



Procedural Information Bulletin

22 November 2023 • No. 376

For the sitting period 6 to 17 November 2023

Legislation

The Senate sat for 10 days, including two Friday sittings, passing 17 government bills, four with amendments.

A procedural stand-off in the first sitting week enabled crossbench senators to extend proceedings on the Environment Protection ([Sea Dumping](#)) Amendment (Using New Technologies to Fight Climate Change) Bill 2023 over six sitting days. The Opposition supported the bill, but was not inclined to assist the government to curtail debate. After question time on 10 November, the government appeared to gain the Opposition's support for additional hours, but was unable to complete the necessary procedural steps before a prohibition on divisions came into force at 3.30pm. On 13 November, the Senate agreed to sit late, if necessary, and the bill passed before additional hours were required.

The sitting on 16 November was extended to deal with [a bill on bridging visas](#) rushed into the Parliament in response to a High Court decision that overturned a 20-year old precedent authorising indefinite immigration detention. As introduced, the bill imposed a range of reporting requirements on detainees released as a result of the decision and would have allowed the minister to impose additional restrictive conditions, including curfews and electronic monitoring. The bill also imposed criminal penalties for breaching relevant conditions. Amendments suggested by the Opposition and adopted by the government had the effect of automatically imposing curfews and electronic monitoring unless the minister is satisfied the person does not pose a risk to the community. They also subjected breaches to harsher penalties, including mandatory minimum sentences. An 11pm guillotine initially imposed on that bill was brought forward by a series of procedural votes, and it was passed with amendments before being returned to the House.

A guillotine applied to four bills on the last sitting day came into effect at 3pm. All parties and independent senators have contingent notices allowing them to move to suspend standing orders to extend debate when the allotted time expires, although they are rarely used. On this occasion the Leader of the Opposition sought to suspend standing orders to allow him to move that the debate continue without limitation. The suspension was unsuccessful, and the bills passed a short time later.

These contingent notices may be employed only once at each occurrence of the contingency to which they refer: *Odgers' Australian Senate Practice*, 14th ed., pp 353-4, although a 2005 Procedure Committee report allows that the chair may exercise a discretion to allow a further suspension motion. Rulings from 1991 indicate that the first suspension may be debated, even though the time for debate on the bill(s) has expired. These kinds of proceedings are subject to the rule that requests to suspend standing orders should not be capable of being repeatedly made as this would provide a means of permanently obstructing the business of the Senate.

One government bill that passed without debate under the guillotine on the final day was the [Ministers of State Amendment Bill 2022](#), which requires notification of changes to the ministry and administrative arrangements, to prevent a repeat of the so-called secret ministries affair.

On 9 November, Senator Lambie successfully moved to suspend standing orders to impose a guillotine on four private senators' bills she had introduced with Senator David Pocock a few days earlier. The bills replicate four schedules from the government's omnibus Fair Work Legislation Amendment ([Closing Loopholes](#)) Bill 2023. Although government senators recorded their votes against the procedural motions, the questions for the passage of the bills passed without dissent. On 16 November, after another suspension of standing orders, this time moved by Senator David Pocock, the Senate resolved to send a message to the House of Representatives requesting that the House 'immediately consider' the bills. Meanwhile, the Loopholes bill itself stands referred to the Education and Employment Legislation Committee. On 9 November the Senate directed that committee to hold a hearing on 22 January 2024 and not to report before its scheduled reporting date of 1 February 2024.

Orders and explanations

The Assistant Minister for Climate Change and Energy attended the Senate on the first day of each week to explain the government's failure to provide the National Disability Insurance Scheme (NDIS) financial sustainability framework, as required by previous orders of the Senate: see [Bulletins 374](#) and [375](#). On each occasion, the minister made a brief statement pointing to an explanation given by the Minister for Trade and Tourism on 17 October, which was then debated. The same minister attended the Senate later that day to provide an explanation concerning the government's failure to comply with orders relating to the Murray-Darling Basin Plan: see [Bulletin 375](#). This explanation was also debated.

As is often the case, a number of new Senate orders for the production of documents (OPDs) were made in the context of political events unfolding throughout the sitting period. Following the High Court decision overturning indefinite immigration detention, the Senate made orders on 14, 15 and 16 November seeking documents relating to risk assessments of the released detainees and advice to government in anticipation of the High Court's decision. Responses, which included some of the information sought, were tabled by the government on 15 and 16 November, just prior to the introduction and rapid passage of the bill discussed above.

The Senate agreed to a total of 15 new OPDs, including orders seeking documents relating to consultations over national environmental laws and standards (7 November); ministerial correspondence and modelling concerning proposed changes to taxation of multinational companies (8 November); the Barossa gas project and the Safeguard Mechanism (9 November); and certain higher education statistics for 2022-23 (13 November).

Twelve responses to OPDs were tabled, with four simply advising that more time would be required to provide a substantive response. The government cited commercial sensitivities and privacy considerations in raising public interest immunity (PII) claims to withhold documents relating to stakeholder feedback on recycling and waste reduction rules (6 November) and correspondence between the Treasurer and the CBUS Super Fund (7 November). A proposed order to reject the government's PII claim in relation to the CBUS Super Fund was negated on 9 November. PII claims were also made to withhold a paper prepared for the Council on Federal Financial Relations relating to GST revenue distribution, citing potential harm to federal-state relations (7 November); and the Australian Research Council financial sustainability review, citing cabinet in confidence (14 November).

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

Inquiries

Three bill inquiries were established as a result of [report no. 13](#) and [report no. 14](#) of the Selection of Bills Committee.

The Senate made two referrals to references committees—[Issues related to menopause and perimenopause](#) was referred to the Community Affairs Committee for inquiry and report by 10 September 2024 and [Optus Network Outage](#) was referred to the Environment and Communications Committee for inquiry and report by 9 December 2023.

Reports

The Joint Standing Committee on the National Disability Insurance Scheme tabled its final [report](#) on capability and culture of the National Disability Insurance Agency. The committee made 27 recommendations, including greater access to early intervention services for children, especially in rural, regional and remote areas, improved recruitment in the NDIA, and that compliance activities be directed towards service providers and subcontractors.

The Community Affairs References Committee tabled its [report](#) on assessment and support services for people with ADHD. The committee made 15 recommendations. These included that the Commonwealth government consider funding and co-design of a national framework on ADHD, improved access to assessment, diagnosis, treatment and support services, and measures designed to reduce stigma associated with ADHD. Like the NDIS committee's report on capability and culture of the NDIA, the Community Affairs References Committee recommended that funding for advocacy organisations be increased to deliver better services.

The Environment and Communications References Committee tabled its [report](#) on climate-related marine invasive species out of session, making four recommendations. Three bill reports were also tabled.

Supplementary Budget Estimates hearings

Community Affairs; Environment and Communications; and Foreign Affairs, Defence and Trade legislation committees held spillover estimates hearings on 7, 8 and 15 November, respectively, examining Commonwealth government expenditure in relation to:

- Veterans' Affairs
- Services Australia
- the Threatened Species Scientific Committee
- the Clean Energy Regulator
- the Classification Board, and
- the Department of Climate Change, Energy, the Environment and Water.

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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