



Procedural Information Bulletin

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For the sitting period 10 to 18 June 2020

Sitting days and hours

In the first of two sitting weeks, the Senate met (unusually) from Wednesday to Friday, however, the Leader of the Government successfully moved to apply the routine of business for a normal 3-day sitting week, that is, a Tuesday to Thursday, casting a hazy procedural jetlag over the sittings. The Senate met at midday on the Wednesday, pursuant to a request to the President made on behalf of all senators to alter the time of meeting; adding to a handful of precedents: see *Odgers' Australian Senate Practice*, [Sittings and adjournment of the Senate](#), 14th ed. at pp. 193–4.

The practical and procedural adjustments that have applied during the COVID-19 pandemic continued to apply, although the use of extended pairing arrangements fell away, with most senators attending for some or all of the sittings.

Legislation

At Westminster and on Capitol Hill, the process by which amendments to bills are settled between the two Houses is sometimes described as legislative (or parliamentary) ping pong. No such evocative language is used in Canberra (“disagreement between the Houses”)! However, that sense of proposals moving rapidly back and forth could be seen in the consideration of two Treasury bills during the fortnight, with a Senate amendment bouncing between the Houses.

On 12 June Senator Patrick, with the support of all non-government senators, successfully attached an amendment to the Treasury Laws Amendment ([2019 Measures No. 3](#)) Bill 2019, a bill dealing with miscellaneous matters in the Treasurer’s portfolio. The amendment proposed to repeal a provision exempting large proprietary companies from an obligation to provide financial reports to ASIC, as recommended in the 2015 [Economics References Committee report on corporate tax avoidance](#). The House rejected the amendment on 15 June, but the Senate resolved the following day to insist upon it. The House again rejected the amendment and this time its proponents capitulated, so that the bill passed unamended on 17 June. The amendment was instead successfully made in another miscellaneous Treasury bill; [2020 Measures No. 2](#). By the end of that day, the House had rejected and the Senate insisted upon its amendment. On 18 June the House again insisted on disagreeing, with further proceedings pending when the sittings adjourned.

A bill dealing with [sexual crimes against children](#) was initially passed with an amendment to omit Schedule 6, which proposed the introduction of mandatory minimum sentences for the most serious offences and for recidivist offenders. The Schedule was defeated on a tied vote, meaning it lacked majority support in the Senate, so the bill proceeded without it. However, after the House rejected the amendment, the Senate determined on 16 June that it would not insist upon it, to ensure the passage of the other measures in the bill.

On the last sitting day, the government proposed a time management motion to limit debate on as many as 13 bills. However, all but three were passed before the allotted time expired, and those remaining were dealt with without demur at the appointed hour. A Greens amendment to the motion to require consideration of a [private senator's bill](#) intended to extend the government's coronavirus response was defeated.

In all, 28 bills were passed by the Senate, six with amendments.

A bill to guarantee a minimum of [two House of Representatives seats for the Northern Territory](#) was introduced by Opposition and National Party senators on 11 June. It was referred to the Joint Standing Committee on Electoral Matters by the relevant minister the following day. Population statistics published by the Australian Bureau of Statistics on 18 June suggest the Northern Territory may revert to a single electorate when the Australian Electoral Commission undertakes its scheduled redistribution on 3 July. A government bill containing [miscellaneous electoral law measures](#) was also referred to that committee.

On 11 June, the government's second iteration of the Ensuring Integrity bill [[see Bulletin 339](#)] was discharged from the Notice Paper on the motion of the Opposition.

Notices and formality

The formal business procedure under standing order 66 allows senators to fast-track the consideration of their motions, on the proviso that they may be dealt with without amendment or debate. Any senator may object to a motion being dealt with this way. There are no established criteria for doing so, although the denial of formality often reflects an assessment that a motion is complex or controversial, or warrants debate rather than a simple vote. A denial of formality may be challenged by a proposal to suspend standing orders, although a reform adopted in 2018 prohibits debate on suspension motions in those circumstances.

The [Procedure Committee](#) has reported on formal motions on multiple occasions since 2003. In 2018 the committee was asked to consider proposals to improve or constrain the procedure, which had become unwieldy. Its [First report of 2019](#) contains statistics demonstrating increased use of the procedure (that is, more requests for formality), increased contestability (more divisions; more denials of formality; more suspension motions) and more time spent on an increased number of statements by leave, effectively in lieu of debate. The committee was reluctant to add further procedural complexity at that stage, but listed options for limiting the time spent on the procedure each day.

A large number of lengthy and sometimes controversial motions were proposed during the sittings. Several were the subject of statements that formality would be denied. A proposal to refer matters back to the Procedure Committee – with a focus on the rationale for senators denying formality – was withdrawn on 16 June. On 17 June, the Leaders of the Government and Opposition in the Senate jointly proposed a temporary order to limit the number of motions that may be proposed by this method to one per senator per week, including a maximum of four motions per day from government, opposition and crossbench senators, respectively. The order also placed a limit of 200 words on motions, with exemptions, and asked the committee to review the changes by May 2021.

The order was adopted on 18 June after standing orders were suspended, over the vociferous opposition of crossbench senators, who described the change as anti-democratic.

50 years of Senate committees

On 11 June, the anniversary of the resolutions that established legislative and general purpose standing committees and estimates committees, the President made a [statement](#) to mark 50 years of what has come to be known as the Senate committee system. He noted that Senate committees had produced around 120 reports in the 69 years before that time and more than 5,500 reports since. A digital archive and online visualisation of the work of Senate committees will be launched in the second half of the year.

Inquiries

Among the inquiries initiated during the fortnight was an [inquiry](#) into the destruction of 46,000 year old caves at the Juukan Gorge in Western Australia, referred to the Joint Standing Committee on Northern Australia. On 16 June an Opposition motion proposing to refer the [future of Australia Post's service delivery](#) to the Environment and Communications References Committee was successfully amended on a government motion to instead send it to the Legislation Committee, and require an earlier reporting date, in August 2020 rather than March next year.

Nine bills were referred as a result of Selection of Bills' committee reports.

Reports

On Wednesday 17 June two reports making use of standing order 25(2)(a)(v) were tabled: the Regional and Rural Affairs and Transport Legislation Committee [report](#) on the Performance of the Australian Maritime Safety Authority; and the Economics Legislation Committee [report](#) on the Performance of the Inspector-General of Taxation. This provision in standing order 25 enables legislation committees to initiate inquiries relating to the performance of departments and agencies allocated to them; an important accountability tool at the committees' disposal.

The Economics Legislation Committee also [reported its findings](#) to the Senate as a result of an order of the Senate of 10 September 2019 concerning the ATO's handling of disclosures by whistleblowers.

Disallowance

Two instruments dealing with coronavirus response measures were the subject of disallowance proceedings. On 10 June the Australian Greens moved to disallow items from the Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 2) 2020 [[F2020L00546](#)] that limit universities' eligibility for the JobKeeper wage subsidy. The proposal was defeated by a single vote. That matter was revisited on 17 June, along with a proposal to disallow an additional item, limiting JobKeeper eligibility for Australians employed by companies owned by foreign governments. These proposals were also defeated on close votes.

A proposal to disallow the Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [[F2020L00579](#)] was pending at the end of the sittings. The regulations are explained as providing "urgent and temporary change to performance standards for the delivery of letters to enable Australia Post to effectively manage any COVID-19 impacts on its operations". The proponents of the disallowance had raised concerns that the regulations may be used to introduce permanent cuts to services and jobs. The inquiry into postal services mentioned above is scheduled to report before the disallowance period for the instrument expires.

Orders for production of documents

Fifteen orders were made during the fortnight requiring the production of documents across a broad range of policy areas. Several sought documents related to the review of Acts and programs including:

- a copy of the draft statutory review of the Environment Protection and Biodiversity Conservation Act 1999
- an expert panel report on regional investment
- a review of round one of the Water for Fodder program.

The administration of grants programs was also the subject of orders concerning the Building Landcare Community and Capacity grants program, and the Community Development Grants program. Other topics included advice on mandatory pregnancy warning labels on alcohol products, correspondence on programs to support international students during the COVID-19 pandemic, data on JobKeeper recipients, and a copy of draft government legislation proposing a Commonwealth Integrity Commission.

The Senate also agreed to an order initiated by the Chair of the COVID-19 Select Committee noting that the government had refused to provide the committee with modelling and other information. The order stated that the committee had rejected the public interest immunity claims made over the information, and was critical of the form of the claim, which did not attempt to specify the harm to the public interest that might result from disclosing the information, contrary to the requirements of the [Senate orders on making such claims](#). Finally, the order reiterated the requirement that the information be produced to the committee. A document in response, tabled by the Minister for Finance on 18 June, appears again to make generalised claims of cabinet confidentiality over the documents.

The cumulative list of orders and responses is available on the Senate's online [business pages](#).

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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