



Proposed temporary order to defer consideration of bills

The Senate Standing Committee for the Scrutiny of Bills has resolved to propose a temporary order, to operate from the first sitting day in August 2020 to the last sitting day of June 2021, which would automatically defer the consideration of bills on which the committee has not yet tabled an initial report to the Wednesday of the first sitting week following the introduction of the bill in either House.

A copy of the notice of motion proposing the temporary order is outlined below. The notice of motion was given on 13 May 2020.

Notice of motion

On behalf of the Standing Committee for the Scrutiny of Bills, I give notice that three sitting days after today, I shall move—That—

(1) The Senate notes that:

(a) the Standing Committee for the Scrutiny of Bills plays an essential role in the Senate's legislative function by drawing the attention of the Senate to bills that:

- (i) trespass unduly on personal rights and liberties;
- (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
- (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny;

(b) this role is undermined when a bill is passed before the committee has had an opportunity to table its initial report on the bill; and

(c) except in circumstances where a bill needs to be considered and passed urgently, the Standing Committee for the Scrutiny of Bills should have an opportunity to report on a bill before it is passed by the Senate.

(2) The following operate as a temporary order from the first sitting day in August 2020 to the last sitting day of June 2021:

When a motion for the second reading of a bill is moved by a minister—if the Standing Committee for the Scrutiny of Bills has not yet presented its initial report on the bill, debate on the motion be adjourned at the conclusion of the speech of the minister moving the motion and resumption of the debate be made an order of the day for the Wednesday of the first sitting week following the introduction of the bill in either House.

Operation of the proposed temporary order

The temporary order is drafted so that it operates in a similar way to the [existing cut-off in standing order 111\(5\)](#). As with the existing cut-off, bills could be exempted from the operation of the proposed temporary order.

If the temporary order is agreed to, when a bill is introduced into the Senate, consideration will be given to whether each of the following new and existing orders operate in relation to the bill:

- the new temporary order relating to consideration of bills not yet considered by the Scrutiny of Bills Committee;
- existing standing order 111(5) (the bills cut-off order); and
- existing standing order 115(3) (the order deferring consideration of bills referred to a standing or select committee).

If it is determined that one or more of the above orders operate in relation to the bill at the time the bill is introduced in the Senate, consideration of the bill will be adjourned to the later of:

- the Wednesday of the first sitting week following the bill's introduction into either House (under the new temporary order);
- the first day in the next period of sittings (under the cut-off in standing order 111(5)); or
- the day fixed for the report of the legislation committee (under standing order 115(3)).

Examples

Examples of how the proposed temporary order would operate alongside existing orders, based on the sitting calendar for the second half of 2020, are provided below:

Bill title	Introduced Reps	Introduced Senate	Leg Cttee reporting date	Orders applying to the bill on introduction into the Senate	Date for resumption of debate in the Senate
Admiralty (Example) Bill 2020	12-Aug-20	24-Aug-20	Not referred	Temporary order	✓ 26-Aug-20
				SO 111 cut-off	✓ 06-Oct-20
				SO 115 leg cttee	✗ -
Meteorology (Example) Bill 2020	12-Aug-20	27-Aug-20	Not referred	Temporary order	✗ -
				SO 111 cut-off	✓ 06-Oct-20
				SO 115 leg cttee	✗ -
Export Charges (Example) Bill 2020	26-Aug-20	06-Oct-20	10-Nov-20	Temporary order	✗ -
				SO 111 cut-off	✗ -
				SO 115 leg cttee	✓ 10-Nov-20
Extradition (Example) Bill 2020	07-Oct-20	09-Nov-20	10-Nov-20	Temporary order	✓ 11-Nov-20
				SO 111 cut-off	✗ -
				SO 115 leg cttee	✓ 10-Nov-20
Customs (Example) Bill 2020	21-Oct-20	09-Nov-20	Not referred	Temporary order	✓ 11-Nov-20
				SO 111 cut-off	✗ -
				SO 115 leg cttee	✗ -

Statistics

The table below demonstrates that if the temporary order had been in operation in 2018 and 2019, the temporary order would have operated to defer consideration of 14 bills (2.7%) that passed the Senate before the committee had an opportunity to table an initial report.

Year	Bills considered by the committee	Bills passed by the Senate before committee had an opportunity to table an initial report	Bills passed by the Senate before committee had an opportunity to table an initial report and not already subject to the cut-off
2018	251	9 (3.6%)	5 (2.0%)
2019	259	20 (7.7%)	9 (3.5%)

May 2020