



28 November 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](#).

Highlights

On 27 November 2019, the Senate agreed to [General Business Notice of Motion No. 84](#), standing in the name of the Chair of the Standing Committee on Regulations and Ordinances, to amend Senate standing orders 23 and 25(2)(a). The amendments accord with the recommendations of the bipartisan [report](#) of the committee's 2019 [inquiry](#) into parliamentary scrutiny of delegated legislation. In summary, they:

- modernise language and procedures;
- clarify the standing orders to reflect existing committee practice; and
- promote consistency with other Senate standing committees and scrutiny committees in other Westminster jurisdictions.

The amendments will take effect on 4 December 2019. Further information about the amendments is available on the committee's [website](#).

Key scrutiny issues: Bills ([Scrutiny Digest 9 of 2019](#))

Aged Care Legislation Amendment (New Commissioner Functions) Bill 2019

- [Use of force](#): the committee considered that it may be appropriate to amend the bill to limit the use of force to persons who are authorised officers.
- [Broad delegation of investigatory powers](#): the committee considered that it may be appropriate to amend the bill to require that a person assisting an authorised officer has suitable training or experience.
- [Broad delegation of administrative power](#): the committee leaves to the Senate the appropriateness of allowing the Aged Care Quality and Safety Commissioner to broadly delegate his or her functions or powers.

Key scrutiny issues: Legislative instruments ([Delegated Legislation Monitor 9 of 2019](#))

Telecommunications (Protecting Australians from Terrorist or Violent Criminal Material) Direction (No. 1) 2019 [F2019L01159]

- On 27 November 2019, the Senate Regulations and Ordinances Committee held a private briefing with the eSafety Commissioner, to discuss the committee's technical scrutiny concerns relating to the Telecommunications (Protecting Australians from Terrorist or Violent Criminal Material) Direction (No. 1) 2019.

Quality of Care Amendment (Minimising Use of Restraints) Principles 2019 [F2019L00511]

- *Significant matters in delegated legislation*: following extensive engagement with the committee, the minister has amended the Quality of Care Principles 2014 to provide for a review of the matters contained in the instrument after 12 months of operation and the repeal of the provisions inserted by the instrument after two years of operation. On the basis of these amendments, the committee has resolved to withdraw the notice of motion to disallow the instrument.

Other bills commented on ([Scrutiny Digest 9 of 2019](#))

- **Communications Legislation Amendment (Deregulation and Other Measures) Bill 2019**: the committee leaves to the Senate the appropriateness of removing independent merits review and providing broad delegations of administrative powers.
- **Health Legislation Amendment (Data-matching and Other Matters) Bill 2019**: the committee considered that it may be appropriate to amend the bill to limit the delegation of the Chief Executive Medicare's powers.

Other legislative instruments commented on ([Delegated Legislation Monitor 9 of 2019](#))

- The Regulations and Ordinances committee considered 60 disallowable legislative instruments registered on the Federal Register of Legislation between 17 October 2019 and 31 October 2019. The committee is continuing to engage with ministers and agencies in relation to 10 instruments, and has concluded its consideration of one instrument.
- 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 27 November 2019, the Senate Regulations and Ordinances Committee resolved to **place** notices of motions to disallow the following instruments:

- Telecommunications (Protecting Australians from Terrorist or Violent Criminal Material) Direction (No. 1) 2019 [F2019L01159]
- Financial Sector (Collection of Data) (reporting standard) determination No. 30 of 2019 [F2019L01196]

At its private meeting on 27 November 2019, the Senate Regulations and Ordinances Committee resolved to **withdraw** notices of motions to disallow the following instrument:

- Quality of Care Amendment (Minimising Use of Restraints) Principles 2019 [F2019L00511]

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:

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