



Procedural Information Bulletin

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For the sitting period 4 to 14 September 2017

Qualification of senators

The fortnight commenced with further questions concerning citizenship and [section 44 of the Constitution](#) referred to the Court of Disputed Returns for determination (see [Bulletin 317](#) for background). The government moved to refer questions concerning Senator Nash, who had informed the Senate at the end of the previous sittings of advice concerning her British citizenship, by descent, while Senator Xenophon moved his own referral, on the basis of advice about his status as a British Overseas Citizen, acquired courtesy of his father, born in Cyprus when it was a British colony. Six senators and one member currently stand referred to the court. Directions hearings for the matters referred in the previous sittings were held on 24 August, with three days of hearings set down in the High Court in Canberra, from 10 to 12 October.

Cross-bench senators again proposed an audit of the citizenship status of all senators, by way of an inquiry before the Legal and Constitutional Affairs References Committee, but failed to secure support from the major parties. Proposals to curb the parliamentary powers of the Minister for Regional Development and limit the consideration of bills proposed by the Minister for Agriculture and Water Resources, while questions about their qualifications were before the court, were also defeated (14 and 13 September, respectively). Numerous questions without notice tested the proposition that the validity of ministerial decision-making may be affected should ministers be disqualified; a position rejected by the government on the basis of legal advice.

Legislation

After the Senate declined to further consider the Plebiscite (Same-Sex Marriage) Bill 2016 in the August sittings, the government determined that a voluntary postal survey would occur, asking elector's responses to the question 'Should the law be changed to allow same-sex couples to marry?' The funding and authority for the survey survived High Court challenges, heard over two days in the last week of August, although the judgments have not yet been published.

The Marriage Law Survey (Additional Safeguards) Bill 2017 was introduced, passed by both Houses and assented to – all within 6 hours – on 13 September. The bill contained measures designed to enhance 'transparency, accountability and traceability around communications on marriage law survey matters', including by requiring electoral law-style authorisations and providing for civil penalties in relation to vilification, interference and discrimination. The bill passed both Houses 'on the voices', however some speakers criticised its scope as undermining freedom of speech.

The most extensive debate of the fortnight was on the Broadcasting Legislation (Broadcasting Reform) Bill 2017, the latest iteration of proposed changes to long-standing media ownership laws, which passed with cross-bench amendments after sitting hours were extended in the second sitting week.

To secure support for the bill the government undertook to establish a competitive neutrality inquiry into the Australian Broadcasting Corporation and an ACCC inquiry into the digital media environment.

Several other government bills were passed during the fortnight. The Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017 was agreed to, with extensive government and opposition amendments accepted by the House of Representatives. That bill increases penalties for serious contraventions of the Act, tightens responsibility of franchisors and holding companies, and increases the powers of the Fair Work Ombudsman. The Export Finance and Insurance Corporation Amendment (Support for Commonwealth Entities) Bill 2017, expanding the functions of that entity, was passed with opposition amendments, again accepted by the House; while a bill introducing safe harbour provisions for company directors in limited circumstances passed with government amendments and an opposition amendment requiring a review of the changes.

The Electoral and Other Legislation Amendment Bill 2017 was passed without amendment. It responds to recommendations of the Joint Standing Committee on Electoral Matters' interim report on the 2016 election. Amendments from the Australian Greens to use the bill as a vehicle to lower the voting age were not supported.

Committees

Senate committees continued their consideration of bills and other matters referred to them by the Senate. All inquiries are important for informing the legislative and public policy process but some garner more media attention than others. In that light, the Legal and Constitutional Affairs Legislation Committee tabled its report on the [Australian Citizenship Legislation Amendment \(Strengthening the Requirements for Australian Citizenship and Other Measures\) Bill 2017](#) and made a number of recommendations including that the Government clarify the proposed English language standards and that the Senate should pass the bill. The bill was subsequently the subject of a successful motion proposing its discharge from the Senate *Notice Paper* if it has not been fully considered by 18 October 2017; a kind of 'reverse guillotine'. Other reports in the media were the Joint Committee on Corporations and Financial Services' report on [Whistleblower Protections](#) and the final report of the [Select Committee on a National Integrity Commission](#).

Less noticeable but still important is the work Senate Committees do in monitoring the performance of government departments and agencies. To that end, each standing committee tabled a biannual report assessing the annual reports of those entities against criteria set down in the standing orders.

And finally, there was another in a recent trend of senators proposing resolutions to speed up the government's responses to committee reports. It is the Senate's view that the government should provide a response to committee reports within three months of tabling. When that timeline isn't met it is open to senators to raise the matter in the chamber. There have been five orders for the production of documents in the 45th Parliament requiring overdue responses to be tabled. The latest of these was on 14 September when the Senate agreed that the government should provide its response to the Community Affairs References Committee's report on the prostheses list framework (tabled on 11 May 2017) by no later than 16 October 2017.

Procedure Committee

The President made a statement on 4 September about Senator Hanson's decision to wear a burqa into the Senate chamber, completely concealing her identity (see [Bulletin 317](#)). He referred to long-

standing practice that the matter of dress is left to the judgment of senators, and referred to the Procedure Committee the question whether a change to that practice is warranted. The President also referred the question whether the Senate should adopt a ‘time out’ rule, similar to the House of Representatives [standing order 94A](#). Unlike the Speaker, the President does not have the power to independently suspend a senator for disorder, a fact well-known in the Senate but not in the community.

Two related references were made by the Senate on 6 September, on the motion of the Leader of the Australian Greens. One proposes the adoption of a parliamentary code for respecting cultural diversity, while the other seeks to add ‘adverse reflections on an individual or community on the basis of colour, national or ethnic origin, culture or religious belief’ to the conduct considered highly disorderly under Senate standing orders.

Orders for production of documents

The use of orders requiring the government to produce documents continues unabated. Among those made during the fortnight were orders on:

- alcohol and drug rehabilitation services (7 September; the government responded the same day, indicating it would write to COAG partners seeking consent to release the model)
- an evaluation of the cashless welfare card (6 September; the government indicated that the document sought did not exist, but pointed to a related, publicly-available document)
- water diversion in the Murray-Darling Basin (5 September, due 15 September)
- resettlement of refugees and asylum seekers (4 September; public interest immunity claims raised in documents tabled 11 September).

The Future Frigate program was the subject of several orders, on 4, 5 and 12 September. The government raised public interest immunity claims, in documents tabled on 6 and 7 September, and in a detailed statement made by the Defence Minister in response to an order requiring her attendance in the Senate on 13 September for that purpose.

On 4 September the government tabled its response to an Economics References Committee report on the automotive industry, which was the subject of an order on 15 August.

The details of those orders, and responses more generally, may now be found [online](#).

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.senate.gov.au

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