



DEPARTMENT
OF THE SENATE

Scrutiny NEWS

Scrutiny of Bills Committee

Scrutiny of Delegated Legislation Committee

16 September 2021

Introduction

This newsletter highlights key aspects of the work of the Senate Scrutiny of Bills Committee and the Senate Scrutiny of Delegated Legislation 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](#).

Please note that this edition of Scrutiny News relates only to the work of the Senate Scrutiny of Bills Committee, as the Senate Scrutiny of Delegated Legislation Committee did not meet in the week beginning 13 September 2021.

Key scrutiny issues: Bills ([Scrutiny Digest 15 of 2021](#))

Bioresecurity Amendment (Enhanced Risk Management) Bill 2021

- Coercive powers/instruments not subject to parliamentary disallowance: the committee is seeking advice as to whether the bill can be amended to include high-level guidance in relation to mandatory examinations and the collection of body samples, to require the publishing of human biosecurity group directions online and to require that information about the directions be included in the department's annual report.
- Significant matters in delegated legislation: the committee is seeking advice as to why it is necessary and appropriate to leave notification requirements in relation to a human biosecurity group direction and in relation to the storage and use of body samples to delegated legislation.
- Broad discretionary power/grants to the states under section 96 of the Constitution: the committee is seeking advice as to why it is necessary and appropriate to confer a broad power to make arrangements and grants in circumstances where there is limited guidance as to how the power is to be exercised on the face of the bill.

Foreign Intelligence Legislation Amendment Bill 2021

- Privacy/administrative powers not defined with sufficient precision: the committee has concerns that the bill may unduly trespass on an individual's privacy. The committee considers it would have been appropriate to allow the committee more time to review the bill before its passage through Parliament.

- *Instruments not subject to parliamentary disallowance*: the committee has significant scrutiny concerns regarding a provision of the bill which provides that the mandatory procedure for screening and destroying domestic communications is not a legislative instrument.

Other bills commented on ([Scrutiny Digest 15 of 2021](#))

- **Aboriginal Land Rights (Northern Territory) Amendment (Economic Empowerment) Bill 2021**: the committee is seeking advice regarding the inclusion of no-invalidity clauses, leaving significant matters to delegated legislation, instruments that are not legislative instruments and the tabling of documents in Parliament.
- **Charter of the United Nations Amendment Bill 2021**: the committee is seeking further advice regarding the significant delay in registering counter-terrorism listings made under the *Charter of the United Nations Act 1945*.
- **Crimes Amendment (Remissions of Sentences) Bill 2021**: the committee is seeking advice regarding the appropriateness of retrospectively depriving prisoners of already accrued remission days, including whether the bill can be amended so that it only applies prospectively.
- **Major Sporting Events (Indicia and Images) Protection and Other Legislation Amendment Bill 2021**: the committee welcomes government amendments to the bill which address scrutiny concerns previously raised by the committee in relation to the inclusion of significant matters in delegated legislation.
- **Social Security Legislation Amendment (Remote Engagement Program) Bill 2021**: the committee is seeking advice regarding the appropriateness of leaving matters relating to when a person will be eligible for the remote engagement program payment to delegated legislation.

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).

For any comments or questions, please contact:

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Senate Scrutiny of Bills Committee

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