No. 31: Thursday, 28 November 2019

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

2 Documents
The Clerk tabled the following documents pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


3 Committee—Leave to meet during sitting
A committee was authorised to meet during the sitting of the Senate, as follows:

National Disability Insurance Scheme—Joint Standing Committee—private meeting otherwise than in accordance with standing order 33(1) on Thursday, 28 November 2019, from 3.30 pm.

4 Hours of meeting and routine of business—Variation

Leave refused: The Minister for Finance (Senator Cormann) sought leave to move a motion to provide for the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019. An objection was raised and leave was not granted.

Suspension of standing orders: Senator Cormann, 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 to provide that a motion relating to the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 may be moved immediately and determined without amendment or debate.

Debate ensued.

Question—That the motion to suspend standing orders be agreed to—put.
The Senate divided—

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*Tellers

Question agreed to.

Senator Cormann moved—that a motion to provide for the consideration of the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 may be moved immediately and determined without amendment or debate.

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

Question—that the question be now put—put.

The Senate divided—

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NOES, 33

Senators—

Ayres  Ayes  Faruqi  McKim  Steele-John
Bilyk  Gallacher  O’Neill  Sterle
Brown  Gallagher  Polley  Urquhart*
Carr  Hanson-Young  Pratt  Walsh
Chisholm  Kitching  Rice  Waters
Ciccone  Lines  Sheldon  Watt
Di Natale  McAllister  Siewert  Whish-Wilson
Dodson  McCarthy  Smith, Marielle  Wong
Farrell

* Tellers

Question agreed to.

Main question put.

The Senate divided—

AYES, 39

Senators—

Abetz  Davey  McDonald  Reynolds
Antic  Duniam  McGrath  Roberts
Askew  Fawcett  McKenzie  Ruston
Bernardi  Fierravanti-Wells  McMahon  Ryan
Birmingham  Griff  Molan  Scarr
Bragg  Hanson  O’Sullivan  Seselja
Brockman  Henderson  Paterson  Smith, Dean*
Cash  Hughes  Patrick  Stoker
Chandler  Hume  Payne  Van
Cormann  Lambie  Rennick

NOES, 33

Senators—

Ayres  Ayes  Faruqi  McKim  Steele-John
Bilyk  Gallacher  O’Neill  Sterle
Brown  Gallagher  Polley  Urquhart*
Carr  Hanson-Young  Pratt  Walsh
Chisholm  Kitching  Rice  Waters
Ciccone  Lines  Sheldon  Watt
Di Natale  McAllister  Siewert  Whish-Wilson
Dodson  McCarthy  Smith, Marielle  Wong
Farrell

* Tellers

Question agreed to.

Senator Cormann moved—That—

(1) The Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 be called on immediately and have precedence over all other business today, except as follows:

(a) at 11.45 am:
   (i) the giving of notices of motion,
   (ii) tabling and consideration of a Selection of Bills Committee report, and
   (iii) placing of business;
(b) at 2 pm, questions, followed by;
(c) consideration of the notices of motion proposing the disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019 standing in the names of the Chair of the Standing Committee on Regulations and Ordinances (Senator Fierravanti-Wells) and Senator McKim, for not more than 30 minutes, and the question on the motions shall then be put.

(2) If consideration of the bill listed in paragraph (1) is not completed by 4.30 pm, the questions on all remaining stages shall then be put.

(3) Paragraph (2) shall operate as a limitation of debate under standing order 142.

(4) Divisions may take place after 4.30 pm for the purposes of the bill only and after conclusion of consideration of the bill, the Senate shall return to the routine of business.

Question put.
The Senate divided—

AYES, 39

Senators—
Abetz          Davey          McDonald          Reynolds
Antic          Duniam         McGrath          Roberts
Askew          Fawcett        McKenzie         Ruston
Bernardi       Fierravanti-Wells McMahon         Ryan
Birmingham     Griff           Molan            Scarr
Bragg          Hanson          O’Sullivan      Seselja
Brockman       Henderson       Paterson         Smith, Dean*  
Cash           Hughes          Patrick          Stoker
Chandler       Hume           Payne            Van
Cormann        Lambie         Rennick

NOES, 33

Senators—
Ayres           Faruqi          McKim            Steele-John
Bilyk          Gallagher       O’Neill            Sterle
Brown          Gallagher       Polley            Urquhart*  
Carr           Green           Pratt            Walsh
Chisholm       Hanson-Young    Rice             Waters
Ciccone        Kitching        Sheldon         Watt
Di Natale      McAllister      Siewert       Whish-Wilson
Dodson         McCarthy        Smith, Marielle  Wong
Farrell

* Tellers

Question agreed to.

5 **Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019**

Order of the day read for the adjourned debate on the motion of the Minister for Families and Social Services (Senator Ruston)—That this bill be now read a second time.

Question put.
The Senate divided—

AYES, 39

Senators—
Abetz
Antic
Askew
Bernardi
Birmingham
Bragg
Brockman
Cash
Chandler
Cormann

Davey
Duniam
Fawcett
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Senators—
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Hanson-Young
Kitching
McAllister
McCarthy

McKim
O’Neill
Polley
Pratt
Rice
Sheldon
Siewert
Smith, Marielle

Sterle
Urquhart*
Walsh
Waters
Watt
Whish-Wilson
Wong

* Tellers

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.
The Minister for Foreign Affairs (Senator Payne) moved the following amendments together by leave:

No. 1—Schedule 1, item 8, page 5 (line 23), omit “, or another country,.”.

No. 2—Schedule 1, item 11, page 6 (lines 10 and 11), omit “, the Minister or another person with a sufficient interest”.

No. 3—Schedule 1, item 11, page 6 (lines 15 to 20), omit subsection 222(1), substitute:

(1) The Commissioner may apply to the Federal Court for an order under this section if the Commissioner considers that any of the grounds for disqualification set out in section 223 apply in relation to a person.

Note: A person who reasonably believes that a ground applies may refer the matter to the Commissioner (see section 223A), but the Commissioner does not need a referral to make an application under this section.

No. 4—Schedule 1, item 11, page 6 (line 23), omit “the Court”.

No. 5—Schedule 1, item 11, page 6 (line 24), before “is satisfied”, insert “the Court”.

No. 6—Schedule 1, item 11, page 6 (line 26), omit “does not consider that it would be unjust”, substitute “the Commissioner satisfies the Court that it would not be unjust”.
No. 7—Schedule 1, item 11, page 6 (after line 31), after subsection 222(2), insert:

(2A) The Court must not make the order unless it is satisfied that, having regard to the gravity of the matters constituting the ground, disqualification would not be unjust.

No. 8—Schedule 1, item 11, page 7 (line 4), omit subsection 222(4).

No. 9—Schedule 1, item 11, page 7 (lines 6 to 10), omit subsection 223(1), substitute:

Designated finding or contempt in relation to designated law

(1) A ground for disqualification applies in relation to a person if:

(a) a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made against the person (other than a designated finding that relates to an offence covered by subsection (4)); or

(b) both:

(i) one or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against the person within the last 10 years (other than a designated finding that relates to a contravention covered by subsection (4)); and

(ii) the maximum penalty, or combined total of the maximum penalties, for the contravention or contraventions to which the designated finding or findings relate is, or is equivalent to, at least 180 penalty units (see section 4AA of the Crimes Act 1914 for the value of a penalty unit); or

(c) the person is found to be in contempt of court in relation to an order or injunction made under a designated law.

No. 10—Schedule 1, item 11, page 7 (lines 20 to 30), omit subsection 223(3), substitute:

Multiple failures to prevent contraventions etc. by organisation

(3) A ground for disqualification applies in relation to a person if:

(a) more than one of the following is made against any organisation in relation to conduct engaged in while the person is an officer of the organisation:

(i) a designated finding within the meaning of paragraph 9C(1)(a) (criminal);

(ii) a designated finding within the meaning of paragraph 9C(1)(b) (civil);

(iii) a finding that the organisation is in contempt of court in relation to an order or injunction made under a designated law; and

(b) at least one of them is covered by subparagraph (a)(i) or (iii); and

(c) the person failed to take reasonable steps to prevent the conduct.

No. 11—Schedule 1, item 11, page 7 (after line 30), after subsection 223(3), insert:

(3A) A ground for disqualification applies in relation to a person if:

(a) 2 or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against any organisation within the last 10 years in relation to conduct engaged in while the person is an officer of the organisation; and

(b) the combined total of the maximum penalties for the contraventions to which the designated findings relate is, or is equivalent to, at least 900 penalty units (see section 4AA of the Crimes Act 1914 for the value of a penalty unit); and

(c) the person failed to take reasonable steps to prevent the conduct.

No. 12—Schedule 1, item 11, page 8 (line 1), omit the heading to subsection 223(4), substitute:

Breach of directors’ and officers’ duties
No. 13—Schedule 1, item 11, page 8 (before line 3), before paragraph 223(4)(a), insert:

(aa) a designated finding is made against the person and it relates to an offence against, or a contravention of, a provision of Division 2 of Part 2 of Chapter 9 (general duties in relation to the financial management of organisations); or

No. 14—Schedule 1, item 11, page 9 (after line 5), at the end of Division 3, add:

223A Referral to Commissioner

(1) If a person (the referrer) reasonably believes that a ground set out in section 223 applies in relation to a person, the referrer may refer the matter to the Commissioner.

(2) The referral must:
   (a) be in writing; and
   (b) identify and provide contact details for the referrer; and
   (c) set out the basis for the reasonable belief mentioned in subsection (1).

(3) The Commissioner may, but is not required to, take action in relation to the referral.

Note: If the Commissioner considers that a ground set out in section 223 applies in relation to a person, the Commissioner may apply for an order under section 222 (disqualification orders).

No. 15—Schedule 1, item 14, page 11 (lines 11 and 12), omit “, Minister, or a person with a sufficient interest”.

No. 16—Schedule 1, item 17, page 12 (line 8), omit “223(1)(b)”, substitute “223(1)(c)”.  

No. 17—Schedule 1, item 17, page 12 (line 14), omit “223(3)(a)(ii)”, substitute “223(3)(a)(iii)”. 

No. 18—Schedule 1, item 17, page 12 (after line 17), after paragraph 17(2)(b), insert:

(ba) for the ground mentioned in subsection 223(3A):
   (i) a designated finding made in relation to conduct engaged in after commencement; and
   (ii) a failure, after commencement, to take steps as mentioned in the subsection;

No. 19—Schedule 2, item 4, page 15 (line 7), omit “An applicant”, substitute “The Commissioner”.

No. 20—Schedule 2, item 4, page 15 (line 8), omit “an applicant”, substitute “the Commissioner”.

No. 21—Schedule 2, item 4, page 15 (lines 11 to 13), omit “only if the organisation satisfies the Court that cancellation would be unjust”, substitute “if the Commissioner fails to satisfy the Court that cancellation would not be unjust”.

No. 22—Schedule 2, item 4, page 15 (line 23) to page 16 (line 14), omit sections 28 to 28B, substitute:

28 Application for cancellation of registration

The Commissioner may apply to the Federal Court for an order cancelling the registration of an organisation, if the Commissioner considers that any one or more of the grounds in Division 3 exist in relation to the organisation.

Note: A person who reasonably believes that a ground exists may refer the matter to the Commissioner (see section 28HA), but the Commissioner does not need a referral to make an application under this section.
28A Application for alternative orders

The Commissioner may apply to the Federal Court for any one or more of the orders under Division 5 in relation to an organisation, if the Commissioner considers that any one or more of the grounds in Division 3 exist in relation to the organisation.

Note: A person who reasonably believes that a ground exists may refer the matter to the Commissioner (see section 28HA), but the Commissioner does not need a referral to make an application under this section.

28B Multiple applications

(1) Nothing in this Part prevents the Commissioner applying under section 28 for cancellation of registration and under section 28A for alternative orders in relation to the same organisation.

(2) If the Commissioner does so, the Court must deal with the applications together.

No. 23—Schedule 2, item 4, page 16 (lines 24 to 30), substitute:
(b) affairs of the organisation or a part of the organisation have been or are being conducted in a manner that is contrary to the interests of the members of the organisation or part as a whole; or

No. 24—Schedule 2, item 4, page 17 (line 30), after “units”, insert “(see section 4AA of the Crimes Act 1914 for the value of a penalty unit)”.

No. 25—Schedule 2, item 4, page 19 (after line 28), at the end of Division 3, add:

28HA Referral to Commissioner

(1) If a person reasonably believes that a ground in this Division exists in relation to an organisation, the person may refer the matter to the Commissioner.

(2) The referral must:
(a) be in writing; and
(b) identify and provide contact details for the person making the referral; and
(c) set out the basis for the reasonable belief mentioned in subsection (1).

(3) The Commissioner may, but is not required to, take action in relation to the referral.

Note: If the Commissioner considers that a ground in this Division exists in relation to an organisation, the Commissioner may apply for orders under either or both Divisions 4 and 5 (cancellation of registration and alternative orders) in relation to the organisation.

No. 26—Schedule 2, item 4, page 20 (line 5), omit “must”, substitute “may”.

No. 27—Schedule 2, item 4, page 20 (lines 9 and 10), omit “organisation does not satisfy the Court that it would be unjust to cancel its”, substitute “Commissioner satisfies the Court that it would not be unjust to cancel the organisation’s”.

No. 28—Schedule 2, item 4, page 20 (lines 18 and 19), omit “organisation satisfies the Court that it would be unjust to cancel its”, substitute “Commissioner fails to satisfy the Court that it would not be unjust to cancel the organisation’s”.

No. 29—Schedule 2, item 4, page 20 (after line 22), after subsection 28J(1), insert:

(1A) The Court must not cancel an organisation’s registration unless it is satisfied that, having regard to the gravity of the matters constituting the ground, cancellation would not be unjust.

No. 30—Schedule 2, item 4, page 21 (lines 11 and 12), omit “organisation satisfies the Court that it would be unjust”, substitute “Commissioner fails to satisfy the Court that it would not be unjust”.
No. 31—Schedule 2, item 4, page 21 (after line 12), after subsection 28L(1), insert:

(1A) The Court must not make an order under this Division unless it is satisfied that, having regard to the gravity of the matters constituting the ground, the order would not be unjust.

No. 32—Schedule 2, item 4, page 22 (line 9), omit subsection 28M(3).

No. 33—Schedule 2, item 9, page 24 (lines 24 to 26), omit paragraphs 343(2)(a) to (c).

No. 34—Schedule 4, item 2, page 34 (lines 19 to 22), omit the paragraph beginning “Before an amalgamation can take effect”, substitute:

Before an amalgamation can take effect, the FWC must decide whether the amalgamation should be subject to a public interest test. The amalgamation does not take effect if the FWC decides that the public interest test is to apply to the amalgamation and that the amalgamation fails that test.

No. 35—Schedule 4, item 6, page 35 (lines 13 to 15), omit subsection 67(4), substitute:

(4) Subsection (2) does not authorise the FWC to dispense with deciding under subsection 72A(1):

(a) whether the test in paragraph 72A(1)(b) (the public interest test) is to apply to a proposed amalgamation; or

(b) if the public interest test is to apply to the proposed amalgamation—whether the amalgamation is in the public interest.

No. 36—Schedule 4, item 7, page 35 (lines 19 to 27), omit section 72A, substitute:

72A Decision whether the public interest test is to apply to the proposed amalgamation and, if so, whether the amalgamation passes that test

(1) Before fixing an amalgamation day under section 73 for a proposed amalgamation, the FWC must:

(a) decide whether the test in paragraph (b) (the public interest test) is to apply to the amalgamation; and

(b) if the public interest test is to apply to the amalgamation—decide whether the amalgamation is in the public interest.

Note 1: The FWC must have regard to the matters in section 72D in deciding whether the amalgamation passes the public interest test.

Note 2: An amalgamation does not take effect if the FWC decides that the public interest test is to apply to the amalgamation and that the amalgamation fails that test (see section 72F).

(2) The FWC must, and may only, decide under paragraph (1)(a) that the public interest test is to apply to the amalgamation if there is information before the FWC that at least 20 compliance record events have occurred for at least one of the existing organisations concerned in the amalgamation within the 10 year period ending on the day the application, or the most recent application, under section 44 is lodged in relation to the amalgamation.

Note: The FWC has ways of informing itself about whether events have occurred (see section 590 of the Fair Work Act).

(3) The FWC may make decisions under subsection (1) at any time after an application under section 44 is lodged with the FWC in relation to the amalgamation.

72AA Writing and publication requirements for these FWC decisions

(1) The FWC’s decisions under subsection 72A(1) must be in writing.

(2) The FWC must give written reasons for any decision it makes under that subsection.
(3) Such a decision, and the reasons for it, must be expressed in plain English and be easy to understand in structure and content.

(4) The FWC must publish such a decision, and the reasons for it, on its website or by any other means that the FWC considers appropriate. The FWC must do so as soon as practicable after making the decision.

(5) Subsections (1) and (4) do not limit the FWC’s power to put decisions in writing or publish decisions.

No. 37—Schedule 4, item 7, page 35 (line 29), omit “(1) The FWC must”, substitute “If the public interest test in paragraph 72A(1)(b) is to apply to a proposed amalgamation, the FWC must”.

No. 38—Schedule 4, item 7, page 36 (lines 1 to 3), omit paragraph 72B(1)(a), substitute:

(a) fix a time and place for hearing submissions in relation to:
   (i) the matters mentioned in subsection 72D(1) (record of compliance with the law); and
   (ii) whether the amalgamation is otherwise in the public interest; and

No. 39—Schedule 4, item 7, page 36 (lines 9 to 18), omit subsection 72B(2).

No. 40—Schedule 4, item 7, page 37 (lines 3 to 10), omit subsection 72C(2), substitute:

(2) The FWC must have regard to any submissions made.

No. 41—Schedule 4, item 7, page 37 (line 13), after “deciding”, insert “under paragraph 72A(1)(b)”.

No. 42—Schedule 4, item 7, page 37 (line 16), omit “and age”, substitute “, age and gravity”.

No. 43—Schedule 4, item 7, page 37 (line 19), omit “section 72A”, substitute “paragraph 72A(1)(b)”.

No. 44—Schedule 4, item 7, page 37 (line 23), after “deciding”, insert “under paragraph 72A(1)(b)”.

No. 45—Schedule 4, item 7, page 38 (line 30), omit “section 72A”, substitute “paragraph 72A(1)(b)”.

No. 46—Schedule 4, item 7, page 39 (line 2), omit “section 72A”, substitute “paragraph 72A(1)(b)”.

No. 47—Schedule 4, item 9, page 39 (lines 11 and 12), omit “the FWC has decided under section 72A that the amalgamation is in the public interest”, substitute “after concluding its decisions under section 72A the FWC is not prevented by subsection 72F(1) from fixing an amalgamation day for the amalgamation,”.

No. 48—Page 42 (after line 22), at the end of the Bill, add:

Schedule 6—Functions of the Commissioner

Fair Work (Registered Organisations) Act 2009

1 Section 329AB

Before “The Commissioner”, insert “(1)”. 
2 At the end of section 329AB
Add:
(2) In carrying out the Commissioner’s function of promoting efficient management of organisations and high standards of accountability of organisations and their office holders to their members, the Commissioner must give priority to matters that raise serious or systemic concerns.

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

Debate ensued.

At 11.45 am: The President resumed the chair and the Temporary Chair of Committees (Senator Griff) reported progress.

6 Notices
Senator Faruqi: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) fires have ravaged Australia before the start of summer with more than 1,650,000 hectares of land, including koala habitat, burned in New South Wales,
   (ii) between 350 and 1000 koalas have been found dead so far on the North and Mid-North coast of New South Wales, and
   (iii) koalas are listed as a vulnerable species under the Environmental Protection and Biodiversity Act 1999; and
(b) calls on the Commonwealth Government to more effectively plan for koala and animal welfare in natural disaster responses. (general business notice of motion no. 308)

The Leader of the Australian Greens (Senator Di Natale): To move on the next day of sitting—That the Senate orders that there be laid on the table by the Minister representing the Minister for Energy and Emissions Reductions, on 4 December 2019, the corporate emissions and energy data of Amazon Corporate Services Pty Ltd for 2017-18, which was requested to be withheld under section 25 of the National Greenhouse and Energy Reporting Act 2007. (general business notice of motion no. 309)

Senator Ayres: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) each year the Harvard University Growth Lab produces the world Atlas of Economic Complexity,
   (ii) the Atlas of Economic Complexity tracks an Economic Complexity Index (ECI) for 133 countries which analyses each country’s growth prospects where the diversity and complexity of existing capabilities is a strong indicator of future growth prospects,
   (iii) since 2011, Australia’s relative ECI ranking has fallen from 79 to 93, driven principally by a lack of diversification of exports,
(iv) since 2011, among 133 countries, Australia has suffered the third largest decline in its relative ECI ranking, better than Armenia and Zimbabwe but worse than Cuba, Zambia and Venezuela, and

(v) on the basis of Australia’s lack of diverse and complex industrial production at scale, particularly in its traded goods sector and reflected in its ECI, the Harvard Growth Lab and the Center for International Development forecast that Australia’s future economic growth will be a mere 2.17% a year for the next decade, which is in the bottom quintile of world growth forecasts; and

(b) calls on the Federal Government to turn its attention to focussing Australia’s industry support policy settings on increasing the complexity, diversity and value-adding capabilities of the Australian economy, with a particular emphasis on complex product exports high up the value chain. (general business notice of motion no. 310)

Senators Lines, Sterle, Dodson and Pratt: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) the Department of Home Affairs employs over 135 dedicated and hardworking Western Australians to process visa applications,

(ii) this is crucial work that ensures the integrity of our visa processing system and is the cornerstone of our sovereignty as a nation,

(iii) the Federal Government’s plan to privatise Australia’s visa system threatens the livelihoods of over 135 Western Australians and their families, and

(iv) privatising Australia’s visa system will lead to increased costs of visas, greater risks of worker exploitation, data security breaches and will make protecting national security more difficult;

(b) condemns the Federal Government for auctioning Australian jobs off to the highest bidder, and for undermining the integrity of our visa processing system and our nation’s sovereignty; and

(c) calls on the Federal Government to guarantee the protection of these 136 jobs in Western Australia, and the 2000 jobs across Australia, which will be lost under the Morrison Government if it persists with its efforts to privatise Australia’s visa system. (general business notice of motion no. 311)

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

(a) notes that:

(i) 1 December is West Papuan National Flag Day, commemorating the day in 1961 when the New Guinea Council – West Papua’s Parliament under Dutch colonial rule – raised the Morning Star flag for the first time, signalling the Netherlands’ recognition of West Papua’s statehood, and

(ii) since the Indonesian Government formally annexed West Papua in 1969, West Papuans have been waiting for the opportunity to determine their own future, having been denied the right to self-determination;
Further notes with deep concern that:

(i) since August this year, the Indonesian authorities have engaged in an unprecedented crackdown in West Papua following protests against racism and in favour of self-determination,

(ii) more than 50 people have died as a result of these protests and 22 people have been charged with treason and are viewed as political prisoners, according to Amnesty International and Human Rights Watch, and

(iii) thousands of additional Indonesian troops have been deployed to West Papua;

welcomes the fact that the 50th Pacific Islands Forum Communiqué acknowledged continued allegations of human rights abuses in West Papua, called on all parties to protect and uphold human rights, and strongly encouraged Indonesia and the United Nations (UN) to finalise timing of a visit by the UN High Commissioner for Human Rights to West Papua; and

calls on the Australian Government to:

(i) urge the Indonesian Government to allow unfettered access to West Papua for UN officials and foreign journalists, and to drop charges against political prisoners,

(ii) request access to visit West Papuan political prisoners, and

(iii) support West Papuans’ claims for self-determination. (general business notice of motion no. 312)

Senators Watt, Green and Chisholm: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) in the past 18 months, there have been seven workplace deaths in the mining sector in Queensland,

(ii) every worker has the right to a safe work environment, and

(iii) the Queensland Government is taking action on industrial manslaughter laws to cover acts and omissions involving negligence in the mining sector;

(b) offers our condolences to the Australians who have lost loved ones and workmates who should have come home safely from work; and

(c) supports the Queensland Government’s action to expand industrial manslaughter laws to protect the safety of workers in the mining sector. (general business notice of motion no. 313)

The Leader of the Opposition in the Senate (Senator Wong): To move on the next day of sitting—That the Senate—

(a) notes that:

(i) 2 December 2019 marks ten years since the Senate failed to pass legislation for a comprehensive economy-wide climate change policy, the Rudd Labor Government’s Carbon Pollution Reduction Scheme (CPRS),
(ii) implementation of the CPRS would have resulted in Australia’s greenhouse gas emissions being between 27 and 81 million tonnes lower in 2020 than currently projected, would have delivered additional cumulative abatement of between 63 and 218 million tonnes over the last 10 years, and would have placed Australian emissions on a sustained and long-term downward trajectory,

(iii) in addition to Labor senators, the CPRS bills were supported by Liberal Senators Boyce and Troeth,

(iv) despite the constructive negotiations engaged in by Mr Turnbull and Mr Macfarlane, the Liberals and The Nationals opposed the bills under the leadership of Mr Abbott, and

(v) the Australian Greens joined with the Liberals and The Nationals, and also opposed the CPRS, guaranteeing its defeat;

(b) recognises the decision by the Liberals, The Nationals and the Australian Greens to join together to oppose the CPRS precipitated:

(i) a breakdown in consensus on policy in Australia to address the challenges of climate change, and

(ii) a decade of policy instability preventing necessary investment in energy infrastructure leading to increases in energy prices and increased emissions; and

(c) calls on all parties to end the political opportunism and work together to agree an enduring solution to the challenges of climate change. (general business notice of motion no. 314)

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

(a) notes that:

(i) in August 2019, the Institute of Energy Economics and Financial Analysis (IEEFA) released a briefing note concluding that the Adani Group would receive over $4.4 billion in public subsidies from the Australian and Queensland Governments over the 30-year project life of the Carmichael thermal coal mine, including:

(A) a royalties holiday deal with the Queensland Government, the details of which are due to be announced by 30 November 2019,

(B) fuel tax credits, which IEEFA estimates equate to $2.4 billion over the 30-year life of the project,

(C) billions of litres of water, and

(D) various corporate tax breaks, and

(ii) the IEEFA conclude that the Adani Carmichael thermal coal mine project would not open nor survive without billions of dollars in subsidies; and

(b) calls on the Federal Government to:

(i) recognise that the Adani Carmichael mine would not be viable without significant taxpayer support, and

(ii) withdraw its subsidised support of the project. (general business notice of motion no. 315)
Notices of motion withdrawn: Senators withdrew business of the Senate notices of motion standing in their names as follows:

Senator McKim on behalf of the Parliamentary Joint Committee on Human Rights—Business of the Senate notice of motion no. 2—disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019 [F2019L00511]

The Chair of the Standing Committee on Regulations and Ordinances (Senator Ferravanti-Wells)—Business of the Senate notice of motion no. 1—disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019 [F2019L00511].

Senator Siewert, by leave, made a statement relating to the matter.

7 Selection of Bills—Standing Committee—Report no. 9 of 2019

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

SELECTION OF BILLS COMMITTEE
REPORT NO. 9 OF 2019

1. The committee met in private session on Wednesday, 27 November 2019 at 7.30 pm.

2. The committee recommends that—

(a) contingent upon introduction in the Senate, the Agriculture Legislation Amendment (Streamlining Administration) Bill 2019 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 31 January 2020;

(b) the provisions of the Australian Sports Anti-Doping Authority Amendment (Enhancing Australia’s Anti-Doping Capability) Bill 2019 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 3 February 2020;

(c) the provisions of the Migration Amendment (Regulation of Migration Agents) Bill 2019 and the Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2019 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 18 March 2020;

(d) the provisions of the Telecommunications Legislation Amendment (Competition and Consumer) Bill 2019 and the Telecommunications (Regional Broadband Scheme) Charge Bill 2019 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 21 February 2020;

(e) the Telecommunications Legislation Amendment (Unsolicited Communications) Bill 2019 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 17 April 2020;

(f) the provisions of the Transport Security Amendment (Serious Crime) Bill 2019 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 February 2020; and
(g) the provisions of the Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019 be referred immediately to the Economics Legislation Committee for inquiry and report by 21 February 2020.

3. The committee recommends that the following bills not be referred to committees:

- Commonwealth Electoral Amendment (Transparency Measures—Lowering the Disclosure Threshold) Bill 2019
- Commonwealth Electoral Amendment (Transparency Measures—Real Time Disclosure) Bill 2019
- Family Law (Self-Assessment) Bill 2019
- Farm Household Support Amendment (Relief Measures) Bill (No. 2) 2019
- Health Legislation Amendment (Data-matching and Other Matters) Bill 2019
- Interactive Gambling Amendment (National Self-exclusion Register) Bill 2019
- National Self-exclusion Register (Cost Recovery Levy) Bill 2019
- Military Rehabilitation and Compensation Amendment (Single Treatment Pathway) Bill 2019
- Official Development Assistance Multilateral Replenishment Obligations (Special Appropriation) Bill 2019
- Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures) Bill 2019
- Foreign Acquisitions and Takeovers Fees Imposition Amendment (Near-new Dwelling Interests) Bill 2019.

4. The committee deferred consideration of the following bills to its next meeting:

- Air Services Amendment Bill 2018
- Australian Crime Commission Amendment (Special Operations and Special Investigations) Bill 2019
- Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019
- Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019
- Customs Amendment (Safer Cladding) Bill 2019
- Discrimination Free Schools Bill 2018
- Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Bill 2019
- Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Bill 2019
- Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Bill 2019
- Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2019
- Great Australian Bight Environment Protection Bill 2019
- National Integrity (Parliamentary Standards) Bill 2019
- Regional Forest Agreements Legislation (Repeal) Bill 2017
Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019
Social Services Legislation Amendment (Ending the Poverty Trap) Bill 2018
Social Services Legislation Amendment (Payment Integrity) Bill 2019
Special Recreational Vessels Bill 2019
Student Identifiers Amendment (Enhanced Student Permissions) Bill 2019
Trade Support Loans Amendment (Improving Administration) Bill 2019
Wine Australia Amendment (Label Directory) Bill 2019.

Dean Smith
Chair
Senator Dean Smith moved—That the report be adopted.
Debate ensued.
Question put and passed.

8 Order of business—Rearrangement
The Minister for Families and Social Services (Senator Ruston) moved—That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 303; and
(b) orders of the day relating to documents.
Question put and passed.
Senator Ruston moved—That the following business be considered at the time for private senators’ bills on Monday, 2 December 2019:
(c) all general business notices of motion for the introduction of bills for that day (introductory processes only, no debate); and
(d) general business order of the day no. 34 (Productivity Commission Amendment (Addressing Inequality) Bill 2017).
Question put and passed.

9 Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019
Order of the day read for the further consideration of the bill in committee of the whole.

In the committee
Consideration resumed of the bill and of the amendments moved by the Minister for Foreign Affairs (Senator Payne) (see entry no. 5).
Debate resumed.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Sterle) reported progress.
10 Questions
Questions without notice were answered.

*Document:* The Minister for Finance (Senator Cormann) tabled the following document:

Correction to answer in the House of Representatives—Letter from the Prime Minister (Mr Morrison) to the Clerk of the House of Representatives (Ms Surtees), dated 28 November 2019.

The Minister for Foreign Affairs (Senator Payne) provided additional information with regard to a question asked by Senator McKim yesterday.

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

11 Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019
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—and of the amendments moved by the Minister for Foreign Affairs (Senator Payne) (see entry no. 5).

Debate resumed.

*Limitation of debate:* The time allotted for the consideration of the bill expired (see entry no. 4).

The following amendments to the Government amendments nos 9 and 11 circulated by the Australian Greens were considered:

Amendment no. 9, item 11, paragraph 223(1)(a), omit “a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made”, substitute “2 or more designated findings within the meaning of paragraph 9C(1)(a) (criminal) are made”.

Amendment no. 9, item 11, omit subparagraph 223(1)(b)(i), substitute:

(i) 2 or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against any organisation within the last 7 years in relation to conduct engaged in while the person is an officer of the organisation; and

Amendment no. 9, item 11, subparagraph 223(1)(b)(ii), omit “least 180 penalty units”, substitute “least 210 penalty units”.

Amendment no. 11, item 11, omit paragraph 223(3A)(a), substitute:

(a) 2 or more designated findings within the meaning of paragraph 9C(1)(b) (civil) have been made against any organisation within the last 7 years in relation to conduct engaged in while the person is an officer of the organisation; and

Amendment no. 11, item 11, paragraph 223(3A)(b), omit “least 900 penalty units”, substitute “least 1,100 penalty units”.


Amendment no. 11, item 11, after subsection 223(3A), insert:

(3B) For the purposes of paragraph (3)(c) or (3A)(c), in determining whether a person failed to take reasonable steps to prevent the conduct mentioned in paragraph (3)(a) or (3A)(a), regard must be had to the office held by the person in the organisation when the conduct occurred.

Question—That the amendments to Senator Payne’s proposed amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Ayres          Farrell        McCarthy        Smith, Marielle
Bilyk          Faruqi         McKim          Steele-John
Brown          Gallagher      O’Neill        Sterle
Carr           Gallagher      Polley         Walsh
Chisholm       Green          Pratt          Waters
Ciccone*       Hanson-Young   Rice           Watt
Di Natale      Lambie         Sheldon       Whish-Wilson
Dodson         Lines          Siewert        Wong

NOES, 36

Senators—

Abetz          Colbeck        Hughes         Payne
Antic          Cormann       Hume           Rennick
Askew          Davey         McDonald       Roberts
Bernardi       Duniam        McGrath       Ruston
Bragg          Fawcett       McMahon       Ryan
Brockman       Fierravanti-Wells Molan         Scarr
Canavan        Griff         O’Sullivan     Smith, Dean*
Cash           Hanson        Paterson       Stoker
Chandler       Henderson     Patrick       Van

* Tellers

Question negatived.

Question—That the amendments moved by Senator Payne be agreed to—put and passed.

Question—That item 6 of Schedule 3 stand as printed—put.

The committee divided—

AYES, 36

Senators—

Abetz          Colbeck        Hughes         Payne
Antic          Cormann       Hume           Rennick
Askew          Davey         McDonald       Roberts
Bernardi       Duniam        McGrath       Ruston
Bragg          Fawcett       McMahon       Ryan
Brockman       Fierravanti-Wells Molan         Scarr
Canavan        Griff         O’Sullivan     Smith, Dean*
Cash           Hanson        Paterson       Stoker
Chandler       Henderson     Patrick       Van
NOES, 32

Senators—

Ayres       Farrell    McCarthy    Smith, Marielle
Bilyk       Faruqi     McKim      Steele-John
Brown       Gallacher  O’Neill     Sterle
Carr        Gallagher  Polley      Walsh
Chisholm    Green      Pratt      Waters
Ciccone*    Hanson-Young Rice       Watt
Di Natale   Lambie     Sheldon     Whish-Wilson
Dodson      Lines      Siewert     Wong

*Tellers

Item agreed to.

The following amendments circulated by the Australian Greens were negatived:

Schedule 1, item 1, page 3 (after line 9), insert:

1A Section 6 (definition of serious contravention)

Repeal the definition, substitute:

   serious contravention, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or branch of an organisation, means a contravention that:
   (a) is serious or materially prejudices:
      (i) the interests of the organisation or branch, or members of the organisation or branch; or
      (ii) the ability of the organisation or branch to pay its creditors; and
   (b) is constituted by conduct that was part of a systematic pattern of conduct relating to one or more persons.

Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A designated finding, in relation to a person, is:

(a) any conviction against the person for an offence against a designated law where a term of imprisonment is imposed on the person for the offence; or
(b) any order for the person to pay a pecuniary penalty for the serious contravention of a civil penalty provision if the pecuniary penalty ordered is 80% or more of the maximum penalty for that contravention.

Schedule 1, item 11, page 8 (line 10) to page 9 (line 5), omit subsections 223(5) and (6).

Schedule 1, item 17, page 12 (line 21), omit “after commencement;”, substitute “after commencement.”.

Schedule 1, item 17, page 12 (lines 22 to 26), omit paragraph (2)(d).

Schedule 1, item 17, page 12 (lines 27 to 29), omit subitem (3), substitute:

(3) For the purposes of paragraph 222(2)(b) of the Act as amended by this Schedule, in considering whether it would be unjust to disqualify a person from holding office in an organisation, the Court may:

(a) if matters relate to convictions, injunctions, orders, or findings against the person in a criminal or civil proceeding—only have regard to matters occurring after commencement; or
(b) otherwise—have regard to matters occurring before or after commencement.

Schedule 2, item 4, page 17 (line 1), after “having a record”, insert “within the last 3 years”.

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Schedule 2, item 4, page 17 (lines 25 to 27), omit paragraph 28D(a), substitute:
(a) the organisation is convicted within the last 3 years of an offence against a law of the Commonwealth or a State or Territory; and

Schedule 2, item 4, page 18 (lines 3 and 4), omit “designated findings have been made”, substitute “3 designated findings or more have been made, in separate proceedings within the last 3 years.”.

Schedule 2, item 11, page 25 (lines 20 to 22), omit subitem (2), substitute:
(2) For the purposes of subparagraph 28J(1)(b)(iv) and 28L(2)(b)(ii), and paragraph 28L(3)(b), of the Act, the Court may:
(a) if matters relate to:
(i) convictions, injunctions, orders that relate to the organisation; or
(ii) findings against the organisation in a criminal or civil proceeding;
only have regard to such matters occurring after commencement; or
(b) otherwise—have regard to matters occurring before or after commencement.

Schedule 3, item 4, page 27 (lines 17 to 26), omit subsection 323(1), substitute:
(1) The organisation, or a member of the organisation, may apply to the Federal Court for any one or more of the declarations set out in subsection (3), if the organisation or the member considers that circumstances mentioned in a paragraph of that subsection exist in relation to an organisation.

Schedule 3, item 4, page 28 (lines 14 to 20), omit paragraph 323(3)(d), substitute:
(d) that affairs of an organisation or a part of an organisation are being conducted in a manner that is contrary to the interests of the members of the organisation or part as a whole;

Schedule 3, item 4, page 28 (lines 25 to 33), omit subsection 323(4).

Schedule 3, page 33 (after line 27), at the end of the Schedule, add:

7 Application of amendments
(1) In making a declaration under section 323 of the Fair Work (Registered Organisations) Act 2009 (the Act) as amended by this Schedule, the Federal Court may only have regard to circumstances that existed after commencement.

(2) Sections 323 of the Act, as in force immediately before commencement, continues in effect, after commencement and despite the amendments made by this Schedule, in relation to circumstances that existed before commencement.

(3) For the purposes of the operation of sections 323 of the Act as continued in effect by subitem (2), the amendments made by this Schedule are taken not to have been made.

(4) In this item:
commencement means the start of the day this item commences.

Schedule 4, item 7, page 36 (line 24), after paragraph 72C(1)(a), insert:
(aa) a member of the existing organisations;

Schedule 4, item 7, page 36 (lines 33 to 36), omit paragraphs 72C(1)(e) and (f).

Schedule 4, item 7, page 38 (lines 1 to 28), omit section 72E, substitute:

72E Compliance record events
A compliance record event occurs for an organisation if:
(a) a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made against the organisation; or
(b) the organisation is found to be in contempt of court in relation to an order or
injunction made under a designated law; or
(c) a person is found to be in contempt of court in relation to an order or injunction
made under any law of the Commonwealth or a State or Territory, if the person:
(i) was an officer of the organisation at the time of the conduct to which the
finding relates; and
(ii) engaged in the conduct in the course of (or purportedly in the course of)
performing functions in relation to the organisation.

Schedule 4, item 13, page 40 (lines 13 to 15), omit subitem (3), substitute:

(3) To avoid doubt, a compliance record event (within the meaning of the *Fair Work (Registered
Organisations) Act 2009*) is an event that occurred after this item commences.

The following amendment circulated by the Australian Greens was agreed to:

Page 2 (after line 12), after clause 3, insert:

4 Review of this Act

(1) The Minister must cause an independent review to be conducted of the operation of the
amendments made by this Act to the *Fair Work (Registered Organisations) Act 2009*
(the *Registered Organisations Act*).

(2) The review must be commenced as soon as practicable after the end of 2 years after this
Act commences.

(3) Without limiting the matters the review may examine, the review must examine the
following:
(a) the effectiveness of the amendments to the Registered Organisations Act made by
this Act;
(b) whether there is a need for further amendments to the Registered Organisations Act
relating to the administration of dysfunctional organisations and a public interest
test for amalgamations of organisations;
(c) whether the Commissioner has acted as a model litigant in proceedings involving
the Commissioner;
(d) whether the Commissioner has, in carrying out the Commissioner’s functions,
focused on matters that relate to systematic patterns of conduct engaged in by
organisations or officers of organisations.

(4) The Minister must ensure that the persons who conduct the review have the ability to
seek independent legal advice in relation to the review.

(5) The persons who conduct the review must give the Minister a written report of the
review.

(6) The Minister must cause a copy of the report to be tabled in each House of the
Parliament within 15 sitting days of that House after the report is given to the Minister.

(7) An expression used in this section that is also used in the Registered Organisations Act
has the same meaning as in that Act.
The following amendment circulated by the Australian Greens was considered:

Clause 2, page 2 (table item 1), omit the table item, substitute:

1. The whole of this Act

A single day to be fixed by Proclamation.

A Proclamation must not specify a day that occurs before the day a resolution of the Senate is made that affirms that an Act has commenced which has the effect of establishing a National Integrity Commission.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 32

Ayres
Bilyk
Brown
Carr
Chisholm
Ciccone*
Di Natale
Dodson

Farrell
Faruqi
Gallacher
Gallagher
Green
Hanson-Young
Lambie
Lines

McCarthy
McKim
O’Neill
Polley
Pratt
Rice
Sheldon
Siewert

Smith, Marielle
Sterle-John
Walsh
Waters
Watt
Whish-Wilson

NOES, 36

Abetz
Antic
Askew
Bernardi
Bragg
Brockman
Canavan
Cash
Chandler

Colbeck
Cormann
Davey
Duniam
Fawcett
Fierravanti-Wells
Griff
Hanson
Henderson

Hughes
Hume
McDonald
McGrath
McMahon
Molan
O’Sullivan
Paterson
Patrick

Payne
Rennick
Roberts
Ruston
Ryan
Scarr
Smith, Dean*
Stoker
Van

* Tellers

Question negatived.

The following amendments circulated by Pauline Hanson’s One Nation were agreed to:

Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A designated finding, in relation to a person, is:

(a) any conviction against the person for an offence against a designated law; or
(b) any order for the person to pay a pecuniary penalty for the contravention of:
   (i) a civil penalty provision of this Act; or
   (ii) a civil remedy provision of the Fair Work Act; or
   (iii) a civil remedy provision of the Building and Construction Industry (Improving Productivity) Act 2016; or
   (iv) a WHS civil penalty provision of the Work Health and Safety Act 2011; or
   (v) a provision of a State or Territory OHS law (within the meaning of the Fair Work Act), other than an offence.
Schedule 1, item 11, page 8 (line 26) to page 9 (line 5), omit paragraphs 223(6)(d) and (e), substitute:

(d) any conviction against the person for an offence against a law of the Commonwealth or a State or Territory:
   (i) involving the intentional use of violence towards another person, the intentional causing of death or injury to another person or the intentional damaging or destruction of property; or
   (ii) involving fraud, dishonesty, misrepresentation, concealment of material facts or a breach of duty; or
   (iii) that is punishable by imprisonment for 2 years or more;

(e) in any civil proceeding against the person, an order is made that relates to conduct by the person that involved fraud, dishonesty, misrepresentation, concealment of material facts or a breach of duty.

Schedule 1, item 11, page 10 (lines 32 to 35), omit subsection 226(4).

Schedule 1, item 17, page 12 (lines 5 and 6), omit “a finding”, substitute “a conviction, order or finding”.

Schedule 1, item 17, page 12 (line 11), omit “a finding”, substitute “a conviction, order or finding”.

Schedule 1, item 17, page 12 (lines 24 to 26), omit subparagraph (2)(d)(ii), substitute:

(ii) for an event mentioned in paragraph 223(6)(d) or (e)—a conviction or order made in relation to conduct engaged in after commencement.

Schedule 2, item 4, page 17 (lines 3 to 7), omit subsection 28C(2), substitute:

(2) In working out whether there is a record for the purposes of paragraph (1)(c), the Court must only have regard to the following:

(a) any designated findings made against the organisation or part or officers or members of the organisation or part;

(b) any findings that the organisation or part, or officers or members of the organisation or part, are in contempt of court in relation to an order or injunction made under a designated law.

Schedule 2, item 11, page 25 (line 13), omit “findings”, substitute “convictions or orders”.

Schedule 3, item 4, page 31 (line 22), omit “of strict liability”.

Schedule 3, item 4, page 32 (lines 18 to 20), omit subsection 323H(5), substitute:

(5) A person commits an offence if:

(a) the person is given a notice under subsection (3); and

(b) the person does not comply with the notice.

Penalty: 120 penalty units.

Schedule 4, item 7, page 38 (line 18), omit “finding”, substitute “designated finding”.

Penalty: 120 penalty units.
Question—That item 9 of Schedule 2 and Schedules 3 and 4, as amended, be agreed to—put.

The committee divided—

**AYES, 36**

**NoES, 32**

**Schedules and item agreed to.**

The following amendments circulated by the Jacqui Lambie Network were considered:

Page 2 (after line 12), after clause 3, insert:

**4 Review of this Act**

1. The Minister must cause an independent review to be conducted of the operation of the amendments made by this Act.

2. The review must be commenced as soon as practicable after the end of 12 months after this Act commences.

3. The review must examine:
   (a) the effectiveness of the amendments made by this Act; and
   (b) whether there is a need for further amendments to the *Fair Work (Registered Organisations) Act 2009* relating to the administration of dysfunctional organisations and a public interest test for amalgamations of organisations.

4. The persons who conduct the review must give the Minister a written report of the review.

5. The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.
Schedule 1, item 1, page 3 (after line 9), after the item, insert:

1A Section 6 (definition of serious contravention)

Repeal the definition, substitute:

**serious contravention**, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or a branch of an organisation, means a contravention that:

(a) either or both:

(i) materially prejudices the interests of the organisation or branch, or the members of the organisation or branch; or

(ii) materially prejudices the ability of the organisation or branch to pay its creditors; and

(b) is:

(i) engaged in knowingly; and

(ii) a part of a systematic pattern of conduct relating to one or more persons.

Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A **designated finding**, in relation to a person, is:

(a) any conviction against the person for an offence against a designated law where a term of imprisonment is imposed on the person for the offence; or

(b) any order for the person to pay a pecuniary penalty for the serious contravention of a covered provision; or

(c) any order for the person to pay a pecuniary penalty for the contravention of a covered provision if the pecuniary penalty ordered is 60% or more of the maximum penalty for that contravention.

(1A) A **covered provision** is any of the following:

(a) a civil penalty provision of this Act;

(b) a civil remedy provision of the Fair Work Act;

(c) a civil remedy provision of the *Building and Construction Industry (Improving Productivity) Act 2016*;

(d) a WHS civil penalty provision of the *Work Health and Safety Act 2011*;

(e) a provision of a State or Territory OHS law (within the meaning of the Fair Work Act), other than an offence.

(1AA) However, **designated finding** does not include an order to pay a pecuniary penalty for a contravention of a civil penalty provision of the Fair Work Act if the conduct that constitutes the contravention consists solely of:

(a) a failure or refusal by the person to attend for work; or

(b) if the person attends work—a failure or refusal to perform any work at all while attending for work.

Schedule 1, item 11, page 6 (lines 15 to 20), omit subsection 222(1), substitute:

(1) The Commissioner may apply to the Federal Court for an order under this section if the Commissioner considers that any of the grounds for disqualification set out in section 223 apply in relation to a person.

Schedule 1, item 11, page 7 (after line 3), after subsection 222(3), insert:

(3A) If, after an application is made for an order under subsection (2), the applicant and the person to whom the application relates to reach an agreement, the Court:

(a) must consider the agreement in making the order; and
may make any other order the Court considers appropriate for the purposes of giving effect to the agreement.

(3B) In determining an appropriate period for a person to be disqualified from holding office in an organisation, if the person holds such an office and the term of that office has not expired at the time of the order, the Court must consider whether it is appropriate to disqualify the person for a period that exceeds the remainder of the person’s term in the office.

Schedule 1, item 11, page 7 (line 8), omit paragraph 223(1)(a), substitute:
(a) 3 or more designated findings have been made against the person within the last 3 years; or

Schedule 1, item 11, page 7 (lines 22 to 28), omit paragraph 223(3)(a), substitute:
(a) 3 or more designated findings have been made against any organisation within the last 3 years in relation to conduct engaged in while the person is an officer of the organisation; and

Schedule 1, item 11, page 7 (line 29), after “the person”, insert “, having the authority to do so,“.

Schedule 1, item 11, page 8 (before line 1), before subsection 223(4), insert:

(3B) For the purposes of paragraph (3)(b), in determining whether a person failed to take reasonable steps to prevent the conduct mentioned in paragraph (3)(a), regard must be had to the following:
(a) the office held by the person in the organisation when the conduct occurred;
(b) whether the conduct related to the branch of the organisation the person was a member of.

Schedule 1, item 11, page 8 (line 10) to page 9 (line 5), omit subsections 223(5) and (6), substitute:

Covered conduct and bringing organisation into disrepute

(5) A ground for disqualification applies in relation to a person who holds an office in an organisation if:
(a) the person engaged in covered conduct; and
(b) the person’s covered conduct was part of a pattern of conduct by the person; and
(c) the person continuing to hold the office brings the organisation into disrepute.

(6) A person engaged in covered conduct if, in any criminal proceeding against the person:
(a) the person was found during the last 10 years to have committed an offence against a law (a relevant law) of the Commonwealth or a State or Territory that is punishable by a term of imprisonment of 4 years or more; or
(b) both of the following apply:
   (i) the person was found during the last 10 years to have committed 2 or more offences against one or more relevant laws and each offence was punishable by a term of imprisonment of less than 4 years;
   (ii) the sum of the terms of punishment is 4 years or more.

(7) A person engaged in covered conduct if, in any civil proceeding against the person:
(a) the person was found during the last 10 years to have contravened a law (a relevant law) of the Commonwealth or a State or Territory with a maximum pecuniary penalty of 600 penalty units or more; or
(b) both of the following apply:
   (i) the person was found during the last 10 years to have committed 2 or more 
       contraventions of one or more relevant laws and the maximum pecuniary 
       penalties for each contravention is less than 600 penalty units;
   (ii) the sum of the penalties is 600 penalty units or more.

(8) For the purpose of paragraph (5)(b), a pattern of conduct by a person may begin before 
the person became an officer of the organisation.

(9) To avoid doubt, a person continuing to hold an office in an organisation may bring the 
organisation into disrepute for reasons that do not relate to the person engaging in 
covered conduct.

Schedule 1, item 14, page 11 (lines 11 and 12), omit “, Minister, or a person with a sufficient 
interest”.

Schedule 1, item 17, page 12 (lines 22 to 26), omit paragraph (2)(d), add:
   (d) for the ground mentioned in subsection 223(5)—conduct engaged in, for 
   paragraphs 223(5)(a) and (b), after commencement.

Schedule 1, item 17, page 12 (lines 27 to 29), omit subitem (3), substitute:

(3) For the purposes of paragraph 222(2)(b) of the Act as amended by this Schedule, in considering 
whether it would be unjust to disqualify a person from holding office in an organisation, the 
Court may:
   (a) if matters relate to convictions, injunctions, orders, or findings against the person in 
       a criminal or civil proceeding—only have regard to matters occurring after 
       commencement; or
   (b) otherwise—have regard to matters occurring before or after commencement.

Schedule 2, item 4, page 15 (lines 7 to 13), omit the paragraph beginning “An applicant can 
apply” in section 27A, substitute:

The Commissioner can apply to the Court for cancellation. If the Commissioner applies for 
cancellation and the Court finds that the ground for the application is established, the Court 
may consider making alternative orders instead of cancellation only if 
the organisation 
satisfies the Court that cancellation would be unjust.

Schedule 2, item 4, page 15 (line 23) to page 16 (line 14), omit sections 28 to 28B, substitute:

28 Application for cancellation of registration

The Commissioner may apply to the Federal Court for an order cancelling the 
registration of an organisation, if the Commissioner considers that any one or more of 
the grounds in Division 3 exist in relation to the organisation.

Schedule 2, item 4, page 16 (line 18), omit “or 28A”.

Schedule 2, item 4, page 17 (after line 7), after subsection 28C(2), insert:

(2A) In working out whether there is a record for the purposes of paragraph (1)(c), the Court 
must not have regard to conduct that would constitute not complying with designated 
laws by officers or members of the organisation or part of the organisation if the conduct 
consisted solely of:
   (a) a failure or refusal by the officers or members to attend for work; or
   (b) if the officers or members attended work—a failure or refusal to perform any work 
at all while attending for work.

Schedule 2, item 4, page 17 (line 22) to page 18 (line 7), omit sections 28D and 28E, substitute:

28D Ground—serious offence committed by organisation
For the purposes of an application under section 28, a ground exists in relation to an organisation if:

(a) both:

(i) the organisation is found, in criminal proceedings against the organisation in the last 3 years, to have committed an offence against a law of the Commonwealth or a State or Territory;
(ii) the offence is punishable on conviction by a penalty for a body corporate of (or equivalent to) at least 1,500 penalty units; or

(b) 3 or more designated findings have been made in the last 3 years against a substantial number of the members of the organisation or of a section or class of members of the organisation.

Schedule 2, item 4, page 18 (line 9), omit “or 28A”.
Schedule 2, item 4, page 18 (line 23), omit “or 28A”.

Schedule 2, item 4, page 19 (after line 10), after subsection 28G(2), insert:

(2A) However, subsection (2) does not cover industrial action if the action organised or engaged in by the organisation, or the members mentioned in paragraph (1)(b), consisted solely of a failure or refusal by employees to attend for work or a failure or refusal to perform any work at all by employees who attend for work.

Schedule 2, item 4, page 20 (lines 7 and 8), omit paragraph 28J(1)(a), substitute:

(a) the Court finds:

(i) that a ground set out in the application is established; and
(ii) the conduct establishing the ground is part of serious and systemic pattern of conduct; and

Schedule 2, item 4, page 20 (lines 20 and 21), omit “The Court may do this whether or not an application for any of those orders has been made under section 28A.”.

Schedule 2, item 4, page 21 (lines 5 to 12), omit subsection 28L(1), substitute:

(1) The Federal Court may make orders under this Division if:

(a) the Court finds that a ground set out in an application under section 28 in relation to an organisation is established; and

(b) the organisation satisfies the Court that it would be unjust to cancel the registration of the organisation.

Schedule 2, item 4, page 23 (line 30), omit “or 28A (or both)”.
Schedule 2, item 4, page 24 (line 3), omit “or 28A”.
Schedule 2, item 10, page 25 (line 3), omit “or 28A”.
Schedule 2, item 11, page 25 (line 6), omit “or 28A”.
Schedule 2, item 11, page 25 (lines 13 and 14), omit paragraph (1)(c).

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

**AYES, 33**

Senators—

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**NOES, 35**

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*Tellers*

Question negatived.

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

The committee divided—

**AYES, 34**

Senators—

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*Tellers*

The ayes and noes were equal and so the question was negatived.
The President resumed the chair and the Chair of Committees (Senator Lines) reported that the committee had considered the bill and agreed to amendments, but had negatived the question that the bill, as amended, be agreed to.

12 Privileges—Standing Committee—178th report
Pursuant to order, the Chair of the Standing Committee of Privileges (Senator O’Neill) tabled the following report and documents:

Privileges—Standing Committee—178th report—Foreign Influence Transparency – a scheme for Parliament, Hansard record of proceedings, additional information and submissions.

Senator O’Neill moved—That the Senate take note of the report.

Question put and passed.

13 Rural and Regional Affairs and Transport Legislation Committee—Report—Agricultural and Veterinary Chemicals Legislation Amendment (Australian Pesticides and Veterinary Medicines Authority Board and Other Improvements) Bill 2019
Pursuant to order, Senator Dean Smith, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator McDonald), tabled the following report and documents:


General business was called on.

14 Northern Australia agenda
Senator Watt moved general business notice of motion no. 303—That the Senate—

(a) notes that:

(i) the Federal Government’s Northern Australia White Paper was released more than four years ago,

(ii) there have been three Prime Ministers and two Ministers for Northern Australia in that time period,

(iii) the Northern Australia Infrastructure Facility (NAIF), announced in the 2015-16 Budget, as part of the White Paper, was described by the then Treasurer, Mr Hockey, as the ‘first major step in our plan for our great North’,

(iv) over four years, the NAIF has only released $44 million — less than 1% of its $5 billion budget,

(v) the NAIF has been the subject of four reviews, including another one just announced by the Minister for Resources and Northern Australia (the Minister),
(vi) the NAIF has recently announced the collapse of one loan awarded to a project in the Pilbara,

(vii) the NAIF has also been forced to delay its largest loan to date, a $610 million loan to the Genex Kidston hydro pumped power station in North Queensland,

(viii) the Minister will not reveal how jobs have been created in Northern Australia as a result of projects that have received loans from the NAIF, and

(ix) more than $400,000 in bonuses have been paid to senior executives at the NAIF, in the last year alone; and

(b) calls on the Minister for Resources and Northern Australia to fix the failures of his Northern Australia agenda, and start delivering real jobs in the North.

Debate ensued.

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

15 Documents—Orders of the day—Consideration

The following orders of the day relating to documents were considered:

Clean Energy Regulator—2018 Annual Statement to the Parliament on the progress towards the 2020 Large-scale Renewable Energy Target. Motion of Senator Urquhart to take note of document agreed to.


Grandparent carers—Resolution of 18 September 2019—Letter to the President of the Senate from the Victorian Minister for Disability, Ageing and Carers (Mr Donnellan). Motion of Senator Siewert to take note of document called on. Debate adjourned till Thursday at general business.

Status of government responses in the Senate to parliamentary committee reports as at 30 September 2019. Motion of Senator Urquhart to take note of document called on. Debate adjourned till Thursday at general business.


The remaining orders of the day relating to documents were called on but no motion was moved.

16 Committee reports and government responses—Orders of the day—Consideration

The following orders of the day relating to committee reports and government responses were considered:

Economics References Committee—Regional inequality in Australia—Report. Motion of Senator Urquhart to take note of report agreed to.

Education and Employment References Committee—Report—The appropriateness and effectiveness of the objectives, design, implementation and evaluation of jobactive—Additional information. Motion of Senator Urquhart to take note of document agreed to.

Rural and Regional Affairs and Transport References Committee—Feasibility of a National Horse Traceability Register for all horses—Report. Motion of Senator Faruqi to take note of report called on. Debate adjourned till the next day of sitting.

Economics References Committee—Report—Governance and operation of the Northern Australia Infrastructure Facility (NAIF)—Government response. Motion of Senator Urquhart to take note of document agreed to.

Education and Employment References Committee—Report—Vocational education and training in South Australia—Government response. Motion of Senator Urquhart to take note of document agreed to.

Order of the day no. 6 relating to committee reports and government responses was called on but no motion was moved.

17 Auditor-General’s reports—Orders of the day—Consideration

The following order of the day relating to reports of the Auditor-General was considered:

Auditor-General—Audit report no. 12 of 2019-20—Performance audit—Award of funding under the Regional Jobs and Investment Packages: Department of Infrastructure, Transport, Cities and Regional Development; Department of Industry, Innovation and Science. Motion of Senator Urquhart to take note of document agreed to.

18 Committee membership

The Acting Deputy President (Senator Brockman) informed the Senate that the President had received a letter requesting changes in the membership of committees.
The Assistant Minister for Superannuation, Financial Services and Financial Technology (Senator Hume), by leave, moved—That:

(a) Senator Molan be appointed as a participating member of all legislation and references committees; and

(b) senators be discharged from and appointed to committees as follows:

**Autism—Select Committee**—

Appointed—

Senators Hughes and Molan

Participating members: Senators Abetz, Antic, Askew, Bragg, Brockman, Chandler, Fawcett, Fierravanti-Wells, Henderson, McGrath, O’Sullivan, Paterson, Rennick, Scarr, Dean Smith, Stoker and Van

**Foreign Affairs, Defence and Trade—Joint Standing Committee**—

Appointed—Senator Molan

**Rural and Regional Affairs References Committee**—

Appointed—

Substitute member: Senator Green to replace Senator Watt for the committee’s inquiry into water quality outcomes in the Great Barrier Reef.

Participating member: Senator Watt

Question put and passed.

19 **Adjournment**

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

Debate ensued.

Document: Senator Siewert, by leave, tabled the following document:

The Family Matters report 2019: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia.

Debate continued.

The Senate adjourned at 6.24 pm till Monday, 2 December 2019 at 10 am.

20 **Attendance**

Present, all senators.

RICHARD PYE
Clerk of the Senate