WEDNESDAY, 28 NOVEMBER 2012

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1 **MEETING OF SENATE**

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

2 **GOVERNMENT DOCUMENTS**

The following documents were tabled:

* Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2012.

* Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 750/12, 783/12, 793/12, 813/12, 823/12, 825/12, 836/12, 854/12, 855/12, 858/12, 864/12, 900/12, 967/12, 972/12, 984/12, 985/12, 989/12 to 1011/12, 1013/12 to 1019/12, 1021/12 to 1025/12, 1028/12 to 1040/12, 1042/12, 1043/12, 1050/12 to 1052/12 and 1056/12—Commonwealth Ombudsman’s reports.
* Government response to Ombudsman’s reports, dated 22 November 2012.

3 **FAIR WORK AMENDMENT BILL 2012**

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

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**In the committee**

Consideration resumed of the bill.

Bill further debated.

The Leader of the Opposition in the Senate (Senator Abetz) moved the following amendments together by leave:

- Schedule 2, item 43, page 22 (line 10), omit “Vice President or”.
- Schedule 8, item 1, page 43 (line 7), omit paragraph 606(2)(c).
- Schedule 8, item 16, page 49 (line 7), omit “a Vice President,“.

Debate ensued.

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

AYES, 33

Senators—

Back
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby
Colbeck
Cormann

Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Humphries
Johnston
Kroger

Macdonald
Madigan
Mason
McKenzie
Nash
Parry
Payne
Ronaldson
Ruston

Ryan
Scullion
Sinodinos
Smith
Williams (Teller)
Xenophon

NOES, 37

Senators—

Bilyk
Bishop
Brown
Cameron
Carr, Bob
Carr, Kim
Collins
Conroy
Crossin
Di Natale

Farrell
Faulkner
Feeney
Furner
Gallacher
Hanson-Young
Hogg
Ludlam
Ludwig
Marshall

McEwen
McLucas
Milne
Moore
Polley (Teller)
Pratt
Rhiannon
Siewert
Singh
Stephens

Sterle
Thistlethwaite
Thorp
Urquhart
Waters
Whish-Wilson
Wright

Question negatived.

Question—That the bill stand as printed—divided, at the request of Senator Abetz, in respect of Schedule 8, items 17 to 56 and Schedule 11, item 21.

Schedule 8, items 17 to 56 and Schedule 11, item 21 agreed to.

Bill further debated.

Question—That the bill stand as printed—divided, at the request of Senator Cormann, in respect of Schedules 1 and 2 and Schedule 11, item 1, Part 2.

Schedules 1 and 2 and Schedule 11, item 1, Part 2 debated.

Question—That Schedules 1 and 2 and Schedule 11, item 1, Part 2 stand as printed—put.

The committee divided—

AYES, 37

Senators—

Bilyk
Bishop
Brown
Cameron
Carr, Bob
Carr, Kim
Collins
Conroy
Crossin
Di Natale

Farrell
Faulkner
Feeney
Furner
Gallacher
Hanson-Young
Hogg
Ludlam
Ludwig
Marshall

McEwen
McLucas
Milne
Moore
Polley (Teller)
Pratt
Rhiannon
Siewert
Singh
Stephens

Sterle
Thistlethwaite
Thorp
Urquhart
Waters
Whish-Wilson
Wright

No. 128—28 November 2012  3439
NOES, 30

Senator Cormann moved the following amendments together by leave:

Clause 2, page 2 (before table item 4), insert:

3A. Schedule 2A  The later of:

(a) the day this Act receives the Royal Assent; and
(b) immediately after the commencement of item 1 of Schedule 4 to the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012.

However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.

Page 26 (before line 1), before Schedule 3, insert:

Schedule 2A—Superannuation contributions

Fair Work Act 2009

1 Section 149A (heading)

Repeal the heading, substitute:

149A  Superannuation contributions

2 Before subsection 149A(1)

Insert:

(1A) A modern award must include a term that permits an employer covered by the award to make contributions, for the benefit of an employee covered by the award who is a default fund employee, to any superannuation fund that offers a MySuper product.

Note: An employer may make contributions under this term even if the superannuation fund to which the contributions are made is not specified in the modern award.

3 Subsection 155A(1) (note)

Omit “section 149A”, substitute “subsection 149A(1)”.  

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

AYES, 30

Senators—

Abetz
Back
Bernardi
Boswell
Boyce
Bushby
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Johnston
Joyce
Kroger
Macdonald
Madigan
Mason
McKenzie
Nash
Parry
Ronaldson

Ruston
Ryan
Sinodinos
Smith
Williams (Teller)

NOES, 35

Senators—

Bilyk
Bishop
Brown
Cameron
Collins
Conroy
Crossin
Di Natale
Farrell
Faulkner
Furner
Gallacher
Hanson-Young
Hogg
Ladlam
Ludwig
McEwen
McLucas
Milne
Moore
Polley (Teller)
Pratt
Rhiannon
Singh
Sterle
Thistlethwaite
Thorp
Urquhart
Waters
Whish-Wilson
Wright

Question negatived.

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

Schedule 5, page 34 (after line 9), at the end of the Schedule, add:

**Part 3—Protection for whistleblowers**

*Fair Work Act 2009*

4 Section 12

Insert:

public interest disclosure: see subsection 351A(2).

5 After section 351

Insert:

351A Public interest disclosures

(1) A person (the first person) must not take adverse action against, threaten or harass another person because the first person believes that the other person made, or was going to make, a public interest disclosure.

Note: This section is a civil remedy provision (See Part 4-1).

(2) A public interest disclosure means a disclosure covered by subsection (3) if it is made in the circumstances covered by subsection (4), but does not include a disclosure of information by a person if the person knows that the information, or part of the information, is false or misleading.
(3) This subsection covers disclosures by a person about any of the following kinds of conduct that the person reasonably believes an employer, employee or an independent contractor has engaged in, or intends to engage in:

(a) an act or omission that would constitute a crime against the laws of the Commonwealth, a State or a Territory;
(b) a misappropriation of money or property belonging to another;
(c) a misuse or concealment of information that relates to, or has been obtained because of, a person’s employment, where the misuse or concealment is made for personal benefit or is detrimental to the public interest;
(d) an act or omission that presents a significant risk to:
   (i) a person’s safety; or
   (ii) public health; or
   (iii) the environment;
(e) an act or omission that has, or is likely to cause, an unjust or unacceptable impact on a person.

(4) A disclosure by a person is made in the circumstances covered by this subsection if:

(a) either:
   (i) the person has made the disclosure to his or her employer and the employer has failed to properly respond in a reasonable time; or
   (ii) it is not appropriate for the person to make the disclosure to his or her employer; and
(b) it is reasonably necessary for the person to make the disclosure to a person other than his or her employer.

(5) No action or proceeding, whether criminal or civil, lies against a person for or in relation to a public interest disclosure made by the person in accordance with this section.

6 Subsection 539(2) (column 1 of item 11 of the table)

After “351(1)”, insert “351A(1)”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 11

Senators—

Di Natale  Madigan  Siewert (Teller)  Wright
Hanson-Young  Milne  Waters  Xenophon
Ludlam  Rhiannon  Whish-Wilson
Queensland Senates—

Abetz
Back (Teller)
Bernardi
Bilyk
Bishop
Brown
Cameron
Colbeck

Collins
Crossin
Edwards
Farrell
Fawcett
Feeney
Fierravanti-Wells
Fifield

Furner
Gallacher
Johnston
Marshall
McEwen
McKenzie
McLacas
Moore

Payne
Pratt
Ruston
Singh
Smith
Stephens
Thistlethwaite
Thorp

Question negatived.

Senator Abetz moved the following amendments together by leave:

Schedule 8, item 57, page 54 (line 6), omit “paragraph 581A(1)(a)”, substitute “subsection 581A(1)”.

Schedule 8, item 62, page 55 (lines 22 to 30), omit subsection 581A(1), substitute:

(1) Without limiting section 581 (which deals with the functions of the President), the President may, in accordance with subsection (2) of this section, deal with a complaint about the performance by another FWC Member of his or her duties.

Schedule 8, item 62, page 56 (line 2), omit “paragraph (1)(a)”, substitute “subsection (1)”.

Schedule 8, item 62, page 56 (line 27), omit “paragraph (1)(a)”, substitute “subsection (1)”.

Schedule 8, item 62, page 56 (line 35), omit “paragraph (1)(a)”, substitute “subsection (1)”.

Schedule 8, item 64, page 57 (line 31), omit “paragraph 581A(1)(a), subsections 581A(2)”, substitute “subsections 581A(1)”.

Debate ensued.

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

Question—That the bill stand as printed—divided, at the request of Senator Abetz, in respect of Schedule 8, item 5.

Schedule 8, item 5 agreed to.

Question—That the bill stand as printed—divided, at the request of Senator Abetz, in respect of Schedule 8, item 63.

Schedule 8, item 63 agreed to.

Senator Wright moved the following amendments together by leave:

Clause 2, page 2 (after table item 4), insert:

4A. Schedule 8A The day after this Act receives the Royal Assent.
Page 60 (after line 14), after Schedule 8, insert:

**Schedule 8A—Better work/life balance**

*Fair Work Act 2009*

1 Paragraph 5(8)(a)  
Omit “or an equal remuneration order (see Part 2-7)”, substitute “, an equal remuneration order (see Part 2-7) or a flexible working arrangements order (see Part 2-7A)”.

2 Section 12  
Insert:

*flexible working arrangements order* see subsection 306F(1).

3 Subparagraph 43(2)(a)(ii)  
Omit “and”, substitute “or”.

4 At the end of paragraph 43(2)(a)  
Add:

(iii) a flexible working arrangements order (see Part 2-7A);

and

5 Subsection 44(2)  
Omit “65(5) or”.

6 Subsection 44(2) (note 1)  
Repeal the note, substitute:

Note 1: Subsection 76(4) states that an employer may refuse an application to extend unpaid parental leave only on reasonable business grounds.

7 Subsection 44(2) (note 2)  
Omit “65(5) or”.

8 Division 4 of Part 2-2  
Repeal the Division.

9 Section 146 (note)  
Omit “65(5) or”.

10 After paragraph 172(1)(c)  
Insert:

(ca) matters pertaining to flexible working arrangements;

11 Subsection 186(6) (notes 1 and 2)  
Omit “65(5) or”.
12 After Part 2-7

Insert:

Part 2-7A—Flexible working arrangements

Division 1—Introduction

306A Guide to this Part

This Part provides processes for changing working arrangements. Division 1 deals with preliminary matters. Division 2 deals with requests for flexible working arrangements, including flexible working arrangements for employees who are carers. Division 3 provides for the making of flexible working arrangements orders by FWA to ensure that employers comply with this Part.

306B Meanings of employee and employer

In this Part, employee means a national system employee, and employer means a national system employer.

306C State and Territory laws that are not excluded

(1) This Act is not intended to apply to the exclusion of laws of a State or Territory that provide employee entitlements in relation to flexible working arrangements, to the extent that those entitlements are more beneficial to employees than the entitlements under this Part.

(2) However, a law of a State or Territory has no effect in relation to an employee to the extent that it provides an employee entitlement in relation to flexible working arrangements that is inconsistent with a term of an enterprise agreement that applies to the employee.

Division 2—Requests for flexible working arrangements

306D Requests for flexible working arrangements

Employee or organisation may request change

(1) An employee, or an employee organisation that is entitled to represent the employee, may request the employer to change the employee’s working arrangements.

Note: Examples of changes in working arrangements include changes in hours of work, changes in patterns of work and changes in location of work.

(2) Neither the employee, nor the organisation, is entitled to make the request unless:

(a) for an employee other than a casual employee—the employee has completed at least 12 months of continuous service with the employer immediately before making the request; or

(b) for a casual employee—the employee:

(i) is a long term casual employee of the employer immediately before making the request; and

(ii) has a reasonable expectation of continuing employment by the employer on a regular and systematic basis.
Formal requirements

(3) The request must:
(a) be in writing; and
(b) set out details of the change sought and of the reasons for the change.

Responding to the request

(4) The employer must give the employee, or the employee organisation (as the case requires), a written response to the request within 21 days, stating whether the employer grants or refuses the request.

(5) The employer may refuse the request only on reasonable business grounds.

(6) If the employer refuses the request, the written response under subsection (4) must include details of the reasons for the refusal.

306E Requests for flexible working arrangements—carers

Request for change for employee who is a carer

(1) An employee who has responsibility for the care of another person, or an employee organisation that is entitled to represent the employee, may request the employer to change the employee’s working arrangements to assist the employee to care for the other person.

Note: Examples of changes in working arrangements include changes in hours of work, changes in patterns of work and changes in location of work.

(2) Neither the employee, nor the organisation, is entitled to make the request unless:
(a) for an employee other than a casual employee—the employee has completed at least 12 months of continuous service with the employer immediately before making the request; or
(b) for a casual employee—the employee:
   (i) is a long term casual employee of the employer immediately before making the request; and
   (ii) has a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

Formal requirements

(3) The request must:
(a) be in writing; and
(b) set out details of the change sought and of the reasons for the change.

Responding to the request

(4) The employer must give the employee, or the employee organisation (as the case requires), a written response to the request within 21 days, stating whether the employer grants or refuses the request.

(5) The employer may refuse the request only on serious countervailing business grounds.

(6) If the employer refuses the request, the written response under subsection (4) must include details of the reasons for the refusal.
Division 3—Flexible working arrangements orders

306F  FWA may make flexible working arrangements order

Power to make flexible working arrangements order

(1) FWA may make any order (the flexible working arrangements order) it considers appropriate to ensure that an employer complies with section 306D or 306E.

Who may apply for flexible working arrangements order

(2) FWA may make a flexible working arrangements order only on application by any of the following:
   (a) an employee or organisation whose request under subsection 306D(1) or 306E(1) for a change in working arrangements has been refused;
   (b) an employee organisation that is entitled to represent an employee covered by paragraph (a);
   (c) the Age Discrimination Commissioner, the Disability Discrimination Commissioner or the Sex Discrimination Commissioner.

306G  Implementation of flexible working arrangements in stages

A flexible working arrangements order may implement changed working arrangements in such stages (as provided in the order) as FWA thinks appropriate.

306H  Contravening a working arrangements order

An employer must not contravene a term of a flexible working arrangements order.

Note: This section is a civil remedy provision (see Part 4-1).

306I  Inconsistency with modern awards and enterprise agreements

(1) A term of a modern award has no effect in relation to an employee to the extent that it is less beneficial to the employee than a term of a flexible working arrangements order that applies to the employee.

(2) A term of a flexible working arrangements order has no effect in relation to an employee to the extent that it is inconsistent with a term of an enterprise agreement that applies to the employee.

13  Subsection 539(2) (after table item 9)

Insert:

| Part 2-7A—Flexible working arrangements |
|----------------------------------------|-----------------------------------------------|
| 9A | 306H | (a) a person to whom a flexible working arrangements order relates; (b) an organisation entitled to represent a person to whom a flexible working arrangements order relates | (a) the Federal Court; (b) the Federal Magistrates Court; (c) an eligible State or Territory court | 60 penalty units |
14 Subsection 545(1) (note 4)
Omit “65(5),”.

15 After paragraph 557(2)(f)
Insert:
(fa) section 306H (which deals with contraventions of flexible working arrangements orders);

16 After paragraph 576(1)(f)
Insert:
(fa) flexible working arrangements (Part 2-7A);

17 Paragraph 653(1)(c)
Repeal the paragraph, substitute:
(c) conduct research into the operation of the provisions of the National Employment Standards relating to requests for extensions of unpaid parental leave under subsection 76(1); and
(ca) conduct research into the operation of Part 2-7A in relation to requests for changed working arrangements; and

18 After paragraph 675(2)(e)
Insert:
(ea) a flexible working arrangements order;

19 At the end of subsection 716(1)
Add:
; (g) a term of a flexible working arrangements order.

20 Subsection 739(2)
Omit “65(5) or”.

21 Subsection 739(2) (note)
Omit “65(5) or”.

22 Subsection 740(2)
Omit “65(5) or”.

23 Subsection 740(2) (note)
Omit “65(5) or”.

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

AYES, 10

Senators—
Di Natale                  Milne                  Waters                  Wright
Hanson-Young               Rhiannon                Whish-Wilson             Xenophon
Ludlam                    Siewert (Teller)        }
NOES, 25

Senators—

Abetz                Collins              McKenzie            Singh
Back (Teller)        Crossin              McLucas              Smith
Bernardi             Fawcett              Moore                Stephens
Bilyk                Fawcett              Nash                 Urquhart
Brown                Gallacher            Polley               
Cameron              Maddigan             Pratt                
Colbeck              Marshall             Ruston               

Question negatived.
Senator Abetz moved the following amendments together by leave:

Clause 2, page 3 (at the end of the table), add:

12. Schedule 12 Immediately after the commencement of the provision(s) covered by table item 4.

Page 191 (after line 8), at the end of the bill, add:

**Schedule 12—Australian Workplace Relations Commission**

**Part 1—Amendments**

*Fair Work Act 2009*

1 The whole of the Act

Omit “Fair Work Commission” (wherever occurring), substitute “Australian Workplace Relations Commission”.

2 The whole of the Act

Omit “FWC” (wherever occurring), substitute “AWRC”.

3 The whole of the Act

Omit “FWC’s” (wherever occurring), substitute “AWRC’s”.

**Part 2—Transitional and consequential provisions**

4 Regulations may deal with transitional etc. matters

(1) The Governor-General may make regulations dealing with matters of a transitional, saving or application nature relating to amendments made by this Schedule.

(2) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made under this item may be expressed to take effect from a date before the regulations are registered under that Act.

(3) In this item:

*amendments made by this Schedule* includes amendments made by regulations under item 5 of this Schedule.

5 Regulations may make consequential amendments of Acts

(1) The Governor-General may make regulations amending Acts (including the *Fair Work Act 2009*) being amendments that are consequential on, or that otherwise relate to, the amendments made by this Schedule.
(2) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made under this item may be expressed to take effect from a date before the regulations are registered under that Act.

(3) Amendments of an Act made by regulations for the purposes of this item can be incorporated into a reprint or compilation of the Act as provided by the *Acts Publication Act 1905*.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 32**

Senators—

Abetz  
Back (Teller)  
Bernardi  
Birmingham  
Boswell  
Boyce  
Bushby  
Cash  
Colbeck  
Cormann  
Edwards  
Eggleston  
Fawcett  
Ferravanti-Wells  
Fifield  
Heffernan  
Johnston  
Joyce  
Kroger  
Madigan  
McKenzie  
Nash  
Parry  
Payne  
Ronaldson  
Ruston  
Ryan  
Scullion  
Sinodinos  
Smith  
Williams  
Xenophon

**NOES, 37**

Senators—

Bilyk  
Bishop  
Brown (Teller)  
Cameron  
Carr, Bob  
Carr, Kim  
Collins  
Conroy  
Crossin  
Di Natale  
Farrell  
Faulkner  
Feeney  
Furner  
Gallacher  
Hanson-Young  
Ludlam  
Ludwig  
Marshall  
McEwen  
McLucas  
Milne  
Moore  
Polley  
Pratt  
Rhiannon  
Stewart  
Singh  
Stephens  
Sterle  
Thistlethwaite  
Thorp  
Urqhart  
Waters  
Whish-Wilson  
Wong  
Wright

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) the report from the committee was adopted and the bill read a third time.

4 **WHEAT EXPORT MARKETING AMENDMENT BILL 2012**

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

Debate resumed.
Documents: Senator Siewert, by leave, tabled the following documents:
Wheat Export Marketing Amendment Bill 2012—Letters from—
Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to Senator
Siewert, dated 31 October and 27 November 2012 [2].
Senator Siewert to the Minister for Agriculture, Fisheries and Forestry (Senator
Ludwig), dated 26 November 2012.

Debate continued.
At 12.45 pm: Debate was interrupted while Senator Edwards was speaking.

5 Matters of Public Interest
Matters of public interest were discussed.

Document: Senator Williams, by leave, tabled the following document:
Foreign affairs—2012 Georgia election—Report by visiting senators observing the
Parliamentary election in Georgia on 1 October 2012.

Suspension of sitting: On the motion of the Minister for Human Services (Senator Kim
Carr) the sitting of the Senate was suspended at 1.51 pm till 2 pm.

At 2 pm—

6 Questions
Questions without notice were answered.

7 Motions to Take Note of Answers
Senator Fifield moved—That the Senate take note of the answers given by the
Minister for Foreign Affairs (Senator Bob Carr) and the Minister for Finance and
Deregulation (Senator Wong) to questions without notice asked by senators today.
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 Agriculture, Fisheries and Forestry
(Senator Ludwig) to a question without notice asked by Senator Milne today relating
to climate change.
Question put and passed.
8 **NOTICES**

*Notices of motion:*

Senator Di Natale: To move on the next day of sitting—That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 21 March 2013:

Progress in the implementation of the recommendations of the 1999 Joint Expert Technical Advisory Committee on Antibiotic Resistance, including:

(a) examination of steps taken, their timeliness and effectiveness;

(b) where and why failures have occurred;

(c) implications of antimicrobial resistance on public health and the environment;

(d) implications for ensuring transparency, accountability and effectiveness in future management of antimicrobial resistance; and

(e) any other related matter.

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

(a) formally marks National Asbestos Awareness Week, which in 2012 is being held between 26 November and 30 November;

(b) acknowledges the ongoing and devastating legacy of asbestos on the Australian community and that Australia has one of the highest rates of asbestos-related diseases in the world;

(c) recognises the ongoing efforts of the many asbestos support and advocacy groups and unions which support those living with an asbestos-related disease and advocate on behalf of victims;

(d) extends its sympathies to those who have been affected by an asbestos-related disease;

(e) acknowledges Australia’s ongoing work with like-minded countries to achieve listing of chrysotile asbestos under the rules of the Rotterdam Convention; and

(f) commends the Government on its efforts to eradicate asbestos from workplaces, homes and the community through its response to the Asbestos Management Review and the establishment of the Office of Asbestos Safety. *(general business notice of motion no. 1075)*

Senator Madigan: To move on 12 March 2013—That the following bill be introduced: A Bill for an Act to limit imports from countries that are signatories to a Free Trade Agreement with Australia but which do not provide their employees with basic workers’ rights, and for related purposes. *Fair Trade (Workers’ Rights) Bill 2013.* *(general business notice of motion no. 1076)*

Senator Madigan: To move on 26 February 2013—That the following bill be introduced: A Bill for an Act to enable the citizens of Australia to initiate the holding of a referendum in relation to altering the Constitution, and for related purposes. *Citizen Initiated Referendum Bill 2013.* *(general business notice of motion no. 1077)*

Senator Madigan: To move on 26 February 2013—That the following bill be introduced: A Bill for an Act to enable the citizens of Australia to initiate the holding of a plebiscite in relation to the introduction of legislation into the Federal Parliament, and for related purposes. *Citizen Initiated Legislation (Plebiscite) Bill 2013.* *(general business notice of motion no. 1078)*
Senator Rhiannon: To move on the next day of sitting—That the Senate—

(a) notes:
   (i) with deep concern the human rights situation in Iran, including the use of the death penalty, the intimidation and arbitrary arrest of human rights and political activists, and the treatment of minorities,
   (ii) with particular concern the situation of Ms Nasrin Sotoudeh, the Iranian human rights lawyer who has campaigned for 'freedom, social security, the rule of law and justice’, and who has been imprisoned since 4 September 2010,
   (iii) Ms Sotoudeh’s health has deteriorated as a result of being on a hunger strike for more than 40 days, and
   (iv) 30 000 people have supported a campaign run by Amnesty International to demand the unconditional release of Ms Sotoudeh; and

(b) supports the Australian Government raising concerns about Ms Sotoudeh’s human rights, including her imprisonment, with the Government of Iran, and continuing to urge Iran to abide by its international human rights obligations and to protect the human rights of all its citizens. (general business notice of motion no. 1079)

Senators Xenophon, Di Natale, Fierravanti-Wells and Madigan: To move on the next day of sitting—That the Senate—

(a) notes the concerns of key stakeholders in relation to the price reduction of chemotherapy drug Docetaxel and its potential broader impact on the treatment of cancer patients;

(b) calls on the Government to:
   (i) negotiate with relevant bodies regarding the cost of dispensing chemotherapy drugs, and
   (ii) ensure that the result of these negotiations will allow pharmacists to continue dispensing the drug, and other chemotherapy drugs, without disrupting patients;

(c) welcomes the policy of price disclosure of items on the Pharmaceutical Benefits Scheme; and

(d) calls on the Government to ensure that further disruption to patients does not occur. (general business notice of motion no. 1080)

The Chair of the Legal and Constitutional Affairs References Committee (Senator Wright): To move on the next day of sitting—That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 21 March 2013:

The impact of recent proposed federal court fee increases on access to justice in Australia, with particular reference to:

(a) the impact of federal court fee increases on low-income and ordinary Australians and operators of small business;

(b) whether recent and proposed fee increases are reasonable, based on evidence and consistent with other justice policy matters;

(c) how increases in court fees, and other reform to the courts and justice system, can act as a barrier to accessing justice;

(d) the extent to which court fee increases may impact on services provided by legal assistance services, i.e. legal aid commissions, ATSILS, FVPLS and CLCs; and


(e) other relevant matters.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins): To move on the next day of sitting—That, on Thursday, 29 November 2012:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7 pm to adjournment;
(b) divisions may take place after 4.30 pm;
(c) any proposal pursuant to standing order 75 shall not be proceeded with;
(d) 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;
(e) 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;
(f) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister;
(g) the following government business orders of the day shall have precedence over all other government business, be called on in the following order and be considered under a limitation of time, and that the time allotted be as follows:

<table>
<thead>
<tr>
<th>Bill</th>
<th>Start Time</th>
<th>Limitation of Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat Export Marketing Amendment Bill 2012</td>
<td>commencing immediately to 3.45 pm—second reading</td>
<td>commencing immediately to 3.45 pm—second reading</td>
</tr>
<tr>
<td>from 3.45 pm to 4.15 pm—all remaining stages</td>
<td>commencing immediately after the preceding item to 5.30 pm—all remaining stages</td>
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<tr>
<td>Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012</td>
<td>commencing from not later than 6 pm to 8 pm—second reading</td>
<td>commencing from not later than 6 pm to 8 pm—second reading</td>
</tr>
<tr>
<td>National Gambling Reform Bill 2012 and related bills</td>
<td>commencing immediately after the preceding item to 9.45 pm—all remaining stages</td>
<td>commencing immediately after the preceding item to 9.45 pm—all remaining stages</td>
</tr>
<tr>
<td>Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012</td>
<td>commencing immediately after the preceding item to 9.45 pm—all remaining stages</td>
<td>commencing immediately after the preceding item to 9.45 pm—all remaining stages</td>
</tr>
</tbody>
</table>

(h) paragraph (g) of this order shall operate as a limitation of debate under standing order 142.

Intention to withdraw: Senator Xenophon, pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 1 standing in his name for 29 November 2012 for 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) [PB98 of 2012], made under subsection 99ADB(4) of the National Health Act 1953.

9 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Ludlam for today, proposing a reference to the Rural and Regional Affairs and Transport References Committee, postponed till 29 November 2012.
General business notice of motion no. 1072 standing in the name of Senator Fierravanti-Wells for today, relating to Christian Assyrians in Iraq, postponed till 29 November 2012.

10 LEAVE OF ABSENCE
Senator McEwen, by leave, moved—That leave of absence be granted to Senator Farrell for 29 November 2012, for personal reasons. Question put and passed.

11 PARLIAMENTARY SERVICE AMENDMENT BILL 2012
The President, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1065—That the following bill be introduced:

A Bill for an Act to amend the Parliamentary Service Act 1999, and for related purposes.
Question put and passed.
The President 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.
The President moved—That this bill be now read a second time.

Explanatory memorandum: The President tabled an explanatory memorandum relating to the bill.

On the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) the debate was adjourned till the next day of sitting.

12 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—REFERENCE
Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 5—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.

Statement by leave: Senator Cash, by leave, made a statement relating to the motion.

Question put.
The Senate divided—

AYES, 37

Senators—

Bilyk        Bishop        Brown        Cameron        Carr, Kim        Collins        Conroy        Crossin        Di Natale        Farrell

   Faulkner    Feeney        Furner        Gallacher        Hanson-Young    Hogg           Ludlam        Ludwig        Lundy          Madigan

   Stephens    Sterle        Thorp         Urquhart        Waters          Whish-Wilson  Wright

NOES, 30

Senators—

Back         Bernardi      Birmingham    Boyle         Brandis        Broughby       Cash          Colbeck

   Edwards      Eggleston     Fawcett       Fierravanti-Wells Ffifield        Heffernan      Humphries      Johnston
   Joyce        Joyce         Kroger (Teller) Macdonald    McKenzie       Nash           Parry          Payne

   Ronaldson    Ruston       Ryan          Sinodinos       Smith          Williams

Question agreed to.
13 ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE—PROPOSED REFERENCE

The Leader of the Australian Greens (Senator Milne), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—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.

Question put.
The Senate divided— AYES, 9

Senators—

Di Natale  Milne  Siewert (Teller)  Whish-Wilson
Hanson-Young  Rhiannon  Waters  Wright
Ludlam
14 ENVIRONMENT—WESTERN AUSTRALIA—URANIUM PROJECT

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1070—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 to cause 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.

Statement by leave: Senator Ludlam, by leave, made a statement relating to the motion.

Question put and negatived.
15 IMMIGRATION—ASYLUM SEEKERS

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1074—that the Senate calls on the Government to give asylum seekers and refugees the legal right to work.

Question put.

The Senate divided—

AYES, 9

Senators—

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

NOES, 46

Senators—

Back        Conroy    Ludwig    Pratt
Bernardi    Crossin    Lundy    Ruston
Bilyk       Edwards    Madigan    Ryan
Bishop      Eggleston  Marshall    Singh
Boyce       Farrell    Mason    Smith
Brown       Fawcett    McEwen    Stephens
Bushby      Feeney    McKenzie    Sterle
Cameron     Fifield    McLucas    Thorp
Carr, Kim   Fawcett    McEwen    Stephens
Cash        Gallagher  Nash    Williams
Colbeck     Humphries  Parry
Collins     Kroger (Teller)    Polley

Question negatived.

16 ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE—REFERENCE

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) asked that the question on business of the Senate notice of motion no. 3 be put again (see entry no. 13).

Leave was granted for the question to be put again.

Question—That the motion be agreed to—put and passed.

17 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REFERENCE

Senator Di Natale amended business of the Senate notice of motion no. 4 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—that, noting that work is currently underway towards the development of Australia’s National Plan for Clean Air through the Council of Australian Governments, 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.

Question put and passed.
18 **BIOSECURITY BILL 2012**

**INSPECTOR-GENERAL OF BIOSECURITY BILL 2012**

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), at the request of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) and pursuant to notices of motion not objected to as formal motions, moved government business notices of motion nos 1 and 2—That the following bills 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.

- A Bill for an Act to provide for the appointment of an Inspector-General of Biosecurity, and for related purposes.

Question put and passed.

Senator Collins presented the bills and 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 Collins moved—That these bills be now read a second time.

**Explanatory memoranda:** Senator Collins tabled explanatory memoranda [2] 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.

19 **LAW AND JUSTICE—UGANDA AND NIGERIA—ANTI-HOMOSEXUALITY LEGISLATION**

Senator Hanson-Young, also on behalf of Senator Pratt, amended general business notice of motion no. 1041 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- notes with grave concern:
  - (i) the Anti-Homosexuality Bill in Uganda, re-tabled in 2012, which would increase the penalties imposed in Uganda for homosexuality, and
  - (ii) the Same Sex Marriage (Prohibition) Law in Nigeria, passed by Nigeria’s Parliament but not yet signed into law, which prohibits same-sex marriage and civil union by imposing penalties, including imprisonment of 14 years, and prohibits the activities of gay couples and organisations by imposing penalties, including imprisonment of 10 years; and

- supports the Australian Government continuing to urge the governments of Uganda and Nigeria to uphold the human rights of lesbian, gay and transgender people in accordance with their commitments under international law.

Question put and passed.
20 **FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator McEwen, at the request of Senator Stephens and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1067—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.

Question put and passed.

21 **RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE— LEAVE TO MEET DURING SITTING**

Senator McEwen, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Sterle) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1068—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.

Question put and passed.

22 **POSTPONEMENT**

Senator Rhiannon, by leave, moved—That general business notice of motion no. 1069 standing in her name for today, relating to government transparency, be postponed till 29 November 2012.

Question put and passed.

23 **DEFENCE—AUSTRALIAN PEACEKEEPERS**

Senator Wright, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 1073—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.

Question put and passed.

24 **SCRUTINY OF BILLS—STANDING COMMITTEE—15TH REPORT OF 2012**

Senator Kroger, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Macdonald), tabled the following report:


Report ordered to be printed on the motion of Senator Kroger.
25 Finance and Public Administration Legislation Committee—Report—Performance of the Department of Parliamentary Services

Pursuant to order, the Chair of the Finance and Public Administration Legislation Committee (Senator Polley) tabled the following report and documents:


Report ordered to be printed on the motion of Senator Polley.
Senator Polley moved—that the Senate take note of the report.
Debate ensued.
Question put and passed.

26 Economics References Committee—Report—Effects of the Global Financial Crisis on the Australian Banking Sector

Pursuant to order, the Chair of the Economics References Committee (Senator Bushby) tabled the following report and documents:

Economics References Committee—The post-GFC banking sector—Report, dated November 2012, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

Report ordered to be printed on the motion of Senator Bushby.
Senator Bushby moved—that the Senate take note of the report.
Debate ensued.
Question put and passed.

27 Finance and Public Administration References Committee—Report—Medicare Funding for Hyperbaric Oxygen Treatment

The Chair of the Finance and Public Administration References Committee (Senator Ryan) tabled the following report and documents:

Finance and Public Administration References Committee—Medicare funding for hyperbaric oxygen treatment—Report, dated November 2012, Hansard record of proceedings, additional information and submissions.

Report ordered to be printed on the motion of Senator Ryan.
Senator Ryan moved—that the Senate take note of the report.
Debate ensued.
Question put and passed.

28 Treaties—Joint Standing Committee—131st Report

The Deputy Chair of the Joint Standing Committee on Treaties (Senator McKenzie), tabled the following report:

Senator McKenzie moved—that the Senate take note of the report.
Question put and passed.
29 **HUMAN RIGHTS—JOINT STATUTORY COMMITTEE—7TH REPORT OF 2012**

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


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

Senator Stephens moved—That the Senate take note of the report.

Question put and passed.

30 **LAW ENFORCEMENT—JOINT STATUTORY COMMITTEE—REPORT—REGULATORY POWERS (STANDARD PROVISIONS) BILL 2012**

Senator Williams, on behalf of the Parliamentary Joint Committee on Law Enforcement, tabled the following report:


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

Reference to committee: Senator Williams, on behalf of the Parliamentary Joint Committee on Law Enforcement, moved—That—

(a) the recommendations of the report be adopted; and


Question put and passed.

Senator Williams moved—That the Senate take note of the report.

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

31 **COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—NATIONAL GAMBLING REFORM BILL 2012 AND RELATED BILLS**

Pursuant to order, Senator Brown, on behalf of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report:


Report ordered to be printed on the motion of Senator Brown.
32 Environment and Communications Legislation Committee—Report—Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012

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.


Senator Brown, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled the following report:


34 Public Accounts and Audit—Joint Statutory Committee—433rd and 434th Reports

Senator Brown, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following reports:

Public Accounts and Audit—Joint Statutory Committee—


Senator Brown, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:


36 Parliament House—Rules for Media Related Activity—Statement and Document

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


Senator Marshall, on behalf of the President, made a statement relating to the matter.
37 **HEALTH—WORLD MENTAL HEALTH DAY—DOCUMENT**

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

Health—World Mental Health Day—Letter to the President of the Senate from the Senior Adviser, Social Policy, Office of the Premier of Victoria (Ms Sperling) responding to the resolution of the Senate of 10 October 2012, dated 22 November 2012.

38 **HEALTH—WORLD SIGHT DAY—DOCUMENT**

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

Health—World Sight Day—Letter to the President of the Senate from the Minister for Health (Ms Plibersek) responding to the resolution of the Senate of 11 October 2012, dated 21 November 2012.

Senator Siewert, by leave, moved—That the Senate take note of the document. Question put and passed.

39 **AUDITOR-GENERAL—AUDIT REPORT NO. 11 OF 2012-13—DOCUMENT**

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

Auditor-General—Audit report no. 11 of 2012-13—Performance audit—Establishment, implementation and administration of the quarantined heritage component of the local jobs stream of the Jobs Fund: Department of Sustainability, Environment, Water, Population and Communities.

40 **TREATIES—JUMPNT STANDING COMMITTEE—GOVERNMENT RESPONSE—126TH REPORT**

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled the following document:


Senator Ludlam, by leave, moved—That the Senate take note of the document. Question put and passed.

41 **PARLIAMENTARY COMMITTEE REPORTS—GOVERNMENT RESPONSE—PRESIDENT’S REPORT ON GOVERNMENT RESPONSES**

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled the following document:

Government response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 28 June 2012, dated 28 November 2012.
42 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—INTERIM REPORT—FOREIGN INVESTMENT REVIEW BOARD NATIONAL INTEREST TEST

Senator Bushby, at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan), tabled the following report:


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

43 AUSTRALIAN PARLIAMENTARY DELEGATION TO THE 125TH INTER-PARLIAMENTARY UNION ASSEMBLY AND BILATERAL VISITS TO GERMANY AND AUSTRIA—DOCUMENT

Senator Stephens, by leave, tabled the following document:

125th Inter-Parliamentary Union Assembly, Bern, Switzerland and bilateral visits to Germany and Austria—Report of the Australian parliamentary delegation, 16 October to 25 October 2011, dated November 2012.

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

Question put and passed.

44 AUSTRALIAN PARLIAMENTARY DELEGATION TO THE PEOPLE’S REPUBLIC OF CHINA AND THE REPUBLIC OF INDONESIA—DOCUMENT

Senator Colbeck, by leave, tabled the following document:


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

Question put and passed.

45 AUSTRALIAN PARLIAMENTARY DELEGATION TO SOLOMON ISLANDS AND SAMOA—DOCUMENT

Senator Polley, by leave, tabled the following document:


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

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

46 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.]


Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 25 of 2012—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2012L02264].

Aviation Transport Security Act—Select Legislative Instrument 2012 No. 257—Aviation Transport Security Amendment Regulation 2012 (No. 5) [F2012L02247].

Broadcasting Services Act—
Television Licence Area Plan (Broken Hill) Variation 2012 [F2012L02259].
Television Licence Area Plan (Riverland) Variation 2012 [F2012L02252].
Television Licence Area Plan (Spencer Gulf) Variation 2012 [F2012L02255].

Civil Aviation Act—Civil Aviation Safety Regulations—Instruments Nos CASA—
EX168/12—Exemption – from standard take-off and landing minima – AirBridgeCargo Airlines Ltd [F2012L02265].
EX170/12—Exemption – of authorised flying instructors employed by Singapore Flying College Pty Ltd [F2012L02268].

Climate Change Authority Act—Land Sector Carbon and Biodiversity Board Specification [F2012L02262].

Corporations Act—
ASIC Market Integrity Rules (ASX Market) Amendment 2012 (No. 3) [F2012L02248].
ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2012 (No. 3) [F2012L02251].
ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2012 (No. 1) [F2012L02250].
Select Legislative Instruments 2012 Nos—
266—Corporations Amendment Regulations 2010 (No. 3) Amendment Regulation 2012 (No. 2) [F2012L02245].
268—Corporations Amendment Regulation 2012 (No. 10) [F2012L02261].


Fisheries Management Act—Heard Island and McDonald Islands Fishery Management Plan 2002—Heard Island and McDonald Islands Fishery Total Allowable Catch Determination 2012 [F2012L02257].

Food Standards Australia New Zealand Act—Food Standards (Application A1068 – Hydrogen Peroxide as a Processing Aid) Variation [F2012L02254].


Health Insurance Act—Select Legislative Instrument 2012 No. 254—Health Insurance (Pathology Services Table) Amendment Regulation 2012 (No. 3) [F2012L02242].
Ozone Protection and Synthetic Greenhouse Gas Management Act—Select Legislative Instruments 2012 Nos—
  260—Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulation 2012 (No. 3) [F2012L02267].
  261—Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulation 2012 (No. 4) [F2012L02270].
Private Health Insurance Act—Private Health Insurance (Complying Product) Amendment Rules 2012 (No. 9) [F2012L02269].
Product Stewardship Act—
  Product Stewardship (Voluntary Arrangements) Instrument 2012 [F2012L02258].
Sydney Airport Curfew Act—Dispensation Report 07/12.

Governor-General’s Proclamations—Commencement of provisions of Acts—
Australian Citizenship Amendment (Defence Families) Act 2012—Schedule 1—1 January 2013 [F2012L02249].
Customs Tariff Amendment (Schedule 4) Act 2012—Schedules 1 and 2—1 March 2013 [F2012L02253].

47 INDIGENOUS AUSTRALIANS—NORTHERN TERRITORY EMERGENCY RESPONSE—
ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT
The following document was tabled pursuant to the order of the Senate of 1 November 2012:

48 COMMITTEE MEMBERSHIP
The Acting Deputy President (Senator Boyce) informed the Senate that the President had received a letter nominating senators to be members of a committee.
The Parliamentary Secretary for Defence (Senator Feeney), by leave, moved—That Senators Bushby and Fawcett be appointed to the Joint Select Committee on Constitutional Recognition of Local Government.
Question put and passed.
49 Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012
A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:
Message no. 557, dated 27 November 2012—A Bill for an Act to amend the law relating to unclaimed money, and for other purposes.
The Parliamentary Secretary for Defence (Senator Feeney) moved—That this bill may proceed without formalities and be now read a first time.
Question put and passed.
Bill read a first time.
Senator Feeney moved—That this bill be now read a second time.

Explanatory memorandum: Senator Feeney tabled a revised explanatory memorandum relating to the bill.

On the motion of Senator Feeney the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

50 Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012
Customs Tariff Amendment (Malaysia-Australia Free Trade Agreement Implementation) Bill 2012
Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:
Message no. 559, dated 27 November 2012—A Bill for an Act to amend the law relating to customs, and for related purposes.
The Parliamentary Secretary for Defence (Senator Feeney) 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 Feeney moved—That these bills be now read a second time.
On the motion of Senator Feeney the debate was adjourned till the next day of sitting.

51 Health and Other Legislation Amendment Bill 2012
Migration Amendment (Reform of Employer Sanctions) Bill 2012
Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:
Message no. 561, dated 27 November 2012—A Bill for an Act to amend the law relating to food regulatory measures, health, medicare and industrial chemicals, and for related purposes.
Message no. 556, dated 27 November 2012—A Bill for an Act to amend the law relating to migration, and for other purposes.
The Parliamentary Secretary for Defence (Senator Feeney) 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 Feeney moved—that these bills be now read a second time.
Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.
Senator Feeney moved—that the bills be listed on the Notice Paper as separate orders of the day.
Question put and passed.

52 FAIR WORK AMENDMENT (TRANSFER OF BUSINESS) BILL 2012
HIGHER EDUCATION SUPPORT AMENDMENT (STREAMLINING AND OTHER MEASURES) BILL 2012
MIGRATION LEGISLATION AMENDMENT (STUDENT VISAS) BILL 2012
SUPERANNUATION LEGISLATION AMENDMENT (MYSUPER CORE PROVISIONS) BILL 2012

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:
Message no. 554, dated 26 November 2012—Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012.

53 COMMITTEE MEMBERSHIP

Messages from the House of Representatives were reported informing the Senate of changes in the membership of joint committees, as follows:
Message no. 551, dated 26 November 2012—Joint Select Committee on Constitutional Recognition of Local Government, Mr Coulton, Mr Irons, Ms Livermore, Mrs Prentice, Ms Rowland, Mr Windsor and Mr Zappia, appointed.
Message no. 562, dated 28 November 2012—Parliamentary Standing Committee on Public Works, Ms Livermore in place of Mr Georganas.

54 CONSTITUTIONAL RECOGNITION OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES—JOINT SELECT COMMITTEE—APPOINTMENT

A message from the House of Representatives was reported proposing the appointment of a joint select committee, as follows:
Message no. 558, dated 27 November 2012—Proposed Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, and transmitting for the concurrence of the Senate the following resolution:
That:

(1) a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples be appointed to inquire into and report on steps that can be taken to progress towards a successful referendum on Indigenous constitutional recognition, and in conducting the inquiry, the Committee will:

(a) consider the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 with a view to securing strong multi-partisan Parliamentary support for the passage of the Bill through Parliament, reporting by 30 January 2013;

(b) thereafter, work to build a secure strong multi-partisan Parliamentary consensus around the timing, specific content and wording of referendum proposals for Indigenous constitutional recognition;

(c) consider:

(i) the creation of an advisory group whose membership includes representatives of Aboriginal and Torres Strait Islander people to guide the work of the Committee;

(ii) the recommendations of the Expert Panel on Constitutional Recognition of Indigenous Australians on the process for the referendum; and

(iii) develop mechanisms to build further engagement and support for the constitutional recognition of Aboriginal and Torres Strait Islander peoples across all sectors of the community, including Aboriginal and Torres Strait Islander peoples; and taking into account and complementing the existing work being undertaken by Reconciliation Australia; and;

(d) take the following matters into account:

(i) the report and extensive work of the Expert Panel on Constitutional Recognition of Indigenous Australians, including its recommendations and forms of recognition, namely that:

- section 25 be repealed
- section 51 (xxvi) be repealed
- a new ‘section 51A’ be inserted, along the following lines:

Section 51A Recognition of Aboriginal and Torres Strait Islander peoples

Recognising that the continent and its islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples;

Acknowledging the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters;

Respecting the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples;

Acknowledging the need to secure the advancement of Aboriginal and Torres Strait Islander peoples;

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to Aboriginal and Torres Strait Islander peoples;
The Panel further recommends that the repeal of section 51 (xxvi) and the insertion of the new ‘section 51A’ be proposed together.

– a new ‘section 116A’ be inserted, along the following lines:

**Section 116A Prohibition of racial discrimination**

(1) The Commonwealth, a State or a Territory shall not discriminate on the grounds of race, colour or ethnic or national origin.

(2) Subsection (1) does not preclude the making of laws or measures for the purpose of overcoming disadvantage, ameliorating the effects of past discrimination, or protecting the cultures, languages or heritage of any group.

– a new ‘section 127A’ be inserted, along the following lines:

**Section 127A Recognition of languages**

(1) The national language of the Commonwealth of Australia is English.

(2) The Aboriginal and Torres Strait Islander languages are the original Australian languages, a part of our national heritage.

(ii) some of the recommendations of the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples are not included in the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 because they can only be implemented through a change to the Australian Constitution;

(iii) the fact that those recommendations are excluded from the Bill does not preclude those recommendations being considered by the Committee as referendum proposals for constitutional recognition of Aboriginal and Torres Strait Islander peoples;

(iv) research and findings from work currently being undertaken by Reconciliation Australia on raising awareness and support for constitutional recognition of Aboriginal and Torres Strait Islander peoples;

(v) advice from the legal workshops being led by Reconciliation Australia and the need to seek constitutional legal advice regarding the content of any referendum proposals;

(vi) the preparedness of State and Territory governments to support a referendum on the constitutional recognition of Aboriginal and Torres Strait Islander peoples; and

(vii) other matters that the Committee considers may be relevant;

(2) the Committee consist of eight members, one Member of the House of Representatives to be nominated by the Government Whip or Whips, one Member of the House of Representatives to be nominated by the Opposition Whip or Whips, one non-aligned Member and two Senators to be nominated by the Leader of the Government in the Senate, two Senators to be nominated by the Leader of the Opposition in the Senate, and one Senator to be nominated by any minority group or Independent Senator;

(3) every nomination of a member of the Committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives respectively;
(4) the members of the Committee hold office as a joint select committee until the House of Representatives is dissolved or expires by effluxion of time, whichever is the earlier;

(5) the sunset date of the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012, once passed, will provide the impetus for a future Parliament to reconstitute a like Committee to continue the work towards a successful referendum;

(6) the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 also includes a proposed legislative review, commencing one year after the commencement of the Act and concluding six months prior to the sunset date;

(7) the Committee elect a:
   (a) Government member as its chair; and
   (b) member as its deputy chair who shall act as chair of the Committee at any time when the chair is not present at a meeting of the Committee, and at any time when the chair and deputy chair are not present at a meeting of the Committee the members present shall elect another member to act as chair at that meeting;

(8) in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote;

(9) three members of the Committee constitute a quorum of the Committee provided that in a deliberative meeting the quorum shall include one Government member of either House and one non-Government member of either House;

(10) the Committee:
    (a) have power to appoint subcommittees consisting of three or more of its members and to refer to any subcommittee any matter which the Committee is empowered to examine; and
    (b) appoint the chair of each subcommittee who shall have a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting;

(11) two members of a subcommittee constitute the quorum of that subcommittee, provided that in a deliberative meeting the quorum shall include one Government member of either House and one non-Government member of either House;

(12) members of the Committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum;

(13) the Committee or any subcommittee:
    (a) have power to call for witnesses to attend and for documents to be produced;
    (b) may conduct proceedings at any place it sees fit; and
    (c) have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives;

(14) the Committee will report:
    (a) on the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012, no later than 30 January 2013; and
(b) as needed in order to progress constitutional recognition of Aboriginal and Torres Strait Islander peoples;

(15) the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

The Parliamentary Secretary for Defence (Senator Feeney), by leave, moved—That the Senate concurs with the resolution of the House of Representatives contained in message no. 558 relating to the appointment of a joint select committee.

Question put and passed.

55 **BASIN PLAN 2012—PROPOSED DISALLOWANCE**

Senator Hanson-Young, pursuant to notice, moved business of the Senate notice of motion no. 1—That the Basin Plan 2012, made under Part 2 of the *Water Act 2007*, be disallowed.

Debate ensued.

*Closure*: The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) moved—That the question be now put.

Question—That the question be now put—put.

The Senate divided—

**AYES, 34**

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**NOES, 30**

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| Brandis | Fierravanti-Wells | Parry | Williams |
| Bushby | Fifield | Payne | Xenophon |
| Cash | Joyce | Ronaldson | Ruston |
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Question agreed to.

Main question put.
The Senate divided—

**AYES, 9**

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Question negatived.

*Statements by leave*: Senator Collins, the Leader of The Nationals in the Senate (Senator Joyce) and Senator Birmingham, by leave, made statements relating to the matter.

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**At 7.20 pm—**

56 **ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.56 pm till Thursday, 29 November 2012 at 9.30 am.

57 **ATTENDANCE**

Present, all senators.

**Rosemary Laing**

Clerk of the Senate

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