

The Senate

Standing
Committee for the
Scrutiny of Delegated
Legislation

Delegated Legislation Monitor

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Introduction

The Senate Standing Committee on Regulations and Ordinances (the committee) was established in 1932. The committee's name was changed on 4 December 2019 to the Senate Standing Committee for the Scrutiny of Delegated Legislation.¹ The role of the committee is to examine the technical qualities of all disallowable legislative instruments, and to decide whether they comply with the committee's non-partisan scrutiny principles.

Terms of reference

The committee's scrutiny principles are set out in Senate standing order 23(3) which requires the committee to scrutinise each instrument as to whether:

- (a) it is in accordance with its enabling Act and otherwise complies with all legislative requirements;
- (b) it appears to be supported by a constitutional head of legislative power and is otherwise constitutionally valid;
- (c) it makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers;
- (d) those likely to be affected by the instrument were adequately consulted in relation to it;
- (e) its drafting is defective or unclear;
- (f) it, and any document it incorporates, may be freely accessed and used;
- (g) the accompanying explanatory material provides sufficient information to gain a clear understanding of the instrument;
- (h) it trespasses unduly on personal rights and liberties;
- (i) it unduly excludes, limits or fails to provide for independent review of decisions affecting rights, liberties, obligations or interests;
- (j) it contains matters more appropriate for parliamentary enactment; and
- (k) it complies with any other ground relating to the technical scrutiny of delegated legislation that the committee considers appropriate.

Senate standing order 23(4) also requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to

1 On 27 November 2019, the Senate agreed to amend standing orders 23 and 25(2)(a), with effect from 4 December 2019. For further information, see https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Changes_to_committee_standing_orders.

the instrument on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

Nature of the committee's scrutiny

The committee's work may be broadly described as technical legislative scrutiny. In this regard, the committee does not examine the policy merits of delegated legislation. However, if the committee determines that an instrument raises significant issues, it may write to the relevant legislation committee to alert that committee to the instrument, or otherwise draw the instrument to the attention of the Senate.

Where an instrument does not appear to comply with the committee's technical scrutiny principles, the committee's usual approach is to correspond with the responsible minister or relevant agency to seek further explanation or clarification of the matter at issue. The committee may also seek an undertaking for specific action to address its scrutiny concerns.

The committee's work is supported by the processes for the registration, tabling and disallowance of legislative instruments under the *Legislation Act 2003*.²

Publications

The committee's usual practice is to table a report, the *Delegated Legislation Monitor*, each Senate sitting week. The monitor provides an overview of the committee's scrutiny of disallowable legislative instruments for the preceding period. Disallowable legislative instruments detailed in the monitor are also listed in the 'Index of instruments' on the committee's website.³

Ministerial correspondence

The committee undertakes formal correspondence with ministers in order to resolve more significant scrutiny concerns. Ministerial correspondence is published on the committee's website.⁴

Agency correspondence

The committee undertakes informal correspondence with agencies via its secretariat to gather information about potential scrutiny concerns. This correspondence assists the committee in deciding whether it is necessary to seek further advice from the relevant minister about those concerns. Agency correspondence is not published;

2 For further information on the disallowance process and the work of the committee see *Oggers' Australian Senate Practice*, 14th Edition (2016), Chapter 15.

3 *Index of instruments*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Index.

4 See https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Monitor.

however, a record of the instrument, scrutiny issue and status of the correspondence is included in Appendix A (ongoing matters) and Appendix B (concluded matters) in the monitor.

Guidelines

Guidelines relating to the committee's scrutiny principles are published on the committee's website.⁵

General information

The Federal Register of Legislation should be consulted for the text of instruments, explanatory statements, and associated information.⁶

The Senate Disallowable Instruments List provides a listing of tabled instruments for which disallowance motions may be moved in the Senate.⁷

The Disallowance Alert records all notices of motion for the disallowance of instruments, and their progress and eventual outcome.⁸

Instruments considered in this monitor

The committee examined 124 disallowable legislative instruments registered on the Federal Register of Legislation between 19 August 2020 and 17 September 2020.

This monitor identifies the instruments registered in this period about which the committee has or had scrutiny concerns. It also identifies instruments registered before this period in relation to which the committee is continuing to engage with the relevant minister or agency, or has concluded its examination.

5 See https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Guidelines.

6 See Australian Government, Federal Register of Legislation, www.legislation.gov.au.

7 Parliament of Australia, *Senate Disallowable Instruments List*, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/leginstruments/Senate_Disallowable_Instruments_List.

8 *Disallowance Alert 2020*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Alerts.

Chapter 1

Instruments raising significant scrutiny concerns

1.1 This chapter details the instruments which raise significant scrutiny concerns in relation to which the committee is seeking further information from the relevant minister or of which the committee has concluded its examination.

1.2 Where the committee has significant unresolved scrutiny concerns about an instrument contained in this chapter, the committee may give a notice of motion to disallow it, subject to any further developments between the time that the notice is given and the time the notice is scheduled for debate in the Senate. Accordingly, where appropriate, this chapter also details the committee's reasons for withdrawing notices of motion to disallow such instruments.

Fair Work Amendment (Variation of Enterprise Agreements No. 2) Regulations 2020

FRL No.	F2020L00702 ¹
Purpose	To repeal amendments made by the Fair Work Amendment (Variation of Enterprise Agreements) Regulations 2020, to remove a temporary modification of the access period for a proposed variation of an enterprise agreement from seven days to one day.
Authorising legislation	<i>Fair Work Act 2009</i>
Portfolio	Attorney-General's
Disallowance	15 sitting days after tabling (tabled in the Senate on 16 June 2020). Notice of motion to disallow given on 10 November 2020.

Overview

1.3 The instrument repeals amendments made by the Fair Work Amendment (Variation of Enterprise Agreements) Regulations 2020 (principal instrument) to the period that employees must have access to a copy of a proposed variation of an enterprise agreement, and before which employees must be notified of the details of the vote on the variation, from seven days to one day. The measures implemented by the principal instrument were intended to be a time-limited change to enable employers and their employees to quickly respond to issues that may arise in response to the COVID-19 pandemic.

1 Accessible on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Scrutiny concerns

Compliance with Legislation Act 2003 – consultation²

1.4 Senate standing order 23(3)(a) requires the committee to scrutinise each instrument as to whether it complies with all legislative requirements. This includes the requirements of paragraphs 15J(2)(d) and (e) of the *Legislation Act 2003* (Legislation Act), which provide that the explanatory statement to an instrument must describe the nature of any consultation that was undertaken in relation to the instrument or, if no consultation was undertaken, explain why no consultation was undertaken.

1.5 The explanatory statement to the instrument does not provide any information about consultation. In this regard, the explanatory statement to the instrument does not appear to comply with the technical requirements of paragraphs 15J(2)(d) and (e) of the Legislation Act.

Actions to date

1.6 The committee wrote to the minister in August and October of this year to seek advice in relation to the committee's technical scrutiny concerns about the instrument.³

Initial correspondence

1.7 In its initial letter on 27 August 2020, the committee requested the minister's advice as to how the current explanatory statement to the instrument complies with the requirements of paragraphs 15J(2)(d) and (e) of the Legislation Act.

1.8 The minister's response of 22 September 2020 explained that consultation was undertaken in relation to the principal instrument. The Minister further advised that, taking into account views publicly and privately expressed to him by representatives of the union movement and the business community, the government considered it appropriate to bring forward the repeal of the principal instrument. On this basis, the minister advised that he was satisfied that appropriate consultation was undertaken in relation to the instrument.

1.9 However, the minister did not provide any information as to how the current explanatory statement complies with the requirements of the Legislation Act.

2 Scrutiny principle: Senate Standing Order 23(3)(a).

3 Copies of the letters are available on the committee's [website](#).

Recent correspondence

1.10 The committee responded to the minister's letter on 8 October 2020 to request further information about the instrument's compliance with the Legislation Act. The committee requested the minister's advice as to whether the explanatory statement to the instrument could be amended to include the information that he provided to the committee to ensure that it complies with the requirements of technical requirements of paragraphs 15J(2)(d) and (e) of the Legislation Act.

1.11 The minister responded on 21 October 2020. The response advised that the minister does not consider it necessary to amend the explanatory statement to the instrument as the consultation undertaken in respect of the measure, including bringing forward the repeal, is already on the public record.

1.12 The committee placed a notice of motion to disallow the instrument on 10 November 2020 to provide additional time to correspond with the minister in relation to its technical scrutiny concerns.

Committee comment

1.13 The committee thanks the minister for his engagement with the committee on this issue. However, from a technical scrutiny perspective, the committee remains concerned that the explanatory statement to the instrument does not currently comply with the requirements of paragraphs 15J(2)(d) and (e) of the Legislation Act.

1.14 The committee therefore requests the minister's advice as to why the explanatory statement to the instrument cannot be amended to include the information provided by the minister with regard to consultation to ensure that it complies with the technical requirements of paragraphs 15J(2)(d) and (e) of the Legislation Act.

1.15 In light of its outstanding scrutiny concerns, the committee draws the attention of the Senate to the non-compliance of the explanatory statement to the instrument with the technical requirements of the Legislation Act.

1.16 As the committee retains significant scrutiny concerns in relation to the instrument, the committee has resolved not to withdraw the notice of motion to disallow the instrument. The response provided by the minister to the committee's request for further advice will inform the committee's consideration of whether to withdraw the notice of motion to disallow the instrument.

Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020 [F2020L00435]

FRL No.	F2020L00435 ⁴
Purpose	To amend the monetary value thresholds for particular significant actions and notifiable actions which are specified in the Foreign Acquisitions and Takeovers Regulation 2015 to nil. This requires a greater number of investments by foreign persons in Australia to be notified to the Treasurer for review to ensure they are not contrary to the national interest.
Authorising legislation	<i>Foreign Acquisitions and Takeovers Act 1975</i>
Portfolio	Treasury
Disallowance	15 sitting days after tabling (tabled in the Senate on 12 May 2020). Notice of motion to disallow given on 1 September 2020.

Overview

1.17 The instrument amends the Foreign Acquisitions and Takeovers Regulation 2015 to set the monetary thresholds for particular significant actions and notifiable actions to nil. In effect, this means that the majority of actions relating to the acquisition of interests in Australian business or land require notification to the Treasurer under the *Foreign Acquisitions and Takeovers Act 1975* (Foreign Acquisitions Act). Under the Foreign Acquisitions Act, the Treasurer may impose conditions on significant actions,⁵ and may refuse to allow an action to proceed if it is deemed contrary to the national interest.⁶

1.18 The explanatory statement to the instrument explains that this measure is necessary to safeguard the national interest during the COVID-19 pandemic, which is placing intense pressure on the Australian economy and Australian businesses. It also states that the measure is 'intended to be in place for the duration of the Coronavirus crisis';⁷ however, neither the explanatory statement nor the instrument itself specifies a date by which the measures will cease.

4 Accessible on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

5 *Foreign Acquisitions and Takeovers Act 1975*, section 74.

6 *Foreign Acquisitions and Takeovers Act 1975*, section 67.

7 Explanatory statement, p. 1.

Scrutiny concerns

Parliamentary oversight – time-limited legislation⁸

1.19 The committee's technical scrutiny concerns about this instrument are detailed in *Delegated Legislation Monitor 9 of 2020*.⁹ The committee considered that instruments implementing significant COVID-19 response measures should specify a date by which they will cease and that this instrument should therefore be amended to provide for a specified end date. This would ensure an appropriate level of regular parliamentary oversight and guard against the risk that temporary measures implemented in response to COVID-19 become an ongoing part of the law without appropriate parliamentary scrutiny and debate.

Actions to date

Initial correspondence

1.20 The committee wrote twice to the Treasurer in May and June 2020 to seek his advice about the committee's scrutiny concerns.¹⁰ This correspondence is detailed in *Delegated Legislation Monitor 9 of 2020*. In summary, the Treasurer advised that he did not consider that the instrument should be amended to specify an end date, and that:

- the instrument is necessary as COVID-19 has increased the risk of foreign investment in Australia occurring in ways contrary to the national interest;
- it is appropriate for the instrument to remain in force for an unspecified period of time in light of the continuing uncertainty about the duration of the COVID-19 pandemic;
- if the COVID-19 pandemic continues beyond any specified end date a new instrument would be required to protect the national interest; and
- that significant reforms are planned for Australia's foreign investment review framework and that these reforms are scheduled to commence on 1 January 2021. As part of these reforms certain aspects of the temporary COVID-19 measures, which include the instrument, will be replaced and others will return to pre-COVID-19 settings.

Subsequent correspondence

1.21 The committee detailed its outstanding concerns regarding the instrument in *Delegated Legislation Monitor 9 of 2020*. In this monitor the committee drew the

8 Scrutiny principle: Senate standing order 23(3)(k).

9 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitor 9 of 2020*, pp. 11–14.

10 Copies of the letters are available on the committee's [website](#).

attention of the Senate to the lack of a specified end date for the significant temporary measures contained in the instrument. The committee recommended that the Senate disallow the instrument and gave a notice of motion to disallow the instrument on 1 September 2020, noting that further developments in relation to this matter may lead the committee to reconsider its recommendation.

1.22 In a letter dated 30 October 2020, the Treasurer advised regulations have been made to reinstate the monetary thresholds where a foreign person is renewing a lease over non-sensitive commercial property, and that between 18 September and 2 October 2020 draft amendments to the Foreign Acquisition and Takeovers Regulation 2015 were released for consultation.¹¹ These draft amendments propose to reinstate the other monetary thresholds from 1 January 2021 as indexed at the rates the thresholds would have been if not for the measures made in response to COVID-19.

1.23 The Treasurer also advised that the final decision on whether the other monetary thresholds will be reinstated from 1 January 2021 will depend on the economic impact of COVID-19 and whether foreign investment could be at ongoing risk of detrimentally affecting the national interest.

Committee comment

1.24 The committee thanks the Treasurer for this advice.

1.25 In light of the Treasurer's advice that regulations have been made to reinstate the monetary thresholds where a foreign person is renewing a lease over non-sensitive commercial property and that exposure draft regulations have been released which would reinstate the monetary thresholds for other actions from 1 January 2021, the committee has concluded its examination of the instrument and resolved to withdraw the notice of motion to disallow the instrument.

11 See Foreign Investment Reform (Protecting Australia's National Security) Regulations 2020 (Exposure Draft), available at <https://treasury.gov.au/consultation/c2020-113460>.

Chapter 2

Matters of interest to the Senate

2.1 Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the Senate's attention should be drawn to it on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

2.2 This chapter identifies the instruments which the committee has resolved to draw to the attention of the Senate and the relevant legislation committee under standing order 23(4), with the exception of instruments which specify significant executive expenditure, which are listed in Chapter 3.¹

Instrument	Purpose	Portfolio committee
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01076]	To cease, from 1 September 2020, temporary aged care funding increases payable to approved aged care providers announced by the government on 20 March 2020.	Senate Community Affairs Legislation Committee Senate Select Committee on COVID-19
Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01077]		
ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778 [F2020L01069]	To provide responsible entities of registered managed investment schemes relief from certain provisions in Chapter 5C of the <i>Corporations Act 2001</i> to facilitate withdrawals by members suffering hardship while the scheme is frozen.	Senate Economics Legislation Committee

1 Details of all instruments which the committee has resolved to draw to the attention of the Senate under standing order 23(4) are published on the committee's website: https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Matters_of_interest_to_the_Senate.

Instrument	Purpose	Portfolio committee
ASIC Corporations (Litigation Funding Schemes) Instrument 2020/787 [F2020L01045]	To support the transition to the new regulatory framework for litigation funding schemes commencing on 22 August 2020 and to give effect to government policy on the regulation of litigation funding, including by providing exemptions to responsible entities of litigation funding schemes from certain provisions in Chapter 7 and Chapter 5C of the <i>Corporations Act 2001</i> .	Senate Economics Legislation Committee Parliamentary Joint Committee on Corporations and Financial Services
Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Continuing Effect Declaration 2020 (No 2) [F2020L01089]	To continue the designations and/or declarations of 138 persons and entities who the Foreign Minister is satisfied meet the criteria for the continuation of targeted financial sanctions and travel bans under the Autonomous Sanctions Regulations 2011, and to revoke the designation of a deceased person.	Senate Foreign Affairs, Defence and Trade Legislation Committee
Child Care Subsidy Amendment (Coronavirus Response Measures No. 6) Minister’s Rules 2020 [F2020L01052]	To increase the number of allowable absence days that are available to individuals whose children are in care at approved child care services in Victoria and to increase the cap on the appropriation in section 233 of the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> for payments under the Community Child Care Fund Special Circumstances Grant Opportunity program for the 2020-2021 financial year from \$584 million to \$623 million.	Senate Education and Employment Legislation Committee Senate Select Committee on COVID-19
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020 [F2020L01165]	To amend the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020 to extend the period of wage subsidy support provided under the JobKeeper scheme until 28 March 2021 by introducing a new two-tiered payment structure for fortnights beginning on or after 28 September 2020.	Senate Economics Legislation Committee Senate Select Committee on COVID-19

Instrument	Purpose	Portfolio committee
Coronavirus Economic Response Package (Deferral of Sunsetting—ASIO Special Powers Relating to Terrorism Offences) Determination 2020 [F2020L01134]	To provide that Division 3 of Part III of the <i>Australian Security Intelligence Organisation Act 1979</i> (ASIO Act), which establishes the framework for ASIO to question and detain persons under a warrant in relation to terrorism offences, will continue to operate until 7 March 2021 despite the ASIO Act providing that the provisions sunset on 7 September 2020.	Senate Legal and Constitutional Affairs Legislation Committee
Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations 2020 [F2020L01131]	To amend the Foreign Acquisitions and Takeovers Regulation 2015 to reinstate certain monetary thresholds for leasehold interests in non-sensitive commercial land that is not vacant.	Senate Economics Legislation Committee Senate Select Committee on COVID-19
Migration Amendment (Hong Kong Passport Holders) Regulations 2020 [F2020L01047]	To amend the Migration Regulations 1994 to implement policy changes relating to visas for Hong Kong passport holders, including extending temporary skilled and temporary graduate visas and providing that temporary skill shortage visas will be for a period of five years.	Senate Legal and Constitutional Affairs Legislation Committee
Public Governance, Performance and Accountability Amendment (2020 Measures No. 3) Rules 2020 [F2020L00782]	To amend the Public Governance, Performance and Accountability Rule 2014 to extend the capacity for consultants or independent contractors and their employees to exercise powers under the <i>Financial Framework (Supplementary Powers) Act 1997</i> , in addition to the <i>Public Governance, Performance and Accountability Act 2013</i> .	Senate Finance and Public Administration Legislation Committee
Radiocommunications (Spectrum Licence Tax) Amendment Determination 2020 (No. 1) [F2020L01167]	To amend the Radiocommunications (Spectrum Licence Tax) Determination 2014 to introduce the new Electromagnetic Energy component of the spectrum licence tax imposed on 'designated spectrum licences' to recover the costs of the EME Program.	N/A

Instrument	Purpose	Portfolio committee
Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020 [F2020L01093]	<p>To amend multiple instruments and modify the <i>Social Security Act 1991</i> to:</p> <ul style="list-style-type: none"> • extend the period in respect of which the COVID-19 supplement will be paid (at a lower rate of \$250); • reinstate the assets tests and the liquid assets test waiting period for certain payments; • temporarily increase the income free area to \$300 a fortnight for certain JobSeeker Payment and Youth Allowance (Other) recipients; and • increase the partner income taper rate for JobSeeker Payment recipients from 25 cents for every dollar over the partner income free area to 27 cents for every dollar over the partner income free area. 	<p>Senate Community Affairs Legislation Committee</p> <p>Senate Select Committee on COVID-19</p>

Chapter 3

Scrutiny of Commonwealth expenditure

3.1 The *Financial Framework (Supplementary Powers) Act 1997* (FF(SP) Act) and the *Industry Research and Development Act 1986* (IRD Act) authorise the Commonwealth to spend public money on grants and programs specified in instruments made under those Acts. Consequently, the specification of expenditure in an instrument made under these Acts effectively authorises the Commonwealth to spend public moneys on the relevant grant or program. The scrutiny of such instruments is a key aspect of parliamentary scrutiny and control of Commonwealth expenditure.¹

3.2 To facilitate such scrutiny, this chapter draws the Senate's attention to the nature and extent of Commonwealth expenditure that is authorised by the FF(SP) Act and the IRD Act and specified in delegated legislation made under those Acts.²

3.3 The tables below outline the expenditure specified in legislative instruments registered between 19 August and 17 September 2020.

3.4 The committee has resolved to write to the relevant legislation committees to alert those committees to the expenditure listed below that falls within their area of portfolio responsibility. The committee does so under standing order 23(4) which requires the committee to scrutinise each instrument to determine whether the Senate's attention should be drawn to it on the ground that it raises significant issues, or otherwise gives rise to issues that are likely to be of interest to the Senate.

1 For further information see the committee's guideline on [Scrutiny of Commonwealth expenditure](#) and Chapter 7 of the report of the committee's inquiry, [Parliamentary scrutiny of delegated legislation](#).

2 Details of all instruments which specify Commonwealth expenditure are published on the committee's website: https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Scrutiny_of_Commonwealth_expenditure.

Instrument	Grant/Program	Amount	Description	Portfolio committee
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 7) Regulations 2020 [F2020L01042]	Creative Economy Support Package	RISE fund: \$75 million in 2020-21 Sustainability Fund: \$35 million in 2020-21	Funding will be provided to mitigate, and support the recovery of the arts sector from, the adverse effects of the COVID-19 pandemic. Key components of the package are the: <ul style="list-style-type: none"> • Restart Investment to Sustain and Expand Fund (the RISE Fund) which will provide financial support to eligible arts businesses to enable presentation of new cultural and creative activities and events, including through innovative operating and digital delivery models; and • COVID-19 Arts Sustainability Fund (the Sustainability Fund) which will provide ‘last resort’ financial assistance to key Commonwealth-funded arts organisations that are experiencing significant financial difficulty as a direct result of the COVID-19 pandemic, and have taken all reasonable action to maintain their financial position. 	Senate Environment and Communications Legislation Committee Senate Select Committee on COVID-19
Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020 [F2020L01081]	Forestry Recovery Development Fund Program	\$40 million over three years from 2020-21	Funding will be provided to wood processing facilities that have been adversely affected by the 2019-20 bushfires to undertake eligible projects to invest in upgrades to existing manufacturing lines, as well as diversification and innovation to produce value-added wood products.	Senate Rural and Regional Affairs and Transport Legislation Committee

Instrument	Grant/Program	Amount	Description	Portfolio committee
Industry Research and Development (Eat Seafood Australia Program) Instrument 2020 [F2020L01101]	Eat Seafood Australia Program	\$4 million in 2020-21	Funding will be provided to Seafood Industry Australia Limited, the peak national seafood representative body, to lead the development and implementation of a 12-month national campaign to encourage Australians to eat more Australian seafood by increasing awareness of the seafood industry and the benefits of eating Australian seafood.	Senate Rural and Regional Affairs and Transport Legislation Committee
Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 5) Regulations 2020 [F2020L01039]	Payments to Plant Health Australia Limited	\$15.7 million over three years from 2020-21	Funding will be provided to Plant Health Australia Limited to: <ul style="list-style-type: none"> • facilitate and coordinate government-industry partnerships on plant biosecurity matters, plant health, plant pests, diseases and weeds; and • facilitate and coordinate emergency responses to plant biosecurity matters, threats to plant health and incursions of plant pests, diseases and weeds; and • improve Australia’s preparedness and capability to identify, respond to and manage plant biosecurity matters, threats to plant health, plant pests, diseases and weeds; and • develop, manage and coordinate national policies and programs on plant biosecurity matters, plant health, plant pests, diseases and weeds. 	Senate Rural and Regional Affairs and Transport Legislation Committee

Instrument	Grant/Program	Amount	Description	Portfolio committee
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 4) Regulations 2020 [F2020L01040]	Destination Australia Cheung Kong Exchange Program	\$5.4 million over 12 years from 2019-20	Funding will be provided to increase the number of university students with an offshore study experience through grants to Australian universities to provide two-way, short-term mobility scholarships for domestic and international university students.	Senate Education and Employment Legislation Committee Senate Select Committee on COVID-19
	Reading Writing Hotline	\$1.9 million over three years from 2020-21	Funding will be provided for a national advisory and referral service, which links people seeking English language, literacy or numeracy assistance to appropriate training opportunities.	
	Adult Learners' Week	\$0.6 million over three years from 2020-21	Funding will be provided to raise awareness of adult education and promote participation by adults in further learning.	
	School Leaver Program	\$0.9 million in 2020-21	Funding will be provided for a targeted career information kit and hotline, to be delivered by the National Careers Institute, which will provide information, advice and referral services to support school leavers in 2020 and 2021, who will be disproportionately affected by the COVID-19 pandemic, to make informed decisions about their career or transition to further learning or employment.	
	Local Jobs— COVID-19 Recovery Pilot	\$56.7 million over two years from 2020-21	Funding will be provided to support local organisations and stakeholders to develop and implement tailored approaches to accelerate	

Instrument	Grant/Program	Amount	Description	Portfolio committee
			reskilling, upskilling and employment of job seekers in selected employment regions through the engagement of employment facilitators and the establishment of local jobs and skills taskforces.	
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 4) Regulations 2020 [F2020L01041]	Grant to the Trustee for Raise Foundation	\$3 million in 2020-21	Funding will be provided to the Trustee for Raise Foundation to develop and deliver a best-practice early intervention mentoring program aimed at preventing mental illness and reducing suicidal ideation in Year 8 students at public secondary schools in Australia.	Senate Community Affairs Legislation Committee Senate Select Committee on Administration of Sports Grants
	Residential Aged Care Viability Program	\$104.5 million over three years from 2019-20	Funding will be provided to eligible residential aged care providers to ensure an adequate level of continued care for aged care residents.	
	Sport and Recreation Program	\$408.8 million over four years from 2019-20	Funding will be provided to support activities relating to: <ul style="list-style-type: none"> • Australia hosting major international sporting events; • promoting participation by all Australians in sport and recreation activities (for example, by providing funding for infrastructure or other resources); and • fostering excellence in Australia's high performance athletes (for example, by investing in research, equipment and infrastructure). 	

Instrument	Grant/Program	Amount	Description	Portfolio committee
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 3) Regulations 2020 [F2020L01043]	Reconnect Program	\$71 million over three years from 2020-21	Funding will be provided to community based early intervention and prevention services for young people aged 12 to 18 years (or 12 to 21 years in the case of newly arrived youth) who are homeless or at risk of homelessness, and their families.	Senate Community Affairs Legislation Committee
Financial Framework (Supplementary Powers) Amendment (Treasury Measures No. 2) Regulations 2020 [F2020L01044]	Grants to the International Financial Reporting Standards Foundation	\$2 million in 2020-21	Funding will be provided to the International Financial Reporting Standards Foundation to support the development and promotion of the International Financial Reporting Standards.	Senate Economics Legislation Committee

Appendix A

Ongoing matters

4.1 The committee engages with relevant ministers and agencies to attempt to resolve its concerns about scrutiny issues raised by disallowable legislative instruments. This appendix documents the committee's ongoing scrutiny concerns.

Ministerial engagement

4.2 The committee is engaging with the relevant minister about the scrutiny issues raised by the instruments listed below. Copies of the ministerial correspondence are available on the committee's website.¹

Instrument	Issue	Status
ASIC Corporations (Amendment) Instrument 2020/721 [F2020L01064]	Principle (j) exemptions from primary legislation	Seeking advice from the assistant minister.
ASIC Corporations (IPO Communications) Instrument 2020/722 [F2020L01066]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	
ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778 [F2020L01069]	Principle (j) exemptions from primary legislation Principle (k) parliamentary oversight	Seeking advice from the assistant minister.
ASIC Corporations (Litigation Funding Schemes) Instrument 2020/787 [F2020L01045]	Principle (j) exemptions from primary legislation Principle (k) parliamentary oversight	Seeking advice from the assistant minister.
ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98 [F2020L00962]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking further advice from the assistant minister.
Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00579]	Principle (d) consultation with persons affected	Seeking further advice from the minister. Notice of motion to disallow placed 06/10/2020.

¹ See www.aph.gov.au/senate_sdlc.

Instrument	Issue	Status
Australian Prudential Regulation Authority (confidentiality) determination No.1 of 2020 [F2020L00945]	Principle (a) compliance with authorising legislation – compliance with legislative preconditions	Seeking advice from the Treasurer.
Continance Aids Payment Scheme 2020 [F2020L00758]	Principle (i) availability of independent merits review	Seeking further advice from the minister.
Coronavirus Economic Response Package (Deferral of Sunsetting—ASIO Special Powers Relating to Terrorism Offences) Determination 2020 [F2020L01134]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking advice from the minister.
Coronavirus Economic Response Package (Deferral of Sunsetting—Income Management and Cashless Welfare Arrangements) Determination 2020 [F2020L00572]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight – deferral of sunseting	Committee considering the instrument. Notice of motion to disallow the instrument placed on 31/08/2020.
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020 [F2020L01165]	Principle (j) matters more appropriate for parliamentary enactment	Seeking advice from the Treasurer.
Fair Work Amendment (Variation of Enterprise Agreements No. 2) Regulations 2020 [F2020L00702]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation	Seeking further advice from the minister.
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020 [F2020L00994]	Principle (d) consultation with persons affected Principle (i) availability of independent merits review Principle (j) significant matters in delegated legislation Principle (k) parliamentary oversight	Seeking further advice from the minister. The minister amended the explanatory statement to the instrument in response to the committee's concerns.
Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020 [F2020L01031]	Principle (f) instruments subject to copyright	Seeking advice from the minister.

Instrument	Issue	Status
Social Security (Coronavirus Economic Response— 2020 Measures No. 14) Determination 2020 [F2020L01093]	Principle (d) consultation with persons affected Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking advice from the minister.
Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020 [F2020L01079]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking advice from the Assistant Treasurer.
Telecommunications (Interception and Access) (Communications Access Co-ordinator) Instrument 2019 [F2020L01141]	Principle (a) compliance with <i>Legislation Act 2003</i> - registration of instrument Principle (c) scope of administrative powers	Seeking advice from the minister.
Telecommunications (Superfast Broadband Network Class Exemption) Determination 2020 [F2020L01061]	Principle (j) modification of primary legislation Principle (k) parliamentary oversight	Seeking advice from the minister.
Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments) Determination 2020 [F2020L01028]	Principle (i) availability of independent merits review	Seeking advice from the minister.

Agency engagement

4.3 The committee is engaging with the relevant agencies via its secretariat to seek further information about potential scrutiny concerns raised by the instruments listed below.

Instrument	Issue	Status
Age Discrimination Regulations 2020 [F2020L01138]	Principle (g) adequacy of explanatory materials Principle (j) exemptions from primary legislation	Seeking advice from the agency.

Instrument	Issue	Status
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01076] Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020L01077]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation	Seeking further advice from the agency.
Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020 [F2020L01172]	Principle (i) availability of independent merits review	Seeking advice from the agency.
Disability Care Load Assessment (Child) Determination 2020 [F2020L01025]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) incorporated materials freely accessible	Seeking further advice from the agency.
Electoral and Referendum Amendment (Prescribed Authorities) Regulations 2020 [F2020L01058]	Principle (h) privacy	Seeking advice from the agency.
National Health (Pharmaceutical Benefits) Amendment (Active Ingredient Prescribing) Regulations 2020 [F2020L01055]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation	Seeking further advice from the agency.

Appendix B

Concluded matters

5.1 This appendix records the instruments in relation to which the committee has concluded its inquiries, following correspondence with the relevant minister or agency.

Ministerial engagement

5.2 The committee has concluded its examination of the instruments listed below following correspondence with the relevant minister. Copies of the ministerial correspondence are available on the committee's website.¹

Instrument	Issue	Status
Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020 [F2020L00435]	Principle (k) parliamentary oversight	Concluded following response from the Treasurer on 30/10/2020. Notice of motion to disallow placed on 01/09/2020.
Norfolk Island Continued Laws Amendment (Employment) Ordinance 2020 [F2020L00870]	Principle (c) delegation of administrative powers and functions Principle (h) evidentiary certificates Principle (h) immunity from liability Principle (i) availability of independent merits review Principle (j) significant penalties in delegated legislation Principle (j) significant matters in delegated legislation Principle (k) availability of accountability safeguards	Concluded following response from the assistant minister on 22/10/2020. The Assistant Minister for Regional Development and Territories amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Public Governance, Performance and Accountability Amendment (2020 Measures No. 3) Rules 2020 [F2020L00782]	Principle (j) significant matters in delegated legislation Principle (k) availability of accountability safeguards	Concluded following response from the minister on 22/10/2020.

¹ See www.aph.gov.au/senate_sd/c.

Instrument	Issue	Status
Radiocommunications (Spectrum Licence Tax) Amendment Determination 2020 (No. 1) [F2020L01167]	Principle (j) levying of taxation in delegated legislation	Concluded following consideration by the committee.
Therapeutic Goods Legislation Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00946]	Principle (j) element of offence specified in delegated legislation	Concluded following response from the minister on 27/10/2020.

Agency engagement

5.3 The committee has concluded its examination of the instruments listed below following informal correspondence with the relevant agencies via its secretariat.

Instrument	Issue	Status
Accounting Standard AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date [F2020L01049]	Principle (f) instruments subject to copyright	Concluded following response from agency on 02/11/2020.
Accounting Standard AASB 2020-7 Amendments to Australian Accounting Standards – Covid-19-Related Rent Concessions: Tier 2 Disclosures [F2020L01050]		
Amendment to the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 (EC145) [F2020L00889]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) incorporated materials freely accessible	Concluded following response from agency on 09/10/2020. The Department of Agriculture, Water and the Environment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Australian Defence Force Superannuation Amendment (Trust Deed—Contributions) Instrument 2020 [F2020L00878]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation Principle (d) consultation with persons affected	Concluded following response from agency on 13/10/2020. The Department of Defence undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.

Instrument	Issue	Status
CASA ADCX 008/20 - Repeal of Airworthiness Directives AD/ELECT/23 and AD/ELECT/65 [F2020L00991]	Principle (d) consultation with persons affected	Concluded following response from agency on 08/10/2020.
CASA 39/20 — Drug and Alcohol Testing by CASA under Subpart 99.C of CASR Instrument 2020 [F2020L00983]	Principle (d) consultation on specific instrument Principle (f) incorporated materials freely accessible Principle (g) adequacy of explanatory materials Principle (h) privacy Principle (i) availability of independent review	Concluded following response from agency on 13/10/2020. The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Coronavirus Economic Response Package (Deferral of Sunsetting—Treasury Portfolio Instruments) Determination 2020 [F2020L00895]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation	Concluded following response from agency on 12/10/2020. The Department of the Treasury amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020 [F2020L01021]	Principle (d) consultation with persons affected	Concluded following response from agency on 13/10/2020.
Criminal Code and Customs Legislation Amendment (Precursors and Drugs) Regulations 2020 [F2020L01003]	Principle (a) compliance with <i>Legislation Act 2003</i> – consultation Principle (d) consultation with persons affected	Concluded following response from agency on 12/10/2020.
Customs (Prohibited Imports) Amendment (Vaporiser Nicotine) Repeal Regulations 2020 [F2020L00860]	Principle (d) consultation with persons affected	Concluded following response from agency on 08/09/2020.
Disability Care Load Assessment (Child) Amendment (Age Adjustment Table) Determination 2020 [F2020L01163]	Principle (a) compliance with <i>Legislation Act 2003</i> - retrospective commencement Principle (h) retrospective commencement	Concluded following response from agency on 02/11/2020.
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 5) Regulations 2020 [F2020L00818]	Principle (d) consultation with persons affected	Concluded following response from agency on 07/10/2020. The Department of Finance amended the explanatory statement to the instrument in response to the committee's concerns.

Instrument	Issue	Status
Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations 2020 [F2020L01131]	Principle (d) consultation with persons affected	Concluded following response from agency on 29/10/2020.
Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2020 [F2020L01014]	Principle (f) incorporated materials freely accessible Principle (f) instrument subject to copyright	Concluded following response from agency on 14/10/2020.
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 5) Determination 2020 [F2020L00981]	Principle (e) drafting error	Concluded following response from agency on 12/10/2020. The Department of Health amended the explanatory statement and the First Parliamentary Counsel made editorial changes to the instrument in response to the committee's concerns.
Health Insurance Legislation Amendment (Section 3C – Cardiac Services) Determination 2020 [F2020L01158]	(a) compliance with <i>Legislation Act 2003</i> - incorporation	Concluded following response from agency on 28/10/2020.
Health Insurance Legislation Amendment (Section 3C – Cardiac Services) (No. 2) Determination 2020 [F2020L01166]	(f) incorporated materials freely accessible	
Higher Education (Designated Courses of Study) Specification 2020 [F2020L00924]	Principle (d) consultation with persons affected	Concluded following response from agency on 13/10/2020. The Department of Education, Skills and Employment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Industrial Chemicals Charges (Customs) Regulations 2020 [F2020L00795] Industrial Chemicals Charges (General) Regulations 2020 [F2020L00797] Industrial Chemicals Charges (Excise) Regulations 2020 [F2020L00799]	Principle (j) unclear basis for determining fees	Concluded following response from agency on 12/10/2020. The Department of Health undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.
Industry Research and Development (Advancing Research and Development for Critical Minerals Program) Instrument 2020 [F2020L00949]	Principle (d) consultation with persons affected	Concluded following response from agency on 14/10/2020.

Instrument	Issue	Status
Industry Research and Development (Eat Seafood Australia Program) Instrument 2020 [F2020L01101]	Principle (d) consultation with persons affected	Concluded following response from agency on 27/10/2020.
Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020 [F2020L01081]	Principle (d) consultation with persons affected	Concluded following response from agency on 28/10/2020.
Manual of Standards Part 173 Amendment Instrument 2020 (No. 1) [F2020L01078]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) incorporated materials freely accessible	Concluded following response from agency on 22/10/2020. The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2020 (No. 7) (PB 82 of 2020) [F2020L01090]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) incorporated materials freely accessible	Concluded following response from agency on 23/10/2020.
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2020 (No. 6) (PB 55 of 2020) [F2020L00841] National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2020 (No. 6) (PB 60 of 2020) [F2020L00852]	Principle (a) compliance with <i>Legislation Act 2003</i> – incorporation Principle (f) incorporated materials freely accessible	Concluded following response from agency on 07/10/2020. The Department of Health amended the explanatory statements to the instruments in response to the committee's concerns.
Pay Parking Fees Rule 2020 [F2020L01059] Parking Permit Fees Rule 2020 [F2020L01065]	Principle (a) compliance with <i>Legislation Act 2003</i> - retrospective commencement Principle (h) retrospective commencement	Concluded following response from agency on 27/10/2020.
Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020 [F2020L00953]	Principle (h) privacy	Concluded following response from agency on 13/10/2020.
Therapeutic Goods (Standard for Faecal Microbiota Transplant Products) (TGO 105) Order 2020 [F2020L01011]	Principle (h) privacy	Concluded following response from agency on 09/10/2020.

Appendix C

Undertakings

6.1 From time to time, a minister or agency may make an undertaking to address the committee's scrutiny concerns. These may include, for example, an undertaking to amend a legislative instrument or an explanatory statement, or to review an Act or a departmental practice. The committee expects that, when a minister or agency has made an undertaking, it will be implemented in a timely manner. Accordingly, this appendix records outstanding ministerial and agency undertakings, and the undertakings implemented since the committee's last *Delegated Legislation Monitor*.

Outstanding undertakings

6.2 The following table records undertakings that remain outstanding, from oldest to newest. The committee draws these undertakings to the attention of the Senate.

Instrument	Undertaking	Date of Undertaking
Water Amendment (Murray Darling Basin Agreement—Basin Salinity Management) Regulations 2018 [F2018L01674]	The Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management undertook to progress amendments to the Water Act 2007 in response to the committee's scrutiny concerns.	11/09/2019
Taxation Administration (Private Ancillary Fund) Guidelines 2019 [F2019L01227]	The Assistant Minister for Finance, Charities and Electoral Matters undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	03/12/2019
	The Assistant Minister for Finance, Charities and Electoral Matters undertook to progress amendments to primary legislation in response to the committee's scrutiny concerns.	17/03/2020
Veterans' Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019 [F2019L01387]	The Department of Veterans' Affairs undertook to amend the Repatriation Pharmaceutical Benefits Scheme [F2013L02009] and the MRCA Pharmaceutical Benefits Scheme (No. MRCC 44/2013) [F2013L02012] to correct drafting errors.	28/01/2020
Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019 [F2019L01641]	The Treasury undertook to amend the instrument in response to the committee's scrutiny concerns.	14/02/2020

Instrument	Undertaking	Date of Undertaking
Biosecurity Amendment (International Mail Fee) Regulations 2020 [F2020L00576]	The Minister for Agriculture, Drought and Emergency Management undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	25/06/2020
Superannuation Legislation Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00645]	The Treasury undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/07/2020
Competition and Consumer (Industry Codes—Dairy) Regulations 2019 [F2019L01610]	The Attorney-General undertook to commence an inquiry into good faith obligations in Commonwealth legislation in response to the committee's scrutiny concerns.	31/08/2020
CASA EX92/20 — Materials Flammability Airworthiness Standards (Medical Isolation Transportation Devices) Instrument 2020 [F2020L00796]	The Department of Infrastructure, Transport, Regional Development and Communications undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	09/09/2020
Amendment to the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 (EC145) [F2020L00889]	The Department of Agriculture, Water and the Environment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	09/10/2020
Industrial Chemicals Charges (Customs) Regulations 2020 [F2020L00795] Industrial Chemicals Charges (General) Regulations 2020 [F2020L00797] Industrial Chemicals Charges (Excise) Regulations 2020 [F2020L00799]	The Department of Health undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.	12/10/2020
Australian Defence Force Superannuation Amendment (Trust Deed—Contributions) Instrument 2020 [F2020L00878]	The Department of Defence undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	13/10/2020
Higher Education (Designated Courses of Study) Specification 2020 [F2020L00924]	The Department of Education, Skills and Employment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	13/10/2020
Manual of Standards Part 173 Amendment Instrument 2020 (No. 1) [F2020L01078]	The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	22/10/2020

Instrument	Undertaking	Date of Undertaking
Contenance Aids Payment Scheme 2020 [F2020L00758]	The Minister for Aged Care and Senior Australians undertook to amend the instrument in response to the committee's scrutiny concerns.	28/10/2020

Implemented undertakings

6.3 The following table records undertakings that have been implemented since the committee's last *Delegated Legislation Monitor*.

Instrument	Undertaking	Date implemented
Child Care Subsidy Amendment (Coronavirus Response Measures No. 5) Minister's Rules 2020 [F2020L00930]	The Department of Education, Skills and Employment amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	15/10/2020
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 5) Determination 2020 [F2020L00981]	The Department of Health amended the explanatory statement and the First Parliamentary Counsel made editorial changes to the instrument in response to the committee's concerns.	15/10/2020
Defence Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00120]	The Minister for Defence amended the instrument in response to the committee's scrutiny concerns.	16/10/2020
CASA 39/20 — Drug and Alcohol Testing by CASA under Subpart 99.C of CASR Instrument 2020 [F2020L00983]	The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/10/2020
Coronavirus Economic Response Package (Deferral of Sunsetting—Treasury Portfolio Instruments) Determination 2020 [F2020L00895]	The Department of the Treasury amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/10/2020
Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2019 [F2019L01564]	The Minister for Agriculture, Drought and Emergency Management amended the instrument in response to the committee's scrutiny concerns.	23/10/2020
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2020 (No. 6) (PB 55 of 2020) [F2020L00841]	The Department of Health amended the explanatory statements to the instruments in response to the committee's concerns.	26/10/2020
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2020 (No. 6) (PB 60 of 2020) [F2020L00852]		

Instrument	Undertaking	Date implemented
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020 [F2020L00994]	The Minister for Finance amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	27/10/2020
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 5) Regulations 2020 [F2020L00818]	The Department of Finance amended the explanatory statement to the instrument in response to the committee's concerns.	27/10/2020
Norfolk Island Continued Laws Amendment (Employment) Ordinance 2020 [F2020L00870]	The Assistant Minister for Regional Development and Territories amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	27/10/2020

List of instruments in current monitor

Note: Instruments listed with an asterisk (*) following the instrument name were raised for the first time in this Delegated legislation monitor.

Instrument	FRL No	Page
Accounting Standard AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date*	F2020L01049	24
Accounting Standard AASB 2020-7 Amendments to Australian Accounting Standards – Covid-19-Related Rent Concessions: Tier 2 Disclosures*	F2020L01050	24
Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020*	F2020L01077	9; 22
Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020*	F2020L01076	9; 22
Age Discrimination Regulations 2020	F2020L01138	21
Amendment to the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 (EC145)	F2020L00889	24; 30
ASIC Corporations (Amendment) Instrument 2020/721*	F2020L01064	19
ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778*	F2020L01069	9; 19
ASIC Corporations (IPO Communications) Instrument 2020/722*	F2020L01066	19
ASIC Corporations (Litigation Funding Schemes) Instrument 2020/787*	F2020L01045	10; 19
ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98	F2020L00962	19
Australian Defence Force Superannuation Amendment (Trust Deed— Contributions) Instrument 2020	F2020L00878	24; 30
Australian Postal Corporation (Performance Standards) Amendment (2020 Measures No. 1) Regulations	F2020L00579	19

Instrument	FRL No	Page
Australian Prudential Regulation Authority (confidentiality) determination No.1 of 2020	F2020L00945	20
Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Continuing Effect Declaration 2020 (No 2)*	F2020L01089	10
Biosecurity Amendment (International Mail Fee) Regulations 2020	F2020L00576	30
Child Care Subsidy Amendment (Coronavirus Response Measures No. 6) Minister’s Rules 2020*	F2020L01052	10
CASA ADCX 008/20 - Repeal of Airworthiness Directives AD/ELECT/23 and AD/ELECT/65	F2020L00991	25
CASA EX92/20 — Materials Flammability Airworthiness Standards (Medical Isolation Transportation Devices) Instrument 2020	F2020L00796	30
CASA 39/20 — Drug and Alcohol Testing by CASA under Subpart 99.C of CASR Instrument 2020	F2020L00983	25; 31
Child Care Subsidy Amendment (Coronavirus Response Measures No. 5) Minister’s Rules 2020	F2020L00930	31
Competition and Consumer (Industry Codes—Dairy) Regulations 2019	F2019L01610	30
Continence Aids Payment Scheme 2020	F2020L00758	20; 31
Coronavirus Economic Response Package (Deferral of Sunsetting— ASIO Special Powers Relating to Terrorism Offences) Determination 2020*	F2020L01134	11; 20
Coronavirus Economic Response Package (Deferral of Sunsetting— Income Management and Cashless Welfare Arrangements) Determination 2020	F2020L00572	20
Coronavirus Economic Response Package (Deferral of Sunsetting— Treasury Portfolio Instruments) Determination 2020	F2020L00895	25, 31
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 7) 2020	F2020L01021	25
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 8) 2020*	F2020L01165	10; 20

Instrument	FRL No	Page
Coronavirus Economic Response Package (Payments and Benefits) Higher Rate Determination 2020*	F2020L01172	22
Criminal Code and Customs Legislation Amendment (Precursors and Drugs) Regulations 2020	F2020L01003	25
Customs (Prohibited Imports) Amendment (Vaporiser Nicotine) Repeal Regulations 2020	F2020L00860	25
Defence Amendment (2020 Measures No. 1) Regulations 2020	F2020L00120	31
Disability Care Load Assessment (Child) Amendment (Age Adjustment Table) Determination 2020*	F2020L01163	22
Disability Care Load Assessment (Child) Determination 2020	F2020L01025	22
Electoral and Referendum Amendment (Prescribed Authorities) Regulations 2020*	F2020L01058	22
Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2019	F2019L01564	31
Fair Work Amendment (Variation of Enterprise Agreements No. 2) Regulations 2020	F2020L00702	1; 20
Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 5) Regulations 2020*	F2020L01039	15
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 4) Regulations 2020*	F2020L01040	16
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 4) Regulations 2020*	F2020L01041	17
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2020	F2020L00994	20; 32
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 5) Regulations 2020	F2020L00818	25; 32

Instrument	FRL No	Page
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 7) Regulations 2020*	F2020L01042	14
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 3) Regulations 2020*	F2020L01043	18
Financial Framework (Supplementary Powers) Amendment (Treasury Measures No. 2) Regulations 2020*	F2020L01044	18
Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations 2020*	F2020L01131	11; 26
Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020	F2020L00435	5
Greenhouse and Energy Minimum Standards (Refrigerated Cabinets) Determination 2020	F2020L01014	26
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 5) Determination 2020	F2020L00981	26; 31
Health Insurance Legislation Amendment (Section 3C – Cardiac Services) Determination 2020*	F2020L01158	26
Health Insurance Legislation Amendment (Section 3C – Cardiac Services) (No. 2) Determination 2020*	F2020L01166	26
Higher Education (Designated Courses of Study) Specification 2020	F2020L00924	26; 30
Industrial Chemicals Charges (Customs) Regulations 2020	F2020L00795	26; 30
Industrial Chemicals Charges (General) Regulations 2020	F2020L00797	26; 30
Industrial Chemicals Charges (Excise) Regulations 2020	F2020L00799	26; 30
Industry Research and Development (Advancing Research and Development for Critical Minerals Program) Instrument 2020	F2020L00949	26
Industry Research and Development (Eat Seafood Australia Program) Instrument 2020*	F2020L01101	15; 27
Industry Research and Development (Forestry Recovery Development Fund Program) Instrument 2020*	F2020L01081	14; 27

Instrument	FRL No	Page
Manual of Standards Part 173 Amendment Instrument 2020 (No. 1)*	F2020L01078	27; 30
Migration Amendment (Hong Kong Passport Holders) Regulations 2020*	F2020L01047	11
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2020 (No. 6)	F2020L00852	27; 31
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2020 (No. 7)*	F2020L01090	27
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2020 (No. 6) PPB 55 of 2020)	F2020L00841	27; 31
National Health (Pharmaceutical Benefits) Amendment (Active Ingredient Prescribing) Regulations 2020*	F2020L01055	22
Norfolk Island Continued Laws Amendment (Employment) Ordinance 2020	F2020L00870	23; 32
Pay Parking Fees Rule 2020*	F2020L01059	27
Parking Permit Fees Rule 2020*	F2020L01065	27
Public Governance, Performance and Accountability Amendment (2020 Measures No. 3) Rules 2020	F2020L00782	11; 23
Radiocommunications (Spectrum Licence Tax) Amendment Determination 2020 (No. 1)*	F2020L01167	11; 24
Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020	F2020L01031	20
Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020*	F2020L01093	12; 21
Sport Integrity Australia Amendment (Enhancing Australia's Anti-Doping Capability) Regulations 2020	F2020L00953	27
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Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation