



Procedural Information Bulletin

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For the sitting period 2 to 3 April 2019 and
Budget estimates hearings 4 to 10 April 2019

Christchurch terrorist attack

The Senate entered its last sittings for the 45th Parliament in the wake of a terrorist attack on the Al Noor and Linwood Mosques in Christchurch, New Zealand. Sittings commenced with a motion in which [the Senate recorded its sorrow and sympathy](#) for the lives lost and for their families, and its solidarity with the Muslim communities of Christchurch, New Zealand and Australia.

Senators

Three new senators were sworn in on 2 April, filling casual vacancies under section 15 of the Constitution. Senators Askew (vice Bushby) and Spender (vice Leyonhjelm) were appointed by the Governors of Tasmania and New South Wales, respectively, while each of those state's parliaments were prorogued. A governor's appointment must be confirmed by a joint sitting of the state parliament within 14 days of the parliament resuming. Senator Ciccone was chosen by a joint sitting of the Victorian Houses to fill the vacancy caused by Senator Collins' resignation. Senators Askew and Spender made their first speeches the following day.

Budget sittings

As occurred in 2016, the government brought its Budget forward to accommodate its election timetable, and provided initial funding for the next financial year through the passage of Supply Bills (see [Bulletin 305](#)). The Budget statement was made in the House on 2 April and tabled in the Senate, minor parties and independent senators responded to the statement the following evening. The centrepiece of the budget lay in three phases of income tax reductions, commencing with a tax offset for low- and middle-income earners from 1 July 2019, and further changes commencing in 2022-23 and 2024-25. Those changes were not introduced before the election period, and so will be a matter for the next Parliament.

Censure of a senator

On 2 April the Leaders of the Government and the Opposition in the Senate jointly gave notice for debate the following day of two motions flowing from the Christchurch attacks. One reaffirmed the Senate's unequivocal commitment to the national gun law reforms implemented following the horrific mass shooting in Port Arthur, Tasmania, in 1996. The other censured a senator for his inflammatory and divisive comments in the aftermath of the Christchurch attacks, seeking to attribute blame to victims of a horrific crime and to vilify people on the basis of religion.

That senator's comments also led to the tabling of a petition from 1.4 million signatories demanding that he be removed from the Senate; reportedly Australia's largest ever online petition. The Senate lacks the power to expel its members. When the federal parliament's powers were reviewed in the 1980s, a joint committee recommended that power to do so – inherited from the UK House of Commons at Federation – be removed. It was reasoned that the Constitution provides the grounds on which senators and members are disqualified, and that otherwise decisions about who should represent the people in the parliament should be made by the people themselves at elections. That change was enacted in the *Parliamentary Privileges Act 1987*.

The President also made a [statement](#) on the constraints on the Senate's power to suspend a senator, concluding:

While there is no doubt that the Senate has the power to suspend senators, its acknowledged power to do so is limited to those circumstances in which it is necessary to protect the Senate's ability to manage the conduct of its proceedings in the face of disorder, or where the Senate determines that it is necessary to do so to protect the ability of the Senate and senators to perform their constitutional roles. Any other use of the power may be open to challenge.

Legislation

On 2 April, the Senate finally passed three Industrial Chemicals Charges bills, having received a message that the House had made the amendments requested by the Senate in February. The third reading of such bills is not proposed in the Senate until the outcome of its requests is determined.

After negotiating another pragmatic time management motion on 3 April, the government managed to have a further 18 bills passed, a handful with amendments. Because the time for considering bills on the final day was squeezed out by other business, around a dozen of these bills were passed without further debate.

The proceedings surrounding one bill drew particular criticism from sections of the Senate crossbench. The Criminal Code Amendment ([Sharing of Abhorrent Violent Material](#)) Bill was introduced as a response to the Christchurch terror attacks. It requires internet service providers and others to take prompt action to remove abhorrent violent material that can be accessed using their services, and to refer such material to law enforcement agencies. The procedural order governing the day meant that the bill was introduced and passed without debate, and without the text of the bill being widely available. Despite these misgivings, the bill was passed on the voices, with no senator requiring a vote.

Disallowance

The time management motion also provided for a vote on an opposition motion to disallow item 4 of the Parliamentary Business Resources Amendment (2019 Measures No. 1) Regulations 2019, which had removed a previous restriction preventing members from using office expenses to pay for the production of content for broadcast on television or radio. The disallowance of the item restored the previous restriction.

Qualifications register

As noted in the previous bulletin, the Electoral Legislation Amendment (Modernisation and Other Measures) Bill 2018 proposed to establish a mandatory qualification checklist for candidates nominating for election. To complement that measure, the Senate, on 3 April, passed a [resolution establishing a Register of Senators' qualifications](#), to comprise successful candidates' checklists, statements from the existing [Citizenship register](#), and supplementary material.

The resolution also introduced procedural constraints on the reference of qualification matters to the Court of Disputed Return, so that they may only be moved if a possible disqualification arises from facts not disclosed on the register. The referral process also encompasses a preliminary investigation by the Senators' Interests Committee, which is required to take expert evidence on foreign citizenship law in relevant matters. Of course, one limitation of such procedures is that, like any other order of the Senate, they may be suspended by majority vote if the political will to maintain them falls away. An equivalent process was adopted by the House of Representatives.

The rationale for these measures may be found in recommendations of the Joint Select Committee on Electoral Matters. In seeking to balance the need for compliance with the need for certainty, the committee reasoned that full disclosure by candidates at the time of nomination would better-inform those seeking to challenge a successful candidate's qualifications by petition to the Court of Disputed Returns within the existing 40-day window after the return of the writs. In the committee's view, a person's eligibility in respect of matters so disclosed should not be able to be questioned in any other way. This could be achieved by the Houses agreeing to limit their use of the referral power to those matters not, or not fully, disclosed. For more detail, see the committee's report, [Excluded](#), particularly at paragraphs 4.5 to 4.15.

Committee activity

Another instalment flowing from the 2017 AFP raid on the offices of the Australian Workers' Union played out on 3 April, when the Senate passed a motion requiring the attendance of Senator Cash at the Budget estimates hearings of the Education and Employment Legislation Committee, the following Friday, to answer questions in her former capacity as Minister for Employment. Senator Cash duly appeared.

A number of committee reports were tabled during the week, including the reports by the eight standing committees on the February additional estimates hearings, as well as the final report by the Community Affairs References Committee into the effectiveness of the aged care quality assessment and accreditation framework for protecting residents from abuse and poor practices.

The Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse also wound up its work.

Budget estimates

The early Budget saw an unusual Budget estimates timetable, which commenced on the Thursday of the sitting week to consider the particulars of proposed expenditure referred to legislation committees on the motion of the Minister for Finance on the Tuesday.

There was considerable speculation about the effect of a possible prorogation of parliament on the estimates timetable. Committees conducting estimates hearings do so because they have been directed by the Senate to conduct them. The scheduled program of hearings would have been swept aside if prorogation occurred before the hearings commenced. Senate committees may nonetheless resolve to meet after prorogation, having been authorised by the Senate to continue to meet and transact business after prorogation. If the hearings were underway when prorogation took effect, they could continue during that day, subject to any decision of the committee to adjourn.

In the end, parliament was prorogued before 9am on Thursday 11 April, prior to estimates hearings commencing. As such, the hearings scheduled for that day did not take place.

Matters considered included the following:

- the Australian Government's legislative response following the terrorist attack in Christchurch
- the ABC's airing of content from broadcaster Al Jazeera
- the Adani mine approval process
- the progress of loan applications through the Regional Investment Corporation
- the timing of work done by the Department of Social Services to support a decision of government that extended the energy assistance payment to people who receive the Newstart allowance
- the extension of the Banking Executive Accountability Regime
- higher education funding arrangements
- the budget in relation to the management and remediation of PFAS contamination at Defence bases.

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.aph.gov.au/senate

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