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1 MEETING OF SENATE
The Senate met at 10 am. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 DEATH OF CORPORAL SCOTT JAMES SMITH
The Leader of the Government in the Senate (Senator Evans), by leave, moved—that the Senate record its deep sorrow at the death, on 21 October 2012, of Corporal Scott James Smith, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

All senators present stood in silence—
Question passed.

3 ELECTRICITY PRICES—SELECT COMMITTEE—COMMUNITY AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING
Senator McEwen, by leave and at the request of the Chair of the Select Committee on Electricity Prices (Senator Thistlethwaite) and the Chair of the Community Affairs Legislation Committee (Senator Moore), moved—that—
(a) the Select Committee on Electricity Prices be authorised to meet during the sitting of the Senate today, from 3.15 pm, for a private briefing; and
(b) the Community Affairs 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 DEFENCE TRADE CONTROLS BILL 2011 CUSTOMS AMENDMENT (MILITARY END-USE) BILL 2011
Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Defence (Senator Feeney)—That these bills be now read a second time.
Debate resumed.

Explanatory memorandum: Senator Feeney tabled an addendum to the explanatory memorandum relating to the Defence Trade Controls Bill 2011.

Question put and passed.
Bills read a second time.
The Senate resolved itself into committee for the consideration of the bills.

In the committee
DEFENCE TRADE CONTROLS BILL 2011—
Bill taken as a whole by leave.
Senator Feeney moved the following amendment:

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

2. Sections 3 to 74

A day or days to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation done at Sydney on 5 September 2007 enters into force.

However, if any of the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

The Minister must announce by notice in the Gazette the day on which the Treaty enters into force.

3. Sections 74A and 75

The day this Act receives the Royal Assent.

Debate ensued.

Senator Feeney, by leave, withdrew the amendment.

On the motion of Senator Ludlam the following amendment was agreed to:

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

2. Sections 3 to 9

A single day to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation done at Sydney on 5 September 2007 enters into force.

However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

The Minister must announce by notice in the Gazette the day on which the Treaty enters into force.
<table>
<thead>
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<th>3. Section 10</th>
<th>The day after the end of the period of 2 years beginning on the day the Treaty enters into force.</th>
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| 4. Sections 11 and 12 | A single day to be fixed by Proclamation.  
A Proclamation must not specify a day earlier than the day the Treaty enters into force.  
However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period. |
| 5. Sections 13 to 15 | The day after the end of the period of 2 years beginning on the day the Treaty enters into force. |
| 6. Sections 16 and 17 | At the same time as the provision(s) covered by table item 4. |
| 7. Section 18 | The day after the end of the period of 2 years beginning on the day the Treaty enters into force. |
| 8. Sections 19 to 25 | A single day to be fixed by Proclamation.  
A Proclamation must not specify a day earlier than the day the Treaty enters into force.  
However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period. |
| 9. Sections 26 to 57 | A single day to be fixed by Proclamation.  
A Proclamation must not specify a day earlier than the day the Treaty enters into force.  
However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period. |
| 10. Subsections 58(1) and (2) | The day after the end of the period of 2 years beginning on the day the Treaty enters into force. |
| 11. Subsections 58(3) to (8) and sections 59 to 74 | At the same time as the provision(s) covered by table item 9. |
| 12. Sections 74A and 75 | The day this Act receives the Royal Assent. |
On the motion of Senator Feeney the following amendment was debated and agreed to:

Clause 3, page 3 (lines 7 to 11), omit:

- Part 2 creates offences for persons who:
  (a) engage in dealings relating to goods or technology listed in the DSGL; or
  (b) arrange for other persons to engage in dealings relating to goods or technology listed in the DSGL.

substitute:

- Part 2 creates offences for persons who:
  (a) supply DSGL technology without a permit; or
  (b) arrange for other persons to engage in dealings relating to goods listed in the DSGL, or to DSGL technology, without a permit; or
  (c) publish or otherwise disseminate DSGL technology to the public.

On the motion of Senator Feeney the following amendments, taken together by leave, were debated and agreed to:

Clause 4, page 3 (before line 23), before the definition of Article 3(1) US Defence Article, insert:

`arranges` has a meaning affected by section 5A.

Page 8 (after line 12), after clause 5, insert:

5A Arranging for persons to supply goods or DSGL technology

(1) For the purposes of this Act, a person (the `broker`) `arranges` for another person to supply goods or DSGL technology if:
   (a) the broker acts as an agent of a person, or acts as an intermediary between 2 or more persons, in relation to the supply; and
   (b) either:
      (i) the broker receives, or is to receive, any commission, fee or other benefit for so acting; or
      (ii) the broker so acts for the purpose of advancing a political, religious or ideological cause.

(2) Subsection (1) does not limit the meaning of `arranges` for the purposes of this Act.

Clause 15, page 19 (line 2) to page 21 (line 2), omit the clause, substitute:

15 Offence—arranging supplies in relation to the Defence and Strategic Goods List

(1) A person (the `first person`) commits an offence if:
   (a) either:
      (i) the first person arranges for another person to supply goods, where the goods are listed in the Defence and Strategic Goods List and the supply is, or is to be, from a place outside Australia to another place outside Australia; or
(ii) the first person arranges for another person to supply DSGL technology, where the supply is, or is to be, from a place outside Australia to another place outside Australia; and

(b) either:
   (i) the first person does not hold a permit under section 16 authorising the arrangement; or
   (ii) the arrangement contravenes a condition of a permit that the first person holds under section 16.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exceptions

(2) Subsection (1) does not apply if:
   (a) the first person is a member of the Australian Defence Force, an APS employee, a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; and
   (b) he or she does the arranging in the course of his or her duties as such a person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.

(3) Subsection (1) does not apply in the circumstances prescribed by the regulations for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the Criminal Code.

(4) Subsection (1) does not apply if:
   (a) the first person arranges for another person to supply goods, or to supply DSGL technology, where the supply is, or is to be, from a place in a foreign country to another place in that country; and
   (b) that country is a Participating State for the purposes of the Wassenaar Arrangement.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the Criminal Code.

Geographical jurisdiction

(5) Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Definitions

(6) In this section:
   place includes:
      (a) a vehicle, vessel or aircraft; and
      (b) an area of water; and
      (c) a fixed or floating structure or installation of any kind.

Wassenaar Arrangement means the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, adopted in Vienna, Austria, on 11 and 12 July 1996, as amended from time to time.
Clause 16, page 21 (lines 4 to 17), omit subclause (1), substitute:

(1) A registered broker may apply to the Minister for a permit under this section to:

(a) arrange for another person to supply goods, where the goods are listed in the Defence and Strategic Goods List; or
(b) arrange for another person to supply DSGL technology.

Note: Section 66 sets out application requirements.

Clause 16, page 21 (line 24), omit “technology relating to goods”, substitute “DSGL technology”.

Clause 16, page 21 (line 33), after “if”, insert “, having regard to the criteria prescribed by the regulations for the purposes of this subsection and to any other matters that the Minister considers appropriate,”.

On the motion of Senator Feeney the following amendments, taken together by leave, were debated and agreed to:

Clause 4, page 5 (before line 16), before the definition of foreign person, insert:

DSGL technology means a thing that is:

(a) technology, or software, as defined in the Defence and Strategic Goods List; and
(b) within the scope of that list.

Note: For paragraph (b), the Defence and Strategic Goods List contains exemptions relating to technology or software in the public domain and to basic scientific research.

Clause 4, page 6 (lines 18 and 19), omit the definition of supply, substitute:

supply:

(a) includes supply by way of sale, exchange, gift, lease, hire or hire-purchase; and
(b) in relation to DSGL technology—includes provide access to DSGL technology.

On the motion of Senator Feeney the following amendments, taken together by leave, were debated and agreed to:

Clause 5, page 7 (lines 2 to 10), omit subclause (1), substitute:

Article 3(1) US Defence Article

(1) Article 3(1) US Defence Article means goods:

(a) the initial movement of which is from a member of the United States Community to an Australian Community member, or to an Australian Community facility, for an activity referred to in Article 3(1)(a), (b), (c) or (d) of the Defense Trade Cooperation Treaty; and
(b) that are listed in Part 1 of the Defense Trade Cooperation Munitions List immediately before the start of that movement; and
(c) that are not listed in Part 2 of the Defense Trade Cooperation Munitions List immediately before the start of that movement.
Clause 5, page 7 (lines 17 to 23), omit subclause (4), substitute:

_Article 3(3) US Defence Article_

(4) _Article 3(3) US Defence Article_ means goods:

(a) acquired by, and delivered to, the Government of Australia as mentioned in Article 3(3) of the Defense Trade Cooperation Treaty; and

(b) that are listed in Part 1 of the Defense Trade Cooperation Munitions List at the time of that delivery; and

(c) that are not listed in Part 2 of the Defense Trade Cooperation Munitions List at the time of that delivery.

Clause 36, page 56 (lines 16 to 21), omit subclause (3), substitute:

(3) Part 1 is to contain a list of either or both of the following:

(a) goods listed in the Defence and Strategic Goods List;

(b) goods listed in the United States Munitions List referred to in Article 1(1)(n) of the Defense Trade Cooperation Treaty.

Senator Ludlam moved the following amendment:

Page 9 (after line 20), at the end of Part 1, add:

9A General defence

(1) A person does not commit an offence against this Act if:

(a) a physical element of the offence exists because information was, or is to be, disclosed (whether by way of supply of the information or otherwise); and

(b) without the existence of that physical element the person would not commit the offence; and

(c) any of the following apply:

(i) the information has already been lawfully made available to the public, or to a section of the public;

(ii) the information has been accepted for publication and/or submitted to a reviewer for the purpose of publication or presentation at a conference;

(iii) the information was created as a result of the conduct of open research;

(iv) the information was, or is to be, disclosed in connection with the conduct of open research;

(v) the information was, or is to be, disclosed during, or for the purposes of, the conduct of a course of study at a higher education institution;

(vi) the information was, or is to be, disclosed in connection with an application for a patent.

Note: A defendant bears an evidential burden in relation to the matters in subsection (1) (see subsection 13.3(3) of the Criminal Code).

(2) For the purposes of subparagraphs (1)(c)(iii) and (iv), research is _open research_ if:

(a) the results of the research would ordinarily be published and/or shared broadly within the scholarly community; and

(b) the conduct of the research is not subject to:

(i) a condition that the results not be disclosed; or
(ii) a condition that the results only be disclosed with approval.

Question—That the amendment be agreed to—put and negatived.

Senator Johnston moved the following amendment:

Page 9 (after line 20), at the end of Part 1, add:

9A Exclusion for research, education and information in the public domain

This Act does not apply to the following:
(a) information in the public domain;
(b) information that has been, or is intended to be, published in any publication available to members of the public;
(c) fundamental research, which is basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly in the scientific community (such research is to be distinguished from proprietary research and from industrial development, design, production and product utilisation, the results of which ordinarily are restricted for proprietary reasons or subject to other access and dissemination controls);
(d) educational information or instruction provided in courses by a higher education provider;
(e) information that is the minimum necessary information for patent applications.

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Bernardi) reported progress.

5 Ministry and Ministerial Arrangements—Document

The Leader of the Government in the Senate (Senator Evans) tabled a document showing all members of the Gillard Ministry and ministerial representation, dated 28 October 2012.

6 Questions

Questions without notice were answered.

7 Motions to Take Note of Answers

Senator Fifield 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 Senators Cormann and Edwards today relating to the minerals resource rent tax.

Debate ensued.

Question put and passed.
The Leader of the Australian Greens (Senator Milne) moved—That the Senate take note of the answers given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) and the Minister for Foreign Affairs (Senator Bob Carr) to questions without notice asked by Senators Milne and Ludlam today relating to the white paper, *Australia in the Asian Century*.

Question put and passed.

8 **NOTICES**

The Chair of the Economics Legislation Committee (Senator Bishop): To move on the next day of sitting—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 on Thursday, 1 November 2012, from 3.30 pm. *(general business notice of motion no. 983)*

The Chair of the Economics References Committee (Senator Bushby): To move on the next day of sitting—That the time for the presentation of the report of the Economics References Committee on the effects of the global financial crisis on the Australian banking sector be extended to 28 November 2012. *(general business notice of motion no. 984)*

The Chair of the Finance and Public Administration Legislation Committee (Senator Polley): To move on the next day of sitting—That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 30 October 2012, from 6.30 pm, to take evidence for the committee’s inquiry into the performance of the Department of Parliamentary Services. *(general business notice of motion no. 985)*

The Chair of the Select Committee on Electricity Prices (Senator Thistlethwaite): To move on the next day of sitting—That the Select Committee on Electricity Prices be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 31 October 2012, from 9.30 am. *(general business notice of motion no. 986)*

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

(a) acknowledges proposals submitted by the Federated States of Micronesia, and by Canada, Mexico and the United States of America, to amend the Montreal Protocol on Substances that Deplete the Ozone Layer to regulate and phase-down production and consumption of hydrofluorocarbons (HFCs) with a high global warming potential, that have support of at least 108 Parties and are on the agenda for consideration for the 4th year in a row at the Meeting of the Parties in Geneva from 12 November to 16 November 2012 [25th anniversary meeting];

(b) recognises that:

(i) at the Rio+20 Conference earlier in 2012, the nations of the world agreed on a final document that recognised that the phase-out of ozone depleting substances was resulting in a rapid increase in the use and release of high global warming potential HFCs to the environment, and supported a gradual phase-down in the consumption and production of HFCs, and
(ii) it is time for the Montreal Protocol to fully embrace its obligations and act decisively to regulate HFCs in order to avoid undermining efforts to arrest and reverse climate change by largely negating anticipated reductions in CO2, and to reduce the threat of crossing tipping points for abrupt, irreversible and catastrophic climate changes—tipping points many leading scientists now warn may be only a few years away; and

(c) calls on the Government to urge the Governments of India, China and Brazil to cease blocking discussion of and agreement to the proposals from the Federated States of Micronesia, and from Canada, Mexico and the United States of America sought by the majority of Parties, to work diplomatically to raise the global community’s level of ambition and to actively work at the highest levels to achieve an agreement in 2013 to drive a global HFC phase-out under the Montreal Protocol. (general business notice of motion no. 987)

The Minister for Multicultural Affairs (Senator Lundy): To move on the next day of sitting—That the Senate—

(a) notes that:

(i) Friday, 26 October, was the celebration of Eid al-Adha, a special day in the calendar for Muslim Australians,

(ii) 26 October marked the beginning of Eid al-Adha, or the Festival of Sacrifice, commemorating Ibrahim’s (Abraham) willingness to sacrifice his son to God,

(iii) Eid al-Adha is a time of peace, respect, sharing, caring and donating to those in need for Muslims and it is particularly special for Muslim children as it involves the exchanging of gifts and getting together with family, and

(iv) this significant time coincides with the annual Hajj pilgrimage to Mecca in Saudi Arabia; and

(b) wishes all our Australian Muslim friends who are travelling to Mecca a safe trip on their way to, and home from, their spiritual journey.

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

(a) notes Bight Petroleum’s referral of a proposed action under the Environment Protection and Biodiversity Conservation Act 1999 (the Act) (Reference number: 2012/6583) dated 15 October 2012, which sets out the company’s intention to undertake seismic testing over a 3 000 sq km area to the west of Kangaroo Island between January and May 2013;

(b) recognises the ecological, economic and social importance of the Kangaroo Island canyons and pool, first and foremost for the Kangaroo Island community, but also for South Australia as a whole; and

(c) calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to use his powers under the Act to reject Bight Petroleum’s referral as clearly unacceptable. (general business notice of motion no. 988)

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

(a) notes that, in addition to the $60 a week decrease to the base rate of their income support, some single parent families who are already juggling part-time work with caring can also expect to lose up to another $30 a week in concessions from 1 January 2013 as a result of new taper rates associated with the shift from Parenting Payment Single to Newstart; and
(b) calls on the Government to:
   (i) model the impact of this policy on single parents and examine whether
       this perversely impacts on their workforce participation,
   (ii) increase the single rate of Newstart and other allowances by $50 a week,
       and
   (iii) stop attempting to achieve a surplus at the expense of low-income
       families. (general business notice of motion no. 989)

The Parliamentary Secretary to the Prime Minister (Senator McLucas): To move on
the next day of sitting—That the government business orders of the day relating to the
Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2012 and the
Superannuation Legislation Amendment (Further MySuper and Transparency
Measures) Bill 2012 may be taken together for their remaining stages.

The Parliamentary Secretary for School Education and Workplace Relations (Senator
Collins): To move on the next day of sitting—That, on Tuesday, 30 October 2012:
   (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;
   (b) the routine of business from not later than 7.30 pm shall be government
       business only; and
   (c) the question for the adjournment of the Senate shall be proposed at 10 pm.

The Parliamentary Secretary for School Education and Workplace Relations (Senator
Collins): To move on the next day of sitting—That the provisions of paragraphs (5) to
(8) of standing order 111 not apply to the following bills, allowing them to be
considered during this period of sittings:
   Appropriation (Implementation of the Report of the Expert Panel on Asylum
Seekers) Bill (No. 1) 2012-2013
   Appropriation (Implementation of the Report of the Expert Panel on Asylum
Seekers) Bill (No. 2) 2012-2013.

Document: Senator Collins tabled the following document:

   Consideration of legislation—Statement of reasons for introduction and
   passage of the bills in the 2012 spring sittings.

The Parliamentary Secretary for School Education and Workplace Relations (Senator
Collins): To move on the next day of sitting—That the provisions of paragraphs (5) to
(8) of standing order 111 not apply to the following bills, allowing them to be
considered during this period of sittings:
   Clean Energy Amendment (International Emissions Trading and Other Measures)
   Bill 2012
   Clean Energy (Charges—Excise) Amendment Bill 2012
   Clean Energy (Charges—Customs) Amendment Bill 2012
   Excise Tariff Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
   Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment
   (Per-tonne Carbon Price Equivalent) Bill 2012
   Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment
   (Per-tonne Carbon Price Equivalent) Bill 2012
   Clean Energy (Unit Issue Charge—Auctions) Amendment Bill 2012.
Document: Senator Collins tabled the following document:
Consideration of legislation—Statement of reasons for introduction and passage of the bills in the 2012 spring sittings.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Dental Benefits Amendment Bill 2012, allowing it to be considered during this period of sittings.

Document: Senator Collins tabled the following document:

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Social and Community Services Pay Equity Special Account Bill 2012
Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012.

Document: Senator Collins tabled the following document:
Consideration of legislation—Statement of reasons for introduction and passage of the bills in the 2012 spring sittings.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Aviation Legislation Amendment (Liability and Insurance) Bill 2012
Federal Circuit Court of Australia Legislation Amendment Bill 2012
Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Bill 2012.
Documents: Senator Collins tabled the following documents:


9 PRIVATE SENATORS’ BILLS—CONSIDERATION
The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) moved—That general business order of the day no. 95 (Environment Protection and Biodiversity Conservation Amendment (Making Marine Parks Accountable) Bill 2012) be considered on Thursday, 1 November 2012 under the temporary order relating to the consideration of private senators’ bills.

Question put and passed.

10 LEAVE OF ABSENCE
Senator McEwen, by leave, moved—That leave of absence be granted to Senator Brown for today, for personal reasons.

Question put and passed.

Senator Kroger, by leave, moved—That leave of absence be granted to the following senators for personal reasons:

(a) Senators Boswell and McKenzie for today; and

(b) Senator Sinodinos from 29 October to 2 November 2012.

Question put and passed.

11 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING
Senator McEwen, by leave and at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Polley), moved—That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 5.30 pm, to take evidence from the Future Fund in relation to the consideration of the 2012-13 supplementary Budget estimates.

Question put and passed.

12 LEAVE OF ABSENCE
Senator Siewert, by leave, moved—That leave of absence be granted to Senator Hanson-Young from 29 October to 1 November 2012, on account of parliamentary business.

Question put and passed.

13 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING
Senator Kroger, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan), moved—That the Rural and Regional Affairs and Transport References Committee be authorised to hold in camera hearings during the sitting of the Senate today, from 4 pm, and from 6.15 pm.

Question put and passed.
14 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 607 standing in the name of Senator Madigan for 1 November 2012, proposing the introduction of the Treaties (Parliamentary Approval) Bill 2012, postponed till the first sitting day in March 2013.


15 FOREIGN AFFAIRS—CAMBODIA—ELECTIONS

The Leader of the Australian Greens (Senator Milne), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 980—That the Senate—

(a) notes the recent report by the United Nations (UN) Special Rapporteur on Human Rights in Cambodia which addresses the issue of election organisation and makes a number of recommendations in order for Cambodia’s general election in July 2013 to meet international standards for democratic elections and for urgent and long-term reforms to give Cambodians confidence in the electoral process; and

(b) calls on the Cambodian Government to hold free and fair elections in 2013 and to ensure that opposition parties are able to participate fully in Cambodian politics without physical or judicial harassment or intimidation, including opposition leader Sam Rainsy, as recommended by the UN Special Rapporteur.

Question put and passed.

16 ADMINISTRATION—PROTECTING NATIONALLY THREATENED SPECIES AND WILDERNESS PLACES—RESPONSIBILITY

Senator Siewert, at the request of Senator Waters and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 982—That the Senate—

(a) notes:

(i) the Australian Institute of Marine Science study released on 2 October 2012 which found that the Great Barrier Reef has lost more than half its coral cover in the past 27 years, and that, if current trends continue, coral cover could halve again by 2022,

(ii) the Commonwealth Scientific and Industrial Research Organisation report of 1 October 2012 which stated that ecological change across Australia in response to climate change is unavoidable; it will be widespread and substantial,

(iii) the Australian Bureau of Statistics Measures of Australia’s Progress 2012 report released on 9 October 2012 which highlighted that we are failing to stop the decline in our biodiversity and our atmosphere, and

(iv) the Government’s commitment to hand federal environmental responsibility for threatened and migratory species, Ramsar wetlands and heritage spaces to the states despite the likely damage to the nationally important places and species Australians consider too precious to lose; and
(b) calls on the Government to retain responsibility for making all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places.

Question put.
The Senate divided—

AYES, 8

Senators—
Di Natale
Ludlam
Milne
Rhiannon
Siewert (Teller)
Whish-Wilson

NOES, 28

Senators—
Back
Bernardi
Bilyk
Bishop
Cameron
Cash
Collins
Cormann
Eggleston
Farrell
Fifield
Furner
Gallacher
Kroger
McEwen (Teller)
McLucas
Moore
Parley
Pratt
Ruston
Singh
Smith
Stephens
Sterle
Thorp
Urquhart
Watt
Williams

Question negatived.

17 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TAXATION—MINING TAX

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

The Gillard Government’s ongoing mining tax fiasco and its implications for the Budget.

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

18 GAMBLING REFORM—JOINT SELECT COMMITTEE—REPORT—PREVENTION AND TREATMENT OF PROBLEM GAMBLING

The Acting Deputy President (Senator Bernardi) tabled the following report and documents received on 12 October 2012:


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

19 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—REGULATORY POWERS (STANDARD PROVISIONS) BILL 2012

The Acting Deputy President (Senator Bernardi) tabled the following report received on 23 October 2012:


Report ordered to be printed on the motion of Senator Polley.
20 Legal and Constitutional Affairs Legislation Committee—Government Response—Deterring People Smuggling Bill 2011

The Acting Deputy President (Senator Bernardi) tabled the following document received on 15 October 2012:


21 Environment and Communications References Committee—Government Response—Recent ABC Programming Decisions

The Acting Deputy President (Senator Bernardi) tabled the following document received on 16 October 2012:


22 Foreign Affairs, Defence and Trade References Committee—Government Response—Procurement Procedures for Defence Capital Projects

The Acting Deputy President (Senator Bernardi) tabled the following document received on 16 October 2012:


23 Men’s Health—Select Committee—Government Response—Report

The Acting Deputy President (Senator Bernardi) tabled the following document received on 24 October 2012:


24 Government Documents

Acting Deputy President (Senator Bernardi) tabled the following documents received on the dates indicated:

Aged Care Standards and Accreditation Agency Limited—Report for 2011-12. [Received 24 October 2012]

Australia Business Arts Foundation Ltd—Financial statements for 2011-12. [Received 24 October 2012]

Australia Council for the Arts (Australia Council)—Report for 2011-12. [Received 19 October 2012]

Australian Agency for International Development (AusAID)—Report for 2011-12. [Received 12 October 2012]

Addendum. [Received 15 October 2012]

Australian Broadcasting Corporation (ABC)—Report for 2011-12. [Received 12 October 2012]


Australian Commission on Safety and Quality in Health Care—Report for 2011-12. [Received 15 October 2012]
Australian Communications and Media Authority (ACMA)—Report for 2011-12. [Received 15 October 2012]
Australian Competition and Consumer Commission—Report for 2011-12, including report of the Australian Energy Regulator (AER). [Received 16 October 2012]
Australian Customs and Border Protection Service—Report for 2011-12. [Received 23 October 2012]
Australian Electoral Commission (AEC)—Report for 2011-12. [Received 12 October 2012]
Australian Federal Police (AFP)—Report for 2011-12. [Received 12 October 2012]
Australian Film, Television and Radio School (AFTRS)—Report for 2011-12. [Received 24 October 2012]
Australian Government Solicitor (AGS)—Report for 2011-12. [Received 24 October 2012]
Australian Human Rights Commission—Report No. 55—BZ and AD v Commonwealth of Australia (Department of Immigration and Citizenship). [Received 17 October 2012]
Australian Information Commissioner—Report for 2011-12. [Received 12 October 2012]
Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)—Report for 2011-12. [Received 24 October 2012]
Australian Landcare Council—Report for 2011-12. [Received 24 October 2012]
Australian Transaction Reports and Analysis Centre (AUSTRAC)—Report for 2011-12. [Received 12 October 2012]
Companies Auditors and Liquidators Disciplinary Board (CALDB)—Report for 2011-12. [Received 16 October 2012]
ComSuper—Report for 2011-12. [Received 23 October 2012]
Corporations and Markets Advisory Committee (CAMAC)—Report for 2011-12. [Received 16 October 2012]
Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Australian Federal Police—Report for 2011-12. [Received 12 October 2012]
CrimTrac Agency—Report for 2011-12. [Received 12 October 2012]
Department of Finance and Deregulation—Report for 2011-12. [Received 12 October 2012]
Department of Foreign Affairs and Trade—Report for 2011-12. [Received 26 October 2012]
Department of Human Services—Report for 2011-12. [Received 16 October 2012]
Department of Immigration and Citizenship—Report for 2011-12. [Received 12 October 2012]
Department of Resources, Energy and Tourism—Report for 2011-12, including report of Geoscience Australia. [Received 24 October 2012]
Export Finance and Insurance Corporation (EFIC)—Report for 2011-12. [Received 25 October 2012]
Fair Work Australia—Report for 2011-12. [Received 16 October 2012]
Family Court of Australia—Report for 2011-12. [Received 24 October 2012]
Family Law Council—Report for 2011-12. [Received 17 October 2012]
Federal Court of Australia—Report for 2011-12. [Received 24 October 2012]
Federal Magistrates Court of Australia—Report for 2011-12. [Received 17 October 2012]
Health Workforce Australia—Report for 2011-12. [Received 12 October 2012]
Inspector-General of Taxation—Report for 2011-12. [Received 16 October 2012]
Migration Agents Registration Authority (MARA)—Report for 2011-12. [Received 12 October 2012]
Migration Review Tribunal and Refugee Review Tribunal—Report for 2011-12. [Received 12 October 2012]
National Blood Authority—Report for 2011-12. [Received 24 October 2012]
National Competition Council—Report for 2011-12. [Received 16 October 2012]
National Gallery of Australia—Report for 2011-12. [Received 22 October 2012]
NBN Co Limited—Report for 2011-12. [Received 19 October 2012]
Office of the Official Secretary to the Governor-General—Report for 2011-12. [Received 25 October 2012]
Productivity Commission—Report No. 60—Default superannuation funds in modern awards, dated 5 October 2012. [Received 12 October 2012]
Professional Services Review—Report for 2011-12. [Received 16 October 2012]
Public Lending Right Committee—Report for 2011-12. [Received 26 October 2012]
Safety, Rehabilitation and Compensation Commission and Comcare—Reports for 2011-12. [Received 12 October 2012]
Screen Australia—Report for 2011-12. [Received 24 October 2012]
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare)—Report for 2011-12. [Received 12 October 2012]
Skills Australia—Report for 2011-12. [Received 25 October 2012]
Special Broadcasting Service Corporation (SBS)—Report for 2011-12. [Received 12 October 2012]
Wine Australia Corporation—Report for 2011-12. [Received 24 October 2012]
Witness Protection Act 1994—Report for 2011-12 on the operation of the National Witness Protection Program. [Received 12 October 2012]
25 **AUDITOR-GENERAL—AUDIT REPORT NO. 8 OF 2012-13—DOCUMENT**

The Acting Deputy President (Senator Bernardi) tabled the following document received on 24 October 2012:


26 **DEPARTMENTAL AND AGENCY APPOINTMENTS AND VACANCIES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS**

Pursuant to the order of the Senate of 24 June 2008, as amended, the Acting Deputy President (Senator Bernardi) tabled the following documents received on the dates indicated:

- Departmental and agency appointments and vacancies—Budget (Supplementary) estimates—Letters of advice—Department of Families, Housing, Community Services and Indigenous Affairs. [Received 19 October 2012]
- Veterans’ Affairs portfolio. [Received 15 October 2012]

27 **DEPARTMENTAL AND AGENCY GRANTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS**

Pursuant to the order of the Senate of 24 June 2008, the Acting Deputy President (Senator Bernardi) tabled the following documents received on the dates indicated:

- Departmental and agency grants—Budget (Supplementary) estimates—Letters of advice—
  - Australian Organ and Tissue Authority. [Received 22 October 2012]
  - Department of Foreign Affairs. [Received 12 October 2012]
  - Department of Veterans’ Affairs. [Received 15 October 2012]
  - Families, Housing, Community Services and Indigenous Affairs portfolio. [Received 19 October 2012]

28 **CONSIDERATION OF DOCUMENTS**

Senator Polley, by leave, moved—that consideration of the committee reports and government responses tabled earlier today (see entries nos 18 to 23) be listed on the Notice Paper as separate orders of the day.

Question put and passed.

29 **PARLIAMENTARY SERVICE COMMISSIONER—REPORT FOR 2011-12—DOCUMENT**

The Acting Deputy President (Senator Bernardi) tabled the following document:


Document ordered to be printed on the motion of Senator Polley.

30 **HEALTH—POLIO ERADICATION—DOCUMENT**

The Acting Deputy President (Senator Bernardi) tabled the following document:

Health—Polio eradication—Letter to the President of the Senate from the Minister for Foreign Affairs (Senator Bob Carr) responding to the resolution of the Senate of 14 August 2012, dated 11 October 2012.
31 **SOCIAL ISSUES—SUICIDE—DOCUMENT**

The Acting Deputy President (Senator Bernardi) tabled the following document:

Social issues—Suicide—Letter to the President of the Senate from the Minister for Mental Health and Ageing (Mr Butler) responding to the resolution of the Senate of 13 September 2012, dated 11 October 2012.

Senator Williams, by leave, moved—That the Senate take note of the document.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Fierravanti-Wells in continuation.

32 **FOREIGN AFFAIRS—UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES—DOCUMENTS**

The Acting Deputy President (Senator Bernardi) tabled the following documents:

Foreign affairs—United Nations Declaration on the Rights of Indigenous Peoples—Letters to the President of the Senate, responding to the resolution of the Senate of 13 September 2012, from—

Minister for Families, Community Services and Indigenous Affairs (Ms Macklin), dated 22 October 2012.

Minister for Foreign Affairs (Senator Bob Carr), dated 11 October 2012.

Senator Siewert, by leave, moved—That the Senate take note of the documents.

Question put and passed.

33 **WOMEN—EMPLOYMENT—DOMESTIC VIOLENCE—DOCUMENTS**

The Acting Deputy President (Senator Bernardi) tabled the following documents:

Women—Employment—Domestic violence—Letters to the President of the Senate, responding to the resolution of the Senate of 19 September 2012, from—

Chief Minister of the Northern Territory (Mr Mills), dated 17 October 2012.

Correspondence Manager, Office of the Premier of New South Wales, (Ms Mitchell), dated 4 October 2012.

Premier of Queensland (Mr Newman), dated 19 October 2012.

34 **PUBLIC SERVICE AMENDMENT BILL 2012—EXPLANATORY MEMORANDUM**

The Parliamentary Secretary for Defence (Senator Feeney) tabled an addendum to the revised explanatory memorandum relating to the Public Service Amendment Bill 2012.

35 **CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REPORTS—PERSONAL LIABILITY FOR CORPORATE FAULT REFORM BILL 2012 AND TAX LAWS AMENDMENT (CLEAN BUILDING MANAGED INVESTMENT TRUST) BILL 2012**

The Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Boyce), tabled the following reports and documents:

Corporations and Financial Services—Joint Statutory Committee—


Reports ordered to be printed on the motion of Senator Boyce.
Senator Boyce, by leave, moved—That the Senate take note of the reports.
Debate adjourned till the next day of sitting, Senator Boyce in continuation.

Pursuant to order, Senator Thorp, at the request of the Chair of the Economics Legislation Committee (Senator Bishop), tabled the following report and documents:
Report ordered to be printed on the motion of Senator Thorp.

37 Community Affairs Legislation Committee—Report—Dental Benefits Amendment Bill 2012
Pursuant to order, Senator Thorp, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report and documents:
Report ordered to be printed on the motion of Senator Thorp.

38 Australian Parliamentary Delegation to Malaysia and Sri Lanka—Document
Senator Kroger, by leave, tabled the following document:
Senator Kroger, by leave, moved—That the Senate take note of the document.
Question put and passed.

39 Documents
The following documents were tabled by the Clerk:
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.

A New Tax System (Family Assistance) Act—Child Care Benefit (Work/Training/Study Test Exemption) Amendment Determination 2012 (No. 1) [F2012L02035].

Aged Care Act—
Accountability Amendment Principles 2012 (No. 1) [F2012L02060].
Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2012 (No. 2) [F2012L01882]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].
Allocation Amendment Principles 2012 (No. 1) [F2012L02055].
Certification, Quality of Care and Sanctions Amendment Principles 2012 [F2012L02062].
Community Care Subsidy Amendment Principles 2012 (No. 1) [F2012L02056].
Community Visitors Grant Amendment Principles 2012 (No. 1) [F2012L02059].
Residential Care Amendment Principles 2012 (No. 1) [F2012L02061].
Residential Care Subsidy Amendment Principles 2012 (No. 3) [F2012L02057].
User Rights Amendment Principles 2012 (No. 3) [F2012L01881]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].
User Rights Amendment Principles 2012 (No. 4) [F2012L02058].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 20 of 2012—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2012L02090].

Broadcasting Services Act—Broadcasting Services (Events) Notice (No. 1) (Amendment No. 13 of 2012) [F2012L02024].


Civil Aviation Act—
Civil Aviation Regulations—Instrument No. CASA 320/12—Authorisation and permission – helicopter winching operations [F2012L02050].
Civil Aviation Safety Regulations—
Instruments Nos CASA—
EX154/12—Exemption – flight in Class D airspace within 16 kilometres of an aerodrome [F2012L02067].
EX156/12—Exemption – from standard take-off and landing minima – Thai Airways [F2012L02064].
EX159/12—Exemption – certified aerodrome operators [F2012L02072].
Revocation of Airworthiness Directives—Instrument No. CASA ADCX 023/12 [F2012L02065].

Cocos (Keeling) Islands Act—Emergency Management Ordinance 2012 [F2012L02040].

Commissioner of Taxation—Public Rulings—
Class Rulings—
Erratum—CR 2012/82.
Miscellaneous Taxation Ruling—Notice of Withdrawal—MT 93/2.

Currency Act—Currency (Perth Mint) Determination 2012 (No. 2) [F2012L02052].

Customs Act—CEO Instruments of Approval Nos—
14 of 2012—Incoming passenger card (English) [F2012L02015].
15 of 2012—Incoming passenger card (Arabic) [F2012L02016].
16 of 2012—Incoming passenger card (simplified Chinese) [F2012L02018].
17 of 2012—Incoming passenger card (traditional Chinese) [F2012L02019].
18 of 2012—Incoming passenger card (French) [F2012L02020].
19 of 2012—Incoming passenger card (Greek) [F2012L02023].
20 of 2012—Incoming passenger card (Indonesian) [F2012L02033].
21 of 2012—Incoming passenger card (Italian) [F2012L02025].
22 of 2012—Incoming passenger card (Japanese) [F2012L02026].
23 of 2012—Incoming passenger card (Korean) [F2012L02027].
24 of 2012—Incoming passenger card (Malay) [F2012L02034].
25 of 2012—Incoming passenger card (Spanish) [F2012L02028].
26 of 2012—Incoming passenger card (Thai) [F2012L02029].
27 of 2012—Incoming passenger card (Vietnamese) [F2012L02030].

Defence Act—
Determination under section 58B—Defence Determinations—
2012/57—Army – targeted rank and employment category completion bonus.
2012/58—Post index and Army bonus – amendment.
2012/59—District allowance – amendment.
2012/60—Living-in, maternity leave and transfer allowance – amendment.
2012/61—International campaign allowance – amendment.
2012/62—Additional risk insurance and deployment allowance – amendment.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—
EPBC303DC/SFS/2012/48 [F2012L02042].
EPBC303DC/SFS/2012/56 [F2012L02066].

Federal Financial Relations Act—
Federal Financial Relations (General purpose financial assistance) Determination No. 43 (October 2012) [F2012L02070].

Financial Management and Accountability Act—
Notice under section 39A—NBN Co Limited.
Select Legislative Instrument 2012 No. 248—Financial Management and Accountability Amendment Regulation 2012 (No. 8) [F2012L02091].

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—Standard 1.4.2—Maximum Residue Limits Amendment Instrument No. APVMA 10, 2012 [F2012L02068].

Health Insurance Act—Health Insurance (Endovenous Laser Therapy) Determination 2012 (No. 2) [F2012L02063].

Health Workforce Australia Act—Health Workforce Australia (Eligibility) Instrument 2012 (No. 1) [F2012L02069].

Higher Education Support Act—VET Provider Approval No. 22 of 2012—Actor’s College of Theatre & Television Pty Ltd [F2012L02071].

Migration Act—
Instruments IMMI—
11/059—Revocation of section 499 Direction No. 25 [F2012L02036].
12/102—Eligible passports [F2012L02053].
12/111—Determination of daily maintenance amounts for persons in detention [F2012L02017].

Select Legislative Instruments 2012 Nos—
237—Migration Amendment Regulation 2012 (No. 6) [F2012L02021].
238—Migration Legislation Amendment Regulation 2012 (No. 4) [F2012L02041].

Statement for period 1 July to 31 December 2011 under section 197AB, dated 24 October 2011.

Military Rehabilitation and Compensation Act—Military Rehabilitation and Compensation (Warlike Service) Determination 2012 (No. 2) [F2012L02031].

Paid Parental Leave Act—Paid Parental Leave Amendment Rules 2012 (No. 1) [F2012L02054].

Primary Industries (Customs) Charges Act and Primary Industries (Excise) Levies Act—Select Legislative Instrument 2012 No. 240—Primary Industries Legislation Amendment Regulation 2012 (No. 2) [F2012L02088].

Primary Industries (Excise) Levies Act and Primary Industries (Customs) Charges Act—Select Legislative Instrument 2012 No. 241—Primary Industries Legislation Amendment Regulation 2012 (No. 3) [F2012L02089].


Radiocommunications Act—
Radiocommunications (Unacceptable Levels of Interference – 1800 MHz Band) Determination 2012 [F2012L02045].

Safety, Rehabilitation and Compensation Act—
Approval of Form of Application for Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02079].
Approval of Form of Application for Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02078].
Variation of Criteria for Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02075].
Variation of Operational Standards for Workplace Rehabilitation Providers (Rehabilitation Program Providers) [F2012L02074].
Stronger Futures in the Northern Territory Act—Stronger Futures in the Northern Territory (Food Security Areas) Rule 2012 [F2012L02073].
Veterans’ Entitlements Act—
Amendment Statements of Principles concerning—
Malignant Neoplasm of the Prostate No. 77 of 2012 [F2012L02076].
Malignant Neoplasm of the Prostate No. 78 of 2012 [F2012L02077].
Select Legislative Instrument 2012 No. 236—Veterans’ Entitlements Amendment Regulation 2012 (No. 2) [F2012L02039].
Statements of Principles concerning—
Acute Lymphoblastic Leukaemia No. 75 of 2012 [F2012L02087].
Acute Lymphoblastic Leukaemia No. 76 of 2012 [F2012L02086].
Giant Cell Arteritis No. 71 of 2012 [F2012L02082].
Giant Cell Arteritis No. 72 of 2012 [F2012L02083].
Myeloma No. 69 of 2012 [F2012L02081].
Myeloma No. 70 of 2012 [F2012L02080].
Solar Keratosis No. 73 of 2012 [F2012L02084].
Solar Keratosis No. 74 of 2012 [F2012L02085].
Water Act—
Water Charge (Termination Fees) Amendment Rules 2012 [F2012L02043].
Water Market Amendment Rules 2012 [F2012L02044].
Governor-General’s Proclamation—Commencement of provisions of an Act—

40 COMMITTEE MEMBERSHIP
The Acting Deputy President (Senator Furner) informed the Senate that the President had received letters requesting changes in the membership of committees.
The Parliamentary Secretary for Defence (Senator Feeney), by leave, moved—That senators be discharged from and appointed to committees as follows:

Environment and Communications References Committee—
Appointed—
Substitute member: Senator Whish-Wilson to replace Senator Waters for the committee’s inquiry into container deposit schemes
Participating member: Senator Waters

Human Rights—Joint Statutory Committee—
Discharged—Senator Humphries
Appointed—Senator Ruston.

Question put and passed.
41 **CLEAN ENERGY AMENDMENT (INTERNATIONAL EMISSIONS TRADING AND OTHER MEASURES) BILL 2012**

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 527, dated 29 October 2012—A Bill for an Act to amend legislation relating to clean energy, and for other purposes.

The Parliamentary Secretary for Defence (Senator Feeney) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Feeney moved—That this bill be now read a second time.

Explanatory memorandum: Senator Feeney tabled a revised explanatory memorandum relating to this bill and six related bills.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Feeney, by leave, moved—That this bill and the Clean Energy (Charges—Excise) Amendment Bill 2012 and related bills may be taken together for their remaining stages.

Question put and passed.

42 **GOVERNOR-GENERAL’S MESSAGES—ASSENT TO LAWS**

Messages from Her Excellency the Governor-General were reported, informing the Senate that she had assented to the following laws:


24 October 2012—Messages Nos—


43 **SOCIAL SECURITY (ADMINISTRATION) ACT—PROPOSED DISALLOWANCES**

Senator Siewert, pursuant to notice, moved the following business of the Senate notices of motion together by leave—


No. 2—That Social Security (Administration) (Vulnerable income management areas) Specification 2012, made under subsections 123UCA(3) and 123UGB(2) of the Social Security (Administration) Act 1999, be disallowed.

No. 4—That Social Security (Administration) (Specified income management Territory—Northern Territory) Specification 2012, made under subsections 123UCB(4) and 123UCC(4) of the Social Security (Administration) Act 1999, be disallowed.


Debate ensued.

Question put.

The Senate divided—

AYES, 7

Senators—

Di Natale
Ludlam

Milne
Rhiannon

Siewert (Teller)
Waters

Whish-Wilson

NOES, 25

Senators—

Back (Teller)
Bilyk
Cameron
Cash
Collins
Conroy
Crossin
Farrell
Furner
Johnston
Kroger
Ladwig
McEwen
McLucas
Moore
Payne
Pratt
Ronaldson
Ruston
Singh
Smith

Stephens
Thistlethwaite
Thorp
Urquhart

Question negatived.

44 DEFENCE TRADE CONTROLS BILL 2011
CUSTOMS AMENDMENT (MILITARY END-USE) BILL 2011

Order read for the further consideration of the bills in committee of the whole.

In the committee

DEFENCE TRADE CONTROLS BILL 2011—

Consideration resumed of the bill, as amended—and of the amendment moved by Senator Johnston (see entry no. 4).

Debate resumed.

Question—that the amendment be agreed to—put.
The committee divided—

AYES, 36

Senators—

Back
Bernardi
Birmingham
Boyce
Brandis
Bushby (Teller)
Cash
Colbeck
Cormann

Di Natale
Edwards
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Humphries
Johnston
Joyce

Kroger
Ludlam
Mason
Milne
Nash
Parry
Payne
Rhiannon
Ronaldson

Ruston
Ryan
Siewert
Smith
Waters
Whish-Wilson
Williams
Wright
Xenophon

NOES, 26

Senators—

Bilyk
Bishop
Carr, Bob
Carr, Kim
Collins
Conroy

Farrell
Faulkner
Furner
Gallacher
Ludwig
Madigan

Marshall
McEwen
Moore
Polley (Teller)
Pratt
Singh

Sterne
Thistlethwaite
Thorp
Urquhart

Question agreed to.

Senator Johnston moved the following amendment:

Clause 11, page 14 (after line 21), after subclause (3), insert:

(3A) If a person makes an application under subsection (1), the Minister must decide whether or not to give the person a permit:
(a) if the Minister considers the application to be non-complex—within 15 days after the application is made; or
(b) otherwise—within 35 days after the application is made.

(3B) If the Minister fails to make a decision within the period required under subsection (3A), the Minister is taken to have decided to give the person a permit to do each activity covered by the application.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of the Parliamentary Secretary for Defence (Senator Feeney) the following amendment was debated and agreed to:

Clauses 10 and 11, page 10 (line 4) to page 15 (line 16), omit the clauses, substitute:

10 Offence—supply of DSGL technology

(1) A person (the supplier) commits an offence if:
(a) the supplier supplies DSGL technology to another person; and
(b) either:
(i) the supply is from a place in Australia to a place outside Australia; or
(ii) if the supply is the provision of access to DSGL technology—at the time of the provision of access, the supplier is in Australia and the other person is outside Australia; and
(c) either:
   (i) the supplier does not hold a permit under section 11 authorising the supply of the DSGL technology; or
   (ii) the supply of the DSGL technology contravenes a condition of a permit that the supplier holds under section 11; and

(d) there is no notice in force under subsection 14(1) in relation to the supplier and the supply.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exceptions

(2) Subsection (1) does not apply if:
(a) the supply is of DSGL technology in relation to original goods; and
(b) the supply is by an Australian Community member or by a member of the United States Community; and
(c) the supply is to an Australian Community member or a member of the United States Community; and
(d) the supply is for an activity referred to in Article 3(1)(a), (b), (c) or (d) of the Defense Trade Cooperation Treaty; and
(e) at the time of the supply, the original goods are listed in Part 1 of the Defense Trade Cooperation Munitions List; and
(f) at the time of the supply, the original goods are not listed in Part 2 of the Defense Trade Cooperation Munitions List.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.

(3) Subsection (1) does not apply if:
(a) the DSGL technology is supplied by a person who is a member of the Australian Defence Force, an APS employee, a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; and
(b) he or she supplies the DSGL technology in the course of his or her duties as such a person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the Criminal Code.

(4) Subsection (1) does not apply in the circumstances prescribed by the regulations for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the Criminal Code.

Geographical jurisdiction

(5) Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Definition

(6) In this section:

place includes:
   (a) a vehicle, vessel or aircraft; and
   (b) an area of water; and
   (c) a fixed or floating structure or installation of any kind.
11 Permits for purposes of section 10

(1) A person may apply to the Minister for a permit under this section to supply DSGL technology to another person.

Note: Section 66 sets out application requirements.

(2) An application under subsection (1) may:
   (a) cover more than one supply; and
   (b) cover a particular supply for a period described in the application.

Example 1: For paragraph (a)—an individual or a company applies for a permit to supply particular DSGL technology to various companies or to supply various DSGL technologies to one company.

Example 2: For paragraph (b)—an individual or a company applies for a permit to supply particular DSGL technology to one company for a 3-year period.

Minister’s decision

(3) If a person makes an application under subsection (1) in accordance with section 66, the Minister must decide whether or not to give the person a permit for each supply covered by the application.

(4) The Minister may give the person a permit for a specified supply if, having regard to the criteria prescribed by the regulations for the purposes of this subsection and to any other matters that the Minister considers appropriate, the Minister is satisfied that the supply would not prejudice the security, defence or international relations of Australia.

Note: Section 67 deals with giving permits under this Act.

(5) A permit given by the Minister may:
   (a) cover more than one supply; and
   (b) cover a specified supply for a period specified in, or worked out in accordance with, the permit.

(6) If the Minister refuses to give the person a permit for a supply covered by the application, the Minister must give the person notice of the refusal and the reasons for the refusal.

Note 1: Section 67 deals with giving notices under this Act.

Note 2: Section 68 deals with disclosing reasons for decisions.

Permit conditions

(7) A permit given to a person is subject to any conditions specified in the permit.

Note: Section 12 deals with changing permit conditions.

Revoking a permit

(8) The Minister may, by writing, revoke a permit given to a person under this section.

(9) However, the Minister may revoke the permit only if the Minister is satisfied that any supply covered by the permit would prejudice the security, defence or international relations of Australia.
(10) The Minister must give the person notice of the revocation and the reasons for the revocation. The revocation takes effect at the time the person receives the notice.

Note 1: Section 67 deals with giving notices under this Act.

Note 2: Section 68 deals with disclosing reasons for decisions.

On the motion of Senator Feeney the following amendments, taken together by leave, were debated and agreed to:

Clause 14, page 16 (line 24) to page 17 (line 12), omit subclause (1), substitute:

(1) If the Minister believes or suspects that, if a person were to supply to another person particular DSGL technology in any circumstances or in particular circumstances, the supply would prejudice the security, defence or international relations of Australia, the Minister may give the person a notice:

(a) prohibiting the person from supplying that DSGL technology; or
(b) prohibiting the person from supplying that DSGL technology unless conditions specified in the notice are complied with.

Note: Section 67 deals with giving notices under this Act.

Clause 14, page 18 (lines 9 to 25), omit subclause (10), substitute:

Offence

(10) A person commits an offence if:

(a) the person supplies DSGL technology; and
(b) the supply contravenes a notice, or a condition specified in a notice, that is in force under subsection (1); and
(c) the person knows of the contravention.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Clause 27, page 33 (lines 8 to 10), omit note 2, substitute:

Note 2: The offence in section 10 (about supplying DSGL technology) may not apply to the holder of an approval.

Clause 63, page 75 (line 7), omit “an activity”, substitute “a supply”.

Clause 71, page 82 (lines 26 and 27), omit “technology relating to goods”, substitute “DSGL technology, or technology relating to goods,”.

Clause 73, page 85 (table item 1, column 2), omit “activity”, substitute “supply”.

Clause 73, page 86 (table item 1, column 1), omit “an activity”, substitute “a supply”.

Senator Feeney moved the following amendments together by leave:

Page 18 (after line 28), at the end of Division 1, add:

14A Publishing etc. DSGL technology

(1) A person commits an offence if:

(a) either:

(i) the person publishes DSGL technology to the public, or to a section of the public, by electronic or other means; or
(ii) the person otherwise disseminates DSGL technology to the public, or to a section of the public, by electronic or other means; and
(b) the person does not hold an approval under this section authorising the publication or dissemination of the DSGL technology.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exception

(2) Subsection (1) does not apply if the DSGL technology has already been lawfully made available to the public or to the section of the public.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.

Approvals

(3) The Minister may, in writing, approve a person publishing or otherwise disseminating specified DSGL technology to the public or to a specified section of the public. The Minister may give an approval only if the Minister is satisfied that it is in the public interest to do so.

(4) If the Minister gives an approval under subsection (3), the Minister must give the person the approval.

Note: Section 67 deals with giving approvals under this Act.

Geographical jurisdiction

(5) Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Approval not a legislative instrument

(6) An approval under this section is not a legislative instrument.

Clause 73, page 85 (line 2), after “section 14,”, insert “subsection 14A(3),”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 29

Back
Bilyk
Bishop
Boyce
Colbeck
Cormann
Eggleston
Farrell
Feeney
Furner
Gallacher
Johnston
Kroger
McEwen (Teller)
McLacass
Moore
Parry
Polley
Pratt
Ruston
Scullion
Singh
Smith
Sterle
Thistlethwaite
Thorpe
Urquhart
Williams

NOES, 9

Di Natale
Ludlam
Milne

Rhiannon
Siewert (Teller)

Waters
Whish-Wilson
Wright
Xenophon

Question agreed to.
On the motion of Senator Feeney the following amendments, taken together by leave, were debated and agreed to:

Clause 58, page 71 (line 3) to page 72 (line 8), omit the clause, substitute:

**58 Keeping and retaining records**

*Permit holders under Part 2*

(1) A person must keep records of supplies that the person makes under a permit given to the person under section 11.

(2) A person must keep records of arrangements that the person makes under a permit given to the person under section 16.

*Approval holders under section 27*

(3) A person who holds an approval under section 27 must keep records of activities that the person does that are prescribed by the regulations for the purposes of this subsection.

*Form of records*

(4) Records under this section must contain the information prescribed by the regulations for the purposes of this subsection. The regulations may prescribe different information for different kinds of records.

*Retention of records*

(5) The person must retain the records for a period of 5 years.

*Offence*

(6) A person commits an offence if:
   (a) the person is subject to a requirement under this section; and
   (b) the person contravenes the requirement.

Penalty: 30 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(8) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (6).

Clause 59, page 72 (line 11), omit “make”, substitute “keep”.

On the motion of Senator Ludlam the following amendment was debated and agreed to:

Page 86 (after line 20), after clause 74, insert:

**74A Strengthened Export Controls Steering Group**

(1) As soon as practicable after this section commences, the Minister must appoint, in writing, the members of a Strengthened Export Controls Steering Group.

(2) The Group’s functions are to advise the Minister and Research Minister on:
   (a) the adequacy of the organisational and governmental arrangements, and the identification, assessment and management of risks, costs and administrative burden, associated with intangible transfers of DSGL technologies; and
(b) the oversight, design and delivery of a pilot program to identify the adequacy of this Act, the regulations, the implementation arrangements and the resources for regulating intangible transfers of DSGL technologies; and
(c) recommendations for amendments to this Act, the regulations and the implementation arrangements in view of the pilot program; and
(d) whether this Act, the regulations and the implementation arrangements are not more restrictive than United States export control regulations in relation to university activities.

The Group also has any other functions determined, in writing, by the Minister.

(3) The Group must:
(a) consider quarterly progress reports from participants in the pilot program on implementation of the strengthened export controls; and
(b) through its Chair, report to the Minister and the Research Minister every 6 months; and
(c) if required by the Minister and the Research Minister, provide additional reports.

(4) The Group must advise the Department in relation to obtaining appropriate technical and scientific expertise regarding Australian Government consideration of the control lists of international regimes and of the Defence and Strategic Goods List.

(5) The Group may establish subgroups to support its functions. Subgroups must report to the Group.

(6) The Group’s membership must include:
(a) Australia’s Chief Scientist, as the Chair of the Group; and
(b) no more than 4 representatives of the industry sector, one of whom is a co-Deputy Chair; and
(c) 2 representatives of the university sector nominated by Universities Australia, one of whom is the other co-Deputy Chair; and
(d) the Chief Executive Officer of the National Health and Medical Research Council, or its nominee; and
(e) the Chief Executive Officer of the Australian Research Council, or its nominee; and
(f) a representative of the Department; and
(g) a representative of the Department administered by the Research Minister.

(7) The Group must meet at least once each quarter.

(8) A quorum of the Group is constituted by the Chair, one representative referred to in paragraph (6)(b), one representative referred to in paragraph (6)(c) and the representatives referred to in paragraphs (6)(f) and (g).

(9) The Group must report every 6 months, in writing, to the Minister and the Research Minister, including any dissenting views of a member of the Group.

(11) The Defence Export Control Office must provide a secretariat for the Group.

(12) The secretariat must:
(a) prepare and circulate agendas in conjunction with the Chair; and
(b) work with the authors of agenda papers to ensure quality and timeliness; and
(c) ensure that the agenda approved by the Chair and papers are received by members at least 1 week before each meeting; and
(d) prepare and provide to the Chair, within 1 week of the meeting, the minutes of the meeting; and
(e) circulate the meeting outcomes to all members following clearance by the Chair, and maintain Group records.

(13) The office of a member of the Group is not a public office within the meaning of the Remuneration Tribunal Act 1973.

(14) The Group may determine the procedure to be followed in performing its functions.

(15) The Minister must cause a copy of the Group’s final report to the Minister to be tabled in each House of the Parliament within 15 sitting days of that House after the day the Minister receives the final report.

(16) The Group is abolished immediately after its final report is given to both the Minister and the Research Minister unless, before then, the Minister and the Research Minister determine, in writing, that the Group is to remain in existence until the end of a specified period.

(17) An instrument under this section is not a legislative instrument.

(18) In this section:
Research Minister means the Minister administering the Science and Industry Research Act 1949.

Bill, as amended, agreed to.

CUSTOMS AMENDMENT (MILITARY END-USE) BILL 2011—
Bill taken as a whole by leave.

On the motion of Senator Feeney the following amendments, taken together by leave, were agreed to:

Schedule 1, item 1, page 5 (after line 16), at the end of Division 1AA, add:

112BC Statement to Parliament
As soon as practicable after the end of each financial year, the Defence Minister must cause a statement to be tabled in each House of the Parliament about the exercise of the Defence Minister’s powers under this Division during that year (whether or not the statement is part of an annual report).
Schedule 1, item 2, page 5 (line 17), before “definition”, insert “paragraph (b) of the”:  
Bill, as amended, agreed to.  
Bills to be reported with amendments.

The Deputy President (Senator Parry) resumed the chair and the Chair of Committees reported accordingly.  
On the motion of Senator Feeney the report from the committee was adopted.  
Senator Feeney moved—that these bills be now read a third time.  
Question put.  
The Senate divided—

AYES, 30

Senators—

Back 
Bilyk 
Bishop 
Cameron 
Collins 
Cormann 
Edwards 
Eggleston 
Farrell 
Fawcett 
Feeney 
Furner 
Gallacher 
Johnston 
Marshall 
McEwen (Teller) 
McLucas 
Moore 
Parry 
Policy 
Pratt 
Ruston 
Singh 
Stephens 
Sterle 
Thistlethwaite 
Thorp 
Urquhart 
Williams

NOES, 9

Senators—

Di Natale 
Ludlam 
Milne 
Rhiannon 
Siewert (Teller) 
Waters 
Whish-Wilson 
Wright 
Xenophon

Question agreed to.  
Bills read a third time.

45 AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION BILL 2012
AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (CONSEQUENTIAL AND TRANSITIONAL) 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.  
Debate resumed.  
At 9.50 pm: Debate was interrupted while Senator Siewert was speaking.

46 ADJOURNMENT
The Acting Deputy President (Senator Moore) proposed the question—that the Senate do now adjourn.  
Debate ensued.  
The Senate adjourned at 10.25 pm till Tuesday, 30 October 2012 at 12.30 pm.
47 ATTENDANCE

Present, all senators except Senators Boswell*, Brown*, Hanson-Young*, McKenzie* and Sinodinos* (* on leave).

ROSEMARY LAING
Clerk of the Senate