

Appendix 4

Answer to Senator Murray's question regarding retrospectivity

As requested by the Committee, attached is a table setting out Bills that have been commented upon by the Senate Scrutiny of Bills in relation to retrospectivity.

As requested by Senator Murray, the list does not contain any Bills that:

- are purely remedial, in that they fix mistakes or technicalities in earlier Bills;
- are beneficial in their effect; and
- deal with taxation laws.

These categories are essentially the same as those categories where the Committee will not be critical of retrospective legislation, being where:

- apart from the Commonwealth itself they are for the benefit of those they affect
- they do no more than effect a “technical amendment” or correct a “drafting error”
- they implement a tariff measure in respect of which the relevant minister has published a date from which the measure is to apply.

Given the short timeframe in which the document has been prepared, we have relied upon the observations made in the Alerts Digest to make an assessment as to whether the Bill falls into the relevant category. We have not included any Bills where the Committee has simply noted that the Explanatory Memorandum is silent on whether or not there would be an adverse effect from the legislation being retrospective but have instead only included those where the Committee clearly considers that the legislation will have an adverse effect.

As requested by the Committee, also attached is the Department's response to the request relating to volume 23 of the Final Report of the Royal Commission into the Building and Construction Industry.

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Senate Employment, Workplace Relations and Education Legislation Committee Inquiry into the Building and Construction Industry Improvement Bill 2005 and Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005

Bills commented on by the Senate Standing Committee for the Scrutiny of Bills in Alert Digests since May 1993 which sought to have retrospective impact, with the exclusions as requested by Senator Murray.

Bill	Alert Digest
<u>37th Parliament</u>	
Employment Services Bill 1994	12/94
Health Legislation (Professional Services Review) Amendment Bill 1993	06/93
Migration Legislation Amendment Bill (No.2) 1994	10/94
Migration Legislation Amendment Bill (No.3) 1994	15/94, 1/95
Migration Legislation Amendment Bill (No.4) 1994	15/94
Superannuation Industry (Supervision) Bill 1993	03/93
<u>38th Parliament</u>	
Bankruptcy Legislation Amendment Bill 1996	5/96
Excise Tariff Amendment Bill (No.1) 1997	4/97
Health Insurance Amendment Bill (No.2) 1996	10/96
Industrial Relations Legislation Amendment Bill 1996	1/97
Workplace Relations and Other Legislation Amendment Bill 1996	2/96
<u>39th Parliament</u>	
Migration Amendment (Excision from Migration Zone) Bill 2001	13/01
Migration Legislation Amendment Bill (No.2) 1998	1/99
Proceeds of Crime Bill 2001	14/01

Bill	Alert Digest
<u>40th Parliament</u>	
Border Protection (Validation and Enforcement Powers) Bill 2003	13/01
Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002	1/02
Criminal Code Amendment (Hizballah) Bill 2003	6/03
Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003	9/04
<u>41st Parliament</u>	
Australian Sports Commission Amendment Bill 2004	1/05
National Security Information (Criminal Proceedings) Amendment (Application) Bill 2005	2/05
Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005	3/05

