



Department of the Senate

## Senate Scrutiny of Bills Committee

# NEWS

**23 March 2015** (drawing on material in the committee's *Alert Digest No. 3 of 2015* and *Third Report of 2015*)

### Introduction

This newsletter highlights key aspects of the Senate Scrutiny of Bills Committee's work, with a particular focus on information that may be useful when bills are debated and to raise awareness about scrutiny principles (see Senate Standing Order 24).

For more detail and discussion of these matters and comments on additional bills look to the committee's [Alert Digests](#) and [Reports](#). An index to all committee comments is available [here](#).

### Key scrutiny issues

- **Seafarers Rehabilitation and Compensation and Other Legislation Amendment Bill 2015** ([Alert Digest No. 3 of 2015](#))
  - ❖ Retrospective application: this bill responds to a decision of the Full Court of the Federal Court relating to the 'Seacare scheme'. Prior to the decision it was thought that ships engaged in purely intrastate trade were not covered by the 'Seacare scheme' and were instead covered by the relevant workers' compensation and work health and safety legislation of the State in which they work. The bill proposes to reinstate this understanding with retrospective effect. The committee noted that the statement of compatibility provided a detailed explanation of the rationale for the proposed retrospectivity. The committee therefore left the question of whether retrospectivity in these circumstances is appropriate to the Senate as a whole.
- **Tribunals Amalgamation Bill 2014** ([Third Report of 2015](#))
  - ❖ Merits review—termination of appointment of AAT member: the committee sought advice from the Attorney-General in relation to proposed changes to the termination provisions for members of the AAT. While the Attorney-General noted, among other things, that similar [less stringent] termination provisions apply in relation to some key statutory offices, such as the Commonwealth Director of Public Prosecutions and the Inspector-General of Intelligence and Security, the committee noted that the termination provisions applying to other independent office holders (such as the Auditor-General, the Commonwealth Ombudsman and the Parliamentary Budget Officer) align with those *currently* applying to AAT members.

The committee noted that termination provisions are an important part of the suite of statutory and other techniques to maintain tribunal independence (and that independence is of particular relevance where the function of a decision-maker is to adjudicate disputes between citizens and government).

Under the proposed changes the termination provisions for AAT members will be less stringent than those for some independent office-holders. The committee therefore drew these matters to the attention of Senators and left the question of whether the proposed approach to the termination of members of the AAT is appropriate to the Senate as a whole.
  - ❖ Merits review—second reviews of social security matters: the committee sought advice from the Attorney-General in relation to proposed changes which would enable a second review of social security matters to be conducted on the papers without the consent of the parties. The Attorney-General stated the view, among other things, that a range of legislative safeguards would ensure the use of the power to determine second reviews on the papers without party consent would

be limited to circumstances where it is appropriate (for example, the Attorney-General noted that parties must be afforded procedural fairness). Nonetheless, the committee noted that it seems that the rights of appellants will be diminished by the proposal to allow the determination of second reviews on the papers without party consent. The committee drew this to the attention of Senators and left the question of whether the proposed approach is appropriate to the consideration of the Senate as a whole.

## **Other bills for which advice is being sought from the Minister or proposer**

[\(Alert Digest No. 3 of 2015\)](#)

The Senate Scrutiny of Bills Committee is also seeking advice from the relevant Minister or proposer in relation to provisions of other bills (responses will be considered and tabled in the committee's future *Reports*), including:

- **Australian Border Force Bill 2015;**
- **Australian River Co. Limited Bill 2015;**
- **Defence Trade Controls Amendment Bill 2015;**
- **Imported Food Warning Labels Bill 2015;**
- **Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015; and**
- **Migration Amendment (Strengthening Biometrics Integrity) Bill 2015.**

## **Other responses received** [\(Third Report of 2015\)](#)

- **Migration Amendment (Character and General Visa Cancellation) Bill 2014;**
- **Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014; and**
- **Private Health Insurance Amendment Bill (No. 2) 2014.**

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This document contains a very brief summary of some recent comments made by the Senate Scrutiny of Bills Committee (Chair: Senator Helen Polley and Deputy Chair: Senator John Williams).

For any comments or questions, please contact:

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