



1 December 2023

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](#).

Scrutiny of Bills Committee

Scrutiny Digest 15 of 2023 reports on the committee's consideration of 13 bills which were introduced into the Parliament during recent sitting weeks as well as amendments introduced in relation to 6 bills. It also contains the committee's comments on ministerial responses in relation to 3 bills.

Key scrutiny issues: Bills (*Scrutiny Digest 15 of 2023*)

Migration Amendment (Bridging Visa Conditions) Bill 2023

Migration Amendment (Bridging Visa Conditions and Other Measures) Bill 2023

- The committee is seeking the minister's further advice in relation to following concerns that the committee has raised:
 - undue trespass on rights and liberties;
 - broad scope of offence provisions;
 - significant penalties in primary legislation;
 - procedural fairness;
 - significant matters in delegated legislation;
 - broad delegation of administrative powers and functions;
 - privacy; and
 - retrospective application.

- The committee is also leaving to the attention of the Senate as a whole the significant impact on parliamentary scrutiny imposed by passing and amending a bill within one day, with proposed significant and substantial amendments being introduced shortly after.

Other bills commented on (*Scrutiny Digest 15 of 2023*)

- **Bankruptcy Amendment (Discharge From Bankruptcy) 2023:** the committee has noted scrutiny concerns in relation to privacy, but as the bill has already passed both Houses of Parliament, the committee makes no further comment on this matter. The committee is also noting that the bill was passed within 3 days of its introduction and remains concerned as to the impact this has on the ability for Parliament to scrutinise legislation.
- **Crimes and Other Legislation Amendment (Omnibus No. 2) Bill 2023:** the committee has noted scrutiny concerns in relation to the retrospective validation of actions as prescribed by the bill. As the bill has already passed both Houses of Parliament, the committee is making no further comment on this matter. However, the committee is noting that this bill passed both Houses of Parliament within 3 days of its introduction and remains concerned as to the impact this has on the ability for Parliament to scrutinise legislation.

Scrutiny of Delegated Legislation Committee

Key scrutiny issues: Legislative instruments (*Delegated Legislation Monitor 15 of 2023*)

Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) Regulations 2023 [F2023L01417]

- Availability of independent merits review; adequacy of explanatory material: the committee is requesting the minister's advice as to whether further justification can be provided for excluding merits review in this instrument, in accordance with the established grounds set out in the Administrative Review Council's guidance document, *What decisions should be subject to merits review?*

National Portrait Gallery of Australia Regulations 2023 [F2023L01184]

- Coercive powers; conferral of discretionary powers; strict liability offences: following an undertaking from the minister to include further information in relation to the conferral of coercive powers, discretionary powers and the inclusion of a strict liability offence in this instrument and registration of a replacement explanatory statement, the committee is concluding examination of this instrument.

Notices of motion to disallow

The Scrutiny of Delegated Legislation Committee agreed to place a 'protective' notice of motion to disallow the following instruments on 5 December 2023:

- Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) Regulations 2023 [F2023L01417]

- Migration Amendment (Biosecurity Contravention) Regulations 2023 [F2023L01443]

The Scrutiny of Delegated Legislation Committee **withdrew** its notice of motion to disallow the following instrument on 30 November 2023:

- National Portrait Gallery of Australia Regulations 2023 [F2023L01184]

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

For any comments or questions, please contact:
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