manage those risks by methods other than just huge closures and lock outs.

The proposal was supported by four senators and the matter was discussed.

18 HUMAN RIGHTS—JOINT STATUTORY COMMITTEE—STATEMENT—REPORT ON THE COMMITTEE’S ACTIVITIES

Senator Stephens, on behalf of the Parliamentary Joint Committee on Human Rights, tabled the following document:


Senator Stephens moved—that the Senate take note of the document.

Question put and passed.
19 SCRUTINY OF BILLS—STANDING COMMITTEE—6TH REPORT AND ALERT DIGEST NO. 6 OF 2012
Senator Williams, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Macdonald), tabled the following report and document:

- Scrutiny of Bills—Standing Committee—
- Alert Digest No. 6 of 2012, dated 20 June 2012.
Report ordered to be printed on the motion of Senator Williams.

20 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—AUSTRALIAN HUMAN RIGHTS COMMISSION AMENDMENT (NATIONAL CHILDREN’S COMMISSIONER) BILL 2012 AND PASSENGER MOVEMENT CHARGE AMENDMENT BILL 2012
Senator Brown, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following documents:

- Legal and Constitutional Affairs Legislation Committee—Reports—

21 ADMINISTRATION—CONSTITUENTS’ REQUEST PROGRAM—DOCUMENT
The Acting Deputy President (Senator Boyce) tabled the following document:

Administration—Constituents’ Request Program—Letter to the President of the Senate from the Special Minister of State (Mr Gray) responding to the resolution of the Senate of 22 March 2012, dated 15 June 2012.

Senator Williams, by leave, moved—That the Senate take note of the document.
Debate adjourned till the next day of sitting, Senator Williams in continuation.

22 AUDITOR-GENERAL—AUDIT REPORTS NOS 45 AND 46 OF 2011-12—DOCUMENTS
The Acting Deputy President (Senator Boyce) tabled the following documents:

Auditor-General—Audit reports for 2011-12—
No. 46—Performance audit—Administration of the northern Australia quarantine strategy: Department of Agriculture, Fisheries and Forestry.

Senator Williams, by leave, moved—That the Senate take note of the documents.
Debate adjourned till the next day of sitting, Senator Williams in continuation.

23 DEPARTMENTAL AND AGENCY GRANTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT
The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Budget estimates—Letter of advice—Education, Employment and Workplace Relations portfolio.
24 AUSTRALIAN CITIZENSHIP AMENDMENT (DEFENCE FAMILIES) BILL 2012
FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2012
TAX LAWS AMENDMENT (CROSS-BORDER TRANSFER PRICING) BILL (NO. 1) 2012
WATER EFFICIENCY LABELLING AND STANDARDS AMENDMENT (SCHEME ENHANCEMENTS) BILL 2012

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 432, dated 19 June 2012—A Bill for an Act to amend the Australian Citizenship Act 2007, and for other purposes.

Message no. 435, dated 19 June 2012—A Bill for an Act to amend the law relating to finance, and for other purposes.

Message no. 439, dated 19 June 2012—A Bill for an Act to amend the law relating to taxation, and for related purposes.


The Parliamentary Secretary for Sustainability and Urban Water (Senator Farrell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Farrell moved—That these bills be now read a second time.

On the motion of Senator Farrell the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Farrell moved—That the bills be listed on the Notice Paper as separate orders of the day.

Question put and passed.

25 NAVIGATION BILL 2012
NAVIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2012
MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW BILL 2012
MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW (CONSEQUENTIAL AMENDMENTS) BILL 2012

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:


Message no. 437, dated 19 June 2012—A Bill for an Act to provide for a national law about marine safety for certain commercial vessels, and for related purposes.

The Parliamentary Secretary for Sustainability and Urban Water (Senator Farrell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Farrell moved—That these bills be now read a second time.

On the motion of Senator Farrell the debate was adjourned till the next day of sitting.


Pursuant to order, Senator Brown, at the request of the Chair of the Environment and Communications Legislation Committee (Senator Cameron), tabled the following report and documents:


Report ordered to be printed on the motion of Senator Brown.

27 National Broadcasting Legislation Amendment Bill 2010

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Defence (Senator Feeney)—That this bill be now read a second time.

Debate resumed.

Limitation of debate: The time allotted for the consideration of this bill expired.

Question—That this bill be now read a second time—put and passed.

Bill read a second time.

The following amendments circulated by the Opposition were agreed to:

Schedule 1, item 12, page 5 (after line 15), after subsection 12(5A), insert:

(5AA) However, so far as subsection (5A) relates to a person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in that subsection; or

(b) was a senior political staff member;

that subsection applies only for the period of 12 months beginning on the day the person ceased to be a member of that Parliament or that Legislative Assembly or a senior political staff member.

Schedule 1, item 24, page 16 (after line 10), after subsection 17(2A), insert:

(2AA) However, so far as subsection (2A) relates to a person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in that subsection; or

(b) was a senior political staff member (within the meaning of the Australian Broadcasting Corporation Act 1983);
that subsection applies only for the period of 12 months beginning on the day the person ceased to be a member of that Parliament or that Legislative Assembly or a senior political staff member (within the meaning of that Act).

The following amendment circulated by the Opposition was considered:

Clause 2, page 2 (table items 3 to 5), omit the table items.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 26

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NOES, 33

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Question negatived.

The following amendments circulated by the Opposition were considered:

Schedule 1, item 12, page 5 (lines 16 to 24), omit subsections 12(5B), (5C) and (5D).

Schedule 1, item 14, page 5 (line 31), omit “(including a failure to comply with Part IIIA)”.

Schedule 1, item 24, page 16 (lines 11 to 17), omit subsections 17(2B) and (2C).

Schedule 1, item 30, page 20 (lines 2 and 3), omit subitem (1), substitute:

1. The amendment made by item 24 applies in relation to appointments made after the commencement of that item.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 26

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Question negatived.
Question negatived.

The following amendments circulated by the Australian Greens were considered:

Schedule 1, item 12, page 5 (before line 16), before subsection 12(5B), insert:

(5AB) A person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in subsection (5A); or

(b) was a senior political staff member;

must not be appointed as a Director referred to in paragraph (1)(b) or (c) unless, in accordance with Part IIIA, the Nomination Panel has nominated the person for the appointment.

Schedule 1, item 15, page 13 (line 22), at the end of subsection 24X(2), add “Those reasons must include an assessment of that person against the selection criteria.”.

Schedule 1, item 15, page 14 (line 3), at the end of subsection 24X(4), add “Those reasons must include an assessment of that person against the selection criteria.”.

Schedule 1, item 24, page 16 (before line 11), before subsection 17(2B), insert:

(2AB) A person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in subsection (2A); or

(b) was a senior political staff member (within the meaning of the Australian Broadcasting Corporation Act 1983);

must not be appointed as a non-executive Director referred to in paragraph 8(aa) or (b) unless, in accordance with Part 3A, the Nomination Panel has nominated the person for the appointment.

Schedule 1, item 29, page 19 (line 27), at the end of subsection 43B(2), add “Those reasons must include an assessment of that person against the selection criteria.”.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 33

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No. 93—20 June 2012

NoES, 26

Senators—
Abetz Back Birmingham Brandis Bushby Cash Colbeck
Cormann Edwards Eggleston Fawcett Fierravanti-Wells Fifield Humphries
Johnston Joyce Kroger (Teller) McKenzie Nash Parry Payne
Ryan Scullion Sinodinos Smith Williams

Question agreed to.

The following amendments circulated by Senator Xenophon were considered:

Clause 2, page 2 (at the end of the table), add:

6. Schedule 3 Immediately after the commencement of the provision(s) covered by table item 4.

Page 23 (line 22), at the end of the bill, add:

Schedule 3—SBS staff-elected directors

Special Broadcasting Service Act 1991

1 After paragraph 8(aa)

Insert:

(ab) the staff-elected Director; and

2 Before subsection 17(1)

Insert:

(1A) This section does not apply to the staff-elected Director.

3 After section 17

Insert:

17A Staff-elected Director

(1) Subject to this section, the staff-elected Director must be elected in accordance with the regulations.

Note: As a member of the Board, the staff-elected Director is a director of a Commonwealth authority for the purposes of the Commonwealth Authorities and Companies Act 1997: see the definition of director in section 5 of that Act.

Eligibility for election

(2) A person is eligible to be a candidate for election, and to hold office, as the staff-elected Director if:

(a) the person is an employee of the SBS who, by the terms of his or her employment, is required to devote at least 22 hours a week to the duties of that employment; or

(b) the person (the relevant person) performs services for the SBS, under the direction and control of the Managing Director or an employee of the SBS, under:

(i) a written contract entered into between the SBS and the relevant person; or
(ii) a written contract entered into between the SBS and a person other than the relevant person, being a contract that specified the relevant person as the person who would perform the services under the contract.

Effect of candidate ceasing to be eligible after nomination

(3) If a person who has been nominated as a candidate for election as the staff-elected Director ceases to be eligible to be such a candidate after having been nominated and before the day on which the election takes place:

(a) if there are 2 or more other eligible candidates—the election must be held as if the person were not a candidate; or

(b) if there is only one other eligible candidate—the other candidate must be declared to be elected; or

(c) if there is no other eligible candidate—fresh invitations must be issued for the nomination of candidates.

Candidate may vote at election

(4) A person who is eligible to be a candidate for election as the staff-elected Director is eligible to vote at the election.

Period of office

(5) Subject to sections 26 and 27, the person who is the staff-elected Director holds office on a part-time basis for a period of 5 years starting:

(a) if, on the day on which the person is declared to be elected, the person already holds office as the staff-elected Director because of a previous election—on the day after the day on which that person would, but for having been re-elected, cease to hold office; or

(b) if, on the day on which the person is declared to be elected, another person holds office as the staff-elected Director because of a previous election—on the day after the day on which the other person ceases to hold office; or

(c) in any other case—on the day on which the person is declared to be elected.

(6) A person who has been elected as the staff-elected Director at 2 elections is not eligible for election at any other election of the staff-elected Director.

(7) If an election of a person as the staff-elected Director is invalid because of a defect or irregularity in connection with that election, the performance of the functions, or the exercise of the powers, of the Board is not affected by anything done, or omitted to be done, by or in relation to that person while he or she purported to be, or to act as, the staff-elected Director.

4 At the end of section 18

Add:

(4) In this section, non-executive Director does not include the staff-elected Director.
5 Paragraph 22(a)

Omit “or Deputy Chairperson”, substitute “, Deputy Chairperson or staff-elected Director”.

6 After paragraph 27(2)(c)

Insert:

; or (d) the staff-elected Director ceases to be eligible to hold office as that Director;

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 6

Senators—

Di Natale
Hanson-Young
Ludlam (Teller)
Rhiannon
Milne

NOES, 51

Abetz
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Bilyk
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Farrell
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Fawcett
Feeley
Fierravanti-Wells
Fifield
Furner
Gallacher
Hogg
Humphries
Johnston
Kroger (Teller)
Lundy
Marshall
McKenzie
McLucas
Moore
Nash
Parry
Payne

Polley
Pratt
Ryan
Scullion
Singh
Sinodinos
Smith
Stephens
Sterle
Thistlethwaite
Urquhart
Williams

Question negatived.

Question—That Schedule 1, items 1, 16, 18 and 25 and Schedule 2 stand as printed and Schedule 1, items 15 and 29, as amended, be agreed to—put.

The Senate divided—

AYES, 34

Senators—

Bilyk
Bishop
Brown
Cameron
Carr, Kim
Collins
Conroy
Crossin
Di Natale
Farrell
Faulkner
Feeney
Furner
Gallacher
Hogg
Ludlam
Makin
Marshall
McEwen (Teller)
McLucas
Milne
Moore
Polley
Pratt
Rhiannon
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Wright
NOES, 25

Senators—
Abetz Cormann Johnston Scullion
Back Edwards Kroger (Teller) Sinodinos
Birmingham Eggleston McKenzie Smith
Brandis Fawcett Nash Williams
Bushby Fierravanti-Wells Parry
Cash Fifield Payne
Colbeck Humphries Ryan

Items and Schedule agreed to.

Question—That the remaining stages of this bill be agreed to and this bill, as amended, be now passed—put.

The Senate divided—

AYES, 34

Senators—
Bilyk Farrell Lundy Rhiannon
Bishop Faulkner Madigan Singh
Brown Feeney Marshall Stephens
Cameron Furner McEwen (Teller) Sterle
Carr, Kim Gallacher McLucas Thistlethwaite
Collins Hanson-Young Milne Urquhart
Conroy Hogg Moore Wright
Crossin Ludlam Polley
Di Natale Ludwig Pratt

NOES, 27

Senators—
Abetz Cormann Humphries Payne
Back Edwards Johnston Ryan
Birmingham Eggleston Joyce Scullion
Brandis Fawcett Kroger (Teller) Sinodinos
Bushby Fierravanti-Wells McKenzie Smith
Cash Fifield Nash Williams
Colbeck Heffernan Parry

Question agreed to.

Bill read a third time.

28 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME) BILL 2012

Order of the day read for the adjourned debate on the motion of the Minister for Finance and Deregulation (Senator Wong)—That this bill be now read a second time.

Debate resumed.

Limitation of debate: The time allotted for the consideration of this bill expired.

Question—That this bill be now read a second time—put and passed.

Bill read a second time.

Question—That the remaining stages of this bill be agreed to and this bill be now passed—put and passed.

Bill read a third time.
29 Electoral and Referendum Amendment (Maintaining Address) Bill 2011
Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012
Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Sustainability and Urban Water (Senator Farrell)—That these bills be now read a second time.
Debate resumed.
At 7.20 pm: Debate was interrupted.

30 Adjournment
The Deputy President (Senator Parry) proposed the question—That the Senate do now adjourn.
Debate ensued.
The Senate adjourned at 7.59 pm till Thursday, 21 June 2012 at 9.30 am.

31 Attendance
Present, all senators except Senators Bob Carr*, Fisher*, Siewert*, Waters* and Xenophon* (* on leave).

Rosemary Laing
Clerk of the Senate

Printed by authority of the Senate