



Department of the Senate

Senate Scrutiny of Bills Committee

NEWS



22 June 2017 (drawing on material in the committee's [Scrutiny Digest No. 7 of 2017](#))

Introduction

This newsletter highlights key aspects of the Senate Scrutiny of Bills Committee's work, with a particular focus on information that may be useful when bills are debated or considered by other Senate committees and to raise awareness about scrutiny principles (see Senate Standing Order 24).

For more detail and discussion of these matters and comments on additional bills look to the committee's [Scrutiny Digests](#). An index to all committee comments is available [here](#).

Key scrutiny issues ([Scrutiny Digest No. 7 of 2017](#))

- **Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017**
 - ❖ *Broad delegation of legislative power*: The bill provides that the Minister may determine, by legislative instrument, matters relating to whether a person has 'integrated into the Australian community' or the circumstances in which a person has 'competent English'. The committee suggests it may be appropriate for the bill to be amended to provide guidance in the primary legislation as to these matters and is seeking the Minister's response.
 - ❖ *Broad discretionary power to revoke citizenship*: The committee draws to the attention of Senators its scrutiny concerns about conferring broad discretionary powers on the Minister to cancel a person's citizenship on the basis that the person was not of good character at the time citizenship was granted or became a citizen as a result of fraud or misrepresentation.
 - ❖ *Exemption from disallowance*: The committee is seeking the Minister's justification for exempting from disallowance a determination setting out an Australian Values Statement.
 - ❖ *Merits review*: The committee draws to the attention of Senators its scrutiny concerns about excluding merits review where a decision is made by the Minister personally and giving the power to the Minister to set aside a decision of the Administrative Appeals Tribunal in certain circumstances, noting the importance of the system of independent merits review.
 - ❖ *Retrospective application*: The committee draws to the attention of Senators the appropriateness of applying changes to acquiring citizenship by birth to people born before commencement of these amendments, and is seeking advice as to why certain other amendments will apply retrospectively to citizenship applications made on or after 20 April 2017.
- **Commercial Broadcasting (Tax) Bill 2017**
 - ❖ *Use of delegated legislation*: The bill delegates to the Executive several matters relating to the proposed new transmitter licence tax. The committee is seeking the Minister's advice in relation to whether parliamentary scrutiny of this delegated legislation can be increased, and the reasons for reversing the usual disallowance procedures in relation to certain ministerial determinations.
- **Regional Investment Corporation Bill 2017**
 - ❖ *Various matters*: The committee is seeking the Minister's advice in relation to:

- the terms and conditions attaching to grants to the States and whether ministerial directions and agreements with the States can be tabled in Parliament and published on the internet;
- why certain ministerial directions relating to the operation and location of the Corporation will be exempt from disallowance;
- why all of the Corporation's powers and functions will be able to be delegated to staff members of the Corporation at any level; and
- the committee's suggestion that the bill be amended to provide that the report into the statutory review of the operation of the Act be tabled in Parliament and published on the internet.

Other bills commented on ([Scrutiny Digest No. 7 of 2017](#))

- **Communications Legislation Amendment (Deregulation and Other Measures) Bill 2017:** The committee has scrutiny concerns about removing a specific requirement for the ACCC to consult before making delegated legislation.
- **Major Bank Levy Bill 2017:** The committee considered a response relating to the incorporation of external material into the law.
- **Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Bill 2017:** The committee has scrutiny questions surrounding the automatic cancellation or refusal to issue an Australian passport, including the process by which a request to refuse or cancel is made, whether merits review is available and the appropriateness of a reverse evidential burden of proof.
- **Treasury Laws Amendment (Major Bank Levy) Bill 2017:** The committee considered a response relating to incorporation of external material into the law and a reverse evidential burden of proof.

This document contains a very brief summary of some recent comments made by the Senate Scrutiny of Bills Committee (Chair: Senator Helen Polley and Deputy Chair: Senator John Williams).

For any comments or questions, please contact:

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