



Procedural Information Bulletin

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For the sitting period 6 to 9 October 2020

Senators and the Senate

Proceedings on 6 October commenced with Senator Lidia Thorpe being sworn in before taking her seat as the new senator for Victoria, having been chosen at a joint sitting of the Houses of the state Parliament on 4 September to fill the vacancy caused by the resignation of Senator Di Natale. On 7 October it was announced that the Leader of the Government in the Senate, Senator Cormann, would soon resign his place as a senator for Western Australia and valedictory statements were made on 9 October pending his resignation at the end of the month.

Budget sittings

It was a fairly typical Budget sitting week, beyond the continued application of COVID-safe procedures and the readoption of the rules for remote participation. The Treasurer's Budget speech occurred in the House of Representatives on 6 October and was tabled in the Senate a little later, with particulars of proposed expenditure referred to legislation committees for the delayed Budget estimates round of hearings beginning on 19 October 2020. The Leader of the Opposition made his reply in the House on Thursday evening, and Senate party leaders and independent senators also had the opportunity to make their responses that night.

Four bills passed the Senate during the week. The [job-ready graduates bill](#), which changes Commonwealth funding arrangements and the pricing of student contributions in higher education, was passed on 8 October with government amendments and requests for amendments, after a limitation of debating time was imposed that morning. That motion also required the Senate to deal with an omnibus bill implementing [a number of taxation measures](#) announced in the Budget, which passed without amendment on 9 October.

The sitting of the Senate was suspended on Thursday night to resume at 9am on Friday morning. Regular readers will recall that this is the first such suspension since a common-sense definition of "sitting day" was inserted into the *Acts Interpretation Act 1901* in 2018, clarifying that a new sitting day is not created in these circumstances: see Bulletins [316](#), [327](#).

Orders for documents and explanations

In support of its roles scrutinising legislation and the performance of the executive, the Senate may order that documents be "laid on the table" of the Senate. The power to require the production of information is one of the most significant powers available to a legislature and is established under [section 49](#) of the Constitution.

So far in the 46th Parliament the Senate has made 81 such orders. The most recent, agreed to on 7 October, required the Minister representing the Attorney-General to provide an unclassified version of a report titled *Comprehensive review of the legal framework governing the national intelligence community*.

Other recent examples relate to the COVID-19 pandemic and include:

- the daily briefings prepared for the Government containing updates on COVID-19 cases in aged care, referred to by the Minister for Aged Care and Senior Australians in evidence to Senate Select Committee on COVID-19 on 21 August 2020 as “Sit Rep”, for each day from 1 July 2020;
- any communications plan prepared by the Department of Health or another agency for use by the Government relating to the handling of COVID-19 cases in aged care; and
- plans to develop the training modules produced by the Government for staff in aged care in the use of personal protective equipment and the plan to distribute those modules.

On 6 October the Minister for Families and Social Services made a statement in the Senate in relation to two orders for the production of documents, one covering legal advice and the other an executive minute referenced in a 2017 report by the Commonwealth Ombudsman. These two orders, relating to Centrelink’s compliance program, were contained in recommendations in a report from the Community Affairs References Committee and adopted by the Senate when the report was tabled on 2 September: see [Bulletin 346](#). In her statement the Minister reiterated the public interest immunity claims previously made and rejected by the committee, and implicitly rejected by the Senate adopting the committee’s recommendations. The Minister also indicated that the circumstances of the claims continued to evolve, as the elements of the legal action in relation to the compliance program changed. Non-government senators debating the statement continued to call for the documents to be provided.

The cumulative details of all orders and responses are on the [Senate’s business pages](#).

Disallowance

On 7 October the Senate considered three proposals to disallow changes made to the coronavirus supplement and JobKeeper payment measures. The changes to the measures had been implemented by delegated legislation made under the broad instrument-making powers included in the coronavirus economic response bills passed during the single-day sittings on 23 March and 8 April 2020.

Two of the motions, which would have had the effect of reinstating exemptions to the assets test and liquid assets waiting period for social security payments, were (somewhat unusually) considered and defeated without substantive debate during formal business, an indication of the limited opportunities for debate during the week. The third motion sought to excise the provisions that inserted a new two-tiered payment structure, which would have had the effect of restoring the rate of JobKeeper payment to the original rate of \$1500 per fortnight. It was subject to debate but was also ultimately defeated. Two further motions are listed for consideration on 9 November.

Each of these motions sought to disallow only provisions of the relevant instruments, rather than the whole instrument. Such an approach is provided for in section 42 of the *Legislation Act 2003* which states that either House may “disallow a legislative instrument or a provision of a legislative instrument”. As noted in [Odgers’ Australian Senate Practice](#), a provision is regarded as any reasonably self-contained

provision which can stand or fall alone. Therefore, while the Senate cannot directly amend legislative instruments, this procedure provides some flexibility to senators in situations where their policy objectives can be implemented by disallowing discrete provisions of an instrument.

Reports

Five of the eight legislation committees presented reports on annual reports in accordance with Standing Order 25(20).

The Finance and Public Administration References Committee tabled an [interim report](#) on lessons to be learned in relation to the Australian bushfire season 2019-20, making thirteen recommendations and signalling its intention to travel to affected areas to take evidence and conduct site inspections when it is able to do so.

On 8 October the Rural and Regional Affairs and Transport References Committee tabled a [report](#), containing eight recommendations, on regulation of farm practices that impact water quality outcomes in the Great Barrier Reef.

The Joint Select Committee on Australia's Family Law System tabled a substantial [interim report](#) in the House of Representatives on 7 October and in the Senate the following day. The report did not include recommendations but set out the range of views and issues that had been put before it during its inquiry thus far, and presented statistical information about submissions received, including 1523 individual submissions and 169 from organisations, academics and other professionals—93.5% of which were received *in camera*. The committee foreshadowed its intention to collect further evidence, including in the form of site visits to courts if this is possible, in order to finally report by the last sitting day in February 2021.

Inquiries

In accordance with the usual practice, the Senate resolved that “time critical” budget bills introduced into the House of Representatives during the forthcoming estimates round stand referred to committees for inquiry and report by 26 November 2020. Six bills were also referred to committees as a result of Selection of Bills Committee recommendations.

On 6 October the Senate resolved to establish the [Select Committee on Tobacco Harm Reduction](#), with a reporting date on 1 December 2020. A ballot for minor party membership on the committee was conducted on 8 October, with Senator Griff representing Centre Alliance, being chosen. The establishment of this select committee takes the number of concurrent select committees supported by the Senate Committee Office to 12; a record number.

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

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