2010-12

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 122

MONDAY, 19 NOVEMBER 2012

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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 **HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), by leave, moved—That—

(a) on Tuesday, 20 November 2012, the Senate commence sitting from 11 am; and
(b) the routine of business from 11 am to 12.30 pm shall be consideration of the following government business orders of the day:

   Equal Opportunity for Women in the Workplace Amendment Bill 2012

   Federal Circuit Court of Australia Legislation Amendment Bill 2012.

Question put and passed.

3 **ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator McEwen, by leave and at the request of the Chair of the Environment and Communications Legislation Committee (Senator Cameron), moved—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 today, from 10 am.

Question put and passed.

4 **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**

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.

Senator Hanson-Young moved the following amendment in respect of the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013:

At the end of the motion, add “but the Senate calls for the appropriation of funds for offshore processing to occur only when:

(a) a 12 month time limit on the detention of an individual in Papua New Guinea or Nauru is established;

(b) funding for a regional cooperation framework, and capacity building initiatives, is doubled to $140 million as recommended by the Expert Panel on Asylum Seekers;

(c) an Independent Health Care Panel to oversee the physical and mental health of asylum seekers sent offshore is established; and

(d) all contracts for services between the Australian Commonwealth and service providers in Papua New Guinea and Nauru, including costs and operational protocols, are tabled in Parliament”.

Debate ensued.

Question—That the amendment be agreed to—put.
A division was called for.
Pursuant to the order of the Senate of 22 November 2010 consideration of the matter was postponed.

5 **ILLEGAL LOGGING PROHIBITION BILL 2012**
Order of the day read for the adjourned debate on the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans)—That this bill be now read a second time.
Debate resumed.
On the motion of the Minister for Sport (Senator Lundy) the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

6 **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**
The order of the day relating to the motion of the Parliamentary Secretary for Defence (Senator Feeney)—That these bills be now read a second time—and the amendment moved by Senator Hanson-Young in respect of the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013 earlier today (see entry no. 4)—was called on for the question on the amendment to be put.
Question—that the amendment be agreed to—put.
The Senate divided—

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Question negatived.
Main question put and passed.
Bills read a second time.
No amendments to the bills were circulated and no senator required that they be considered in committee.
On the motion of the Minister for Sport (Senator Lundy) the bills were read a third time.
7 **ILLEGAL LOGGING PROHIBITION BILL 2012**

Order of the day read for the adjourned debate on the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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**In the committee**

Bill taken as a whole by leave.

The Leader of the Australian Greens (Senator Milne) moved the following amendment:

Page 2 (after line 7), after clause 2, insert:

**2A Objects of this Act**

The objects of this Act are:

(a) to prevent the trade of timber products derived from illegal logging; and

(b) to help reduce illegal logging in Australia’s region and globally; and

(c) to encourage the sourcing of timber products produced using sustainable practices; and

(d) to help Australia to become a country that trades only in sustainable timber products; and

(e) to assist in the implementation of Australia’s international obligations in relation to the eradication of corruption, including under:

(i) the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions done at Paris on 17 December 1997 ([1999] ATS 21); and

(ii) the Convention against Corruption done at New York on 31 October 2003 ([2006] ATS 2); and

(iii) the Convention against Transnational Organised Crime done at New York on 15 November 2000 ([2004] ATS 12); and

(f) to assist in the implementation of Australia’s international obligations in relation to the environment, including under:

(i) the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington on 3 March 1973 ([1976] ATS 29); and

(ii) the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992 ([1993] ATS 32); and
contribute to the implementation of Australia’s commitment to the environment under the Montréal Process, and the Santiago Declaration of Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests made at Santiago on 3 February 1995.

Note: In 2012, the text of an international agreement in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Debate ensued.

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

8 QUESTIONS
Questions without notice were answered.

9 QUESTION ON NOTICE—ANSWER AND EXPLANATION
Senator Ludlam, pursuant to standing order 74, asked the Minister representing the Minister for Resources and Energy (Senator Evans) for an explanation of an answer not being provided to question on notice no. 2389 (notice given 19 October 2012) relating to a national radioactive waste facility.

Senator Evans indicated that an explanation would be provided.

Senator Ludlam moved—That the Senate take note of the minister’s failure to provide either an answer or an explanation.

Question put and passed.

10 MOTIONS TO TAKE NOTE OF ANSWERS
Senator Nash moved—That the Senate take note of the answer given by the Minister for Human Services (Senator Kim Carr) to a question without notice asked by Senator Nash today relating to child care.

Debate ensued.

Question put and passed.

The Leader of the Australian Greens (Senator Milne) moved—That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Milne today relating to the Tarkine and national heritage listing.

Question put and passed.

11 NOTICES

Notices of motion:

The Chair of the Environment and Communications References Committee (Senator Birmingham): To move on the next day of sitting—That the Environment and Communications References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate on Wednesday, 21 November 2012, from 3 pm, and on Thursday, 22 November 2012, from 1.05 pm. (general business notice of motion no. 1019)
The Chair of the Economics Legislation Committee (Senator Bishop): To move on the next day of sitting—That the time for the presentation of the report of the Economics Legislation Committee on the Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012 be extended to 21 March 2013. (general business notice of motion no. 1020)

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 public meeting during the sitting of the Senate on Monday, 26 November 2012, from 6.30 pm, to further examine the 2012-13 supplementary budget estimates. (general business notice of motion no. 1021)

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, 22 November 2012, from 1 pm. (general business notice of motion no. 1022)

The Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin): To move on the next day of sitting—That the time for the presentation of reports of the Legal and Constitutional Affairs Legislation Committee be extended as follows:

(a) Migration Amendment (Health Care for Asylum Seekers) Bill 2012—to 7 December 2012;
(b) provisions of the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012—to 25 February 2013;
(c) provisions of the Courts and Tribunals Legislation Amendment (Administration) Bill 2012—to 25 February 2013; and

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 the report of the Rural and Regional Affairs and Transport References Committee on an aviation accident investigation be extended to 27 February 2013. (general business notice of motion no. 1024)

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 Wednesday, 21 November 2012, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Fair Work Amendment Bill 2012. (general business notice of motion no. 1025)

The Deputy Chair of the Parliamentary Joint Committee on Law Enforcement (Senator Nash): To move on the next day of sitting—That the Parliamentary Joint Committee on Law Enforcement be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 20 November 2012, from 5.30 pm, to take evidence for the committee’s inquiry into the Regulatory Powers (Standard Provisions) Bill 2012. (general business notice of motion no. 1026)
The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Sterle): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2) be extended to 21 March 2013. (general business notice of motion no. 1027)

Senator Xenophon: To move on the next day of sitting—That the time for the presentation of the report of the Joint Select Committee on Gambling Reform on the Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 be extended to 28 March 2013. (general business notice of motion no. 1028)

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

(a) notes that:
(i) the University of Western Sydney (UWS) has foreshadowed planned cuts to economics and community languages courses and academic staffing cuts across various schools,
(ii) UWS claims the cuts are in response to budgetary pressures due to lower than expected student enrolments following the uncapping of university places, however the university still carries a budget surplus and can expect a steady increase in enrolments over time,
(iii) in 2003 UWS allocated 62.5 per cent of student fees earned to teaching and learning, whereas in 2012 only 38.3 per cent of student fees earned went to teaching and learning, with a corresponding increase in administration expenditure,
(iv) teaching and learning is under-resourced at UWS, with one of the highest staff to student ratios in Australia as well as one of the highest staff casualisation rates, and further staffing cuts will deny the students of Western Sydney a quality education, and
(v) UWS plans to close its student learning service that targets academic skills support to socially disadvantaged students and students who are the first in their family to attend university, which applies to a large number of students from Western Sydney; and

(b) calls on the Government to:
(i) urge UWS management to retain its current courses and academic staffing resources, and
(ii) immediately increase public funding by 10 per cent per government supported university student, as recommended by the Bradley review, to give budget certainty to universities. (general business notice of motion no. 1029)

The Leader of the Opposition in the Senate (Senator Abetz): To move on 21 November 2012—That the Migration Amendment Regulation 2012 (No. 6), as contained in Select Legislative Instrument 2012 No. 237 and made under the Migration Act 1958, be disallowed.

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 (Reference Number: 2012/6583);
(b) recognises the high likelihood of the proposed seismic survey encountering and having an adverse impact on:
   (i) blue whales, if undertaken between November and April,
   (ii) southern right whales, if undertaken between May and October, and
   (iii) southern bluefin tuna, if undertaken between December and April; 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 to proceed at any time of year.

(General Business Notice of Motion no. 1030)

Senators Moore, Boyce, Rhiannon and Cash: To move on the next day of sitting—That the Senate—

(a) notes that:
   (i) 2.5 billion people currently live without access to sanitation, half of these people are women who have nowhere safe to go to the toilet,
   (ii) women lacking access to safe toilets are at risk of verbal, physical and sexual violence,
   (iii) women are significantly and disproportionately impacted by lack of access to sanitation,
   (iv) women in sub-Saharan Africa spend 19 billion hours a year finding a place to go to the toilet,
   (v) access to sanitation is a foundation for good health, and women and girls who have no toilet face the additional risks posed by infectious diseases, malnutrition due to repeated diarrhoea and reproductive infections due to poor menstrual hygiene management,
   (vi) girls at school require access to a toilet with suitable facilities and privacy for menstrual hygiene management, and without this access, evidence shows that the attendance of girls at school significantly drops impacting upon girls’ educational opportunities,
   (vii) women’s economic opportunities can be significantly reduced as a result of poor access to a toilet as their time and health are impacted, and
   (viii) the Australian Government supports the recent Rio+20 outcomes document ‘The Future We Want’ and its commitments regarding the human right to safe drinking water and sanitation; and

(b) acknowledges Australia’s support for the right to water and sanitation. (General Business Notice of Motion no. 1031)

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins): To move on the next day of sitting—That—

(1) On Tuesday, 20 November 2012:
   (a) the hours of meeting shall be 11 am 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.

(2) On Thursday, 22 November 2012:
   (a) the hours of meeting shall be 9.30 am to 6 pm and 7 pm to 10.40 pm;
   (b) divisions may take place after 4.30 pm;
(c) consideration of committee reports, government responses and Auditor-General’s reports shall not be proceeded with;
(d) the routine of business from not later than 7 pm shall be government business only; and
(e) the question for the adjournment of the Senate shall be proposed at 10 pm.

Senator Hanson-Young: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958, and for related purposes. *Migration Amendment (Special Protection Scheme for Afghan Coalition Employees) Bill 2012.* (general business notice of motion no. 1032)

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 Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) 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:
- Corporations Legislation Amendment (Derivative Transactions) Bill 2012
- Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012
- Freedom of Information Amendment (Parliamentary Budget Office) Bill 2012
- Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012
- National Health Security Amendment Bill 2012
- Personal Liability for Corporate Fault Reform Bill 2012
- Superannuation Auditor Registration Imposition Bill 2012
- Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Bill 2012
- Superannuation Legislation Amendment (New Zealand Arrangement) Bill 2012
- Tax Laws Amendment (2012 Measures No. 5) Bill 2012
- Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012.

Documents: Senator Collins tabled the following documents:
Notice of motion withdrawn: Senator Rhiannon withdrew general business notice of motion no. 993 standing in her name for today, relating to the ‘Let’s End the Stigma’ campaign.

12 LEAVE OF ABSENCE

Senator McEwen, by leave, moved—That leave of absence be granted to Senator Urquhart from 19 November to 22 November 2012, on account of parliamentary business.

Question put and passed.

Senator Kroger, by leave, moved—That leave of absence be granted to the following senators on account of parliamentary business:

(a) Senator Ryan for 19 November 2012; and

(b) Senator Cormann for 19 November and 20 November 2012.

Question put and passed.

13 PRIVATE SENATORS’ BILLS—CONSIDERATION

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) moved—That general business order of the day no. 83 (Low Aromatic Fuel Bill 2012) be considered on Thursday, 22 November 2012 under the temporary order relating to the consideration of private senators’ bills.

Question put and passed.

14 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTINGS

Senator McEwen, at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1012—That the Rural and Regional Affairs and Transport References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Tuesday, 20 November 2012, from 4.30 pm, to take evidence for the committee’s inquiry into the Foreign Investment Review Board national interest test.

Question put and passed.

Senator McEwen, at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1013—That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 21 November 2012, from 4 pm, to take evidence for the committee’s inquiry into an aviation accident investigation.

Question put and passed.
15 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. 1014—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, 28 November 2012, from noon to 1.45 pm, to take evidence for the committee’s inquiries into the 2010-11 annual reports of the Department of Regional Australia, Regional Development and Local Government, and the National Capital Authority.

Question put and passed.

16 WOMEN—FEMALE GENITAL MUTILATION

Senator Cash, also on behalf of Senator Kroger, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1016—That the Senate—

(a) notes the World Health Organization (WHO) findings in relation to female genital mutilation (FGM), including:

(i) FGM is defined by the WHO as ‘all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons’,

(ii) it is estimated that FGM is practised in 28 countries in western, eastern and north-eastern Africa, in parts of the Middle East, and within some immigrant communities in Europe, North America and Australasia, and that 100 to 140 million women and girls around the world have experienced the procedure, including 92 million in Africa,

(iii) that, in seven of the countries where FGM is practised, the national prevalence rate among women aged 15 to 49 is almost universal – more than 85 per cent,

(iv) FGM has no known health benefits and is known to be harmful to girls and women in many different ways; it is painful and traumatic and the removal of, or damage to, healthy genital tissue interferes with the body’s natural functioning and causes immediate and long-term health consequences,

(v) in terms of impact on health:

(A) immediate consequences of FGM can include severe pain, shock, haemorrhage, tetanus or sepsis, urine retention, open sores in the genital region and injury to nearby genital tissue, and

(B) long-term consequences include recurrent bladder and urinary tract infections, cysts, infertility, an increased risk of childbirth complications and newborn deaths and the need for later surgeries; for example, the FGM procedure that seals or narrows a vaginal opening needs to be cut open later to allow for sexual intercourse and childbirth, and
(vi) FGM is a manifestation of deeply entrenched gender inequality and is recognised as a human rights abuse, and it constitutes an extreme form of discrimination against women, a violation of the rights of the child, the rights to health, life, security, physical integrity and the right to be free from torture and cruel, inhuman or degrading treatment;

(b) acknowledges that:
(i) several international and regional treaties have specifically identified FGM as being both a violation of the rights of women and girls and a form of discrimination, including the United Nations Commission on the Status of Women, ‘Ending female genital mutilation’ resolutions 54/7 of 2010, 52/2 of 2008 and 51/2 of 2007, and
(ii) in Australia, any type of FGM is clearly prohibited by specific legislation in every jurisdiction; and

(c) expresses concern at recent identified cases of FGM in Australia.

Question put and passed.

17 FOREIGN AFFAIRS—GRAMEEN BANK
The Leader of the Australian Greens (Senator Milne), also on behalf of Senators Eggleston and Stephens, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1018—That the Senate—
(a) recognises and applauds the work of the Grameen Bank in helping to lift millions of poor people, particularly poor women, out of poverty;
(b) acknowledges the work of founder Professor Muhammad Yunus and Grameen Bank as joint recipients of the 2006 Nobel Peace Prize for their work fighting poverty;
(c) notes the actions of the Government of Bangladesh on 22 August 2012 in amending the section of the Grameen Bank Ordinance relating to the appointment of a Managing Director;
(d) encourages the Government of Bangladesh to work cooperatively with the Bank’s board of directors on the appointment of a new Managing Director;
(e) urges the Government of Bangladesh to ensure the continued effectiveness of the Grameen Bank; and
(f) encourages a resolution of the appointment of a new Managing Director that supports the bank’s good governance.

Question put and passed.

18 LAW AND JUSTICE—MR DAVID HICKS
Senator Wright, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1015—That the Senate—
(a) recognises that:
(i) the recent ruling by the United States (US) Court of Appeals for the District of Columbia Circuit, which found that providing material support for terrorism was not a war crime between 1996 and 2001 and therefore could not support a conviction, invalidates Mr David Hicks’ conviction for this crime,
(ii) in 2007, Mr Hicks was incarcerated in a South Australian prison for 7 months as a result of negotiations between the Australian and US Governments and on the basis of this invalid conviction, and
(iii) in 2011, the Australian Government instituted proceedings against Mr Hicks under the Proceeds of Crime Act 2002 on the basis of this invalid conviction; and

(b) calls on the Government to conduct an independent inquiry into Mr Hicks’ detention, treatment and unfair trial while in US custody, as well as the role played by the Australian Government in upholding the invalid and unlawful conviction.

Question put.

The Senate divided—

AYES, 10

Senators—

Di Natale Hanson-Young Ludlam

Milne Rhiannon Siewert (Teller)

Waters Whish-Wilson Wright

NOES, 36

Senators—

Back Bernardi Bilyk Bishop Brown Cameron Cash Coalbeck Collins

Crossin Edwards Eggleston Faulkner Fawcett Feeney Fifield Furner Gallacher

Kroger (Teller) Ludwig Lundy Madigan Marshall McEwen McKenzie McLucas Moore

Parry Pratt Ruston Singh Smith Stephens Sterle Thistlethwaite Thorp

Question negatived.

19 ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE—ACCESS TO COMMITTEE DOCUMENTS

Senator Madigan, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1017—That—

(a) for the purpose of its inquiry into the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012, the Environment and Communications Legislation Committee have power to consider and make use of the evidence presented to the Community Affairs References Committee for its inquiry into the social and economic impact of rural wind farms, including, subject to paragraph (b), evidence or documents ordered by that committee to be treated as in camera evidence; and

(b) the Environment and Communications Legislation Committee shall not make use of any evidence or documents ordered by the Community Affairs References Committee to be treated as in camera evidence, except in accordance with the following conditions:

(i) the committee must first obtain the agreement of the witness who provided the evidence or documents,

(ii) the committee must not publish the evidence or documents without informing the witness in advance of the proposed publication,

(iii) the committee must provide reasonable opportunity for the witness to object to the publication and ask that the particular parts of the evidence or documents not be published,
(iv) the committee must give careful consideration to any objection by a witness before making its decision, and
(v) if the committee resolves to publish the evidence or documents, it must also consider publishing them in such a way as to conceal the identity of persons who gave the evidence or provided the documents, or who are referred to in the evidence or documents.

Question put.
The Senate divided—

**AYES, 31**

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**NOES, 35**

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Question negatived.

20 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—IMMIGRATION—BORDER SECURITY**

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 stop the boats and secure Australia’s borders.

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

21 **COMMUNITY AFFAIRS REFERENCES COMMITTEE—GOVERNMENT RESPONSE—PLANNING OPTIONS AND SERVICES FOR PEOPLE AGEING WITH A DISABILITY**

The Acting Deputy President (Senator Bernardi) tabled the following document received on 5 November 2012:

22 Scrutiny of New Taxes—Select Committee—Government Response—The Carbon Tax

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

- Scrutiny of New Taxes—Select Committee—Government response, dated November 2012—
  - Interim report—The carbon tax: Economic pain for no environmental gain.
  - Final report—The carbon tax: Secrecy and spin cannot hide carbon tax flaws.

23 Government Documents

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

- Australian Nuclear Science and Technology Organisation Act—Statement under section 7—Disclosure of the Australian Nuclear Science and Technology Organisation’s interest in a company. [Received 5 November 2012]
- Australian Prudential Regulation Authority (APRA)—Report for 2011-12. [Received 9 November 2012]
- Commonwealth Superannuation Corporation (CSC)—Reports for 2011-12—
  - Defence Forces Retirement Benefits Scheme (DFRB Scheme), Defence Force Retirement and Death Benefits Scheme (DFRDB Scheme) and Defence Force (Superannuation) (Productivity Benefit) Scheme (DFSPB), including financial statements for the Commonwealth Superannuation Corporation. [Received 8 November 2012]
  - Military Superannuation and Benefits Scheme (MilitarySuper), including financial statements for the Commonwealth Superannuation Corporation. [Received 8 November 2012]
- Director of National Parks—Report for 2011-12. [Received 9 November 2012]
- Indigenous Land Corporation (ILC)—Report for 2011-12. [Received 14 November 2012]
- Private Health Insurance Administration Council—Report for 2011-12. [Received 5 November 2012]
- Queensland Floods Commission of Inquiry—Final report—Commonwealth response, dated October 2012. [Received 14 November 2012]
- Torres Strait Regional Authority (TSRA)—Report for 2011-12. [Received 14 November 2012]


The Acting Deputy President (Senator Bernardi) tabled the following document received on 13 November 2012:

25 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

Pursuant to the order of the Senate of 30 May 1996, as amended, the Acting Deputy President (Senator Bernardi) tabled the following document received on 8 November 2012:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2012—Statement of compliance—Foreign Affairs and Trade portfolio.

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

Pursuant to the order of the Senate of 24 June 2008, as amended, the Acting Deputy President (Senator Bernardi) tabled the following document received on 5 November 2012:

Departmental and agency appointments and vacancies—Budget (Supplementary) estimates—Letter of advice—Climate Change and Energy Efficiency portfolio.

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

Pursuant to the order of the Senate of 24 June 2008, the Acting Deputy President (Senator Bernardi) tabled the following document received on 5 November 2012:

Departmental and agency grants—Budget (Supplementary) estimates—Letter of advice—Climate Change and Energy Efficiency portfolio.

28 CONSIDERATION OF DOCUMENTS

Senator Brown, by leave, moved—that consideration of the government responses tabled earlier today (see entries nos 21 and 22) be listed on the Notice Paper as separate orders of the day.

Question put and passed.

29 HEALTH—FAMILY PLANNING—DOCUMENT

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

Health—Family planning—Letter to the President of the Senate from the Minister for Foreign Affairs (Senator Bob Carr) responding to the resolution of the Senate of 16 August 2012, dated 30 October 2012.

30 HEALTH—WORLD MENTAL HEALTH DAY—DOCUMENTS

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

Health—World Mental Health Day—Letters to the President of the Senate, responding to the resolution of the Senate of 10 October 2012, from—

Minister for Mental Health and Ageing (Mr Butler), dated 31 October 2012.

Premier of New South Wales (Mr O’Farrell), dated 5 November 2012.

Premier of South Australia (Mr Weatherill), dated 6 November 2012.

Tasmanian Minister for Health (Ms O’Byrne), dated 12 November 2012.

Senator Back, by leave, moved—that the Senate take note of the documents.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Fierravanti-Wells in continuation.
31 FOREIGN AFFAIRS—CAMBODIA—ELECTIONS—DOCUMENT
The Acting Deputy President (Senator Bernardi) tabled the following document:
Foreign affairs—Cambodia—Elections—Letter to the President of the Senate from the Chargé d’Affaires, a.i., Embassy of Cambodia (Kimsour Savannary) responding to the resolution of the Senate of 29 October 2012, dated 5 November 2012.

32 ELECTRICITY PRICES—SELECT COMMITTEE—DOCUMENTS
Senator Brown tabled the following documents:
Electricity Prices—Select Committee—Reducing energy bills and improving efficiency—Hansard record of proceedings, documents presented to the committee, additional information and submissions.

33 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.]

Acts Interpretation Act—

Statements pursuant to subsection 34C(6) relating to the extension of specified period for presentation of reports—
Royal Australian Navy Central Canteens Board (RANCCB)—Report for 2011-12.
Torres Strait Regional Authority—Report for 2011-12.

Airspace Act—Airspace Regulations—Instruments Nos OAR—
140/12—Determination of airspace and controlled aerodromes etc [F2012L02181].
141/12—Designation of air routes; Determination of conditions for use of air routes [F2012L02180].


Australian Research Council Act—
Approval of Proposals—Determinations Nos—
106—Discovery Early Career Researcher Award for funding commencing in 2013.
107—Linkage Infrastructure, Equipment and Facilities for funding commencing in 2013.
108—Discovery Indigenous for funding commencing in 2013.
109—Special Research Initiative for an Aboriginal and Torres Strait Islander Researchers’ Network for funding commencing in 2012.
110—Discovery Projects for funding commencing in 2013.
Industrial Transformation Research Hubs Funding Rules for funding commencing in 2012 [F2012L02155].
Industrial Transformation Training Centres Funding Rules for funding commencing in 2013 [F2012L02156].

Broadcasting Services Act—
Broadcasting Services (Digital-Only Local Market Areas for Tasmania TV1) Determination (No. 3) 2012 [F2012L02140].
Variation to the Licence Area Plan for Remote and Regional Western Australia Analog Television – No. 1 of 2012 [F2012L02176].

Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos CASA—
341/12—Direction – flight time limitations for helicopter mustering operations [F2012L02139].
356/12—Instructions – use of Global Navigation Satellite System (GNSS) [F2012L02141].
364/12—Direction – number of cabin attendants (National Jet Systems) [F2012L02169].

Civil Aviation Safety Regulations—Instruments Nos CASA—
EX163/12—Exemption – recency requirements for night flying (Virgin Australia International Airlines Pty Ltd) [F2012L02146].
EX164/12—Exemption – use of radiocommunication systems in firefighting operations (Western Australia) [F2012L02174].


Commissioner of Taxation—Public Rulings—
Class Rulings—
Erratum—CR 2012/38.

Goods and Services Tax Advices—Addenda—GSTA TPP 001, GSTA TPP 003-GSTA TPP 010, GSTA TPP 012-GSTA TPP 024, GSTA TPP 026, GSTA TPP 027, GSTA TPP 030-GSTA TPP 034, GSTA TPP 042-GSTA TPP 047, GSTA TPP 049-GSTA TPP 059, GSTA TPP 061-GSTA TPP 077, GSTA TPP 088, GSTA TPP 089, GSTA TPP 092, GSTA TPP 094, GSTA TPP 095 and GSTA TPP 104.

Goods and Services Tax Bulletins—Addenda—GSTB 2003/2 and GSTB 2006/1.


Taxation Determinations TD 2012/21 and TD 2012/22.

Taxation Ruling—Erratum—TR 2010/1.

Taxation Ruling (old series)—Notice of Withdrawal—IT 2258.

Competition and Consumer Act—

  Competition and Consumer (Tobacco) Amendment Information Standard 2012 (No. 1) [F2012L02145].

  Consumer Protection Notice No. 5 of 2012—Imposition of permanent ban on small, high powered magnets [F2012L02171].

Corporations Act—ASIC Class Order [CO 12/1209] [F2012L02157].

Customs Act—Select Legislative Instrument 2012 No. 249—Customs Amendment Regulation 2012 (No. 8) [F2012L02159].

Environment Protection and Biodiversity Conservation Act—

  Amendment of list of specimens taken to be suitable for live import—EPBC/s.303EC/SSLI/Amend/055 [F2012L02168].

  Environment Protection and Biodiversity Conservation Declared State or Territory Declaration 2012 [F2012L02160].

Fisheries Management Act—Western Tuna and Billfish Fishery Management Plan 2005—Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2013 [F2012L02178].

Food Standards Australia New Zealand Act—Food Standards (Application A1038—Irradiation of Persimmons) Variation [F2012L02175].

Higher Education Support Act—

  Higher Education Provider Approvals Nos—

  11 of 2012—AIPC Trust [F2012L02166].

  12 of 2012—Australian Institute of Business Pty Ltd [F2012L02167].

  Higher Education Provider Guidelines 2012 [F2012L02136].

  Revocation of Approval as a VET Provider—Minister for Employment, Higher Education and Skills (SA) [F2012L02189].

  VET Provider Approval No. 23 of 2012—Northern Rivers Conservatorium Arts Centre Inc [F2012L02177].

Insurance Contracts Act—Select Legislative Instrument 2012 No. 250—Insurance Contracts Amendment Regulation 2012 (No. 2) [F2012L02163].
Judiciary Act—Select Legislative Instrument 2012 No. 253—High Court Rules 2004 (Amendment) [F2012L02165].

Lands Acquisition Act—Statement describing property acquired by agreement for specified purposes under section 125.

Migration Act—Instrument IMMI 12/002—Class of persons [F2012L02162].

National Consumer Credit Protection Act—Select Legislative Instrument 2012 No. 201—National Consumer Credit Protection Amendment Regulation 2012 (No. 2) [F2012L01706]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 21 August 2012].

National Health Act—
Instruments Nos PB—
98 of 2012—National Health (Weighted average disclosed price – interim supplementary disclosure cycle) Amendment Determination 2012 (No. 2) [F2012L02147].
101 of 2012—National Health (Residential Medication Chart) Amendment Determination 2012 (No. 2) [F2012L02154].
102 of 2012—National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2012 (No. 3) [F2012L02153].

National Health (Immunisation Program – Designated Vaccines) Variation Determination 2012 (No. 2) [F2012L02185].

Navigation Act—Marine Orders Nos—
7 of 2012—Marine Order 21, issue 8 (Safety of Navigation and Emergency Procedures) [F2012L02149].
8 of 2012—Marine Orders Part 34 Amendment 2012 (No. 1) (Solid Bulk Cargoes) [F2012L02148].
9 of 2012—Marine Order 50, issue 6 (Special Purpose Ships) [F2012L02150].

Ozone Protection and Synthetic Greenhouse Gas Management Act—Exemptions Nos—
S40E12554593—RDN Australia Pty Ltd as the trustee for The Tyson Family Trust, dated 2 April 2012.
S40E13490277—Qantas Airways Limited, dated 22 December 2011.
S40E16372769—Gulf Coast Aviation Pty Ltd, dated 18 January 2012.
S40E18019630—Jetstar Airways Pty Limited, dated 22 May 2012.
S40E18432800—Tiger Airways Australia Pty Limited, dated 13 January 2012.
S40E25120867—Virgin Australia Airlines Pty Ltd, dated 22 December 2011.
S40E39973402—China Southern West Australian Flying College Pty Ltd, dated 2 April 2012.
S40E45313089—Aeropearl Pty Ltd, dated 4 April 2012.
S40E55931279—John Holland Aviation Services Pty Ltd, dated 8 February 2012.
S40E57928118—Strategic Airlines Pty. Ltd., dated 14 February 2012.
S40E59464399—Virgin Australia International Airlines Pty Ltd, dated 13 January 2012.
S40E64753642—Kidde Aerospace & Defence Pty Ltd, dated 1 May 2012.
S40E72692497—Skywest Airlines (Australia) Pty Ltd, dated 10 January 2012.
S40E82049666—Fugro Spatial Solutions Pty Ltd, dated 26 July 2012.
S40E95079839—M & G Hoskins Sales Pty Ltd, dated 4 January 2012.
S40E98385375—Nitro Aviation Pty Ltd, dated 25 May 2012.

Patents Act—Select Legislative Instrument 2012 No. 221—Patents Amendment Regulation 2012 (No. 1) [F2012L01878]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].

Private Health Insurance Act—
Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 8) [F2012L02151].
Private Health Insurance (Complying Product) Amendment Rules 2012 (No. 8) [F2012L02137].

Radiocommunications Act—
Radiocommunications (Datacasting Transmitter Licence Allocation) Revocation Determination 2012 [F2012L02172].
Radiocommunications (Spectrum Access Charges – 800 MHz Band) Determination 2012 (No. 2) [F2012L02173].

Remuneration Tribunal Act—Select Legislative Instrument 2012 No. 252—Remuneration Tribunal (Members’ Fees and Allowances) Amendment Regulation 2012 (No. 1) [F2012L02164].

Social Security (Administration) Act—
Social Security (Administration) (Schooling Requirement) Amendment Determination 2012 (No. 1) [F2012L02182].

Superannuation Act 1976—
Superannuation (CSS) (Eligible Employees – Exclusion) Amendment Declaration 2012 (No. 2) [F2012L02144].
Superannuation (CSS) (Eligible Employees – Inclusion) Amendment Declaration 2012 (No. 2) [F2012L02138].

Superannuation Act 1990—Superannuation (PSS) Membership Inclusion Amendment Declaration 2012 (No. 2) [F2012L02143].

Sydney Airport Curfew Act—Dispensation Report 06/12.

Tertiary Education Quality and Standards Agency Act—Tertiary Education Quality and Standards Agency (Register) Guidelines Amendment 2012 [F2012L02152].

Therapeutic Goods Act—
Select Legislative Instrument 2012 No. 251—Therapeutic Goods Amendment Regulation 2012 (No. 3) [F2012L02161].

Governor-General’s Proclamation—Commencement of provisions of an Act—
34 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Bernardi) informed the Senate that the
President had received a letter requesting changes in the membership of a committee.
The Parliamentary Secretary to the Prime Minister (Senator McLucas), by leave,
moved—That Senator Ruston replace Senator Edwards on the Rural and Regional
Affairs and Transport References Committee for the committee’s inquiry into the
management of the Murray-Darling Basin on Friday, 23 November 2012, and Senator
Edwards be appointed as a participating member.

Question put and passed.

35 FAIR ENTITLEMENTS GUARANTEE BILL 2012
TAX LAWS AMENDMENT (2012 MEASURES NO. 5) BILL 2012
WATER AMENDMENT (LONG-TERM AVERAGE SUSTAINABLE DIVERSION LIMIT
ADJUSTMENT) BILL 2012
WHEAT EXPORT MARKETING AMENDMENT BILL 2012

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

Message no. 550, dated 12 November 2012—A Bill for an Act to provide for
financial assistance for workers who have not been fully paid for work done for
insolvents or bankrupts, and for related purposes.

Message no. 549, dated 12 November 2012—A Bill for an Act to amend the law
relating to taxation, and for related purposes.

Message no. 547, dated 12 November 2012—A Bill for an Act to amend the Water
Act 2007 in relation to long-term average sustainable diversion limits, and for
related purposes.

Message no. 548, dated 12 November 2012—A Bill for an Act to amend the Wheat
Export Marketing Act 2008, and for other purposes.

The Parliamentary Secretary to the Prime Minister (Senator McLucas) 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 McLucas moved—That these bills be now read a second time.

relating to the 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 McLucas moved—That the bills be listed on the Notice Paper as separate
orders of the day.

Question put and passed.
36 **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:

6 November 2012—Messages Nos—

65—

Customs Amendment (Smuggled Tobacco) Act 2012 (Act No. 146, 2012)
Industrial Chemicals (Notification and Assessment) Amendment Act 2012 (Act No. 147, 2012).

66—


8 November 2012—Message No. 67—

Social and Community Services Pay Equity Special Account Act 2012 (Act No. 150, 2012)

13 November 2012—Message No. 68—

Customs Amendment (Military End-Use) Act 2012 (Act No. 152, 2012)

37 **LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—CRIMES LEGISLATION AMENDMENT (SERIOUS DRUGS, IDENTITY CRIME AND OTHER MEASURES) BILL 2012**

Pursuant to order, Senator Brown, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following report and documents:


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

38 **LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—FREEDOM OF INFORMATION AMENDMENT (PARLIAMENTARY BUDGET OFFICE) BILL 2012**

Pursuant to order, Senator Brown, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following report and documents:


Report ordered to be printed on the motion of Senator Brown.
Pursuant to order, Senator Brown, at the request of the Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall), tabled the following report and documents:


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

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.

Pursuant to order, Senator Brown, 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 Brown.

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

In the committee

Consideration resumed of the bill—and of the amendment moved by the Leader of the Australian Greens (Senator Milne) (see entry no. 7).

Debate resumed.

Question—that the amendment be agreed to—put and negatived.
Senator Milne moved the following amendment:

Clause 7, page 5 (line 5), at the end of the definition of illegally logged, add “including, but not limited to, laws about the following matters:

(a) rights to harvest timber within legally gazetted boundaries;
(b) amounts payable in relation to rights to harvest and timber, including duties related to the harvest of timber;
(c) harvesting timber, including environmental and forest legislation including forest management and biodiversity conservation where it is directly related to harvesting timber;
(d) legal rights of third parties in relation to land use and tenure that are affected by harvesting timber;
(e) customs and other tax duties in relation to the timber product sector;
(f) trade in timber products.”.

Debate ensued.

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

Senator Milne moved the following amendments together by leave:

Clause 7, page 4 (line 24), at the end of the definition of due diligence requirements, add: ; and (c) for supplying timber products—has the meaning given by section 18E.

Clause 13, page 9 (line 12), before “A”, insert “(1)”.

Clause 13, page 9 (after line 21), at the end of the clause, add:

(2) The form of declaration prescribed by the regulations must require the person to include the following information:

(a) the name of the person importing the timber product;
(b) the name of the person who supplied the product to the person importing the product;
(c) the botanical name and the common name for the timber used in the product;
(d) the cost of the product to the person importing the product, in Australian dollars;
(e) the country or countries of origin of the product;
(f) the region or forest coupe, or any other information that identifies the site, where the timber for the product was logged;
(g) details of the logging permit, logging approval or harvest concession in relation to the timber for the product, issued by the country or countries of origin;
(h) the name and voyage number of the vessel on which the product is being imported;
(i) the number of the shipping container in which the product is being imported;
(j) any consignment identifier, bill of lading number or invoice number in relation to the product;
(k) a description of the product;
(l) the type of product being imported and the trade name, if any, of the product;
(m) if the product is comprised of more than one kind of timber or is comprised of timber and one or more other materials—the kinds of timber and other materials that the product is comprised of;
(n) the customs tariff classification to which the product belongs;
(o) the quantity of product covered by the declaration;
(p) the due diligence system, and any components of the system, in the country of origin used to verify that the timber for the product has not been illegally logged;
(q) an assessment of the level of risk that the timber for the product has been illegally logged, as either a low, medium or high risk;
(r) any other information prescribed by the regulations.

(3) A declaration made by a person in accordance with this section must be published on the internet within 7 days of the Customs Minister receiving it.

Clause 14, page 9 (lines 29 and 30), omit “may include requirements in relation to one or more of the following”, substitute “must include requirements in relation to the following”.

Clause 14, page 10 (lines 1 to 9), omit paragraph (3)(a), substitute:
(a) gathering information for the purposes of assessing that risk;

Clause 14, page 10 (line 18), at the end of paragraph (3)(i), add “, including statements of compliance”.

Clause 14, page 10 (lines 20 to 29), omit subclauses (5) and (6), substitute:

(5) The regulations must provide that evidence of compliance with the laws, rules or processes under laws, including certification schemes, in force in a State or Territory or another country may be taken into account as part of the evidence demonstrating compliance with due diligence requirements for importing regulated timber products.

Clause 18, page 14 (lines 3 and 4), omit “may include requirements in relation to one or more of the following”, substitute “must include requirements in relation to the following”.

Clause 18, page 14 (lines 5 to 13), omit paragraph (3)(a), substitute:
(a) gathering information for the purposes of assessing that risk;

Clause 18, page 14 (line 20), at the end of paragraph (3)(h), add “, including statements of compliance”.

Clause 18, page 14 (lines 22 to 29), omit subclauses (5) and (6), substitute:

(5) The regulations must provide that evidence of compliance with the laws, rules or processes under laws, including certification schemes, in force in a State or Territory may be taken into account as part of the evidence demonstrating compliance with due diligence requirements for processing raw logs.

Debate ensued.

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

AYES, 10

Senators—
Di Natale
Hanson-Young
Ludlam
Milne
Riannon
Siewert (Teller)
Waters
Whish-Wilson
Wright
Xenophon

NOES, 29

Back
Bishop
Brown
Cameron
Carr, Kim
Colbeck
Conroy
Crossin
Edwards
Farrell
Fawcett
Furner
Gallacher
Groger
Ludwig
Landy
Madigan
McKenzie
Moore
Nash
Polley (Teller)
Pratt
Ruston
Smith

Question negatived.

Senator Milne moved the following amendments together by leave:

Clause 6, page 3 (lines 10 to 14), omit all the words from and including “This Act” to and including “processed.”, substitute:

This Act prohibits the importation of illegally logged timber, the processing of illegally logged raw logs and the supply of regulated timber products.

This Act also requires importers of regulated timber products, processors of raw logs and suppliers of timber products to conduct due diligence in order to reduce the risk that illegally logged timber is imported, processed or supplied.

Clause 7, page 6 (after line 1), after the definition of premises, insert:

processed timber product means a thing that is, is made from or includes, a raw log that has been processed.

Clause 7, page 6 (after line 5), after the definition of Secretary, insert:

supply has the meaning given by section 7A.

Page 6 (after line 8), after clause 7, insert:

7A Supplying timber products

(1) A supply of a timber product includes a supply of the product by way of sale, exchange, gift, lease, loan, hire or hire-purchase.

(2) For the purposes of subsection (1), it is irrelevant whether the supply is:

(a) for consideration; or

(b) a wholesale or retail supply.

Note: Offences under this Act relating to supplying timber products do not apply in relation to second-hand products.

Page 14 (after line 29), after Part 3, insert:

Part 3A—Supplying

Division 1—Supplying illegally logged timber

18A Supplying illegally logged timber
A person commits an offence if:
(a) the person supplies a thing; and
(b) the person is a constitutional corporation, or the person supplies the thing:
   (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
   (ii) in a Territory; or
   (iii) on behalf of a constitutional corporation; or
   (iv) to a constitutional corporation; or
   (v) on behalf of the Commonwealth or a Commonwealth authority; or
   (vi) to the Commonwealth or a Commonwealth authority; and
(c) the thing is, is made from, or includes, illegally logged timber; and
(d) the thing is not prescribed by the regulations for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

Subsection (1) does not apply if the timber product is a second-hand product at the time of the supply.

18B Supplying illegally logged timber in regulated timber products

A person commits an offence if:
(a) the person supplies a thing; and
(b) the person is a constitutional corporation, or the person supplies the thing:
   (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
   (ii) in a Territory; or
   (iii) on behalf of a constitutional corporation; or
   (iv) to a constitutional corporation; or
   (v) on behalf of the Commonwealth or a Commonwealth authority; or
   (vi) to the Commonwealth or a Commonwealth authority; and
(c) the thing is, is made from, or includes, illegally logged timber; and
(d) the thing is a regulated timber product; and
(e) the thing is not prescribed by the regulations for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

Subsection (1) does not apply if the timber product is a second-hand product at the time of the supply.

18C Forfeiture

A court may order all or any part of a thing to be forfeited to the Commonwealth if:
(a) the court convicts a person of an offence against section 18A or 18B in respect of the thing or part; and
(b) the thing or part is the property of the person.

(2) The person is entitled to be heard in relation to the order.

(3) The thing or part may be dealt with or disposed of in any manner that the Secretary thinks appropriate, but only after:
   (a) if the periods provided for lodging appeals against the order and the conviction have ended without such an appeal having been lodged—the end of those periods; or
   (b) if one or more such appeals have been lodged—the appeals lapse or are finally determined.

**Division 2—Suppliers’ due diligence**

### 18D Supplying a timber product

A person commits an offence if:

- (a) the person supplies a thing; and
- (b) the person is a constitutional corporation, or the person supplies the thing:
  - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
  - (ii) in a Territory; or
  - (iii) on behalf of a constitutional corporation; or
  - (iv) to a constitutional corporation; or
  - (v) on behalf of the Commonwealth or a Commonwealth authority; or
  - (vi) to the Commonwealth or a Commonwealth authority; and

- (c) the thing is a timber product; and
- (d) the person does not comply with the due diligence requirements for supplying the product.

**Penalty:** 300 penalty units.

### 18E Due diligence requirements for supply of timber products

The due diligence requirements for the supply of a timber product by a person (the supplier) to another person are:

- (a) for an imported regulated timber product—the supplier must provide the other person with:
  - (i) a copy of the declaration made to the Customs Minister under section 13 in relation to the product; and
  - (ii) evidence of compliance with the due diligence requirements for importing regulated timber products; and

- (b) for a processed timber product—the supplier must provide the other person with evidence of compliance with the due diligence requirements for processing raw logs.

Debate ensued.

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

Senator Milne moved the following amendment:

Page 59 (after line 28), after Part 4, insert:

**Part 4A—Review of administrative decisions**

### 82A Extended standing for judicial review
(1) This section extends (and does not limit) the meaning of the term *person aggrieved* in the *Administrative Decisions (Judicial Review) Act 1977* for the purposes of the application of that Act in relation to:

(a) a decision made under this Act or the regulations; or  
(b) a failure to make a decision under this Act or the regulations; or  
(c) conduct engaged in for the purpose of making a decision under this Act or the regulations.

(2) An individual is taken to be a person aggrieved by the decision, failure or conduct if:

(a) the individual is an Australian citizen or ordinarily resident in Australia or an external Territory; and  
(b) at any time in the 2 years immediately before the decision, failure or conduct, the individual has engaged in a series of activities in Australia or an external Territory for protection or conservation of, or research into, the environment, or relating to logging, illegally logged timber, or a related matter.

(3) An organisation or association (whether incorporated or not) is taken to be a person aggrieved by the decision, failure or conduct if:

(a) the organisation or association is incorporated, or was otherwise established, in Australia or an external Territory; and  
(b) at any time in the 2 years immediately before the decision, failure or conduct, the organisation or association has engaged in a series of activities in Australia or an external Territory for protection or conservation of, or research into, the environment, or relating to logging, illegally logged timber, or a related matter.

(4) A term (except *person aggrieved*) used in this section and in the *Administrative Decisions (Judicial Review) Act 1977* has the same meaning in this section as it has in that Act.

### 82B Applications on behalf of unincorporated organisations

(1) A person acting on behalf of an unincorporated organisation that is a person aggrieved (for the purposes of the *Administrative Decisions (Judicial Review) Act 1977*) by:

(a) a decision made under this Act or the regulations; or  
(b) a failure to make a decision under this Act or the regulations; or  
(c) conduct engaged in for the purpose of making a decision under this Act or the regulations;

may apply under that Act for a review of the decision, failure or conduct.

(2) The *Administrative Decisions (Judicial Review) Act 1977* applies in relation to the person as if he or she were a person aggrieved.

Debate ensued.  
Question—That the amendment be agreed to—put.  
The committee divided—

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AYES, 10
NOES, 31

Senators—

Back Bilyk Bishop Boyce Brown Bushby
Crossin Edwards Faulkner Fawcett Feeney Furner Ludwig
Madigan Marshall Mason McEwen McKenzie Nash
Pratt Ruston Singh Smith Stephenson

Question negatived.

Senator Milne moved the following amendments together by leave:

Clause 7, page 6 (after line 1), after the definition of *premises*, insert:

> quarter has the meaning given by subsection 83(5).

Clause 83, page 60 (line 4), omit subclause (1), substitute:

> (1) The Secretary must publish the following information about the operation of this Act:
>   (a) an annual compliance audit for each financial year in relation to imported regulated timber products;
>   (b) aggregate data reports for each quarter in relation to imported regulated timber products;
>   (c) any other report or information prescribed by the regulations for the purposes of this paragraph.

> (1A) The Secretary may publish any other information about the operation of this Act that the Secretary considers relevant.

Clause 83, page 60 (line 5), omit “Subsection (1) does not”, substitute “Subsections (1) and (1A) do not”.

Clause 83, page 60 (after line 6), at the end of the clause, add:

> (3) An annual compliance audit in relation to imported regulated timber products must include, but is not limited to, information about the following:
>   (a) the importers that have been audited;
>   (b) the imported regulated timber products that have been audited, including a breakdown by timber species;
>   (c) how many importations of such products have been audited, including a breakdown by country of origin;
>   (d) the level of risk associated with the products that have been audited;
>   (e) the level of accurate information provided on declarations made to the Customs Minister under section 13 relating to the products that have been audited;
>   (f) the level of accurate and comprehensive compliance with due diligence requirements for importing regulated timber products for the products that have been audited;
>   (g) non-identifying information about any investigations that have been undertaken during the financial year in relation to such products;
(h) non-identifying information about the outcome of any investigations completed during the financial year in relation to such products;

(i) non-identifying information about the current status of any investigations that have not been completed by the end of the financial year.

(4) An aggregate data report for a quarter in relation to imported regulated timber products must include, but is not limited to, information about the following:

(a) the volume of the products imported in the quarter;

(b) a breakdown of the products imported in the quarter by:

(i) product type;

(ii) timber species;

(iii) country of origin;

(iv) country of processing.

(5) In this section:

\textit{quarter} means a period of 3 months ending on 30 September, 31 December, 31 March or 30 June.

Debate ensued.

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

Senator Milne moved the following amendment:

Page 60 (after line 15), after clause 84, insert:

84A Review of operation of regulations

(1) The Minister must cause a review to be undertaken of the first 2 years of the operation of the regulations made under this Act.

(2) The persons undertaking the review must give the Minister a written report of the review within 6 months after the end of 2 years after the commencement of the regulations.

(3) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Fawcett) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) the report from the committee was adopted.

Senator Ludwig moved—That this bill be now read a third time.

Question put.
The Senate divided—

AYES, 38

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NOES, 29

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Question agreed to.

Bill read a third time.

43 FEDERAL CIRCUIT COURT OF AUSTRALIA LEGISLATION AMENDMENT 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 this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Foreign Affairs (Senator Bob Carr) the bill was read a third time.

44 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Foreign Affairs (Senator Bob Carr) moved—That intervening business be postponed till after consideration of government business order of the day no. 5 (Dental Benefits Amendment Bill 2012).

Question put and passed.

45 DENTAL BENEFITS AMENDMENT BILL 2012

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

Debate resumed.

At 9.30 pm: Debate was interrupted while Senator Edwards was speaking.
46 ADJOURNMENT

The Deputy President (Senator Parry) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.30 pm till Tuesday, 20 November 2012 at 11 am.

47 ATTENDANCE

Present, all senators except Senators Cormann*, Ryan* and Urquhart* (* on leave).

ROSEMARY LAING
Clerk of the Senate