



## Consideration of Estimates by the Senate's Legislation Committees

Twice each year estimates of proposed annual expenditure of government departments and authorities are referred by the Senate to eight legislation committees for examination and report. These estimates are contained in the main appropriation bills introduced into Parliament as part of the budget (usually in May) and in the additional appropriation bills introduced later in the financial year (usually in February).

Senate legislation committees examine the estimates for public service departments and other Commonwealth agencies. Government portfolios allocated to the eight legislation committees are:

Legislative and general purpose standing committees	Departments and agencies
Community Affairs	Families, Housing, Community Services and Indigenous Affairs; Health and Ageing; Human Services
Economics	Industry and Innovation; Resources, Energy and Tourism; Tertiary Education, Skills, Science and Research; Treasury
Education, Employment, and Workplace Relations	Education; Employment and Workplace Relations
Environment and Communications	Broadband, Communications and the Digital Economy; Climate Change and Energy Efficiency; Sustainability, Environment, Water, Population and Communities
Finance and Public Administration	Finance and Deregulation; Parliament; Prime Minister and Cabinet
Foreign Affairs, Defence and Trade	Defence, including Veterans' Affairs; Foreign Affairs and Trade
Legal and Constitutional Affairs	Attorney-General; Immigration and Citizenship
Rural and Regional Affairs and Transport	Agriculture, Fisheries and Forestry; Infrastructure and Transport; Regional Australia, Regional Development and Local Government, including the Arts and Sport

### Background

Until 1969 the Senate examined the biannual appropriation bills in what is known as the 'committee of the whole', a procedure used by the Senate when it wishes to consider a bill in detail.

This was a cumbersome and time-consuming procedure in which senators addressed extremely detailed questions about proposed expenditure to the minister in charge of a portfolio or to a minister representing a minister in the House of Representatives. Although it was possible to consult with departmental officials sitting in the

nearby advisers' benches, ministers were frequently unable to provide a satisfactory answer on the spot. In 1970 it was decided to establish dedicated committees to which the estimates could be referred for more detailed and effective scrutiny. From 1994 the estimates committees ceased to exist as separate entities and their functions were assumed by the same committees that consider legislation and the performance of government agencies, correctly known as legislation committees.

### Establishment and membership

Legislation committees are automatically established under standing order 25 at the beginning of each Parliament and remain in existence for its duration. They consist of six members: three government members, two opposition members, and one member from the minority groups and independent senators.

Where the vote on a question before a committee is equally divided, the chair has a casting vote. Unless otherwise agreed to by the Senate, not more than four committees may hear evidence on estimates at any one time and they may sit only when the Senate has been adjourned or suspended. A quorum may be constituted by a majority of members (four) or by

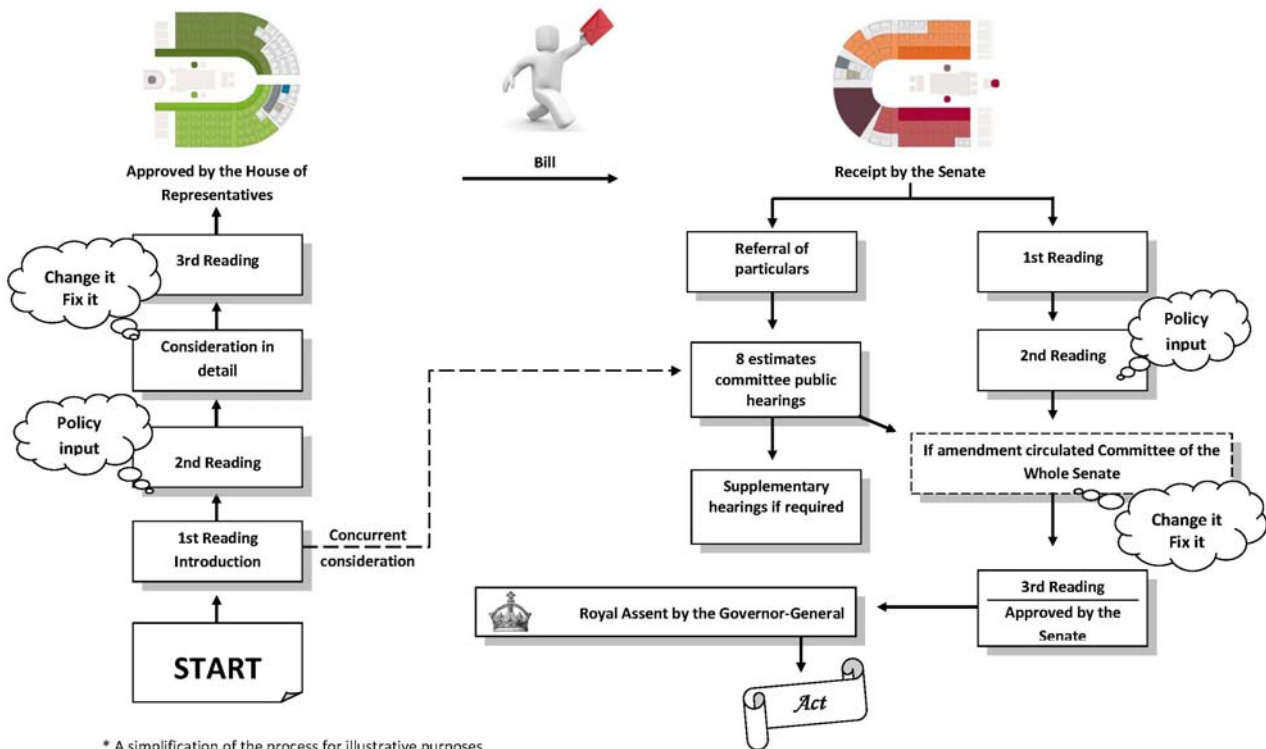
two members where one is a member of the government and the other a member of the opposition.

### The estimates process

After the introduction of the budget in May the appropriation bills are debated in the House of Representatives, usually for a number of weeks, and are thus not available for consideration by the Senate during that time. Rather than defer examination of the estimates until the bills are forwarded by the House, immediately after the budget the Senate refers to the committees documents entitled 'Particulars of Certain Proposed Expenditure' which reproduce the details of proposed expenditure contained in the appropriation bills. By considering these documents, rather than waiting for the appropriation bills themselves, the committees are able to complete much of their work before the bills arrive in the Senate from the House of Representatives. This process is repeated when the additional estimates are introduced into Parliament later in the year.

One of the most significant features of the procedure for examining estimates is the opportunity that senators have to question officers of the public service directly. Standing order 26 (5) provides that the committees 'may ask for

## Passage of the Appropriation Bills and the Senate Estimates Process\*





*Environment and Communications Legislation Committee during estimates hearings in 2011*

explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure'. The majority of questions which committee members ask are answered by officers of the department or agency proposing the items of expenditure under consideration. It is usual, however, for a minister to attend public hearings of the committee to respond to questions about policy matters, which public servants are not required to comment upon. An observer from the Department of Finance and Deregulation also attends each hearing but is not usually called on to give evidence. Committees may seek advice or briefings from the office of the Auditor-General.

Committees considering estimates have no power to take evidence in private (in camera) and all documents officially received as evidence by the committees become public documents accessible to all. The proceedings of public hearings are published in a transcript.

For consideration of the budget estimates in May each committee is usually allocated four days in which to conduct its hearings. A round of supplementary hearings is usually held several sitting weeks after the initial round of budget estimates hearings. Later in the financial year two days or more may be allocated for meetings to consider additional estimates. There are no supplementary hearings after the additional estimates hearings.

At a public hearing officials are questioned directly by members of a committee about the objectives,

operational procedures and efficiency of the programs for which they are responsible. If an official is unable to supply an immediate answer to a question he or she may ask that the question be taken 'on notice', in which case a written answer must be supplied within a specified time and to a standard format. The date for submission of written answers to questions on notice and any additional information is determined by the committee. For the budget estimates this must be at least 10 days before the committee's supplementary hearings commence.

Under standing order 26(9) committees may decide when supplementary hearings are to be held. In practice, the schedule for both the main and supplementary rounds is usually determined by Senate resolution after consultation with party leaders, whips and independent senators.

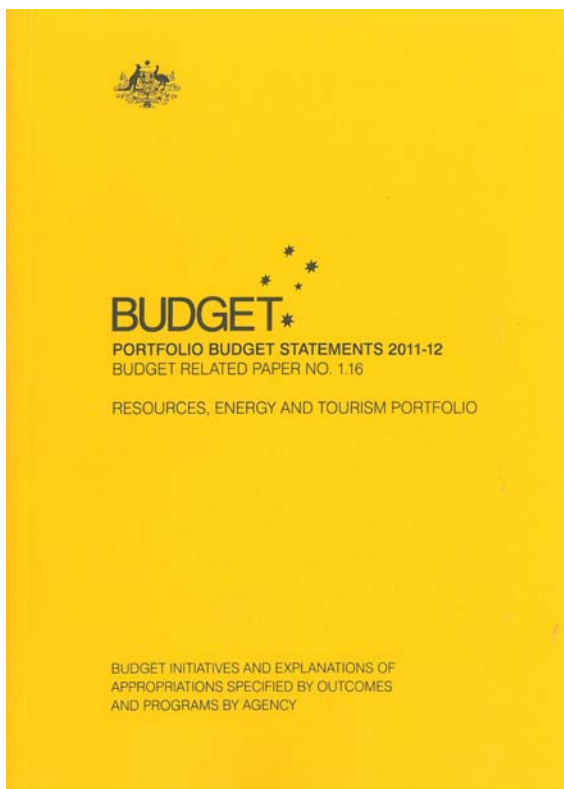
At supplementary hearings, only questions nominated at least three working days prior to the meeting may be asked. Matters must relate to the expenditure proposals, as referred to the committee, or to additional information or written answers supplied after the original meeting. Supplementary meetings have usually concluded business by the time the relevant appropriation bill is considered in the Senate, although this is not required.

Estimates hearings replace committee of the whole consideration of the appropriation bills, except where a senator has circulated an amendment or request for an amendment, in which case debate is confined to the amendment.

## Portfolio Budget Statements, annual reports and other documents

Appropriation bills aggregate proposed expenditure into broad general categories. It is not easy to determine from information presented in this form whether money is being spent effectively and appropriately. Government departments and authorities therefore publish *Portfolio Budget Statements* (PBS) which bring together financial details in such a way that committees can more effectively scrutinise and evaluate particular expenditure.

Other documents which committee members frequently consult in their consideration of estimates include the reports of the Auditor-General and the corporate plans and annual reports of the departments and statutory authorities under consideration. Annual reports are automatically referred to the appropriate committees for examination and report, and can be considered in conjunction with estimates (standing order 25(20)). As the majority of the annual reports are presented to Parliament by 31 October they are considered when committees examine the additional estimates. Annual reports now contain information on how agencies perform against planned outcomes using the performance measures set out in the PBS. The additional estimates hearings thus provide committees with the opportunity to better compare and evaluate government department and agency reports of their performance in the preceding year.



## Reporting to the Senate

After a committee has completed its initial hearings it presents to the Senate a report highlighting any items of particular concern. A member or a participating member may attach to the report a minority or dissenting report making relevant conclusions and recommendations. Committees may also make recommendations to the Senate on matters arising from supplementary meetings, subsequent to presentation of the estimates report. Written answers to questions which have been taken 'on notice' are collated and tabled in separate volumes. Committees also post the answers to questions 'on notice' on their websites soon after the answers have been circulated to the inquiring senator.

## Powers of committees and the rights and obligations of witnesses

The standing orders of the Senate empower committees to summon witnesses and require the production of documents, to move from place to place, to appoint sub-committees and to continue to operate after the Parliament has been prorogued and the House of Representatives dissolved. As already noted, when considering estimates they have the power to take evidence in public session only.

The committees may examine not only the estimates of the central departments of government but also those of statutory authorities and other agencies funded through the appropriation bills. The Senate has on several occasions resolved that there are no areas of expenditure of public funds by statutory authorities which are not open to scrutiny. If a body receives no funding through the appropriation bills it is generally regarded as not subject to examination in estimates hearings. Some questioning may be permitted of bodies which impose a burden on the appropriation bills while not being directly funded by them, or which otherwise have an effect on the budget.

Parliamentary committees have the same immunities as Parliament itself. This means that those who appear before the committees are provided with several important rights and protections so that they may give evidence freely and honestly without fear of recrimination. In particular, they may not be sued, prosecuted or otherwise harmed for the evidence they give. Public servants appearing in their official capacity before committees have the same rights and duties as other witnesses but are also subject to a set of special guidelines. Public servants are expected and encouraged to provide full and accurate information to the committees about the factual and



*Tony Negus, Australian Federal Police Commissioner, and Senator the Hon. Joe Ludwig appear before the Legal and Constitutional Affairs Legislation Committee in 2011*

technical background to proposed items of expenditure but are not expected to comment on policy—the advocacy and defence of government policies is properly the role of ministers. Public servants are expected to be politically neutral and while they may describe policies and explain their administration they are not required to express an opinion on them. For a fuller description of the rights and responsibilities of witnesses during Senate estimates and other committee hearings see Senate Brief No. 13.

On 13 May 2009 the Senate passed an order setting out the process to be followed by public sector witnesses who believe that they have grounds for withholding information from Senate committees. In essence, the order requires that witnesses state recognised public interest grounds for withholding information and, at the request of a committee or any senator, refer the matter to the responsible minister, who is also required to state recognised public interest grounds for any claim to withhold the information. The order does not change the existing procedures of the Senate, but consolidates the formerly established, but not always followed, process, for the guidance of public sector witnesses in the future.

### **The role and achievements of Senate committees in the consideration of estimates**

The original reason for the referral of estimates to committees was to provide the Senate with the basis for informed debate when the appropriation bills were considered in the committee of the whole. The consideration of estimates by committees proved so effective that by the mid-1990s this procedure had virtually replaced the committee of the whole stage of the budget process.

The committees now perform two other important functions. First, they provide individual senators, especially non-government senators, with an unparalleled opportunity to gather information on the operations of government. While senators may seek information from the government at question time in the Senate chamber they can ask their questions only of the minister concerned and are not able to question the relevant officials directly and extensively as they can at a committee hearing.

---

Second, the committees play a key role in the parliamentary scrutiny of the performance of the executive branch of government. In our system of government, ministers and public servants are accountable to the Parliament for the use of the public resources with which they have been entrusted. It is through the twice-yearly consideration of estimates by Senate committees that accountability is most directly manifested. And this is because accountability is as much about explanation as it is about information. The provision of facts and figures is a necessary but not sufficient condition of accountability. What is needed to complete the picture is for the relevant officials to explain, not only the details of the 'what' and the 'how' but also the 'why' of departmental administration.

Senators' dissection of the financial and performance information provided during the Senate estimates process can therefore be a catalyst to improved management and administration practice in the public sector; it is always a reminder to government of its obligation to be more accountable to Parliament, and to the Australian people, for its policy decisions. The Senate estimates process is thus a tool highly valued by senators, especially non-government senators, and has even been described as the 'best accountability mechanism of any Australian parliament' by the Hon. Senator John Faulkner.



*Environment and Communications Legislation Committee member, Senator Simon Birmingham during the Budget estimates hearings in 2011*

---

## Further reading:

Harry Evans (ed.), *Odgers' Australian Senate Practice*, 12th edn, Department of the Senate, Canberra, 2008. Available on the Internet at <http://www.apf.gov.au/Senate/pubs/odgers/contents.htm>

*The Commonwealth Budget: Process and Presentation* (April 2003), *Research Paper* No. 6, 2002–03, Information and Research Services, Department of the Parliamentary Library. Available on the Internet at <http://www.apf.gov.au/library/pubs/rp/2002-03/03rp06.pdf>

Standing order 26, *Standing Orders and Other Orders of the Senate*, Department of the Senate, Canberra, June 2009. Available on the Internet at [http://www.apf.gov.au/Senate/pubs/standing\\_orders](http://www.apf.gov.au/Senate/pubs/standing_orders)

### Senate Briefs

- 1 *Electing Australia's Senators*
- 2 *The Opening of Parliament*
- 3 *Women in the Senate*
- 4 *Senate Committees*
- 5 *Consideration of Estimates by Senate Committees*
- 6 *The President of the Senate*
- 7 *Disagreement Between the Houses*
- 8 *The Senate and Legislation*
- 9 *Origins of the Senate*
- 10 *Role of the Senate*
- 11 *Parliamentary Privilege*
- 12 *Questions*
- 13 *Rights and Responsibilities of Witnesses Before Senate Committees*
- 14 *Ministers in the Senate*
- 15 *The Clerk of the Senate and Other Senate Officers*
- 16 *Usher of the Black Rod*

*Senate Briefs* may be obtained by:

Internet address: <http://www.apf.gov.au/Senate/pubs/briefs/index.htm>

Email: [research.sen@apf.gov.au](mailto:research.sen@apf.gov.au)

Post: Research Section, Department of the Senate, Parliament House, Canberra 2600

Phone: (02) 6277 3074

© Commonwealth of Australia