

How the Senate has voted

September 2014

The Government does not have a majority in the Senate, with only 33 of the 76 seats. In order to form a majority, the Government needs the support of either:

- a) the Australian Labor Party (25 seats);
- b) the Australian Greens (10 seats); or
- c) 6 of the 8 crossbench Senators.

This Occasional Paper outlines the key legislative measures passed, rejected and amended by the Senate, and some of the key scrutiny activities of the Senate during the 44th Parliament.

Since 1 July 2014, 30 Bills have been passed by the Senate. Of these, six were passed with amendments. The Senate has rejected one piece of legislation and disallowed three legislative instruments.

Up until 4 September 2014, there have been 103 divisions in the Senate. The Government won 65 per cent of divisions, 30 per cent of which were won with the support of the ALP and 35 per cent with the support of the crossbench. No divisions were won with the key support of the Australian Greens. The Government lost the remaining 35 per cent of divisions.

Hawker Britton's table detailing the voting record of the Senate since 1 July 2014 is available [here](#).

The Senate will resume sitting on 22 September 2014.

The Hawker Britton Occasional Paper on the new Senate is available [here](#).

The Hawker Britton Occasional Paper on the results of the 2013 Senate election is available [here](#).

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Composition of the Senate

There are 76 seats in the Senate. As a result of the 2013 Federal election, the Liberal/National Party Coalition holds 33 seats, and the Australian Labor Party holds 25 seats. The final 18 seats are held by minor parties and independents. These include:

- The Australian Greens, with 10 seats;
- The Palmer United Party (PUP), with 3 seats;
- The Australian Motoring Enthusiast Party (AMEP), with 1 seat;
- The Family First Party (FF), with 1 seat;
- The Liberal Democratic Party (LDP), with 1 seat;
- Independent Senator Nick Xenophon; and
- Independent Senator John Madigan (formerly of the Democratic Labour Party).

The Hawker Britton Occasional paper on the composition of the new Senate, which includes information about parties and individual senators, is available [here](#).

Powers of the Senate

The Senate serves as a check on the Federal Executive by engaging in scrutinising government administration, and participating in the development of government policy options.

The Senate can by a simple majority (39 votes):

- pass legislation (or prevent the passage of legislation with 38 votes);
- disallow legislative instruments;
- amend legislation; and
- compel the production of documents through Returns to Order.

Tied votes (i.e. 38–38) means the relevant motion is negated. Accordingly, motions need a positive (though not necessarily an absolute) majority to pass.

Senate scrutiny of the government

The Senate has ordered the production of the following documents:

- Review of Air Warfare Destroyer project;
- Water quality offset imposed on the Abbot Point dredging and dumping approvals in December 2013;
- Definition of ‘metadata’ provided to Senator Brandis by the Attorney General’s Department;
- ABC efficiency study; and
- Future of Financial Advice Regulations.

The Government tabled the Future of Financial Advice Regulations but to date has not tabled the remaining documents.

Key Senate votes

i. Significant legislation passed by the Senate

[Clean Energy Legislation \(Carbon Tax Repeal\) Bill 2014](#)

This Bill was part of a package of 8 bills to remove the carbon pricing mechanism. The Bill repealed the six Acts which established the carbon pricing mechanism; amended 13 Acts to make amendments consequent on the repeals; enabled the payment and future enforcement of carbon tax liabilities for the 2012–13 and 2013–14 financial years.

The Hawker Britton Occasional Paper on the former Labor Government’s carbon pricing and emissions trading policy is available [here](#).

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|
| No | No | Yes | Yes | Yes | Yes | N/A | Yes | Yes | 39 | 33 |

[Qantas Sale Amendment Bill 2014](#)

The bill amends the *Qantas Sale Act 1992* (Cth) to remove mandatory requirements in Qantas’ articles of association which include limits on the issue and ownership of Qantas shares, restrictions on the makeup of the board of directors, the use of the name Qantas, the location of the head office, place of incorporation and principle place of business.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|
| Yes | No | No | No | Yes | Yes | N/A | No | Yes | 40 | 15 |

[Land Transport Infrastructure Amendment Bill 2014](#)

The Bill amends the *Nation Building Program (National Land Transport) Act 2009* (Cth) to enable the Roads to Recovery Programme to continue past June 2014. The Roads to Recovery Programme will provide \$2.1 billion over the next five years to local councils for development and maintenance of local roads.

Labor proposed amendments to the legislation requiring cost-benefit analyses for projects worth more than \$100 million and a heavy vehicle safety program which were not successful.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|
| Yes | Yes | No | No | Yes | Yes | Yes | Yes | Yes | 53 | 4 |

ii. Significant legislation amended by the Senate

[Minerals Resource Rent Tax Repeal and Other Measures Bill 2014](#)

The Bill repeals the Minerals Resource Rent Tax Act 2012 (Cth). The Government’s initial Bill included a range of changes to subsidiary measures, including discontinuation of the loss-carry back, wound back eligibility for the small business instant asset write-off, the geothermal expenditure deduction, the low income superannuation contribution, the income support bonus and the schoolkids bonus.

The Government secured passage of the Bill through the support of the Palmer United Party and other AMEP with significant confessions.

This included amendments that required the Government to maintain the low-income super contribution until 30 June 2017 and the income-support bonus until 31 December 2016, maintain the current level of compulsory superannuation until 1 July 2021 when it will rise to 10 per cent and maintain the schoolkids bonus for families earning less than \$100,000 until 31 December 2016.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|
| No | No | Yes | Yes | Yes | Yes | N/A | Yes | Yes | 36 | 30 |

[Asset Recycling Fund Bill 2014](#)

The Bill establishes the Asset Recycling Fund to enable grants of financial assistance to be made to State and Territory Governments for expenditure incurred under the National Partnership Agreements on Asset Recycling and Land Transport Infrastructure Projects, and to make infrastructure national partnership grants and infrastructure payments.

On July 17 the Senate voted up amendments to the scheme that ensured a Senate veto proposed incentive payments to State Governments for using the proceeds of privatisation to fund infrastructure.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|----|-----|-----|-----|-----|------|------|
| Yes | Yes | Yes | Yes | No | Yes | N/A | N/A | No | 36 | 29 |

iii. Significant legislation and regulation blocked by the Senate

[Social Security Legislation Amendment \(Stronger Penalties for Serious Failures\) Bill 2014](#)

The Bill amends the *Social Security (Administration) Act 1999* (Cth) to require job seekers who incur an eight-week non-payment penalty for refusing or failing to commence work to serve the penalty in full.

Currently under the scheme implemented by Labor, job seeker can apply for the non-payment period to be waived if they agreed to participate in intensive job seeking activities and if they would be in serious financial hardship if the non-payment period were not ended.

The Senate also disallowed the associated *Social Security (Reasonable Excuse—Participation Payment Obligations) (Employment) Determination*.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|-----|-----|-----|-----|-----|------|------|
| No | No | No | No | Yes | Yes | No | No | Yes | 29 | 35 |

Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|----|-----|-----|-----|-----|------|------|
| Yes | Yes | Yes | Yes | No | No | Yes | N/A | No | 33 | 29 |

Social Security (Reasonable Excuse—Participation Payment Obligations) (Employment) Determination disallowance motion

[Migration Amendment \(Offshore Resources Activity Regulation 2014\)](#)

This regulation attempted to circumvent some of the restrictions in *the Migration Amendment (Offshore Resources Activity) Bill 2013* (Cth) that ensured companies profiting from Australian resources in Australian waters apply Australian wages and conditions on those projects. This disallowance motion was brought by the Australian Greens.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|----|-----|-----|-----|-----|------|------|
| Yes | Yes | Yes | Yes | No | No | N/A | Yes | No | 35 | 31 |

[Higher Education \(Maximum Amounts for Other Grants\) Determination 2013](#)

This regulation was made under sections 41-45(1A) and (1B) of the *Higher Education Support Act 2003* (Cth) and was part of a measure that sought to cut \$2.3 billion from the higher education sector. This disallowance motion was brought by the Opposition.

| ALP | GRN | PUP | AMEP | FF | LDP | XON | MDN | LNP | Ayes | Noes |
|-----|-----|-----|------|----|-----|-----|-----|-----|------|------|
| Yes | Yes | Yes | Yes | No | No | Yes | N/A | No | 34 | 29 |

iv. Bills not proceeded with

[Clean Energy Finance Corporation \(Abolition\) Bill 2014](#)

Following negotiations with the Palmer United Party, the Government agreed to not proceed with its attempt to abolish the Clean Energy Finance Corporation (CEFC). The Clean Energy Finance Corporation (CEFC) is designed to encourage private investment and help overcome financial barriers to commercialising and deploying cleaner energy technologies.

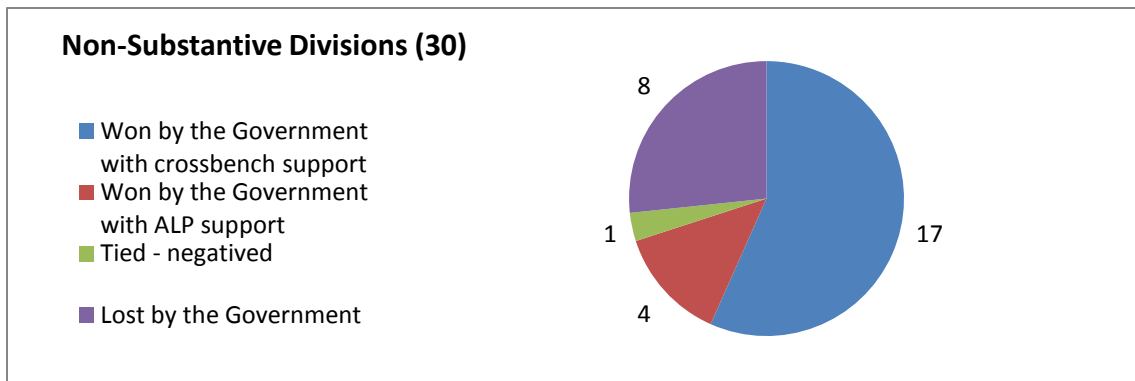
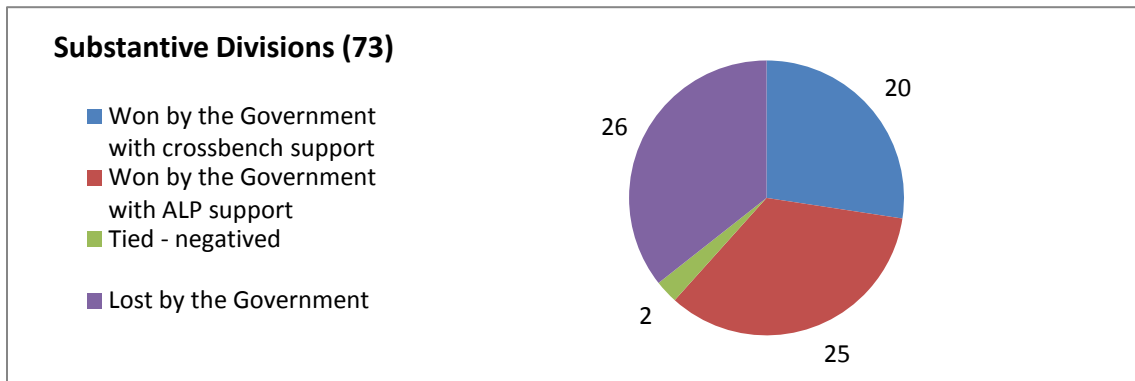
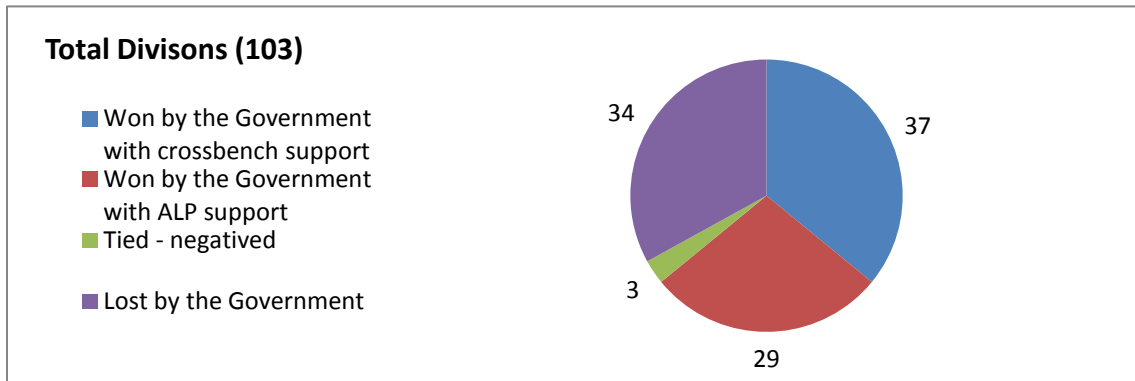
The Hawker Britton Occasional Paper on the CEFC is available [here](#).

How the Independents have voted in the Senate

A table showing all the divisions in the Senate since 1 July, with a brief description of the legislation or motion, number of votes and how each major party, minor party and independent senator voted is available [here](#).

It should also be noted that most of the bills implementing the controversial budget measures are yet to be debated by the Senate. This paper will be updated to include details of these Bills as they are put to the Senate.

Senate Divisions



Crossbench voting record

