



DEPARTMENT OF THE SENATE

PROCEDURAL INFORMATION BULLETIN

No. 278

14 February 2014

For the sitting period 11–13 February 2014

LEGISLATION

The Senate year began with an attempt by the government to bring forward debate on the building and construction industry bills and the Fair Work (Registered Organisations) Amendment Bill 2013, all of which are currently before a references committee. Leave to move the necessary motion was denied and a motion to suspend standing orders was not supported.

Debate then continued on bills to repeal the carbon tax legislation.

Standing Order [115\(3\)](#) provides for further consideration of a bill to be suspended while the bill is before a committee. This requirement was suspended on 11 February 2014 in respect of the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013 to allow the second reading debate on the bill to continue during the time for consideration of private senators' bills on 13 February despite the bill still being before the Foreign Affairs, Defence and Trade Legislation Committee.

ORDERS FOR PRODUCTION OF DOCUMENTS

The first order for production of documents for the Parliament to be complied with was satisfied by documents provided by Infrastructure Australia on the WestConnex Motorway Project. All other orders remain outstanding in whole or in part.

Further orders for production were agreed to in relation to an advisory report on government assistance to SPC Ardmona, the number, cost and procurement process of lifeboats purchased by the government for use in border protection operations (12 February), modelling for and costs and benefits of the Korea-Australia Free Trade Agreement, a 2006 KPMG report provided to the Howard Government on ABC funding, and a copy of the Operation Sovereign Borders vessel positioning review (13 February).

In response to the order for information about lifeboats, the Assistant Minister for Immigration and Border Protection tabled a response on 13 February indicating that files were being examined with a view to providing a substantive response, noting that they contained Cabinet documents and documents of a commercially sensitive nature. Unfortunately, the minister then revived the old furphy of sanctions not being “enlivened” for 30 days after the due date, an excuse submitted on several occasions by ministers in a previous government, until the President corrected this misinterpretation of standing orders. The only thing that is “enlivened” 30 days after the due date is the right of a senator under standing order [164](#) to seek an explanation from the minister for failure to comply with an order and to move a motion without notice in relation to the explanation or failure to provide it. Such a mechanism echoes the procedure for following up unanswered questions on notice or estimates questions on notice. It does not provide a de facto 30-day extension. Nor does it preclude any other action the Senate

may choose to take in response to an order not complied with. This was the subject of a statement by the President in 2010 (see Bulletin No. [243](#)). Responding to the response, Senator Carr indicated that he was not asking for Cabinet or commercially sensitive information, simply the cost and number of lifeboats and the procurement process to obtain them, normally a matter of public record.

WESTERN AUSTRALIAN SENATE ELECTION

The matter of the Western Australian Senate election in 2013 remains before the Court of Disputed Returns although one of the three election petitions challenging the outcome has been dismissed. The Court's order dismissing the petition was tabled on 11 February.

PROCEDURE COMMITTEE

On 11 February the Senate adopted recommendations of the Procedure Committee in its [Second Report of 2013](#) for changes to standing orders. The standing orders have been reprinted for the first time since 2009. A motion to refer to the committee the replacement of the prayer in standing order [50](#) was defeated on 13 February.

CLOSING THE GAP

An unusual resolution agreed to late last year for special arrangements to be made for consideration of the annual report on the Closing the Gap initiatives (see Bulletin No. [277](#)) met with a partial response when the Speaker wrote to all senators inviting them to observe presentation of the report in the House of Representatives from the galleries. The report was presented later the same day in the Senate, with the government moving to extend the usual time available for the consideration of such documents. The report, and the resolution seeking an undertaking for additional time for its consideration, remain on the Notice Paper.

COMMITTEE REPORTS

Amongst numerous committee reports presented during the sittings, the Environment and Communications Legislation Committee presented a report on the Parliamentary Proceedings Broadcasting Amendment Bill 2013, a private senator's bill introduced by Senator Xenophon to prevent the Joint Committee on the Broadcasting of Parliamentary Proceedings from determining as a condition of the re-broadcasting of parliamentary proceedings the prohibition of use for the purposes of satire or ridicule. Because the joint committee is established by statute, its functions and powers can also be changed by statute. As the Senate committee's report pointed out, however, the enabling statute has limited coverage and it is the Houses which determine the conditions of broadcast and re-broadcast of their own proceedings. Both Houses recently agreed to revised resolutions which omit the older prohibition on use of excerpts for satire or ridicule (see Bulletin No. [277](#)).

ESTIMATES SPILL-OVER DAYS

The Opposition moved a motion on 13 February to nominate specific spill-over Fridays for the additional and supplementary budget estimates hearings this year if required by any three members of the Committee notifying the chair. The motion, which was agreed to, also referred to the existing restriction in the standing orders on more than four committees meeting at once for estimates. Committees have the capacity to set additional times for estimates hearings should they choose. The motion, however, establishes an expectation that committees will continue with further hearings on the spill-over days should there be insufficient time to complete their programs on the other days.

CASUAL VACANCY

The Senate returned to its full complement with the choice on 11 February by the Queensland Parliament of Barry O’Sullivan to fill the vacancy caused by the resignation of Senator Joyce in August last year. Senator O’Sullivan was sworn in on 13 February at the first available opportunity after documentation of the choice by the Queensland Parliament was received. The Senate has regularly expressed the view that states are obliged to fill casual vacancies as expeditiously as possible in order to maintain the representation of the people of the states as provided by the Constitution. The Senate has always accepted the corresponding obligation to swear in and seat the appointee at the earliest possible time.

ADDITIONAL ESTIMATES

Particulars of proposed additional expenditure were tabled on 13 February and referred to legislation committees.

ALLEGED CONFLICT OF INTEREST

Questions to the Assistant Minister for Health on whether her chief of staff had failed to declare a conflict of interest, in the context of action to take down a new food labelling website negotiated with state and territory health ministers, were followed by motions to take note of the minister’s answers on two days (12 and 13 February) and statements to the Senate on 11 and 13 February. The matter is likely to be revisited at the additional estimates hearings.

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 may be reached through the Senate home page at http://www.aph.gov.au/About/Parliament/Senate/Powers_practice_n_procedures.

Inquiries: Clerk’s Office
(02) 6277 3364