

The Senate

Standing
Committee on
Regulations and
Ordinances

Delegated Legislation Monitor

Monitor 5 of 2019

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Membership of the committee

Current members

Senator the Hon Concetta Fierravanti-Wells (Chair)	New South Wales, LP
Senator the Hon Kim Carr (Deputy Chair)	Victoria, ALP
Senator Raff Ciccone	Victoria, ALP
Senator Perin Davey	New South Wales, NAT
Senator Nita Green	Queensland, ALP
Senator Paul Scarr	Queensland, LP

Secretariat

Mr Glenn Ryall, Secretary (A/g)
Ms Laura Sweeney, Principal Research Officer
Mr Andrew McIntyre, Senior Research Officer
Ms Katie Helme, Legislative Research Officer

Committee legal adviser

Associate Professor Andrew Edgar

Committee contact details

PO Box 6100
Parliament House
Canberra ACT 2600
Ph: 02 6277 3066
Email: regords.sen@aph.gov.au
Website: http://www.aph.gov.au/senate_regord_ctte

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Introduction

Terms of reference

The Senate Standing Committee on Regulations and Ordinances (the committee) was established in 1932. The role of the committee is to examine the technical qualities of all disallowable instruments of delegated legislation and decide whether they comply with the committee's non-partisan scrutiny principles, which focus on statutory requirements, the protection of individual rights and liberties, and ensuring appropriate parliamentary oversight.

Senate Standing Order 23(3) requires the committee to scrutinise each instrument referred to it to ensure:

- (a) that it is in accordance with the statute;
- (b) that it does not trespass unduly on personal rights and liberties;
- (c) that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal; and
- (d) that it does not contain matter more appropriate for parliamentary enactment.

Nature of the committee's scrutiny

The committee's scrutiny principles capture a wide variety of issues which relate primarily to technical legislative scrutiny. The committee therefore does not examine or consider the policy merits of delegated legislation. In cases where an instrument is considered not to comply with the committee's scrutiny principles, the committee's usual approach is to correspond with the responsible minister or relevant agency seeking further explanation or clarification of the matter at issue, or seeking an undertaking for specific action to address the committee's concern. The committee's work is supported by the processes for the registration, tabling and disallowance of legislative instruments under the *Legislation Act 2003*.¹

Publications

The committee's usual practice is to table a report, the *Delegated Legislation Monitor* (the monitor), each sitting week of the Senate. The monitor provides an overview of the committee's scrutiny of disallowable legislative instruments for the preceding period. Disallowable legislative instruments detailed in the monitor are also listed in the 'Index of instruments' on the committee's website.²

1 For further information on the disallowance process and the work of the committee see *Ogders' Australian Senate Practice*, 14th Edition (2016), Chapter 15.

2 Regulations and Ordinances Committee, *Index of instruments*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Index.

Ministerial correspondence

Correspondence relating to matters raised by the committee is published on the committee's website.³

Agency correspondence

The committee undertakes informal correspondence with relevant agencies via the committee secretariat to attempt to resolve minor, technical scrutiny issues. This correspondence is not published; however, a record of the instrument, scrutiny issue and status of the correspondence is included in Appendix A (ongoing matters) and Appendix B (concluded matters) in the monitor.

Guidelines

Guidelines referred to by the committee are published on the committee's website.⁴

General information

The Federal Register of Legislation should be consulted for the text of instruments, explanatory statements, and associated information.⁵ The Senate Disallowable Instruments List provides a listing of tabled instruments for which disallowance motions may be moved in the Senate.⁶ The Disallowance Alert records all notices of motion for the disallowance of instruments, and their progress and eventual outcome.⁷

Instruments considered in this monitor

The committee examined 182 disallowable legislative instruments registered on the Federal Register of Legislation between 21 June 2019 and 8 August 2019. This monitor identifies the instruments registered in this period about which the committee has or had scrutiny concerns. It also identifies instruments registered before this period in relation to which the committee is continuing to engage with the relevant minister or agency, or has concluded its examination.

3 See www.aph.gov.au/regords_monitor.

4 See http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Guidelines.

5 See Australian Government, Federal Register of Legislation, www.legislation.gov.au.

6 Parliament of Australia, *Senate Disallowable Instruments List*, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/leginstruments/Senate_Disallowable_Instruments_List.

7 Regulations and Ordinances Committee, *Disallowance Alert 2019*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Alerts.

Chapter 1

Committee comments

1.1 This chapter details the committee's most significant, unresolved scrutiny concerns.

1.2 The committee is currently seeking to resolve all outstanding scrutiny concerns by correspondence with the relevant minister or agency, and has no unresolved matters to draw to the attention of the Senate at this time.

1.3 Appendix A lists all instruments in relation to which the committee is engaged in ongoing correspondence. Copies of the relevant correspondence are available on the committee's website.¹

1 See www.aph.gov.au/regords_monitor.

Appendix A

Ongoing matters

2.1 The committee engages with relevant ministers and agencies to attempt to resolve its concerns about scrutiny issues raised by disallowable legislative instruments. This appendix documents the committee's ongoing scrutiny concerns.

Ministerial engagement

2.2 The committee is engaging with the relevant minister about the scrutiny issues raised by the instruments listed below.

Instrument	Issue	Status
Agriculture and Veterinary Chemicals Legislation Amendment (Timeshift Applications and Other Measures) Regulations 2019 [F2019L00357]	Principle (a) unclear basis for determining fees; Principle (a) incorporation; Principle (d) significant matters in delegated legislation	Considering ministerial response.
Air Services Regulations 2019 [F2019L00371]	Principle (b) privacy Principle (b) reversal of evidential burden of proof Principle (b) immunity from liability Principle (d) significant matters in delegated legislation	The minister undertook to amend the instrument and the explanatory statement. Awaiting implementation of undertaking to amend instrument.
Customs (Prohibited Imports) Amendment (Collecting Tobacco Duties) Regulations 2019 [F2019L00352]	Principle (a) broad delegation of power Principle (c) merits review	Seeking advice from the minister.
Health Insurance (Diagnostic Imaging Services Table) Regulations 2019 [F2019L00563]	Principle (c) merits review	The minister undertook to amend the instrument and the explanatory statement. Awaiting implementation of undertaking to amend instrument.

Instrument	Issue	Status
Immigration (Guardianship of Children) Regulations 2018 [F2018L01708]	Principle (d) significant matters in delegated legislation	Chair placed a notice of motion to disallow the instrument on 01/08/2019.
Migration (Fast Track Applicant Class – Temporary Protection and Safe Haven Enterprise Visas) Instrument 2019 [F2019L00506]	Principle (d) significant matters in delegated legislation	Considering ministerial response.
Migration Amendment (New Skilled Regional Visas) Regulations 2019 [F2019L00578]	Principle (a) imposition of fees (taxation) Principle (c) merits review Principle (d) significant matters in delegated legislation	Seeking advice from the minister.
Quality of Care Amendment (Minimising Use of Restraints) Principles 2019 [F2019L00511]	Principle (b) personal rights and liberties Principle (d) significant matters in delegated legislation	Seeking advice from the minister.
Road Vehicle Standards Rules 2018 [F2019L00198]	Principle (a) incorporation	The minister undertook to amend the instrument. Awaiting implementation of undertaking to amend instrument.
Southern and Eastern Scalefish and Shark Fishery (Closures Variation) Direction 2019 [F2019L00650]	Principle (a) subdelegation	The agency undertook to revoke the instrument. Awaiting implementation of undertaking to revoke instrument.
Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018 [F2018L01674]	Principle (a) incorporation	Chair placed a notice of motion to disallow the instrument on 01/08/2019.

Agency engagement

2.3 The committee is engaging with the relevant agencies via its secretariat to seek further information about potential scrutiny concerns raised by the instruments listed below.

Instrument	Issue	Status
Australian Hearing Services Regulations 2019 [F2019L00976]	Principle (a) unclear basis for determining fees Principle (c) merits review	Considering advice from the agency.
Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft—Registration and Accreditation) Regulations 2019 [F2019L01027]	Principle (b) reversal of evidential burden of proof Principle (b) retrospectivity Principle (c) merits review	Considering advice from the agency.

Appendix B

Concluded matters

3.1 This appendix records the instruments in relation to which the committee has concluded its inquiries, following correspondence with the relevant minister or agency. Copies of the relevant correspondence are available on the committee's website.¹

Ministerial engagement

3.2 The committee has concluded its examination of the instruments listed below following correspondence with the relevant minister.

Instrument	Issue	Status
Air Navigation (International Airline Licence Exemption) Determination 2019 [F2019L00375] Air Navigation (Exemption for Commercial Non-Scheduled Flights) Determination 2019 [F2019L00378]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 09/08/2019.
Archives (Records of the Parliament) Regulations 2019 [F2019L00282]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister 08/08/2019.
ASIC Corporations (Warrants: Out-of-use notices) Instrument 2019/148 [F2019L00290]	Principle (d) significant matters in delegated legislation	Concluded following response from the assistant minister on 08/08/2019.
Corporations Amendment (Name Exemption) Regulations 2019 [F2019L00271]	Principle (d) significant matters in delegated legislation	Concluded following response from the assistant minister on 08/08/2019.
Corporations Amendment (Proprietary Company Thresholds) Regulations 2019 [F2019L00538]	Principle (d) significant matters in delegated legislation	Concluded following response from the Treasurer on 06/08/2019.
Farm Household Support (Forced Disposal of Livestock) Minister's Rules 2019 [F2019L00523]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 19/08/2019.
Fisheries Management Regulations 2019 [F2019L00383]	Principle (b) reversal of evidential burden of proof	Concluded following response from the minister on 14/08/2019.

1 See www.aph.gov.au/regords_monitor.

Instrument	Issue	Status
Foreign Influence Transparency Scheme Amendment (2019 Measures No. 1) Rules 2019 [F2019L00615]	Principle (d) significant matters in delegated legislation	Concluded following response from the Attorney-General on 20/08/2019.
Greenhouse and Energy Minimum Standards (Three Phase Cage Induction Motors) Determination 2019 [F2019L00968]	Principle (a) incorporation Principle (b) access to justice	The committee has concluded its examination of the instrument. The committee draws the minister's attention to its ongoing scrutiny concerns regarding the relevant scrutiny principles.
Migration Amendment (Temporary Sponsored Parent Visa and Other Measures) Regulations 2019 [F2019L00551]	Principle (a) unclear basis for determining fees Principle (b) privacy Principle (c) merits review Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 14/08/2019. The committee reiterates its general expectations regarding the relevant scrutiny principles. The minister undertook to amend the explanatory statement to the instrument. The undertaking was implemented on 16/08/2019.
National Rental Affordability Scheme Amendment (Investor Protection) Regulations 2019 [F2019L00273]	Principle (b) privacy Principle (b) retrospective effect	Concluded following response from the minister on 14/08/2019.
Norfolk Island Legislation Amendment (Criminal Justice Measures) Ordinance 2019 [F2019L00546]	Principle (b) reversal of legal burden of proof	Concluded following response from the assistant minister on 20/08/2019. The assistant minister undertook to amend the explanatory statement to the instrument. The undertaking was implemented on 30/08/2019.
Privacy (Disclosure of Homicide Data) Public Interest Determination 2019 [F2019L00322]	Principle (b) privacy Principle (d) significant matters in delegated legislation	Concluded following response from the Attorney-General on 20/08/2019.
Public Order (Protection of Persons and Property) Regulations 2019 [F2019L00272]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 08/08/2019.
Public Works Committee Legislation Amendment (2019 Measures No. 1) Regulations 2019 [F2019L00340]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 08/08/2019.

Instrument	Issue	Status
Regional Investment Corporation (Agribusiness Natural Disaster Loans—2019 North Queensland Flood) Rule 2019 [F2019L00532]	Principle (c) merits review	Concluded following response from the minister on 20/08/2019.
Regional Investment Corporation (Agristarter Loans) Rule 2019 [F2019L00604]	Principle (d) significant matters in delegated legislation	The committee reiterates its general expectations regarding the relevant scrutiny principles.
Regional Investment Corporation Operating Mandate (Amendment) Direction 2019 [F2019L00434]	Principle (d) significant matters in delegated legislation	Concluded following response from the minister on 20/08/2019.
Underwater Cultural Heritage Rules 2018 [F2019L00096]	Principle (a) incorporation	Concluded following response from the minister on 15/08/2019.

Agency engagement

3.3 The committee has concluded its examination of the instruments listed below following informal correspondence with the relevant agencies via its secretariat.

Instrument	Issue	Status
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (July Indexation) Determination 2019 [F2019L00882]	Principle (a) consultation	Concluded following response from the agency on 23/08/2019.
Aged Care Legislation Amendment (Quality Indicator Program) Principles 2019 [F2019L00849]	Principle (b) privacy	Concluded following response from the agency on 22/08/2019. The agency undertook to amend the explanatory statement to the instrument.
Aged Care Legislation Amendment (Reducing Home Care Fees) Instrument 2019 [F2019L00844]	Principle (a) unclear basis for determining fees	Concluded following response from the agency on 15/08/2019.
AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019 [F2019L00840]	Principle (a) broad legislative powers	Concluded following response from the agency on 08/08/2019.
Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019 [F2019L01004]	Principle (a) consultation	Concluded following response from the agency on 03/09/2019. The agency undertook to amend the explanatory statement to the instrument.
Defence Determination, Conditions of service Amendment (Approved forms and privacy) Determination 2019 (No. 21) [F2019L01010]	Principle (b) privacy	Concluded following response from the agency on 05/09/2019.
Financial sector (Collection of Data) (reporting standard) determinations – various instruments [F2019L00730] [F2019L00731] [F2019L00738] [F2019L00739] [F2019L00766] [F2019L00769] [F2019L00754] [F2019L00756] [F2019L00780] [F2019L00782] [F2019L00733] [F2019L00735]	Principle (a) in accordance with statute	Concluded following response from the agency on 31/07/2019. The agency undertook to amend the explanatory statements to the instruments.
Health Insurance (Section 19AB Exemptions Guidelines) Determination 2019 [F2019L00941]	Principle (a) consultation	Concluded following response from the agency on 23/08/2019. The agency undertook to amend the explanatory statement to the instrument.
Health Insurance Legislation Amendment (Flood Affected Areas) Determination 2019 [F2019L00734]	Principle (a) consultation	Concluded following response from the agency on 22/08/2019.

Instrument	Issue	Status
Hearing Services Program (Voucher) Instrument 2019 [F2019L00969]	Principle (b) privacy	Concluded following response from the agency on 23/08/2019. The agency undertook to amend the explanatory statement to the instrument.
Insurance (prudential standard) determinations – various instruments [F2019L00873] [F2019L00874] [F2019L00869] [F2019L00875]	Principle (c) merits review	Concluded following response from the agency on 27/08/2019. The agency undertook to amend the explanatory statement to the instrument.
Migration (LIN 19/188: Arrangement for Approval and Variation of Approval for a Temporary Parent Sponsor) Instrument 2019 [F2019L01015]	Principle (a) unclear basis for determining fees	Concluded following response from the agency on 03/09/2019. The agency undertook to amend the explanatory statement to the instrument.
Migration Amendment (Visa Application Charges) Regulations 2019 [F2019L00932]	Principle (a) consultation	Concluded following response from the agency on 30/08/2019. The agency undertook to amend the explanatory statement to the instrument.
National Greenhouse and Energy Reporting (Measurement) Amendment (2019 Update) Determination 2019 [F2019L00938]	Principle (a) consultation	Concluded following response from the agency on 22/08/2019. The agency undertook to amend the explanatory statement to the instrument.
National Health (Pharmaceuticals and Vaccines—Cost Recovery) Amendment (Vaccine Advice) Regulations 2019 [F2019L00931]	Principle (a) unclear basis for determining fees	Concluded following response from the agency on 26/08/2019.
Private Health Insurance (Data Provision) Amendment Rules 2019 [F2019L00817] Private Health Insurance (Health Insurance Business) Amendment Rules 2019 [F2019L00815]	Principle (a) incorporation	Concluded following response from the agency on 21/08/2019. The agency undertook to amend the explanatory statements to the instruments.
Radiocommunications (Digital Radio Channels – Western Australia) Plan Variation 2019 (No. 1) [F2019L00726]	Principle (a) incorporation	Concluded following response from the agency on 16/08/2019. The agency undertook to amend the explanatory statement to the instrument. The undertaking was implemented on 16/08/2019.

Instrument	Issue	Status
Social Security (Administration) (Trial of Cashless Welfare Arrangements) (Declinable Transactions and Welfare Restricted Bank Account) Determination 2019 [F2019L00911]	Principle (a) incorporation	Concluded following response from the agency on 02/09/2019. The agency undertook to amend the explanatory statement to the instrument.
Transport Security Legislation Amendment (2019 Measures No. 1) Regulations 2019 [F2019L00829]	Principle (b) reversal of evidential burden of proof Principle (b) retrospective effect	Concluded following response from the agency on 12/08/2019.
Treatment Benefits (Special Access) (Claims, Applications and Lodgements Procedures) Determination 2019 [F2019L00825]	Principle (a) in accordance with statute (clarity of drafting)	Concluded following response from the agency on 05/08/2019.
Veterans' Affairs (Treatment Principles – Electric Mobility Aids and Other Measures) Amendment Instrument 2019 [F2019L00678]	Principle (c) merits review	Concluded following response from the agency on 16/08/2019.

Appendix C

Undertakings

4.1 From time to time, a minister or agency may make an undertaking to address the committee's concerns. These may include, for example, an undertaking to amend a legislative instrument or an explanatory statement, or to review an Act or a departmental practice. The committee expects that, when a minister or agency has made an undertaking, it will be implemented in a timely manner. Accordingly, this appendix records outstanding ministerial and agency undertakings, and the undertakings implemented since the committee's last meeting.

Outstanding undertakings

4.2 The following table records undertakings that remain outstanding, from oldest to newest. The committee draws these undertakings to the attention of the Senate.

Instrument	Undertaking	Date of Undertaking
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2018 (No. 10) [F2018L01646]	The Minister for Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	10/04/2019
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2019 (No. 1) (PB 3 of 2019) [F2019L00081]	The Minister for Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	19/06/2019
Financial Framework (Supplementary Powers) Amendment (Education and Training Measures No. 2) Regulations 2019 [F2019L00347]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	28/06/2019
Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Methyl Bromide, Fire Protection and Other Measures) Regulations 2018 [F2018L01730]	The Minister for the Environment undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	15/07/2019
Aged Care Single Legislation Amendment (Single Quality Framework Consequential Amendments and Transitional Provisions) Instrument 2019 [F2019L00515]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	16/07/2019
Greenhouse and Energy Minimum Standards (Air Conditioners up to 65kW) Determination 2019 [F2019L00490]	The Department of the Environment and Energy undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	16/07/2019

Instrument	Undertaking	Date of Undertaking
Financial Framework (Supplementary Powers) Amendment (Treasury Portfolio Measures No. 1) Regulations 2019 [F2019L00566]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	17/07/2019
Fuel Quality Standards Regulations 2019 [F2019L00560]	The Department of the Environment and Energy undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	17/07/2019
Fuel Quality Standards (Automotive Diesel) Determination 2019 [F2019L00456] Fuel Quality Standards (Petrol) Determination 2019 [F2019L00455]	The Department of the Environment and Energy undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	18/07/2019
Taxation Administration – Single Touch Payroll – Exemption for Employers Having a Seasonal Workforce (Repeal) [F2019L00458]	The Australian Taxation Office undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	18/07/2019
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2019 (No. 4) (PB 31 of 2019) [F2019L00661] National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2019 (No. 4) (PB 28 of 2019) [F2019L00663]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	19/07/2019
Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019 [F2019L00320]	The Attorney-General's Department undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	26/07/2019
Financial sector (Collection of Data) (reporting standard) determinations – various instruments [F2019L00730] [F2019L00731] [F2019L00738] [F2019L00739] [F2019L00766] [F2019L00769] [F2019L00754] [F2019L00756] [F2019L00780] [F2019L00782] [F2019L00733] [F2019L00735]	The Australian Prudential Regulation Authority undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	31/07/2019
Health Insurance (Diagnostic Imaging Services Table) Regulations 2019 [F2019L00563]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns. The Minister for Health subsequently undertook to amend the instrument in response to the committee's concerns.	06/08/2019; 22/08/2019

Instrument	Undertaking	Date of Undertaking
Various prudential standards [F2019L00621] [F2019L00624] [F2019L00625] [F2019L00631] [F2019L00632] [F2019L00643] [F2019L00646] [F2019L00648] [F2019L00649] [F2019L00656] [F2019L00659] [F2019L00662] [F2019L00669]	The Australian Prudential Regulation Authority undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	07/08/2019
Road Vehicle Standards Rules 2018 [F2019L00198]	The Minister for Infrastructure, Transport and Regional Development undertook to amend the instrument in response to the committee's concerns.	12/08/2019
Air Services Regulations 2019 [F2019L00371]	The Minister for Infrastructure, Transport and Regional Development undertook to amend the instrument and the explanatory statement to the instrument in response to the committee's concerns.	21/08/2019
Private Health Insurance (Data Provision) Amendment Rules 2019 [F2019L00726] Private Health Insurance (Health Insurance Business) Amendment Rules 2019 [F2019L00815]	The Department of Health undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	21/08/2019
National Greenhouse and Energy Reporting (Measurement) Amendment (2019 Update) Determination 2019 [F2019L00938]	The Department of Environment and Energy undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	22/08/2019
Health Insurance (Section 19AB Exemptions Guidelines) Determination 2019 [F2019L00941]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	23/08/2019
Hearing Services Program (Voucher) Instrument 2019 [F2019L00969]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	23/08/2019
Quality of Care Amendment (Minimising Use of Restraints) Principles 2019 [F2019L00511]	The Minister for Aged Care and Senior Australians undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	23/08/2019
Insurance (prudential standard) determinations – various instruments [F2019L00873] [F2019L00874] [F2019L00869] [F2019L00875]	The Australian Prudential Regulation Authority undertook to amend the explanatory statements to the instruments in response to the committee's concerns.	27/08/2019

Instrument	Undertaking	Date of Undertaking
Migration Amendment (Visa Application Charges) Regulations 2019 [F2019L00932]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	30/08/2019
Australian Hearing Services Regulations 2019 [F2019L00976]	The Department of Human Services undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	02/09/2019
Social Security (Administration) (Trial of Cashless Welfare Arrangements) (Declinable Transactions and Welfare Restricted Bank Account) Determination 2019 [F2019L00911]	The Department of Social Services undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	02/09/2019
Crimes Legislation Amendment (2019 Measures No. 1) Regulations 2019 [F2019L01004]	The Attorney-General's Department undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	03/09/2019
Migration (LIN 19/188: Arrangement for Approval and Variation of Approval for a Temporary Parent Sponsor) Instrument 2019 [F2019L01015]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	03/09/2019
Southern and Eastern Scalefish and Shark Fishery (Closures Variation) Direction 2019 [F2019L00650]	The Australian Fisheries Management Authority undertook to revoke the instrument in response to the committee's concerns.	03/09/2019
Telecommunications (Carrier Licence Exemption - Trial Network Units) Determination 2019 [F2019L00317] Telecommunications (Carrier Licence Exemption – Supply of Carriage Services to Visitors) Determination 2019 [F2019L00318]	The Department of Communications and the Arts undertook to amend the explanatory statement to the instrument in response to the committee's concerns.	03/09/2019

Implemented undertakings

4.3 The following table records undertakings that have been implemented since the committee's last *Delegated Legislation Monitor*.

Instrument	Undertaking	Date implemented
Amendment to List of Exempt Native Specimens - Commonwealth Southern and Eastern Scafish and Shark Fishery, February 2019 [F2019L00151]	The Minister for the Environment undertook to amend the explanatory statement to the instrument.	02/08/2019
Amendment of List of Exempt Native Specimens – Commonwealth Northern Prawn Fishery, December 2018 [F2019L00015]	The Minister for the Environment undertook to amend the explanatory statement to the instrument.	02/08/2019
Australian Capital Territory National Land Amendment (Lakes) Ordinance 2018 [F2018L01611]	The Assistant Minister for Regional Development and Territories undertook to amend the explanatory statement to the instrument.	06/08/2019
Customs (Prohibited Imports) Amendment (Collecting Tobacco Duties) Regulations 2019 [F2019L00352]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument.	30/08/2019
Customs Amendment (Collecting Tobacco Duties) Regulations 2019 (No. 1) [F2019L00350]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument.	30/08/2019
Health Insurance Legislation Amendment (Flood Affected Areas) Determination 2019 [F2019L00734]	The Assistant Minister for Customs, Community Safety and Multicultural Affairs undertook to amend the explanatory statement to the instrument.	23/08/2019
Intellectual Property Laws Amendment (PCT Translations and Other Measures) Regulations 2019 [F2019L00376]	The Department of Industry, Innovation and Science undertook to amend the explanatory statement to the instrument.	03/09/2019
Migration (LIN 19/048: Specification of Occupations—Subclass 482 Visa) Amendment Instrument 2019 [F2019L00316]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument.	31/08/2019
Migration Amendment (New Skilled Regional Visas) Regulations 2019 [F2019L00578]	The Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs undertook to amend the explanatory statement to the instrument.	20/08/2019
Migration Amendment (Temporary Sponsored Parent Visa and Other Measures) Regulations 2019 [F2019L00551]	The Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs undertook to amend the explanatory statement to the instrument.	16/08/2019

Instrument	Undertaking	Date implemented
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2019 (No. 4) [F2019L00663]	The Department of Health undertook to amend the explanatory statement to the instrument.	07/08/2019
Norfolk Island Legislation Amendment (Criminal Justice Measures) Ordinance 2019 [F2019L00546]	The Department of Infrastructure, Transport, Cities and Regional Development undertook to amend the explanatory statement to the instrument.	30/08/2019
Radiocommunications (Digital Radio Channels — Western Australia) Plan Variation 2019 (No. 1) [F2019L00726]	The Department of Communications and the Arts undertook to amend the explanatory statement to the instrument.	16/08/2019
Therapeutic Goods (Conformity Assessment Standard for Quality Management Systems) Order 2019 [F2019L00426]	The Department of Health undertook to amend the explanatory statement to the instrument.	14/08/2019
Therapeutic Goods (Permissible Ingredients) Determination (No. 2) 2019 [F2019L00834]	The Department of Health undertook to amend the explanatory statement to the instrument.	
Therapeutic Goods (Standard for Disinfectants and Sanitary Products) (TGO 104) Order 2019 [F2019L00482]	The Department of Health undertook to amend the explanatory statement to the instrument.	14/08/2019
Therapeutic Goods (Standard for Tablets, Capsules and Pills) (TGO 101) Order 2019 [F2019L00369]	The Department of Health undertook to amend the explanatory statement to the instrument.	14/08/2019
Therapeutic Goods (Standard for Tampons) (TGO 103) Order 2019 [F2019L00428]	The Department of Health undertook to amend the explanatory statement to the instrument.	14/08/2019

Appendix D

Instruments specifying Commonwealth expenditure

5.1 The *Financial Framework (Supplementary Powers) Act 1997* (FF(SP) Act) and the *Industry Research and Development Act 1986* (Industry Act) authorise the Commonwealth to spend public money on policies, programs and grants specified in instruments made under those Acts. Consequently, the specification of expenditure in an instrument made under these Acts effectively authorises the Commonwealth to spend public moneys on the relevant policy, program or grant.

5.2 The scrutiny of such instruments is a key aspect of parliamentary scrutiny and control of Commonwealth expenditure.¹ To facilitate such scrutiny, the committee routinely draws the Senate's attention to the nature and extent of Commonwealth expenditure that is specified by delegated legislation.

5.3 The table below outlines the nature and, where possible, amount of expenditure specified by legislative instruments registered between 21 June and 8 August 2019. Information regarding expenditure has been drawn exclusively from explanatory materials to the relevant instruments.

Instrument	Program	Amount
Financial Framework (Supplementary Powers) Amendment (Employment, Skills, Small and Family Business Measures No. 1) Regulations 2019 [F2019L00935]	New Employment Services Trial	\$176.8 million provided as part of the 'New Employment Services Model' for a period of five years, commencing in 2018-19.
Industry Research and Development (National Innovation Games Program) Instrument 2019 [F2019L01029]	National Innovation Games	\$3.5 million over two years, commencing in 2019-20.

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee on Regulations and Ordinances

1 For further information about instruments specifying Commonwealth expenditure see Chapter 7 of the report of the committee's inquiry, [Parliamentary scrutiny of delegated legislation](#).