



28 March 2018

Introduction

This newsletter highlights key aspects of the work of the Senate Scrutiny of Bills Committee and the Senate Regulations and Ordinances 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](#).

Key scrutiny issues: Bills (*Scrutiny Digest No. 4 of 2018*)

National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2018:

- *Broad scope of offence provisions*: the committee welcomes a number of proposed government amendments but leaves to the Senate the appropriateness of a number of broad espionage and secrecy offences that are subject to significant custodial penalties in the absence of a public interest defence or a requirement of an intention to do harm to Australia's interests.
- *Criminal offences*: the committee welcomes proposed government amendments to remove strict liability from elements of a number of offences and to prevent IGIS officials from bearing an evidential burden, but otherwise leaves to the Senate the appropriateness of reversing the evidential burden of proof for matters that do not appear to be peculiarly within the defendant's knowledge.
- *Right to liberty: presumption against bail*: the committee leaves to the Senate the appropriateness of imposing a presumption against bail.

Key scrutiny issues: Legislative instruments (*Delegated legislation monitor 4 of 2018*)

National Gallery Regulations 2018

- *Evidential burdens of proof on the defendant*: the committee is seeking advice as to the justification for reversing the evidential burden of proof in relation to three offences established by the instrument, where the relevant defences do not appear to be matters peculiarly within the defendant's knowledge.

Other bills commented on (*Scrutiny Digest No. 4 of 2018*)

- **Great Barrier Reef Marine Park (Authority Governance and Other Matters) Bill 2017:** the committee received advice that the retrospective application of certain provisions is highly unlikely to cause detriment to any person.

Other legislative instruments commented on (*Delegated legislation monitor 4 of 2018*)

- The Regulations and Ordinances committee commented on six legislative instruments registered on the Federal Register of Legislation between 1 and 7 March 2018. The committee concluded its interest in three instruments on which the committee had previously commented.
- All legislative instruments subject to a notice of motion for disallowance in either House of Parliament are listed in the [Disallowance Alert](#).

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 John Williams) and the Senate Regulations and Ordinances Committee (Chair: Senator John Williams and Deputy Chair: Senator Gavin Marshall).

For any comments or questions, please contact:

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