2019

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 7

THURSDAY, 25 JULY 2019

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1 Meeting of Senate
The Senate met at 9.30 am. The President (Senator the Honourable Scott Ryan) took the chair, read prayers and made an acknowledgement of country.

2 Document
The Clerk tabled the following document 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.]


3 Committees—Leave to meet during sittings
Committees were authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:

Australian Government’s Northern Australia agenda—Select Committee, today, from 9.30 am.
Economics Legislation and References Committees, today, from 3.30 pm.
Environment and Communications References Committee, today, from 1 pm.
Migration—Joint Standing Committee, on Wednesday, 31 July 2019, from 10 am.

4 Counter-Terrorism (Temporary Exclusion Orders) Bill 2019 and related bill—Proposed consideration
Leave refused: Senator Patrick sought leave to move a motion relating to consideration of the Counter-Terrorism (Temporary Exclusion Orders) Bill 2019 and a related bill. An objection was raised and leave was not granted.

Proposed suspension of standing orders: Senator Patrick, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of business, namely a motion relating consideration of the Counter-Terrorism (Temporary Exclusion Orders) Bill 2019 and a related bill.

Debate ensued.
Question put.
The Senate divided—

AYES, 36

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

5 **Counter-Terrorism (Temporary Exclusion Orders) Bill 2019**

Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Finance, Charities and Electoral Matters (Senator Seselja)—That these bills be now read a second time.

Debate resumed.

Proposed reference to committee: Senator Patrick moved the following amendment:

At the end of the motion, add “and:

(a) the bills and any circulated amendments be referred to the Parliamentary Joint Committee on Intelligence and Security for inquiry and report by 11 September 2019; and

(b) further consideration of the bills be made an order of the day for the first sitting day after the committee has reported”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

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<td>Faruqi</td>
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NOES, 36

Senators—
Abetz
Antic
Askew
Bernardi
Birmingham
Bragg
Brockman*
Canavan
Chandler
Colbeck

Cormack
Davey
Duniam
Fawcett
Ferravanti-Wells
Fifield
Hanson
Hughes

Hume
Lambie
McDonald
McKenzie
McMahon
O’Sullivan
Paterson
Rennick

Reynolds
Roberts
Ruston
Ryan
Scarr
Smith, Dean
Stoker
Van

* Tellers

Question negatived.

Main question put.

The Senate divided—

AYES, 59

Senators—
Abetz
Antic
Askew
Ayres
Bernardi
Bilyk
Birmingham
Bragg
Brockman
Canavan
Carr
Chandler
Chisholm
Ciccone
Colbeck

Cormann
Dodson
Duniam
Fawcett
Ferravanti-Wells
Fifield
Gallacher
Gallagher
Green
Hanson
Hughes
Hume
Keneally
Kitching

Cormann
Dodson
Duniam
Fawcett
Ferravanti-Wells
Fifield
Gallacher
Gallagher
Green
Hanson
Hughes
Hume
Keneally
Kitching

Lambie
McAllister
McCarthy
McDonald
McGrath
McKenzie
McMahon
O’Neill
Paterson
Paterson
Rennick
Reynolds
Roberts
Ryan
Scarr
Seselja
Sheldon
Sinosidinos
Smith, Dean*
Smith, Marielle
Stoker
Stekell
Van
Walsh

* Tellers

Question agreed to.

Bills read a second time.

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

In the committee

Bills, taken together and as a whole by leave, debated.

At 11.45 am: The President resumed the chair and the Chair of Committees (Senator Lines) reported progress.
6 Notices

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

(a) notes:

(i) the Federal Budget 2019 allocated $10 million to “Specialised Family Violence Services”, including individual or couples counselling and dispute resolution services, as part of the funding package for domestic violence;

(ii) in April 2019, the Department of Social Services, announced a targeted grants program for the delivery of specialised family violence services under the Families and Communities Program;

(iii) women’s safety organisations have consistently raised concerns that couples counselling in family violence situations can put women and children in danger, and urged that all counselling services be delivered by experienced specialist practitioners;

(iv) many of the organisations listed as eligible to apply for the specialised family violence services grants were faith-based family relationship services, rather than specialist domestic and family violence services;

(v) the initial grant guidelines for the specialised family violence services did not require applicants to demonstrate that they would meet the National Outcome Standards for Perpetrator Interventions;

(vi) while updated grant guidelines encouraged applicants to partner with specialist sector organisations and to demonstrate expertise in family and domestic violence and compliance with relevant standards, the guidelines did not exclude applicants that did not have this expertise;

(vii) significant additional funding for frontline domestic and family violence support services is essential to achieve the objectives of the National Plan to Reduce Violence Against Women and their Children; and

(b) calls on the Federal Government to:

(i) ensure that survivors of violence are not forced to undergo counselling with perpetrators;

(ii) ensure that all government funded counselling services for family violence are delivered by expert family violence service providers in accordance with the National Outcome Standards for Perpetrator Interventions;

(iii) adequately fund frontline domestic violence and crisis housing services to ensure that all women seeking safety can access these services when and where they need them; and

(iv) adequately fund the provision of safe and specific family violence support services for Aboriginal, culturally and linguistically diverse, and LGBTIQ communities. (general business notice of motion no.57)
Senator Faruqi: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) the issue of per- and poly-fluoroalkyl substances (PFAS) contamination has caused significant mental, emotional and financial stress for communities where PFAS have contaminated land and water, including the communities around the RAAF base in Williamtown in New South Wales, the Oakey Army Aviation Centre in Queensland, and RAAF Base Tindal at Katherine in the Northern Territory,

(ii) it has been more than 7 months since the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled its report into the management of PFAS contamination in and around Defence bases, and the Federal Government has still not issued its response, and

(iii) communities are waiting anxiously on the Government’s response to the key recommendations of the Committee, such as, that the Federal Government appoint a Coordinator-General to coordinate the national response to the PFAS contamination issue, undertake measures to improve participation in the voluntary blood testing program for PFAS, and assist property owners and businesses in affected areas for demonstrated, quantifiable financial losses associated with PFAS contamination, including the possibility of buybacks; and

(b) calls on the Federal Government to release its response to the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade report, into management of PFAS contamination in and around Defence bases. (general business notice of motion no. 58)

Senator Whish-Wilson: To move on 31 July 2019—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 11 November 2019:

The impact of seismic testing on fisheries and the marine environment, with particular reference to:

(a) recent scientific findings;
(b) the regulation of seismic testing in both Commonwealth and state waters;
(c) the approach taken to seismic testing internationally; and
(d) any other related matters.

The Chair of the Legal and Constitutional Affairs References Committee (Senator Carr) and Senator Stoker: To move on the next day of sitting—That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by the last sitting day in May 2020:

Nationhood, national identity and democracy, with particular reference to:

(a) the changing notions of nationhood, citizenship and modern notions of the nation state in the twenty first century;
(b) rights and obligations of citizenship, including naturalisation and revocation, and the responsibility of the state to its citizens in both national and international law;
(c) social cohesion and cultural identity in the nation state;
(d) the role that globalisation and economic interdependence and economic development plays in forming or disrupting traditional notions of national identity;
(e) contemporary notions of cultural identity, multiculturalism and regionalism;
(f) the extent to which nation states balance domestic imperatives and sovereignty and international obligations;
(g) comparison between Australian public debate and policy and international trends; and
(h) any other related matters.

The Leader of the Opposition in the Senate (Senator Wong): To move on the next day of sitting—that the following matters be referred to the Environment and Communications References Committee for inquiry and report by 10 October 2019:

(a) whether a compliance investigation by the Department of the Environment and Energy in relation to the Natural Temperate Grassland of the South Eastern Highlands ecological community has been adversely affected by the actions of the Member for Hume, Mr Taylor, the former Minister for the Environment and Energy, Mr Frydenberg, or any other persons;
(b) whether the conduct of Mr Taylor and Mr Frydenberg, in relation to the compliance investigation, represents a proper and disinterested exercise of their responsibilities under the laws of the Commonwealth and the Statement of Ministerial Standards; and
(c) any related matters.

Senator Waters: To move on the next day of sitting—that there be laid on the table by the Minister representing the Prime Minister and Leader of the Government in the Senate, by 31 July 2019, the following documents:

(a) any ‘constituent’ correspondence or other document sent to the Member for Hume, Mr Taylor, requesting action in relation to the listing of Natural Temperate Grassland of the South Eastern Highlands ecological community, as referred to by Senator Patrick in the Senate on 25 July 2019; and
(b) any correspondence between the Federal Government and Senator Patrick in relation to any proposed inquiry into the actions of Mr Taylor and Mr Frydenberg. (General business notice of motion no. 59)

Notice of motion withdrawn

Senator Urquhart, at the request of Senator Dodson, withdrew business of the Senate notice of motion no. 3 standing in Senator Dodson’s name for today, proposing a reference to the Economics References Committee.

7 Selection of Bills—Standing Committee—Report no. 3 of 2019

The Chair of the Selection of Bills Committee (Senator Dean Smith) tabled the following report:

SELECTION OF BILLS COMMITTEE
REPORT NO. 3 OF 2019

1. The committee met in private session on Wednesday, 24 July 2019 at 7.17 pm.

2. The committee recommends that—
   (a) the Australian Institute of Health and Welfare Amendment (Assisted Reproductive Treatment Statistics) Bill 2019 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 11 November 2019; and
(b) the provisions of the Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019 be referred immediately to the Economics Legislation Committee for inquiry and report by 5 September 2019.

3. The committee recommends that the following bills not be referred to committees:
   - Agriculture Legislation Repeal Bill 2019
   - Aged Care Amendment (Movement of Provisionally Allocated Places) Bill 2019
   - Australian Cannabis Agency Bill 2018
   - Australian Veterans’ Recognition (Putting Veterans and Their Families First) Bill 2019
   - Broadcasting Services Amendment (Audio Description) Bill 2019
   - Farm Household Support Amendment Bill 2019
   - Health Insurance Amendment (Bonded Medical Programs Reform) Bill 2019
   - National Health Amendment (Pharmaceutical Benefits) Bill 2019
   - Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019
   - Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019
   - Treasury Laws Amendment (2018 Measures No. 2) Bill 2019
   - Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019
   - Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2019

4. The committee deferred consideration of the following bills to its next meeting:
   - Air Services Amendment Bill 2018
   - Combatting Child Sexual Exploitation Legislation Amendment Bill 2019
   - Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019
   - Constitution Alteration (Water Resources) 2019
   - Discrimination Free Schools Bill 2018
   - Galilee Basin (Coal Prohibition) Bill 2018
   - Great Australian Bight Environment Protection Bill 2019
   - Human Rights (Parliamentary Scrutiny) Amendment (Australian Freedoms) Bill 2019
   - Human Services Amendment (Photographic Identification and Fraud Prevention) Bill 2019
   - Intellectual Property Laws Amendment (Productivity Commission Response Part 2 and Other Measures) Bill 2019
   - Landholders’ Right to Refuse (Gas and Coal) Bill 2015
   - Military Rehabilitation and Compensation Amendment (Single Treatment Pathway) Bill 2019
   - National Disability Insurance Scheme Amendment (Streamlined Governance) Bill 2019
   - National Integrity Commission Bill 2018 (No. 2)
   - National Sports Tribunal Bill 2019
National Sports Tribunal (Consequential Amendments and Transitional Provisions) Bill 2019
Nuclear Fuel Cycle (Facilitation) Bill 2017
Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Amendments) Bill 2019
Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment Bill 2019
Plebiscite (Future Migration Level) Bill 2018
Regional Forest Agreements Legislation (Repeal) Bill 2017
Royal Commissions Amendment (Private Sessions) Bill 2019
Social Security (Administration) Amendment (Cashless Welfare) Bill 2019
Social Services Legislation Amendment (Ending the Poverty Trap) Bill 2018
Social Services Legislation Amendment (Overseas Welfare Recipients Integrity Program) Bill 2019
Telecommunications Legislation Amendment (Unsolicited Communications) Bill 2019
Tertiary Education Quality and Standards Agency Amendment Bill 2019
Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2019
Treasury Laws Amendment (Consumer Data Right) Bill 2019.

5. The committee considered the following bills but was unable to reach agreement:
Australian Security Intelligence Organisation Amendment (Sunsetting of Special Powers Relating to Terrorism Offences) Bill 2019
Counter-Terrorism (Temporary Exclusion Orders) Bill 2019
Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019
Crimes Legislation Amendment (Police Powers at Airports) Bill 2019
Migration Amendment (Streamlining Visa Processing) Bill 2019

Dean Smith
Chair
25 July 2019.

Senator Dean Smith moved—that the report be adopted.
The Assistant Minister for Forestry and Fisheries (Senator Duniam) moved the following amendment:

At the end of the motion, add “and the following bills not be referred to committees:
Australian Security Intelligence Organisation Amendment (Sunsetting of Special Powers Relating to Terrorism Offences) Bill 2019
Counter-Terrorism (Temporary Exclusion Orders) Bill 2019
Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019
Crimes Legislation Amendment (Police Powers at Airports) Bill 2019
Migration Amendment (Streamlining Visa Processing) Bill 2019”.

Debate ensued.

Question—that the amendment be agreed to—put
The Senate divided—

**AYES, 49**

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<td>Patrick</td>
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*Tellers*

Question agreed to.

On the motion of Senator Gallagher the following amendment was agreed to:

At the end of the motion, add “but in respect of the National Disability Insurance Scheme Amendment (Streamlined Governance) Bill 2019, contingent upon introduction in the Senate, the bill be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 6 September 2019”.

Main question, as amended, put and passed.

8 **Temporary chairs of committees**

The President tabled a warrant, dated 25 July 2019, nominating Senator Bilyk as an additional temporary chair of committees.

9 **Private senators’ bills—Consideration**

The Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, moved—That the following general business orders of the day be considered on Monday, 29 July 2019 at the time for private senators’ bills:

- **No. 4** Ministers of State (Checks for Security Purposes) Bill 2019, which may be proceeded with (second reading speeches only) before the Finance and Public Administration Legislation Committee reports.
- **No. 26** Plebiscite (Future Migration Level) Bill 2018
- **No. 25** Human Services Amendment (Photographic Identification and Fraud Prevention) Bill 2019.

Question put and passed.

10 **Postponements**

Business was postponed as follows:

General business notice of motion no. 51 standing in the name of Senator Hanson-Young for today, relating to nuclear power, postponed till 29 July 2019.
The Clerk informed the Senate that the Leader of the Opposition in the Senate (Senator Wong) had lodged a postponement notification in respect of business of the Senate notice of motion no. 2 standing in her name for today, proposing a reference to the Environment and Communications References Committee.

Pursuant to standing order 67, the Minister for Finance (Senator Cormann) requested that the question for the postponement be put.

Statements by leave: Senators Wong, Waters, Patrick and Keneally made statements relating to the matter.

Question—That business of the Senate notice of motion no. 2 be postponed till 29 July 2019—put.

The Senate divided—

AYES, 31

Senators—

Ayres
Bilyk
Brown
Chisholm
Ciccone
Di Natale
Faruqi
Gallacher
Gallagher
Green
Hanson-Young
Keneally
Kitching
Lambie
Lines
McAllister
McCarthy
McKim
O’Neill
Pratt
Pierce
Whish-Wilson
Steele-John
Urquhart
Walsh
Waters
Watt

NOES, 35

Senators—

Abetz
Antic
Askew
Bernardi
Birmingham
Canavan
Chandler
Colbeck
Cormann
Davey
Duniam
Fawcett
Fierravanti-Wells
Fifield
Griff
Hanson
Hughes
Hume
McDonald
McGrath
McKenzie
McMahon
O’Sullivan
Paterno
Patrick
Rennick
Reynolds
Roberts
Ruston
Ryan
Seselja
Sinodinos
Smith, Dean*
Stoker

* Tellers

Question negatived.

11 Order of business—Rearrangement

The Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, moved—That the order of general business for consideration today be as follows:

(a) a motion to be moved by the Opposition relating to the economy; and
(b) orders of the day relating to documents.

Question put and passed.

12 Human rights in China

Motion determined as not formal: The Leader of the Australian Greens (Senator Di Natale) requested that general business notice of motion no.50 standing in his name for today, relating to human rights in China, be taken as formal. An objection was raised and the motion was not proceeded with as a formal motion.
Statements by leave: Senator Di Natale, the Leader of the Opposition in the Senate (Senator Wong) and the Assistant Minister for Forestry and Fisheries (Senator Duniam), by leave, made statements relating to the motion.

13 Community Affairs References Committee—Reference

Senator Siewert, also on behalf of Senator Dodson, amended business of the Senate notice of motion no. 1 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matter be referred to the Community Affairs References Committee for inquiry and report by 27 March 2020:

The adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia, with specific reference to:

(a) consideration of what constitutes an acceptable standard of living in Australia, including the cost of safe and secure housing;
(b) the labour market, unemployment and under-employment in Australia, including the structural causes of long term unemployment and long term reliance on Newstart;
(c) the changing nature of work and insecure work in Australia;
(d) the appropriateness of current arrangements for supporting those experiencing insecure employment, inconsistent employment and precarious hours in the workforce;
(e) the current approach to setting income support payments in Australia;
(f) the impact of the current approach to setting income support payments on older unemployed workers, families, single parents, people with disability, jobseekers, students, First Nations peoples, people from culturally and linguistically diverse backgrounds, people living in regional and remote areas, and any others affected by the process;
(g) the impact of geography, age and other characteristics on the number of people receiving payments, long term unemployment and poverty;
(h) the adequacy of income support payments in Australia and whether they allow people to maintain an acceptable standard of living in line with community expectations and fulfil job search activities (where relevant) and secure employment and training;
(i) the economic cost of long-term unemployment, underemployment, poverty, inequality and inadequate income support payments;
(j) the economic benefits – including job creation, locally and nationally – of increasing and improving income support payments and supports, and decreasing poverty and inequality;
(k) the relationship between income support payment levels, minimum wages and wage stagnation in Australia and other comparable economies;
(l) the interactions with other payments and services, including the loss of any increased payments through higher rents and costs;
(m) the cost and fiscal sustainability of any changes;
(n) the relative merits of alternative investments in health, education, housing and other programs to improve outcomes;
(o) other countries’ approaches to setting income support payments, minimum wages and awards;
(p) other bodies that set payments, minimum wages and awards in Australia;
(q) the role of independent and expert decision-making in setting payments; and
(r) any other related matters.

Question put.

The Senate divided—

AYES, 35

Senators—

Ayres  Gallagher  McAllister  Siewert
Bilyk    Green     McCarthy Smith, Marielle
Brown   Griff      McKim     Steele-John
Chisholm Hanson    O’Neill    Urquhart*
Ciccone Hanson-Young Patrick  Walsh
Di Natale Keneally  Pratt     Waters
Dodson  Kitching  Rice      Watt
Faruqi  Lambie    Roberts    Whish-Wilson
Gallacher Lines     Sheldon

NOES, 31

Senators—

Abetz  Colbeck   McDonald  Ruston
Antic  Davey    McGrath   Ryan
Askew  Duniam   McKenzie  Seselja
Bernardi Fawcett McMahon  Sinodinos
Bragg  Fierravanti-Wells O’Sullivan Smith, Dean*
Brockman Fifield  Paterson  Stoker
Canavan Hughes  Rennick  Van
Chandler Hume    Reynolds

* Tellers

Question agreed to.

14 Intellectual Property Laws Amendment (Productivity Commission Response Part 2 and Other Measures) Bill 2019
Tertiary Education Quality and Standards Agency Amendment Bill 2019
National Disability Insurance Scheme Amendment (Streamlined Governance) Bill 2019

The Assistant Minister for Forestry and Fisheries (Senator Duniam), at the request of the Minister for Resources and Northern Australia (Senator Canavan), the Minister for Trade, Tourism and Investment (Senator Birmingham) and the Minister for Families and Social Services (Senator Ruston) and pursuant to notices of motion not objected to as formal motions, moved government business notices of motion nos 1 to 3—That the following bills be introduced:

A Bill for an Act to amend legislation relating to intellectual property, and for related purposes.
A Bill for an Act to amend the Tertiary Education Quality and Standards Agency Act 2011, and for related purposes.
A Bill for an Act to amend the National Disability Insurance Scheme Act 2013, and for related purposes.

Question put and passed.

Senator Duniam presented the bills and moved—That these bills may proceed without formalities, may be taken together, and now be read a first time.
Question put and passed.
Bills read a first time.
Senator Duniam moved—That these bills now be read a second time.


Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the next day of sittings which is more than 14 days after the bills were first introduced, 9 September 2019.
Senator Duniam moved—That these bills be listed on the Notice Paper as separate orders of the day.
Question put and passed.

15 Great Australian Bight Environment Protection Bill 2019
Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 31—That the following bill be introduced:

A Bill for an Act to protect the Great Australian Bight, and for related purposes.
Question put and passed.
Senator Hanson-Young presented the bill and 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 Hanson-Young moved—That this bill be now read a second time.

Explanatory memorandum: Senator Hanson-Young, by leave, tabled an explanatory memorandum relating to the bill.

Debate adjourned till the next day of sitting, Senator Hanson-Young in continuation.

16 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
Senator Steele-John, also on behalf of Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 52—

(1) That the Senate—

(a) notes:

(i) that Mr John Ryan AM, and Ms Barbara Bennett PSM, are recognised for their long and distinguished public service careers,
(ii) that however, as key decision makers of public service institutions which will be the subject of investigation and examination during the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, they have significant and unmanageable conflicts of interest which are highly likely to jeopardise the integrity of the Royal Commission,
(iii) that over 60 disability organisations have called for the resignation and removal of these two individuals as commissioners for the Royal Commission,
(iv) that these organisations have created a set of six criteria to guide the Government in the appointment of replacement commissioners,

(v) the 1500 individuals who have signed a petition calling for both Mr Ryan and Ms Bennett to step down – many individuals and advocates from the disability community, including former People with Disability Australia President, Mr Craig Wallace, have said they will not give evidence to the Royal Commission should these individuals remain, and

(vi) that it is essential that disabled people, their families, and their organisations have confidence in the processes and recommendations of the Royal Commission; and

(b) calls on the Federal Government to immediately remove Mr Ryan and Ms Bennett as commissioners, and replace them with individuals who meet the positive criteria set out by the disability community.

(2) That a message be sent to the House of Representatives seeking its concurrence in this resolution.

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

Question put.

The Senate divided—

AYES, 34

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NOES, 30

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* Tellers

Question agreed to.
Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

Consideration resumed of the bills.

Senator Keneally moved the following amendments together by leave:

**Counter-Terrorism (Temporary Exclusion Orders) Bill 2019**

Clause 3, page 2 (lines 14 to 17), omit the paragraph beginning “The Minister may make”, substitute:

An issuing authority, on application by the Minister, may make an order (called a temporary exclusion order) that prevents a person from entering Australia for a specified period, which may be up to 2 years. An order cannot be made unless certain criteria are met, and it can be revoked.

Clause 3, page 2 (lines 18 to 22), omit the paragraph beginning “The Minister must refer”.

Clause 3, page 3 (lines 6 and 7), omit “and is satisfied of specified matters”, substitute “is satisfied of specified matters and an issuing authority has approved the conditions”.

Clause 4, page 3 (after line 19), after the definition of *Australian travel document*, insert:

    *interim temporary exclusion order* means an order made under subsection 12A(1).

    *issuing authority* means a person appointed under section 23.

Clause 4, page 3 (line 23), omit the definition of *reviewing authority*.

Clause 4, page 3 (line 25), omit “subsection 10(1)”, substitute “subsection 10(2)”.  

Clause 8, page 5 (line 6), before “A person”, insert “(1)”.  

Clause 8, page 5 (after line 10), at the end of the clause, add:

(2) The fault element for paragraph (1)(a) is knowledge.

Heading to clause 10, page 6 (line 4), omit “Making”, substitute “Applying for, and making.”.

Clause 10, page 6 (line 5) to page 7 (line 21), omit subclauses 10(1) to (5), substitute:

(1) The Minister may apply to an issuing authority for a temporary exclusion order in relation to a person only if:

(a) subsection (3) applies in relation to the person; and

(b) the Minister meets the requirements of subsections (4), (5) and (5A).
(2) An issuing authority may make a temporary exclusion order in relation to a person only if:
   (a) subsection (3) applies in relation to the person; and
   (b) the issuing authority meets the requirements of subsections (4), (5) and (5A).

(3) This subsection applies to a person if:
   (a) the person is located outside Australia; and
   (b) the person is an Australian citizen; and
   (c) the person is at least 14 years of age; and
   (d) a return permit is not in force in relation to the person.

(4) The Minister or issuing authority meets the requirements of this subsection if the Minister or issuing authority is satisfied, on reasonable grounds, that making the order would substantially assist in one or more of the following:
   (a) preventing a terrorist act;
   (b) preventing training from being provided to, received from or participated in with a listed terrorist organisation;
   (c) preventing the provision of support for, or the facilitation of, a terrorist act;
   (d) preventing the provision of support or resources to an organisation that would help the organisation engage in an activity described in paragraph (a) of the definition of terrorist organisation in subsection 102.1(1) of the Criminal Code.

(5) The Minister or issuing authority meets the requirements of this subsection if the Minister or issuing authority is satisfied, on reasonable grounds, that the person has:
   (a) committed, prepared to commit or instigated a terrorist act; or
   (b) facilitated the commission, preparation or instigation of a terrorist act; or
   (c) given encouragement to the commission, preparation or instigation of a terrorist act; or
   (d) given support or assistance to individuals who are known or believed by the person to be involved in conduct falling within paragraph (5)(a).

(5A) The Minister or issuing authority meets the requirements of this subsection if the Minister or issuing authority, before applying for, or making, a temporary exclusion order in relation to a person, has regard to the following:
   (a) in a case where the person is 14 to 17 years of age:
      (i) the protection of the community as the paramount consideration; and
      (ii) the best interests of the person as a primary consideration;
   (b) in every case:
      (i) whether the person has a lawful right to remain, or to enter and remain, in a country other than Australia during that period; and
      (ii) if the person has no lawful right to remain, or to enter and remain, in a country other than Australia during that period—the likelihood of the person being detained,
mistreated or harmed if the person cannot enter Australia until the end of that period.

(5B) In determining what is in the best interests of a person for the purposes of subparagraph (5A)(a)(ii), the Minister or issuing authority must take into account the following matters:

(a) the age, maturity, sex and background (including lifestyle, culture and traditions) of the person;
(b) the physical and mental health of the person;
(c) the benefit to the person of having a meaningful relationship with his or her family and friends;
(d) the right of the person to receive an education;
(e) the right of the person to practise his or her religion;
(f) any other matter the Minister or issuing authority considers relevant.

Clause 10, page 7 (line 22), omit “the Minister”, substitute “the issuing authority”.

Clause 10, page 8 (lines 9 and 10), omit paragraph 10(6)(i), substitute:

(i) state the judicial review rights in relation to the decision to make the order and any related return permit; and
(j) state the grounds for deciding that the criteria in subsection (2) for the making of the order have been met (excluding any information that is likely to prejudice national security).

Clause 10, page 8 (lines 14 and 15), omit “the Minister must cause such steps to be taken as are, in the opinion of the Minister,”, substitute “the issuing authority must provide a copy of the order to the Minister and the Minister must cause such steps to be taken as are”.

Page 8 (after line 21), after clause 10, insert:

10A Contents of applications for a temporary exclusion order

An application by the Minister under subsection 10(1) for a temporary exclusion order in relation to a person must:

(a) be made either:

(i) in writing (other than writing by means of an electronic communication); or

(ii) if the Minister considers it necessary because of urgent circumstances, orally in person or by telephone, or by fax, email or other electronic means of communication; and

(b) set out the facts and other grounds on which the Minister considers the temporary exclusion order should be made; and

(c) specify the period for which the temporary exclusion order should remain in force and set out the facts and other grounds on which the Minister considers that the order should remain in force for that period; and

(d) set out the information that the Minister has about the person’s age; and

(e) set out the outcomes and particulars of all previous applications for temporary exclusion orders made in relation to the person; and
(f) set out the outcomes and particulars of all previous applications for variations of temporary exclusion orders made in relation to the person; and

(g) set out the outcomes of all previous applications for revocations of temporary exclusion orders made in relation to the person; and

(h) set out any other matter the Minister considers relevant.

Clause 11, page 8 (line 23), after “The Minister”, insert “or an issuing authority”.

Clause 11, page 8 (line 25), after “the Minister’s”, insert “or the issuing authority’s”.

Clause 11, page 8 (after line 29), after subclause 11(2), insert:

(2A) If an issuing authority revokes a temporary exclusion order under subsection (1), the issuing authority must notify the Minister as soon as practicable after revoking the order.

Clause 11, page 8 (line 31) to page 9 (line 1), omit “the Minister must cause such steps to be taken as are, in the opinion of the Minister,”, substitute “or being notified of the revocation of a temporary exclusion order under subsection (2A), the Minister must cause such steps to be taken as are”.

Clause 11, page 9 (line 9), after “the Minister”, insert “or issuing authority”.

Clause 12, page 9 (after line 19), after subclause 12(1), insert:

(1A) As soon as practicable after an application is made under subsection (1), the Minister or Department must provide a copy of the application to the issuing authority who made the temporary exclusion order, or if the issuing authority is unavailable, another issuing authority.

(1B) If the Minister or Department gives a copy of the application to another issuing authority, the Minister or Department must cause such steps to be taken as are necessary to ensure that the other issuing authority has all the information that the issuing authority who issued the temporary exclusion order had when the order was issued.

Page 10 (after line 15), after clause 12, insert:

12A Interim temporary exclusion orders

(1) If the Minister is satisfied that, because of urgent circumstances, it is necessary that a temporary exclusion order in relation to a person comes into force immediately, the Minister may make an order (an interim temporary exclusion order) under this subsection.

(2) The Minister must not make an interim temporary exclusion order under subsection (1) in relation to a person unless:

(a) subsection 10(3) applies in relation to the person; and

(b) the Minister meets the requirements of subsections 10(4), (5) and (5A).

(3) If the Minister makes an interim temporary exclusion order, the Minister must, as soon as practicable, apply for a temporary exclusion order in relation to the person under subsection 10(1).
(4) For the purposes of applying the other provisions of this Act in relation to an interim temporary exclusion order until a decision is made on the related application under subsection (3) of this section:
   (a) the interim temporary exclusion order is taken to be a temporary exclusion order made under subsection 10(2); and
   (b) any reference to an issuing authority is taken to be a reference to the Minister.

Clause 13, page 10 (line 16) to page 11 (line 5), omit clause 13, substitute:

13 Period for which a temporary exclusion order etc. is in force

(1) A temporary exclusion order in relation to a person comes into force immediately after an issuing authority makes the temporary exclusion order in relation to the person.

(2) A temporary exclusion order in relation to a person remains in force until the earlier of the following occurs:
   (a) the period specified for the purposes of paragraph 10(6)(d) ends;
   (b) the order is revoked under section 11.

(3) An interim temporary exclusion order comes into force immediately after the Minister makes the interim temporary exclusion order in relation to the person.

(4) An interim temporary exclusion order in relation to a person remains in force until the earlier of the following occurs:
   (a) an issuing authority makes a decision on the related application made by the Minister under subsection 12A(3);
   (b) the Minister issues a return permit to the person under subsection 15(1).

Clause 15, page 14 (line 10), omit the note, substitute:

Note 1: See section 18 for how an application for a return permit can be made.

Note 2: There are judicial review rights in relation to decisions under this subsection.

Clause 15, page 14 (lines 19 to 25), omit “within a reasonable period” (wherever occurring), substitute “as soon as practicable”.

Clause 16, page 17 (lines 7 to 10), omit subclause 16(7).

Clause 16, page 17 (line 14), omit “(to the extent known to the Minister)”.

Clause 16, page 17 (after line 22), after subclause 16(8), insert:

(8A) Before the Minister imposes a condition mentioned in subsection (9) or (10) on a return permit, the Minister must request, in writing, the approval of an issuing authority to impose the condition.

(8B) A request under subsection (8A) must set out the facts and other grounds on which the Minister considers the condition should be imposed on the return permit.

(8C) In considering whether to approve the condition, subsections (3) to (8) are taken to apply to the issuing authority in the same way as those subsections apply in relation to the Minister.

(8D) To avoid doubt, the Minister must not impose the condition if the issuing authority does not approve the condition.
Clause 17, page 20 (lines 18 and 19), omit “, in the opinion of the Minister,”.
Clause 17, page 20 (after line 24), at the end of the clause, add:

(7) Subsections 16(3) to (8D) are taken to apply to a decision under subparagraph (1)(a)(i) of this section to vary the period during which the permit is in force in the same way as those subsections apply to a condition imposed on a permit under that section.

Clause 20, page 22 (after line 32), at the end of clause 20, add:

(3) The fault element for paragraph (1)(a) is knowledge.

Heading to clause 23, page 25 (line 3), omit “Reviewing authority”, substitute “Issuing authority”.

Clause 23, page 25 (line 5) to page 26 (line 2), omit “a reviewing authority” (wherever occurring), substitute “an issuing authority”.

Clause 23, page 26 (lines 3 to 8), omit “reviewing authority” (wherever occurring), substitute “issuing authority”.

Clause 23, page 26 (line 10), omit “A reviewing authority”, substitute “An issuing authority”.

Heading to clause 24, page 26 (line 14), omit “a reviewing authority”, substitute “an issuing authority”.

Clause 24, page 26 (line 16), omit “a reviewing authority”, substitute “an issuing authority”.

Clause 25, page 27 (line 13), omit “making”, substitute “applying for”.

Clause 31, page 29 (lines 12 to 16), omit paragraphs 31(2)(c) and (d).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 31

Senators—

Ayes
Ayers  Gallacher  McCarthy*  Smith, Marielle
Bilyk  Gallacher  McKim  Steele-John
Brown  Green  O’Neill  Urquhart
Chisholm  Griff  Patrick  Watts
Ciccone  Hanson-Young  Pratt  Whish-Wilson
Di Natale  Keneally  Rice  Wong
Dodson  Kitching  Sheldon  
Faruqi  Lines  Siewert  

NOES, 32

Senators—

Abetz  Colbeck  Hume  Ruston
Antic  Davey  Lambie  Ryan
Askew  Duniam  McDonald  Scarr
Bernardi  Favett  McMahon  Seselja
Bragg  Fierravanti-Wells  O’Sullivan  Simodinos
Brockman*  Friel  Rennick  Smith, Dean
Canavan  Hanson  Reynolds  Stoker
Chandler  Hughes  Roberts  Van

* Tellers

Question negatived.
Question—That the Counter-Terrorism (Temporary Exclusion Orders) Bill 2019 stand as printed—divided at the request of Senator Keneally in respect of clauses 14 and 30.

The committee divided—

AYES, 32

Senators—
Abetz Colbeck Hume Ruston
Antic Davey Lambie Ryan
Askow Duniam McDonald Scarr
Bernardi Fawcett McMahon Seselja
Birmingham Fieravanti-Wells O’Sullivan Sinodinos
Bragg Fifield Rennick Smith, Dean
Brockman* Hanson Reynolds Stoker
Canavan Hughes Roberts Van

NOES, 30

Senators—
Ayres Gallacher McCarthy Smith, Marielle
Bilyk Green McKee Steele-John
Brown Griff O’Neill Urquhart*
Chisholm Hanson-Young Patrick Waters
Ciccone Keneally Pratt Watt
Di Natale Kitching Rice Whish-Wilson
Dodson Lines Siewert Wong
Faruqi McAllister

* Tellers

Clauses agreed to.

Senator Keneally moved the following amendment:

Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019:

Schedule 1, page 3 (after line 9), after item 1, insert:

1A At the end of Part 4

Add:

30A Certain reports and briefings

(1) If:

(a) a report by the Independent National Security Legislation Monitor referred to in subsection 29(1) or 30(1) relates to a review of the Counter-Terrorism (Temporary Exclusion Orders) Act 2019, or a report relating to that Act is otherwise prepared in the course of the Independent National Security Legislation Monitor carrying out the functions in subsection 6(1); and

(b) the Committee on Intelligence and Security requests, in writing given to the Independent National Security Legislation Monitor, a copy of the report;

the Independent National Security Legislation Monitor must give the Committee a copy of the report, or a copy of extracts from the report that deal with that Act.
(2) If the Committee on Intelligence and Security requests a briefing in relation to the report or extracts, the Independent National Security Legislation Monitor must give the Committee such a briefing.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 31

Ayers
Bilyk
Brown
Chisholm
Ciccone*
Di Natale
Dodson
Faruqi

Gallacher
Gallagher
Green
Griff
Hanson-Young
Keneally
Kitching
Lines

McAllister
McCarthy
McKim
O'Neill
Patrick
Pratt
Rice
Siewert

Smith, Marielle
Steele-John
Unquhart
Waters
Watt
Whish-Wilson

NOES, 33

Abetz
Antic
Askew
Bernardi
Birmingham
Bragg
Brockman*
Canavan
Chandler

Colbeck
Cormann
Davey
Duniam
Fawcett
Fifield
Hanson
Hughes

Lambie
McDonald
McGrath
McMahon
O'Sullivan
Paterson
Rennick
Reynolds

Roberts
Ruston
Ryan
Scarr
Sinodinos
Smith, Dean
Stoker
Van

* Tellers

Question negatived.

At 2 pm: The President resumed the chair and the Chair of Committees (Senator Lines) reported progress.

18 Questions

Questions without notice were answered.

Document: The Minister for Trade, Tourism and Investment (Senator Birmingham) tabled the following document:

Natural temperate grasslands—Conservation listing—Letter from the Chief Executive Officer, National Farmers' Federation (Mr Mahar) and the President, New South Wales Farmers (Mr Schoen), dated 3 October 2017, to the former Minister for the Environment and Energy (Mr Frydenberg).

Further questions without notice were answered.

19 Motions to take note of answers

Senator Urquhart moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Marielle Smith today relating to superannuation.

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 Newstart allowance.

Question put and passed.

Senator Steele-John 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 Steele-John today relating to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

Question put and passed.

20 **Hours of meeting and routine of business—Variation**

The Minister for Finance (Senator Cormann), by leave, moved—That—

(a) the routine of business for the remainder of the day be consideration of government business only;

(b) divisions may take place after 4.30 pm; and

(c) the Senate shall adjourn without debate after it has completed consideration of the Counter-Terrorism (Temporary Exclusion Orders) Bill 2019 and a related bill, including any message from the House of Representatives, or a motion for the adjournment is moved by a minister, whichever is the earlier.

Debate ensued.

Question put and passed.

21 **Counter-Terrorism (Temporary Exclusion Orders) Bill 2019**

**Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019**

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

Consideration resumed of the bills.

Bills further debated.

Senator Patrick moved the following amendments together by leave:

**Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019:**

Schedule 1, page 3 (after line 10), after the heading specifying *Intelligence Services Act 2001*, insert:

1B **Paragraph 29(1)(a)**

After “to review the”, insert “activities,”.

Schedule 1, page 3 (after line 19), at the end of the Schedule, add:

3 **Subsection 29(3)**

Repeal the subsection, substitute:

(3) The functions of the Committee do not include:

(a) reviewing information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information; or
(b) conducting inquiries into individual complaints about the activities of ASIO, ASIS, AGO, DIO, ASD, ONI, AFP or the Immigration and Border Protection Department.

4 After section 29

Insert:

29A Ceasing or suspending review of agency activities

(1) If:
   
   (a) the Committee undertakes a review under section 29 of an activity by ASIO, ASIS, AGO, DIO, ASD or ONI; and
   
   (b) the relevant responsible Minister is of the opinion that:
      
      (i) the activity is an ongoing operation; and
      
      (ii) the review would interfere with the proper performance by the relevant body of its functions or otherwise prejudice Australia’s national security or the conduct of Australia’s foreign relations;

   the Minister may give to the Committee a certificate in relation to the matter stating the Minister’s opinion and the reasons for it.

(2) A decision of the Minister under subsection (1) must not be questioned in any court or tribunal.

(3) Where the Minister gives a certificate under subsection (1) in relation to a review, the Committee must cease or suspend the review.

(4) If the Minister:
   
   (a) becomes aware that the activity is no longer ongoing; or
   
   (b) is no longer of the opinion that the review would interfere with the proper performance by the relevant body of its functions or otherwise prejudice Australia’s national security or the conduct of Australia’s foreign relations;

   the Minister must, within 28 days after becoming aware of the fact or forming the view:
   
   (c) revoke the certificate; and
   
   (d) inform the Committee in writing.

(5) If the Minister revokes a certificate in accordance with subsection (4), the Committee may proceed with the review, or commence a new review into the activity.

Debate ensued.

Question—That the amendments be agreed to—put.
The committee divided—

AYES, 11

Senators—

Di Natale  Hanson-Young  Rice  Waters
Faruqi    McKim    Siewert  Whish-Wilson
Griff*    Patrick  Steele-John

NOES, 42

Senators—

Abetz    Duniam    McDonald  Ryan
Antic    Fierravanti-Wells  McGrath  Scarr
Ashby    Fifield  McMahon  Sheldon
Ayres    Gallacher  O’Neill  Siminos
Bilyk    Green    O’Sullivan  Smith, Dean
Brigg    Hughes  Paterson  Smith, Marielle
Brockman  Hume  Pratt  Stokes
Canavan  Keneally  Rennick  Urquhart*
Chandler  Lambie  Reynolds  Van
Ciccone  McAllister  Roberts  Walsh
Davey    McCarthy

* Tellers

Question negatived.

Senator McKim moved the following amendment:

Counter-Terrorism (Temporary Exclusion Orders) (Consequential Amendments) Bill 2019:

Schedule 1, page 3 (before line 11), before item 2, insert:

2A Subsection 28(2)

Repeal the subsection, substitute:

(2) The Committee is to consist of 11 members, 5 of whom must be the following:

(a) a Government member of the House of Representatives;
(b) an Opposition member of the House of Representatives;
(c) a Government Senator;
(d) an Opposition Senator;
(e) a Senator who is not a Government or Opposition Senator.

(2A) The other Committee members may be either Senators or members of the House of Representatives.

Debate ensued.

Question—That the amendment be agreed to—put.
The committee divided—

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* Tellers

Question negatived.

Bills agreed to and reported without amendments.

On the motion of the Minister for Defence (Senator Reynolds) the report from the committee was adopted and the bills read a third time.

22 Adjournment

Pursuant to order (see entry no. 20) the Senate adjourned at 4.33 pm till Monday, 29 July 2019 at 10 am.

23 Attendance

Present, all senators except Senators Cash*, Payne* and Polley* (*on leave).

RICHARD PYE
Clerk of the Senate

Published by authority of the Senate