

15 February 2017 (drawing on material in the committee's *Scrutiny Digest No. 2 of 2017*)

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 *Scrutiny Digests*. An index to all committee comments is available [here](#).

Key scrutiny issues ([Scrutiny Digest No. 2 of 2017](#))

❖ Appropriation Bill (No. 3) 2016-2017

- ❖ Parliamentary scrutiny of appropriations: This bill is intended to only appropriate money for the ordinary annual services of the government and is therefore not amendable by the Senate, however it appears that appropriations for new policies have been included in the bill. This undermines the Senate's constitutional right to amend these appropriations. The committee draws this issue to the attention of Senators.

❖ Appropriation Bill (No. 4) 2016-2017

- ❖ Parliamentary scrutiny of section 96 grants to the States: This bill delegates to the executive the Parliament's power under section 96 of the Constitution to determine terms and conditions on grants to the States. The committee considers that further information about these grants should be made available to the Parliament and is seeking the Minister's advice.

❖ Independent Parliamentary Expenses Authority Bill 2017

- ❖ Parliamentary scrutiny: A provision of the bill provides that certain information must not be included in public reports of the Authority if the Authority or Attorney-General is of the opinion that the information might prejudice national security or result in serious harm to an individual. Importantly, from a scrutiny perspective, where such information is not able to be included in a public report it will also not be able to be provided to the Parliament. The committee is seeking the Minister's advice.

❖ Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017

- ❖ Retrospective application: The committee is seeking advice as to why a number of provisions commence or apply retrospectively.
- ❖ Delegation of legislative power: The committee leaves to the Senate the appropriateness of two clauses that allow delegated legislation to amend primary legislation (Henry VIII clauses).
- ❖ Criminal offence provisions: The committee leaves to the Senate the appropriateness of provisions which impose strict liability with penalties over 60 penalty units and is seeking the Minister's advice regarding a provision that reverses the evidential burden of proof.

Other bills commented on ([Scrutiny Digest No. 2 of 2017](#))

- **Criminal Code Amendment (Prohibition of Full Face Coverings in Public Places) Bill 2017:** The committee is seeking advice regarding significant matters proposed to be included in delegated legislation and the reversal of the evidential burden of proof.
- **Parliamentary Entitlements Legislation Amendment Bill 2017:** The committee leaves to the Senate as a whole the appropriateness of the retrospective application of changes to the Life Gold Pass scheme.
- **Treasury Laws Amendment (Combating Multinational Tax Avoidance) Bill 2017:** The committee is seeking an explanation as to why merits review before the Administrative Appeals Tribunal is being excluded for assessments relating to diverted profits tax and why certain amendments are to apply retrospectively.
- **Seafarers and Other Legislation Amendment Bill 2016:** The Minister provided advice on a number of matters and the committee leaves to the Senate the appropriateness of granting an unconstrained power to exempt vessels from the operation of the federal legislative framework and to exclude merits review in certain instances.
- **Seafarers Safety and Compensation Levies Collection Bill 2016:** The Minister provided advice in relation to the abrogation of the privilege against self-incrimination and the reversal of the evidential burden of proof.

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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