



19 September 2019

Introduction

This newsletter highlights key aspects of the work of the Senate Scrutiny of Bills Committee and the Senate Regulations and Ordinances Committee. It has a particular focus on information that may be useful while bills are under consideration and legislative instruments are subject to disallowance, and seeks to raise awareness about the committees' scrutiny principles (see Senate Standing Orders 23 and 24).

For more detail and discussion of these matters see the committees' [Scrutiny Digests](#) and [Delegated Legislation Monitors](#).

Key scrutiny issues: Bills ([Scrutiny Digest 6 of 2019](#))

National Housing Finance and Investment Corporation Amendment Bill 2019

- Significant matters in non-disallowable delegated legislation: the committee is seeking advice on why nearly all of the elements of the proposed First Home Loan Deposit Scheme have been left to non-disallowable delegated legislation and whether the core elements of the scheme could be included in the primary legislation.

Key scrutiny issues: Legislative instruments ([Delegated Legislation Monitor 6 of 2019](#))

Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018 [F2018L01674]

- Incorporation: the committee welcomes the minister's undertaking to progress amendments to the *Water Act 2009*, to address the committee's concern that the instrument incorporates certain documents as in force from time to time, without the legal authority to do so. In light of the minister's undertaking, the committee has resolved to withdraw the notice of motion to disallow the instrument.

Other bills commented on ([Scrutiny Digest 6 of 2019](#))

- **Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019**: the committee leaves to the Senate the appropriateness of imposing mandatory minimum sentences and a presumption against bail and limiting judicial discretion in sentencing offenders.
- **Emergency Response Fund Bill 2019**: the committee is seeking advice on the appropriateness of conferring broad discretionary powers on the minister, not allowing for merits review of grants decisions, leaving significant elements of the scheme to non-

disallowable legislative instruments and allowing for broad delegation of administrative powers.

- **Family Law (Self-Assessment) Bill 2019:** the committee leaves to the Senate the appropriateness of creating offences with an uncertain scope and establishing a self-assessment process that may limit the right to procedural fairness.
- **National Integrity Commission Bill 2019:** the committee reiterates its comments made regarding a similar bill in *Scrutiny Digest 5 of 2019*.
- **Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019:** the comment is seeking advice on providing the minister with broad discretionary powers to determine the percentage of 'restricted' income and the types of information that would be collected and shared under the bill.

Other legislative instruments of interest to the committee ([*Delegated Legislation Monitor 6 of 2019*](#))

- The Regulations and Ordinances committee considered 68 disallowable legislative instruments registered on the Federal Register of Legislation between 9 August 2019 and 28 August 2019. The committee is continuing to engage with ministers and agencies in relation to 15 instruments, and has concluded its consideration of 11 instruments.
- All legislative instruments subject to a notice of motion for disallowance in either House of Parliament are listed in the [Disallowance Alert](#).

Notices of motion to disallow

At its private meeting on Wednesday 18 September 2019, the Senate Regulations and Ordinances Committee resolved to **withdraw** notices of motions to disallow the following instruments:

- Migration (Fast Track Applicant Class – Temporary Protection and Safe Haven Enterprise Visas) Instrument 2019 [F2019L00506]
- Southern and Eastern Scalefish and Shark Fishery (Closures Variation) Direction 2019 [F2019L00650]
- Underwater Cultural Heritage Rules 2018 [F2019L00096]
- Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018 [F2018L01674]

The committee did not resolve to **place** notices of motion to disallow any instruments at its private meeting.

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 Dean Smith) and the Senate Regulations and Ordinances Committee (Chair: Senator the Hon Concetta Fierravanti-Wells and Deputy Chair: Senator the Hon Kim Carr).

For any comments or questions, please contact:

Glenn Ryall, Acting Secretary
Senate Scrutiny of Bills Committee
02 6277 3050 | scrutiny.sen@aph.gov.au
Regulations and Ordinances Committee
02 6277 3066 | regords.sen@aph.gov.au