

Procedural Information Bulletin No. 91

For the sitting period 7 to 17 November 1994

DELEGATED LEGISLATION

The report of the Regulations and Ordinances Committee on the Legislative Instruments Bill (see Bulletin No. 90, p.3), which is intended to overhaul the system for the making and parliamentary control of delegated legislation, was the subject of a government response presented on 8 November. The government accepted most of the recommendations of the committee. Many amendments to the bill were therefore expected. After the second reading of the bill on 9 November, however, the committee stage was deferred. It was learnt that the government proposed to have the bill examined also by a House of Representatives committee, and the majority of the Senate did not wish to proceed to the committee stage of the bill until that consideration takes place.

Senator Vanstone sought to defer the committee stage of the bill by means of an amendment to the motion for the second reading. Such amendments have been used in the past to defer further consideration of bills, but not in terms of explicitly deferring the committee stage. A senator who is not a minister cannot move a motion to defer the committee stage after the second reading without a suspension of standing orders, although a minister may do so under standing order 56. A second reading amendment is therefore a convenient option. The minister on duty, however, thought that there was something irregular about the amendment and persuaded Senator Vanstone to withdraw it and to move by leave to defer the committee stage after the second reading. For that purpose the minister gave an undertaking that the bill would not be proceeded with until the House of Representatives committee has reported.

A motion to disallow the Australian Nuclear Science and Technology Organisation Regulations had been deferred until the Legal and Constitutional Affairs Committee reported on the regulations (see Bulletin No. 90, p. 2). The Committee reported on 8 November, drawing attention to difficulties involved in redrafting the regulations so as to narrow their scope as suggested by the motion of referral, but recommending other changes to the regulations. The government gave undertakings to make changes to the regulations by way of amendment, but suggested that their

disallowance would create difficulties. The motion for disallowance was then proceeded with later on the same day and negatived.

ORDERS FOR PRODUCTION OF DOCUMENTS

The government again attempted on 14 November to have the Senate revoke its order of 28 June for the tabling of indexed lists of departmental files and substitute a scheme for a trial tabling of such lists (see Bulletin No. 90, p. 1). The Senate again rejected this suggestion, and passed a motion moved by Senator Harradine to vary the date for the tabling of the first lists. An amendment to that motion moved by the government requires a further review by the Finance and Public Administration References Committee by 30 June 1995, with terms of reference yet to be determined.

The government successfully moved a motion on 9 November for an extension of time for the tabling of a report on child labour overseas in accordance with a resolution of the Senate of 22 September 1994. This resolution was not in fact a formal order for documents, but was treated by the government as such. The document referred to in the resolution was eventually tabled on 17 November. The resolution called upon the government to provide the report, and such terminology is not regarded as constituting a formal order for documents.

The Senate passed on 14 November yet another order for documents relating to the Australian National Line (see Bulletin No. 89, p. 2). The government announced in advance that it would not be able to comply with the order because it did not have custody of some of the documents and others contained commercial-in-confidence information. No further action had been taken in relation to the matter at the end of the sittings.

LEGISLATION CONSIDERED

The Migration Legislation Amendment Bill (No. 3) 1994 was negatived at the second reading on 9 November. The bill sought to alter retrospectively the damages which may be payable to illegal immigrants whose detention had been found to be unlawful by the courts, and represented another round in the battle between the government and the courts over the detention of illegal immigrants. The bill was rejected on the ground that it is improper to alter legal rights retrospectively.

A large percentage of the legislative time of the sitting period was taken up with the ATSIC Amendment (Indigenous Land Corporation and Land Fund) Bill 1994. The bill was considered on most days and was finally passed on 16 November with some 67 amendments and one request for an amendment. The request for amendment related to an increase in the amount of money to be appropriated to the land fund.

The request must be dealt with by the government in the House of Representatives before the bill can be passed by the Senate with the amendments.

It is becoming increasingly common for bills to be amended by the insertion of whole new parts or divisions. The Law and Justice Legislation Amendment Bill (No. 2) 1994 was so treated on 9 November. The bill had been examined by the Legal and Constitutional Affairs Committee, and the amendments were largely to overcome technical legal problems.

The Taxation Laws Amendment Bill (No. 3) 1994 was substantially amended on 16 November to give effect to a compromise package agreed to by the government in substitution for previous Senate amendments to which the government had disagreed.

During consideration in August 1993 of a motion to impose a "double deadline" on the government for the introduction of bills to avoid the end-of-sittings rush (see Bulletin No. 77, pp 1-2), the government gave an undertaking that it would seek to introduce legislation in one period of sittings for passage in the next period of sitting, subject to certain exceptions relating to budget and urgent legislation. Because of the number of bills introduced during this period of sittings and listed by the government for passage before the end of the year, it was suggested that this undertaking had been breached. Senator Chamarette, who moved the successful "double deadline" motion in 1993, had refrained from repeating it on the basis of testing the government's adherence to its undertaking. On 10 November she attempted to move a motion to defer consideration of certain legislation introduced during the current sittings. Her motion was not accepted, although senators expressed concern about adherence to the undertaking. Later on the same day she gave notice of a motion which would give precedence to bills introduced in previous periods of sitting over those introduced during the current period of sittings. This motion had not been considered at the end of the sitting period, but in moving to alter the hours of sitting and routine of business for the last two sitting weeks of the year, the government presented a revised list of bills for passage, omitting some which had earlier been listed.

COMMITTEES

Two unusual references to committees were passed on 8 November.

- The Finance and Public Administration References Committee has been asked to consider disclosure provisions for the pecuniary interests of prime ministers, and, by way of amendment moved by the Democrats, leaders of the opposition.

- The Foreign Affairs, Defence and Trade References Committee was required to report on follow-up action by the Air Force in relation to a particular aircraft accident.

The following committee reports were presented during the period:

Date tabled	Committee	Title
08.11.94	Legal and Constitutional Legislation	Advisory Report on the Drafting of the Australian Nuclear Science and Technology Organisation Regulations
09.11.94	Scrutiny of Bills	16th Report
10.11.94	Appropriations and Staffing	21st Report
10.11.94	Procedure	Second Report of 1994
16.11.94	Community Affairs References	Final Report on Validation of CAM and SAM Funding of Nursing Homes
16.11.94	Scrutiny of Bills	17th Report and Alert Digest No. 17 of 1994
16.11.94	Superannuation	Fourteenth Report, Report on Super Regs II
17.11.94	Employment, Education and Training Legislation	Report on the Student Assistance (Youth Training Allowance) Amendment Bill 1994