

The Senate

Standing
Committee for the
Scrutiny of Delegated
Legislation

Delegated Legislation Monitor

Monitor 2 of 2022

9 February 2022

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ISSN: 2652-4139 (print)

ISSN: 2652-4147 (online)

This document was prepared by the Senate Standing Committee for the Scrutiny of Delegated Legislation and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

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Introduction

The Senate Standing Committee for the Scrutiny of Delegated Legislation, formerly the Senate Standing Committee on Regulations and Ordinances, was established in 1932. The role of the committee is to examine the technical qualities of all 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) in the case of an instrument exempt from sunset, it is appropriate for the instrument to be exempt from sunset;
- (l) in the case of an instrument that amends or modifies the operation of primary legislation, or exempts persons or entities from the operation of primary legislation, the instrument is in force only for as long as is strictly necessary; and
- (m) 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 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.

Senate standing order 23(4A) provides that the committee may, for the purpose of reporting on its terms of reference, consider instruments made under the authority of Acts of the Parliament that are not subject to disallowance. For such instruments the committee may also consider whether it is appropriate for the instrument to be exempt from disallowance.

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 reports on instruments which are exempt from disallowance, including whether they meet the committee's expectations under standing order 23, in Part 2 of Chapter 1 and in Chapter 4 of the *Delegated Legislation Monitor*.

The committee's work is supported by the processes for the registration, tabling and disallowance of legislative instruments under the *Legislation Act 2003*.¹

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 legislative instruments for the prescribed period. Legislative instruments detailed in the monitor are also listed in the 'Index of instruments' on the committee's website.²

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

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

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.³

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

Guidelines

Guidelines relating to the committee's scrutiny principles are published on the committee's website.⁴

General information

The Federal Register of Legislation should be consulted for the text of instruments, explanatory statements, and associated information.⁵

The Senate Disallowable Instruments List provides a listing of tabled instruments for which disallowance motions may be moved in the Senate.⁶

The Disallowance Alert records all notices of motion for the disallowance of instruments, and their progress and eventual outcome.⁷

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

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

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

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

7 *Disallowance Alert 2022*, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Disallowance_Alert.

Instruments considered in this monitor

The committee examined 138 legislative instruments registered on the Federal Register of Legislation between 27 November 2021 and 10 December 2021. This included 128 disallowable instruments and 10 instruments exempt from disallowance.

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.

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 This chapter is divided into two parts. Part 1 deals with instruments subject to disallowance and Part 2 deals with instruments which are exempt from disallowance.

Part 1

Disallowable instruments raising significant scrutiny issues

1.3 There are no disallowable instruments raising significant scrutiny concerns for inclusion in this part of the Monitor.

Part 2

Exempt instruments raising significant scrutiny issues

1.4 This part details those instruments exempt from disallowance which raise particularly significant scrutiny concerns in relation to the appropriateness of their exemption from disallowance under Senate standing order 23(4A). Where necessary, the committee additionally raises scrutiny concerns in relation to its scrutiny principles set out in Senate standing order 23(3)(3).

Various instruments made under the *Biosecurity Act 2015*

FRL No.	F2021L01620 ; F2021L01621 ; F2021L01698 ; F2021L01718 ; F2021L01757 ¹
Purpose	Various purposes responding to the COVID-19 pandemic
Authorising legislation	<i>Biosecurity Act 2015</i>
Portfolio	Health: F2021L01620, F2021L01621, F2021L01718 and F2021L01757 Agriculture, Water and the Environment: F2021L01698
Source of exemption	Subsections 44(3), 174(5), 476(2) and 477(2) of the <i>Biosecurity Act 2015</i>

Overview

1.5 Sections 475 and 476 of the *Biosecurity Act 2015* (Biosecurity Act) allow the Governor-General to declare that a human biosecurity emergency exists and to extend the emergency period for further periods of up to three months if the Health Minister is satisfied of certain criteria. During a human biosecurity emergency period, the Health Minister may determine emergency requirements or give directions deemed necessary to prevent or control the entry, emergence, establishment or spread of the relevant disease in Australian territory. On 9 December 2021, the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Variation (Extension No. 4) Instrument 2021 [F2021L01757] was made to extend the emergency period a seventh consecutive time, for a further two months until 17 February 2022.

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

1.6 Subsections 44(2), 174(1), and 477(1) of the *Biosecurity Act 2015* (the Biosecurity Act) empower the minister determine entry requirements, and emergency requirements during a human biosecurity emergency period. The Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination (No. 2) 2021 [F2021L01620], Biosecurity (Emergency Requirements—High Risk Country Travel Pause) Determination (No. 2) 2021 [F2021L01621], and the Biosecurity Legislation Amendment (Emergency and Entry Requirements) Determination 2021 [F2021L01718] were made under the Biosecurity Act in response to the COVID-19 pandemic and introduce a range of measures, including preventing persons travelling from Omicron high risk countries from entering Australian territory.

1.7 Subsection 174(1) of the Biosecurity Act empowers the Director of Biosecurity and the Director of Human Biosecurity to jointly determine that specified classes of goods must not be brought or imported into Australian territory unless specified conditions (including conditions for administrative purposes) are complied with. The Biosecurity (Conditionally Non-prohibited Goods) Amendment (Test Kits) Determination 2021 [F2021L01698] prescribes conditions for importing tests kits (including COVID-19 test kits).

1.8 These five instruments are exempt from disallowance by subsections 44(3), 174(5), 476(2) and 477(2) of the Biosecurity Act.

Scrutiny concerns

Exemption from disallowance²

1.9 The committee has set out its significant scrutiny concerns in relation to legislative instruments made under the Biosecurity Act which are exempt from disallowance in detail in Chapter 1 of *Delegated Legislation Monitor 14 of 2021*,³ *Delegated Legislation Monitor 16 of 2021*⁴ and *Delegated Legislation Monitor 1 of 2022*.⁵ The committee's broader concerns about the exemption from disallowance of emergency legislative instruments are set out in detail in the interim report of the

2 Scrutiny principle: Senate standing order 23(3)(4A).

3 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitor 14 of 2021*, 29 September 2021, pp. 14–21. Accessible at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Monitor.

4 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitor 16 of 2021*, 25 November 2021, pp. 3–10. Accessible at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Monitor.

5 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitor 1 of 2022*, 25 January 2022, pp. 6–9. Accessible at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Monitor.

committee's inquiry into the exemption of delegated legislation from parliamentary oversight.⁶

1.10 It remains the committee's view that emergency delegated legislation should be subject to appropriate parliamentary oversight, with limited exemptions from disallowance. Where an instrument is exempt from disallowance, the committee expects that a detailed justification will be included in the explanatory statement.

1.11 As the committee has previously emphasised, this approach upholds the Parliament's constitutional role as the primary institution responsible for making law and scrutinising possible encroachments on personal rights and liberties.

1.12 The Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Variation (Extension No. 4) Instrument 2021 [F2021L01757] extends the human biosecurity emergency period for the seventh consecutive time for a further two months to 17 December 2021. The exemption from disallowance in relation to this instrument is particularly concerning as it means that any determinations of emergency requirements made under section 477 of the Biosecurity Act that are still currently in effect will continue to apply for the duration of the extended human biosecurity emergency period (unless revoked earlier). Further, additional determinations may be made during the period, which are also not subject to disallowance by Parliament. The committee's concerns are heightened as there is no limitation on the number of times that the emergency period may be further extended without parliamentary oversight.

1.13 The purpose of the Biosecurity (Conditionally Non-prohibited Goods) Amendment (Test Kits) Determination 2021 [F2021L01698] (the Test Kits Determination) is to facilitate the importation of test kits, including particular COVID-19 test kits, containing animal material, human material or material derived from a disease agent. To achieve this, the Test Kits Determination provides that test kits must not be brought or imported into Australian territory unless they are covered by an import permit or the alternative conditions specified for such test kits are complied with. The provision of alternative conditions for test kits means that an import permit is not required for the import of test kits provided that the alternative conditions are met. The explanatory statement provides that this instrument is appropriately exempt from disallowance because the decision to make the Test Kits Determination relies solely on technical and scientifically-based evidence.

6 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Exemption of delegated legislation from parliamentary oversight: Interim Report*, 2 December 2020. Accessible at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Exemptfromoversight/Interim_report.

1.14 The committee does not consider that scientific or technical decisions should be exempt from disallowance on that basis alone. Notwithstanding that fact that it is rare for a decision to be *purely* scientific or technical, without any other considerations required, it is unclear to the committee why parliamentarians would be incapable of taking into account scientific and technical evidence when considering the appropriateness of an instrument.

1.15 As the Senate Standing Committee for the Scrutiny of Bills has noted, parliamentarians have access to considerable specialist expertise and parliamentarians regularly deal with legal, scientific and technical complexity while undertaking their law-making functions. In addition, parliamentarians are accountable to their electors in relation to how they exercise their law making functions, including the power to disallow a legislative instrument and any resulting outcomes that flow from that disallowance.⁷

1.16 The committee agrees that disallowance of an instrument that is well-supported by scientific and technical evidence is unlikely. The mere fact that a decision may be based on scientific and technical grounds is not, of itself, a sufficient justification for an exemption from the usual disallowance process.

1.17 The remaining three instruments made under the Biosecurity Act this period are the Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination (No. 2) 2021 [F2021L01620], Biosecurity (Emergency Requirements—High Risk Country Travel Pause) Determination (No. 2) 2021 [F2021L01621] and the Biosecurity Legislation Amendment (Emergency and Entry Requirements) Determination 2021 [F2021L01718]. These instruments introduce significant measures which impact the public, including temporarily imposing requirements to travel and preventing entry into Australian territory. The justification provided for the exemption from disallowance remains the same—that the risk of disallowance would inhibit the Commonwealth's ability to act urgently on public health advice to manage a human biosecurity risk that could threaten or harm human health, as it would create uncertainty as to whether the instrument might be disallowed.

1.18 As set out in the committee's previous Delegated Legislation Monitors, the committee does not accept the need to act urgently or to avoid potential uncertainty on their own to be an adequate justification for the exemption of delegated legislation from parliamentary oversight. In particular, the committee notes that the disallowance procedure would not inhibit the immediate commencement of the instruments. In this regard, the committee does not consider that making a legislative instrument subject to disallowance would, of itself, prevent the government from taking immediate and decisive action in response to a significant emergency.

7 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 1 of 2022*, 4 February 2022, p. 80.

1.19 The committee considers the disallowance process to be an opportunity to work in a constructive manner with the executive to enhance delegated legislation to ensure that it operates and functions within the boundaries placed upon it by the Parliament. In relation to these instruments, which impose significant requirements on the Australian public, the committee considers that the disallowance process is necessary to facilitate appropriate debate and scrutiny of the use of emergency powers and would operate to ensure that such powers are not misused.

1.20 The committee appreciates that during an emergency it is necessary for governments to take urgent and decisive action. However, Parliament must also have effective oversight of these critical decisions and retain the ability to scrutinise the actions of governments.

1.21 The committee notes that to date, the government has failed to substantively engage with the committee's significant concerns and continues to make instruments under the Biosecurity Act which are exempt from disallowance and fails to provide an adequate explanation for why it is necessary to do so.

1.22 Further, the committee is deeply concerned that the government has advised that it does not support any of the committee's recommendations in relation to providing for the disallowance of instruments made under the Biosecurity Act as set out in the interim report of the committee's inquiry into the exemption of delegated legislation from parliamentary oversight. Of the 18 recommendations in the interim report, the committee regrets that the government only agreed to one.

1.23 The committee will continue to rigorously pursue this matter in accordance with the mandate provided by the Senate when it agreed to amend standing order 23 to allow the committee to consider exempt instruments and report on instruments made the Biosecurity Act which are exempt from disallowance.

1.24 In light of the above, the committee reiterates its view that amendments should be made to:

- **section 44 of the Biosecurity Act to provide that any future determinations setting out entry requirements will be subject to disallowance;**
- **section 174 of the Biosecurity Act to provide that any future determinations of 'conditionally non-prohibited goods' that must not be brought into Australia unless specified considerations are complied with will be subject to disallowance;**
- **section 476 of the Biosecurity Act to provide that any future variations to extend a human biosecurity emergency period will be subject to disallowance; and**
- **section 477 of the Biosecurity Act to provide that any future determinations setting out emergency requirements will be subject to disallowance.**

1.25 If the government is not amenable to moving such amendments, the committee intends to move its own amendments to the Biosecurity Amendment (Enhanced Risk Management) Bill 2021 which is currently before the Parliament, to ensure that future legislative instruments made under the Biosecurity Act are subject to disallowance.⁸

1.26 Additionally, the committee will continue to draw legislative instruments made under the Biosecurity Act which are exempt from disallowance to the attention of the Senate in future Delegated Legislation Monitors, as necessary.

8 The committee's proposed amendments to the bill were circulated in the Senate on 2 December 2021, see [sheet 1475](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6776) available at: https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6776.

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

2.3 There are no instruments which the committee has resolved to draw to the attention of the Senate and the relevant legislation committee under standing order 23(4) in this *Delegated Legislation Monitor*.

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.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Matters_of_interest_to_the_Senate.

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 27 November 2021 and 10 December 2021.

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.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Scrutiny_of_Commonwealth_expenditure.

Instrument	Grant/ Program	Amount	Description	Portfolio committee
Industry Research and Development (Australasian Recycling Label Program) Instrument 2021 [F2021L01693]	Australasian Recycling Label Program	\$5 million over three years from 2021-22	Funding will be provided to a partnership of key industry representative bodies to encourage and support small-to-medium enterprise businesses to adopt the Australasian Recycling Label on their packaging and improve the sustainability of their packaging.	Senate Environment and Communications Legislation Committee
Industry Research and Development (Underwriting New Generation Investments Program) Instrument 2021 [F2021L01708]	Underwriting New Generation Investments Program	Not specified	Funding will be provided for new investments in dispatchable electricity generation projects to: <ul style="list-style-type: none"> • reduce wholesale electricity prices by increasing competition and supply; • assist commercial and industrial customers, and smaller retailers, to access affordable energy supply arrangements; and • improve the reliability of the system by increasing the level of firm capacity. 	Senate Environment and Communications Legislation Committee

Chapter 4

Scrutiny of instruments exempt from disallowance

4.1 Senate standing order 23(4A) provides that the committee may, for the purpose of reporting on its terms of reference, consider instruments made under the authority of Acts of the Parliament that are not subject to disallowance. For such instruments the committee may also consider whether it is appropriate for the instrument to be exempt from disallowance.

4.2 This chapter identifies the instruments exempt from disallowance which the committee has resolved to draw to the attention of the Senate and the relevant minister under standing order 23(4A), in relation to the appropriateness of their exemption from disallowance.

4.3 The committee has considered all legislative instruments which are exempt from disallowance registered on the Federal Register of Legislation between 27 November 2021 and 10 December 2021. The sections below identify those instruments which meet or do not meet the committee's expectations under standing order 23(4A).

4.4 The instruments may not meet the committee's expectations because:

- the explanatory statement accompanying the instrument does not contain a sufficient explanation for why the instrument is exempt from disallowance and therefore the committee has not been able to assess whether it is appropriate for the instrument to be exempt from disallowance; or
- a substantive explanation for exemption is provided but the committee considers that the explanation does not meet the Senate's requirement that exemptions should only be made in exceptional circumstances and will only be justified in rare cases.¹

Instruments which meet the committee's expectations

4.5 No instruments exempt from disallowance meet the committee's expectations under standing order 23(4A) for this period.

1 *Senate resolution 53B: Delegated legislation—disallowance and sunseting*, agreed to on 16 June 2021, https://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/standingorders/d00/Resolutions_expressing_opinions_of_the_Senate/.

Instruments which do not meet the committee's expectations

4.6 The following instruments do not meet the committee's expectations under standing order 23(4A).

Instrument	Portfolio
Automatic Mutual Recognition (Australian Capital Territory) (Temporary Exemptions) Declaration (No. 2) 2021 [F2021L01734]	Industry, Science, Energy and Resources
Biosecurity (Conditionally Non-prohibited Goods) Amendment (Test Kits) Determination 2021 [F2021L01698]	Agriculture, Water and the Environment
Biosecurity (Emergency Requirements—High Risk Country Travel Pause) Determination (No. 2) 2021 [F2021L01621]	Health
Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination (No. 2) 2021 [F2021L01620]	Health
Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Variation (Extension No. 4) Instrument 2021 [F2021L01757]	Health
Biosecurity Legislation Amendment (Emergency and Entry Requirements) Determination 2021 [F2021L01718]	Health
Federal Financial Relations (National Partnership Payments—2021-22 Payment No. 7) Determination 2021 [F2021L01704]	Treasury
Food Standards (Application A1222 – Steviol glycosides from Yarrowia lipolytica) Variation [F2021L01690]	Health
Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2020-2021 (No. 7) [F2021L01740]	Finance
Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2021 2022 (No. 2) [F2021L01739]	Finance

Senator the Hon Concetta Fierravanti-Wells

Chair

Senate Standing Committee for the Scrutiny of Delegated Legislation

Appendix A

New matters

5.1 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 new scrutiny concerns in relation to legislative instruments registered on the Federal Register of Legislation between 27 November 2021 and 10 December 2021.

Ministerial engagement

5.2 The committee is writing to the relevant minister about the scrutiny issues raised by the instruments listed below for the first time. Copies of the ministerial correspondence are available on the committee's website.¹

Instrument	Issue	Status
Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2021 (No. 2) [F2021L01658]	Principle (k) exemption from sunseting Principle (l) exemption from the operation of primary legislation	Seeking advice from the minister.
Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (No. 2) Regulations 2021 [F2021L01750]	Principle (j) levying of taxation in delegated legislation	Drawing to the attention of the Senate.
Competition and Consumer Amendment (Consumer Data Right) Regulations 2021 [F2021L01617]	Principle (g) adequacy of explanatory materials Principle (h) privacy Principle (k) exemption from sunseting Principle (l) exemption from the operation of primary legislation	Seeking advice from the Treasurer.
Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2021 [F2021L01639] Fishing Levy Amendment (2021-2022 Levy Amounts) Regulations 2021 [F2021L01643]	Principle (j) levying of taxation in delegated legislation	Drawing to the attention of the Senate.

1 See www.aph.gov.au/senate_sdlc.

Instrument	Issue	Status
Industry Research and Development (Underwriting New Generation Investments Program) Instrument 2021 [F2021L01708]	<p>Principle (j) matters more appropriate for parliamentary enactment</p> <p>Principle (j) significant matters in delegated legislation</p> <p>Principle (m) parliamentary oversight</p>	Seeking advice from the minister.

Agency engagement

5.3 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
Australian Capital Territory National Land (Road Transport) Parking Authority Guidelines 2021 [F2021L01677]	Principle (f) incorporated materials freely accessible	Committee secretariat considering response.
Carbon Credits (Carbon Farming Initiative— Estimation of Soil Organic Carbon Sequestration Using Measurement and Models) Methodology Determination 2021 [F2021L01696]	Principle (a) compliance with <i>Legislation Act 2003</i> — incorporation	Seeking advice from the agency.
Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021 [F2021L01663]	Principle (f) incorporated materials freely accessible	Committee secretariat considering response.
Comptroller (Warrants) Amendment Directions 2021 [F2021L01657]	Principle (g) adequacy of explanatory materials	Committee secretariat considering response.
Comptroller-General of Customs (Warrants) Amendment Directions 2021 [F2021L01650]	Principle (g) adequacy of explanatory materials	Committee secretariat considering response.
Corporations (Relevant Providers—Education and Training Standards) Determination 2021 [F2021L01714]	<p>Principle (a) compliance with the <i>Legislation Act 2003</i>— incorporation</p> <p>Principle (i) availability of independent merits review</p>	Committee secretariat considering response.

Instrument	Issue	Status
Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021 [F2021L01730]	<p>Principle (a) compliance with the <i>Legislation Act 2003</i>—incorporation</p> <p>Principle (c) delegation of administrative powers and functions</p> <p>Principle (e) clarity of drafting</p> <p>Principle (h) privacy</p>	Committee secretariat considering response.
Fisheries Management (Logbooks for Fisheries) Determination 2021 [F2021L01676]	<p>Principle (c) conferral of discretionary powers</p> <p>Principle (c) delegation of administrative powers and functions</p> <p>Principle (e) clarity of drafting</p>	Committee secretariat considering response.
Imported Food Control Legislation Amendment (Risk Foods) Order 2021 [F2021L01659]	Principle (a) compliance with <i>Legislation Act 2003</i> —incorporation	Committee secretariat considering response.
Narcotic Drugs (Licence Charges) Amendment (Medicinal Cannabis Licences) Regulations 2021 [F2021L01752]	Principle (a) compliance with <i>Legislation Act 2003</i> —no statement of compatibility	Committee secretariat considering response.
Telecommunications (Interception and Access) Amendment (2021 Measures No. 1) Regulations 2021 [F2021L01622]	Principle (a) compliance with authorising legislation	Committee secretariat considering response.
Therapeutic Goods (Therapeutic Goods Advertising Code) Instrument 2021 [F2021L01661]	Principle (e) clarity of drafting	Committee secretariat considering response.
Various instruments made by the Civil Aviation Safety Authority [F2021L01671] [F2021L01675] [F2021L01679] [F2021L01681] [F2021L01682] [F2021L01683] [F2021L01684] [F2021L01685] [F2021L01687] [F2021L01688] [F2021L01697] [F2021L01680]	Principle (k) exemption from sunseting	Committee secretariat considering response.
Vehicle Standard (Australian Design Rule) Amendment Instrument 2021 (No.2) [F2021L01629]	<p>Principle (a) compliance with <i>Legislation Act 2003</i>—incorporation</p> <p>Principle (k) exemption from sunseting</p>	Seeking advice from the agency.

Appendix B

Ongoing matters

6.1 This appendix documents the committee's ongoing scrutiny concerns in relation to matters raised in previous *Delegated Legislation Monitors*. Instruments registered before 1 July 2021 have been marked with an asterisk and will continue to be scrutinised under the committee's previous scrutiny principles until they are concluded.¹

Ministerial engagement

6.2 The committee is continuing to engage 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.²

Instrument	Issue	Status
Aged Care Legislation Amendment (Royal Commission Response No.1) Principles 2021 [F2021L00923]*	Principle (c) conferral of discretionary powers	Seeking further advice from the minister.
	Principle (e) clarity of drafting	Notice of motion to disallow placed on 18/10/2021.
	Principle (j) matters more appropriate for parliamentary enactment	
	Principle (j) significant impact on personal rights and liberties	
Australian Citizenship (special residence requirement) Instrument (LIN 21/069) 2021 [F2021L01422]	Principle (a) compliance with <i>Legislation Act 2003</i> —incorporation	Committee considering response.
Australian Renewable Energy Agency (General Funding Strategy) Determination 2021 [F2021L01191]	Standing order 23(4A) exemption from disallowance	Seeking advice from the minister.
	Principle (a) compliance with authorising legislation	

1 On 16 June 2021 the Senate adopted three recommendations of the final report of the committee's inquiry into the exemption of delegated legislation from parliamentary oversight that were directed to the Senate. As a result, from 1 July 2021, the standing orders of the Senate were amended to add two new scrutiny principles to the committee's terms of reference. In addition, the standing orders were amended to allow the committee to consider instruments which are exempt from disallowance.

2 See www.aph.gov.au/senate_sdlic.

Instrument	Issue	Status
Australian Renewable Energy Agency (Implementing the Technology Investment Roadmap) Regulations 2021 [F2021L01043]*	<p>Principle (a) compliance with authorising legislation</p> <p>Principle (a) compliance with <i>Legislation Act 2003</i>—same in substance</p> <p>Principle (j) significant matters in delegated legislation</p>	<p>Notice of motion to disallow placed on 18/10/2021. The committee drew this instrument to the attention of the Senate and recommended disallowing the instrument in <i>Delegated Legislation Monitor 14 of 2021</i>.</p>
Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Variation (Extension No. 3) Instrument 2021 [F2021L01232]	<p>Standing order 23(4A) exemption from disallowance</p>	<p>Seeking advice from the minister.</p>
Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2021 [F2021L01392] Competition and Consumer (Consumer Data Right) Amendment Rules (No. 2) 2021 [F2021L01561]	<p>Principle (j) significant penalties in delegated legislation</p>	<p>Seeking advice from the minister.</p>
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 6) Regulations 2021 [F2021L01430]	<p>Principle (c) delegation of administrative powers and functions</p> <p>Principle (c) conferral of discretionary powers</p> <p>Principle (h) privacy</p> <p>Principle (i) availability of independent merits review</p> <p>Principle (j) matters more appropriate for parliamentary enactment</p> <p>Principle (m) parliamentary oversight</p>	<p>Seeking further advice from the minister.</p>
Financial Sector Reform (Hayne Royal Commission Response) (Hawking of Financial Products) Regulations 2021 [F2021L01080]	<p>Principle (l) exemption from the operation of primary legislation</p> <p>Principle (m) parliamentary oversight</p>	<p>Committee considering response.</p> <p>Notice of motion to disallow placed on 22/11/2021.</p>
Great Barrier Reef Marine Park Amendment (No-Anchoring Areas) Regulations 2021 [F2021L00843]*	<p>Principle (a) compliance with <i>Legislation Act 2003</i></p> <p>Principle (m) parliamentary oversight</p>	<p>Seeking further advice from the minister.</p> <p>Notice of motion to disallow placed on 18/10/2021.</p>

Instrument	Issue	Status
Industry Research and Development (Supporting Critical Transmission Infrastructure Program) Instrument 2021 [F2021L01312]	Principle (m) parliamentary oversight	Seeking advice from the minister.
Migration Amendment (Humanitarian Response to Events in Afghanistan) Regulations 2021 [F2021L01546]	Principle (m) parliamentary oversight	Committee considering response.
Northern Australia Infrastructure Facility Investment Mandate Direction 2021 [F2021L00942]	Standing order 23(4A) exemption from disallowance	Committee considering response.
Therapeutic Goods (Standard for Human Cell and Tissue Products— Donor Screening Requirements) (TGO 108) Order 2021 [F2021L01326]	Principle (e) clarity of drafting	Seeking advice from the minister.
Treasury Laws Amendment (Greater Transparency of Proxy Advice) Regulations 2021 [F2021L01801]³	Principle (e) clarity of drafting Principle (j) matters more appropriate for parliamentary enactment Principle (j) significant penalties in delegated legislation Principle (l) modification of the operation of primary legislation Principle (m) parliamentary oversight	Seeking advice from the Treasurer.

Agency engagement

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

Instrument	Issue	Status
Customs (Prohibited Imports) Amendment (Commercial Importation of Kava as Food) Regulations 2021 [F2021L01615]	Principle (c) delegation of administrative powers and functions	Committee secretariat considering response.
Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021 [F2021L01552]	Principle (e) clarity of drafting	Committee secretariat considering response.

³ This instrument was registered on 17 December 2021.

Instrument	Issue	Status
National Consumer Credit Protection Amendment (Small Business Exemption No. 2) Regulations 2021 [F2021L01540]	Principle (k) exemption from sunseting	Seeking further advice from the agency.
Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Reserve HFC Quotas) Regulations 2021 [F2021L01564]	Principle (i) availability of independent merits review	Committee secretariat considering response.
Therapeutic Goods Legislation Amendment (2021 Measures No. 3) Regulations 2021 [F2021L01474]	Principle (g) adequacy of explanatory materials Principle (h) privacy	Committee secretariat considering response.

Appendix C

Concluded matters

7.1 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

7.2 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
Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment (No. 2) Regulations 2021 [F2021L01750]	Principle (j) levying of taxation in delegated legislation	Concluded following consideration by the committee.
Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2021 [F2021L01639]	Principle (j) levying of taxation in delegated legislation	Concluded following consideration by the committee.
Fishing Levy Amendment (2021-2022 Levy Amounts) Regulations 2021 [F2021L01643]		

¹ See www.aph.gov.au/senate_sdlc.

Agency engagement

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

Instrument	Issue	Status
CASA EX83/21 – Part 121 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 [F2021L01399]	Principle (a) compliance with <i>Legislation Act 2003</i> — incorporation	Concluded following response from the agency on 04/01/2022. The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Civil Aviation Order 48.1 Amendment Instrument 2021 (No. 1) [F2021L01610]	Principle (k) exemption from sunseting	Concluded following response from the agency on 18/01/2022. The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Corporations Amendment (Litigation Funding) Regulations 2021 [F2021L01608]	Principle (e) clarity of drafting	Concluded following response from the agency on 20/01/2022.
Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021 [F2021L01503]	Principle (a) compliance with <i>Legislation Act 2003</i> — incorporation Principle (f) incorporated materials freely accessible	Concluded following response from the agency on 20/01/2022. The Department of Home Affairs undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Eddystone Point Lighthouse Heritage Management Plan 2021 [F2021L01587]	Principle (a) compliance with <i>Legislation Act 2003</i> — incorporation	Concluded following response from the agency on 19/01/2022.
Fair Work Act 2009 Direction to Inspectors (November 2021) [F2021L01585]	Principle (a) compliance with <i>Legislation Act 2003</i> — incorporation	Concluded following response from the agency on 28/01/2022. The Fair Work Ombudsman undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Framework (Supplementary Powers) Amendment (Defence Measures No. 2) Regulations 2021 [F2021L01497]	Principle (k) exemption from sunseting	Concluded following response from the agency on 20/01/2022.

Instrument	Issue	Status
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 4) Regulations 2021 [F2021L01494]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022. The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Framework (Supplementary Powers) Amendment (Foreign Affairs and Trade Measures No. 1) Regulations 2021 [F2021L01496]	Principle (k) exemption from sunseting	Concluded following response from the agency on 20/01/2022.
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 7) Regulations 2021 [F2021L01500]	Principle (k) exemption from sunseting	Concluded following response from the agency on 20/01/2022.
Financial Framework (Supplementary Powers) Amendment (Industry, Science, Energy and Resources Measures No. 1) Regulations 2021 [F2021L01495]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022. The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 5) Regulations 2021 [F2021L01507]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022. The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet Measures No. 8) Regulations 2021 [F2021L01499]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022. The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet Measures No. 10) Regulations 2021 [F2021L01609]	Principle (k) exemption from sunseting	Concluded following response from the agency on 20/01/2022.

Instrument	Issue	Status
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 4) Regulations 2021 [F2021L01498]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022. The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Industry Research and Development (Northern Australia Development Program) Instrument 2021 [F2021L01508]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 24/01/2022.
Industry Research and Development (Supporting Agricultural Showmen and Women Program) Instrument 2021 [F2021L01558]	Principle (c) delegation of administrative powers and functions	Concluded following response from the agency on 21/01/2022.
Minamata Convention on Mercury (Consequential Amendments) Regulations 2021 [F2021L01390]	Principle (a) compliance with <i>Legislation Act 2003</i> —consultation	Concluded following response from the agency on 21/01/2022.
Recycling and Waste Reduction (Mandatory Product Stewardship—Mercury-added Products) Rules 2021 [F2021L01393]	Principle (i) availability of independent merits review	The Department of Agriculture, Water and the Environment undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.
Industrial Chemicals (General) Amendment (Minamata Convention on Mercury) Rules 2021 [F2021L01411]		
Part 91, Part 133 and Part 138 Manuals of Standards — NVIS Amendments Instrument 2021 (No. 1) [F2021L01591]	Principle (k) exemption from sunseting	Concluded following response from the agency on 18/01/2022. The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Part 138 MOS Amendment Instrument 2021 (No. 1) [F2021L01595]	Principle (k) exemption from sunseting	Concluded following response from the agency on 18/01/2022. The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.

Instrument	Issue	Status
Radiocommunications (Exemption – Corrective Services NSW) Determination 2021 [F2021L01613]	Principle (a) compliance with authorising legislation	Concluded following response from the agency on 21/01/2022. The Australian Communications and Media Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Recycling and Waste Reduction (Export—Waste Tyres) Rules 2021 [F2021L01482]	Principle (i) availability of independent merits review	Concluded following response from the agency on 28/01/2022.
Remuneration Tribunal Amendment Determination (No. 6) 2021 [F2021L01607]	Principle (k) exemption from sunseting	Concluded following response from the agency on 17/01/2022. The Remuneration Tribunal undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Southern Bluefin Tuna Fishery (Undercatch and Overcatch) (2020-2021 Season No. 2) Determination 2021 [F2021L01606]	Principle (g) adequacy of explanatory materials	Concluded following response from the agency on 24/01/2022.
Telecommunications Code of Practice 2021 [F2021L01524]	Principle (a) compliance with <i>Legislation Act 2003</i> —incorporation Principle (c) conferral of discretionary powers Principle (i) availability of independent merits review Principle (m) legal certainty	Concluded following response from the agency on 14/01/2022.
Variation to Licence Area Plan – Albury Radio – 2021 (No. 1) [F2021L01583]	Principle (k) exemption from sunseting	Concluded following response from the agency on 21/01/2022. The Australian Communications and Media Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.
Vehicle Standard (Australian Design Rule 98/00 – Advanced Emergency Braking for Passenger Vehicles and Light Goods Vehicles) 2021 [F2021L01518]	Principle (k) exemption from sunseting	Concluded following response from the agency on 18/01/2022. 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.

Instrument	Issue	Status
Vehicle Standard (Australian Design Rule 98/01 – Advanced Emergency Braking for Passenger Vehicles and Light Goods Vehicles) 2021 [F2021L01519]	Principle (k) exemption from sunseting	<p>Concluded following response from the agency on 18/01/2022.</p> <p>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.</p>

Appendix D

Undertakings

8.1 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

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

Instrument	Undertaking	Date of Undertaking
Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations (No. 2) 2020 [F2020L01620]	The Department of Agriculture, Water Resources and the Environment undertook to revoke the instrument in response to the committee's scrutiny concerns.	16/03/2021
Corporations Amendment (Corporate Insolvency Reforms) Regulations 2020 [F2020L01654]	The Treasurer undertook to amend the instrument in response to the committee's scrutiny concerns.	09/04/2021
Part 133 (Australian Air Transport Operations—Rotorcraft) Manual of Standards 2020 [F2020L01614]	The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	20/04/2021
Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021 [F2021L00200]	The Civil Aviation Safety Authority undertook to amend the instrument in response to the committee's scrutiny concerns.	21/05/2021
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 10) 2021 [F2021L00305]	The Department of the Treasury undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	04/06/2021
Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021 [F2021L00200]	The Civil Aviation Safety Authority undertook to amend the instrument in response to the committee's scrutiny concerns.	08/06/2021

Instrument	Undertaking	Date of Undertaking
Income Tax Assessment (1997 Act) Regulations 2021 [F2021L00206]	The Department of the Treasury undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	18/06/2021
Student Assistance Regulations 2021 [F2021L00201]	The Minister for Families and Social Services undertook to amend the instrument in response to the committee's scrutiny concerns. The Minister for Families and Social Services undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/07/2021
Bankruptcy Regulations 2021 [F2021L00261]	The Assistant Minister to the Attorney-General undertook to advise the committee of the outcome of the government's targeted review of the appropriateness of modifying provisions currently prescribed in the instrument.	26/07/2021
ASIC Market Integrity Rules (Capital) 2021 [F2021L00765]	The Department of the Treasury undertook to amend the instrument in response to the committee's scrutiny concerns.	04/08/2021
Higher Education Standards Framework (Threshold Standards) 2021 [F2021L00488]	The Department of Education, Skills and Employment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	09/08/2021
Higher Education Provider Approval No 1 of 2021 [F2021L00747]	The Department of Education, Skills and Employment undertook to amend the instrument in response to the committee's scrutiny concerns. The Department of Education, Skills and Employment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	12/08/2021
Recycling and Waste Reduction (Product Stewardship—Televisions and Computers) Rules 2021 [F2021L00624]	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.	12/08/2021
Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2021 [F2021L00848]	The Department of the Treasury undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	12/08/2021
Bankruptcy Regulations 2021 [F2021L00261]	The Assistant Minister to the Attorney-General undertook to amend the instrument in response to the committee's scrutiny concerns.	17/08/2021

Instrument	Undertaking	Date of Undertaking
Veterans' Entitlements (Counselling) Extended Eligibility Determination 2021 [F2021L00804]	The Department of Veterans' Affairs undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	23/08/2021
Higher Education Provider Approval No 2 of 2021 [F2021L00965]	The Department of Education, Skills and Employment undertook to amend the instrument in response to the committee's scrutiny concerns. The Department of Education, Skills and Employment undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	16/09/2021
Aged Care Legislation Amendment (Vaccination Information) Principles 2021 [F2021L01236]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	08/10/2021
Industry Research and Development (Modern Manufacturing Initiative Program) Instrument 2021 [F2021L00539]	The Minister for Industry, Energy and Emissions Reduction undertook to amend the instrument in response to the committee's scrutiny concerns.	04/11/2021
Therapeutic Goods (Standards for Biologicals—General and Specific Requirements) (TGO 109) Order 2021 [F2021L01332]	The Department of Health undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	04/11/2021
Migration Amendment (Subclass 417 and 462 Visas) Regulations 2021 [F2021L01030]	The Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs undertook to amend the instrument in response to the committee's scrutiny concerns.	11/11/2021
Part 60 Manual of Standards Amendment Instrument 2021 (No. 1) [F2021L01303]	The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	12/11/2021
Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Declaration 2021 [F2021L01157]	The Treasurer undertook to amend the principal instrument in response to the committee's scrutiny concerns.	12/11/2021
Taxation Administration (Data Sharing—Relevant COVID-19 Business Support Program) Amendment Declaration (No. 1) 2021 [F2021L01237]		

Instrument	Undertaking	Date of Undertaking
Migration Amendment (Australian Agriculture Workers) Regulations 2021 [F2021L01366]	The Department of Home Affairs undertook to amend the instrument in response to the committee's scrutiny concerns. The Department of Home Affairs undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	02/12/2021
Veterans' Entitlements (Point Cook Firefighters) Determination 2021 [F2021L01265]	The Department of Veterans' Affairs undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	03/12/2021
CASA EX83/21 – Part 121 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 [F2021L01399]	The Civil Aviation Safety Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	04/01/2022
Remuneration Tribunal Amendment Determination (No. 6) 2021 [F2021L01607]	The Remuneration Tribunal undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	17/01/2022
Vehicle Standard (Australian Design Rule 98/00 – Advanced Emergency Braking for Passenger Vehicles and Light Goods Vehicles) 2021 [F2021L01518]	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.	18/01/2022
Vehicle Standard (Australian Design Rule 98/01 – Advanced Emergency Braking for Passenger Vehicles and Light Goods Vehicles) 2021 [F2021L01519]	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.	18/01/2022
Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021 [F2021L01503]	The Department of Home Affairs undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	20/01/2022
Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 4) Regulations 2021 [F2021L01494]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Financial Framework (Supplementary Powers) Amendment (Industry, Science, Energy and Resources Measures No. 1) Regulations 2021 [F2021L01495]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022

Instrument	Undertaking	Date of Undertaking
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 5) Regulations 2021 [F2021L01507]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet Measures No. 8) Regulations 2021 [F2021L01499]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 4) Regulations 2021 [F2021L01498]	The Department of Finance undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Minamata Convention on Mercury (Consequential Amendments) Regulations 2021 [F2021L01390] Recycling and Waste Reduction (Mandatory Product Stewardship—Mercury-added Products) Rules 2021 [F2021L01393] Industrial Chemicals (General) Amendment (Minamata Convention on Mercury) Rules 2021 [F2021L01411]	The Department of Agriculture, Water and the Environment undertook to amend the explanatory statements to the instruments in response to the committee's scrutiny concerns.	21/01/2022
Radiocommunications (Exemption – Corrective Services NSW) Determination 2021 [F2021L01613]	The Australian Communications and Media Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Variation to Licence Area Plan – Albury Radio – 2021 (No. 1) [F2021L01583]	The Australian Communications and Media Authority undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	21/01/2022
Fair Work Act 2009 Direction to Inspectors (November 2021) [F2021L01585]	The Fair Work Ombudsman undertook to amend the explanatory statement to the instrument in response to the committee's scrutiny concerns.	28/01/2022

Implemented undertakings

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

Instrument	Undertaking	Date implemented
Aged Care Legislation Amendment (Care Recipients and Service Staff Vaccination Recording and Reporting) Principles 2021 [F2021L00981]	The Department of Health amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	02/12/2021
Defence Honours and Awards Appeals Tribunal Procedural Rules 2021 [F2021L01318]	The Department of Defence amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/12/2021
Industry Research and Development (Daintree Microgrid Program) Instrument 2021 [F2021L01305]	The Department of Industry, Science, Energy and Resources amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/12/2021
Paid Parental Leave Rules 2021 [F2021L00384]	The Minister for Families and Social Services amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	06/12/2021
Amendment of List of Exempt Native Specimens – Commission for the Conservation of Antarctic Marine Living Resources Exploratory Fisheries in Statistical Divisions 58.4.1 and 58.4.2 (the East Antarctica Fishery) and Statistical Subareas 88.1 and 88.2 (the Ross Sea Fishery), November 2020 [F2020L01484]	The Department of Agriculture, Water and the Environment amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	07/12/2021
Export Control Rules 2021 - various instruments [F2021L00312] [F2021L00317] [F2021L00334] [F2021L00304] [F2021L00315] [F2021L00310] [F2021L00308] [F2021L00313]	The Department of Agriculture, Water and the Environment amended the explanatory statements to the instruments in response to the committee's scrutiny concerns.	13/12/2021 and 14/12/2021
Law Enforcement Integrity Commissioner Amendment (Law Enforcement Agencies) Regulations 2020 [F2020L01506]	The Attorney-General amended the principal instrument in response to the committee's scrutiny concerns.	14/12/2021
Export Control (Wood and Woodchips) Rules 2021 [F2021L00318]	The Minister for Agriculture and Northern Australia amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	18/01/2022

Instrument	Undertaking	Date implemented
Civil Aviation Order 48.1 Amendment Instrument 2021 (No. 1) [F2021L01610]	The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	28/01/2022
Part 138 MOS Amendment Instrument 2021 (No. 1) [F2021L01595]	The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	28/01/2022
Education Services for Overseas Students (Exempt Courses) Instrument 2021 [F2021L00877]	The Minister for Education and Youth amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	31/01/2022
Part 91, Part 133 and Part 138 Manuals of Standards — NVIS Amendments Instrument 2021 (No. 1) [F2021L01591]	The Civil Aviation Safety Authority amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	31/01/2022
ASIC Corporations (Amendment) Instrument 2021/848 [F2021L01425]	The Australian Securities and Investments Commission amended the explanatory statement to the instrument in response to the committee's scrutiny concerns.	07/02/2022