



# DEPARTMENT OF THE SENATE

## PROCEDURAL INFORMATION BULLETIN

No. 308

21 October 2016

*For the sitting period 10 to 13 October 2016  
and Supplementary Budget Estimates hearings 17 to 21 October 2016*

*Sitting period 10 to 13 October*

### LEGISLATION

Bills to establish a national cancer screening register were passed on 13 October after second reading amendments expressing concern about privacy and data breaches associated with the development of the register were agreed to. A bill to lower taxes for some income earners also passed on 12 October.

A private senator's bill to alter the composition and functions of the Parliamentary Joint Committee on Intelligence and Security was debated during the time provided on 13 October but consideration of the bill was adjourned.

A bill introduced by the Attorney-General on 12 October will apply a uniform suite of monitoring and investigation powers, and enforcement provisions for civil penalties, infringement notices, enforceable undertakings and injunctions, contained in the *Regulatory Powers (Standard Provisions) Act 2014*, to a range of Commonwealth regulatory legislation from the *Australian Sports Anti-Doping Authority Act 2006* to the *Tobacco Plain Packaging Act 2011* (Regulatory Powers (Standardisation Reform) Bill 2016). The Regulatory Powers Act as originally proposed would have allowed the adoption of standardised investigation and enforcement powers by regulation, but strong objections by Senate Committees, including the Legal and Constitutional Affairs Legislation Committee and the Scrutiny of Bills Committee, forced a rethink. Such powers may only be adopted after primary legislation has been enacted.

### COMMITTEES

References committees continued to present reports recommending the re-adoption of inquiries that lapsed at the end of the previous Parliament. New inquiries were also generated, making a total of 61 references for the Parliament, including revived matters, bills, select committees and new references.

Legislation committees presented their reports on annual reports on 12 October.

Two new select committees were established, one on red tape, with a cross-bench chair and deputy chair (11 October), and one on the resilience of electricity infrastructure in a warming world, apparently in response to state-wide blackouts following recent storms in South Australia (12 October). The committee will have a Greens chair and Opposition deputy chair.

A ballot between Senator Griff and Senator Hanson was held on 10 October for a place on the NBN Joint Committee. While Senator Griff won the ballot, Senator Hanson was appointed to the committee the following day on the nomination of the government, after the discharge of one of its members.

Yet another ballot was held for a minor party place on a Senate Committee. Senator Ludlam had originally been appointed to the Privileges Committee but he resigned, apparently to allow the position to be contested by Senator Hinch. After a ballot on 13 October, Senator Ludlam returned to the committee of which he has been a member for some years.

## PROCEDURE COMMITTEE

The Procedure Committee presented a report on 12 October recommending changes to the standing orders to facilitate consideration of ministerial statements and to allow senators to briefly care for infants in the chamber at the President's discretion. The recommendations will be considered in the next sitting period.

## ORDERS FOR PRODUCTION OF DOCUMENTS

There were mixed results during the period.

In the last Parliament, there were numerous orders for documents relating to proposed restructuring at CSIRO, matters followed up in detail by the Select Committee into the Scrutiny of Government Budget measures. An order for information about a consultant's review of CSIRO's science prioritisation and implementation process (agreed 10 October) received an immediate response when the duty minister tabled relevant documents. However, the government divided to vote against the motion on the basis that all key information was already publicly available.

An order for the cost-benefit analysis and any correspondence about the proposed relocation of the Australian Pesticides and Veterinary Medicines Authority to Armidale, NSW (agreed 13 September) met with a response explaining that a report by Ernst and Young on the proposed relocation would not be released "[c]onsistent with standard executive government practice, and to maintain the confidentiality of the Cabinet process" while the government was considering the matter. As no public interest immunity claim was made, this may be considered as a holding response pending finalisation of the deliberations. The matter was pursued further in questioning at the Rural and Regional Affairs and Transport Legislation Committee estimates hearings.

Of four pending orders for the production of government responses to committee reports, only one was complied with: the order for a response to the Environment and Communications References Committee's report on stormwater management in Australia (ordered 13 September, tabled 10 October). The government's response to a report of the Rural and Regional Affairs and Transport References Committee on the Australian Grape and Wine Industry (agreed 10 October) was delayed pending finalisation of consultations and any resulting changes to the wine equalisation tax, while the response to a report of the Environment and Communications References Committee on Australia's Video Game Development Industry (agreed 12 October) was also subject to further consultation and consideration. A more detailed explanation of consultations required to finalise the government's response to the report of the Community Affairs References Committee on the availability of cancer drugs in Australia (ordered 13 September) was provided by the responsible minister on 10 October.

An order for documents relating to the World Trade Organization Government procurement Agreement (agreed 10 October) was met with a public interest immunity claim on the ground of damage to Australia's standing as a negotiating partner for current and potential future processes (possibly a variation on the prejudice to international relations ground). Future disclosure to and scrutiny by the Joint Standing Committee on Treaties was foreshadowed. When the order was agreed, the duty minister tabled a copy of correspondence from the responsible minister to the mover of the motion with some explanation of the issue.

Finally, a further order for legal advice received by the Australian Bureau of Statistics in relation to the census (agreed 11 October) was met with a response quoting ministers from both sides of politics espousing the "consistent" practice of governments not to disclose "privileged" legal advice:

Access by Government to such confidential advice is, in practical terms, critical to the development of sound Commonwealth policy and robust law-making.

For another aspect to the issue, see [Bulletin No. 307](#).

## ACCOUNTABILITY – MINISTERIAL STANDARDS

A resolution of 11 October queried a former minister's involvement in an industry body in a sector for which he had ministerial responsibility within the post-retirement window provided by the ministerial standards, and called on ministers to avoid meetings until the quarantine period had expired.

## CASUAL VACANCIES

The resignation of Senator Conroy was reported on 10 October. Another resignation was foreshadowed during the estimates week when news broke of difficulties facing Senator Day's business interests. Senator Day has announced that he will resign to attend to business matters.

## RECORDS OF PARLIAMENTARY COMMISSION OF INQUIRY

The President made a statement on 10 October announcing that the records of the 1986 Parliamentary Commission of Inquiry into allegations concerning the late Justice Murphy would be assessed for publication after the expiry of the 30-year closed access period.

## PHOTOGRAPHY IN THE CHAMBER

Photography in the chambers has always been a matter for the respective Presiding Officers who also have joint responsibility for the rules on media activity in the parliamentary precincts. In 2002, on the motion of Senator Bob Brown, the Senate agreed to an order permitting photographers to take photos at any time but only of the senator with the call. At the time, this was seen as a move to loosen the relatively restrictive practices applied by then Presidents. As times changed, the order turned out to be quite restrictive itself. The Procedure Committee recommended its removal in 2014 but the recommendation did not proceed when some mixed views were encountered. Finally, on the motion of Senator Hinch, the

order was revoked on 13 October. Senator Hinch gave a further notice of motion later that day to bring forward the date of effect of the new press rules. The proposed variation will be dealt with on 7 November.

### *Supplementary Budget Estimates hearings 17 to 21 October*

The double dissolution election affected the timing of the 2016 Budget. As outlined in [Bulletin No. 305](#), the Budget was presented a week early, on 3 May 2016, and there were two days of estimates hearings that week, after supply bills had been passed to provide interim appropriations for the first five months of the financial year.

After the election, fresh appropriation bills were introduced and the particulars of proposed expenditure were referred to legislation committees for a week of what were designated as supplementary budget estimates hearings but which were twice as long as the short budget hearings in May.

Some committees scheduled additional hearings by consent but, on other committees, the minority senators were forced to rely on the orders of the Senate that provide for three members of a legislation committee to require an additional hearing. Whether this occurs on a designated or relevant Friday under order 9A, or on any other day under order 9B, is a question to be determined by the committee but a committee majority cannot validly override a request made by three members under either order.

Several public interest immunity claims were made or taken on notice, including in relation to topics that had been the subject of orders in the Senate (the cost-benefit analysis for the transfer of the APVMA to Armidale, and Perth Freight Link, for example).

Committees expect agency heads to appear as a matter of course. The head of Australia Post again raised eyebrows when it appeared that he might be intending to depart before the committee had heard from him, in order to attend another engagement. It appears that plans were changed and Mr Fahour indicated his delight in being able to assist the committee. An agency head that does not usually appear – apparently in accordance with a one-sided convention that has never been endorsed by senators or the Senate – is the Secretary of the Department of the Prime Minister and Cabinet. The Leader of the Opposition in the Senate, Senator Wong, referred to the practice as a courtesy and warned that it would change if the department's performance in providing timely responses to questions on notice did not improve.

For details of programs and topics covered, see the estimates [daily summaries](#).

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## 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 can be found on the [Senate website](#).

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