



Procedural Information Bulletin

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For the sitting period 12 to 14 May 2020

Sittings and estimates

The Senate met on 12 May, at the joint request of the Leaders of the Government and Opposition in the Senate, under the auspices of the special “next meeting” motion passed at the end of the sitting on 8 April ([see Bulletin 343](#)), and agreed to meet again on the next two days.

Although billed as an “ordinary sitting week”, it was nonetheless shaped by Australia’s response to the COVID-19 pandemic. Extended pairing arrangements and procedural adjustments to observe social distancing advice were again in evidence, although nearly 70 senators attended during the week, as opposed to around 40 senators attending the previous sittings. Additional seating was provided around the perimeter of the chamber to accommodate the larger numbers.

With the Budget deferred until October, the Senate received and debated a ministerial statement on 12 May about the economy, which foreshadowed an updated economic and fiscal outlook statement in June, and a ministerial statement on the COVID-19 health response the following day. The Senate also passed legislation and considered disallowance motions connected to the coronavirus response (dealt with under those headings, below), which was the focus of much of question time each day. On 14 May the government tabled an update on bushfire recovery and the drought response.

On the last sitting day the Senate agreed to a government motion proposing 7 sitting days in June and varying the calendar for the second half of the year to accommodate a full round of Budget estimates hearings from 19 October. It appears, for now, that only “ordinary” sittings are in prospect, as the Senate did not renew the provision allowing the Procedure Committee to make rules for sittings not otherwise provided for in the standing orders that was made at the end of each of the recent single-day sittings ([see Bulletin 342](#), [343](#)).

Legislation

Among the bills dealt with during the week was the [Privacy Amendment \(Public Health Contact Tracing\) Bill 2020](#), which regulates the collection, use and disclosure of data from the COVIDSafe app, introduced by the Government in recent weeks. This data was initially regulated under an emergency [biosecurity determination](#). The bill elevated those measures to primary legislation, added further privacy protections, and imposed criminal offences for misuse of the data. An exposure draft was published in the first week of May, some more safeguards were added prior to introduction, and the bill passed the Senate on 14 May without further amendment.

An interesting element is the final clause of the bill, which bolsters the prohibitions and penalties it contains by “cancell[ing] the effect of a provision of any Australian law” that would permit or require conduct prohibited by the bill. Opposition senators indicated that the COVID-19 Select Committee would oversee the operation of the app and the privacy protections over the coming months.

Other significant bills passed during the week included a pair of telecommunications bills to implement regulatory and structural reforms arising from a 2014 review of the NBN market and regulation, including [a bill imposing a charge on carriers to fund the regional broadband scheme](#). The bills were passed on 14 May with government and opposition amendments, as well as a government request seeking a technical amendment to the charge bill. That bill could not be amended by the Senate, being a bill imposing taxation for the purposes of section 53 of the Constitution, although the amendment itself did not have a financial aspect.

Orders for documents

A new continuing order was passed on 12 May, requiring the Finance Minister to table documents relating to Commonwealth Grant Rules and Guidelines by no later than 30 April each calendar year.

On 13 May orders were also passed requiring documents relating to the Building Landcare Community and Capacity Grants program, which were tabled the following day, and documents relating to the Water for Fodder program, required by the first sitting day after 1 July 2020.

The cumulative list of orders and responses is available on the Senate's online [business pages](#).

Disallowance

Numerous notices of motion proposing to disallow instruments were given during the week, although only two were debated. Each occasion demonstrated that the Senate's oversight of delegated legislation, and the potential for instruments to be disallowed, can lead to policy changes even where the procedure itself is unsuccessful.

The first motion, proposing to disallow the Aviation Transport Security Amendment (Security Controlled Airports) Regulations 2019 [[F2019L01656](#)], was defeated on 13 May. The regulations deal with the costs of security upgrades for airports, and the debate considered whether the burden of those costs fell disproportionately on regional airports. Although the motion was unsuccessful, its mover, Senator Patrick, noted that the debate helped lead the government to foreshadow the adoption of a non-differential pricing model.

On 14 May a motion proposing to disallow the Fair Work Amendment (Variation of Enterprise Agreements) Regulations 2020 [[F2020L00432](#)] was also defeated. The regulations were made under the temporary changes made to the *Fair Work Act 1999* passed on 8 April as part of the government's COVID-19 economic response. They have the effect of shortening the period employees must have access to a proposed variation to an enterprise agreement, before their agreement is sought, from seven days to one. Although unsuccessful, the debate and the potential for disallowance again seemed to have a role in the government announcing its intention to add a 12-month sunset to any variation made under the regulations.

In related news, on 30 April the Scrutiny of Delegated Legislation Committee announced that it would conduct an [inquiry into the exemption of delegated legislation from parliamentary oversight](#), including delegated legislation relating to COVID-19. In announcing the inquiry the committee noted that approximately 20 per cent of all delegated legislation made in 2019 was exempt from disallowance. This is the first time the committee has utilised its new power under standing order 23(12) to conduct own motion inquiries "on any matter related to the technical scrutiny of delegated legislation".

Committees

A number of committees took advantage of the three-day sitting period and the presence of senators in Canberra to hold hearings that were less reliant on video conferencing than has recently been the case. The Select Committee on COVID-19 conducted a hearing in accordance with social distancing requirements which heard from a range of witnesses, including the Chief Medical Officer and the Secretary of the Department of the Prime Minister and Cabinet. Similarly, the Select Committee on the Management and Execution of the Murray Darling Basin Plan, and the Economics References Committee also held hearings; an indication that committee activity is likely to increase as the parliamentary sitting calendar returns to a more predictable pattern.

An inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020 was referred to the Legal and Constitutional Affairs Legislation Committee and the Foreign Affairs, Defence and Trade References Committee received a new reference to inquire into issues faced by diaspora communities in Australia.

Formal and informal records

This bulletin is one of a suite of gateway resources intended to assist in tracking and understanding the role and work of the Senate. Among them is the [Senate Daily Summary](#), which now includes an overarching weekly summary. One of the largest sections in the summary this week lists the many [motions dealt with as formal business](#), that is, business voted on without the opportunity for debate. The summary links to the full text and details of any amendments proposed, as recorded in the Senate Journals.

For parliamentary trivia buffs, the SDS was first published 20 years ago this week, on the Parliament's 99th birthday.

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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