# Senate Journals

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1 **Meeting of Senate**

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

2 **Documents**

The following document was tabled pursuant to standing order 61(1)(b):

**Government document**

1 Status of government responses in the Senate to parliamentary committee reports as at 30 September 2019.

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.*

- **Civil Aviation Act 1988**—Civil Aviation Safety Regulations 1998—Repeal of Airworthiness Directives AD/DO 328/5, AD/DO 328/37, AD/DO 328/67 and AD/DO 328/70—CASA ADCX 009/19 [F2019L01429].
- **Cocos (Keeling) Islands Act 1955**—Cocos (Keeling) Islands Utilities and Services Ordinance 2016—Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Determination 2019 [F2019L01430].
- **Defence Act 1903**—Defence Determination (Prohibited Substances – Authorised Persons) 2019/2 [F2019L01432].

3 **Committees—Leave to meet during sittings**

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

- Finance and Public Administration Legislation Committee—public meeting on Thursday, 14 November 2019, from 3.15 pm, for the committee’s consideration of the 2019-20 supplementary Budget estimates.
- Financial Technology and Regulatory Technology—Select Committee—private briefings—
  - Wednesday, 13 November 2019, from 11.30 am.
  - Thursday, 14 November 2019, from 4.45 pm.
- Human Rights—Joint Statutory Committee—private meeting otherwise than in accordance with standing order 33(1) on Wednesday, 13 November 2019, from 11.30 am.
4 Treasury Laws Amendment (Prohibiting Energy Market Misconduct)
Bill 2019

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.

Question put.

The Senate divided—

AYES, 45

Senators—
Abetz
Antic
Askew
Ayres
Bernardi
Bilyk
Bragg
Brockman
Carr
Chandler
Ciccone
Cormann
Davey*
Dodson
Duniam
Farrell
Fawcett
Gallacher
Griff
Hanson
Henderson
Hughes
Keneally
Kitching
Lines
McAllister
McCarthy
McDonald
McMahon
O’Neill
O’Sullivan
Paterson
Patrick
Polley
Rennick
Reynolds
Roberts
Scarr
Sheldon
Smith, Marielle
Sterle
Stoker
Urquhart
Van
Walsh

NOES, 8

Senators—
Faruqi
Hanson-Young
McKim
Rice
Siewert*
Steele-John
Waters
Whish-Wilson

* Tellers

Question agreed to.

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.

Senator McAllister moved the following amendment:

Schedule 1, item 1, page 27 (after line 22), at the end of section 153ZB, add:

(10) If:
(a) a body corporate (the disposing entity) that is a national system employer (within the meaning of the Fair Work Act 2009) is ordered to dispose of interests in securities or assets to a person (the receiving entity); and
(b) a provision of Part 2-8 of that Act would not apply, despite subsection (9), because a workplace instrument (the applicable instrument) that covered the disposing entity and an employee (the applicable employee) of the entity is not a transferable instrument (within the meaning of that Part);
Part 2-8 of that Act applies as if:
(c) a reference to an old employer in that Part included a reference to the disposing entity; and
(d) a reference to a new employer in that Part included a reference to the receiving entity; and
(e) a reference to a transferring employee in that Part included a reference to the applicable employee; and
(f) a reference to a transferable instrument in that Part included a reference to the applicable instrument.

(11) If:
(a) a body corporate (the disposing entity) that is a State public sector employer of a State (within the meaning of the Fair Work Act 2009) is ordered to dispose of interests in securities or assets to a person (the receiving entity) that is a national system employer; and
(b) a provision of Part 6-3A of that Act would not apply, despite subsection (9), because a workplace instrument (the applicable instrument) that covered the disposing entity and an employee (the applicable employee) of the entity is not a State award (within the meaning of that Part);
Part 6-3A of that Act applies as if:
(c) a reference to an old State employer in that Part included a reference to the disposing entity; and
(d) a reference to a new employer in that Part included a reference to the receiving entity; and
(e) a reference to a transferring employee in that Part included a reference to the applicable employee; and
(f) a reference to a State award in that Part included a reference to the applicable instrument.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 31

Senators—

Ayres          Gallagher          McCarthy          Steele-John
Bilyk          Green            McKim            Sterle
Carr           Hanson-Young    O’Neill          Urquhart*
Chisholm       Keneally        Polley            Walsh
Dodson         Kitching        Pratt            Waters
Farrell        Lambie          Rice            Watt
Faruqi         Lines            Siewert          Whish-Wilson
Gallacher      McAllister      Smith, Marielle
Question negatived.

The Minister for Finance (Senator Cormann) moved the following amendment:

Schedule 1, item 1, page 27 (after line 22), at the end of Division 6, add:

153ZBA Arrangements or undertakings in relation to employees

(1) This section applies if:
   (a) a body corporate (the \textit{old employer}) has made arrangements or undertakings in relation to employees of the body corporate (whether or not those arrangements or undertakings bind the old employer); and
   (b) the Court makes an order under subsection 153ZB(2) or (3) for the old employer to dispose of assets; and
   (c) the old employer disposes of the assets to another entity (the \textit{new employer}); and
   (d) regulations made for the purposes of this paragraph before the disposal specify requirements in respect of arrangements or undertakings in relation to employees; and
   (e) the arrangements or undertakings satisfy those requirements.

(2) The new employer must comply with the arrangements or undertakings.

(3) Subsection (2) applies despite anything in the \textit{Fair Work Act 2009}.

Debate ensued.

\textit{Explanatory memorandum:} Senator Cormann tabled a supplementary explanatory memorandum relating to the government amendment moved to the bill.

Question—That the amendment be agreed to—put and passed.

Senator Hanson-Young moved the following amendments together by leave:

Schedule 1, heading, page 3 (line 2), at the end of the heading, add “\textbf{and prohibition on Commonwealth support for coal-fired electricity generators}”.

Schedule 1, item 1, page 4 (after line 2), at the end of section 153A, add:

\begin{center}
This Part also prohibits certain Commonwealth support for coal-fired electricity generators.
\end{center}

Schedule 1, item 1, page 27 (after line 22), after Division 6, insert:

\textbf{Division 6A—Prohibition on Commonwealth support for coal-fired generators}

153ZBA This Division binds the Crown

This Division binds the Crown in right of the Commonwealth. However, it does not bind the Crown in right of a State, of the Australian Capital Territory or of the Northern Territory.
153ZBB Prohibition on Commonwealth support for coal-fired generators

(1) The Commonwealth or an authority of the Commonwealth must not, on or after the commencement of this Division:

(a) provide financial support or other support for the purpose (or for purposes that include the purpose) of the refurbishment or building of a coal-fired generator; or

(b) purchase, or assist the purchase or transfer of ownership of, a coal-fired generator; or

(c) provide financial support to an owner or operator of a coal-fired generator to use, fund, extend the life of or operate the generator.

(2) For the purposes of this section, financial support includes any support that involves a current or potential future financial exposure to the Commonwealth, including the Commonwealth underwriting investments or entering into other financial arrangements.

Exception—regulatory processes

(3) Subsection (1) does not apply to support or assistance provided solely for purposes connected with the Commonwealth or authority:

(a) processing an application for an approval, licence or permit (however described) that is required under a law of the Commonwealth; or

(b) undertaking any other regulatory process under or in accordance with a law of the Commonwealth.

Exception—transition assistance or research

(4) Paragraph (1)(a) does not apply to:

(a) financial or other support provided in connection with a program that provides transition assistance to workers affected, or who may be affected, by the retirement of a coal-fired generator; or

(b) funding research by an approved research institute (within the meaning of section 73A of the Income Tax Assessment Act 1936), so far as the research relates to coal-fired generators generally and does not relate only to a particular coal-fired generator or particular coal-fired generators.

Exception—managed closures

(5) Subsection (1) does not apply to:

(a) the provision of support in relation to a coal-fired generator; or

(b) the purchase, or the assisting of the purchase or transfer of ownership, of a coal-fired generator;

if the purpose, or one of the purposes, of the support, purchase or assistance is the managed closure of the coal-fired generator.

Subsection (1) has effect despite other laws

(6) Subsection (1) has effect despite anything in this Act or any other law of the Commonwealth (whether passed or made before or after the commencement of this section) unless the law expressly provides otherwise.

(7) Subsection (6) does not affect the operation of section 153ZC.

Executive power of the Commonwealth not otherwise limited

(8) This section only limits the executive power of the Commonwealth to the extent set out in this section and does not, by implication, limit that power to any other extent.

Schedule 1, item 1, page 27 (line 27), omit “5 and 6”, substitute “5, 6 and 6A”.

Schedule 1, item 1, page 27 (line 29), omit “5 or 6”, substitute “5, 6 or 6A”.
Schedule 1, page 29 (before line 3), before item 2, insert:

1A Subsection 2A(1)

Omit “44E and 95D”, substitute “44E, 95D and 153ZBA”.

Schedule 1, item 3, page 29 (line 8), after “XICA”, insert “(other than Division 6A)”.

Schedule 1, item 14, page 31 (after line 11), at the end of the item, add:

(3) Subitem (1) does not apply to Division 6A of Part XICA of the Competition and Consumer Act 2010, as inserted by this Schedule.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 8

Faruqi  McKim  Siewert*  Waters
Hanson-Young  Rice  Steele-John  Whish-Wilson

NOES, 42

Abetz  Davey  McGrath  Ryan
Antic  Dodson  McMahon  Scarr
Askew  Duniam  O’Neill  Sheldon
Ayres  Gallacher  O’Sullivan  Smith, Dean
Bilyk  Green  Paterson  Smith, Marielle
Bragg  Griff  Patrick  Sterle
Brockman  Henderson  Pratt  Stoker
Cash  Hughes  Rennick  Urquhart*
Chandler  Keneally  Reynolds  Van
Colbeck  McAllister  Roberts  Walsh
Cormann  McDonald  

*Tellers

Question negatived.

Senator Hanson-Young moved the following amendments together by leave:

Schedule 1, item 1, page 21 (after line 3), at the end of subsection 153X(1), add:

Note: An order cannot be made under this section if it would have the effect of inhibiting, delaying or stopping a planned closure of a coal-fired generator: see section 153ZE.

Schedule 1, item 1, page 25 (after line 26), at the end of subsection 153ZB(1), add:

Note: An order cannot be made under this section if it would have the effect of inhibiting, delaying or stopping a planned closure of a coal-fired generator: see section 153ZE.

Schedule 1, item 1, page 28 (after line 19), at the end of Division 7, add:

153ZE No orders under this Part that would affect planned closure of coal-fired generator etc.

Despite Divisions 5 and 6, an order must not be made in relation to a body corporate under either of those Divisions if the order would have the effect of inhibiting, delaying or stopping a planned closure of a coal-fired generator.

Debate ensued.

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

**AYES, 8**

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**NOES, 57**

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* Tellers

Question negatived.

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*After 2 pm: The President (Senator Ryan) resumed the chair and the Temporary Chair of Committees (Senator Stoker) reported progress.*

5 **Questions**

Questions without notice were answered.

6 **Routine of business—Variation**

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

(i) Following the motion of condolence relating to former Senator Mehmet Tillem, and the placing of business, the routine of business for the remainder of today be as follows:

(a) government business notice of motion no. 1, relating to the consideration of disallowance motions—question to be put without amendment or debate;

(b) business of the Senate notice of motion no. 1, standing in the name of Senator Roberts; and
(c) consideration of the following bills:
Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2019
Farm Household Support Amendment (Relief Measures) Bill (No. 1) 2019;

(2) If consideration of the bills listed in paragraph (1)(c) is not completed by 7.20 pm the questions on all remaining stages of the bills shall then be put.

(3) Paragraph (2) of this order shall operate as a limitation of debate under standing order 142.

(4) If consideration of the bills listed in paragraph (1)(c) is completed before 7.20 pm, the routine of business shall be:
(a) any proposal to debate a matter of public importance or urgency;
(b) at 7.20 pm, adjournment proposed; and
(c) adjournment.

Question put and passed.

7 Motions to take note of answers
Senator Keneally moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by the Leader of the Opposition in the Senate (Senator Wong) today relating to bushfires in New South Wales, Queensland and South Australia.

Debate ensued.

Question put and passed.

Senator Lambie moved—That the Senate take note of the answers given by the Minister for Foreign Affairs (Senator Payne) and the President to questions without notice asked by Senator Lambie today relating to the Lobbyist Register and access to Parliament House, Canberra.

Question put and passed.

8 Petition
The following petition, lodged with the Clerk by Senator Gallagher, was received:
From 2264 petitioners, requesting that the Senate support the predominant role of doctors in deciding whether ill asylum seekers and refugees on Manus Island and Nauru should be brought to Australia.

9 Notices
Senators Sterle and Gallacher: To move on the next day of sitting—That the Senate—
(a) notes:
(i) the Government’s failure to provide a response to the reports of the Rural and Regional Affairs and Transport References Committee (the Committee) on aspects of road safety in Australia,
(ii) that, in 2018, the Rural and Regional Affairs and Transport Legislation and References Committees each sent a letter to the Minister, drawing attention to the Committee’s reports into aspects of road safety in Australia,
that the Committee received correspondence in reply from the Minister, advising that the Department of Infrastructure, Transport, Cities and Regional Development was ‘consulting with other portfolios to finalise the Australian Government response to the Rural and Regional Affairs and Transport References Committee inquiry into aspects of road safety in Australia’,

that it has now been a further nine months since the Minister’s advice to the Committee that a government response to its road safety reports was being finalised, and a government response has still not been presented to the Senate, and

significant concern about this lack of response, given the importance of improving road safety in Australia and preventing unnecessary deaths on our roads;

(b) calls on the Federal Government to:

(i) respond to the Committee’s recommendations in reports presented in 2016 and 2017, so that the recently established Joint Select Committee on Road Safety can properly consider the best ways to reduce road accident rates and deaths on Australian roads, and

(ii) take immediate action to implement the recommendations of the Committee’s road safety inquiry; and

(c) requires the Minister representing the Minister for Infrastructure, Transport and Regional Development to table, by no later than 3.30 pm on 14 November 2019, the government response to the Committee’s reports. (general business notice of motion no. 231)

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

(a) recognises that there is a crisis in Australia in the exploitation of migrant workers;

(b) notes the findings in a report, dated November 2017, Wage theft in Australia: Findings of the National Temporary Migrant Work Survey, authored by the Migrant Worker Justice Initiative, University of New South Wales and University of Technology Sydney, that include:

(i) two-thirds of migrant workers reporting that their employer, at one point or another, failed to provide a payslip – with 44% reporting that they had never received a payslip for their work,

(ii) 28% of workers in the hospitality industry experiencing their employer confiscating their passport,

(iii) 30% of survey participants earning $12 per hour or less – this is approximately half the minimum wage for a casual employee in many of the jobs in which temporary migrants work, and

(iv) 46% of participants earning $15 per hour or less;
(c) notes an October 2018 report, by the Migrant Worker Justice Initiative which found that fewer than one in 10 (9%) migrant workers took action to recover unpaid wages, even though most know that they were being underpaid;

(d) commends UnionsNSW and the Immigration Advice and Rights Centre for their Visa Assist program which provides free legal advice and assistance to migrant union members; and

(e) notes that, despite accepting all of the recommendations contained in the report of the Migrant Workers’ Taskforce, released on 7 March 2019, the Federal Government has failed to act on recommendations 3 to 9, 11 to 13 and 18 to 22. (general business notice of motion no. 232)

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

(a) congratulates all finalists and recipients of the 2020 South Australian of the Year awards;

(b) further congratulates eye surgeon and blindness prevention pioneer, Dr James Muecke, AM, for being honoured as South Australian of the Year for 2020;

(c) recognises that Dr Muecke, AM, has dedicated his working life to fighting blindness prevention and ophthalmic research;

(d) notes that in 2000, Dr Muecke, AM, co-founded Vision Myanmar at the South Australian Institute of Ophthalmology, a $1 million program that has developed and operated eye health and blindness initiatives in the Southeast Asian nation;

(e) further notes that Dr Muecke, AM, is the founder and chairman of Sight for All, a social impact organisation which aims to create a world where everyone can see;

(f) acknowledges that Sight for All creates low-cost programs to fight blindness through research, education and infrastructure, and is closely involved in projects operating in Ethiopia, nine Asian countries, and in mainstream and Aboriginal communities across Australia;

(g) notes that, according to the Institute of Health and Welfare, Aboriginal and Torres Strait Islander people over the age of 40 years, have 6 times the rate of blindness of other Australians, and that 94% of vision loss in Indigenous Australians is preventable or treatable; and

(h) calls on the Federal Government to correct the marked under-resourcing of specialist eye services provided to remote and disadvantaged communities, when compared with the national average. (general business notice of motion no. 233)

Senator Steele-John: To move on the next day of sitting—That the Senate—

(a) notes that, in October 2019, the Conservation Council of Western Australia released its ‘Clean State’ report, which found that:

   (i) LNG production in Western Australia is the fastest-growing pollution source in Australia, and has been the primary driver of recent national emissions growth,

   (ii) the rapid expansion in LNG production in Western Australia, in combination with inadequate carbon pollution controls, has had a dramatic impact on the State’s total emissions – while all other states’ emissions are falling, Western Australia’s have risen by 23% since 2005,
(iii) Chevron and Woodside are responsible for most of this pollution and there are no effective controls on their operations,

(iv) over the next 12 years, the total cumulative emissions from Western Australia’s five current LNG facilities (384Mt) will cancel out the entire amount of abatement expected to be delivered under the Emissions Reduction Fund (ERF) (375Mt), and that at a total cost of $4.55 billion the ERF is effectively an Australian taxpayer-funded offset program for Chevron and Woodside’s operations to 2031,

(v) offsetting LNG pollution in Western Australia would create 4000 jobs, and

(vi) there is no such thing as clean gas; and

(b) calls on the Federal Government to:

(i) acknowledge the ‘clean gas myth’, and

(ii) commit to moving away from extracting and exporting LNG. ((general business notice of motion no. 234)

The Chair of the Select Committee on the effectiveness of the Australian Government’s Northern Australia agenda (Senator Watt): To move on the next day of sitting—That paragraph (5) of the resolution of the Senate of 4 July 2019, appointing the Select Committee on the effectiveness of the Australian Government’s Northern Australia agenda, be amended to provide: That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include one Government member and one Opposition member. (general business notice of motion no. 235)

The Leader of Pauline Hanson’s One Nation (Senator Hanson): To move on the next day of sitting—

(1) That the Senate notes that:

(a) on 15 March 2019, the Federal Government announced that it would progress a mandatory code of conduct for the dairy industry;

(b) the current exposure draft of the Competition and Consumer (Industry Codes—Dairy) Regulations 2019 differs from an earlier exposure draft, in that it provides that milk processors will be able to retrospectively reduce the minimum price paid to producers under a milk supply agreement in circumstances that are ‘beyond reasonable control of the processor’; and

(c) the Minister for Agriculture, Senator McKenzie, stated during a media interview on 12 November 2019 on ABC Radio National, that ‘our legal drafters have interpreted the feedback we got through consultation and have actually reflected that in the words we have today’.

(2) That there be laid on the table by the Minister for Agriculture, by 5 pm on 25 November 2019:

(a) the drafting instructions provided to legal drafters to make changes to the previous exposure draft of the Competition and Consumer (Industry Codes—Dairy) Regulations 2019; and
(b) all correspondence between milk processors and the Minister for Agriculture, and milk processors and the Department of Agriculture during the period 1 March and 12 November 2019.  

(General business notice of motion no. 236)

Senators O’Neill, Farrell, Polley, Ciccone and Marielle Smith: To move on the next day of sitting—That the Senate—

(a) recognises that:

(i) 85% of retail and fast food workers have experienced abuse from customers at work,

(ii) for retail and fast food workers, this abuse can severely impact their physical and psychological health and it cannot continue,

(iii) the Christmas holidays period is the busiest time for retail workers, and

(iv) every worker has the right to be able to do their job in a safe environment; and

(b) acknowledges the work of the Shop, Distributive and Allied Employees’ Association in representing its members in retail and fast food, and advocating for industry changes to ensure that customers cannot continue this behaviour and build better protections for retail and fast food workers.  

(General business notice of motion no. 237)

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

(a) notes, with deep concern, recent comments from the United Nations High Commissioner for Human Rights, Mr Rupert Colville that:

(i) an undeclared curfew is still in place in large parts of the Kashmir Valley, and that this curfew prevents the free movement of people, hampers their ability to exercise their right to peaceful assembly and restricts their rights to health, education and freedom of religion and belief,

(ii) there have been allegations of excessive use of force against protestors, and unconfirmed reports of civilian deaths and injuries,

(iii) all internet services remain blocked in the Kashmir Valley, and

(iv) hundreds of political and civil society leaders have been detained;

(b) notes that Kashmiris have a right to self-determination and to live their lives free of violence, militarisation, curfews and limits to freedom of speech; and

(c) urges the Australian Government to use all diplomatic means available to call on the Indian Government to reverse its decision to remove the autonomy of Kashmir, to release political prisoners, to lift the curfew and allow freedom of movement, communication, speech and assembly to the people of Kashmir, and to respect Kashmiris’ right to self-determination.  

(General business notice of motion no. 238)

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

(a) notes that:

(i) in May 2019, the Victorian Essential Services Commission agreed to update its Energy Retail Code (the Code) to improve protections for customers affected by family violence, with effect from 1 January 2020,
changes to the Code implement a recommendation of the Royal Commission into Family Violence, and were developed in consultation with energy and community sector participants, and

the revised Code will provide practical support and protection to those experiencing domestic and family violence by requiring energy providers to:

(A) adopt policies to assist customers affected by family violence, including through consideration for hardship programs,

(B) provide customers experiencing family violence with flexible assistance in managing their personal and financial security,

(C) develop policies to ensure the privacy of contact details are protected in a situation where a customer is escaping a family violence situation, and

(D) provide comprehensive and ongoing training to all responsible staff regarding family violence;

(b) commends the Victorian Government and the Essential Services Commission for adopting these measures; and

c) calls on the Minister for Energy and Emissions Reduction to discuss the development of a national framework of Family Violence Support Provisions for Energy Retailers with Energy Ministers at the upcoming COAG Energy Council Meeting. (general business notice of motion no. 239)

Senators Duniam, Askew, Abetz, Chandler and Colbeck: To move on the next day of sitting—That the Senate—

(a) notes:

(i) the devastating impact of bushfires currently burning across Australia,

(ii) the tragic loss of life, loss of and damage to property, and the impact on the livelihoods and communities of many Australians, and

(iii) the extraordinary resilience of these communities and emergency service personnel in responding to these tragic and challenging circumstances;

(b) acknowledges the immense risk being taken by our firefighting personnel, both paid and voluntary; and

c) particularly acknowledges the Tasmanian firefighting personnel from the Tasmanian Fire Service, Parks and Wildlife Services and Sustainable Timbers Tasmania assisting in New South Wales, which is a great representation of the Australian spirit of helping out when needed. (general business notice of motion no. 240)

Senator Siewert: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the Governor-General Act 1974, and for related purposes. Governor-General Amendment (Cessation of Allowances in the Public Interest) Bill 2019. (general business notice of motion no. 241)
Senator Rice: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) this week is Transgender Awareness Week, and
   (ii) Transgender Awareness Week is an opportunity to learn about gender diversity, work to remove all forms of discrimination against transgender and gender diverse people, and commit to being better allies; and
(b) calls on all parliamentarians to:
   (i) commit to learning more about the lives and experiences of transgender and gender diverse people,
   (ii) elevate the voices of transgender and gender diverse people, especially during Transgender Awareness Week, and
   (iii) support the provision of essential health, social, cultural, and community services for trans and gender diverse people and their families, delivered with the meaningful input and involvement of these communities.
   (general business notice of motion no. 242)

Senator Hanson-Young: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) since 2013, more than $300 million has been cut from the Australian Broadcasting Corporation (ABC) by the Coalition Government,
   (ii) the ABC has confirmed it will not buy the non-commercial rights to next year’s Olympic Games in Tokyo, meaning there will be no live broadcast for the first time since 1952, and
   (iii) the ABC has cited ‘budget pressures’ as being behind the decision; and
(b) calls on the Federal Government to restore every dollar cut from the ABC’s budget since 2013. (general business notice of motion no. 243)

The Leader of Pauline Hanson’s One Nation (Senator Hanson): To move on the next day of sitting—That the Senate—
(a) notes:
   (i) the statement made by the Queensland Premier, Ms Annastacia Palaszczuk, reported in the Brisbane Times on 30 October 2019, indicating she would be open to discussing the development of a ‘smaller version of the Bradfield scheme’ with Prime Minister Scott Morrison, and
   (ii) that, on 1 November 2019, the Courier Mail reported that LNP Leader, Ms Deb Frecklington, has committed to an updated version of the Bradfield Scheme in the form of a ‘multibillion-dollar water scheme that could drought-proof parched western Queensland’; and
(b) calls on the Federal Government to take the necessary steps to ensure the construction of a Bradfield-type scheme can begin, in Queensland, as swiftly as possible. (general business notice of motion no. 244)
Senator Siewert: To move on the next day of sitting—That the Senate—
(a) notes that:
  (i) the 2019 Anglicare Rental Affordability Snapshot found that there were no affordable properties in any capital city for a single person on Newstart or Youth Allowance,
  (ii) the low level of appropriate and affordable properties available to rent for households on the Newstart Allowance and Youth Allowance, strongly indicates the likelihood that many of those households will be living in housing stress or housing that is not appropriate,
  (iii) the lack of affordable housing means that people on Newstart and Youth Allowance are spending a disproportionately high percentage of their income support on housing, resulting in them not being able to afford other essentials like food, energy and health, and
  (iv) poverty is a well-established social determinant of health, including psychological health, and persistent poverty plays a demonstrable role in increasing levels of psychological distress; and
(b) calls on the Federal Government to immediately increase Newstart and Youth Allowance to allow people in our community to have dignity of choice and to help address housing stress. (general business notice of motion no. 245)

Intention to withdraw: The Chair of the Standing Committee on Regulations and Ordinances (Senator Fierravanti-Wells), pursuant to standing order 78, gave notice of her intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 1 standing in her name for that day for the disallowance of the Immigration (Guardianship of Children) Regulations 2018 [F2018L01708].

10 Death of former senator Mehmet Tillem
The Leader of the Government in the Senate (Senator Cormann), by leave, moved—That the Senate records its deep regret at the death, on 9 November 2019, of Mehmet Tillem, former senator for Victoria, places on record its gratitude for his service to the Parliament and the nation, and tenders its sympathy to his family in their bereavement.

The motion was supported and all senators present joined in a moment of silence.

Question passed.

11 Postponement
12 Disallowance motions—Consideration
The Assistant Minister for Forestry and Fisheries (Senator Duniam), at the request of the Minister for Families and Social Services (Senator Ruston) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—

(1) That on Tuesday, 12 November 2019:
(a) the notice of motion proposing the disallowance of the ASIC Corporations (Banking Code of Practice – Revocation of 2018 Approval) Instrument 2019/662 and the ASIC Corporations (Approval of Banking Code of Practice) Instrument 2019/663, standing in the name of Senator Roberts, be called on for debate by no later than 6 pm; and
(b) if consideration of the motion listed in paragraph (a) is not concluded at 6.30 pm, or at the expiration of 30 minutes after the moving of the motion, whichever is the earlier, the questions on the unresolved motion shall then be put.

(2) That on Wednesday, 13 November 2019:
(a) the notice of motion proposing the disallowance of the Gene Technology Amendment (2019 Measures No. 1) Regulations 2019, standing in the name of Senator Rice, be called on for debate at 3.30 pm;
(b) if consideration of the motion listed in paragraph (a) is not concluded at 4 pm, the questions on the unresolved motion shall then be put;
(c) immediately after consideration of the motion listed in paragraph (a) has concluded, the notice of motion proposing the disallowance of the Immigration (Guardianship of Children) Regulations 2018, standing in the name of the Chair of the Standing Committee on Regulations and Ordinances (Senator Fierravanti-Wells), be called on for debate; and
(d) if consideration of the motion listed in paragraph (c) is not concluded at 4.30 pm, the questions on the unresolved motion shall then be put.

(3) That—
(a) if the notice of motion proposing the disallowance of the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019, standing in the name of Senators Siewert and McKim for 12 November 2019, has not been resolved by 14 November 2019, that notice of motion be called on by no later than 3.30 pm on 14 November 2019; and
(b) if consideration of the motion listed in paragraph (a) is not concluded by 4 pm, the questions on the unresolved motion shall then be put.

Question put and passed.

13 Corporations Act—Instruments—Proposed disallowance
Senator Roberts, pursuant to notice, moved business of the Senate notice of motion no. 1—That the following legislative instruments, made under the Corporations Act 2001, be disallowed:
(a) the ASIC Corporations (Banking Code of Practice – Revocation of 2018 Approval) Instrument 2019/662 [F2019L00877];
(b) the ASIC Corporations (Approval of Banking Code of Practice) Instrument 2019/663 [F2019L00878].

Debate ensued.

Question put.

The Senate divided—

AYES, 13

Senators—

Faruqi  Griff  Hanson  Hanson-Young  Lambie  McKim  Roberts  Rice  Siewert*  Steele-John  Waters  Whish-Wilson

NOES, 40

Senators—

Abetz  Antic  Askew  Ayres  Bernardi  Bilyk  Birmingham  Bragg  Brockman  Canavan  Carr  Chandler  Ciccone*  Colbeck  Cormann  Davey  Duniam  Fawcett  Gallagher  Gallagher  Green  Henderson  Hughes  McAllister  McDonald  McMahon  O’Sullivan  Paterson  Pratt  Renwick  Scarr  Seselja  Sheldon  Smith, Dean  Smith, Marielle  Sterle  Stoker  Urquhart  Van  Walsh

* Tellers

Question negatived.

14 **Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2019**

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

———

**In the committee**

Consideration resumed of the bill, as amended.

Senator Patrick moved the following amendments together by leave:

Clause 1, page 1 (line 13), omit “Energy”.

Schedule 1, item 1, page 28 (after line 19), after Part XICA, insert:

**Part XICB—Egregious market misconduct**

**153ZE** Simplified outline of this Part

This Part sets out when a divestiture order may be made in relation to egregious market misconduct.

**153ZF** Interpretation

In this Part:

associate has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975*.  
egregious market misconduct has the meaning given by section 153ZG.
interest, in an asset or a security, has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975*.

153ZG  Egregious market misconduct

(1) A corporation engages in *egregious market misconduct* if:
   (a) the corporation engages in conduct that contravenes section 46 (misuse of market power); and
   (b) any of the following apply to the conduct:
      (i) the conduct has the purpose, or has or is likely to have the effect of, eliminating or substantially damaging a competitor of the corporation, or of a body corporate that is related to the corporation, in a market;
      (ii) the conduct has or is likely to have the effect of significantly diminishing the access consumers have to a good or service in a market;
      (iii) the conduct engaged in by the corporation is part of a systematic pattern of conduct.

(2) In determining for the purposes of subparagraph (1)(b)(iii) whether the conduct engaged in by the corporation was part of a systematic pattern of conduct, regard must be had to the following:
   (a) the number of times (the *relevant engagements*) the corporation, or a body corporate that is related to the corporation, has engaged in the conduct;
   (b) the period over which the relevant engagements occurred.

(3) Subsection (2) does not limit the matters to which regard may be had.

153ZH  Divestiture orders for egregious market misconduct

(1) The Court may, on the application of the Treasurer, the Commission or any other person, make an order under subsection (2) or (3) in relation to a body corporate if the Court is satisfied:
   (a) a corporation engaged in egregious market misconduct; and
   (b) the body corporate is the corporation or a body corporate that is related to the corporation; and
   (c) the order is a proportionate means of preventing the corporation, or any related body corporate, from engaging in that kind of misconduct in the future.

(2) If the body corporate is not an authority of the Commonwealth or an authority of a State or Territory, the Court may order the body corporate to:
   (a) dispose of interests in securities or assets, other than to any of the following:
      (i) another body corporate that is related to the body corporate;
      (ii) an associate of the body corporate; and
   (b) comply with conditions (if any) specified in the order in accordance with subsection (7).

(3) If the body corporate is an authority of the Commonwealth or an authority of a State or Territory, the Court may order the body corporate to:
   (a) dispose of interests in securities or assets to:
      (i) if the body corporate is an authority of the Commonwealth—an authority of the Commonwealth that is genuinely in competition with the body corporate in relation to which the order is made and that the Commonwealth has a controlling interest in that is equal to or greater than the controlling interest that the Commonwealth has in that body corporate; and
(ii) if the body corporate is an authority of a State or Territory—an authority of that State or Territory that is genuinely in competition with the body corporate in relation to which the order is made and that the State or Territory has a controlling interest in that is equal to or greater than the controlling interest that the State or Territory has in that body corporate; and

(b) comply with conditions (if any) specified in the order in accordance with subsection (7).

(4) To avoid doubt, the Court cannot make an order under subsection (3) for the body corporate to dispose of interests in securities or assets otherwise than in accordance with paragraph (3)(a).

(5) An order under subsection (2) or (3) must specify:

(a) the interests in the securities and assets, or the kinds of interests in the securities and assets, that the body corporate must dispose of; and

(b) the day by which the disposal must be made; and

(c) any other matter that the Court considers necessary for the order to be effective.

(6) The day by which the disposal must be made must be no earlier than 12 months after the day on which the order is made.

(7) The order may specify conditions with which the body corporate must comply during the period between the making of the order and the disposal of an interest, if the Court is satisfied that those conditions are necessary to preserve any of the following:

(a) the value of the interest;

(b) in the case of an interest in an asset—the commercial operation of the asset.

(8) Without limiting the scope of subsection (7), those conditions may relate to any of the following:

(a) the interest to be disposed;

(b) if the interest is a share or other security in a body corporate—the exercise of rights attached to the share or other security.

(9) If a body corporate disposes of interests in assets to another body corporate as required by an order made under this section, then for the purposes of paragraph 311(1)(d) or 768AD(1)(d) of the Fair Work Act 2009, there is taken to be a connection between the body corporate and the other body corporate as described in subsection 311(3) or 768AD(2), as the case may be, of that Act.

Note: This means any employees of the body corporate who become employees of the other body corporate and satisfy paragraphs 311(1)(a) to (c) or 768AD(1)(a) to (c) will be transferring employees in relation to a transfer of business for the purposes of Part 2-8 or Part 6-3A of that Act.

153ZI Acquisition of property

This Part has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(311i) of the Constitution) otherwise than on just terms (within the meaning of that paragraph).
NOES, 39

Senators—

Abetz  Colbeck  Kitching  Seselja
Antic  Cormann  McAllister  Sheldon
Askew  Davey  McDonald  Smith, Dean
Ayres  Duniam  McMahon  Sterle
Bilyk  Fawcett  O’Sullivan  Stoker
Bragg  Gallacher  Paterson  Urquhart
Brockman  Green  Pratt  Van
Carr  Hanson  Rennick  Walsh
Chandler  Henderson  Roberts  Watt
Ciccone*  Hughes  Scarr

*Tellers

Question negatived.
Bill agreed to and reported with an amendment.

On the motion of the Minister for Finance (Senator Cormann) the report from the committee was adopted and the bill read a third time. All Australian Greens senators, by leave, recorded their votes for the noes in respect of the question for the third reading.

15 Farm Household Support Amendment (Relief Measures) Bill (No. 1) 2019

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.

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, agreed to and reported without amendments or requests.

On the motion of the Minister for Resources and Northern Australia (Senator Canavan) the report from the committee was adopted and the bill read a third time.
16 **Discussion of matter of public importance—Bushfire and climate emergency**

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

The bushfire emergency and the climate emergency.

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

*At 7.20 pm:* The discussion was interrupted.

17 **Adjournment**

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

Debate ensued.

The Senate adjourned at 9.14 pm till Wednesday, 13 November 2019 at 9.30 am.

18 **Attendance**

Present, all senators except Senators Di Natale* and Hume* (*on leave).

**Richard Pye**

Clerk of the Senate