



Procedural Information Bulletin

20 November 2017 • No. 320

For the sitting period 13 to 16 November 2017

Senators

Citizenship matters again dominated proceedings in the early part of the sitting week. Following the High Court decision on the so-called #citizenship7 cases (see Bulletin [319](#)), the President received advice from the British Home Office that he held British citizenship by descent, in contravention of section 44(i) of the Constitution. He resigned his office and his seat in writing to the Governor-General, as provided for by s 17 of the Constitution. On 14 November, Senator Lambie made a statement to the Senate outlining similar circumstances and resigned her place before question time. Both matters were referred to the Court of Disputed Returns, in the same manner and form as other recent cases.

Under s 17, when the office of President becomes vacant, the Senate shall ‘before proceeding to the despatch of any other business’ choose a President. When the Senate met on Monday, 13 November, it was first necessary to swear in three new senators, to enable them to participate in any ballot for the role. Senators Steele-John, Bartlett and Anning were declared by the High Court on 10 November to have been elected to the places for which Scott Ludlam, Larissa Waters and Malcolm Roberts had, respectively, been returned. Senator the Hon. Scott Ryan was then elected President, receiving a majority of votes cast in a ballot held in accordance with [standing order 7](#).

Senator Steele-John, from Western Australia, uses a wheelchair. As well as making some physical changes to his place in the Senate chamber, the Senate agreed to procedural changes intended to ensure he can fully participate in proceedings, allowing him to speak while sitting and vote from the floor of the Senate adjacent to senators’ seats.

The resignation of Senator Xenophon on 31 October led to a perfectly ordinary casual vacancy, which was filled by the nominee of his party, duly chosen by the South Australian Parliament. Provisions inserted into s 15 of the Constitution in 1977 give the recognised party of a departing senator effective control over the choice of a replacement, including by deeming the choice of the state parliament void if ‘before taking his seat he ceases to be a member of that party’. Reports that a party member other than the chosen nominee might press a claim to the position came to naught, so the operation of that part of s 15 remains untested. Senator Patrick was sworn in on 15 November.

On the same day, the High Court found that the candidate identified in a special count of New South Wales ballots to replace the Hon. Fiona Nash was, herself, incapable of being chosen, reserving its reasons and any further orders as to the process for filling that vacancy.

Citizenship register

On 13 November, on the motion of the Leader of the Government, the Senate agreed to establish a citizenship register, requiring declarations and documentation from senators in respect of their citizenship status, any previous foreign citizenships held and actions taken to renounce them, birth

places of parents and grandparents, and associated details. Statements are required to be provided to the Registrar of Senators' Interests – with initial statements required by 1 December 2017 – and the Committee of Senators' Interests has been given oversight of the form of the register and procedures for its maintenance. Knowingly making false statements, failing to provide statements on time, and failing to correct inaccuracies of which senators become aware may be dealt with as serious contempts, and would also no doubt carry a heavy political cost.

Legislation

Numerous government bills were listed for consideration during this 'Senate only' sitting week, and four were passed, none with amendments. However, the lion's share of business time was spent on other matters.

Following the announcement of the result of the same-sex marriage postal survey (see Bulletin [318](#)), a cross-party private senators' bill – the Marriage Amendment (Definition and Religious Freedoms) Bill 2017 – was introduced, debated for several hours on 16 November, and given precedence over all other bills in the next sitting week. The procedural motions echo similar arrangements made for the consideration of cross-party bills in 2006 (Bulletins [198](#) and [206](#)).

Committee activity

The sitting week finished with 63 inquiries on the Senate Committee Office books. These inquiries are distributed across the eight pairs of standing legislative and general purpose committees, three joint statutory committees, two joint standing committees and six select committees that the Senate department supports. Information about parliamentary committees can be found [here](#).

In addition to seven new bill inquiries, an inquiry on the conduct of a minister in relation to the ministerial code of conduct was referred to the Legal and Constitutional Affairs References Committee, while the Rural and Regional Affairs and Transport References Committee received a reference on air route service delivery to rural, regional and remote communities.

2018 estimates hearings

The dates for 2018 estimates hearings were also confirmed during the week. The Budget estimates hearings were complicated by the introduction in 2018 of an ACT public holiday on Monday 28 May, the Monday of the second week of estimates hearings. As a result, hearings in the second week will run from Tuesday 29 May to Friday 1 June, with a spill-over day, if required, on 22 June.

Additional hearings

Since [June 2014](#), it has been open to any three members of committees hearing estimates to require additional hearings by notifying the chair in writing. This option was taken up in respect of two committees after the recent Supplementary Budget Estimates hearings, holding further hearings on 27 October. The Finance and Public Administration Legislation Committee also held a further hearing on 15 November.

Negotiating a time that suits all those involved can be difficult. If agreement can't be reached, it is open to a member of the committee to put a motion through the chamber seeking the Senate to require that a spill-over day happen at a specified time. This was the case with the Environment and

Communications Legislation Committee, which was directed to meet on 23 November to further examine the NBN Co Ltd. This motion also stipulated which officers from NBN Co Ltd were required to attend. Similarly, the Education and Employment Legislation Committee was directed to meet on Friday, 1 December, to further examine the Registered Organisations Commission, the Fair Work Ombudsman and the Australian Building and Construction Commission. In addition, the Minister for Employment was directed to attend.

Orders for documents

Five orders were made for the production of documents during the sitting week:

- two detailed orders were made connected to a Registered Organisations Commission investigation into the Australian Workers' Union; the Minister raised a public interest immunity claim in relation to the first, citing possible prejudice to a law enforcement investigation, while the second is due in the next sitting week;
- one order required correspondence relating to the proposed Adani coal mine, which was tabled the next day;
- one order sought the Master Facility Agreements between the Commonwealth and state and territory governments underpinning the Northern Australia Infrastructure Facility, which the government has indicated will be provided once signed, subject to the parties' consent; and
- one relating to the purchases of water across the Murray-Darling Basin.

Further details about orders made and responses to them can 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

Inquiries: **Clerk's Office (02) 6277 3364**