

The Senate

Standing
Committee for the
Scrutiny of Delegated
Legislation

Delegated Legislation Monitor

Monitor 1 of 2021

22 January 2021

© Commonwealth of Australia 2021

ISSN: 2652-4139 (print)

ISSN: 2652-4147 (online)

This document was prepared by the Senate Standing Committee for the Scrutiny of Delegated Legislation and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

Membership of the committee

Current members

Senator the Hon Concetta Fierravanti-Wells (Chair)	New South Wales, LP
Senator the Hon Kim Carr (Deputy Chair)	Victoria, ALP
Senator Raff Ciccone	Victoria, ALP
Senator Perin Davey	New South Wales, NATS
Senator Nita Green	Queensland, ALP
Senator Paul Scarr	Queensland, LP

Secretariat

Mr Glenn Ryall, Secretary
Ms Hannah Wilkins, Principal Research Officer (A/g)
Ms Sarah Batts, Senior Research Officer
Ms Katie Helme, Senior Research Officer
Ms Anita Zovak, Legislative Research Officer

Committee legal adviser

Associate Professor Andrew Edgar

Committee contact details

PO Box 6100
Parliament House
Canberra ACT 2600
Ph: 02 6277 3066
Email: sdlc.sen@aph.gov.au
Website: http://www.aph.gov.au/senate_sdlc

Contents

Membership of the committee	iii
Introduction.....	vii
Chapter 1 – Instruments raising significant scrutiny concerns	1
Chapter 2 – Matters of interest to the Senate	3
Chapter 3 – Scrutiny of Commonwealth expenditure.....	5
Appendix A - Ongoing matters	9
Ministerial engagement	9
Agency engagement	11
Appendix B - Concluded matters.....	13
Ministerial engagement	13
Agency engagement	14
Appendix C - Undertakings.....	17
Outstanding undertakings	17
Implemented undertakings	20
List of instruments in current monitor	21

Introduction

The Senate Standing Committee on Regulations and Ordinances (the committee) was established in 1932. The committee's name was changed on 4 December 2019 to the Senate Standing Committee for the Scrutiny of Delegated Legislation.¹ The role of the committee is to examine the technical qualities of all disallowable legislative instruments, and to decide whether they comply with the committee's non-partisan scrutiny principles.

Terms of reference

The committee's scrutiny principles are set out in Senate standing order 23(3) which requires the committee to scrutinise each instrument as to whether:

- (a) it is in accordance with its enabling Act and otherwise complies with all legislative requirements;
- (b) it appears to be supported by a constitutional head of legislative power and is otherwise constitutionally valid;
- (c) it makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers;
- (d) those likely to be affected by the instrument were adequately consulted in relation to it;
- (e) its drafting is defective or unclear;
- (f) it, and any document it incorporates, may be freely accessed and used;
- (g) the accompanying explanatory material provides sufficient information to gain a clear understanding of the instrument;
- (h) it trespasses unduly on personal rights and liberties;
- (i) it unduly excludes, limits or fails to provide for independent review of decisions affecting rights, liberties, obligations or interests;
- (j) it contains matters more appropriate for parliamentary enactment; and
- (k) it complies with any other ground relating to the technical scrutiny of delegated legislation that the committee considers appropriate.

Senate standing order 23(4) also requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to

1 On 27 November 2019, the Senate agreed to amend standing orders 23 and 25(2)(a), with effect from 4 December 2019. For further information, see https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Changes_to_committee_standing_orders.

the instrument on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

Nature of the committee's scrutiny

The committee's work may be broadly described as technical legislative scrutiny. In this regard, the committee does not examine the policy merits of delegated legislation. However, if the committee determines that an instrument raises significant issues, it may write to the relevant legislation committee to alert that committee to the instrument, or otherwise draw the instrument to the attention of the Senate.

Where an instrument does not appear to comply with the committee's technical scrutiny principles, the committee's usual approach is to correspond with the responsible minister or relevant agency to seek further explanation or clarification of the matter at issue. The committee may also seek an undertaking for specific action to address its scrutiny concerns.

The committee's work is supported by the processes for the registration, tabling and disallowance of legislative instruments under the *Legislation Act 2003*.²

Publications

The committee's usual practice is to table a report, the *Delegated Legislation Monitor*, each Senate sitting week. The monitor provides an overview of the committee's scrutiny of disallowable legislative instruments for the preceding period. Disallowable legislative instruments detailed in the monitor are also listed in the 'Index of instruments' on the committee's website.³

Ministerial correspondence

The committee undertakes formal correspondence with ministers in order to resolve more significant scrutiny concerns. Ministerial correspondence is published on the committee's website.⁴

Agency correspondence

The committee undertakes informal correspondence with agencies via its secretariat to gather information about potential scrutiny concerns. This correspondence assists the committee in deciding whether it is necessary to seek further advice from the relevant minister about those concerns. Agency correspondence is not published;

2 For further information on the disallowance process and the work of the committee see *Oggers' Australian Senate Practice*, 14th Edition (2016), Chapter 15.

3 *Index of instruments*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Index.

4 See https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Monitor.

however, a record of the instrument, scrutiny issue and status of the correspondence is included in Appendix A (ongoing matters) and Appendix B (concluded matters) in the monitor.

Guidelines

Guidelines relating to the committee's scrutiny principles are published on the committee's website.⁵

General information

The Federal Register of Legislation should be consulted for the text of instruments, explanatory statements, and associated information.⁶

The Senate Disallowable Instruments List provides a listing of tabled instruments for which disallowance motions may be moved in the Senate.⁷

The Disallowance Alert records all notices of motion for the disallowance of instruments, and their progress and eventual outcome.⁸

Instruments considered in this monitor

The committee examined 47 disallowable legislative instruments registered on the Federal Register of Legislation between 30 September 2020 and 13 October 2020.

This monitor identifies the instruments registered in this period about which the committee has or had scrutiny concerns. It also identifies instruments registered before this period in relation to which the committee is continuing to engage with the relevant minister or agency, or has concluded its examination.

5 See https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Guidelines.

6 See Australian Government, Federal Register of Legislation, www.legislation.gov.au.

7 Parliament of Australia, *Senate Disallowable Instruments List*, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/leginstruments/Senate_Disallowable_Instruments_List.

8 *Disallowance Alert 2021*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Alerts.

Chapter 1

Instruments raising significant scrutiny concerns

1.1 This chapter details the instruments which raise significant scrutiny concerns in relation to which the committee is seeking further information from the relevant minister or of which the committee has concluded its examination.

1.2 Where necessary, the committee may place a notice of motion to disallow an instrument contained in this chapter to emphasise its scrutiny concerns and to provide the Senate with additional time to consider the instrument with the benefit of the committee's comments. Accordingly, where appropriate, this chapter also details the committee's reasons for withdrawing notices of motion to disallow such instruments.

1.3 The committee is currently seeking to resolve all outstanding scrutiny concerns by correspondence with the relevant minister or agency. Copies of relevant correspondence are available on the committee's website.¹

1 See www.aph.gov.au/senate_sd/c.

Chapter 2

Matters of interest to the Senate

2.1 Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the Senate's attention should be drawn to it on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

2.2 This chapter identifies the instruments which the committee has resolved to draw to the attention of the Senate and the relevant legislation committee under standing order 23(4), with the exception of instruments which specify significant executive expenditure, which are listed in Chapter 3.¹

Instrument	Purpose	Portfolio committee
Child Care Subsidy Amendment (Coronavirus Response Measures No. 7) Minister's Rules 2020 [F2020L01276]	To extend the relaxation of the Child Care Subsidy activity test to help individuals impacted by COVID-19 to get back into their workforce participation activities, and to increase the cap on the appropriation in section 233 of the <i>New Tax System (Family Assistance) (Administration) Act 1999</i> for payments under the Community Child Care Fund Special Circumstances Grant Opportunity program for the 2020-2021 financial year from \$623 million to \$949 million.	Senate Education and Employment Legislation Committee Senate Select Committee on COVID-19
Coronavirus Economic Response Package (Payments and Benefits) Alternative Decline in Turnover Test Amendment Rules 2020 [F2020L01295]	To set out an additional alternative decline in turnover test to gain access to the JobKeeper payment where there is not an appropriate relevant comparison period in 2019.	Senate Economics Legislation Committee Senate Select Committee on COVID-19

1 Details of all instruments which the committee has resolved to draw to the attention of the Senate under standing order 23(4) are published on the committee's website: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Matters_of_interest_to_the_Senate.

Instrument	Purpose	Portfolio committee
National Consumer Credit Protection Amendment (Responsible Lending Obligations) Regulations 2020 [F2020L01277]	To make a targeted adjustment to the regulatory settings pertaining to the responsible lending obligations contained in the <i>National Consumer Credit Protection Act 2009</i> .	Senate Economics Legislation Committee Senate Select Committee on COVID-19

Chapter 3

Scrutiny of Commonwealth expenditure

3.1 The *Financial Framework (Supplementary Powers) Act 1997* (FF(SP) Act) and the *Industry Research and Development Act 1986* (IRD Act) authorise the Commonwealth to spend public money on grants and programs specified in instruments made under those Acts. Consequently, the specification of expenditure in an instrument made under these Acts effectively authorises the Commonwealth to spend public moneys on the relevant grant or program. The scrutiny of such instruments is a key aspect of parliamentary scrutiny and control of Commonwealth expenditure.¹

3.2 To facilitate such scrutiny, this chapter draws the Senate's attention to the nature and extent of Commonwealth expenditure that is authorised by the FF(SP) Act and the IRD Act and specified in delegated legislation made under those Acts.²

3.3 The table below outline the expenditure specified in legislative instruments registered between 30 September and 13 October 2020.

3.4 The committee has resolved to write to the relevant legislation committees to alert those committees to the expenditure listed below that falls within their area of portfolio responsibility. The committee does so under standing order 23(4) which requires the committee to scrutinise each instrument to determine whether the Senate's attention should be drawn to it on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

1 For further information see the committee's guideline on [Scrutiny of Commonwealth expenditure](#) and Chapter 7 of the report of the committee's inquiry, [Parliamentary scrutiny of delegated legislation](#).

2 Details of all instruments which specify Commonwealth expenditure are published on the committee's website: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Scrutiny_of_Commonwealth_expenditure.

Instrument	Grant/Program	Amount	Description	Portfolio committee
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 5) Regulations 2020 [F2020L01280]	Grants to support a company established to strengthen the national education evidence base for school and early childhood education	\$25 million over three years from 2020-21 (Commonwealth government contribution)	<p>Funding will be provided for the ongoing operations of a company established to strengthen the national education evidence base for school and early childhood education.</p> <p>The company's functions will include:</p> <ul style="list-style-type: none"> • collaborating with government, the school and early childhood education sector, the vocational education and training sector, the higher education and research sector and philanthropic organisations; • developing and implementing a national agenda for research relating to school and early childhood education; • mobilising high quality teaching and learning resources for school and early childhood education; and • supporting teaching and learning in school and early childhood education. 	Senate Education and Employment Legislation Committee

Instrument	Grant/Program	Amount	Description	Portfolio committee
Industry Research and Development (Exploring for the Future Program) Instrument 2020 [F2020L01299]	Exploring for the Future Program	\$124.5 million over four years from 2020-21	<p>Funding will be provided to Geoscience Australia to produce a nationally significant minerals, energy and groundwater resources prospectus, including by:</p> <ul style="list-style-type: none"> • acquiring and analysing geoscience data, including by using geophysical, geochemical, stratigraphic and other tools and techniques; • developing and delivering geoscience data products, including through an online portal; and • conducting comprehensive analysis of geoscience issues in prospective geological regions with clear development potential. 	Senate Economics Legislation Committee

Appendix A

Ongoing matters

4.1 The committee engages with relevant ministers and agencies to attempt to resolve its concerns about scrutiny issues raised by disallowable legislative instruments. This appendix documents the committee's ongoing scrutiny concerns.

Ministerial engagement

4.2 The committee is engaging with the relevant minister about the scrutiny issues raised by the instruments listed below. Copies of the ministerial correspondence are available on the committee's website.¹

Instrument	Issue	Status
ASIC Corporations (Amendment) Instrument 2020/721 [F2020L01064]	Principle (j) exemptions from primary legislation	Seeking further advice from the Treasurer.
ASIC Corporations (IPO Communications) Instrument 2020/722 [F2020L01066]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Notice of motion to disallow placed on 07/12/2020.
ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778 [F2020L01069]	Principle (j) exemptions from primary legislation Principle (k) parliamentary oversight	Seeking further advice from the Treasurer. Notice of motion to disallow placed on 07/12/2020.
ASIC Corporations (Litigation Funding Schemes) Instrument 2020/787 [F2020L01045]	Principle (j) exemptions from primary legislation Principle (k) parliamentary oversight	Seeking further advice from the Treasurer. Notice of motion to disallow placed on 01/12/2020.
ASIC Corporations (Stub Equity in Control Transactions) Instrument 2020/734 [F2020L01199]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking further advice from the Treasurer.
ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98 [F2020L00962]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking further advice from the Treasurer. Notice of motion to disallow placed on 30/11/2020.

¹ See www.aph.gov.au/senate_sd/c.

Instrument	Issue	Status
ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835 [F2020L01261]	Principle (j) exemption from primary legislation	Seeking advice from the Treasurer.
ASIC Credit (Notice Requirements for Unlicensed Carried Over Instrument Lenders) Instrument 2020/834 [F2020L01259]	Principle (j) modification to the operation of primary legislation Principle (j) significant penalties Principle (k) parliamentary oversight Principle (c) conferral of discretionary powers	Seeking advice from the Treasurer.
Disability (Access to Premises – Buildings) Amendment Standards 2020 [F2020L01245]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) access and use	Seeking advice from the Attorney-General.
Legislation (Deferral of Sunsetting—Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination) Certificate 2020 [F2020L01301]	Principle (a) compliance with <i>Legislation Act 2003</i> Principle (g) adequacy of explanatory materials Principle (d) consultation with persons affected	Seeking advice from the Attorney-General.
Radiocommunications (Police Forces – Disruption of Unmanned Aircraft) Exemption Determination 2020 [F2020L01296]	Principle (a) compliance with authorising legislation Principle (j) matters more appropriate for parliamentary enactment	Seeking advice from the minister.
Telecommunications (Superfast Broadband Network Class Exemption) Determination 2020 [F2020L01061]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking further advice from the minister. Notice of motion to disallow placed on 07/12/2020.
Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments) Determination 2020 [F2020L01028]	Principle (i) availability of independent merits review	Seeking further advice from the minister. Notice of motion to disallow placed on 30/11/2020.

Agency engagement

4.3 The committee is not currently engaging with agencies via its secretariat to seek further information about potential scrutiny concerns raised by any instruments.

Appendix B

Concluded matters

5.1 This appendix records the instruments in relation to which the committee has concluded its inquiries, following correspondence with the relevant minister or agency.

Ministerial engagement

5.2 The committee has concluded its examination of the instruments listed below following correspondence with the relevant minister. Copies of the ministerial correspondence are available on the committee's website.¹

Instrument	Issue	Status
Australian Prudential Regulation Authority (confidentiality) determination No.1 of 2020 [F2020L00945]	Principle (a) compliance with authorising legislation—compliance with legislative preconditions Principle (a) compliance with <i>Legislation Act 2003</i> - retrospective application Principle (h) privacy	Concluded following response from the minister on 01/12/2020.
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020 [F2020L00994]	Principle (i) availability of independent merits review Principle (j) significant matters in delegated legislation Principle (k) parliamentary oversight Principle (d) consultation with persons affected	Concluded following response from the minister on 01/12/2020. The Minister for Finance undertook to amend item 434 in Part 4 of Schedule 1AB to the Financial Framework (Supplementary Powers) Regulations 1997 in response to the committee's scrutiny concerns. The Minister for Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers) (Mortgage Brokers) Regulations 2020 [F2020L01189]	Principle (j) significant matters in delegated legislation	Concluded following response from the Treasurer on 17/12/2020.

¹ See www.aph.gov.au/senate_sd/c.

Instrument	Issue	Status
Social Security (Administration) – various instruments [F2020L01221] [F2020L01223] [F2020L01224] [F2020L01225] [F2020L01226]	<p>Principle (a) compliance with <i>Legislation Act 2003</i> – consultation</p> <p>Principle (c) broad discretionary power</p> <p>Principle (j) matters more appropriate for parliamentary enactment</p>	Concluded following response from the minister on 18/12/2020.
Telecommunications (Interception and Access) (Communications Access Co-ordinator) Instrument 2019 [F2020L01141]	<p>Principle (a) compliance with <i>Legislation Act 2003</i> – registration of instrument</p> <p>Principle (c) scope of administrative powers</p>	Concluded following response from the minister on 02/12/2020.

Agency engagement

5.3 The committee has concluded its examination of the instruments listed below following informal correspondence with the relevant agencies via its secretariat.

Instrument	Issue	Status
Age Discrimination Regulations 2020 [F2020L01138]	<p>Principle (g) adequacy of explanatory materials</p> <p>Principle (j) exemptions from primary legislation</p>	<p>Concluded following response from the agency on 04/12/2020.</p> <p>The Attorney-General's Department undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>
Cape Byron Lighthouse Heritage Management Plan 2020 [F2020L01271]	Principle (f) instrument subject to copyright	Concluded following response from the agency on 19/01/2021.
CASA EX132/20 — Licensing, and Operator Training and Checking (Extensions of Time Due to COVID-19) Exemptions Amendment Instrument 2020 (No. 3) [F2020L01202]	<p>Principle (a) compliance with authorising legislation – compliance with legislative preconditions</p> <p>Principle (d) consultation with persons affected</p>	Concluded following response from the agency on 09/12/2020.

Instrument	Issue	Status
<p>Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020 [F2020L01242]</p>	<p>Principle (f) incorporation – access and use</p>	<p>Concluded following response from the agency on 15/12/2020.</p> <p>The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>
<p>Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020 [F2020L01172]</p>	<p>Principle (i) availability of independent merits review</p>	<p>Concluded following response from the agency on 10/12/2020.</p> <p>The Australian Taxation Office amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>
<p>Corporations (Coronavirus Economic Response) Determination (No. 3) 2020 [F2020L01194]</p>	<p>Principle (a) compliance with <i>Legislation Act 2003</i> – consultation</p> <p>Principle (g) adequacy of explanatory materials</p>	<p>Concluded following response from the agency on 19/01/2021.</p>
<p>Health Insurance (Approvals for Eligible Collection Centres) Principles 2020 [F2020L01179]</p>	<p>Principle (d) consultation with persons affected</p> <p>Principle (i) availability of independent merits review</p>	<p>Concluded following response from the agency on 13/01/2021.</p> <p>The Department of Health amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>
<p>National Health (Commonwealth Price - Pharmaceutical benefits supplied by private hospitals) Determination 2020 (PB 99 of 2020) [F2020L01208]</p>	<p>Principle (d) consultation with persons affected</p>	<p>Concluded following response from the agency on 09/12/2020.</p>
<p>Private Health Insurance (Complaints Levy) Rules 2020 [F2020L01195]</p>	<p>Principle (a) compliance with <i>Legislation Act 2003</i> – consultation</p>	<p>Concluded following response from the agency on 15/01/2021.</p> <p>The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>
<p>Public Governance, Performance and Accountability (Relevant Company) Amendment (2020 Measures No. 1) Rules 2020 [F2020L01234]</p>	<p>Principle (d) consultation with persons affected</p>	<p>Concluded following response from the agency on 15/12/2020.</p>

Instrument	Issue	Status
Vehicle Standard (Australian Design Rule 61/03 – Vehicle Marking) 2020 [F2020L01254]	Principle (f) access and use	Concluded following response from the agency on 15/01/2021.

Appendix C

Undertakings

6.1 From time to time, a minister or agency may make an undertaking to address the committee's scrutiny concerns. These may include, for example, an undertaking to amend a legislative instrument or an explanatory statement, or to review an Act or a departmental practice. The committee expects that, when a minister or agency has made an undertaking, it will be implemented in a timely manner. Accordingly, this appendix records outstanding ministerial and agency undertakings, and the undertakings implemented since the committee's last *Delegated Legislation Monitor*.

Outstanding undertakings

6.2 The following table records undertakings that remain outstanding, from oldest to newest. The committee draws these undertakings to the attention of the Senate.

Instrument	Undertaking	Date of Undertaking
Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018 [F2018L01674]	The Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management undertook to progress amendments to the Water Act 2007 in response to the committee's scrutiny concerns.	11/09/2019
Veterans' Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019 [F2019L01387]	The Department of Veterans' Affairs undertook to amend the Repatriation Pharmaceutical Benefits Scheme [F2013L02009] and the MRCA Pharmaceutical Benefits Scheme (No. MRCC 44/2013) [F2013L02012] to correct drafting errors.	28/01/2020
Biosecurity Amendment (International Mail Fee) Regulations 2020 [F2020L00576]	The Department of Agriculture, Water and the Environment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	25/06/2020
Superannuation Legislation Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00645]	The Treasury undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/07/2020

Instrument	Undertaking	Date of Undertaking
Competition and Consumer (Industry Codes—Dairy) Regulations 2019 [F2019L01610]	The Attorney-General undertook to commence an inquiry into good faith obligations in Commonwealth legislation in response to the committee's scrutiny concerns.	31/08/2020
Industrial Chemicals Charges (Customs) Regulations 2020 [F2020L00795]	The Department of Health undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.	12/10/2020
Industrial Chemicals Charges (General) Regulations 2020 [F2020L00797]		
Industrial Chemicals Charges (Excise) Regulations 2020 [F2020L00799]		
National Health (Pharmaceutical Benefits) Amendment (Active Ingredient Prescribing) Regulations 2020 [F2020L01055]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	12/11/2020
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01076]	The Department of Health undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.	16/11/2020
Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01077]		
Continence Aids Payment Scheme 2020 [F2020L00758]	The Minister for Aged Care and Senior Australians undertook to amend the instrument in response to the committee's scrutiny concerns.	24/11/2020
	The Minister for Aged Care and Senior Australians undertook to progress amendments to the <i>National Health Act 1953</i> in response to the committee's scrutiny concerns.	
Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020 [F2020L01079]	The Assistant Treasurer undertook to amend the instrument in response to the committee's scrutiny concerns.	25/11/2020
Electoral and Referendum Amendment (Prescribed Authorities) Regulations 2020 [F2020L01058]	The Australian Electoral Commission undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	27/11/2020

Instrument	Undertaking	Date of Undertaking
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020 [F2020L00994]	<p>The Minister for Finance undertook to amend item 434 in Part 4 of Schedule 1AB to the <i>Financial Framework (Supplementary Powers) Regulations 1997</i> in response to the committee's scrutiny concerns.</p> <p>The Minister for Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>	01/12/2020
Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020 [F2020L01031]	<p>The Minister for the Environment advised that the Reserve Bank of Australia undertook to amend the instrument in response to the committee's scrutiny concerns.</p>	01/12/2020
Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]	<p>The Minister for Communications, Cyber Safety and the Arts undertook to advise the committee of the outcomes of the government's review of the effect of the temporary arrangements set out in the instrument.</p>	03/12/2020
Age Discrimination Regulations 2020 [F2020L01138]	<p>The Attorney-General's Department undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>	04/12/2020
Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020 [F2020L01242]	<p>The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>	15/12/2020
Private Health Insurance (Complaints Levy) Rules 2020 [F2020L01195]	<p>The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.</p>	15/01/2021

Implemented undertakings

6.3 The following table records undertakings that have been implemented since the committee's last *Delegated Legislation Monitor*.

Instrument	Undertaking	Date implemented
Taxation Administration (Private Ancillary Fund) Guidelines 2019 [F2019L01227]	The Assistant Minister for Finance, Charities and Electoral Matters amended primary legislation in response to the committee's scrutiny concerns.	10/12/2020
Higher Education (Designated Courses of Study) Specification 2020 [F2020L00924]	The Department of Education, Skills and Employment amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	11/12/2020
Disability Care Load Assessment (Child) Determination 2020 [F2020L01025]	The Department of Social Services amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	14/12/2020
Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019 [F2019L01641]	The Treasury amended the instrument in response to the committee's scrutiny concerns.	14/12/2020
Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020 [F2020L01172]	The Australian Taxation Office amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	15/12/2020
Manual of Standards Part 173 Amendment Instrument 2020 (No. 1) [F2020L01078]	The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	13/01/2021
Continence Aids Payment Scheme 2020 [F2020L00758]	The Minister for Aged Care and Senior Australians amended the instrument in response to the committee's scrutiny concerns.	15/01/2021
Health Insurance (Approvals for Eligible Collection Centres) Principles 2020 [F2020L01179]	The Department of Health amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	15/01/2021
Amendment to the list of threatened ecological communities under section 181 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EC145) [F2020L00889]	The Department of Agriculture, Water and the Environment amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	19/01/2021

List of instruments in current monitor

Note: Instruments listed with an asterisk (*) following the instrument name were raised for the first time in this Delegated legislation monitor.

Instrument	FRL No	Page
Age Discrimination Regulations 2020	F2020L01138	14, 19
Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020	F2020L01077	18
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020	F2020L01076	18
Amendment to the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 (EC145)	F2020L00889	20
ASIC Corporations (Amendment) Instrument 2020/721	F2020L01064	9
ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778	F2020L01069	9
ASIC Corporations (IPO Communications) Instrument 2020/722	F2020L01066	9
ASIC Corporations (Litigation Funding Schemes) Instrument 2020/787	F2020L01045	9
ASIC Corporations (Stub Equity in Control Transactions) Instrument 2020/734	F2020L01199	9
ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98	F2020L00962	9
ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835*	F2020L01261	10
ASIC Credit (Notice Requirements for Unlicensed Carried Over Instrument Lenders) Instrument 2020/834*	F2020L01259	10
Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020	F2020L00579	19
Australian Prudential Regulation Authority (confidentiality) determination No.1 of 2020	F2020L00945	13

Instrument	FRL No	Page
Biosecurity Amendment (International Mail Fee) Regulations 2020	F2020L00576	17
Cape Byron Lighthouse Heritage Management Plan 2020	F2020L01271	14
CASA EX132/20 — Licensing, and Operator Training and Checking (Extensions of Time Due to COVID-19) Exemptions Amendment Instrument 2020 (No. 3)	F2020L01202	14
Child Care Subsidy Amendment (Coronavirus Response Measures No. 7) Minister's Rules 2020*	F2020L01276	3
Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020	F2020L01242	15, 19
Competition and Consumer (Industry Codes—Dairy) Regulations 2019	F2019L01610	18
Continence Aids Payment Scheme 2020	F2020L00758	18, 20
Coronavirus Economic Response Package (Payments and Benefits) Alternative Decline in Turnover Test Amendment Rules 2020*	F2020L01295	3
Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020	F2020L01172	15, 20
Corporations (Coronavirus Economic Response) Determination (No. 3) 2020	F2020L01194	15
Disability (Access to Premises – Buildings) Amendment Standards 2020	F2020L01245	10
Disability Care Load Assessment (Child) Determination 2020	F2020L01025	20
Electoral and Referendum Amendment (Prescribed Authorities) Regulations 2020	F2020L01058	18
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 5) Regulations 2020*	F2020L01280	6
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020	F2020L00994	13, 19

Instrument	FRL No	Page
Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers) (Mortgage Brokers) Regulations 2020	F2020L01189	13
Health Insurance (Approvals for Eligible Collection Centres) Principles 2020	F2020L01179	15, 20
Higher Education (Designated Courses of Study) Specification 2020	F2020L00924	20
Industrial Chemicals Charges (Customs) Regulations 2020	F2020L00795	18
Industrial Chemicals Charges (Excise) Regulations 2020	F2020L00799	18
Industrial Chemicals Charges (General) Regulations 2020	F2020L00797	18
Industry Research and Development (Exploring for the Future Program) Instrument 2020*	F2020L01299	7
Legislation (Deferral of Sunsetting—Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination) Certificate 2020*	F2020L01301	10
Manual of Standards Part 173 Amendment Instrument 2020 (No. 1)	F2020L01078	20
National Consumer Credit Protection Amendment (Responsible Lending Obligations) Regulations 2020*	F2020L01277	4
National Health (Commonwealth Price - Pharmaceutical benefits supplied by private hospitals) Determination 2020 (PB 99 of 2020)	F2020L01208	15
National Health (Pharmaceutical Benefits) Amendment (Active Ingredient Prescribing) Regulations 2020	F2020L01055	18
Private Health Insurance (Complaints Levy) Rules 2020	F2020L01195	15, 19
Public Governance, Performance and Accountability (Relevant Company) Amendment (2020 Measures No. 1) Rules 2020	F2020L01234	15
Radiocommunications (Police Forces – Disruption of Unmanned Aircraft) Exemption Determination 2020*	F2020L01296	10
Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020	F2020L01031	19

Instrument	FRL No	Page
Social Security (Administration) (Classes of Exempt Welfare Payment Recipients) Specification 2020	F2020L01223	14
Social Security (Administration) (Declared child protection State or Territory – Northern Territory) Determination 2020	F2020L01224	14
Social Security (Administration) (Declared voluntary income management area – Northern Territory) Determination 2020	F2020L01221	14
Social Security (Administration) (Deductible portion — section 123XPA) Specification 2020	F2020L01226	14
Social Security (Administration) (Exempt Welfare Payment Recipients – Principal Carers of a Child) (Indications of Financial Vulnerability) Principles 2020	F2020L01225	14
Superannuation Legislation Amendment (2020 Measures No. 1) Regulations 2020	F2020L00645	17
Taxation Administration (Private Ancillary Fund) Guidelines 2019	F2019L01227	20
Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020	F2020L01079	18
Telecommunications (Interception and Access) (Communications Access Co-ordinator) Instrument 2019	F2020L01141	14
Telecommunications (Superfast Broadband Network Class Exemption) Determination 2020	F2020L01061	10
Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019	F2019L01641	20
Vehicle Standard (Australian Design Rule 61/03 – Vehicle Marking) 2020	F2020L01254	16
Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments) Determination 2020	F2020L01028	10
Veterans' Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019	F2019L01387	17

Instrument	FRL No	Page
Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018	F2018L01674	17

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation