



Procedural Information Bulletin

22 May 2024 • No. 381

For the sitting period 14 to 16 May 2024

The Senate and senators

When the Senate met on 14 May Stephanie Hodgins-May was sworn in as a senator for Victoria, filling a casual vacancy arising from the resignation of Australian Greens Senator Janet Rice. Senator Hodgins-May had been chosen at a joint sitting of the Victorian Parliament the previous week.

As is customary, the Senate adjusted its sitting times to accommodate the set pieces of the Treasurer's Budget speech and the reply from the Leader of the Opposition, which occur in the House of Representatives on Tuesday and Thursday, respectively. In the increasingly distant past, those speeches were also read in the Senate. These days they are tabled instead. The Senate habitually sets aside time after the Budget reply for minor parties and independent senators to contribute to debate on the Budget statement and documents, but those senators generally make their contributions at other times, such as during senators' statements or adjournment debates.

Legislation

The Senate passed 18 bills during the week, mostly under a guillotine on the afternoon and evening of 16 May.

When the time allotted for debate expired, Senator McKenzie used her contingent notice to move to suspend standing orders to allow further debate on the bills. Debate on the suspension motion was closed, on the motion of a minister, and the motion was defeated. Senator David Pocock then moved a different suspension motion, proposing to allow further debate on just one of the bills that was subject to the guillotine. The President ruled that it was not in order for the second suspension motion to be debated as the time for debate on the bills had expired. The rule against debate does not apply to a motion moved pursuant to a contingent notice triggered by the expiration of time. It has been ruled that these contingent notices may be employed only once at each occurrence of the contingency to which they refer. These matters were also discussed in [Bulletin 376](#).

Bills passed under the guillotine included bills to establish the [Administrative Review Tribunal](#) and abolish the Administrative Appeals Tribunal. The main ART bill and one of two consequential bills had been referred to a House of Representatives Committee – the Committee on Social Policy and Legal Affairs – which recommended they be passed without amendment. Despite this recommendation, the bills were extensively amended when they were considered by the House on 21 March.

On 8 February the bills were also referred, with a second consequential bill, to the Senate Legal and Constitutional Affairs Legislation Committee with a reporting date in July 2024. The committee reported early, on 15 May, over the objections of Opposition senators. When bills are referred to committees, their consideration is deferred until the date the committee is scheduled to report.

Reporting early does not override this provision, so the bills had to be exempted from the relevant standing order before debate could commence. This was done by motion on notice on 15 May and the bills passed with a small number of additional government amendments the next day.

Another package of bills – establishing a [new vehicle efficiency standard](#) – was also passed under guillotine, with the questionable distinction of no-one in either House having the opportunity to speak to them other than the minister who introduced them.

When the second ‘closing loopholes’ bill was passed on 8 February, Opposition senators refused the government leave to move an amendment to ensure that employers wouldn’t incur criminal penalties under ‘right to disconnect’ provisions: see [Bulletin 378](#). The Fair Work Amendment Bill 2024 was introduced to rectify the matter, and passed as part of the guillotine. Opposition amendments to repeal or, alternatively, constrain the right to disconnect provisions were not successful.

An apparent deal between the government and the Australian Greens saw the [Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment \(Safety and Other Measures\) Bill](#) pass with amendments that removed Part 2 of Schedule 2 to the bill. This was in the wake of concerns that powers to be given to the Resources Minister under those provisions might weaken environmental standards or consultation requirements. At the same time, the Greens supported the passage of the [Treasury Laws Amendment \(Tax Accountability and Fairness\) Bill](#), despite earlier criticising the changes the bill made to the Petroleum Resource Rent Tax (PRRT). Senator McKim had given notice of a motion to hive off those provisions into a separate bill for debate in subsequent sittings, but resiled from that position. Crossbench Senator David Pocock sought to suspend standing orders to give effect to Senator McKim’s notice, but the Greens voted with government senators to defeat the suspension.

At the end of proceedings under the guillotine, the Senate considered a message from the House of Representatives disagreeing to the amendments made by the Senate to the Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023. The terms of the guillotine required that Chair propose the question—That the Senate does not insist on its amendments. That motion was defeated on a division 19 Ayes to 39 Noes, meaning the Senate insisted on its amendments. The bill was returned to the House with a message to that effect.

Orders and compliance

The Senate made seven new orders for the production of documents (OPDs) in the sitting period, including orders relating to a review of the Research Supply Icebreaker Project (15 May), the Esso/ExxonMobil West Kingfish pipeline rupture in Bass Strait (15 May), estimates briefing materials prepared by the Attorney-General's Department and the National Indigenous Australians Agency (16 May), the Defence Housing Australia Lee Point development (15 May), regulation of waste exports (15 May), and modelling of emissions for the Middle Arm Development Precinct (15 May). A proposed order relating to signed agreements between the Australian Federal Police Commissioner and the People’s Republic of China was negated on 16 May.

On 15 May, the Senate agreed to an order seeking compliance with a previous order relating to national competition reform, noting that the government had failed to respond to the order by the date it had indicated a response would be provided. In a statement by leave, the Finance Minister advised that the delay was due to the ongoing process of seeking the approval of state and territory treasurers to table the documents. On 16 May, the Senate agreed to an order rejecting the government’s public interest immunity (PII) claim in relation to First Nations cultural heritage reforms (on the grounds of Cabinet confidentiality), and requiring compliance with the order by 24 May.

On 14 May, the Government tabled a document distributed by the Department of the Prime Minister and Cabinet outlining suggested responses to estimates questions on notice, particularly those directed at all departments and agencies. The document was tabled following coverage in the press and pre-empting a motion co-sponsored by all non-government parties which would have ordered its tabling.

The next day, the Senate agreed by motion on notice to require an explanation by the Minister representing the Prime Minister on the Prime Minister's knowledge of the document and involvement in its creation, and details of its distribution and revisions. Accordingly, Senator Gallagher attended after motions to take note of answers on 16 May to provide an explanation. In debate it was suggested that there would be follow up questions on the matter at the upcoming Budget estimates hearings.

The government tabled two responses to OPDs. A response in relation to the Future Fit program provided some documents while advancing PII claims over others on the basis of legal professional privilege and commercial sensitivity (14 May). Documents relating to the proposed National Environmental Standard for First Nations engagement and participation were wholly withheld on the basis that their disclosure would 'both disclose and pre-empt the deliberations of Cabinet' (16 May).

The Minister representing the Minister for the National Disability Insurance Scheme again attended the Senate on the first sitting day of the week to provide an explanation of the government's continuing failure to table the National Disability Insurance Scheme financial sustainability framework (see [Bulletins 374 to 380](#)).

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

Inquiries

Four bill inquiries were established as a result of [Report No. 5 of 2024](#) of the [Selection of Bills Committee](#).

The Senate agreed to an order for the automatic referral to legislation committees of bills with substantive provisions required to commence on or before 1 July, and introduced in the House of Representatives during the two weeks when the Senate does not meet during budget estimates hearings. The order authorises committees to report, by unanimous decision, that there are no substantive matters requiring examination. This referral ensures that Senate committees retain their scrutiny function in relation to all bills, including those that will require urgent consideration. A proposal to refer additional bills not commencing on or before 1 July was not supported.

Two select committees were established: a [Joint Select Committee on Social Media and Australian Society](#) and a [Senate Select Committee on the Impact of Climate Risk on Insurance Premiums and Availability](#).

Reports

Thirty seven reports were presented before the sitting period, including the [final report](#) of the Select Committee on Supermarket Prices. The Committee made 14 recommendations including that the Australian Government establish a Commission on Prices and Competition to examine price setting practices of industries across the economy, and that the Food and Grocery Code of Conduct become mandatory by 30 September 2024. The Rural and Regional Affairs and Transport References Committee presented its [report](#) on red imported fire ants in Australia, making 10 recommendations directed towards eradicating them.

The Senate Foreign Affairs, Defence and Trade Legislation Committee tabled a [report](#) on the Migration Amendment (Overseas Organ Transplant Disclosure and Other Measures) Bill 2023.

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 3350**