



Procedural Information Bulletin

30 March 2021 • No. 353

For the sitting period 15 to 18 March 2021 and
additional estimates hearings 22 to 26 March 2021

Legislation

Sixteen government bills passed the Senate during the sitting week. These included the [reuniting more superannuation](#) bill, which was read a third time on 15 March after the House of Representatives made the amendments requested by the Senate in the previous sitting period.

An [omnibus Fair Work bill](#) was extensively amended after the government was unable to secure crossbench support for many of its provisions. Debate stretched across several days, with a guillotine imposed on the final sitting day, shortly after the government circulated amendments to remove five and a half of the bill's seven schedules. There was considerable overlap, however, between government and non-government amendments, and it took more than two hours after debating time expired to put the questions necessary to deal with them.

A bill to increase the [JobSeeker payment and other income support measures](#) also passed under a guillotine, along with several non-controversial bills. The income support bill passed without amendment, with the Senate rejecting several crossbench requests for amendments to increase the level of the payments involved and extend exemption measures to benefit income support recipients.

In the lead up to the March sittings the government announced the terms of reference for an independent review into the workplaces of parliamentarians and their staff, to be undertaken by Sex Discrimination Commissioner Kate Jenkins under the auspices of the Australian Human Rights Commission. A bill to protect the confidentiality of documents provided to the review was introduced in the Senate and passed without amendment late on the last sitting day. Concerns were subsequently raised about the scope of the Freedom of Information (FOI) Act exemption for documents provided to the review, and the House accepted a crossbench amendment to ensure that the bill did not affect existing FOI access rights. The Senate must consider the amendment, so the bill cannot now pass until the Budget sittings.

Questions, orders and explanations

On 15 March the Senate considered the recommendations in the second interim report of the COVID-19 Select Committee, rejected the public interest immunity claims made in respect of documents withheld from the committee and adopted seven orders requiring those documents to be produced. If the documents were not provided, the orders required the relevant ministers to explain to the Senate on 17 March why not. The documents were not provided. The explanations substantially repeated the public interest immunity claims, even though they had been explicitly rejected by the committee and by the Senate.

An order was also made on 15 March requiring the overdue government response to the report of the Select Committee on the Aboriginal Flag, tabled in October 2020. A one page response was produced 2 days later.

On 15 and 16 March senators again sought explanations under standing order 74(5) for questions remaining unanswered after the relevant deadline, and took advantage of the opportunity to debate those matters. On 16 March the Deputy President ruled that a senator may invoke the procedures in the standing order at the request of other senators.

An unusual order made on 25 February required the Department of Defence to provide expenditure forecasts for capital acquisitions to the Parliamentary Budget Office (PBO): [see Bulletin 352](#). After initially indicating that the department had requested more time to comply, the Parliamentary Budget Officer advised the Senate on 18 March that the information had been provided, or made available so that the PBO could review and validate it.

The cumulative list of orders and responses can be found on the [Senate's business pages](#).

Disallowance and delegated legislation

On 16 March, the Scrutiny of Delegated Legislation Committee tabled the [final report](#) of its inquiry into the exemption of delegated legislation from parliamentary oversight. The report highlighted that last year more than 17 per cent of delegated legislation was exempt from disallowance. It made 11 recommendations intended to increase oversight of the Parliament's delegated legislative power. In particular, the committee recommended that all exemptions from disallowance should be set out in primary legislation and that some current broadly-framed exemptions should be repealed. In tabling the report, the Chair noted that allowing a regulation to exempt other pieces of delegated legislation from disallowance was, in the committee's view, 'totally unacceptable'.

The committee also recommended that:

- legislation be introduced or amended to provide that relevant explanatory material must outline the exceptional circumstances that justify an exemption from disallowance (and that if this recommendation is not accepted by the government, the Senate should agree to an order of continuing effect requiring the inclusion of such statements);
- the Senate adopt a resolution on the circumstances in which it may be appropriate to exempt delegated legislation from disallowance;
- the Senate adopt an order requiring the government to table a statement setting out the exceptional circumstances that justify current exemptions from disallowance; and
- the Senate amend standing order 23 to insert two additional committee scrutiny principles and to allow the committee to scrutinise instruments that are exempt from disallowance.

Consideration of the last three recommendations has been listed as a business of the Senate order of the day for 16 June 2021.

Inquiries

Two bills were referred for inquiry and report as a result of the Selection of Bills Committee [Report No 4](#).

Two bills were also referred for a second inquiry. The Offshore Petroleum and Greenhouse Gas Storage Amendment (Benefit to Australia) Bill 2020 was referred for a second time to the Senate Economics Legislation Committee, which had already tabled a [report](#) on the bill on 11 March 2021. The Treasury Laws Amendment (2021 Measures No. 1) Bill 2021 was referred to the Senate Economics *References* Committee, having been the subject of a previous inquiry and [report](#) by the Legislation Committee.

Three matters were referred to the Foreign Affairs, Defence and Trade References Committee: Advancing Australia's strategic interests in the region; defence force retirement and death benefits; and the special rate of the disability pension. The matter of administration of registration and notifications by the Australian Health Practitioner Regulation Agency was referred to the Community Affairs References Committee for inquiry and report by 24 November 2021.

Reports tabled

Seven reports were tabled during the sitting period. Among them a [report](#) from the Community Affairs References Committee on Fetal Alcohol Spectrum Disorder (FASD), making 32 recommendations including that the Australian Government fund an independent study into the social and economic cost of FASD and that the Australian Government ensure FASD is included in the list of recognised disabilities. The Education and Employment References Committee tabled a [report](#) on the relationship between car manufacturers and car dealers in Australia. The Joint Select Committee on Australia's Family Law System tabled its second interim [report](#), making 29 wide-ranging recommendations. The Select Committee on the Administration of Sports Grants tabled its final [report](#), making nine recommendations, one of which if accepted by the Senate, would have operated as an order for the production of documents. The chair of the committee moved that the recommendation be adopted but the motion was lost on equally divided votes.

Estimates hearings

Additional estimates hearings took place with all senators and most witnesses attending in person. While committees did make use of video and teleconference facilities, there was reduced remote participation in contrast to the Budget estimates hearings of October 2020 that saw a number of senators and most interstate witnesses participate via electronic means.

While the hearings were procedurally uneventful, the focus of much questioning was on recent allegations of sexual assault at Parliament House. The Finance and Public Administration Legislation Committee took evidence from the President of the Senate and parliamentary officials in relation to this matter, as well as from the Secretary of the Department of Prime Minister and Cabinet (in a rare estimates appearance). Several other committees also sought answers to questions on this topic. Many of the questions were taken on notice with witnesses expressing concern to ensure that any information provided did not adversely affect an ongoing criminal investigation or any future prosecution.

Other areas involving public funds and administration that received close attention included:

- questions to Australia Post officials regarding a ministerial direction to stand down the former chief executive officer (the same matter is currently the subject of an [inquiry](#) by the Environment and Communications References Committee)

- changes to espionage and foreign interference legislation and the administration of these laws (during ASIO's appearance before the Legal and Constitutional Affairs Committee)
- questions directed to Department of Defence officials during their appearance before the Defence, Foreign Affairs and Trade Legislation Committee about information being sought by the Economics References Committee for its inquiry into Australia's [sovereign naval shipbuilding capability](#)
- the impact of Chinese trade restrictions imposed on Australian agricultural commodities during questions to the Department of Agriculture, Water and the Environment
- the Commonwealth's response to deaths of Indigenous people in custody.

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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