



8 December 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 set out in 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 Delegated Legislation Committee.

Key scrutiny issues: Legislative instruments ([Delegated Legislation Monitor 17 of 2021](#))

Financial Framework (Supplementary Powers) Amendment (Health Measures No. 6) Regulations 2021 [F2021L01430]

- Delegation of administrative powers and functions/conferral of discretionary powers: the committee is seeking advice from the Minister as to who will exercise the power to make decisions under the COVID-19 Vaccine Claims Scheme (Scheme) and whether any safeguards or limitations apply to the exercise of these powers.
- Privacy: the committee is seeking advice from the Minister as to the nature, scope and extent of personal information that may be collected under the Scheme and whether any safeguards apply to protect this information.
- Availability of independent merits review: the committee is seeking advice from the Minister as to whether independent merits review can be provided for decisions made under the Scheme, and if not, a detailed explanation of why independent merits review is not appropriate.
- Matters more appropriate for parliamentary enactment: the committee is seeking advice from the Minister as to whether the Scheme can be established via primary legislation, and if not, why not.
- Parliamentary oversight: the committee is seeking advice from the Minister as to the total amount of funding that is expected to be expended on the Scheme.
- Parliamentary oversight: the committee is seeking advice from the Minister as to why crucial aspects of the Scheme, including the eligibility criteria, evidentiary requirements,

the process for making a claim and the list of conditions for which a claim may be payable will be determined by guidelines that are not subject to disallowance by the Parliament.

Scrutiny of COVID-19 related legislation

The Scrutiny of Delegated Legislation Committee has continued to list all delegated legislation made in response to COVID-19 on its [website](#). As of 25 November 2021, 600 legislative instruments have been made, of which 16.8% are exempt from disallowance.

Other legislative instruments commented on ([Delegated Legislation Monitor 17 of 2021](#))

- The Scrutiny of Delegated Legislation Committee considered 62 disallowable legislative instruments and 11 instruments exempt from disallowance registered on the Federal Register of Legislation between 2 and 22 October 2021. The committee is continuing to engage with ministers and agencies in relation to 21 instruments and has concluded its consideration of 6 instruments.

Notices of motion to disallow

The Scrutiny of Delegated Legislation Committee **withdrew** notices of motions to disallow the following instruments on 2 December 2021:

- Legislation (Exemptions and Other Matters) Amendment (2021 Measures No. 1) Regulations 2021 [F2021L00859] (disallowance period expires on the 4th sitting day of 2022)
- Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Declaration 2021 [F2021L01157] (disallowance period expires on the 12th sitting day of 2022).

All legislative instruments subject to a notice of motion for disallowance in either House of the Parliament are listed in the [Disallowance Alert](#).

This document contains a very brief summary of some recent comments made by the Senate Scrutiny of Delegated Legislation 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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