THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 127

TUESDAY, 27 NOVEMBER 2012

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1 Meeting of Senate

The Senate met at 12.30 pm. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 Government Documents

The following documents were tabled:


Australian Human Rights Commission—Reports—
No. 56—Report of an inquiry into complaints by Sri Lankan refugees in immigration detention with adverse security assessments.
No. 57—ST v Endeavour Energy.

Australian Pesticides and Veterinary Medicines Authority (APVMA)—Report for 2011-12.


High Court of Australia—Report for 2011-12.

National Health Performance Authority (NHPA)—Report for the period 21 October 2011 to 30 June 2012.

Rural Industries Research and Development Corporation (RIRDC)—Report for 2011-12.


Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 July to 30 September 2012.

3 Hours of Meeting and Routine of Business—Variation

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), pursuant to notice, moved government business notice of motion no. 1—That—

(1) On Tuesday, 27 November, Wednesday, 28 November, and Thursday, 29 November 2012, any proposal pursuant to standing order 75 shall not be proceeded with.

(2) On Tuesday, 27 November 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 to 8.15 pm shall be consideration of general business order of the day no. 83 (Low Aromatic Fuel Bill 2012);

(c) the bill listed in paragraph (b) be considered under a limitation of time, and that the time allotted be as follows:

from 7.30 pm to 7.45 pm—second reading
from 7.45 pm to 8.15 pm—all remaining stages,
and this paragraph shall operate as a limitation of debate under standing order 142;
(d) the routine of business from not later than 4 pm to 6.30 pm and 8.30 pm to 10 pm shall be government business only; and
(e) the question for the adjournment of the Senate shall be proposed at 10 pm.
(3) On Wednesday, 28 November 2012, the consideration of government documents shall not be proceeded with.
(4) On Thursday, 29 November 2012:
(a) the hours of meeting shall be 9.30 am to 7.10 pm;
(b) divisions may take place after 4.30 pm;
(c) consideration of general business and committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;
(d) the routine of business from not later than 12.45 pm to 2 pm and from not later than 3.45 pm shall be government business only; and
(e) the question for the adjournment of the Senate shall be proposed at 6.30 pm.
Debate ensued.
Question put and passed.

4 CONSIDERATION OF LEGISLATION
The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), pursuant to notice, moved government business notice of motion no. 2—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:
  Fair Work Amendment Bill 2012
  National Gambling Reform (Related Matters) Bill (No. 1) 2012
  National Gambling Reform (Related Matters) Bill (No. 2) 2012
  National Gambling Reform Bill 2012
  Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012
  Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012
  Wheat Export Marketing Amendment Bill 2012.
Question put and passed.
Senator Collins, pursuant to notice, moved government business notice of motion no. 3—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:
  Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012
  Customs Tariff Amendment (Malaysia-Australia Free Trade Agreement Implementation) Bill 2012.
Question put and passed.
Senator Collins, pursuant to notice, moved government business notice of motion no. 4—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Law Enforcement Integrity Legislation Amendment Bill 2012, allowing it to be considered during this period of sittings.

Question put and passed.

5 **CUSTOMS AMENDMENT (ANTI-DUMPING IMPROVEMENTS) BILL (NO. 2) 2011**

Order of the day read for the further consideration of the bills.

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

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*Document*: Senator Xenophon, by leave, tabled the following document:

Customs Amendment (Anti-dumping Improvements) Bill (No. 2) 2011 and related bills—Letter from the Minister for Home Affairs (Mr Clare) to Senator Xenophon, dated 26 November 2012.

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Amendments to the Customs Amendment (Anti-dumping Improvements) Bill (No. 2) 2011 were circulated but the senator concerned indicated that he did not wish to move them and no senator required that the bills be considered in committee.

On the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) the bills were read a third time.

6 **AVIATION LEGISLATION AMENDMENT (LIABILITY AND INSURANCE) BILL 2012**

Order of the day read for the adjourned debate on the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy)—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, debated.

Senator Xenophon moved the following amendments together by leave:

- Clause 2, page 2 (table item 1), omit “3”, substitute “4”.
- Page 2, after clause 3 (after line 11), insert:

4 **Review of amendments**

(1) At the end of the period of 3 years after Schedule 1 to this Act commences, the Minister must cause an independent review to be undertaken of the amendments made by that Schedule.
(2) The review must, at a minimum, consider the following:
   a) whether the amounts mentioned in sections 31 and 41C of the Civil Aviation (Carriers’ Liability) Act 1959, as amended by Schedule 1 to this Act, should be indexed;
   b) what effects subsection 10(1A) of the Damage by Aircraft Act 1999, as inserted by Schedule 1 to this Act, has had on the travelling public.

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

(4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after he or she receives the report.

(5) In this section:
   independent review means a review undertaken by at least 3 persons who:
   a) in the Minister’s opinion possess appropriate qualifications to undertake the review; and
   b) include a person who has substantial experience or knowledge in insurance matters.

Question—That the amendments be agreed to—put and negatived.
Bill further debated and agreed to.
Bill to be reported without amendment.

The Acting Deputy President (Senator Bernardi) resumed the chair and the Temporary Chair of Committees reported accordingly.
On the motion of the Minister for Human Services (Senator Kim Carr) the report from the committee was adopted and the bill read a third time.

7 ORDER OF BUSINESS—REARRANGEMENT
   The Minister for Human Services (Senator Kim Carr) moved—That intervening business be postponed till after consideration of the government business order of the day relating to the Law Enforcement Integrity Legislation Amendment Bill 2012.
   Question put and passed.

8 LAW ENFORCEMENT INTEGRITY LEGISLATION AMENDMENT BILL 2012
   Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Defence (Senator Feeney)—That this bill be now read a second time.
   Debate resumed.
   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.
9 Privacy Amendment (Enhancing Privacy Protection) Bill 2012

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Sustainability and Urban Water (Senator Farrell)—That this bill be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted.

10 Questions

Questions without notice were answered.

11 Motions to Take Note of Answers

Senator Cash moved—That the Senate take note of the answer given by the Minister for Sport (Senator Lundy) to a question without notice asked by Senator Cash today relating to asylum seekers.

Debate ensued.

Question put and passed.

Senator Wright 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 Wright today relating to education funding.

Question put and passed.

12 Petition

The following petition, lodged with the Clerk by Senator Ronaldson, was received:

From 1,473 petitioners, requesting that the Senate take action to enable Avalon Airport to operate as an international passenger airport.

13 Notices

Senator Stephens: To move on the next day of sitting—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Thursday, 29 November 2012, from 9.30 am, to take evidence for the committee’s inquiry into Australia’s trade and investment relationship with Japan and the Republic of Korea. (general business notice of motion no. 1067)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Sterle): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to meet during the sitting of the Senate on Thursday, 29 November 2012, from 4 pm, for a private briefing. (general business notice of motion no. 1068)

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

(a) notes that:

(i) there is widespread community support for broad freedom of information laws and transparency in government,

(ii) the Freedom of Information Act 1982 and the Australian Information Commissioner Act 2010 are currently under review,
(iii) the Prime Minister, Ms Julia Gillard, on taking office in September 2010 stated ‘we will be held more accountable than ever before, and more than any government in modern memory. We will be held to higher standards of transparency and reform, and it’s in that spirit that I approach the task of forming a government’, and
(iv) the OpenAustralia Foundation has developed a new website ‘Right to Know’ to improve the ease with which Australians can lodge freedom of information requests and to make the whole request and response process public;
(b) recognises the new ‘Right to Know’ website;
(c) congratulates the Foundation for its ‘Right to Know’ initiative which will further improve access to government-held information; and
(d) urges the Government to use the site, provide feedback and support the Foundation in its aim of encouraging effective citizen access to government information. (general business notice of motion no. 1069)

Senator Ludlam: To move on the next day of sitting—That the Senate—
(a) notes:
   (i) demonstrations will be held in Adelaide, Perth and Darwin to mark the Toro Energy Limited annual general meeting on Wednesday, 28 November 2012,
   (ii) the Toro Energy Ltd uranium project near Wiluna, Western Australia, is located within a lake bed that floods periodically, and
   (iii) the project poses potential risk of the extinction of flora species and the extinction of, or adverse impacts to, stygofauna; and
(b) calls on the Government to:
   (i) insist that the proponent and the Western Australian Government provide further information, baseline surveys and studies under section 133 of the Environment Protection and Biodiversity Conservation Act 1999, particularly regarding impacts to tecticornia, stygofauna, radiological modelling on the risks of contamination of aquatic ecosystems and water supply for the full life of the mine,
   (ii) prevent the extinction of any species or sub-species occurring,
   (iii) demand adequate assessment of the potential for contamination of Lake Way from seepage from the proposed tailings storage facility, and
   (iv) act to ensure the comprehensive protection of the local environment and of future generations of Australian taxpayers by requiring the highest operational standards and comprehensive and costed closure and rehabilitation. (general business notice of motion no. 1070)

Senator Ludlam: To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2013:

The role, adequacy and effectiveness of government regulation of uranium oxide transport, including:
(a) the mitigation of public radiation exposure from uranium oxide transport;
(b) the evaluation of the frequency and severity of transport and handling accidents including the 27 December 2011 train derailment resulting in toxic copper concentrate flowing into the Edith River;
(c) the process of issuing and auditing compliance with radiation transport management plans;
(d) the resourcing and conduct of transport-related aspects of nuclear actions referred under the Environment Protection and Biodiversity Conservation Act 1999;
(e) the preparedness and resourcing of regional emergency contingency planning, education and training services;
(f) the Australian Radiation Protection and Nuclear Safety Agency codes, including the Code of Practice for Safe Transport of Radioactive Material;
(g) the Australian Safeguards and Non-Proliferation Office regulation of the transportation of nuclear material and issuance and auditing of compliance with transport permits; and
(h) other relevant related matters.

The Leader of the Australian Greens (Senator Milne): To move on the next day of sitting—That the following matters be referred to the Environment and Communications References Committee for inquiry and report by 20 March 2013:
(a) recent trends on the frequency of extreme weather events, including but not limited to drought, bushfires, heatwaves, floods and storm surges;
(b) based on global warming scenarios outlined by the Intergovernmental Panel on Climate Change and the Commonwealth Scientific and Industrial Research Organisation of 1 to 5 degrees by 2070:
   (i) projections on the frequency of extreme weather events, including but not limited to drought, bushfires, heatwaves, floods and storm surges,
   (ii) the costs of extreme weather events and impacts on natural ecosystems, social and economic infrastructure and human health, and
   (iii) the availability and affordability of private insurance, impacts on availability and affordability under different global warming scenarios, and regional social and economic impacts;
(c) an assessment of the preparedness of key sectors for extreme weather events, including major infrastructure (electricity, water, transport, telecommunications), health, construction and property, and agriculture and forestry;
(d) an assessment of the preparedness and the adequacy of resources in the emergency services sector to prevent and respond to extreme weather events;
(e) the current roles and effectiveness of the division of responsibilities between different levels of government (federal, state and local) to manage extreme weather events;
(f) progress in developing effective national coordination of climate change response and risk management, including legislative and regulatory reform, standards and codes, taxation arrangements and economic instruments;
(g) any gaps in Australia’s Climate Change Adaptation Framework and the steps required for effective national coordination of climate change response and risk management; and
(h) any related matter.

The Leader of the Australian Greens (Senator Milne): To move on 6 February 2013—That the Senate—
(a) notes that off shore tax havens are a vehicle for international corruption with a current value of at least $21 trillion globally;
(b) supports the European Union Savings Directive, the United States of America, the Organisation for Economic Co-operation and Development and all other countries working to implement a comprehensive international agreement of automatic tax information exchange between revenue agencies, so that a receiving country will immediately report to another country when its citizen or corporation has transferred assets or income into its jurisdiction;

(c) is highly critical of the ‘Rubik Agreements’ signed between Switzerland and the United Kingdom, and Switzerland and Germany, used to undermine international progress towards closing the loopholes in the current multilateral agreement; and

(d) urges the Government to work towards implementing a comprehensive global agreement on automatic tax information exchange. (general business notice of motion no. 1071)

Senator Di Natale: To move on the next day of sitting—That the following matter be referred to the Community Affairs References Committee for inquiry and report by 16 May 2013:

The impacts on health of air quality in Australia, including:

(a) particulate matter, its sources and effects;

(b) those populations most at risk and the causes that put those populations at risk;

(c) the standards, monitoring and regulation of air quality at all levels of government; and

(d) any other related matters.

The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to provide for the appointment of an Inspector-General of Biosecurity, and for related purposes. Inspector-General of Biosecurity Bill 2012.

The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act relating to diseases and pests that may cause harm to human, animal or plant health or the environment, and for related purposes. Biosecurity Bill 2012.

Senator Fierravanti-Wells: To move on the next day of sitting—That the Senate—

(a) recognises that:

(i) Christian Assyrians, a minority religious and racial group in Iraq, are subject to ongoing violence, intimidation, harassment and discrimination on religious and ethnic grounds,

(ii) on 31 October 2010, 58 Christian Assyrians were killed in an attack on a church in Baghdad in an act of violent extremism targeting this minority group,

(iii) Christian Assyrians are actively discriminated against by having their land illegally occupied and transferred to squatters,

(iv) 600 000 Christian Assyrians have now fled Iraq, including many thousands to Australia, and

(v) Assyrians remaining in Iraq are denied many basic human rights and subject to ongoing harassment, intimidation and discrimination;

(b) condemns violence, intimidation, harassment and discrimination on religious and ethnic grounds wherever it may be found, including in Iraq; and
(c) calls on the Government to raise the significant human rights concerns of Christian Assyrians with the Iraqi Government. (general business notice of motion no. 1072)

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

(a) notes that:

(i) Australian peacekeepers make a significant contribution to international peace and security,

(ii) 48 Australians have died on peacekeeping missions overseas, and

(iii) over 19,000 individuals have signed a community petition calling for the 48 Australian peacekeepers who have died in the service of their country to receive equal recognition and be placed on the Roll of Honour at the Australian War Memorial; and

(b) calls on the Government to ask the Council of the Australian War Memorial to consider the community support for including peacekeepers on the Roll of Honour at the Australian War Memorial and make a decision on this matter at its first meeting in 2013. (general business notice of motion no. 1073)

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

(a) the Senate notes, with concern, the recent and growing job losses in state governments around Australia, as well as the difficulties many state public sector employees face in bargaining over wages and conditions; and

(b) the following matter be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 17 June 2013:

The conditions of employment of state public sector employees and the adequacy of protection of their rights at work as compared with other employees, including:

(i) whether:

(A) the current state government industrial relations legislation provides state public sector workers with less protection and entitlements than workers to whom the Fair Work Act 2009 (the Act) applies,

(B) the removal of components of the long-held principles relating to termination, change and redundancy from state legislation is a breach of obligations under the International Labour Organization (ILO) conventions ratified by Australia,

(C) the rendering unenforceable of elements of existing collective agreements relating to employment security is a breach of the obligations under the ILO conventions ratified by Australia relating to collective bargaining,

(D) the current state government industrial relations frameworks provide protection to workers as required under the ILO conventions ratified by Australia,

(E) state public sector workers face particular difficulties in bargaining under state or federal legislation, and

(F) the Act provides the same protections to state public sector workers as it does to other workers to the extent possible, within the scope of the Commonwealth’s legislative powers; and
(ii) noting the scope of states’ referrals of power to support the Act, what legislative or regulatory options are available to the Commonwealth to ensure that all Australian workers, including those in state public sectors, have adequate and equal protection of their rights at work.

Senator Hanson-Young: To move on the next day of sitting—That the Senate calls on the Government to give asylum seekers and refugees the legal right to work. (general business notice of motion no. 1074)

14 LEAVE OF ABSENCE
Senator Kroger, by leave, moved—That leave of absence be granted to Senators Boyce and Johnston for today, on account of parliamentary business.
Question put and passed.

15 POSTPONEMENT
The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Xenophon for 28 November 2012, proposing the disallowance of item [1] of Schedule 1 to the National Health (Weighted average disclosed price – interim supplementary disclosure cycle) Amendment Determination 2012 (No. 2), postponed till 29 November 2012.

16 ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE—REFERENCE
Senator McEwen, at the request of Senator Bilyk and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matters be referred to the Environment and Communications References Committee for inquiry and report:

(a) the commitment by the Australian Broadcasting Corporation (ABC) to reflecting and representing regional diversity in Australia;

(b) the impact that the increased centralisation of television production in Sydney and Melbourne has had on the ABC’s ability to reflect national identity and diversity; and

(c) any related matters.
Question put and passed.

17 APPROPRIATIONS AND STAFFING—STANDING COMMITTEE—AMENDMENT OF STANDING ORDER 19
The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), at the request of the Parliamentary Secretary for Defence (Senator Feeney) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 5—That the Senate adopt the recommendation in the 54th report of the Standing Committee on Appropriations and Staffing to amend standing order 19.
Question put and passed.
Accordingly, standing order 19 was amended as follows:

19 Appropriations and Staffing

At the end of paragraph (3), add:

(e) when conferring with a similar committee of the House of Representatives, consider the administration and funding of information and communications technology services for the Parliament, and advise the President and the Senate as appropriate.

After paragraph (9), insert:

(9A) For the purposes of paragraph (3)(e), the committee shall have power to confer with a similar committee of the House of Representatives.

18 Senators’ Interests—Standing Committee—Extension of Time to Report

Senator Kroger, at the request of the Chair of the Standing Committee of Senators’ Interests (Senator Bernardi) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1061—That the time for the presentation of the report of the Standing Committee of Senators’ Interests on a draft code of conduct for senators be extended to 29 November 2012.

Question put and passed.

19 Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012

Senator Kroger, at the request of the Leader of the Opposition in the Senate (Senator Abetz) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1062—That the following bill be introduced:

A Bill for an Act to amend the Fair Work (Registered Organisations) Act 2009, and for related purposes.

Question put and passed.

Senator Kroger presented the bill and 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 Kroger moved—That this bill be now read a second time.

Explanatory memorandum: Senator Kroger, by leave, tabled an explanatory memorandum relating to the bill.

Debate adjourned till the next day of sitting, Senator Kroger in continuation.
20 **Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012**

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1063—That the following bill be introduced:

A Bill for an Act to amend the *Environment Protection and Biodiversity Conservation Act 1999* to prevent the Commonwealth from handing responsibility for approving proposed actions that significantly impact matters protected under the Act to a State or Territory, and for related purposes.

Question put and passed.

Senator Waters presented the bill and 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 Waters moved—That this bill be now read a second time.

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**Explanatory memorandum:** Senator Waters, by leave, tabled an explanatory memorandum relating to the bill.

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Debate adjourned till the next day of sitting, Senator Waters in continuation.

21 **Water Amendment (Save the Murray-Darling Basin) Bill 2012**

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1066—That the following bill be introduced:

A Bill for an Act to amend the *Water Act 2007*, and for related purposes.

Question put and passed.

Senator Hanson-Young presented the bill and 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 Hanson-Young moved—That this bill be now read a second time.

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**Explanatory memorandum:** Senator Hanson-Young, by leave, tabled an explanatory memorandum relating to the bill.

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Debate adjourned till the next day of sitting, Senator Hanson-Young in continuation.
22 FOREIGN AFFAIRS—PALESTINE

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. 1038—That the Senate—

(a) notes that Palestinian representatives have indicated that on 29 November 2012 they will be introducing a resolution to the United Nations (UN) General Assembly to recognise Palestine as a non-member state of the UN; and

(b) calls on the Australian Government to support Palestine in being granted non-member state observer status at the UN.

Statements by leave: Senators Milne and Fifield, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 11

Senator Di Natale
Senator Hanson-Young
Senator Ludlam
Senator Siewert (Teller)
Senator Waters
Senator Whish-Wilson
Senator Wright

NOES, 29

Senator Back
Senator Bilyk
Senator Bishop
Senator Brandis
Senator Bushby
Senator Cash
Senator Collins
Senator Crossin

Senator Farrell
Senator Feeney
Senator Fifield
Senator Furner
Senator Gallacher
Senator Kroger (Teller)
Senator Ludwig

Senator Lundy
Senator McEwen
Senator McKenney
Senator McLucas
Senator Parry
Senator Policy
Senator Ruston

Senator Smith
Senator Stephens
Senator Sterle
Senator Thistlethwaite
Senator Urquhart

Question negatived.

23 ENVIRONMENT—RARE EARTHS PROCESSING PLANT

Senator Rhiannon, also on behalf of Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1064—That the Senate—

(a) notes:

(i) the rare earths miner Lynas Corporation Ltd has established a processing plant at Gebeng in Malaysia to process material from Lynas’ Mount Weld mine in Western Australia,

(ii) rare earths, including radioactive thorium residues, will be transported from Mount Weld to Fremantle, where they will be shipped to Malaysia,

(iii) a rare earths refinery operated by the Mitsubishi group in Perak in northern Malaysia was closed after news broke of cases of birth defects and leukaemia in some local residents,

(iv) Lynas plans to dispose of the waste radioactive material near fishing communities in the Malaysian state of Kuantan, and

(v) in early January 2012 the Malaysian press reported severe restrictions on the public’s ability to access information about the proposed Lynas plant, and
(vi) residents who live near the proposed Lynas processing plant and non-government organisations in 2011 marched on Malaysia’s Parliament and held a demonstration at the Australian High Commission calling for the processing plant not to be sited in Malaysia;

(b) expresses grave concerns over the Malaysian Government’s approval for a new rare earth refinery in Pahang, and the process by which it has been established; and

(c) calls on Lynas to process the thorium ore on site at the Mount Weld mine to minimise the risk of damage arising from radioactive waste.

Question put.
The Senate divided—

AYES, 9

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

NOES, 32


Question negatived.

24 LAW AND JUSTICE—PEOPLE TRAFFICKING—MINISTERIAL STATEMENT—DOCUMENTS

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) tabled the following documents:

Law and justice—People trafficking—


Anti-People Trafficking Interdepartmental Committee—Fourth report—

 Trafficking in persons: The Australian Government response, 1 July 2011 to 30 June 2012.
25 **DEFENCE—PEOPLE SUBJECT TO SEXUAL OR OTHER FORMS OF ABUSE—MINISTERIAL STATEMENT—DOCUMENT**

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) tabled the following document:

Defence—Apology to people subjected to sexual or other forms of abuse in Defence—Ministerial statement by the Minister for Defence (Mr Smith), dated 26 November 2012.

Senator Brandis, by leave, moved—That the Senate take note of the document.
Debate ensued.
Pursuant to order, debate was interrupted while the Leader of the Australian Greens (Senator Milne) was speaking.

26 **PRIVACY AMENDMENT (ENHANCING PRIVACY PROTECTION) BILL 2012**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Sustainability and Urban Water (Senator Farrell)—That 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.

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Clause 2, page 2 (table item 2, column 2), omit “9 months”, substitute “15 months”.

Clause 2, pages 2 to 3 (table items 3 to 9), omit the table items, substitute:

3. Schedule 5, items 1 to 155

The day after the end of the period of 15 months beginning on the day this Act receives the Royal Assent.

Clause 2, page 3 (table item 11, column 2), omit “9 months”, substitute “15 months”.

Clause 2, pages 3 to 4 (table items 13 to 15), omit the table items, substitute:

13. Schedule 5, The day after the end of the period of
items 163 to 180 15 months beginning on the day this
Act receives the Royal Assent.

Clause 2, page 4 (table item 17, column 2), omit “9 months”, substitute “15 months”.

Clause 2, page 4 (table item 19, column 2), omit “9 months”, substitute “15 months”.

Schedule 1, item 88, page 23 (lines 4 and 5), omit the item, substitute:

88 Subsection 95(1)

After “privacy”, insert “by agencies”.

Schedule 1, item 104, page 29 (line 6), at the end of paragraph 2.2(b) of Australian Privacy Principle 2, add “or who have used a pseudonym”.

Schedule 1, item 104, page 30 (after line 24), at the end of Australian Privacy Principle 3.4, add:

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B.

Schedule 1, item 104, page 34 (after line 4), at the end of Australian Privacy Principle 6.2, add:

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B.

Schedule 1, item 104, page 35 (line 7), omit the heading to Australian Privacy Principle 7.1, substitute:

Direct marketing

Schedule 1, item 104, page 39 (after line 3), at the end of Australian Privacy Principle 8.2, add:

Note: For permitted general situation, see section 16A.

Schedule 1, item 104, page 39 (line 34), omit “Note”, substitute “Note 1”.

Schedule 1, item 104, page 39 (after line 35), at the end of Australian Privacy Principle 9.2, add:

Note 2: For permitted general situation, see section 16A.

Schedule 2, item 39, page 52 (lines 24 and 25), omit “an act relating to the collection of”, substitute “the act of collecting”.

Schedule 2, item 69, page 63 (line 12), at the end of subsection 6L(3), add “or a person prescribed by the regulations”.

Schedule 2, item 72, page 77 (lines 7 and 8), omit all the words from and including “recipient” to and including “licensee”, substitute:

recipient of the information is:

(a) a credit provider who is a licensee or is prescribed by the regulations; or
(b) a mortgage insurer.

Schedule 2, item 72, page 84 (lines 2 and 3), omit “the assessment of the credit worthiness of individuals”, substitute “credit”.

Schedule 2, item 72, page 84 (line 9), omit “an act relating to the collection of”, substitute “the act of collecting”.

Clause 2, page 4 (table item 19, column 2), omit “9 months”, substitute “15 months”.

Schedule 1, item 104, page 34 (after line 4), at the end of Australian Privacy Principle 6.2, add:

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B.
Schedule 2, item 72, page 84 (line 10), omit “the assessment of the credit worthiness of individuals”, substitute “credit”.
Schedule 2, item 72, page 84 (lines 15 and 16), omit “the assessment of the credit worthiness of individuals”, substitute “credit”.
Schedule 2, item 72, page 100 (line 11), omit “complaint.”, substitute “complaint;”.
Schedule 2, item 72, page 100 (after line 11), at the end of subsection 21B(4), add:
(i) whether the provider is likely to disclose credit information or credit eligibility information to entities that do not have an Australian link;
(j) if the provider is likely to disclose credit information or credit eligibility information to such entities—the countries in which those entities are likely to be located if it is practicable to specify those countries in the policy.
Schedule 2, item 72, page 101 (line 25), omit “complaint.”, substitute “complaint;”.
Schedule 2, item 72, page 101 (after line 25), at the end of subsection 21C(3), add:
(e) whether the provider is likely to disclose credit information or credit eligibility information to entities that do not have an Australian link;
(f) if the provider is likely to disclose credit information or credit eligibility information to such entities—the countries in which those entities are likely to be located if it is practicable to specify those countries in the credit reporting policy.
Schedule 2, item 72, page 102 (line 3), after “scheme”, insert “or is prescribed by the regulations”.
Schedule 2, item 72, page 102 (line 22), after “licensee”, insert “or is prescribed by the regulations”.
Schedule 2, item 72, page 105 (line 12), omit “and the body corporate has an Australian link”.
Schedule 2, item 72, page 105 (lines 13 to 17), omit paragraph 21G(3)(c), substitute:
(c) the disclosure is to:
   (i) a person for the purpose of processing an application for credit made to the credit provider; or
   (ii) a person who manages credit provided by the credit provider for use in managing that credit; or
Schedule 2, item 72, page 105 (after line 32), at the end of subsection 21G(3), add:
Note: See section 21NA for additional rules about the disclosure of credit eligibility information under paragraph (3)(b) or (c).
Schedule 2, item 72, page 106 (lines 7 to 10), omit paragraphs 21G(5)(c) and (d), substitute:
(c) the credit provider discloses the credit eligibility information under paragraph (3)(b), (c), (e) or (f); or
(d) the credit provider discloses the credit eligibility information under paragraph (3)(d) to an enforcement body.
Schedule 2, item 72, page 111 (line 18), omit paragraph 21M(1)(b).
Schedule 2, item 72, page 111 (lines 19 and 20), omit “for the purpose of the collection of payments”, substitute “to the person or body for the primary purpose of the person or body collecting payments”.

Schedule 2, item 72, page 111 (after line 26), at the end of subsection 21M(1), add:

Note: See section 21NA for additional rules about the disclosure of credit eligibility information under this subsection.

Schedule 2, item 72, page 113 (after line 9), after section 21N, insert:

21NA Disclosures to certain persons and bodies that do not have an Australian link

Related bodies corporate and credit managers etc.

(1) Before a credit provider discloses credit eligibility information under paragraph 21G(3)(b) or (c) to a related body corporate, or person, that does not have an Australian link, the provider must take such steps as are reasonable in the circumstances to ensure that the body or person does not breach the following provisions (the relevant provisions) in relation to the information:

(a) for a disclosure under paragraph 21G(3)(b)—section 22D;
(b) for a disclosure under paragraph 21G(3)(c)—section 22E;
(c) in both cases—the Australian Privacy Principles (other than Australian Privacy Principles 1, 6, 7, 8 and 9.2).

(2) If:

(a) a credit provider discloses credit eligibility information under paragraph 21G(3)(b) or (c) to a related body corporate, or person, that does not have an Australian link; and
(b) the relevant provisions do not apply, under this Act, to an act done, or a practice engaged in, by the body or person in relation to the information; and
(c) the body or person does an act, or engages in a practice, in relation to the information that would be a breach of the relevant provisions if those provisions applied to the act or practice;

the act done, or the practice engaged in, by the body or person is taken, for the purposes of this Act, to have been done, or engaged in, by the provider and to be a breach of those provisions by the provider.

Debt collectors

(3) Before a credit provider discloses credit eligibility information under subsection 21M(1) to a person or body that does not have an Australian link, the provider must take such steps as are reasonable in the circumstances to ensure that the person or body does not breach the Australian Privacy Principles (other than Australian Privacy Principle 1) in relation to the information.

(4) If:

(a) a credit provider discloses credit eligibility information under subsection 21M(1) to a person or body that does not have an Australian link; and
(b) the Australian Privacy Principles do not apply, under this Act, to an act done, or a practice engaged in, by the person or body in relation to the information; and
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(c) the person or body does an act, or engages in a practice, in relation to the information that would be a breach of the Australian Privacy Principles (other than Australian Privacy Principle 1) if those Australian Privacy Principles applied to the act or practice;

the act done, or the practice engaged in, by the person or body is taken, for the purposes of this Act, to have been done, or engaged in, by the provider and to be a breach of those Australian Privacy Principles by the provider.

Schedule 2, item 72, page 125 (line 20), at the end of the heading to section 22E, add “etc.”.

Schedule 2, item 72, page 125 (lines 26 and 27), omit “for use in managing credit provided by the provider”.

Schedule 2, item 72, page 126 (lines 3 and 4), omit “in managing credit provided by the credit provider”, substitute “for the purpose for which it was disclosed to the person under paragraph 21G(3)(c)”.

Schedule 2, item 72, page 126 (lines 8 to 10), omit all the words from and including “information” to the end of subsection 22E(3), substitute:

information if:
(a) the disclosure is to the credit provider; or
(b) the disclosure is required or authorised by or under an Australian law or a court/tribunal order.

Schedule 4, item 189, page 193 (after line 18), at the end of section 80Z, add:

Note: In determining the pecuniary penalty, the court must take into account all relevant matters including the matters mentioned in subsection 80W(6).

Senator Wright moved the following amendments together by leave:

Schedule 2, item 69, page 65 (after line 27), after paragraph 6Q(1)(b), insert:

(ba) at least 30 days have passed since the day on which the notice was given; and

Schedule 2, item 72, page 102 (line 35), omit “a reasonable period has”, substitute “at least 30 days have”.

Debate ensued.

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

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

Schedule 2, item 69, page 65 (line 31), omit “$100”, substitute “$150”.

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

Schedule 2, item 72, page 102 (line 35), omit “a reasonable period has”, substitute “at least 14 days have”.

Bill, as amended, agreed to.

Bill to be reported with amendments.
The Acting Deputy President (Senator Edwards) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of Senator Ludwig the report from the committee was adopted and the bill read a third time.

27 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) moved—that intervening business be postponed till after consideration of the government business orders of the day relating to the Fair Work Amendment Bill 2012 and the Wheat Export Marketing Amendment Bill 2012.

Question put and passed.

28 FAIR WORK AMENDMENT BILL 2012

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

Debate resumed.

Pursuant to order, debate was interrupted while Senator Cash was speaking.

At 7.30 pm—

29 LOW AROMATIC FUEL BILL 2012

Order of the day read for the adjourned debate on the motion of Senator Siewert—that this bill be now read a second time.

Debate resumed.

Limitation of debate: The time allotted for the second reading of the bill expired.

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

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

The Parliamentary Secretary to the Prime Minister (Senator McLucas) moved the following amendments together by leave:

Clause 3, page 2 (line 7), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 4, page 3 (lines 23 to 25), omit the clause, substitute:

4 Object of this Act

The object of this Act is to enable special measures to be taken to reduce the potential harm to the health of people, including Aboriginal persons and Torres Strait Islanders, living in certain areas from sniffing fuel.

Clause 5, page 4 (before line 1), before the definition of conduct, insert:

Aboriginal person means a person of the Aboriginal race of Australia.
Clause 5, page 4 (after line 23), after the definition of supply, insert:

*Torres Strait Islander* means a descendant of an Indigenous inhabitant of the Torres Strait Islands.

Clause 11, page 11 (line 15), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 13, page 12 (after line 8), after paragraph (1)(a), insert:

(aa) Aboriginal persons or Torres Strait Islanders (or representatives of Aboriginal persons or Torres Strait Islanders);

Clause 14, page 13 (line 13), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 14, page 13 (line 14), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 14, page 13 (line 16), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 14, page 13 (line 18), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 15, page 14 (line 3), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 15, page 14 (line 5), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 15, page 14 (line 8), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 15, page 14 (line 11), after “people”, insert “, including Aboriginal persons and Torres Strait Islanders,”.

Clause 16, page 14 (after line 25), after paragraph (1)(a), insert:

(aa) Aboriginal persons or Torres Strait Islanders (or representatives of Aboriginal persons or Torres Strait Islanders);

Debate ensued.

*Explanatory memorandum*: Senator McLucas tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Debate continued.

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

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

AYES, 35

Senators—

Bilyk
Bishop
Brown
Cameron
Carr, Bob
Carr, Kim
Collins
Crossin
Di Natale
Evans
Feeney
Gallacher
Hanson-Young
Hudlam
Landy
Marshall
McEwen
McLucas
Milne
Moore
Polley (Teller)
Rhiannon
Siewert
Singh
Stephens
Sterle
Thistlethwaite
Thorpe
Urquhart
Waters
Whish-Wilson
Wright
Xenophon

NOES, 29

Senators—

Abetz
Back
Bernardi
Birmingham
Bushby (Teller)
Cash
Colbeck
Cornann
Edwards
Eggleston
Fawcett
 Fifield
Humphries
Joyce
Kroger
Macdonald
Madigan
Mason
McKenzie
Nash
Parry
Payne
Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Williams

Question agreed to.

The following amendments circulated by the Government were agreed to:

Clause 3, page 2 (lines 12 and 13), omit “fuel areas. A corporation must not supply regular unleaded petrol in a low aromatic fuel area.”, substitute “fuel areas, prohibiting the supply of regular unleaded petrol in a low aromatic fuel area.”.

Clause 3, page 3 (line 2), after “that area”, insert “, and if certain other conditions are satisfied”.

Clause 3, page 3 (line 6), after “fuel area”, insert “, and if certain other conditions are satisfied”.

Clause 5, page 4 (before line 12), before the definition of fuel control area, insert:

fuel means:
(a) petrol, or any substance that is used as a substitute for petrol; or
(b) a substance of a kind prescribed by the regulations for the purposes of this definition.

Clause 5, page 4 (after line 13), after the definition of fuel control area, insert:

low aromatic fuel means:
(a) unleaded petrol that has a research octane number of less than 95, and that has aromatic compounds of less than 5% to help discourage fuel sniffing; or
(b) unleaded petrol of a kind prescribed by the regulations for the purposes of this definition.

Clause 8, page 6 (line 18), omit “believing that”, substitute “knowing that, or reckless as to whether,”.
Clause 14, page 13 (lines 7 to 10), omit subclause (2), substitute:

(2) The Minister may only designate an area under subsection (1) if:
   (a) the Minister is satisfied that designating the area is reasonably likely to help reduce potential harm to the health of people, including Aboriginal persons and Torres Strait Islanders, living in the area from sniffing fuel; and
   (b) the Minister is satisfied that there are adequate facilities or arrangements for the supply of low aromatic fuel to and within the area being designated; and
   (c) the Minister considers that the appropriate States and Territories have not enacted legislation consistent with this Act to reduce the harm of petrol sniffing, and it is unlikely that they will enact such legislation within a reasonable period.

Clause 15, page 13 (lines 29 to 32), omit subclause (2), substitute:

(2) The Minister may only designate an area under subsection (1) if he or she is satisfied that:
   (a) designating the area is reasonably likely to help reduce potential harm to the health of people, including Aboriginal persons and Torres Strait Islanders, living in that area or in a low aromatic fuel area from sniffing fuel; and
   (b) the Minister is satisfied that there are adequate facilities or arrangements for the supply of low aromatic fuel to and within the area being designated; and
   (c) the Minister considers that the appropriate States and Territories have not enacted legislation consistent with this Act to reduce the harm of petrol sniffing, and it is unlikely that they will enact such legislation within a reasonable period.

Clause 17, page 16 (lines 10 and 11), omit paragraph 17(1)(b), substitute:

(b) either:
   (i) if the exemption is for the purposes of subsection 8(4), 10(2) or 12(2)—it is unlikely that the wellbeing of people, including Aboriginal persons and Torres Strait Islanders, will be adversely affected by the exemption; or
   (ii) if the exemption is for the purposes of subsection 8(4)—the exemption is necessary because of the unavailability, or likely unavailability, of low aromatic fuel.

Page 17 (after line 15), after clause 18, insert:

18A Acquisition of property

This Act, or any instrument made under this Act, does not apply to the extent that the operation of this Act or the instrument would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

The following amendments circulated by the Australian Greens were considered:

No. 1—Clause 3, page 2 (line 18), omit “generally”, substitute “(other than excluded fuels)”.
No. 2—Clause 5, page 4 (after line 11), after the definition of *engage in conduct*, insert:

*excluded fuel* means:

(a) diesel fuel; and

(b) gaseous fuel, whether liquefied or otherwise.

No. 3—Heading to Division 3, page 10 (line 1), omit “generally”, substitute “*other than excluded fuels*”.

No. 4—Heading to clause 11, page 10 (line 3), omit “generally”, substitute “*other than excluded fuels*”.

No. 5—Clause 11, page 10 (before line 5), before subclause (1), insert:

*Application of section*

(1A) This section applies to fuel other than excluded fuel.

No. 6—Clause 13, page 12 (line 9), before “suppliers”, insert “manufacturers and”.

No. 7—Clause 16, page 14 (line 26), before “suppliers”, insert “manufacturers and”.

Senator Siewert, by leave, withdrew amendments nos 1 to 5.

Question—That amendments nos 6 and 7 be agreed to—put and passed.

Question—That the bill, as amended, be agreed to—put and passed.

Bill to be reported with amendments.

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

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

The Senate divided—

AYES, 33

Senators—

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Question agreed to.
Bill read a third time.

30 **Fair Work Amendment Bill 2012**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

——

In the committee

Bill, taken as a whole by leave, debated.

——

*At 10 pm:* The Deputy President (Senator Parry) resumed the chair and the Chair of Committees reported progress.

31 **Adjournment**

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

Debate ensued.

——

*The Senate continued to sit till midnight—*

**Wednesday, 28 November 2012 AM**

——

Debate continued.

The Senate adjourned at 12.59 am till Wednesday, 28 November 2012 at 9.30 am.
32 ATTENDANCE
Present, all senators except Senators Boyce*, Johnston* and Pratt* (* on leave).

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate