



46th Parliament

Senate Journals

No. 63: Monday, 31 August 2020

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1 Meeting of Senate

The Senate met at 10 am. The President (Senator the Honourable Scott Ryan) took the chair, read prayers and made an acknowledgement of country.

2 Documents

The following documents were tabled pursuant to standing order 61(1)(b):

Document presented by the President

- 1 President's report to the Senate on the status of government responses to parliamentary committee reports as at 30 June 2020.

Auditor-General's report for 2020-21

- 2 No. 4—Performance audit—Establishment and use of ICT related procurement panels and arrangements—Across entities.

Government documents

- 3 Australian Law Reform Commission—Report no. 136—Corporate Criminal Responsibility, dated April 2020—
Summary report.
Final report.
Data appendices.
- 4 *Australian Meat and Live-stock Industry Act 1997*—Livestock mortalities during export by sea—Report for the period 1 January to 30 June 2020.
- 5 Australian National Maritime Museum—Corporate plan 2020-24.
- 6 *Medical Indemnity Act 2002*—Costs of the Australian Government's run-off cover scheme for medical indemnity insurers—Report for 2018-19.
- 7 *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*—Costs of the Australian Government's run-off cover scheme for midwife professional indemnity insurers—Report for 2018-19.
- 8 *Migration Act 1958*—Section 486O—Assessment of detention arrangements—
Commonwealth Ombudsman's reports—Reports nos 23 to 27 of 2020.
Government response to Commonwealth Ombudsman's reports—Reports nos 23 to 27 of 2020.
- 9 National Rural Health Commissioner—
Final report, dated June 2020.
Report for 2019.

Committee reporting dates—Extensions pursuant to the order of 23 March 2020

Multi-Jurisdictional Management and Execution of the Murray Darling Basin Plan—Select Committee—Constitution Alteration (Water Resources) 2019—from 1 November 2020 to 30 June 2021. [*Received 28 August 2020*].

The Clerk tabled the following documents pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Aged Care (Transitional Provisions) Act 1997—Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020 [F2020Lo1076].

Australian Research Council Act 2001—

Approval of ARC Industrial Transformation Research Hubs for funding commencing in 2020—Determination No. 213.

Approval of ARC Industrial Transformation Training Centres for funding commencing in 2020—Determination No. 214.

Banking Act 1959, Insurance Act 1973, Life Insurance Act 1995 and Superannuation Industry (Supervision) Act 1993—Banking, Insurance, Life Insurance and Superannuation (prudential standard) determination No. 1 of 2020 [F2020Lo1062].

Civil Aviation Act 1988—Civil Aviation Safety Regulations 1998—Commercial Pilot Licence (Helicopter) Flight Training Requirements (COVID-19) Exemption 2020—CASA EX121/20 [F2020Lo1067].

Commonwealth Electoral Act 1918—Electoral and Referendum Amendment (Prescribed Authorities) Regulations 2020 [F2020Lo1058].

Competition and Consumer Act 2010—Consumer Goods (Toys Containing Magnets) Safety Standard 2020 [F2020Lo1074].

Corporations Act 2001—

ASIC Corporations (Amendment) Instrument 2020/721 [F2020Lo1064].

ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778 [F2020Lo1069].

ASIC Corporations (IPO Communications) Instrument 2020/722 [F2020Lo1066].

Disability Services Act 1986—Disability Services (Eligible Service Standards) Determination 2020 [F2020Lo1060].

Health Insurance Act 1973—Health Insurance (Section 3C Co-Dependent Pathology Services) Amendment Determination (No. 6) 2020 [F2020Lo1075].

Healthcare Identifiers Act 2010—Healthcare Identifiers Regulations 2020 [F2020Lo1072].

National Health Act 1953—

National Health (Commonwealth Price and Conditions for Commonwealth Payments for Supply of Pharmaceutical Benefits) Amendment Determination 2020 (No. 6)—PB 80 of 2020 [F2020Lo1071].

National Health (Continued Dispensing – Emergency Measures) Amendment Determination 2020 (No. 7)—PB 81 of 2020 [F2020Lo1070].

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2020 (No. 8)—PB 78 of 2020 [F2020Lo1068].

National Health (Pharmaceutical benefits – early supply) Amendment Instrument 2020 (No. 7)—PB 79 of 2020 [F2020L01073].

National Health (Take Home Naloxone Pilot) Special Arrangement Amendment (2020 Measures No. 1) Instrument 2020—PB 77 of 2020 [F2020L01063].

Seat of Government (Administration) Act 1910—National Land (Road Transport) Ordinance 2014—Parking Permit Fees Rule 2020 [F2020L01065].

Sydney Airport Curfew Act 1995—Dispensation Report—08/20.

Telecommunications Act 1997—Telecommunications (Superfast Broadband Network Class Exemption) Determination 2020 [F2020L01061].

The Clerk tabled the following documents pursuant to order:

Entity contracts for 2019-20—Letters of advice pursuant to the order of the Senate of 20 June 2001, as amended—

Education portfolio.

Foreign Affairs and Trade portfolio.

Industry, Science, Energy and Resources portfolio (Resources and Northern Australia).

Infrastructure, Transport, Regional Development and Communications portfolio. Services Australia.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2020—Statement pursuant to the order of the Senate of 30 May 1996, as amended—Department of Veterans' Affairs.

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 14 August 2020, dated August 2020.

3 Committees—Leave to meet during sittings

Committees were authorised to meet during the sittings of the Senate, as follows:

Finance and Public Administration References Committee—private briefing on Wednesday, 2 September 2020, from 11 am.

Foreign Affairs, Defence and Trade—Joint Standing Committee—

private briefing followed by a public hearing today, from 11.30 am.

private briefings followed by a public hearing on Tuesday, 1 September 2020, from 4 pm.

public hearing followed by a private briefing on Wednesday, 2 September 2020, from 9.30 am.

public hearings on Thursday, 3 September 2020, from 9.45 am.

Intelligence and Security—Joint Statutory Committee—private meeting otherwise than in accordance with standing order 33(1) today, from 10 am.

4 Australian Education Legislation Amendment (Prohibiting the Indoctrination of Children) Bill 2020

Order of the day read for the adjourned debate on the motion of the Leader of Pauline Hanson's One Nation (Senator Hanson)—That this bill be now read a second time.

Debate resumed.

Debate adjourned till the next day of sitting, Senator Ayres in continuation.

5 Freedom of Information Legislation Amendment (Improving Access and Transparency) Bill 2018

Order of the day read for the second reading of the bill.

Senator Patrick moved—That this bill be now read a second time.

Debate ensued.

At 12.20 pm: Debate was interrupted while Senator Chisholm was speaking.

6 Murray-Darling Basin—Water purchases—Explanation by minister

Pursuant to order (*see entry no. 16, 26 August 2020*), the Minister representing the Minister for Resources, Water and Northern Australia (Senator Birmingham) provided an explanation concerning a response to an order for the production of documents relating to water purchases across the Murray-Darling Basin.

Senator Patrick moved—That the Senate take note of the explanation.

Debate ensued.

Question put and passed.

7 Coronavirus Economic Response Package (Jobkeeper Payments) Amendment Bill 2020

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Forestry and Fisheries (Senator Duniam)—That this bill be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted while Senator Faruqi was speaking.

8 Questions

Questions without notice were answered.

9 Motions to take note of answers

Senator Gallagher moved—That the Senate take note of the answers given by the Minister for Aged Care and Senior Australians (Senator Colbeck) to questions without notice asked by Opposition senators today relating to COVID-19 in aged care.

Debate ensued.

Question put and passed.

Senator Siewert moved—That the Senate take note of the answer given by the Minister for Families and Social Services (Senator Ruston) to a question without notice asked by Senator Siewert today relating to JobSeeker payments.

Question put and passed.

10 Notices

Senator Griff: To move on the next day of sitting—That the Senate—

- (a) acknowledges that:
 - (i) the Federal Government is entirely responsible for aged care funding and regulation,
 - (ii) the many weaknesses in our aged care system have not been caused by COVID-19 – they have been exposed in glaring focus by the pandemic,
 - (iii) the aged care system has long been broken, evidenced by the need for the Royal Commission into Aged Care Quality and Safety to examine the systemic issues facing the sector including chronic underfunding, under-skilling and underpayment of staff, no minimum staffing requirements, no minimum training qualifications and no transparency with how \$21 billion paid to the sector is spent, and
 - (iv) it should not have taken the pandemic to make aged care a political priority;
- (b) notes that:
 - (i) on 21 February 2020, Counsel Assisting, Mr Peter Rozen QC, recommended to the Royal Commission into Aged Care Quality and Safety, that minimum staffing levels should be implemented urgently to protect senior Australians in care, and
 - (ii) minimum staffing levels in residential aged care, on every shift, with the right mix of skills and qualifications, is a critical part of providing quality care; and
- (c) calls on the Government to legislate for minimum staffing levels pursuant to recommendations made by Mr Peter Rozen QC. (*general business notice of motion no. 760*)

Senators Chisholm, Dean Smith and Siewert: To move on the next day of sitting—That the time for the presentation of the report of the Joint Standing Committee on Northern Australia on its inquiry into the destruction of caves at the Juukan Gorge be extended to 9 December 2020. (*general business notice of motion no. 761*)

The Assistant Minister for Finance, Charities and Electoral Matters (Senator Seselja): To move on the next day of sitting—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report as expeditiously as is practicable:

Department of Health — Proposed fit-out of new leased premises at Fairbairn Business Park, Canberra Airport.

The Minister for Families and Social Services (Senator Ruston): To move on the next day of sitting—That—

- (a) if the notice of motion proposing the disallowance of the Industry Research and Development (Water for Fodder Program) Instrument 2019 standing in the name of Senator Hanson-Young for 1 September 2020 has not been finally resolved by 12.45 pm on Wednesday, 2 September 2020, the notice of motion shall be called on and considered at 5 pm that day; and

- (b) if consideration of the motion is not concluded by 5.30 pm, the question on the unresolved motion shall then be put.

The Minister for Families and Social Services (Senator Ruston): To move on the next day of sitting—That the hours of meeting for Tuesday, 6 October 2020 be from midday to 6.30 pm and 8.30 pm to adjournment, and for Thursday, 8 October 2020 be from 9.30 am to 5.30 pm and 8 pm to adjournment, and that:

- (a) the routine of business from 8.30 pm on Tuesday, 6 October 2020 shall be:
 - (i) Budget statement and documents 2020-21, and
 - (ii) adjournment; and
- (b) the routine of business from 8 pm on Thursday, 8 October 2020 shall be:
 - (i) Budget statement and documents – party leaders and independent senators to make responses to the statement and documents for not more than 30 minutes each, and
 - (ii) adjournment.

Senator Polley: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) the Technical and Further Education (TAFE) system in Australia derives \$92.5 billion per year in economic benefits associated with direct operation of TAFE establishments, higher incomes and productivity generated by the TAFE-qualified workforce and reduced social welfare costs,
 - (ii) the costs of investment in TAFE are modest, at \$5.7 billion per year, representing only 0.3% of GDP; despite this, the direct tax revenue which is generated as a result of an increase in productivity and incomes is worth \$25 billion per year and represents 4.4 times the return on the investment in the TAFE system, and
 - (iii) the Liberals have cut more than \$3 billion from TAFE and training, 140,000 apprentices and trainees have been lost, and Australia has had widespread shortages of critical workers including plumbers, carpenters, metalworkers, hairdressers, and aged care staff; and
- (b) calls on the Government to stop the cuts to the TAFE system and to support our apprentices and trainees – we need to boost our skills at this pivotal point, where we can rebuild our economy with an appropriately skilled work force. (*general business notice of motion no. 762*)

Senator Hanson-Young: To move on the next day of sitting—That the provisions of the Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020 be referred to the Environment and Communications Legislation Committee for inquiry and report by 11 November 2020.

The Chair of the Standing Committee for the Scrutiny of Delegated Legislation (Senator Fierravanti-Wells): To move 3 sitting days after today—That the Coronavirus Economic Response Package (Deferral of Sunsetting - Income Management and Cashless Welfare Arrangements) Determination 2020, made under the *Coronavirus Economic Response Package Omnibus Act 2020*, be disallowed [F2020L00572].

Senator Dean Smith: To move on the next day of sitting—That the Senate—

- (a) acknowledges all those who paid the ultimate sacrifice while serving in the Australian Army's elite Special Air Service Regiment (SASR) since its formation on 25 July 1957;
- (b) recognises that 5 August 2020 marked the 60th anniversary of the first death recorded on 'The Rock', when Private Anthony Frank Smith (5410311) lost his life during a platoon patrol training exercise in the Avon Valley, on 5 August 1960; and
- (c) notes that:
 - (i) 'The Rock' is located at the centre of the Garden of Reflection at Campbell Barracks, Swanbourne, Western Australia, and
 - (ii) is inscribed with the name of every Australian SASR soldier who has died while on active service or during training exercises. (*general business notice of motion no. 763*)

Senator Steele-John: To move on the next day of sitting—That the Senate opposes the development of any new gas fields in Australia. (*general business notice of motion no. 764*)

Senator McKim: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) since Australia's borders closed on 20 March 2020 many thousands of temporary visa holders have been separated from their families, jobs, and homes,
 - (ii) temporary visa holders contribute significantly to the Australian economy, having invested their time, energy, skills, and passion into Australia – they are part of our communities, our schools, and our businesses,
 - (iii) many temporary visa holders were invited to Australia under our skilled migration program, and
 - (iv) temporary visa holders returning to their families, jobs and homes in Australia will be subject to the same mandatory quarantine arrangements as Australian citizens and permanent residents returning to Australia; and
- (b) calls on the Government to grant 'inwards' travel exemptions for all temporary visa holders who are separated from either their immediate family (including children, partners, and spouses), their established homes, or their jobs in Australia, in line with available daily travel caps set by states and territories. (*general business notice of motion no. 765*)

Senator Rice: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) transport accounts for almost 20% of Australia's carbon emissions,
 - (ii) preliminary estimates suggest that, due to the pandemic, emissions from the consumption of petrol, diesel and jet fuel as at June 2020 have fallen 17.9% relative to June 2019,
 - (iii) Australia must reduce its greenhouse gas emissions by 75% on 2005 levels by 2030 and to net zero by 2035 in order to meet its Paris Agreement targets, and

- (iv) the use of bicycles and other forms of active transport has surged as Australians respond to the challenges of the pandemic; and
- (b) calls on the Government to act to permanently reduce our transport carbon pollution by:
 - (i) investing in active transport infrastructure, public transport, and high speed rail, and
 - (ii) supporting the uptake of electric vehicles, including through investment in renewable energy to power them. (*general business notice of motion no. 766*)

Senator Duniam: To move on the next day of sitting—That the Senate—

- (a) notes that a report used by the Australian Greens to assert that forestry operations cause bushfires has been retracted and withdrawn after insistence from the academic community;
- (b) further notes that the withdrawal of this paper was required because of the number of significant errors and wrong conclusions and that it did not meet the standard for 'high-quality scientific works' as required by the Multidisciplinary Digital Publishing Institute (MDPI);
- (c) condemns the Australian Greens and the Bob Brown Foundation for consistent use of bodgy science to attempt to back-up their falsehoods about forestry; and
- (d) calls on the Bob Brown Foundation and the Australian Greens to apologise to the hardworking men and women of the forestry industry that they use misinformation to demonise. (*general business notice of motion no. 767*)

Senators Davey, McKenzie, Canavan and McMahon: To move on the next day of sitting—That the Senate—

- (a) notes:
 - (i) that many drought affected communities in the eastern states have recently seen much needed rainfall, and many farmers are reporting good winter crops,
 - (ii) that severe drought remains in many parts of western New South Wales and southern Queensland, and Western Australia is coming into drought,
 - (iii) that farmers and their communities will continue to need support, both during drought and in the recovery, and
 - (iv) the importance of developing programs that contribute to boosting community leadership, connectedness and collaboration, which build drought resilience;
- (b) commends the Liberal and National Government for committing more than \$10.8 billion to farmers and communities in drought, including more than \$300 million through the Drought Communities Program, more than \$460 million through the Farm Household Allowance, and \$180 million through the Drought Communities Support Initiative; and

- (c) also commends the Liberal and National Government for further support in helping communities build drought resilience through the:
- (i) Networks to build Drought Resilience Program, which will increase the presence and reach of community networks working together to build drought resilience, and
 - (ii) Drought Resilience Leaders Program, which will provide drought resilience leadership courses to young and emerging leaders in rural, regional and remote communities. (*general business notice of motion no. 768*)

Notices of motion withdrawn: The Chair of the Standing Committee for the Scrutiny of Delegated Legislation (Senator Fierravanti-Wells), pursuant to notice of intention given on 27 August 2020, withdrew business of the Senate notices of motion standing in her name as follows:

No. 1 for the next day of sitting for the disallowance of the National Health (Take Home Naloxone Pilot) Special Arrangement 2019 [F2019L01542].

No. 2 for three sitting days after today for the disallowance of the Higher Education Provider Amendment (Tuition Protection and Other Measures) Guidelines 2019 [F2019L01699].

No. 1 for 10 sitting days after today for the disallowance of the Defence Amendment (2020 Measures No. 1) Regulations 2020 [F2020L00120].

11 **Leave of absence**

Senator Dean Smith, by leave, moved—That leave of absence be granted to Senators Abetz, Hanson, McDonald and Roberts from 31 August to 3 September 2020, due to COVID-19 travel restrictions.

Question put and passed.

12 **Postponements**

Business was postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Hanson-Young for today, proposing the disallowance of the Industry Research and Development (Water for Fodder Program) Instrument 2019, postponed 1 September 2020.

Business of the Senate notice of motion no. 2 standing in the name of Senator O'Neill for today, proposing the disallowance of the Corporations Amendment (Litigation Funding) Regulations 2020, postponed till 2 September 2020.

Business of the Senate notice of motion no. 3 standing in the name of Leader of the Australian Greens in the Senate (Senator Waters) for today, proposing the disallowance of the Industry Research and Development (Bankable Feasibility Study on High-Efficiency Low-Emissions Coal Plant in Collinsville Program) Instrument 2020, postponed till 10 November 2020.

Business of the Senate notice of motion no. 4 standing in the name of Senator Steele-John for today, proposing a reference to the Foreign Affairs, Defence and Trade References Committee, postponed till 1 September 2020.

Business of the Senate notice of motion no. 5 standing in the name of Senator Faruqi for today, proposing a reference to the Education and Employment Legislation Committee, postponed till 1 September 2020.

General business notice of motion no. 361 standing in the names of Senator Kitching for 1 September 2020, proposing the introduction of the International Human Rights and Corruption (Magnitsky Sanctions) Bill 2020, postponed till 8 December 2020.

General business notice of motion no. 718 standing in the name of Senators Waters and Rice for today, proposing the establishment of a select committee on the allocation of government grants, postponed till 3 September 2020.

General business notice of motion no. 753 standing in the name of Senators McCarthy and Dodson for today, relating to Aboriginal and Torres Strait Islander flags, postponed till 6 October 2020.

13 **Committee—Extension of time to report**

Legal and Constitutional Affairs References Committee—Nationhood, national identity and democracy—from 9 September 2020 to 8 December 2020.

14 **Independent automotive repairers**

Senator Urquhart, at the request of Senator Marielle Smith and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 724—That the Senate—

- (a) notes that:
 - (i) for many years there has been a lack of access for independent repairers to digital files and codes needed for repair or service of vehicles, limiting competition in the sector between international automakers and Australia's independent repair and service sector,
 - (ii) prior to the 2019 election, Federal Labor announced its policy for a mandatory code to be established to mandate access for independent repairers to service and repair information,
 - (iii) in February 2019, the Federal Government released a consultation paper which indicated it would implement a mandatory code in 2019,
 - (iv) the Government is still yet to release a draft mandatory code for public consultation,
 - (v) the Australian Competition and Consumer Commission (ACCC) has already confirmed that the Government's inaction on data-sharing among mechanics is costing Australian drivers over one billion dollars each year, and
 - (vi) the Government's inaction is hurting the 30,000 local repairers who have been patiently waiting for the proposed mandatory code to be implemented; and
- (b) calls on the Government to implement a mandatory code by the end of 2020.

Statement by leave: The Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, made a statement relating to the motion.

Question put and passed.

15 **Nuclear weapons**

Motion determined as not formal: Senator Urquhart, at the request of Senator Ayres, requested that general business notice of motion no. 751 standing in the name of Senator Ayres for today, relating to nuclear weapons, be taken as formal. An objection was raised and the motion was not proceeded with as a formal motion.

16 **Australia's Family Law System—Joint Select Committee—Extension of time to report**

Senator Dean Smith, at the request of Senator O'Sullivan and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 756—That—

- (a) the time for the presentation of the final report of the Joint Select Committee on Australia's Family Law System be extended to the last sitting day in February 2021; and
- (b) a message be forwarded to the House of Representatives seeking the concurrence of the House in this variation to the resolution of appointment of the committee.

Statement by leave: The Leader of the Australian Greens in the Senate (Senator Waters), by leave, made a statement relating to the motion.

Question put and passed.

17 **MV *Al Kuwait*—Order for production of documents**

Senator Faruqi amended general business notice of motion no. 758 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That there be laid on the table, by the Minister representing the Minister for Agriculture, Drought and Emergency Management, by no later than 10 am on Thursday, 3 September 2020, the following documents:

- (a) documents relating to the MV *Al Kuwait* voyage which departed Fremantle in June 2020, including:
 - (i) all daily voyage reports,
 - (ii) the end of voyage report, and
 - (iii) the Master's report; and
- (b) all records of meetings and correspondence to and within the Department of Agriculture, Water and the Environment regarding the exemption decisions made on 2 June 2020 and 13 June 2020 by the Department relating to the MV *Al Kuwait* voyage.

Statement by leave: The Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, made a statement relating to the motion.

Question put and passed.

18 Equal Pay Day

Senator Siewert, at the request of the Leader of the Australian Greens in the Senate (Senator Waters) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 759—That the Senate—

- (a) notes that:
 - (i) this year, 28 August marked Equal Pay Day, reflecting that, on average, women need to work an additional 59 days to earn the same as male counterparts, and
 - (ii) according to the Workplace Gender Equality Agency (WGEA):
 - (A) Australia's national gender pay gap is 14%,
 - (B) full-time average weekly earnings for women are \$253.60 less than for men,
 - (C) gender pay gaps favour men across all industries and all levels of the workforce – highest in financial services, real estate and construction,
 - (D) median undergraduate starting salaries are 4.9% lower for women, and
 - (E) median superannuation balances at retirement are 21.6% lower for women; and
- (b) calls on the Government to:
 - (i) increase funding for WGEA and expand its coverage to the public sector,
 - (ii) require all large employers to report their gender pay gap, and strengthen WGEA's powers to act against non-compliant employers,
 - (iii) ban pay gag clauses in employment contracts,
 - (iv) make gender pay equality an objective of awards and the *Fair Work Act 2009*,
 - (v) make early childhood education free,
 - (vi) require superannuation contributions to continue during paid parental leave,
 - (vii) facilitate gender-neutral parental leave and flexible work schemes, and
 - (viii) close the gender retirement income gap.

Statements by leave: The Assistant Minister for Forestry and Fisheries (Senator Duniam) and Senator Gallagher, by leave, made statements relating to the motion.

Question put and negatived.

19 Mining industry—Labour hire

Senator Urquhart, at the request of Senators Watt, Chisholm and Green and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 757—That the Senate—

- (a) notes that:
 - (i) casualisation and labour hire in the mining industry have exploded under the Coalition Government,

- (ii) thousands of miners are now employed for years as ‘permanent casuals’, with no job security, leave or other benefits of permanent miners, and
- (iii) the Morrison Government has joined a High Court appeal which seeks to keep those miners as ‘permanent casuals’; and
- (b) calls on the Government to withdraw from the High Court case, so that ‘permanent casual’ miners can receive the pay and conditions of permanent miners.

Statement by leave: The Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, made a statement relating to the motion.

Question put and passed.

20 Discussion of matter of public importance—COVID-19—Aged care

The Deputy President (Senator Lines) informed the Senate that the following matter of public importance submitted by Senator Chisholm under standing order 75 had been selected for discussion today:

The decision by the Minister for Aged Care and Senior Australians (Senator Colbeck) to turn his back on his accountability and responsibility to this Parliament; on the families, children, grandchildren, siblings and friends of each and every one of the older Australians who has died in aged care as a result of COVID-19; and on the 200,000 Australians in aged care and those who put themselves at risk every day to care for them.

The proposal was supported by four senators and the matter was discussed.

21 Documents—Consideration

Documents tabled earlier today (*see entry no. 2*) were considered as follows:

Motion to take note of document no. 1 moved by Senator McCarthy. Consideration to resume on Thursday.

Motion to take note of document no. 8 moved by Senator McKim. Consideration to resume on Thursday.

22 Treasury Laws Amendment (More Flexible Superannuation) Bill 2020

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 239, dated 31 August 2020—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Assistant Minister for Finance, Charities and Electoral Matters (Senator Seselja) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Seselja moved—That this bill be now read a second time.

On the motion of Senator Seselja the debate was adjourned till the next day of sitting.

23 Committee membership

A message from the House of Representatives was reported informing the Senate of changes in the membership of the Joint Committee of Public Accounts and Audit, as follows:

Message no. 240, dated 31 August 2020—Dr Leigh and Mr Joyce in place of Ms Payne and Mr Zimmerman.

24 Industry Research and Development (Bankable Feasibility Study on High-Efficiency Low-Emissions Coal Plant in Collinsville Program) Instrument 2020—Proposed disallowance

Order of the day read for the adjourned debate on the motion of Senator McAllister—That the Industry Research and Development (Bankable Feasibility Study on High-Efficiency Low-Emissions Coal Plant in Collinsville Program) Instrument 2020, made under the *Industry Research and Development Act 1986*, be disallowed [F2020L00772].

Debate resumed.

Question put.

The Senate divided—

AYES, 24

Senators—

Ayres	Gallagher	McAllister	Pratt
Bilyk	Green	McCarthy	Sheldon
Carr	Griff	McKim	Siewert
Chisholm	Hanson-Young	O'Neill	Urquhart*
Farrell	Keneally	Patrick	Walsh
Faruqi	Lines	Polley	Watt

NOES, 25

Senators—

Antic	Fawcett	McMahon	Ryan
Askew	Henderson	Molan	Scarr
Bragg	Hughes	O'Sullivan	Seselja
Brockman*	McGrath	Payne	Smith, Dean
Cash	McKenzie	Rennick	Stoker
Colbeck	McLachlan	Reynolds	Van
Duniam			

* Tellers

Question negatived.

25 Coronavirus Economic Response Package (Jobkeeper Payments) Amendment Bill 2020

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Forestry and Fisheries (Senator Duniam)—That this bill be now read a second time.

Debate resumed.

Senator Gallagher moved the following amendment:

At the end of the motion, add: “, but the Senate:

- (a) notes that:
 - (i) this legislation gives the Treasurer extraordinary powers to set the rate and eligibility arrangements for the Jobkeeper Payment; and
 - (ii) millions of workers and struggling businesses continue to be excluded from the Jobkeeper Payment; and
- (b) calls on:
 - (i) the Treasurer to use his power under this legislation to ensure the Jobkeeper rate is tailored to conditions in the economy, including rising unemployment; and
 - (ii) the Government to permanently increase the base rate of Jobseeker payment, to help people keep out of poverty and enable them to get back to work”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 21

Senators—

Ayres	Gallagher	McCarthy	Sheldon
Bilyk	Green	McKim	Siewert
Carr	Hanson-Young	Patrick	Urquhart*
Chisholm	Keneally	Polley	Walsh
Farrell	Lines	Pratt	Wong
Faruqi			

NOES, 25

Senators—

Antic	Duniam	McKenzie	Reynolds
Birmingham	Griff	Molan	Ruston
Bragg	Henderson	O’Sullivan	Ryan
Cash	Hume	Paterson	Seselja
Chandler	Lambie	Payne	Smith, Dean*
Colbeck	McGrath	Rennick	Stoker
Cormann			

* Tellers

Question negatived.

Senator Siewert moved the following amendment:

At the end of the motion, add “, but the Senate calls on the Government to:

- (a) end its plans to reduce the coronavirus supplement by \$300 a fortnight which will cause millions of Australians to fall below the poverty line;
- (b) continue to provide the current \$550 coronavirus supplement throughout the pandemic to ensure unemployed Australians receive adequate support;
- (c) commit to a permanent and adequate increase to Jobseeker Payment that allows unemployed Australians to live above the poverty line”.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 4

Senators—
Faruqi

Hanson-Young

McKim

Siewert*

NOES, 29

Senators—

Antic
Birmingham
Bragg
Carr
Cash
Chandler
Cormann
Duniam

Farrell
Gallagher
Griff
Hughes
Hume
Lambie
McCarthy

McGrath
O'Sullivan
Paterson
Patrick
Payne
Polley
Rennick

Reynolds
Ruston
Ryan
Seselja
Smith, Dean
Stoker
Urquhart*

* Tellers

Question negatived.

Main question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Question—That the bill stand as printed—divided at the request of Senator Farrell in respect of items 2 to 8, 10 to 22, 25 to 27, 29, 30, 30A, 33, 34 and 36 to 38 of Schedule 2.

Items debated.

Question—That items 2 to 8, 10 to 22, 25 to 27, 29, 30, 30A, 33, 34 and 36 to 38 of Schedule 2 stand as printed—put.

The committee divided—

AYES, 26

Senators—

Birmingham
Canavan
Cash
Colbeck
Cormann
Duniam
Fawcett

Griff
Hughes
Hume
McGrath*
McKenzie
McLachlan
McMahon

Molan
O'Sullivan
Paterson
Payne
Rennick
Reynolds

Ruston
Ryan
Scarr
Seselja
Smith, Dean
Stoker

NOES, 24

Senators—

Ayres	Gallagher	McCarthy*	Sheldon
Bilyk	Hanson-Young	McKim	Siewert
Carr	Keneally	O'Neill	Urquhart
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong

* Tellers

Items agreed to.

Senator Farrell moved the following amendments together by leave:

Schedule 2, item 9, page 8 (line 20), omit “5A,”.

Schedule 2, item 47, page 31 (lines 4 and 5), omit the item, substitute:

47 Item 9 of Schedule 1

Omit “5,”.

Schedule 2, items 49 and 50, page 31 (lines 8 to 11), omit the items, substitute:

49 Item 10 of Schedule 1

Omit “5”.

50 Item 10 of Schedule 1

Omit “789GJ(2)”.

Schedule 2, item 51, page 31 (line 18), omit “or 789GJD(2)”.

Question—That the amendments be agreed to—put and negatived.

Senator Farrell moved the following amendment:

Schedule 2, item 22, page 13 (after line 17), after paragraph 789GJA(1)(c), insert:

- (ca) the jobkeeper enabling stand down direction will not result in the amount payable to the employee in relation to the performance of work for the employer for a jobkeeper fortnight that is within the jobkeeper enabling stand down period that is less than the amount that would be payable to the employee if the employer were entitled to a jobkeeper payment for the employee for the fortnight; and

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 25

Senators—

Ayres	Green	McCarthy	Sheldon
Bilyk	Hanson-Young	McKim	Siewert
Carr	Keneally	O'Neill	Urquhart*
Chisholm	Lambie	Patrick	Walsh
Farrell	Lines	Polley	Watt
Faruqi	McAllister	Pratt	Wong
Gallagher			

NOES, 27

Senators—

Birmingham	Duniam	McMahon	Ruston
Bragg	Fawcett	Molan	Ryan
Canavan	Griff	O'Sullivan	Scarr
Cash	Hughes	Paterson	Seselja
Colbeck	Hume	Payne	Smith, Dean
Cormann	McGrath	Rennick	Stoker
Davey*	McKenzie	Reynolds	

* Tellers

Question negatived.

Senator Faruqi moved the following amendments together by leave:

Clause 2, page 2 (at the end of the table), add:

9. Schedule 4 The day after this Act receives the Royal Assent.

Page 33 (after line 21), at the end of the bill, add:

Schedule 4—Fair Work Commission powers to deal with jobkeeper-related disputes

Fair Work Act 2009

1 Section 789GA (paragraph beginning “This Part provides that the FWC may deal”)

Repeal the paragraph, substitute:

This Part provides that the FWC may deal with a dispute about the operation of this Part, a dispute about whether a person who is a relevant employee of an entity should be treated as if they were an eligible employee of an entity and the entity entitled to a jobkeeper payment for the purposes of the jobkeeper payment rules, and other disputes arising between entities and employees in relation to eligibility and payments under those rules.

2 Section 789GC

Insert:

eligible employee has the same meaning as in the jobkeeper payment rules.

relevant employee has the same meaning as in the jobkeeper payment rules.

3 After section 789GV

Insert:

789GVA FWC may deal with a dispute about eligible employees or related matters under the jobkeeper payment rules

- (1) The FWC may deal with a dispute about:
 - (a) whether a person who is a relevant employee of an entity should be treated as if they were an eligible employee of the entity for the purposes of the jobkeeper payment rules; or
 - (b) other matters arising between an entity and a relevant employee or eligible employee in relation to eligibility or payments under the jobkeeper payment rules.
- (2) The FWC may deal with a dispute by arbitration.

Note: The FWC may also deal with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion (see subsection 595(2)).

- (3) The FWC may deal with a dispute only on application by any of the following:
 - (a) an employee;
 - (b) an employer;
 - (c) an employee organisation;
 - (d) an employer organisation.
- (4) The FWC may make any order the FWC considers appropriate in relation to a dispute, including any of the following:
 - (a) an order that a relevant employee is an eligible employee;
 - (b) an order that a relevant employee has met any requirement of the jobkeeper payment rules;
 - (c) an order that the entity employing a relevant employee has met any requirement of the jobkeeper payment rules;
 - (d) an order that the entity employing a relevant employee is entitled to a jobkeeper payment for that relevant employee or one or more other relevant employees.
- (5) The FWC must not make an order under this section on or after 29 March 2021.
- (6) In dealing with a dispute referred to in paragraph (1)(a), the FWC must, to the extent possible, give effect to the “one in, all in” principle.

Note: If an entity elects to participate in the jobkeeper scheme in relation to one relevant employee, it must participate in relation to all relevant employees: see section 10A of the jobkeeper payment rules.

4 Section 789GW (heading)

Omit “dealing with a dispute about the operation of this Part”.

5 Section 789GW

Omit “dealing with a dispute about the operation of this Part”, substitute “made under this Part”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 24

Senators—

Ayres	Gallagher	Lines	Pratt
Bilyk	Green	McAllister	Sheldon
Carr	Griff	McKim	Siewert
Chisholm	Hanson-Young	O'Neill	Urquhart*
Farrell	Keneally	Patrick	Walsh
Faruqi	Lambie	Polley	Watt

NOES, 24

Senators—

Birmingham	Davey*	McLachlan	Ryan
Bragg	Duniam	O'Sullivan	Scarr
Canavan	Fawcett	Paterson	Seselja
Cash	Hughes	Payne	Smith, Dean
Colbeck	McGrath	Reynolds	Stoker
Cormann	McKenzie	Ruston	Van

* Tellers

The ayes and noes were equal and so the question was negatived.

After 9.50 pm: The committee reported progress.

26 **Adjournment**

The Deputy President (Senator Lines) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.30 pm till Tuesday, 1 September 2020 at midday.

27 **Attendance**

Present, all senators except Senators Abetz*, Brown*, Ciccone*, Dodson*, Gallacher*, Hanson*, Kitching*, McDonald*, Rice*, Roberts*, Marielle Smith*, Steele-John*, Sterle*, Waters* and Whish-Wilson* (*on leave).

RICHARD PYE
Clerk of the Senate