



2 September 2021

Introduction

This newsletter highlights key aspects of the work of the Senate Scrutiny of Bills Committee and the Senate Scrutiny of Delegated Legislation Committee. It has a particular focus on information that may be useful while bills are under consideration and legislative instruments are subject to disallowance, and seeks to raise awareness about the committees' scrutiny principles (see Senate Standing Orders 23 and 24).

For more detail and discussion of these matters see the committees' [Scrutiny Digests](#) and [Delegated Legislation Monitors](#).

Please note that this edition of Scrutiny News relates only to the work of the Senate Scrutiny of Bills Committee, as the Senate Scrutiny of Delegated Legislation Committee did not meet in the week beginning 30 August 2021.

Guidelines

The Senate Scrutiny of Bills Committee is in the process of preparing [guidelines](#) setting out the committee's expectations in relation to its technical scrutiny principles.

The committee has now published a [fourth guideline](#) on its approach to applying scrutiny principle (ii) – insufficiently defined administrative powers.

Key scrutiny issues: Bills ([Scrutiny Digest 14 of 2021](#))

Electoral Legislation Amendment (Electoral Offences and Preventing Multiple Voting) Bill 2021

- ***Broad discretionary power***: the committee expressed its ongoing scrutiny concerns in relation to a broad discretionary power conferred on the Electoral Commissioner to declare electors as 'designated electors' when the Commissioner reasonably suspects that the elector has voted multiple times.

Electoral Legislation Amendment (Party Registration Integrity) Bill 2021

- ***Administrative power not defined with sufficient precision***: the committee expressed its ongoing scrutiny concerns in relation to a power conferred on the Electoral Commission to refuse an application for registration of a political party if the party name is 'frivolous or vexatious'. The committee suggested that future amendments to the *Commonwealth Electoral Act 1918* include additional guidance as to when the power should be appropriately used.

Other bills commented on ([Scrutiny Digest 14 of 2021](#))

- **Corporations (Aboriginal and Torres Strait Islander) Amendment Bill 2021:** the committee is seeking advice in relation to provisions which reverse the evidential burden of proof, impose strict liability offences and abrogate the privilege against self-incrimination.
- **Investment Funds Legislation Amendment Bill 2021:** the committee is seeking advice in relation to the inclusion of significant matters in instruments that are not subject to parliamentary disallowance and provisions which authorise grants to the states without setting out any guidance as to the terms and conditions on which financial assistance may be granted.
- **Live Performance Federal Insurance Guarantee Fund Bill 2021:** the committee expressed its concerns in relation to the inclusion of significant matters in delegated legislation.

This document contains a very brief summary of some recent comments made by the Senate Scrutiny of Bills Committee (Chair: Senator Helen Polley and Deputy Chair: Senator Dean Smith).

For any comments or questions, please contact:
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