THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 74

THURSDAY, 4 DECEMBER 2014

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1 **MEETING OF SENATE**
The Senate met at 9.30 am. The President (Senator the Honourable Stephen Parry) took the chair, read prayers and made an acknowledgement of country.

2 **DOCUMENTS**
The following documents were tabled by the Clerk pursuant to statute:

*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.*

- **A New Tax System (Family Assistance) (Administration) Act 1999**—Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2014 (No. 1) [F2014L01628].


- **Civil Aviation Act 1988**—Civil Aviation Safety Regulations 1998—Exemption — refuelling in Ordnance Loading Areas (Pel-Air Aviation)—CASA EX165/14 [F2014L01623].


- **National Health Act 1953**—National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2014 (No. 11)—PB 94 of 2014 [F2014L01615].

- **Public Governance, Performance and Accountability Act 2013**—Commonwealth ceasing to be a member of Medibank Private Limited—2 December 2014.


3 COMMITTEES—LEAVE TO MEET DURING SITTING

Committees were authorised to meet during the sitting of the Senate today as follows:
- Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs—Select Committee—private meeting otherwise than in accordance with standing order 33(1), from 3 pm.
- Legal and Constitutional Affairs References Committee—private meeting otherwise than in accordance with standing order 33(1), from 11 am, for the purposes of the committee’s inquiry into the Manus Island Detention Centre.
- National Broadband Network—Select Committee—public meeting, from 4.15 pm.

4 FAMILY TAX BENEFIT (TIGHTER INCOME TEST) BILL 2014

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

Debate resumed.

Closure: Senator Bernardi moved—that the question be now put.

Question—that the question be now put—put.

The Senate divided—

AYES, 29

Senators—

Bernardi
Birmingham
Bushby (Teller)
Canavan
Cash
Colbeck
Day
Edwards
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Leyonhjelm
Macdonald
Mason
McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds
Ronaldson
Ruston
Ryan
Seselja
Simmonds
Smith
Williams

NOES, 33

Senators—

Bilyk
Brown
Bullock
Collins
Conroy
Faulkner
Gallacher
Hanson-Young
Ketter
Lambie
Lazarus
Lines
Ludlam
Landy
Madigan
Marshall
McLucus
Milne
Moore
O’Neill
Pers
Polley
Rhiannon
Rice
Siewert
Singh
Sterle
Sterle
Urquhart (Teller)
Wang
Waters
Whish-Wilson
Wong
Wright

Question negatived.

Debate continued.

Closure: Senator Bilyk moved—that the question be now put.

Question—that the question be now put—put and passed.

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

The Senate divided—

Senator Leyonhjelm being the only senator voting for the ayes, the Acting Deputy President (Senator Sterle), without completing the division, declared the question resolved in the negative.
Time expired: Pursuant to order (see entry no. 11, 27 November 2014), the time for general business orders of the day for the consideration of bills reached the limit of 1 hour 10 minutes.

5 Environment Legislation Amendment Bill 2013
Order of the day read for the adjourned debate on the motion of the Assistant Treasurer—That this bill be now read a second time.
Debate resumed.
Time expired: Pursuant to order (see entry no. 11, 27 November 2014), the time for government business reached the limit of 1 hour 10 minutes.
Debate adjourned till the next day of sitting, Senator McEwen in continuation.

6 Voting in Divisions—Statement by Deputy President
The Deputy President (Senator Marshall) made a statement relating to senators calling for divisions and reminded senators that standing order 100(3) requires that a senator shall vote in a division in accordance with that senator’s vote by voice (see entry no. 4).

7 Petitions
The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Ludlam, from 400 petitioners, requesting that the Senate support legislation to require parliamentary debate before the deployment of Australian troops to overseas conflicts.

Senator McLucas, from 4 478 petitioners, requesting that the Senate oppose a Medicare co-payment as contained in the 2014-15 Budget.

8 Notice
The Chair of the Community Affairs References Committee (Senator Siewert): To move on 11 February 2015—

(1) That the following matter be referred to the Community Affairs References Committee for inquiry and report by 24 June 2015:

Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability, with particular reference to:

(a) the experiences of people directly or indirectly affected by violence, abuse and neglect perpetrated against people with disability in institutional and residential contexts;
(b) the impact of violence, abuse and neglect on people with disability, their families, advocates, support persons, current and former staff and Australian society as a whole;
(c) the incidence and prevalence of all forms of violence, abuse and neglect perpetrated against people with disability in institutional and residential settings;
(d) the responses to violence, abuse and neglect against people with disability, as well as to whistleblowers, by every organisational level of institutions and residential settings;
(e) the different legal, regulatory, policy and data collection frameworks and practices across the Commonwealth, states and territories to address and prevent violence, abuse and neglect against people with disability;

(f) Australia’s compliance with its international obligations as they apply to the rights of people with disability;

(g) the role and challenges of formal and informal disability advocacy in preventing and responding to violence, abuse and neglect against people with disability;

(h) what should be done to eliminate barriers for responding to violence, abuse and neglect perpetrated against people with disability in institutional and residential settings, including addressing failures in, and barriers to, reporting, investigating and responding to allegations and incidents of violence and abuse;

(i) what needs to be done to protect people with disability from violence, abuse and neglect in institutional and residential settings in the future, including best practice in regards to prevention, effective reporting and responses;

(j) the role of the Commonwealth in preventing violence and abuse against people with disability; and

(k) the challenges that arise from moving towards an individualised funding arrangement, like the National Disability Insurance Scheme and the requirements of a national framework that can safeguard people with disability from violence, abuse and neglect.

(2) That for this inquiry:

(a) ‘institutional and residential settings’ is broadly defined to include the types of institutions that people with disability often experience, including, but not restricted to: residential institutions; boarding houses; group homes; workplaces; respite care services; day centres; recreation programs; mental health facilities; hostels; supported accommodation; prisons; schools; out-of-home care; special schools; boarding schools; school buses; hospitals; juvenile justice facilities; disability services; and aged care facilities; and

(b) ‘violence, abuse and neglect’ is broadly understood to include, but is not limited to: domestic, family and interpersonal violence; physical and sexual violence and abuse; psychological or emotional harm and abuse; constraints and restrictive practices; forced treatments and interventions; humiliation and harassment; financial abuse; violations of privacy; systemic abuse; physical and emotional neglect; passive neglect; and wilful deprivation.

9 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 16 OF 2014

The Chair of the Selection of Bills Committee (Senator Bushby) tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 16 OF 2014

1. The committee met in private session on Wednesday, 3 December 2014 at 7.21 pm.
2. The committee resolved to recommend—That—
   (a) the Australian Broadcasting Corporation Amendment (Local Content) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 25 March 2015;
   (b) the Defence Legislation Amendment (Military Justice Enhancements—Inspector-General ADF) Bill 2014 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 3 March 2015;
   (c) the provisions of the Enhancing Online Safety for Children Bill 2014 and the Enhancing Online Safety for Children (Consequential Amendments) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 3 March 2015;
   (d) the provisions of the Fair Work Amendment (Bargaining Processes) Bill 2014 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 25 March 2015; and
   (e) the Independent National Security Legislation Monitor (Improved Oversight and Resourcing) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 5 March 2015.

3. The committee resolved to recommend—That the following bills not be referred to committees:
   ACT Government Loan Bill 2014
   Civil Law and Justice Legislation Amendment Bill 2014
   Family Tax Benefit (Tighter Income Test) Bill 2014

The committee recommends accordingly.

4. The committee considered the Parliamentary Service Amendment Bill 2014 but was unable to reach agreement.

5. The committee deferred consideration of the following bills to its next meeting:
   Australian Securities and Investments Commission Amendment (Corporations and Markets Advisory Committee Abolition) Bill 2014
   Corporations Amendment (Publish What You Pay) Bill 2014
   Defence Amendment (Fair Pay for Members of the ADF) Bill 2014
   Excess Exploration Credit Tax Bill 2014
   Higher Education and Research Reform Bill 2014
   Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
   Motor Vehicle Standards (Cheaper Transport) Bill 2014
   Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Measures) Bill 2014
   Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Designated Coastal Waters) Bill 2014
   Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2014
   Private Health Insurance Amendment Bill (No. 2) 2014
   Public Governance and Resources Legislation Amendment Bill (No. 1) 2014
   Regulator of Medicinal Cannabis Bill 2014
Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014
Tribunals Amalgamation Bill 2014.

David Bushby
Chair
4 December 2014.

Senator Bushby moved—That the report be adopted.

Senator Moore moved the following amendment:

At the end of the motion, add “and the Parliamentary Service Amendment Bill 2014 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 2 March 2015”.

Debate ensued.

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

Main question put and passed.

10 ORDER OF BUSINESS—REARRANGEMENT

The Assistant Minister for Social Services (Senator Fifield) moved—That—

(a) the following government business orders of the day be considered from 12.45 pm today:
   ACT Government Loan Bill 2014
   No. 7  Tertiary Education Quality and Standards Agency Amendment Bill 2014
   No. 8  Australian Citizenship Amendment (Intercountry Adoption) Bill 2014;

(b) government business be called on after consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today.

Question put and passed.

Senator Fifield moved—That the order of general business for consideration today be as follows:

(a) general business notice of motion no. 582 standing in the name of Senator Moore relating to the Abbott Government; and

(b) orders of the day relating to documents.

Question put and passed.

11 COMMITTEES—EXTENSIONS OF TIME TO REPORT

The following committees were granted extensions of time to report:

Community Affairs References Committee—Out of home care, extended to 13 May 2015.
12 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—REFERENCE
Senator McEwen, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Gallacher) 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 matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 26 November 2015:
The delivery and effectiveness of Australia’s bilateral aid program in Papua New Guinea (PNG), with particular reference to:
(a) the political, economic and social objectives of Australia’s aid;
(b) the role of multilateral and regional organisations, non-government organisations, Australian civil society and other donors;
(c) scope for increasing private sector involvement in sustainable economic growth and reducing poverty;
(d) scope for expanding private sector partnerships in leveraging private sector investment and domestic finance;
(e) improving PNG’s progress towards internationally-recognised development goals;
(f) supporting inclusive development by investing in good governance, health and education, law and justice and women’s empowerment;
(g) establishing realistic performance benchmarks to assess aid outcomes against set targets and to improve accountability; and
(h) the extent to which development outcomes in PNG can be improved by learning from successful aid programs in other countries.
Question put and passed.

13 ECONOMICS REFERENCES COMMITTEE—REFERENCE
Senator McEwen, at the request of Senator Cameron and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the following matter be referred to the Economics References Committee for inquiry and report by 11 November 2015:
The scale and incidence of insolvency in the Australian construction industry, including:
(a) the amount of money lost by secured and unsecured creditors in the construction industry and related insolvencies, including but not limited to:
(i) employees,
(ii) contractors and sub-contractors,
(iii) suppliers,
(iv) developers,
(v) governments, and
(vi) any other industry participants or parties associated with the Australian construction industry;
(b) the effects, including the economic and social effects, of construction industry insolvencies, having particular regard to the classes of creditors in paragraph (a);
(c) the causes of construction industry insolvencies;
(d) the incidence of ‘phoenix companies’ in the construction industry, their operation, their effects and the adequacy of the current law and regulatory framework to curb the practice of ‘phoenixing’;

(e) the impact of insolvency in the construction industry on productivity in the industry;

(f) the incidence and nature of criminal and civil misconduct related to construction industry insolvencies, having particular regard to breaches of the Corporations Law both prior to and after companies enter external administration and/or liquidation;

(g) the current extent and future potential for the amount of unpaid debt in the industry to attract non-construction industry participants to the industry for the purposes of debt collecting and related activities and the extent of anti-social and unlawful conduct related to debt collecting and related activities;

(h) the adequacy of the current law and regulatory framework to reduce the level of insolvency in the construction industry; and

(i) any other relevant matter.

Question put and passed.

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

*Leave refused:* The Assistant Minister for Social Services (Senator Fifield) sought leave to amend government business notice of motion no. 1, relating to the hours of meeting and routine of business.

An objection was raised and leave was not granted.

15 **CONSIDERATION OF LEGISLATION**

The Assistant Minister for Social Services (Senator Fifield), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the ACT Government Loan Bill 2014, allowing it to be considered during this period of sittings.

Question put and passed.

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

Senator Whish-Wilson, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 3 December 2015:

The future role and contribution of regional capitals to Australia, including:

(a) current demographic trends and the role of regional capitals in this change;

(b) the current Government funding provided to regional capitals;

(c) an analysis of the appropriate level of funding regional capitals should be receiving based on their population, demand for services and strategic importance;

(d) investment challenges and opportunities to maintain or grow regional capitals, including in areas such as telecommunication technology, transportation links, human services, energy and other infrastructure;

(e) incentives and policy measures required to sustainably grow regional capitals;
(f) the impact the changing environment and demand for water will have on regional capitals; and

(g) any other related matters.

Leave refused: Senators Whish-Wilson and O’Sullivan each sought leave to make statements relating to the motion.

Objections were raised and leave was not granted.

Question put.

The Senate divided—

AYES, 15

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<th>Senators</th>
<th>Madigan</th>
<th>Rice</th>
<th>Whish-Wilson</th>
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<tr>
<td>Hanson-Young</td>
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<td>Muir</td>
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<td></td>
<td>Rhiannon</td>
<td>Waters</td>
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NOES, 41

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<tr>
<th>Senators</th>
<th>Edwards</th>
<th>Lundy</th>
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<tr>
<td>Bernardi</td>
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Question negatived.

17 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—REFERENCE

Senator Xenophon, 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 Rural and Regional Affairs and Transport References Committee for inquiry and report by 26 April 2015:

(a) recent media reports on apparent breaches in airport and aviation security at Australian airports;

(b) consideration of the responses to those reports from the Government, regulators, airports and other key stakeholders, and the adequacy of those responses;

(c) whether there are further measures that ought to be taken to enhance airport security and the safety of the travelling public;

(d) the findings of, and responses to, reports undertaken into airport security issues since 2000; and

(e) any related matters.

Question put and passed.
18 COMMONWEALTH ELECTORAL AMENDMENT (DONATIONS REFORM) BILL 2014
Senator Rhiannon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 584—That the following bill be introduced:

A Bill for an Act to amend the Commonwealth Electoral Act 1918 to prohibit political donations from certain industries, and for related purposes.
Question put and passed.
Senator Rhiannon 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 Rhiannon moved—That this bill be now read a second time.

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

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

After 12.45 pm—

19 ACT GOVERNMENT LOAN BILL 2014
Order of the day read for the adjourned debate on the motion of the Assistant Minister for Social Services (Senator Fifield)—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 Parliamentary Secretary to the Minister for Education (Senator Ryan) the bill was read a third time.

20 TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY AMENDMENT BILL 2014
Order of the day read for the adjourned debate on the motion of the Assistant Treasurer—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 Human Services (Senator Payne) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Clause 2, page 2 (table item 2, column 1), omit “Parts 1,”, substitute “Parts”.

Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 1, The day after this Act receives the Royal Assent.

Clause 2, page 2 (table item 4), omit the table item, substitute:

4. Schedule 1, The day after this Act receives the Royal Assent.

Schedule 1, page 4 (after line 5), after item 6, insert:

6A Paragraph 199(1)(b)
Omit “classification; or”, substitute “classification.”.

6B Paragraphs 199(1)(c) and (d)
Repeal the paragraphs.

Schedule 1, item 17, page 6 (line 24), at the end of subsection 37A(1), add “, so long as the period has not been previously extended by TEQSA”.

Schedule 1, item 20, page 7 (line 17), at the end of subsection 57A(1), add “, so long as the period has not been previously extended by TEQSA”.

Schedule 1, item 36, page 11 (lines 5 to 13), omit the item, substitute:

36 Transitional—Commissioners’ appointments

Scope

(1) This item applies if a person held office as a Commissioner immediately before the commencement of this item.

Continuity of appointment

(2) The person’s instrument of appointment has effect, after the commencement of this item, as if it were an instrument of appointment:

(a) made under subsection 138(1) of the Tertiary Education Quality and Standards Agency Act 2011 (as amended by this Part); and

(b) for the balance of the person’s term of appointment that remained immediately before the commencement of this item.

Schedule 1, page 16 (after line 3), after item 42, insert:

42A Subsection 155(1) (note)
Repeal the note, substitute:

Note: Part 6 (sunsetting) of the Legislative Instruments Act 2003 does not apply to the direction (see section 54 of that Act).
**42B After subsection 155(1)**

Insert:

(1A) Section 44 of the *Legislative Instruments Act 2003* does not apply in relation to a direction under subsection (1) of this section.

Note: This means that section 42 (disallowance) of the *Legislative Instruments Act 2003* applies to the direction.

Schedule 1, item 45, page 16 (lines 22 to 29), omit the item, substitute:

**45 Transitional—Chief Executive Officer**

**Scope**

(1) This item applies if a person (the *substantive appointee*) held office as the Chief Commissioner immediately before the commencement of this item.

**Continuity of substantive appointee’s role as Chief Executive Officer**

(2) The substantive appointee is the Chief Executive Officer throughout the period (the *transition period*):

(a) starting at the commencement of this item; and

(b) ending when the substantive appointee ceases to hold office as the Chief Commissioner.

**Acting Chief Commissioner**

(3) If a person (the *acting appointee*) is acting as the Chief Commissioner at any time during the transition period, then, while the acting appointee is so acting:

(a) the acting appointee has and may exercise all the powers, and must perform all the functions and duties, of the Chief Executive Officer; and

(b) the *Tertiary Education Quality and Standards Agency Act 2011* (as amended by this Part), and any other law of the Commonwealth, applies in relation to the acting appointee as if the acting appointee were the Chief Executive Officer.

**Other matters**

(4) Sections 154A to 154K of the *Tertiary Education Quality and Standards Agency Act 2011* (as amended by this Part) have no effect during the transition period.

(5) However, subitem (4) does not prevent the making of an appointment during the transition period under section 154A of the *Tertiary Education Quality and Standards Agency Act 2011* (as amended by this Part) if the appointment takes effect after the end of the transition period.

Schedule 1, page 19 (after line 7), after item 54, insert:

**54A Subsection 136(1) (note)**

Repeal the note, substitute:

Note: Part 6 (sunsetting) of the *Legislative Instruments Act 2003* does not apply to the direction (see section 54 of that Act).

Schedule 1, item 55, page 19 (after line 13), after subsection 136(2A), insert:

(2B) Section 44 of the *Legislative Instruments Act 2003* does not apply in relation to a direction under subsection (1) of this section.

Note: This means that section 42 (disallowance) of the *Legislative Instruments Act 2003* applies to the direction.
Question—That the bill, as amended, be agreed to—divided, at the request of Senator Payne, in respect of Schedule 1, Part 1.
Question—That Schedule 1, Part 1 stand as printed—put and negatived.
Bill, as amended, agreed to.
Bill to be reported with amendments.

The President resumed the chair and the Temporary Chair of Committees (Senator Lines) reported accordingly.
On the motion of Senator Payne the report from the committee was adopted and the bill read a third time.

At 2 pm—

21 QUESTIONS
Questions without notice were answered.

22 ROUTINE OF BUSINESS—VARIATION
Leave refused: The Minister for Employment (Senator Abetz) sought leave to move a motion relating to the routine of business for today.
An objection was raised and leave was not granted.
Suspension of standing orders: Senator Abetz, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion to provide for the consideration of a matter, namely a motion relating to the consideration of government business order of the day no. 3 (Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014).
Debate ensued.
Question put.
The Senate divided—

AYES, 34

Senators—

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Question agreed to.

Senator Abetz moved—That—

(a) consideration of government business order of the day no. 3 (Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014) be called on immediately and have precedence over all other business till determined;

(b) divisions may take place after 4.30 pm; and

(c) the Senate shall adjourn after it has finally considered the bill listed in paragraph (a), or a motion for the adjournment is moved by a minister, whichever is the earlier.

Closure: Senator Abetz moved—That the question be now put.

Question—That the question be now put—put.

The Senate divided—

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Question agreed to.

Main question put.
The Senate divided—

AYES, 34

Senators—

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Question agreed to.

23 MIGRATION AND MARITIME POWERS LEGISLATION AMENDMENT (RESOLVING THE ASYLUM LEGACY CASELOAD) BILL 2014

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

Debate resumed.

Senator Siewert moved the following amendment:

At the end of the motion, add “but the Senate:

(a) is of the view that there is no impediment to the Government processing the claims of the 30 000 asylum seekers who are currently languishing in community and immigration detention; and

(b) urges the Government to:

(i) commence processing straight away, and

(ii) release all children from immigration detention immediately”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 32

Senators—

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Question negatived.
Main question put.
The Senate divided—

**NOES, 34**

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Question agreed to.
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 memoranda:** The Assistant Minister for Immigration and Border Protection (Senator Cash) tabled supplementary explanatory memoranda [4] relating to the government amendments to be moved to the bill.
Senator Cash moved the following amendments together by leave:

18A At the end of subsection 85(2)
Add “or safe haven enterprise visas”.

10A Section 85
Omit “The”, substitute “(1) Subject to subsection (2), the”.

12A At the end of section 85
Add:

(2) Subsection (1) does not apply in relation to temporary protection visas.

36A At the end of Schedule 8
Add:

8570 The holder must not:
(a) enter a country by reference to which:
   (i) the holder was found to be a person to whom Australia has protection obligations; or
   (ii) for a member of the family unit of another holder—the other holder was found to be a person to whom Australia has protection obligations; or
(b) enter any other country unless:
   (i) the Minister is satisfied that there are compassionate or compelling circumstances justifying the entry; and
   (ii) the Minister has approved the entry in writing.

13 August 2012, but before 1 January 2014, and who has not been taken to a regional processing country.”
No. 10—Schedule 4, item 2, page 59 (after line 19), after subsection 5(1AC), insert:

(1AD) Despite subsection 44(2) of the *Legislative Instruments Act 2003*, section 42 (disallowance) of that Act applies to an instrument made under subsection (1AA).

No. 11—Schedule 4, item 21, page 62 (line 17), after “13 August 2012”, insert “, but before 1 January 2014, and who have not been taken to a regional processing country”.

No. 12—Schedule 4, item 21, page 63 (lines 13 and 14), omit “and quick”, substitute “, quick, free of bias and consistent with Division 3 (conduct of review)”.

No. 13—Schedule 4, item 21, page 68 (lines 25 to 29), omit paragraph 473DD(b), substitute:

(b) the referred applicant satisfies the Authority that, in relation to any new information given, or proposed to be given, to the Authority by the referred applicant, the new information:

(i) was not, and could not have been, provided to the Minister before the Minister made the decision under section 65; or

(ii) is credible personal information which was not previously known and, had it been known, may have affected the consideration of the referred applicant’s claims.

No. 14—Schedule 4, item 21, page 72 (line 18), omit “and quick”, substitute “, quick, free of bias and consistent with Division 3 (conduct of review)”.

No. 15—Schedule 5, item 7, page 93 (lines 24 to 31), omit subsection 5J(2), substitute:

(2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.

Note: For effective protection measures, see section 5LA.

No. 16—Schedule 5, item 7, page 95 (lines 15 to 31), omit section 5L, substitute:

**5L Membership of a particular social group other than family**

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person’s family) if:

(a) a characteristic is shared by each member of the group; and

(b) the person shares, or is perceived as sharing, the characteristic; and

(c) any of the following apply:

(i) the characteristic is an innate or immutable characteristic;

(ii) the characteristic is so fundamental to a member’s identity or conscience, the member should not be forced to renounce it;

(iii) the characteristic distinguishes the group from society; and

(d) the characteristic is not a fear of persecution.
No. 17—Schedule 5, item 7, page 95 (after line 31), after section 5L, insert:

5LA Effective protection measures

(1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:

(a) protection against persecution could be provided to the person by:

(i) the relevant State; or

(ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and

(b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.

(2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:

(a) the person can access the protection; and

(b) the protection is durable; and

(c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

No. 18—Clause 2, page 2 (after table item 9), insert:

9A. Schedule 2A The day after this Act receives the Royal Assent.

No. 19—Page 49 (after line 23), after Schedule 2, insert:

Schedule 2A—Protection (Class XA) visas and Refugee and Humanitarian (Class XB) visas

Migration Act 1958

1 After section 39

Insert:

39A Minimum annual numbers of Protection (Class XA) visas and Refugee and Humanitarian (Class XB) visas

(1) Despite any legislative instrument made for the purposes of section 39, the Minister must take all reasonably practicable measures to ensure the grant in a financial year of at least the minimum total number of Protection (Class XA) visas and Refugee and Humanitarian (Class XB) visas that is determined by the Minister under subsection (3) of this section for that year.

(2) Subsection (1) applies subject to this Act, and to any regulation or instrument made under or for the purposes of this Act (other than section 39 of this Act).

(3) The Minister may, by legislative instrument, determine a minimum total number of Protection (Class XA) visas and Refugee and Humanitarian (Class XB) visas for a financial year specified in the determination.
(4) Despite subsection 44(2) of the *Legislative Instruments Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (3) of this section.

(5) In this section:

**Protection (Class XA) visas** means visas classified by regulation as Protection (Class XA) visas.

*Note:* For this class of visas, see clause 1401 of Schedule 1 to the *Migration Regulations 1994*.

**Refugee and Humanitarian (Class XB) visas** means visas classified by regulation as Refugee and Humanitarian (Class XB) visas.

*Note:* For this class of visas, see clause 1402 of Schedule 1 to the *Migration Regulations 1994*.

No. 20—Clause 2, page 2 (after table item 4), insert:

4A. Schedule 2,

Part 1, Division 2A

The later of:

(a) the commencement of the provisions covered by table item 4; and

(b) the commencement of Schedule 3 to the *Migration Amendment (Protection and Other Measures) Act 2014*.

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

No. 21—Schedule 2, item 16, page 27 (after line 24), after subsection 35A(3A), insert:

(3B) The purpose of safe haven enterprise visas is both to provide protection and to encourage enterprise through earning and learning while strengthening regional Australia.

*Note:* If a person satisfies the requirements for working, study and accessing social security prescribed for the purposes of paragraph 46A(1A)(c), section 46A will not bar the person from making a valid application for any of the onshore visas prescribed for the purposes of paragraph 46A(1A)(b). This does not include permanent protection visas.

No. 22—Schedule 2, Part 1, page 28 (after line 1), at the end of Division 2, add:

**Migration Regulations 1994**

18B After subparagraph 1401(3)(d)(i)

Insert:

(ia) does not hold, and has not ever held, a Safe Haven Enterprise (Class XE) visa; and

18C After subparagraph 1403(3)(d)(i)

Insert:

(ia) holds, or has ever held, a Safe Haven Enterprise (Class XE) visa; or
18D  At the end of Schedule 1

Add:

1404. Safe Haven Enterprise (Class XE)

(1) Form: 790.

(2) Visa application charge:
   (a) first instalment (payable at the time the application is made):
      (i) for an applicant who is in immigration detention and has not been immigration cleared:

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(ii) for any other applicant:

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Note: Regulation 2.12C explains the components of the first instalment of visa application charge and specifies the amounts of subsequent temporary application charge and non-internet application charge. Not all of the components may apply to a particular application.

Additional applicant charge is paid by an applicant who claims to be a member of the family unit of another applicant and seeks to combine the application with that applicant’s application.

(b) the second instalment (payable before grant of visa) is nil.

(3) Other:
   (a) Application must be made in Australia.
   (b) Applicant must be in Australia.
   (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Safe Haven Enterprise (Class XE) visa may be made at the same time and place as, and combined with, the application by that person.
(d) An application by a person for a Safe Haven Enterprise (Class XE) visa is valid only if the person:
   (i) holds, or has ever held, a Temporary Protection (Class XD) visa or a Subclass 785 (Temporary Protection) visa, including such a visa granted before 2 December 2013; or
   (ii) holds, or has ever held, a Safe Haven Enterprise (Class XE) visa; or
   (iii) holds, or has ever held, a Temporary Safe Haven (Class UJ) visa; or
   (iv) holds, or has ever held, a Temporary (Humanitarian Concern) (Class UO) visa; or
   (v) did not hold a visa that was in effect on the person’s last entry into Australia; or
   (vi) is an unauthorised maritime arrival; or
   (vii) was not immigration cleared on the person’s last entry into Australia.

(e) An application by a person for a Safe Haven Enterprise (Class XE) visa is valid only if the person indicates in writing an intention to work or study while accessing minimum social security benefits in a regional area specified under subclause (4).

(4) The Minister may, by legislative instrument, specify a regional area for the purposes of these regulations.
   Note: See also regulation 2.06AAB (visa applications by holders and certain former holders of safe haven enterprise visas).

(5) Subclasses:
   790 (Safe Haven Enterprise)

18E After Part 785 of Schedule 2

   Insert:

Subclass 790—Safe Haven Enterprise

790.1—Interpretation

790.111

For the purposes of this Part, a person (A) is a member of the same family unit as another person (B) if:
   (a) A is a member of B’s family unit; or
   (b) B is a member of A’s family unit; or
   (c) A and B are members of the family unit of a third person.

790.2—Primary criteria

   Note: All applicants must satisfy the primary criteria.

790.21—Criteria to be satisfied at time of application

790.211

   (1) Subclause (2) or (3) is satisfied.
(2) The applicant:
   (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
   (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The applicant claims to be a member of the same family unit as a person:
   (a) to whom subclause (2) applies; and
   (b) who is an applicant for a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

790.22—Criteria to be satisfied at time of decision

790.221

(1) Subclause (2) or (3) is satisfied.

(2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

(3) The Minister is satisfied that:
   (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
   (b) the applicant mentioned in subclause (2) has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

790.222

The applicant has undergone a medical examination carried out by any of the following (a relevant medical practitioner):
   (a) a Medical Officer of the Commonwealth;
   (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
   (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

790.223

(1) One of subclauses (2) to (4) is satisfied.

(2) The applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.

(3) The applicant is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested the examination mentioned in subclause (2).
(4) The applicant is a person:
   (a) who is confirmed by a relevant medical practitioner to be pregnant; and
   (b) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
   (c) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
   (d) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

790.224

(1) A relevant medical practitioner has considered:
   (a) the results of any tests carried out for the purposes of the medical examination required under clause 790.222; and
   (b) the radiological report (if any) required under clause 790.223 in respect of the applicant.

(2) If the relevant medical practitioner:
   (a) is not a Medical Officer of the Commonwealth; and
   (b) considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;
   the relevant medical practitioner has referred any relevant results and reports to a Medical Officer of the Commonwealth.

790.225

If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

790.226

The applicant:
   (a) satisfies public interest criteria 4001 and 4003A; and
   (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

790.227

The Minister is satisfied that the grant of the visa is in the national interest.

790.228

(1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.

(2) The Minister is satisfied that:
   (a) the applicant is a member of the same family unit as an applicant to whom subclause 790.221(2) applies; and
(b) the applicant to whom subclause 790.221(2) applies has been granted a Subclass 790 (Safe Haven Enterprise) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 790.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

790.3—Secondary criteria

Note: All applicants must satisfy the primary criteria.

790.4—Circumstances applicable to grant

790.411

The applicant must be in Australia when the visa is granted.

790.5—When visa is in effect

790.511

Temporary visa permitting the holder to travel to, enter and remain in Australia until:

(a) if the holder of the temporary visa (the first visa) makes a valid application for another Subclass 790 (Safe Haven Enterprise) visa within 5 years after the grant of the first visa—the day when the application is finally determined or withdrawn; or

(b) in any other case—the end of 5 years from the date of grant of the first visa.

790.6—Conditions

790.611

Conditions 8565 and 8570.

Note: There is nothing in the Act or these regulations which restricts the ability of the holder of the visa to study or work as he or she sees fit.

No. 23—Schedule 2, Part 1, page 28 (after line 1), after Division 2, insert:

Division 2A—Safe haven enterprise visas: pathways to other visas

Migration Act 1958

18F After subsection 46A(1)

Insert:

(1A) Subsection (1) does not apply in relation to an application for a visa if:

(a) either:

(i) the applicant holds a safe haven enterprise visa (see subsection 35A(3A)); or

(ii) the applicant is a lawful non-citizen who has ever held a safe haven enterprise visa; and
(b) the application is for a visa prescribed for the purposes of this paragraph; and
(c) the applicant satisfies any employment, educational or social security benefit requirements prescribed in relation to the safe haven enterprise visa for the purposes of this paragraph.

Migration Regulations 1994
18G After regulation 2.06AAA

Insert:
2.06AAB Visa applications by holders and certain former holders of safe haven enterprise visas.

(1) For paragraph 46A(1A)(b) of the Act, visas of the subclasses listed in the following table are prescribed:

<table>
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<tr>
<th>Item</th>
<th>Visa subclass</th>
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<tbody>
<tr>
<td>1</td>
<td>Subclass 132 (Business Talent)</td>
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<td>2</td>
<td>Subclass 143 (Contributionary Parent)</td>
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<td>3</td>
<td>Subclass 186 (Employer Nomination Scheme)</td>
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<td>4</td>
<td>Subclass 187 (Regional Sponsored Migration Scheme)</td>
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<td>5</td>
<td>Subclass 188 (Business Innovation and Investment (Provisional))</td>
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<td>Subclass 189 (Skilled—Independent)</td>
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<td>7</td>
<td>Subclass 190 (Skilled—Nominated)</td>
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<td>Subclass 402 (Training and Research)</td>
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<td>Subclass 445 (Dependent Child)</td>
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<td>Subclass 476 (Skilled—Recognised Graduate)</td>
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<td>Subclass 572 (Vocational Education and Training Sector)</td>
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<td>Subclass 573 (Higher Education Sector)</td>
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<td>Subclass 574 (Postgraduate Research Sector)</td>
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<td>Subclass 575 (Non-Award Sector)</td>
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<td>21</td>
<td>Subclass 580 (Student Guardian)</td>
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<td>22</td>
<td>Subclass 801 (Partner)</td>
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</table>
(2) For the purposes of paragraph 46A(1A)(c) of the Act, an applicant for a visa who currently holds, or has ever held, a safe haven enterprise visa must, for a period or periods totalling 42 months (which need not be continuous) while the visa is (or was) in effect, satisfy one of the following requirements:

(a) the applicant does not receive any social security benefits determined under subregulation (3), and is engaged in employment, as determined under that subregulation, in a regional area specified under subclause 1404(4) of Schedule 1;

(b) the applicant is enrolled in full-time study at an educational institution, as determined under subregulation (3), in a regional area specified under subclause 1404(4) of Schedule 1;

(c) the applicant satisfies a combination of the requirements in paragraph (a) and paragraph (b), at different times.

(3) The Minister may, by legislative instrument, make a determination for the purposes of paragraphs (2)(a) and (b).

No. 24—Schedule 2, page 28 (after line 22), at the end of item 19, add:

(3) The amendments of the Migration Act 1958 and the Migration Regulations 1994 made by Division 2A of this Part apply in relation to an application for a visa made on or after the commencement of that Division.
Question agreed to.

Question—That amendments nos 4 to 17 be agreed to—put.

The committee divided—

AYES, 35

Senators—

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NOES, 31

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Question agreed to.

Senator Carr moved the following amendment to amendment no. 19:

At the end of section 39A, add:

(6) To avoid doubt, the minimum total number of Protection (Class XA) visas and Refugee and Humanitarian (Class XB) visas to be determined under subsection (3) for any financial year must not be less than 18,750.

Debate ensued.

Question—That Senator Carr’s amendment to amendment no. 19 be agreed to—put.
The committee divided—

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Question negatived.

Amendments nos 18 and 19 further debated and agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 1.

Schedule 1 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 2, as amended.

Schedule 2, as amended, debated.

Question—That Schedule 2, as amended, be agreed to—put.

The committee divided—

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Schedule, as amended, agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 3.

Schedule 3 debated.

Question—That Schedule 3 stand as printed—put.

The committee divided—

AYES, 48

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Schedule agreed to.

Senator Hanson-Young moved the following amendments together by leave:

Schedule 2, page 27 (after line 24), after item 16, insert:

16A After section 35A

Insert:

35B Purpose of safe haven enterprise visas

It is the intention of the Parliament that unauthorised maritime arrivals who entered Australia by sea after 13 August 2012 and before 19 July 2013 and who satisfy the criteria for a protection visa are to be granted safe haven enterprise visas that:

(a) require them to live in regions of Australia that are suffering from labour shortages; and

(b) allow them to work and study; and
(c) give them access to social welfare benefits and services on the same basis as a person who holds a permanent protection visa; and

(d) allow family reunions; and

(e) in certain circumstances, may become permanent protection visas.

35C Regulations prescribing safe haven enterprise visas must be made

(1) Regulations making provision, in accordance with section 35D, for safe haven enterprise visas must be in force at the start of 1 February 2015.

(2) If regulations making provision for safe haven enterprise visas in accordance with section 35D are not in force at the start of a day after the end of January 2015, then, on and after that day:

(a) an eligible person (within the meaning of section 35D) may make a valid application for a permanent protection visa despite anything else in this Act, the regulations or the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014; and

(b) subject to paragraph (a), the application is to be determined under this Act, and the regulations, as in force on 1 November 2014.

(3) In applying this Act and the regulations as in force on 1 November 2014 for the purposes of this section and section 35D, disregard any amendment or provision that was made or enacted after that day but purports to have retrospective effect.

35D Safe haven enterprise visas

(1) Regulations making provision for safe haven enterprise visas must:

(a) provide for safe haven enterprise visas to be granted to any eligible person who satisfies the criteria for a protection visa under this Act, and the regulations, as in force on 1 November 2014; and

(b) provide for safe haven enterprise visas to be valid for 5 years; and

(c) provide for safe haven enterprise visa holders to have access to family reunions; and

(d) subject to subsection (2), make it a condition of a safe haven enterprise visa that the holder live in a declared area of Australia while the visa is in force.

(2) The regulations must prescribe exceptions to the condition in paragraph (1)(d) for holders of safe haven enterprise visas who cannot, because of age or health or caring responsibilities, reasonably be expected to comply with the condition.

(3) The holder of a safe haven enterprise visa is to receive social welfare benefits and services from the Commonwealth on the same basis as a person who holds a permanent protection visa, and the regulations may make such modifications of other Acts and instruments as are necessary to ensure that this occurs.
(4) If, for each day in a period of 42 months (or each day in multiple periods that together amount to 42 months), a holder of a safe haven enterprise visa:
   (a) complies with the conditions of the visa; and
   (b) either:
      (i) does not receive social security benefits under the *Social Security Act 1991*; or
      (ii) is covered by an exception prescribed in accordance with subsection (5);

then, at and after the start of the day after the end of the period or the last of the periods, as the case may be, the visa is taken to be a permanent protection visa.

(5) The regulations must prescribe exceptions for the purposes of subparagraph (4)(b)(ii) for days on which a holder of a safe haven enterprise visa:
   (a) is unable to work because of age or health or caring responsibilities; or
   (b) is undertaking full-time study (including days on which the visa holder is on a normal break between periods of full-time study).

(6) In this section:

*declared area of Australia* means an area of Australia that is declared, by legislative instrument, in accordance with the regulations.

*eligible person* means the following people:
   (a) a person who:
      (i) became an unauthorised maritime arrival on or after 13 August 2012 and before 19 July 2013; and
      (ii) is in Australia;
   (b) a person prescribed by the regulations.

Clause 2, page 2 (table item 4), omit the table item, substitute:

4. Schedule 2, Immediately after the commencement of
   Part 1, Division 2 the provisions covered by table item 3.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 32**

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Question negatived.

Senator Carr moved the following amendments together by leave:

Clause 2, page 2 (table item 8), omit the table item.
Schedule 2, item 1, page 24 (lines 14 to 16), omit paragraph (c) of the note.
Schedule 2, item 1, page 24 (line 17), omit “or temporary”.
Schedule 2, item 2, page 24 (line 23), omit “and temporary”.
Schedule 2, item 3, page 25 (line 3), omit paragraph 31(2)(f).
Schedule 2, item 5, page 25 (lines 19 to 22), omit subsection 35A(3).
Schedule 2, item 5, page 25 (line 24), omit “and temporary”.
Schedule 2, item 19, page 28 (after line 19), after subitem (1), insert:

(1A) A valid application for a Protection (Class XA) visa made before the commencement of Division 1 of this Part and not finally determined immediately before that commencement is, at and after that commencement, taken to be, and always to have been, a valid application for a permanent protection visa.

Schedule 2, item 20, page 29 (line 13), after “class”, insert “(other than a protection visa)”. Schedule 2, item 20, page 30 (lines 1 and 2), omit “protection visas and any other classes of visas”, substitute “any classes of visas (other than protection visas)”. Schedule 2, heading to Part 4, page 35 (lines 1 and 2), omit “and temporary protection visas”. Schedule 2, item 26, page 35 (lines 13 to 15), omit paragraph (c) of the note. Schedule 2, item 26, page 35 (line 16), omit “or temporary”. Schedule 2, item 53, page 49 (lines 18 to 20), omit “Temporary Protection (Class 18 XD) visa by the operation of paragraph 2.08F(1)(b) of these Regulations (as inserted by Division 2 of that Part)”, substitute “protection visa by the operation of item 19 of that Schedule”.

Schedule 2, item 53, page 49 (lines 21 to 23), omit the note.
Schedule 3, item 1, page 50 (line 12), omit paragraph 31(3A)(c).
Schedule 3, item 6, page 52 (line 2), omit paragraph 46(5)(c).
Schedule 3, item 7, page 52 (line 14), omit paragraph 46AA(1)(c).
Schedule 3, item 12, page 55 (table item 3), omit the table item.
Schedule 3, item 12, page 56 (line 2), omit “and temporary”.

Debate ensued.
Question—That the amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Bilyk
Brown
Bullock
Cameron
Carr
Collins
Conroy
Faulkner

Gallacher
Hanson-Young
Ketter
Lambie
Lines
Ludlam
Ludwig
Madigan

Marshall
McEwen (Teller)
McLucas
Milne
Moore
O’Neill
Perrys
Polley

Rhiannon
Rice
Siewert
Singh
Urquhart
Waters
Whish-Wilson
Wright

NOES, 34

Senators—

Abetz
Back
Bernardi
Birmingham
Brandis
Bushby (Teller)
Canavan
Cash
Colbeck

Day
Fawcett
Fierravanti-Wells
Fitfield
Heffernan
Lazarus
Leyonhjelm
Macdonald
Mason

McGrath
McKenzie
Muir
Nash
O’Sullivan
Parry
Payne
Reynolds
Smith

Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Wang
Xenophon

Question negatived.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Carr, in respect of Schedule 2, item 31, as amended, and items 29, 30, 37, 40, 41, 43 and 45 to 50; and Schedule 2, Division 2.

Schedule 2, item 31, as amended, and items 29, 30, 37, 40, 41, 43 and 45 to 50; and Schedule 2, Division 2, agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 4, as amended.

Schedule 4, as amended, debated.

Question—That Schedule 4, as amended, be agreed to—put.

The committee divided—

AYES, 34

Senators—

Abetz
Back
Bernardi
Birmingham
Brandis
Bushby (Teller)
Canavan
Cash
Colbeck

Day
Fawcett
Fierravanti-Wells
Fitfield
Heffernan
Lazarus
Leyonhjelm
Macdonald
Mason

McGrath
McKenzie
Muir
Nash
O’Sullivan
Parry
Payne
Reynolds
Smith

Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Wang
Xenophon
Schedule, as amended, agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 5, as amended.

Schedule 5, as amended, debated.

Question—That Schedule 5, as amended, be agreed to—put.

The committee divided—

AYES, 34

Senators—

Abetz
Back
Bernardi
Birmingham
Brandis
Bushby (Teller)
Canavan
Cash
Colbeck
Day
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Lazarus
Leyonhjelm
Macdonald
Mason

McGrath
McKenzie
Muir
Nash
O’Sullivan
Parry
Payne
Reynolds

Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Wang
Xenophon

NOES, 32

Senators—

Brown
Bullock
Cameron
Carr
Collins
Conroy
Faulkner
Gallacher
Hanson-Young
Ketter
Lambie
Lines
Ludlam
Ludwig
Madigan
Marshall

McEwen (Teller)
McLucas
Milne
Moore
O’Neill
Peris
Polley
Rhiannon

Rice
Siewert
Singh
Sterle
Urquhart
Waters
Whish-Wilson
Wright

Schedule, as amended, agreed to.

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

Schedule 5, item 7, page 94 (line 3), at the end of subsection 5J(3), add:

; or (c) without limiting paragraph (a) or (b), require the person to do any of the following:

(i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;

(ii) conceal his or her true race, ethnicity, nationality or country of origin;

(iii) alter his or her political beliefs or conceal his or her true political beliefs;
(iv) conceal a physical, psychological or intellectual disability;
(v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
(vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.

The Senate continued to sit till midnight—
FRIDAY, 5 DECEMBER 2014 AM

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Hanson-Young, in respect of Schedule 6.
Schedule 6 debated and agreed to.
Senator Carr moved the following amendments together by leave:

Schedule 2, item 39, page 46 (lines 14 and 15), omit the item, substitute:

39 Regulation 2.06AA

Omit “Protection (Class XA) visa” (wherever occurring), substitute “protection visa”.

Schedule 7, item 2, page 110 (line 10), after “visas”, insert “(other than protection visas)”.

Schedule 7, item 6, page 110 (line 22), omit “including”, substitute “other than”.

Schedule 7, item 16, page 112 (line 3), omit “The”, substitute “Subject to subitem (1A), the”.

Schedule 7, item 16, page 112 (after line 8), after subitem (1), insert:

(1A) However, the amendments made by Part 1 of this Schedule do not prevent a protection visa being granted in relation to an application for a Protection (Class XA) visa made before the commencement of that Part (including such an application that is deemed to be an application for another kind of visa by another provision of this Act).

Schedule 7, item 16, page 112 (lines 9 to 21), omit subitems (2) to (4).

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

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Carr, in respect of Schedule 7, items 4 and 13 to 15.

Schedule 7, items 4 and 13 to 15 agreed to.

Question—That the bill, as amended, be agreed to—put.
The committee divided—

AYES, 34

Senators—
Abetz
Back
Bernardi
Birmingham
Brandis
Bushby (Teller)
Canavan
Cash
Colbeck

Day
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Lazarus
Leyonhjelm
Macdonald
Mason

McGrath
McKenzie
Muir
Nash
O’Sullivan
Parry
Payne
Reynolds

Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Wang
Xenophon

NOES, 32

Senators—
Brown
Bullock
Cameron
Carr
Collins
Conroy
Faulkner
Gallacher

Hanson-Young
Ketter
Lambie
Lines
Ludlam
Ludwig
Madigan
Marshall

McEwen (Teller)
McLucas
Milne
Moore
O’Neill
Peris
Polley
Rhiannon

Rice
Siewert
Singer
Sterle
Urquhart
Waters
Wish-Wilson
Wright

Question agreed to.

Bill to be reported with amendments.

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

On the motion of Senator Cash the report from the committee was adopted.

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

Question put.

The Senate divided—

AYES, 34

Senators—
Abetz
Back
Bernardi
Birmingham
Brandis
Bushby (Teller)
Canavan
Cash
Colbeck

Day
Fawcett
Fierravanti-Wells
Fifield
Heffernan
Lazarus
Leyonhjelm
Macdonald
Mason

McGrath
McKenzie
Muir
Nash
O’Sullivan
Parry
Payne
Reynolds

Ronaldson
Ruston
Ryan
Scullion
Sinodinos
Smith
Wang
Xenophon
24 COMMITTEE MEMBERSHIP

The President informed the Senate that he had received letters requesting changes in the membership of committees.

The Assistant Minister for Social Services (Senator Fifield), by leave, moved—That senators be discharged from and appointed to committees as follows:

- **Australia Fund Establishment—Joint Select Committee**—Appointed—Participating member: Senator Wang
- **Foreign Affairs, Defence and Trade References Committee**—Appointed—Substitute member: Senator Rhiannon to replace Senator Ludlam for the committee’s inquiry into Australia’s bilateral aid program in Papua New Guinea. Participating member: Senator Ludlam.

Question put and passed.

25 BUILDING ENERGY EFFICIENCY DISCLOSURE AMENDMENT BILL 2014

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


The Assistant Minister for Social Services (Senator Fifield) 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 Fifield moved—That this bill 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, 9 February 2015.
26 Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014
Tertiary Education Quality and Standards Agency Amendment Bill 2014
Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:


27 Privileges—Standing Committee—Report—160th Report
The Chair of the Standing Committee of Privileges (Senator Collins) tabled the following report and documents:


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

Statements by leave: Senators Collins and Faulkner, by leave, made statements relating to the report.

28 Next Meeting of Senate
The Assistant Minister for Social Services (Senator Fifield) moved—That the Senate, at its rising, adjourn till Monday, 9 February 2015, at 10 am, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question put and passed.

29 Leave of Absence
The Assistant Minister for Social Services (Senator Fifield) moved—That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question put and passed.

30 End of 2014 Sittings—Statements by Leave
The Leader of the Government in the Senate (Senator Abetz), the Deputy Leader of the Opposition in the Senate (Senator Conroy), the Leader of the Australian Greens (Senator Milne), the Leader of The Nationals in the Senate (Senator Scullion) and the Leader of the Palmer United Party in the Senate (Senator Lazarus), by leave, made statements relating to the end of the 2014 sittings.

Statement by President: The President made a statement relating to the matter.

31 Adjournment
Pursuant to order, the Senate adjourned at 12.38 am till Monday, 9 February 2015 at 10 am.
32 ATTENDANCE

Present, all senators except Senator Di Natale (on leave).

ROSEMARY LAING

Clerk of the Senate