



# Procedural Information Bulletin

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For the sitting period 9 to 12 November 2020

## Senators and the Senate

On 6 November Senator Cormann resigned his place as a senator for Western Australia, creating a vacancy in the representation of that state. The two Houses of the state parliament are expected to meet by the end of the month to choose his successor. On 9 November Senator Birmingham informed the Senate that he had been appointed Leader of the Government in the Senate, and that Senator Cash had been appointed Deputy Leader.

The rules allowing senators to participate in proceedings by video-link were again adopted for the sittings, although the recent relaxation of border closures and quarantine requirements meant 68 of the current 75 senators attended in person.

On 10 November the Senate rejected a motion to provide for the Aboriginal Flag and the Torres Strait Islander Flag to be displayed in the Senate chamber alongside the Australian National Flag, which is displayed under an [order](#) unanimously agreed to in 1992.

## Legislation

Twelve government bills passed the Senate during the week, all without amendment.

The main focus was the [JobMaker Hiring Credit bill](#). According to its explanatory memorandum, the bill authorises the Treasurer “to make rules for a kind of Coronavirus economic response payment that is primarily intended to improve the prospects of individuals getting employment or increase workforce participation.” As with the JobKeeper payment [see [Bulletin 343](#)], there was a dearth of detail in the bill about the program it authorised. In its [Scrutiny Digest No. 15](#) of 2020 the Scrutiny of Bills Committee expressed the view that the core elements of the scheme should be included in the bill “unless a sound justification for the use of delegated legislation is provided”, and sought such a justification from the Treasurer, but that explanation was not received before the bill passed. Much of the Senate debate revolved around the form and substance of the rules, which remain the subject of external consultation. Two amendments, prescribing matters to be dealt with in the rules, initially passed the Senate with the support of all non-government senators. However, three crossbench senators voted with the government against insisting on the amendments after they were rejected by the House of Representatives, so the bill passed without them.

A [miscellaneous social services bill](#) providing for additional coronavirus economic support payments, adjusting some social security criteria in response to the pandemic, and dealing with other measures also passed without amendment, after debate stretching across three sitting days. The Senate also passed a [bill extending the powers of the NDIS Quality and Safeguards Commissioner](#) to make banning orders against NDIS providers. The government had updated the explanatory material related to the

bill to take into account concerns expressed by the Scrutiny of Bills Committee: see [Scrutiny Digest No. 10 of 2020](#); see *a/so* [Human Rights Scrutiny Report 10 of 2020](#) for commentary on balancing the competing rights involved.

During consideration of the [Fair Work Amendment \(Improving Unpaid Parental Leave for Parents of Stillborn Babies and Other Measures\) Bill 2020](#), senators noted that the bill responds to the first recommendation of the [report](#) of the Select Committee on Stillbirth Research and Education.

On 9 November, on the motion of Senator Patrick, the Senate discharged the order of the day for the further consideration of the government's Research and Development Tax Incentive bill, whose provisions had been overtaken by new measures announced in the Budget and passed on 9 October.

## Orders and explanations

On 9 November Senator Ayres sought an explanation under standing order 74(5) as to why a question placed on notice during the additional estimates round in February this year had not been answered. There is no requirement to notify a minister of an intention to seek such an explanation, although some notice is usually given, if only to ensure that the relevant minister is present when the explanation is sought. On this occasion, the minister indicated that he had no notice – and therefore no information – on the matter, and the senator moved to take note of “the minister's failure to provide either an answer or an explanation.”

On 10 November Senator Patrick made a statement about an order for documents made on 6 October relating to Australian Industry Capability plans and Australia's sovereign naval shipbuilding capacity. The order, agreed to on the motion of the chair of the Economics References Committee, Senator Gallacher, required the Department of Defence to provide specified documents to the committee, which had repeatedly requested the information from the department. Senator Patrick noted that the Defence Minister had declined to provide the documents sought in the order, making a public interest immunity claim on the grounds of commercial confidentiality. The following day the Senate agreed to a further motion from the chair rejecting the public interest immunity claim and requiring compliance with the original order by 12 November.

Orders were also made:

- on 10 November, for an AUSTRAC report on casino junkets, with some documents tabled in response on 12 November
- also on 10 November, for a summary of applications for funding under the Inland Rail Interface Improvement Program and
- on 12 November, for ten written briefings on the acquisition of the “Leppington Triangle” land, referenced in the Auditor-General's report no. 9 of 2020–21.

As always, the cumulative details of all orders for documents and responses are on the [Senate's business pages](#).

## Disallowance

On 9 November the Senate considered a proposal to disallow Part 1 of Schedule 2 of the Coronavirus Economic Response—[2020 Measures No. 14](#) Determination, which had survived an attempted disallowance on 7 October: see [Bulletin 347](#). The instrument reinstated the liquid assets waiting period for people accessing unemployment payments, which had been suspended early in the pandemic.

If the disallowance motion had been successful the waiting period would have again been suspended. However, the motion was lost on a close vote. There is no prohibition on the Senate considering identical disallowance motions on different days, the rationale being that a change in circumstances may change the effect of the motion: see *Odgers' Australian Senate Practice*, 14th ed., under [Same question rule](#), pp 238–9.

## Inquiries

Two new references inquiries were referred during the sitting week: [Australia's general aviation industry](#) to the Rural and Regional Affairs and Transport References Committee and [media diversity in Australia](#) to the Environment and Communications References Committee.

Eight bills were referred for inquiry and report, seven of these as a result of the Selection of Bills Committee [Report No. 10](#). Where the Selection of Bills Committee and the Senate are unable to agree to a reporting date, as occurred in relation to the EPBC ([Streamlining Environmental Approvals](#)) bill, it is in the hands of the legislation committee. The further consideration of the bill in the Senate is made an order of the day for the next sitting day after the legislation committee reports: [standing order 115\(3\)](#).

The Environment and Communications, and Rural and Regional Affairs and Transport Legislation Committees each held spill over hearings to complete their examination of expenditure through the 2020–21 Budget estimates.

## Reports tabled

Four reports were tabled during the sitting week, including the [report of the Parliamentary Joint Committee on Law Enforcement](#) inquiry into illicit tobacco, which commenced in the 44th Parliament. The inquiry lapsed with the dissolution of the 44th Parliament and was reinitiated and lapsed again with the dissolution of the 45th Parliament. Within the 46th Parliament, the committee reinitiated the inquiry on 24 July 2019 and has finally finished its work, making eight recommendations including the development of a National Illicit Tobacco Strategy.

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## 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](http://www.aph.gov.au/senate)

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