

# HOUSE REVIEW



## Selected features of House of Representatives business

Sitting period 16-26 October 2017 (no. 6)

This sixth issue of House Review discusses: progress on legislation in the House and Federation Chamber; a Ministerial statement on suicide by veterans and ex-service personnel; an unusual document that was presented to the House; how delegated legislation can come to the attention of the House; interaction between the House and the Senate; and the sitting calendar for 2018.

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### Legislation

#### *Introductions*

During the fortnight 15 Government bills were introduced, including two relating to the establishment of a Commonwealth Redress Scheme for Institutional Child Sexual Abuse, on 26 October. These bills provide for a monetary payment, access to counselling and psychological services, and a direct personal response from responsible institutions, for eligible survivors. The Scheme is proposed to commence in July 2018 and operate for 10 years.

#### *Referral of bills to the Federation Chamber*

Debate on several bills was progressed in the House's second chamber, the Federation Chamber. As usual, their lives began and were completed in the House. In most cases, after debate was resumed on the second reading of a bill in the House and the main Opposition speaker had spoken, a Minister, by leave, referred the bill to the Federation Chamber. The Chief Government Whip also exercised her power under the standing orders to refer a bill to the Federation Chamber. In almost all cases, after the Federation Chamber had completed its consideration and resolved that a bill be reported to the House without amendment, once the Chair had reported progress to the House on the bill, a Minister by leave moved the third reading immediately and the question was then carried on the voices. This pattern aligns with the intention that the Federation Chamber be a forum for debate on bills that are relatively uncontentious but there are occasional exceptions and standing orders allow for this.

On 24 October the Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017 was referred to the Federation Chamber for further consideration. Before that, when debate on the second reading had been resumed initially in the House, the Shadow Minister for Employment and Workplace Relations, the Member for Gorton, moved a second reading amendment. When the second reading debate concluded in the Federation Chamber on 25 October, the question was put on the amendment and could not be resolved. Because that Chamber cannot divide on a question, its consideration ended at this point. When the Federation Chamber's report was presented by the Chair in the House the following morning, he reported that there was an unresolved question on the bill. The question on the amendment was then put and negatived on division. The remaining questions on the bill were agreed.

#### *Passing the House*

The Fair Work (Registered Organisations) Amending (Ensuring Integrity) Bill passed the House on 16 October after the second reading amendment proposed by the Member for Gorton was negatived on division and the question for the second reading carried on division. Leave was given for the third reading to be moved immediately and the motion was carried on the voices.

When debate was resumed on the Industrial Chemicals Bill 2017 (and a cognate debate with five related bills was not objected to) on 17 October, the Shadow Assistant Minister for Medicare, the Member for Makin, moved a second reading amendment to the principal bill. This was later negatived on the voices. Later, the Member's proposed detailed amendments to the principal bill were defeated on division and the remaining stages of this and the related bills were completed on the voices. Later in the evening a Minister presented an addendum to the explanatory memorandum to five of these bills.

The second reading debate on the Medicare Levy Amendment (National Disability Insurance Scheme Funding) Bill resumed on 23 October and no Member objected to a proposal for a cognate second reading debate for this and ten related bills. On 25 October after the Treasurer summed up the second reading debate, the House completed each bill, in turn, as is the custom at the end of a cognate second reading debate. On the first bill, divisions were called on the second reading amendment that had been proposed by the Shadow Treasurer (defeated), and on the second reading (carried). The Shadow Assistant Treasurer's proposed detailed amendments on the first bill were defeated on division, leave was given for the third reading to be moved immediately, and the question was carried on the voices. The next eight bills were each then called on and the questions on the second and third reading for each were carried on the voices, in quick succession. On the next bill, after the second reading was agreed, the Shadow Assistant Treasurer moved a detailed amendment. This was debated and defeated on division. The Treasurer moved the third reading immediately, by leave, and this was carried on the voices. Questions to complete the last bill in the package of 11 bills were carried on the voices.

#### *Pairing*

Before the Treasurer summed up the Medicare Levy bills debate, the last non-Government speaker, the Member for Melbourne, said that he opposed the bills but that he and the Member for Mayo who, he said, supported the bills, had agreed to form a 'pair' for the votes and neither would attend to vote. Both Members are from minor parties. Pairing arrangements are unofficial arrangements that are agreed between Whips for the major parties. These enable a Member who is to be absent from a vote to be paired with a Member from the 'other side' who is going to be absent at the same time or will abstain from voting. This enables both sides to maintain their relative numbers. These arrangements have no formal status and are not recorded. This case was no different except that the Hansard record of the debate will show the Member's stated intentions.

#### *Consideration in detail*

There was an extended consideration in detail stage on the Criminal Code Amendment (Firearms Trafficking) Bill 2017 on 25 October. After the second reading was agreed to on the voices, the Minister for Justice moved two detailed amendments. The principal focus during the detail stage was the issue of mandatory minimum sentencing. The amendments were carried on division and the next question, 'that the bill as amended be agreed to', was carried on division. When leave was not granted for the third reading to be moved immediately, the Minister moved a contingent notice to suspend standing orders to enable this. When this was carried, the Minister moved the third reading and after the Shadow Minister for Justice spoke briefly to the question, the Minister moved closure of question. The closure was carried on division and the question for the third reading was carried on division.

#### *Delegated legislation*

Delegated legislation is not made directly by parliament but under authority delegated by an Act, for example to a Minister. Such legislation is often technical and detailed and a considerable volume comes into effect each year. While it is not usually required to pass the House and Senate to become effective, there is a measure of scrutiny, with requirements that it be registered publicly on the Federal Register of Legislation and be presented to each House within a set timeframe. (Also, the Senate Standing Committee on Regulations and Ordinances examines delegated legislation with a focus on individual rights and a parliamentary perspective.)

Also, most delegated legislation is open to disallowance by either House. If a notice of motion to disallow a legislative instrument, or part of it, is given by a Member within 15 sitting days of the instrument being tabled in that House and the notice is not withdrawn, or called on and disposed of within 15 sitting days of the notice, then the instrument or particular provision is taken to have been disallowed and becomes ineffective after 15 sitting days of the notice being given. The instrument is treated as if it had been repealed on that day. This disallowance mechanism is enabled by s.42 of the *Legislation Act 2003* and, from time to time, notice of a motion to disallow an instrument is given and is considered by the House. Usually the motion to disallow is defeated and the instrument continues in effect.

Some items of delegated legislation require a positive decision by the House and Senate before they come into effect. On 18 October the Minister for Health moved (on notice) that in accordance with s.10B of the *Health Insurance Act 1973*, the House approve the Health Insurance (Extended Medicare Safety Net) Determination 2017 made on 15 August and presented to the House on 4 September. Sub-section 10B (2) of the Health Insurance Act provides that a determination made under sub-section (1) does not come into effect until it has been approved by resolution of each House. The House agreed to the Minister's motion. The Senate had agreed to a motion in the same terms on 16 October.

### **Document presented**

Every sitting day documents are presented to the House and their publication is then authorised under House standing orders. If a document has been presented in compliance with House practice and rules, its publication is protected by parliamentary privilege. Often the documents are formal government or parliamentary reports and records but they may include items such as copies of media reports or web pages. Documents do not need to be paper. Standing orders define 'document' to mean a paper or record of information, including anything from which sounds, images or writings can be reproduced with or without the aid of anything else. While Ministers have broad rights to present documents to the House, private Members are more restricted and, in most cases, need leave of the House (that is, no Member present objects) before they can present a document.

During constituency statements in the Federation Chamber on 18 October, the Member for Denison, Mr Wilkie, spoke about allegations of misconduct in certain casino operations. He then presented a document—a USB—by leave, referring to it as a record of interview with casino whistle blowers. When the Chair asked the Chamber if leave was granted, a government Member said he had not seen the information and could not comment on its veracity but that every Member was responsible for their own statements. No Member objected, enabling presentation of the document.

During Question Time on 24 October, the Member for Denison asked the Prime Minister a question, sought support for a parliamentary inquiry into the casino industry and sought leave to present a document, a USB, which he said contained new allegations. The Leader of the House stated that he had not seen the document and that leave would not be granted to present the document.

### **Ministerial statement—suicide by veterans and ex-service personnel**

On 24 October the Minister for Veterans Affairs, Mr Tehan, was given leave to make a Ministerial statement. His statement was in response to the Senate Standing Committee on Foreign Affairs, Defence and Trade (References Committee) report in August 2017 of its inquiry into suicide by veterans and ex-service personnel. The Minister presented three documents: the Government's response to the Committee report (largely agreeing to its recommendations), recommendations of a review by the Department of Veterans' Affairs and Department of Defence into facts surrounding the management of the late Mr Jesse Bird's case, and a copy of the Minister's statement. The Shadow Minister, the Member for Kingston, replied, also acknowledging Mr Bird's family, and commending the Minister's approach to the issues raised by the inquiries. The Minister thanked the Shadow Minister and all Members, noting that the completely bipartisan approach shown on the issue was an example

of the best of parliament. The Minister then moved that the House take note of the documents and was given leave to move that further debate on the documents take place in the Federation Chamber.

### **Members' 90 second statements—Auslan**

The Member for Parramatta used Auslan (Australian sign language) and spoken English to acknowledge the National Week of Deaf People during Members' statements on 25 October.

### **Interaction with the Senate**

On 19 October several Senate messages were reported transmitting bills that had been passed by the Senate for the concurrence of the House. One of these transmitted the Medicinal Cannabis Legislation Amendment (Securing Patient Access) Bill 2017 that had been sponsored by a private Senator. When the bill had been read a first time, the Member for Melbourne, Mr Bandt's subsequent motion that the second reading be made an order of the day for the next sitting was agreed to. This means that the bill will be treated as a private Member's bill and so comes within the remit of the House Selection Committee to schedule further consideration.

In the week of 23-27 October the Senate did not meet but its committees conducted supplementary estimates hearings. As often happens, some evidence received by those committees was referred to in Question Time, Members' statements, and debate in the House. In the adjournment debate on 25 October the Manager of Opposition Business spoke about evidence given by the Minister for Employment at the Senate Education and Employment Legislation Committee hearing earlier that day.

The Senate (only) will sit on 13 to 16 November and the House and Senate will meet on 27 November.

### **Sitting calendar for Parliament in 2018**

On 26 October the House agreed to the [program of sittings](#) proposed by the Government for 2018. The Senate is yet to consider the proposal.

The next issue of House Review will be published after the sitting period 27 November to 7 December.

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### **Further information**

- [Bills and legislation](#) for bills, explanatory memoranda, amendments, speeches and tracking facility
- [Live Minutes](#) for a real time summary of House decisions and proceedings
- [Votes and Proceedings](#) for all the decisions of the House, available the next business day
- [House of Representatives Practice](#), 6 ed, 2012, the most authoritative guide to House procedure
- House of Representatives [Infosheets](#) for concise discussions of House operations and context
- House of Representatives [Standing Orders](#), September 2016, the House's rules of procedure
- [Procedural Digest](#) for a more technical discussion of recent House procedural events