



DEPARTMENT OF THE SENATE

PROCEDURAL INFORMATION BULLETIN

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For the sitting period 16 to 26 March 2015

The final sitting period of the autumn sittings saw a range of legislation dealt with, a condolence motion for a former Prime Minister, the resignation of a territory senator and the appointment of a new senator to the vacancy. The sitting day was extended on 24, 25 and 26 March to accommodate the Government's legislative program, although it was not required on 26 March. Arrangements for Budget week were put in place, including an extra sitting day on Monday 11 May, a measure agreed to only after much procedural disputation. Apart from question time and motions to take note of answers, the additional day will be devoted to three government business orders of the day given precedence by the motion, and the Senate will not adjourn until a motion is moved by a minister.

LEGISLATION

The Business Services Wage Assessment Tool Payment Scheme Bill 2014 and a related bill, negatived in committee of the whole on 24 November 2014, were restored to the Notice Paper on 17 March for recommittal in the form in which they stood immediately before their defeat, against the objection of the Australian Greens. However, the bills were not further considered during the fortnight.

After a lengthy second reading debate, the Higher Education and Research Reform Bill 2014 was negatived on 17 March. The Minister subsequently indicated that the same bill would be reintroduced and presented to the Senate again in June as a potential s. 57 trigger.

The Defence Trade Controls Amendment Bill 2015 was agreed to without amendment on 18 March, the same day on which the Foreign Affairs, Defence and Trade Legislation Committee tabled its third progress report on the implementation of the *Defence Trade Controls Act 2012*. The bill was a response to issues raised by the committee's monitoring of the legislation and the delayed commencement of relevant offence provisions (see [Bulletin No. 268](#)). This exemplifies the significant contribution made by Senate committees to the improvement of legislation.

A private senator's bill, the Defence Amendment (Fair Pay for Members of the ADF) Bill 2014, introduced by Senator Lambie, was passed by the Senate on 19 March during the time for consideration of orders of the day relating to private senators' bills. The bill provides for different indexation arrangements for ADF remuneration but does not raise any issues under s. 53 of the Constitution because such remuneration is funded from annual, not standing, appropriations.

The additional appropriation bills were passed on 17 March. Amendments were circulated to Appropriation Bill (No. 4) 2014-2015 which was therefore considered in committee of the whole while the other bills in the package were effectively "parked". Standing order 115 makes special arrangements for consideration of appropriation bills in committee of the whole which can occur only if amendments or requests for amendments have been circulated and which is confined to the purpose of the amendments or requests.

The Succession to the Crown Bill 2015 passed as non-controversial legislation on 19 March after some enthusiastic debate. The bill applies changes to the law of succession in the United Kingdom, agreed by

the Commonwealth Heads of Government Meeting in Perth in 2011, to the law of succession in the Commonwealth. Mirror legislation is also required in each State to allow succession to the Crown to be determined by order of birth alone, with gender no longer relevant.

An extended committee stage occurred on the Migration Amendment (Protection and Other Measures) Bill 2014 which passed on 25 March with an Opposition amendment to omit a schedule, not opposed by the Government. The amendment was agreed to by the House of Representatives. The Government and Opposition also combined to pass the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015 after numerous amendments moved by the Australian Greens, Senator Leyonhjelm and Senator Xenophon were negatived. This bill was the main reason for extended hours during the fortnight. A second reading amendment, proposed by Senator Ludlam, would, if supported, have deferred consideration of the bill till information about costs associated with the measures in the bill, to be borne by major telecommunications companies, was produced but it failed to attract the necessary support. Senator Ludlam also attempted unsuccessfully to have the bill referred to the Legal and Constitutional Affairs Legislation Committee by way of an amendment to the motion for the adoption of the 3rd report of 2015 of the Selection of Bills Committee on 19 March. The bill passed on 26 March without amendment.

DISALLOWANCE

On 18 March an instrument made under Civil Aviation Safety Regulations was disallowed on the motion of Senator Xenophon.

ORDERS FOR PRODUCTION OF DOCUMENTS

An order for the annual report on the operation of the *Telecommunications (Interception and Access) Act 1979* to be tabled by the Attorney-General was agreed to on 17 March. The Attorney-General responded on 19 March (response tabled on 23 March) that he was unable to comply with the order as the report had not yet been presented to him, but that he would table it in accordance with the statutory timeframe.

An order for production of ministerial correspondence relating to the Automotive Transformation Scheme, agreed to on 17 March, was met with a response the same day from the Minister for Finance declining to produce the correspondence because it was marked "Protected" for reasons of Cabinet confidentiality, as it related to Cabinet-level deliberations. The minister made a public interest immunity claim on the "long established ground that disclosure of the substance of Cabinet deliberations would give rise to harm to the public interest". A motion rejecting the marking of documents in this way as an appropriate basis for a claim of public interest immunity, and re-ordering the tabling of the correspondence by 12 May, was proposed by Opposition and cross-bench senators and agreed to on 26 March.

Documents relating to the WestConnex motorway project in NSW not previously provided to the Senate were re-ordered to be produced on 18 March by a deadline of 25 March. On that date, the responsible minister indicated that the documents would not be provided and several public interest grounds were advanced and supported by some analysis. The main ground advanced was the potential damage to Commonwealth-State relations in respect of the Government's receipt of information in confidence from the NSW Government, including information produced for the purpose of its submission to the NSW Cabinet. Commercial confidentiality and potential compromising of effective procurement processes were also cited.

PROCEDURE COMMITTEE

The Procedure Committee presented its *First report of 2015* on 24 March, recommending changes to standing order 19 to strengthen the role of the Appropriations and Staffing Committee in overseeing security measures affecting the Senate and senators. The changes, which were adopted on 25 March, add the Deputy President to the *ex officio* members of the committee and rename it as the Appropriations, Staffing and Security Committee. Changes proposed to the committee reflected changes proposed to the terms of reference of the Security Management Board by the Parliamentary Service Amendment Bill 2014, which passed on 26 March. However, notwithstanding the changes, proposed security upgrade works in the Parliamentary Precinct were referred to the Finance and Public Administration Legislation Committee, given that committee's current inquiry into the Department of Parliamentary Services. (Although referring them to a committee, the Senate nonetheless authorised the works to proceed.)

The committee also reported on other matters it had been considering, recommending no changes to current practices for the suspension of senators or to the framing of matters raised under standing order 75. The committee will continue to monitor changes made in June 2014 to the rules governing estimates hearings, and to consider issues raised by cross-bench senators regarding the order of the call.

COMMITTEE REFERENCES AND NEW SELECT COMMITTEE

While committees were able to report on some substantive references during the period, as well as on additional estimates and annual reports, extensions were sought for other inquiries and the flow of significant inquiries to references committees continued unabated. Moreover, a new select committee was established on the recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru. The Scrutiny of Bills Committee tabled the first of what it proposes to be annual reports on the work of the committee on 25 March. In tabling the report, the committee chair referred to the impact of various changes to standing orders arising from the committee's inquiry into its future role and direction in 2012.

SELECT COMMITTEE ON CERTAIN ASPECTS OF QUEENSLAND GOVERNMENT ADMINISTRATION

An interesting question arose when Senator Lazarus, on 16 March, announced his resignation as a member of the Palmer United Party and therefore as its Senate leader. The resolution of appointment of the select committee nominated the Leader of the Palmer United Party in the Senate as, *ex officio*, the chair of the committee. With the office no longer in existence, the committee was without a chair although Senator Lazarus remained a member because he had been appointed to the committee in accordance with the original resolution of appointment. The Senate amended the resolution on 19 March in relation to the membership formula and to provide for the chair to be a member of the committee nominated by any minority party or independent Senator. Senator Lazarus was subsequently re-elected to the chair. The committee is due to report on 27 March. A proposal under the new streamlined procedures, to authorise the committee to meet in private during the sitting of the Senate on 26 March, was put to the vote at Senator Macdonald's request, following what he saw as inadequate notice of the meeting and lack of time to consider the draft report.

DEATH OF FORMER PRIME MINISTER, THE RIGHT HON. MALCOLM FRASER AC CH

After a condolence motion to mark the sudden death of former Prime Minister, the Right Hon. Malcolm Fraser AC CH, the Senate adjourned early on 23 March as a mark of respect, in accordance with usual practice.

CASUAL VACANCIES

Senator for the Australian Capital Territory, Kate Lundy, resigned her place on 24 March after making a valedictory statement. Provisions for the filling of a casual vacancy in the representation of a territory are to be found in the *Commonwealth Electoral Act 1918*. In the case of the ACT, the President notifies the Chief Minister of a vacancy. Following the choice by the ACT Legislative Assembly of a person to fill the vacancy, the Chief Minister certifies the choice to the Governor-General who then advises the President of the Senate. Ms Katy Gallagher was chosen by the Assembly on 25 March and took her seat in the Senate the following day, the required certification having been received by the President. By the end of the week, Senator Mason had also made a valedictory statement, foreshadowing his resignation before the Senate returns in May.

In the meantime, the vacancy in the representation of NSW arising from the resignation of Senator Faulkner in February remains unfilled, despite s. 15 of the Constitution providing an alternate means of filling vacancies if the state parliament is not in session. On 26 March, the Senate agreed to a motion proposed by the Leader of the Opposition in the Senate (Senator Wong), drawing attention to the Senate's often-expressed views on the expeditious filling of casual vacancies and calling on the NSW Government and Parliament to take the necessary action as soon as possible.

RELATED RESOURCES

The [Dynamic Red](#) records proceedings in the Senate as they happen each day.

The [Senate Daily Summary](#) provides more detailed information on Senate proceedings, including progress of legislation, committee reports and other documents tabled and major actions by the Senate.

Like this bulletin, these documents may be reached through the Senate home page at http://www.aph.gov.au/About/Parliament/Senate/Powers_practice_n_procedures.

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