



DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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For the sitting period 15 – 25 June 2015

CASUAL VACANCY

Senator Joanna Lindgren was chosen by the Queensland Parliament to replace Senator Brett Mason on 21 May and was sworn in on 15 June 2015.

LEGISLATION

There is always a significant legislative workload at the end of the June sittings. In an unusual move, the Acting Leader of the Government in the Senate, Senator Brandis, answered a question without notice on 24 June from Senator Sinodinos documenting the legislative achievements of the Government in terms of the number of bills passed by the Senate this year and over the past fortnight, perhaps as a sign of the ostensibly new, cooperative Senate. However, no mention was made of the sterling work that legislation and legislative scrutiny committees have done in reporting on bills to enable them to be considered, often in very short timeframes.

Numerous pieces of legislation were dealt with, including on small business assistance measures in the Budget, certain savings measures from the 2013-14 Budget on which there was now agreement, a package of private health insurance bills, various taxation and superannuation measures and changes to the aged pension, legislation to restore biannual fuel excise indexation, a bill to lower the renewable energy target and the annual appropriation bills. An amendment was circulated to Appropriation Bill (No. 2) 2015-2016. In accordance with the procedures applying to consideration of appropriation bills, only Appropriation Bill (No. 2) was taken into committee of the whole where the only questions put related to the amendment which was negatived. The procedures are a legacy from the days when there was often an extensive committee stage on the appropriation bills where many of the issues that had been canvassed in the estimates hearings were the subject of questioning.

The Business Services Wage Assessment Tool Payment Scheme bills, which had been negatived in committee of the whole in November 2014 and restored to the Notice Paper in the form they stood immediately before being negatived, were reconsidered on 15 June and agreed to with amendments and requests for amendments which were subsequently agreed by the House of Representatives, allowing the bills to finally pass. A bill to permit more advertising on SBS during prime viewing time to make up for reductions in funding was negatived on 24 June 2015.

When all the legislation on the Government's program had been dealt with, an unexpected and urgent bill was introduced into the House of Representatives to validate certain aspects of the offshore processing regime in anticipation of an unfavourable High Court decision. The Migration Amendment (Regional Processing Arrangements) Bill 2015 was introduced on 25 June and read a third time later that day after various amendments were moved by the Australian Greens and Senator Leyonhjelm aimed at exempting vulnerable persons from detention, ensuring that the media, the Australian Human Rights Commission and the Commonwealth Ombudsman could have access to the off-shore processing

centres, placing a 3-month limit on detention, and providing for mandatory reporting of abuse, among other things. None of the amendments was agreed to.

DISALLOWANCE

The Specification of Income Threshold and Annual Earnings instrument made under migration legislation was disallowed on 16 June on the motion of Australian Greens Senator Rice.

Schedule 2 of the Federal Courts Legislation Amendment (Fees) Regulation, which would have resulted in higher court application fees for Family Court applications, was disallowed on 25 June. Unusually, the disallowance was dealt with as a formal motion, as there was no opportunity to debate the motion on the last sitting day before the new fees took effect. Senator Wright had earlier withdrawn a notice in respect of the full regulation and had given a new notice to disallow only one schedule.

CHANGES TO STANDING ORDERS

The Procedure Committee presented its *Second Report of 2015* on 23 June recommending that numerous temporary orders which had been in operation for varying periods be incorporated into the standing orders. The report was adopted on 24 June and the new standing orders will come into effect on the first sitting day in August. The amendments relate to consideration of private senators' bills for two hours and 20 minutes on Thursday mornings and the corresponding 10 am start on Mondays, streamlining of various types of business (including routine committee extensions and authorisations to meet while the Senate is sitting), the consolidation of opportunities to present and debate documents and reports, the omission of the Thursday MPI or Urgency motion and the renaming of Matters of Public Interest as Senators' Statements. Changes to the adjournment debate which saw the open-ended debate move to Thursdays from Tuesdays were not adopted.

For another exposition of the value and strengths of the Senate, readers are referred to remarks by the Manager of Government Business on the adoption of the report.

COMMITTEES

The motion to change the hours of meeting and routine of business on 25 June to accommodate the consideration of the Migration Amendment (Regional Processing Arrangements) Bill 2015 was preceded by acrimonious consideration of a motion instructing (rather than authorising) the Legal and Constitutional Affairs References Committee to meet, appoint a new chair and deliberate on progress on its inquiry into the handling of a letter sent by deceased Lindt Café siege perpetrator, Man Haron Monis, to the Attorney-General. The motion also included an extension of time for that reference. Under the temporary order for expedited authorisation of committees to meet while the Senate is sitting (now a standing order), the question on a proposal for that same committee to meet was put on 17 June, and agreed to.

The success of committees currently threatens to overwhelm them because of a record number of inquiries that have been referred which present significant challenges. New inquiries during the period included those into the Monis matter referred to above, arts funding (Legal and Constitutional Affairs References Committee), educational access and attainment for students with disability (Education and Employment References Committee), marine plastic pollution (Environment and Communications References Committee), flag of convenience shipping in Australia (Rural and Regional Affairs and

Transport References Committee), the video game development industry (Environment and Communications References Committee), non-conforming building products (Economics References Committee), the difference between cash rates and credit card interest rates (Economics References Committee), allegations of cash paid to people smugglers to turn around asylum seeker boats (Legal and Constitutional Affairs References Committee), foreign bribery (Economics References Committee), economic impact of legislation and policies restricting personal freedoms (Economics References Committee), smoke alarm regulation (Legal and Constitutional Affairs References Committee) as well as numerous bills. A new select committee on the Murray Darling Basin was also established.

Committees were also able to complete inquiries and presented many significant reports, including the final reports of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, and the Joint Select Committee on the Australia Fund Establishment. Details of other reports presented are published in the Senate Daily Summary. Approximately 45 reports have been presented since the end of Budget week.

Amongst the many reports presented during the period were the Budget Estimates reports and the Senate adopted a recommendation from the Finance and Public Administration Legislation Committee in relation to the timing of the cross-portfolio Indigenous hearings.

ORDERS FOR PRODUCTION OF DOCUMENTS

An order for documents relating to alleged payments to people smugglers to turn around asylum seeker boats, agreed to on 16 June, was met with a public interest immunity claim on grounds of potential damage to national security, defence or international relations and possible prejudice to law enforcement or protection of public safety. Similar grounds and arguments had been advanced in response to earlier orders for production of information concerning Operation Sovereign Borders, dealt with in earlier Bulletins. A motion rejecting the claims advanced and seeking to defer consideration of any migration legislation until the documents were tabled was agreed to in part on 22 June, the second element of the motion being omitted on amendment. Senator Hanson-Young subsequently succeeded in having the allegations referred to the Legal and Constitutional Affairs References Committee.

An order for documents relating to the issuing of exploration licences and prospecting authorities in marine reserves, agreed to on 17 June, was complied with on 23 June.

An order for production of a Rural Industries Development Corporation report on Kangaroo Management, agreed to on 17 June, was complied with on 18 June, while an order for various NBN Corporate documents, also agreed to on 17 June was partially complied with on 18 June with a public interest immunity claim made in respect of one of the documents on grounds of damage to the Commonwealth's commercial interests and that it formed the basis of Cabinet deliberations.

THIRD PARTY ARBITRATION OF PUBLIC INTEREST IMMUNITY CLAIMS

The Procedure Committee's *Second Report of 2015* included its report on the issue of third party arbitration of public interest immunity claims ([see Bulletin No. 279](#)). Frustration with the Government's position on releasing information about border protection activities had led to a Legal and Constitutional Affairs References Committee inquiry into public interest immunity claims over the information, resulting in a recommendation that the Procedure Committee examine the NSW system for third party arbitration and whether it might be adapted to suit the Senate.

The Procedure Committee reported that, in the absence of all-party agreement on adopting such a practice, the NSW system was not particularly amenable to adaptation for the Senate and that existing approaches, which may include third party arbitration as one of a range of approaches (but not as a general purpose remedy), were preferred. The report included practical guidance for ministers in responding to orders for production of documents, and the committee proposes to monitor responses to orders for the production of documents over the next 12 months, and report further to the Senate.

AN UNUSUAL DOCUMENT

A remonstrance from the Norfolk Island Legislative Assembly protesting the removal of self-government from the territory was presented on 15 June. Remonstrances, or expressions of significant grievances, have a noble parliamentary history, including the Grand Remonstrance of 1642 which detailed numerous grievances against Charles I and proposed remedies. Remonstrances have been presented to the Senate on two previous occasions by the Northern Territory Legislative Assembly.

DISSENT FROM DECISION OF DEPUTY PRESIDENT

The tension of the last day of the winter sittings was evident when a senator moved dissent from a decision of the Deputy President not to entertain a point of order that a motion to refer a matter to the Legal and Constitutional Affairs References Committee should be ruled out of order. The Senate agreed to the referral. The dissent motion will appear on the Notice Paper for the next day of sitting.

Related resources

The [Dynamic Red](#) records proceedings in the Senate as they happen each day.

The [Senate Daily Summary](#) provides more detailed information on Senate proceedings, including progress of legislation, committee reports and other documents tabled and major actions by the Senate.

Like this bulletin, these documents can be found on the [Senate website](#).

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