



Procedural Information Bulletin

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For the sitting period 30 November to 10 December 2020

Senators and the Senate

On 30 November Senator Small took his place in the Senate, having been chosen at a joint sitting of the Houses of the Western Australian Parliament to fill the vacancy caused by the resignation of Senator Cormann.

On 2 December Senator Thorpe made her first speech, while Senator Small will make his in February 2021.

The rules allowing senators to participate in proceedings by video-link were again adopted for the sittings, although most senators again attended in person and no senator sought to use the service in the final sitting week. The other procedural and practical adjustments adopted in March and April this year to reduce the risks of COVID-19 transmission continued to apply throughout the sittings.

On 2 December the Senate adopted a [sitting calendar and estimates schedule for 2021](#) [pdf].

Legislation

The Senate agreed to a motion by leave on 30 November to allow debate – but no votes – on the Aged Care Legislation (Financial Transparency) Bill 2020 while the bill was still subject to inquiry by the Community Affairs Legislation Committee. Ordinarily the Senate may not proceed with a bill while it's before a committee: [standing order 115\(3\)](#).

44 government bills passed the Senate during the fortnight, six with amendments.

During consideration of the Budget Appropriation bills, Senator Patrick circulated requests for amendments to increase the funds appropriated for the Australian National Audit Office. When dealing with appropriation bills, only those for which amendments or requests have been circulated are considered in committee of the whole, where debate is constrained to those items: [standing order 115\(6\)](#). By contrast, other bills may proceed to a committee stage at the request of any senator. Senator Patrick's requests were not supported, although the Senate adopted a resolution calling on the government to provide the ANAO "appropriate levels of resourcing". The Joint Committee of Public Accounts and Audit is currently [reviewing the operation of the Auditor General Act 1997](#), under which the ANAO is established.

A Senate bill [to maintain two House of Representatives seats for the Northern Territory](#) passed both Houses during the fortnight. A private senators' bill seeking the same outcome had earlier been referred to the Joint Standing Committee on Electoral Matters ([see Bulletin 345](#)), although the committee [recommended it be approached in a different way](#).

The Senate passed a [foreign relations bill](#) providing for Commonwealth engagement on arrangements between State or Territory governments (and their associated entities, such as local councils and public universities) and foreign governments. According to [the bill's EM](#), the scheme is intended to “foster a systematic and consistent approach to foreign engagement across all levels of Australian government”. The Senate agreed to an amendment to insert an annual reporting requirement, which was later accepted in the House. The motion to adopt the report from the committee of the whole was amended to add a continuing order referring those annual reports to the Foreign Affairs, Defence and Trade Legislation Committee. The Senate also amended a [consequential bill](#) by removing – on an equally divided vote – a provision that would have exempted decisions under the foreign relations bill from review under the *Administrative Decisions (Judicial Review) Act 1977*. The House rejected that amendment and the Senate did not insist upon it, after a crossbench senator changed her position.

A package of five [Recycling and Waste Reduction](#) bills – dubbed Australia’s first national recycling legislation – was also passed. The bills seek to regulate the export of waste materials, manage the environmental, health and safety impacts of products, and provide for product stewardship schemes. Although they were not amended in the Senate, government amendments made in the House were developed in consultation with the opposition and some crossbench senators.

A series of time management motions in the second sitting week secured the passage of 44 bills. Notably, a bill intended [to expand and make permanent the cashless welfare card](#) was passed soon after midnight on 10 December. In heated debate, and as it became apparent that the bill lacked majority support, the government circulated amendments to instead continue the use of the card as a trial for a further two years and expand voluntary uptake. The amended bill passed by a single vote. A bill to [extend elements of coronavirus support](#) was passed in the final hours of sitting, after a dispute over a Senate amendment that removed a provision ending the minister’s discretion to pay the coronavirus supplement. While opposition and Australian Greens senators voted to insist upon the amendment after the government in the House rejected it, other crossbench senators shifted to support the government’s position allowing the bill to pass unamended.

On 3 December the Senate discharged from the Notice Paper [a bill proposing restrictions on the use of cash](#). In February this year the [Economics Legislation Committee reported](#) that the bill should be passed, contingent on the adoption of seven wide-ranging recommendations, but the matter remained controversial amid media reports last month that the government did not intend to proceed with it. A similar motion on the same day proposed to discharge the bills to establish a [National Commissioner for Defence and Veteran Suicide Prevention](#) if they weren’t dealt with by 11 December. Although the motion was not successful, the government did not list the bills for further consideration. Another motion on 8 December proposed that the bills be voted on that day, however, that motion was also unsuccessful. Some opponents of the bills have instead been calling for a Royal Commission on the matter.

Orders and explanations

Some orders for documents made during the fortnight warrant a mention. On 1 December the Senate ordered production of the public version of a Generation Replacement Study from the Australian Energy Market Operator (AEMO), which was duly tabled before the order was formally made. It is not clear why senators saw the need to order the production of a publicly-available document.

On the same day, the Senate ordered Sport Australia to produce advice as to the minister's legal authority in relation to the Community Sport Infrastructure Grant program, adopting a recommendation of the Sports Grants Select Committee. Sport Australia declined to provide the advice citing "legal professional privilege", a ground not accepted by the Senate as justifying a public interest immunity claim. In its [interim report and the attached dissent](#) committee members had substantially debated the merits of such claims.

On 3 December a Senate order sought the government's assessment of matters connected to the China-Australia Free Trade Agreement. The order also required the minister to explain the government's assessment to the Senate on 9 December, which was duly noted during a short debate.

Also of note, the Senate on 9 December required the production of a report on the ABC's 2019 election coverage, which was provided the following day. The review was provided in full, although the Chair of the ABC Board attached a covering letter asking that the Senate consider receiving the document in confidence. The President explained that it is beyond his power to grant that request (although committees may receive documents on that basis). In any case, the order was directed to the Minister Representing the Minister for Communications, whose own covering letter made no such request when presenting the document for tabling.

Other orders included documents on:

- a "disproportionate" hike in application fees for migration litigants in the Federal Court and Federal Circuit Court (30 November, initial response 7 December with a request for more time)
- a review of the Northern Australia Infrastructure Facility (2 December, documents not provided, letter provided 7 December stating that the review would be tabled "once finalised")
- voyage return forms for foreign ships (2 December, redacted documents provided 9 December)
- the PFAS Taskforce (8 December, documents provided 9 December, with some personal information redacted)
- correspondence on Australia's participation in the Climate Ambition Summit (10 December, documents not yet provided).

The government also produced documents in response to orders made during earlier sittings. The cumulative details are on the [Senate's business pages](#).

Disallowance

On 30 November the Senate considered a motion to disallow Part 3 of Schedule 1 of the Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020 [[F2020L01165](#)]. That instrument extends the period of wage subsidy support provided under the JobKeeper scheme from 28 September to 28 March 2021. Part 3 provides for the payment rate to taper down in the December 2020 and March 2021 quarters, and includes a two-tiered rate for full and part-time positions. If Part 3 were disallowed, presumably the original rate would instead apply throughout. However, the motion was unsuccessful, on a vote of 26 ayes to 30 noes.

On 2 December a motion to disallow the Corporations Amendment (Litigation Funding) Regulations 2020 [[F2020L00942](#)] was lost on an equally-divided vote, meaning that the regulations, which subject litigation funders to additional regulatory oversight, remain in force.

A motion to disallow the Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020 [[F2020L01081](#)] was also defeated, after a time limited debate on 10 December. The instrument establishes grants to support forest industries in regions affected by last summer's bushfires.

Reports tabled

Sixteen reports were tabled during the sitting period, including three reports of the Joint Standing Committee on the National Disability Insurance Scheme: [NDIS Planning Final Report](#), [NDIS Workforce interim report](#) and a [general issues report](#). The [first interim report](#) of the Select Committee on COVID-19 noted that the committee had conducted 38 hearings since its establishment on 8 April 2020, accepted 505 written submissions and published answers to more than 1,800 questions on notice.

On 2 December, the Scrutiny of Delegated Legislation Committee tabled an [interim report](#) on the exemption of delegated legislation from parliamentary oversight. The report particularly considered delegated legislation made in response to the COVID-19 pandemic, nearly 20 per cent of which was exempt from disallowance. The committee made 18 recommendations, including that the *Biosecurity Act 2015* be amended to provide that certain delegated legislation made under that Act be subject to disallowance. More generally, the committee recommended that delegated legislation made in times of emergency should be subject to disallowance where it can be used to override or modify primary legislation, or if it triggers the imposition of custodial penalties or other measures which restrict personal rights and liberties. In tabling the interim report, the Chair noted that the final report of the inquiry will consider "the detrimental impact of longstanding, systemic issues on Parliament's capacity to appropriately oversee delegated legislation" and options available to the Parliament to resolve these issues.

Inquiries

Four new references inquiries were established during the sitting period: [fisheries quota system](#) and the [future of Australia's aviation sector in the context of COVID-19](#) to the Rural and Regional Affairs and Transport References Committee and [current capability of the Australian Public Service](#) and the [planning, construction and management of the Western Sydney Airport project](#) to the Finance and Public Administration References Committee.

A [Select Committee on Job Security](#) was established, to report on the last sitting day in November 2021. This is the 14th select committee established in the 46th Parliament, with 11 now running concurrently.

Thirteen bills were referred for inquiry and report as a result of the Selection of Bills Committee Reports [No. 11](#) and [12](#).

Navigate Senate Committees

During the fortnight the Senate department was pleased to launch two new web resources to celebrate 50 years since the establishment of the modern Senate committee system in 1970. [Navigate Senate Committees](#) brings together the history and work of Senate committees since 1901. It includes a [timeline of events](#) that brought about the committee system as we know it, as well as a chart showing the [genealogy of every Senate committee from 1901](#), with information about chairs and members, links to committee reports, and images and digital media, including oral histories.

Accompanying the site is the [Senate committees hearing map](#) illustrating 119 years of Senate committees on the move: over 7,500 hearings mapped by subject and year, in over 200 locations.

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

Inquiries: **Clerk’s Office (02) 6277 3364**