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Background

Appropriation legislation

- 2.1 Section 83 of the Constitution requires all government expenditure to be authorised by an ‘appropriation made by law’—that is, by an Act of Parliament, which is introduced into the Parliament as an appropriation bill.
- 2.2 For purposes of discussing parliamentary scrutiny, there are two types of appropriation bill. The annual appropriation bills, and special appropriation bills.
- 2.3 An appropriation is the authorisation of expenditure. Any bill which authorises expenditure, or which would have the effect of increasing, altering the destination of, or extending the purpose of an already existing appropriation, is an appropriation bill. An appropriation bill does not necessarily have the word ‘appropriation’ in its title. An appropriation bill cannot be passed unless the purpose of the appropriation has been recommended by a message from the Governor-General.¹ Appropriation bills cannot be initiated in the Senate, and appropriation bills for ‘the ordinary annual services of the Government’ cannot be amended by the Senate.²

1 Constitution, s. 56.

2 Constitution, s. 53.

Annual appropriation bills

- 2.4 The annual appropriation bills are bills which are passed regularly each financial year to appropriate money from the Consolidated Revenue Fund to provide funds for government and parliamentary expenditure. (As Parliament is constitutionally separate and independent from the Government, it now has separate funding by means of its own appropriations.)
- 2.5 The main annual appropriation bills are introduced with the Budget. Appropriation Bill (No. 1) covers expenditure for ordinary annual government services (continuing expenditure by government agencies on services for existing policies); Appropriation Bill (No. 2) covers new policies, new capital expenditure, and payments to the States; and the Appropriation (Parliamentary Departments) Bill covers expenditure for the Parliament.
- 2.6 Additional appropriation bills provide additional funds for the current financial year when departments need more funds than those appropriated by the main appropriation bills. These are usually³ Appropriation Bill (No. 3) (ordinary annual government services), Appropriation Bill (No. 4) (other expenditure), and the Appropriation (Parliamentary Departments) Bill (No. 2) (expenditure for the Parliament).
- 2.7 Supply bills are a kind of annual appropriation bill which provide interim funding in the event that the main appropriation bills do not pass before the start of the financial year. They used to be necessary when it was the practice for the Budget to be presented in August, and could still be needed, if for some reason (such as an election) the present May budget timetable was not able to be followed.
- 2.8 The main annual appropriation bills and the additional appropriation bills are subject to the special parliamentary scrutiny processes which are the main focus of this report.

Special appropriation bills

- 2.9 Special appropriation bills appropriate funds for a specified purpose—for example, to finance a particular project or program set up by the bill. Special appropriation bills are often not specific in amount or duration—those providing funds for an indefinite period are said to give ‘standing appropriation’.

3 Numbering of additional appropriation bills may vary.

- 2.10 Special appropriation bills are not subject to special financial scrutiny processes, but (apart from the addition step of reporting a Governor-General's message) are treated in the same way as bills which do not contain appropriations. Like other bills they may be referred to general purpose standing committees in the House (although this is rare) and to legislation committees in the Senate.
- 2.11 The majority of government expenditure (about 70%) is covered by special appropriation. As an example, while annual appropriations for the Department of Family and Community Services in Appropriation Bills No. 1 and No. 2 for 2003–2004 were some \$5.3 billion, estimates of expenditure from special appropriations administered by the department amounted to some \$57 billion.⁴
- 2.12 Information on estimated expenditure under special appropriations is included in the portfolio budget statements (see paragraph 2.24).

Summary of the annual budget cycle

- 2.13 With May budgets, the budget cycle begins in about *November* when departments update their *forward estimates of expenditure*. These cover a three year period assuming continuation of current government policies.
- 2.14 Later in *November* or in *December*, a *Senior Ministers' review* takes place—i.e. the Prime Minister, the Treasurer and the Minister for Finance and Administration—to establish policy priorities and budgetary strategy for the next financial year.⁵
- 2.15 On the basis of this review, agencies prepare *portfolio budget submissions*, which outline major new funding proposals and potential savings within the agency's area of responsibility. These are lodged with the Cabinet Office in late *February*.
- 2.16 The *Expenditure Review Committee* (ERC) of Cabinet—the Prime Minister and the Ministers as noted above and two other senior Ministers—considers the portfolio budget submissions in *March* and makes recommendations to Cabinet for proposals to include in the coming Budget. Following this process, revenue aspects of the Budget are

4 Source *Portfolio Budget Statements 2003–04—Family and Community Services Portfolio*. This is an extreme example—the department is the largest portfolio by expenditure, representing over one third of all Commonwealth government expenditure. The special appropriations are for various types of social security payment.

5 Information about minor spending proposals is submitted separately to the Minister for Finance and Administration.

considered by the *Revenue Committee* of Cabinet, based on advice from the Treasury.

- 2.17 In *March* agencies start preparing the budget documentation (including the various budget papers and the portfolio budget statements) and update their estimates in accordance with Cabinet decisions.
- 2.18 *The Budget* is presented in *May*—traditionally on a Tuesday at 7.30 pm—when the Treasurer and other Ministers introduce the three *appropriation bills* (see paragraph 2.4)—Appropriation Bill (No. 1), Appropriation Bill (No. 2), and the Appropriation (Parliamentary Departments) Bill—and present the budget papers and associated documents to the House. Other legislation containing budget measures may also be introduced at that time or at a later date. Copies of the budget documentation, including the *portfolio budget statements* (see paragraph 2.24) which expand on the detail contained in the appropriation bills, are also tabled in the Senate. Current practice is for the portfolio budget statements not to be tabled in the House.
- 2.19 The parliamentary aspects of the annual budget process in the House centre on the passage of the annual Appropriation Bill (No.1) ‘for the ordinary annual services of the Government’ introduced by the Treasurer. The Treasurer’s *budget speech* is in procedural form the ministerial second reading speech on this bill. The budget debate then takes place on the question before the House that this bill ‘be now read a second time’. This is a wide-ranging debate on public affairs in general and is not confined to the appropriation bill or to budget measures. The ‘estimates’—the details of proposed expenditure by government departments for the coming financial year—are debated at the next step in the bill’s progress—the consideration in detail stage, when the House goes through the proposals department by department. The other appropriation bills are usually not debated separately.
- 2.20 While the House considers the budget bills, in the Senate copies of the details of the proposed expenditure in the appropriation bills are referred to the Senate estimates committees (or more correctly, *Senate legislation committees* considering the estimates), as described in paragraph 2.29. The appropriation bills themselves are not extensively debated in the Senate. The appropriation bills must pass both Houses and be assented to before the end of the financial year on *30 June*.
- 2.21 Generally in *November* (but possibly as late as January), the Government presents to the Parliament a *Mid-Year Economic and Fiscal Outlook* report. This compares estimates to actual expenditure and provides an update on the budgetary position.

- 2.22 At around the same time, the *Additional Estimates* process is undertaken, which enables portfolios to reassess funding requirements and, if necessary, submit requests for additional funding. The Additional Estimates are incorporated into Appropriation Bills (Nos. 3 and 4) and the Appropriation (Parliamentary Departments) Bill (No. 2). These are dealt with by each House in a similar way to the May appropriation bills, but on a smaller scale. The House has a general debate on the bills but does not usually consider them in detail, and the Senate legislation committees examine the additional estimates. *Portfolio additional estimates statements*, which explain the changes to outcomes or expected expenditure, are tabled in the Senate but not in the House.
- 2.23 In *September*, three months after the end of the financial year, the *final budget outcome* documents for the financial year are tabled in the Parliament. Agencies table their annual reports at about this time—these include financial statements and reports on performance against portfolio budget statement targets for the preceding financial year.

Portfolio budget statements

- 2.24 The portfolio budget statements (PBS), tabled in the Senate at budget time, contain information, explanation and justification to enable Parliament to understand the purpose of items proposed in the annual appropriation bills—there is a provision in each Appropriation Act requiring the PBS to be taken into account in the interpretation of the Act.
- 2.25 PBS provide information on the allocation of government resources to outcomes. They focus on the performance of agencies, give performance indicators for outcomes and outputs, and enable links to be drawn between information in the PBS, the appropriation bills and agencies' annual reports.
- 2.26 As well as estimates of expenditure under the annual budget appropriations, PBS contain information about expected expenditure under special appropriations administered by each portfolio.
- 2.27 Portfolio additional estimates statements (PAES), tabled on the introduction of the additional appropriation bills, serve as addendums to the PBS, explaining changes to outcomes or estimates for outcomes.
- 2.28 The PBS and PAES are major source documents for the Senate estimates process and Department of Finance and Administration guidelines

instruct agencies to be responsive to the requirements of the Senate legislation committees in the content of these documents.

Senate estimates committees

- 2.29 Senate estimates committees were first established in 1970. In 1994 they ceased to exist in their own right to be replaced by a system of 8 legislation committees which act as estimates committees when 'particulars of proposed expenditure' (the schedules in the appropriation bills containing the estimates) are referred to them when tabled in the Senate on budget night. This allows Senate consideration of the estimates before the budget legislation has passed the House of Representatives, as the bills themselves cannot be considered by both Houses at the same time.
- 2.30 The portfolio budget statements (PBS) (see paragraph 2.24) are also referred to the committees at this time. The PBS form the framework of the hearings and are in practice more important to the estimates hearings than the estimates (the 'particulars of proposed expenditure') themselves. Annual reports and Auditor-General's reports tabled in the Senate are also automatically referred to the committees and may be examined in conjunction with the estimates.
- 2.31 The legislation committees conduct hearings in estimates mode usually over a two week period shortly after the budget legislation has been introduced in the House of Representatives, while the House is engaged in the budget debate. Senate standing orders require evidence to be taken in public session. Committee members may question public servants directly. However, the responsible Minister (or Minister representing a Minister who is a Member of the House of Representatives) is expected to be present and to deal with matters of policy as distinct from administration.
- 2.32 The committees have the power to send for persons, papers and records. Information not provided during the initial round of hearings may be requested on notice and delivered for examination at supplementary meetings some weeks later. In the meantime the committees present their respective reports to the Senate in accordance with a timetable set earlier in the year by resolution of the Senate. By this stage the budget legislation has passed the House and been transmitted for passage through the Senate. A further single round of hearings (with no supplementary hearings) is held when the additional estimates are presented later in the financial year.

- 2.33 Senate estimates committees were established in the first instance to provide the basis for informed debate during detailed consideration of the budget legislation in the Senate after its second reading. However, this pre-consideration has largely replaced the Senate's equivalent of the consideration in detail stage. In addition, it has been suggested that individual Senators have been able to develop a more detailed knowledge of government operations, and because officials are required to explain in open forum the rationale for aspects of departmental administration, the accountability process has extended beyond less revealing mechanisms such as departmental annual reports. The process of holding the Government accountable to the Parliament has been assisted by new forms of budgetary documentation which focus on outputs and outcomes—that is, what the funds are meant to achieve, rather than the narrower focus on how the funds will be spent.
- 2.34 However, rather than concentrating narrowly on the justification of proposals for future expenditure, to a great degree the committees employ the estimates and the PBSs as tools to provide a framework for reviewing departmental performance during the current and previous financial years, and questioning often concerns specific details of past expenditure or departmental activity.
- 2.35 The topics for questioning are chosen by the Senators involved. While the focus of the proceedings is often directed to politically controversial subjects (and even more so the media interest in the proceedings), non-controversial matters are also pursued.
- 2.36 With the proviso that the process is not conducive to deep analysis of outputs or programs, it is recognised as a valuable accountability mechanism by all sides of the Parliament. Even Ministers are ready to concede this—for example 'I strongly support the current examination of the estimates of expenditure by the Senate and believe that it also plays an important role in holding the Government accountable to the Parliament and the Australian public at large.'⁶ (However, as Ministers who are Members of the House do not appear before Senate committees, the accountability mechanism is less than comprehensive.)
- 2.37 The Clerk of the Senate notes that the effectiveness of the process largely depends on the inability of the Government to restrict or control it. He suggests that the same effect would be more difficult to achieve in the House of Representatives context.⁷

6 Submission from Hon B Nelson MP, Minister for Education, Science and Training.

7 Submission from the Clerk of the Senate, p. 2.

The Joint Committee of Public Accounts and Audit

- 2.38 The Joint Committee of Public Accounts and Audit (JCPAA) is a statutory committee established by the *Public Accounts and Audit Committee Act 1951*.
- 2.39 The committee has 16 members, six appointed by the Senate and ten by the House of Representatives. The committee has a majority of government members. The chair is a government member and the deputy chair an opposition member.
- 2.40 The JCPAA's function is to scrutinise, usually by means of public inquiry, the performance of all Commonwealth government agencies in spending the funds appropriated to them by the Parliament. The JCPAA has a broad range of responsibilities, which include examining all reports of the Auditor-General; reporting on any circumstances connected with the financial accounts and statements of Commonwealth agencies; and reporting on any matter (which may include bills) referred by the Parliament. The committee is also responsible for approving annual report guidelines for government departments.
- 2.41 The ability to consider and report on any circumstances connected with reports of the Auditor-General or with the financial accounts and statements of Commonwealth agencies is one of the main sources of the JCPAA's authority, as it enables the committee to initiate its own references and, in the main, to determine its own work priorities. This power gives the JCPAA a significant degree of independence from the Executive Government.

Former financial procedures of the House 1901–1963

- 2.42 For its first six decades the House of Representatives followed practice derived from the United Kingdom House of Commons by giving preliminary consideration to proposed charges (upon the public revenue, i.e. appropriations, or on the people, i.e. taxes) in committee of the whole.⁸

8 A committee of the whole is a committee composed of the whole membership of the House, apart from the Speaker. Historically in the UK House of Commons bills were committed to a single Member (i.e. to a committee) or to a small group of Members for revision or to incorporate amendments. The committee of the whole arose as a device to allow all Members to participate in these deliberations, and later became recognised as an efficient method of discussing matters of detail and finance, as proceedings were less formal than in the House itself. The absence of the Speaker during the period when that position was a nominee of the Crown is also said to be a consideration. See Lord Campion, *An introduction to the procedure of the House of Commons*, 3rd edn, Macmillan, London, 1958, pp. 27–29. The House of Representatives no longer resolves itself into a committee of the whole when it considers a bill in detail. However, to confuse the issue, the Main Committee of the House of

The main appropriation bill each financial year was preceded by the Governor-General transmitting estimates of proposed expenditure, which on receipt were referred to the Committee of the Whole House sitting as the Committee of Supply. The Treasurer made the budget speech in committee while moving that the first item in the estimates be agreed to. The budget debate and consideration of the details of the estimates of expenditure also took place in the Committee of Supply.

- 2.43 The Committee of Supply's item-by-item consideration of the estimates extended for several weeks. When the Committee of Supply had reported to the House its resolution that a sum not exceeding a certain quantity be 'granted to Her Majesty . . . for the services of the year', the Committee of Ways and Means (the Committee of the Whole House under another designation) then convened and resolved the granting of a sum out of the Consolidated Revenue Fund 'towards making good the Supply granted to Her Majesty for the service of the year'. As soon as the Committee of Ways and Means reported to the House, the main appropriation bill was introduced and usually passed through all stages immediately.
- 2.44 The House followed a similar procedure in dealing with the additional estimates and the subsequent interim provision for the next financial year.
- 2.45 During the 1960s the procedure was streamlined to remove what had come to be seen as 'a mass of formal and time consuming procedure involving the moving of a great number of motions, consequent questions from the Chair, and movements in and out of various committees'.⁹
- 2.46 In the new arrangements the complete budget process was subsumed into the procedures for the passage of the main appropriation bill. The budget speech became the Treasurer's second reading speech on the bill and the budget debate became the second reading debate on the bill. The estimates were presented as a schedule of the bill and were considered in the committee of the whole stage of the bill (that is, in what is now called the consideration in detail stage).

House estimates committees 1979–1981

- 2.47 The House experimented with separate estimates committees during three years of the Fraser Government (1975–1983) in 1979, 1980 and 1981. In the

Representatives, the parallel debating chamber to which both the second reading and consideration in detail stages of bills may be referred, is technically a committee of the whole.

9 *House of Representatives Practice*, 1st edn, 1981, Canberra: AGPS, pp. 345-6.

first year two estimates committees were appointed. Their membership comprised an ex officio chair, the Minister responsible for each item of proposed expenditure as it was considered, and between 12 and 18 other Members per portfolio (in effect providing a differently constituted committee for each portfolio) nominated to reflect the proportional numerical strength of the Government and Opposition in the House. The committees could examine and report—and express an opinion—on proposed expenditures but not vote on or vary their amount. A Minister's departmental advisers could respond to committee members' queries subject to the Minister's approval. Meetings were public.

- 2.48 More committees were appointed in the next two years—four in 1980 and six in 1981—each with fewer members (chair, Minister and 10 Members). However, the Government abandoned the experiment in 1982 by not moving to renew the sessional orders. Despite opposition protestations at that time, estimates committees were not revived when there was a change of government in 1983.
- 2.49 Reasons for the demise of the House estimates committees are canvassed in Chapter 4.

Alternative approaches—estimates consideration in other Parliaments

- 2.50 The following summary concentrates on processes which are different from those followed in the Commonwealth Parliament.¹⁰

New South Wales	NSW had joint estimates committees until 1995 when the Legislative Council established its own estimates committees. Legislative Assembly standing orders have provisions enabling the appointment of estimates committees, however in practice they are not appointed. Neither does the Assembly any longer consider appropriations in the House (committee of the whole).
Victoria	Estimates are referred to the Public Accounts and Estimates Committee (joint statutory committee). Estimates questionnaire sent to departments before the Budget.

¹⁰ The Committee also looked at budget consideration in local government, but found the processes (e.g. proposed budget considered by a budget committee before presentation to full council for formal adoption) not directly comparable.

Western Australia	In the Legislative Assembly estimates committees (2 committees A and B) replace the consideration in detail stage. A Management Committee (Leader of the House, one other government member and two opposition members) determines the allocation of time and the distribution of the estimates between the committees. In the Legislative Council the annual estimates of expenditure and budget papers are considered in committee of the whole (known as the Estimates Committee).
Queensland (unicameral)	Estimates are referred to seven estimates committees A–G.
South Australia	In the Legislative Assembly estimates are referred to 2 estimates committees A and B, which meet concurrently in the Chambers of the House and the Legislative Council. Ministers, including those who are members of the Legislative Council are questioned. Other members of the Council do not participate. Ministers and shadow ministers make opening statements.
Tasmania	The Legislative Council has 2 estimates committees A and B. The Legislative Assembly does not have estimates committees.
Northern Territory (unicameral)	Estimates are considered in committee of the whole.
ACT (unicameral)	Estimates are referred to a Select Committee on the Estimates.
United Kingdom House of Commons	The Liaison Committee of committee chairs selects which estimates are to be debated in the House. Debate is limited to a total of three ‘Estimates’ days, the remainder of the estimates being dealt with without debate. Estimates are not referred to committees.
New Zealand House of Representatives (unicameral)	Estimates are referred to the Finance and Expenditure Committee which keeps some for its own consideration and allocates others to subject committees. The Committee reports back to House but does not pass or approve the estimates. Estimates questionnaire sent to departments before the Budget. Committees do not consider all estimates referred to them in detail.
Canada House of Commons	The estimates are tabled in the House and referred to the appropriate standing committees. If a committee has not reported the estimates back by the required date, it is deemed to have reported, whether it has actually considered them or not. While considering the main estimates, committees are also empowered to consider the documents setting out expenditure plans and priorities in future years.