



Procedural Information Bulletin

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For the sitting period 11 to 14 November 2019

The Senate and senators

Shortly before this Senate-only sitting week commenced, Senator the Hon. Arthur Sinodinos resigned his place as a senator for New South Wales. On 14 November a joint sitting of the Houses of the New South Wales Parliament chose former Senator Jim Molan to fill the vacancy.

On 14 November the Senate agreed to its calendar of [sitting days and estimates hearings](#) for 2020.

Legislation

The Senate passed 11 government bills during the week. Among these were the annual appropriation bills. The Supply bills passed in the wake of the Budget provided expenditure for approximately the first 5 months of the financial year, as an interim measure to enable the public (and parliamentary) service to continue through the election period and into the first months of the new Parliament. The passage of the appropriation bills secures funding for the remainder of the year.

Two bills were considered under orders limiting the time available for their debate. On 12 November proceedings on the government's '[Big Stick](#)' energy bill, to regulate conduct in the energy market, were completed before the deadline set in an order, agreed to without objection, after question time that day. By contrast, several procedural motions were required on 14 November to impose a time limit for debate on a bill to streamline aspects of the [governance of the NDIS](#). Both bills passed with government amendments.

A private senator's bill intended to implement a mandatory [code of conduct for the dairy industry](#) was narrowly defeated in a vote on its second reading on 11 November.

Disallowance

The Senate debated two disallowance motions during the week, under orders proposed by the government limiting their debate to 30 minutes each. The first proposed to disallow the Migration (Fast Track Applicant Class - Temporary Protection and Safe Haven Enterprise Visas) Instrument 2019 [[F2019L00506](#)], which expanded the class of people to whom the fast track applicant procedures in the *Migration Act 1958* apply.

The other motion proposed to disallow an instrument [[F2019L00878](#)] containing ASIC's approval of a new Banking Code of Practice, described in the instrument's explanatory statement as a "self-regulatory document" created by the banking industry. The motion also proposed to disallow the instrument that revoked the approval [[F2019L00877](#)] of the previous version of the code, so that it would be revived upon disallowance of the new code, avoiding a lacuna.

Neither motion was successful.

The Regulations and Ordinances Committee continued its practice of giving notice of “protective” disallowance motions to extend the time for scrutinising and negotiating improvements to instruments within its purview. Such notices are typically withdrawn once the committee’s concerns are addressed.

Privilege

On 14 November the Privileges Committee tabled its [177th report](#), finding that comments made by a Victorian union leader did not warrant investigation as a possible contempt. It had been alleged that the comments, as reported in the media, could be seen as an attempt to intimidate or improperly influence senators in relation to their votes on a bill before the Senate.

The Senate has always taken a robust view as to whether senators have been improperly obstructed in their duties, on the basis that senators are generally capable of looking after themselves. One factor is that senators have a forum in which they can respond to perceived threats with the protection of parliamentary privilege. The committee found nothing in the facts of the matter that persuaded it to depart from this long-standing position.

Human Rights Committee

On 13 November the Parliamentary Joint Committee on Human Rights tabled a [report](#) on its inquiry into the Quality of Care (Minimising the Use of Restraints) Principles 2019 [[F2019L00511](#)]. This instrument regulates the use of physical and chemical restraints in residential aged care facilities and thus engages a number of human rights. The report found that, while on its face the instrument appeared to limit a number of rights, existing laws continue to prohibit the use of restraints without consent so that the instrument adds a layer of regulation rather than directly limiting rights. However, in not setting out equivalent consent requirements in the instrument, the instrument has created widespread confusion around the legal obligations of aged care providers and may have increased the risk of restraints being used without informed consent. The report recommended that the instrument and its explanatory materials be amended to clarify the legal position and that the minister should undertake extensive consultation with a view to further strengthening the regulation of restraints. In a rare move for a legislative scrutiny committee, Labor and Greens members issued a dissenting report, on the basis that the recommendations of the majority report would not adequately address the human rights concerns. The dissenting report recommended that the Senate disallow the Principles and the minister urgently make a revised instrument. There are two motions on the Notice Paper proposing to disallow the instrument and these must be resolved by 28 November.

New inquiries

Three new references inquiries were established during the sitting week. The Economics References Committee will report on unlawful underpayment of employees’ remuneration by June 2020. The Community Affairs References Committee commenced an inquiry into access to medicinal cannabis and the Rural and Regional Affairs and Transport References Committee will be examining the Federal Government’s drought response. Three bills were also referred to legislation committees for inquiry and report early in the new year.

There was also a third unsuccessful attempt to establish an inquiry into Australia's relations with China. The senator in question commenced his speech exhorting the Senate to support the reference with "I make no apology for the groundhog day aspect of this motion". The Senate was not persuaded, voting 13 to 39 against the inquiry.

Estimates

Three additional hearings, continuing on from the recent supplementary Budget estimates round, were held during the week, in accordance with [Procedural Order of Continuing Effect 9B](#).

RELATED RESOURCES

[Dynamic Red](#) – updated continuously during the sitting day, the Dynamic Red displays the results of proceedings as they happen.

[Senate Daily Summary](#) – a convenient summary of each day's proceedings in the Senate, with links to source documents.

Like this bulletin, these documents can be found on the Senate website: www.aph.gov.au/senate

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