



Procedural Information Bulletin

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For the sitting period 20 to 30 March 2023

Legislation

Three lengthy debates totalling more than 41 hours dominated the Senate's legislative program through the fortnight. The Senate also sat for the first of four scheduled Friday sittings for the year, having adopted a routine of business allowing for up to 4 hours of government business, as well as senators' statements and question time.

The first week saw the passage of a referendum machinery bill, seen as a precursor to the proposed referendum on an Aboriginal and Torres Strait Islander Voice planned to occur in the second half of the year. A procedural amendment to defer consideration of the bill until the government agreed to fund official 'yes' and 'no' campaigns was unsuccessful. The bill passed with government and opposition amendments, after 11 and a half hours of debate and a short, amicable extension of Senate hours.

A complex hours motion in the second week saw the Senate sit past 4 am on Tuesday night/Wednesday morning, before resuming at 9 am for another extended sitting day. A bill to establish the [National Reconstruction Fund Corporation](#) passed with government and crossbench amendments, with a guillotine curtailing debate at 8 pm on 28 March. This was followed by a 7 and a half hour debate on the second reading of a bill to reform the [Safeguard Mechanism](#); an emissions reduction measure. A procedural motion to defer consideration of that bill until a legislation committee had examined proposed amendments was unsuccessful. Earlier moves to delay consideration of the bill until the Government produced modelling on the expected use of carbon credits also came to naught: see below. The bill passed with amendments from the Government and the Australian Greens when the guillotine came down at 1 pm on 30 March, after a 10 hour committee stage.

Orders and explanations

The sitting fortnight saw significant activity around orders for the production of documents (OPDs), with 11 new orders made across a range of topics, including proposed superannuation changes, an incident involving an Australian Army MRH-90 helicopter at Jervis Bay, and the cost of recalling parliament in December 2022; a reprise of the order discussed in [Bulletin 369](#).

In responding to an order seeking documents relating to the resignation of the Freedom of Information Commissioner, the government raised public interest immunity (PII) claims over a number of documents on the basis that they 'would reveal cabinet deliberations or be an unreasonable invasion of [individuals'] privacy'. On 30 March, the Senate rejected the PII claims, requiring the minister representing the Attorney-General to attend the Senate to explain the failure to comply with the order. The minister's explanation, in which the PII claims were maintained, was subsequently debated.

The Senate also agreed to six orders relating to compliance with previous OPDs. For instance, on 21 March the Senate again rejected the government's PII claim over modelling of Australian Carbon Credit Units (ACCU) (see [Bulletin 369](#)). However, the Senate did not agree to a part of the order that would have deferred consideration of the Safeguard Mechanism bill until the modelling was tabled. A similar proposal from the Australian Greens was withdrawn. While not agreed to in this instance, procedural penalties of this kind have been used in the past as effective means of encouraging compliance with Senate orders (see *Odgers' Australian Senate Practice*, 14th ed. p. 672). On another matter, a proposed order to reject the government's PII claim and seek compliance in relation to a report concerning the conduct of the Australian Securities and Investment Commission Deputy Chair was not supported, with senators foreshadowing further questions in a committee setting.

Fourteen proposed OPDs were negated over the two weeks of sitting, including proposals related to the AUKUS submarine taskforce, the tabling of ministers' official appointment diaries and the wording of the Voice referendum. A proposed order concerning the death of Balibo Five cameraman, Mr Brian Peters, was opposed by the government on the basis that some of the information sought was subject to proceedings under freedom of information (FOI) laws, notwithstanding the Senate's consistent position that FOI schemes do not constrain its powers to order the production of information (see *Odgers*, 14th ed. p. 661).

The cumulative list of orders and responses can be found on the Senate's [business pages](#).

Following the sitting the Procedure Committee tabled its [report](#) on a proposal to allow for confidential review of documents subject to PII claims (see [Bulletin 367](#)). The committee maintained its view that the Senate should determine disputes on a case-by-case basis, using the remedies available to it. The committee noted, however, that the inquiry had provided it an opportunity to consider 'some of the current challenges and constraints' around OPDs, and indicated its intention to develop improved processes and report back to the Senate later in the year.

Inquiries

Twelve bills were referred to legislation standing committees as a result of [report no. 3](#) and [report no. 4](#) of the Selection of Bills Committee.

A private senator's bill – [Criminal Code Amendment \(Prohibition of Nazi Symbols\) Bill 2023](#) – was referred to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 18 May.

Six references inquiries were established:

- [Assessment and support services for people with ADHD](#) was referred to the Community Affairs References Committee for inquiry and report by 27 September
- The [operation of Commonwealth Freedom of Information laws](#) was referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 7 December
- [Administration of the referendum into an Aboriginal and Torres Strait Islander Voice](#) was referred to the Finance and Public Administration References Committee for inquiry and report by 9 June
- The issue of [Greenwashing](#) was referred to the Environment and Communications References Committee for inquiry and report by 5 December

- [Australia's preparedness to host Commonwealth, Olympic and Paralympic Games](#) was referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 1 September
- The [potential impacts of the Commonwealth Paid Parental Leave scheme on small businesses and their employees](#) was referred to the Education and Employment References Committee for inquiry and report by 31 August.

The [Joint Select Committee on the Aboriginal and Torres Strait Islander Voice Referendum](#) was established on 30 March and is scheduled to report on 15 May.

Reports

Six legislation committee reports on annual reports and two bill reports were tabled during the sitting period. The Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity tabled its annual [report](#) of the Integrity Commissioner for 2021-22 and the Parliamentary Joint Committee on Law Enforcement tabled reports on annual reports of the Australian Criminal Intelligence Commission and the Australian Federal Police.

The Parliamentary Joint Committee on the National Anti-Corruption Commission tabled its [report](#) agreeing to proposed appointments to the National Anti-Corruption Commission. The Joint Select Committee on Northern Australia tabled its first [report](#) as part of its inquiry into the Cyclone Reinsurance Pool. The committee made seven recommendations, including that the Australian Competition and Consumer Commission be required to monitor and report on cyclone insurance markets in Northern Australia.

The Joint Standing Committee on the National Disability Insurance Scheme tabled an interim [report](#) on its inquiry into capability and culture of the National Disability Insurance Agency, making five recommendations designed to lift transparency of decision-making, improve systems and processes to benefit participants, and enhance the quality of interactions scheme participants have with the agency.

Further supplementary Budget estimates hearing

The Finance and Public Administration Legislation Committee held a further supplementary Budget estimates hearing on 21 March 2023, where expenditure of the National Indigenous Australians Agency, the Department of Health and Aged Care, Outback Stores and the Australian Institute of Aboriginal and Torres Strait Islander Studies was examined.

RELATED RESOURCES

[Dynamic Red](#) – updated continuously during the sitting day, the Dynamic Red displays the results of proceedings as they happen.

[Senate Daily Summary](#) – a convenient summary of each day's proceedings in the Senate, with links to source documents.

Like this bulletin, these documents can be found on the Senate website: www.aph.gov.au/senate

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