



25 July 2019

Introduction

This newsletter highlights key aspects of the work of the Senate Scrutiny of Bills Committee and the Senate Regulations and Ordinances Committee. It has a particular focus on information that may be useful while bills are under consideration and legislative instruments are subject to disallowance, and seeks to raise awareness about the committees' scrutiny principles (see Senate Standing Orders 23 and 24).

For more detail and discussion of these matters see the Scrutiny of Bills Committee's [Scrutiny Digests](#), and the Regulations and Ordinances Committee's [Delegated Legislation Monitors](#) and [committee correspondence](#).

Key scrutiny issues: Bills (*Scrutiny Digest 3 of 2019*)

Counter-Terrorism (Temporary Exclusion Orders) Bill 2019

- Trespass on personal rights and liberties: the committee is seeking advice regarding the inclusion of broad discretionary ministerial powers to exclude Australian citizens from Australia and impose monitoring conditions on persons not convicted of any offence.
- Exclusion of judicial review: the committee is seeking advice regarding the exclusion of judicial review under the *Administrative Decisions (Judicial Review) Act 1977* in relation to decisions made under the bill.
- Procedural fairness: the committee is seeking advice regarding the removal of the obligation of the minister to observe procedural fairness.

Australian Security Intelligence Organisation Amendment (Sunsetting of Special Powers Relating to Terrorism Offences) Bill 2019

- Trespass on rights and liberties: the committee is seeking advice regarding the appropriateness of extending the sunsetting date for ASIO's special powers relating to terrorism by a further 12 months.

Legislative instruments: new developments

The Regulations and Ordinances Committee tabled the [report](#) of its [inquiry](#) into parliamentary scrutiny of delegated legislation on 3 June 2019.

Pursuant to the inquiry, the committee resolved to make a number of changes to its work practices and the manner in which it reports to the Senate. In particular, the committee resolved that it would attempt to resolve scrutiny concerns by direct correspondence with ministers and agencies. Ministerial correspondence will be published on the committee's

[website](#). The *Delegated Legislation Monitor* will now focus on unresolved scrutiny concerns which the committee considers should be drawn to the attention of the Senate. Further information about these changes is contained in the inquiry [report](#).

Other bills commented on (*Scrutiny Digest 3 of 2019*)

- **Australian Institute of Health and Welfare Amendment (Assisted Reproductive Treatment Statistics) Bill 2019**: the committee is seeking advice regarding the inclusion of offences of strict liability.
- **Criminal Code Amendment (Agricultural Protection) Bill 2019**: the committee is seeking advice regarding a number of offences that reverse the evidential burden of proof.
- **Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019**: the committee is seeking advice regarding the inclusion of offences of strict liability.
- **Migration Amendment (Repairing Medical Transfers) Bill 2019**: the committee is seeking advice regarding whether the exclusion of subsection 7(2) of the *Acts Interpretation Act 1901* will trespass on any person's rights and liberties.
- **Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019**: the committee is seeking advice regarding the inclusion of offences of strict liability.

Legislative instruments considered (*Delegated Legislation Monitor 3 of 2019*)

- The Regulations and Ordinances committee considered 409 disallowable legislative instruments registered on the Federal Register of Legislation between 1 March 2019 and 21 May 2019. The committee is continuing to engage with ministers and agencies in relation to 56 instruments, and has concluded its consideration of 53 instruments.
- All legislative instruments subject to a notice of motion for disallowance in either House of Parliament are listed in the [Disallowance Alert](#).

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 Dean Smith) and the Senate Regulations and Ordinances Committee (Chair: Senator the Hon Concetta Fierravanti-Wells and Deputy Chair: Senator the Hon Kim Carr).

For any comments or questions, please contact:

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