

Hawker Britton

Government Relations Strategy

The Senate

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The Australian Senate is one of the two houses of the Federal Parliament, and is considered one of the most powerful legislative upper chambers in the world. The Senate serves as a check on the Federal Executive by voting on and scrutinising bills and delegated legislation, engaging in government administration, and participating in the development of government policy. This is achieved through the procedures used in the Senate chamber itself and through the operation of the Senate committee system and Senate estimates.

Since 1 July 2014, the balance of power in the Senate rests with a diverse group of independents and minor parties. These crossbenchers have considerable influence over the Coalition Government's ability to implement its legislative agenda and pass key budget measures.

The Hawker Britton Occasional Paper on how the Senate has voted, which analyses the voting record of each crossbench senator in every division since 1 July 2014 is available [here](#).

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

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Senators

There are 76 seats in the Senate. Twelve senators represent each state, and the Australian Capital Territory and the Northern Territory are represented by two senators each.

Senators representing the states are normally elected for fixed terms of six years, commencing on 1 July following the election, and ceasing on 30 June six years later. As such, the senators elected at the 2013 Federal election will not commence their terms until 1 July 2014.

The term of the four senators from the territories is not fixed, rather defined by the date of the general House of Representatives election. Senators representing the territories commence their terms on the day that they are elected and their terms expire the day prior to the next general election day.

2013 election results

A half-Senate election was held in conjunction with the House of Representatives election on 7 September 2013.

On 20 February 2014 the High Court, sitting as the Court of Disputed Returns, declared the 2013 Western Australian Senate election result void. As a result, a Western Australian senate re-election was held on Saturday 5 April 2014.

Following the 2013 Federal election and the Western Australian re-election, the Liberal/National Coalition secured 17 senate seats. New Coalition senators from 1 July 2014 include James McGrath and Arthur Matthew Canavan in Queensland, and Linda Reynolds in Western Australia.

The Australian Labor Party secured 12 senate seats, which represents a 6-seat loss on Labor's result in the last election of this half-Senate at the 2007 Federal election. New Labor senators include Chris Ketter in Queensland and Joe Bullock in Western Australia.

Eleven seats were won by minor parties, including four seats secured by The Australian Greens and three seats secured by the Palmer United Party.

Party	Continuing	New	Total
Liberal/National Party/CLP	16	17	33
Australian Labor Party	13	12	25
Australian Greens	6	4	10
Palmer United Party	0	3	3
Others	1	4	5

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

The Hawker Britton Occasional Paper on the Western Australian Senate re-election is available [here](#).

Senate Composition from 1 July 2014

From 1 July 2014, the balance of power in the Senate rests with a diverse group of independents and minor parties.

Following the results of the 2013 election, neither the Coalition nor the Australian Labor Party can command the 39 votes needed to pass legislation or to support motions. The votes of the Australian Labor Party and the Australian Greens senators combined will also no longer be sufficient to pass legislation or support motions.

If Labor and the Greens oppose, the Government will require six of the eight crossbench senators to support a bill or motion.

If a non-Government motion, including a motion of disallowance (see [below](#)) is proposed, the Government will require five of the eight crossbench senators to oppose in order to defeat the motion.

The Crossbenchers

Since the 2013 election, four minor parties have entered into two alliances.

The Palmer United Party has entered into an alliance with Ricky Muir of the Australian Motoring Enthusiasts Party (AMEP). In broad terms, the PUP has agreed to support the AMEP agenda. In exchange, the AMEP has agreed to support the PUP's policies in the Senate. This alliance represents two of the eight crossbench votes.

In June 2014, Bob Day AO of the Family First Party entered an alliance to vote together on economic issues with David Leyonhjelm of the Liberal Democratic Party. The pair are not compelled to vote together on social issues.

Since the election Senator Lambie and Senator Lazarus have left the Palmer United Party and become independents. Senator Madigan has also left the Democratic Labor Party and now sits as an independent.

A list of all the crossbench senators is provided on the following pages. Links to the Hawker Britton Occasional Papers on each micro party/independent senator — including detailed information on their platforms, key policies and positions, and personnel — are provided under each entry.

Party	PUP	AMEP	FF	LDP	MDG	LAM	XEN	LAZ
Grouping	Alliance (general)		Alliance (economic policy)					
Senators	Dio Wang	Ricky Muir	Bob Day	David Leyonhjelm	John Madigan	Jacqui Lambie	Nick Xenophon	Glen Lazarus
Votes	2		2		1	1	1	1

Palmer United Party

The Palmer United Party (PUP) was formed in April 2013. The party fielded candidates in all 150 House of Representatives seats at the 2013 Federal election, receiving 5.5 per cent of the national vote. The PUP secured one seat in the House of Representatives and three Senate seats. The party's leader, Clive Palmer, was elected as the Federal Member for Fairfax (Qld).

Following the 2013 Federal election, the Palmer United Party entered into an alliance with Ricky Muir of the Australian Motoring Enthusiasts Party (AMEP). In broad terms, the PUP agreed to support the AMEP agenda. In exchange, the AMEP agreed to support the PUP's policies in the Senate.

On 24 November 2014 PUP Senator Jacqui Lambie resigned from the PUP following disagreement over the party's response to the Government's changes to entitlements for ADF personnel. As a result, PUP now holds two seats in the Senate.

On 13 March 2015 PUP Senator Glen Lazarus resigned from the PUP. His resignation was prompted by the National Director of PUP terminating the employment of his wife, Tess Lazarus, from the party.

Dio Wang

Senator for Western Australia

Zhenya ('Dio') Wang was elected at the 2014 Western Australian re-election. Before entering Parliament, he worked as a civil engineer, and has been employed with Perth-based Australasian Resources Ltd since 2006.



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

The Australian Motoring Enthusiasts Party

The Australian Motoring Enthusiast Party (AMEP) is a Senate-only independent party. The AMEP formed as a Federal party on 11 May 2013 in Queensland. The AMEP seeks to preserve ‘Australian family values’ and the ‘Motoring Enthusiast lifestyle’ while encouraging a sense of community and personal responsibility. The party’s platform states that members take pride in our vehicles, pride in our Nation, and promote the notion of a ‘fair go for all’.

Senators

Ricky Muir ***Senator for Victoria***

Ricky Muir was elected Senator for Victoria at the 2013 Federal election. Muir describes himself as an “ordinary, everyday Australian”. He has lived in the Gippsland region his entire life and previously worked as a sawmill manager.



The Hawker Britton Occasional Paper on the Australian Motoring Enthusiasts Party is available [here](#).

Jacqui Lambie – Independent ***Senator for Tasmania***

Senator Lambie was originally elected as the lead candidate on the Palmer United Party (PUP) Tasmanian ticket.

On 24 November 2014, Senator Lambie announced her resignation from PUP. In her resignation, Senator Lambie reaffirmed her commitment to improved pay and conditions for Defence personnel and economic assistance for Tasmania.

Jacqui Lambie served as a soldier in the Australian Army for over a decade. Her primary policy interests are veterans’ affairs, unemployment and national security.



The Hawker Britton Occasional Paper on Independent Senator Jacqui Lambie is available [here](#).

Glenn Lazarus- Independent
Senator for Queensland

Senator Glenn Lazarus was originally elected as a candidate on the Palmer United Party (PUP) Queensland ticket.

On 13 March 2015, Senator Lazarus announced his resignation from PUP. In a statement following his resignation Mr Lazarus emphasized his commitment to representing Queensland.

Glenn Lazarus is a former rugby league player, and the only player in the history of the NRL to have won premierships with 3 different clubs. Mr Lazarus primary political interests include agricultural, rural and small business policy.



The Hawker Britton Occasional Paper on Senator Lazarus is available [here](#).

The Family First Party

The Family First Party (FFP) is an economic and socially conservative political party in Australia founded in South Australia in 2001. The party has successfully contested various Federal and State elections over the past decade. On 1 June 2014, Mr Day entered into an alliance with David Leyonhjelm of the Liberal Democratic Party. Under their agreement, the pair will vote together on all economic issues.

Senators

Bob Day AO
Senator for South Australia

Bob Day was elected as a Senator for the State of South Australia at the 2013 Federal election. He has worked as a businessman in Adelaide and was founder of various home building companies operating in Adelaide, Perth, Brisbane, Sydney and Melbourne.



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

The Liberal Democratic Party

The Liberal Democratic Party (LDP) was formed in the Australian Capital Territory in 2001. The party was formed on a platform of social libertarianism, a free market economy and small government. The LDP broadly describes its philosophy as classical liberal or libertarian. The party advocates 'greater freedom, smaller government and personal responsibility.'

Senators**David Leyonhjelm*****Senator for New South Wales***

David Leyonhjelm has spent several years in practicing as a Veterinarian in Victoria, the UK, South Africa and Zimbabwe before moving to industry, first in a technical role and then marketing and management. He was elected at the 2013 Federal election



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

Nick Xenophon Team

Nick Xenophon is an independent Senator for South Australia, and most recently ran on the Nick Xenophon Group ticket founded in the lead-up to the 2013 federal election. Senator Xenophon is a strong advocate for gambling reform, water security in South Australia and small business. Senator Xenophon has argued for strengthening foreign investment rules, supporting Australian manufacturers and has argued against changes to the *Qantas Sale Act*.

Senators

Nick Xenophon

Senator for South Australia

Nick Xenophon was elected to the South Australian Parliament in 1997 and to Federal Parliament as Senator for South Australia in 2007. Nick Xenophon has previously held the balance of power in both the South Australian Parliament and the Australian Senate.



The Hawker Britton Occasional Paper on the Nick Xenophon Group (No Pokies Party) is available [here](#).

John Madigan – Independent

John was elected Senator for Victoria in 2010 on the Democratic Labour Party (DLP) ticket, a socially-conservative, decentralist political party of the labour tradition. John was the first federal representative of the DLP since 1974. In September 2014 John announced his resignation of the DLP. He now sits as an independent Senator.

Senators

John Madigan

Senator for Victoria

John commenced his term as Senator for Victoria on 1 July 2011. Before entering Parliament, John worked as a self employed blacksmith. John continues to uphold the Democratic Labour Party's key values and principles, and will support the party's longstanding policy positions during his term in the senate.



The Hawker Britton Occasional Paper on Independent Senator John Madigan is available [here](#).

Powers of the Senate

The Senate has considerable law-making powers and also enjoys oversight over both the Government and the House of Representatives.

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](#).

Individual Senators are able to:

- [initiate legislation](#);
- scrutinise legislation; and
- enter into debate with government ministers over policy and proposed legislation.

Through the [Senate estimates process](#), the Senate can:

- examine in detail the estimates of annual expenditure and reports of government departments and agencies;
- require the presence of, and seek explanations from, the ministers who formulate policy and from the various departmental and agency officers who implement government policy; and
- submit questions in writing to Government ministers which they are obliged to respond to.

Through the [Committee system](#), the Senate can:

- examine bills and policy detail;
- suggest passage, amendment or rejection of government or non-government legislation;
- inform the Senate of any bills that unduly trespass on individual rights and liberties or fail to observe proper legislative safeguards via the Scrutiny of Bills Committee; and
- review public policy and administration in detail.

The full powers and procedures of the Senate are detailed in Odgers' Australian Senate Practice, available [here](#).



Legislative functions of the Senate

The Senate plays an important legislative function. Not only does the Senate vote on bills from the House of Representatives, but it is also able to amend legislation, propose its own legislation and scrutinise both legislation and delegated legislation.

Scrutiny of Bills

Bills must be passed in identical terms by both the House of Representatives and the Senate before they can become law.

The Senate may pass a bill without amendment, pass it with amendments (or, for taxation or appropriations bills, request amendments before passing it) or reject it. During their passage through the Senate, bills are read three times, with the broad policy of the bill debated by the Senate at the second reading stage.

Following the second reading, the Senate resolves itself into a committee of the whole, during which individual senators can examine the detail of bills, engage in debate with ministers and move amendments.

This procedure provides the opportunity for the Senate to examine all aspects of a bill thoroughly before voting to pass, reject or amend it.

Amendments

Amendments are proposals to alter the bill and may be moved by any senator or member of the House of Representatives.

In the Senate, amendments to bills may be moved during the committee of the whole. Non-government amendments have a much greater chance of success in the Senate where the government does not often hold a party majority.

However, any amendments made by the Senate must be agreed to by the House of Representatives. If the two houses do not agree on the contents of a bill or proposed amendments, amendments to amendments may be made or alternative amendments proposed until a compromise is reached. On rare occasions, the impasse is unable to be broken and a bill is laid aside.

Committees and the Scrutiny of Bills Committee

The Senate committee system substantially increases the ability of the Senate to review bills in the Senate chamber (see 'Senate Committees' [below](#)). Many bills are referred to the relevant legislative and general purpose standing committees for inquiry. It concludes with the presentation of a report to the Senate, which may recommend passage of the bill with or without amendments.

Finally, the Scrutiny of Bills Committee can inform the Senate of any bills that unduly trespass on individual rights and liberties or fail to observe proper legislative safeguards.

Scrutiny of legislative instruments

Each year, Parliament passes around 200 bills. In contrast, the executive makes around 2000 disallowable legislative instruments across all areas of policy—from customs to healthcare, migration and veterans’ affairs. These instruments have the same legal effect as an Act of Parliament, and are created by the executive when the power to legislate has been delegated by the Parliament to the Governor-General, a minister or a statutory office holder.

Unless specifically exempted, all legislative instruments must be tabled in the Senate and may be disallowed on a vote in either house. The Senate Standing Committee on Regulations and Ordinances examines all disallowable legislative instruments against criteria similar to those used by the Scrutiny of Bills Committee (discussed [above](#)).

The Committee takes any concerns about a disallowable instrument to the relevant minister. If the problem cannot be resolved, the Senate may disallow the instrument.

The current Senate Disallowable Instruments List is available [here](#).

The Delegated legislation monitor, the regular report on the work of Senate Standing Committee on Regulations and Ordinances published in each sitting week of the Senate, is available [here](#).

Initiation of Bills and Private senators' and members' bills

The majority of bills are initiated in the House of Representatives where the majority of ministers reside. However, the Senate also possesses the power to initiate any bill (other than appropriation and taxation bills). Although most bills are initiated by the government and implement government policy, any senator or member of the House may introduce a bill.

A private senator’s bill is subject to the same procedural requirements as a Government bill. While comparatively few private senators’ bills are agreed to by both houses, some significant proposals have become law as a result of private senators’ initiatives. These include:

- the *Electoral (Compulsory Voting) Act 1924* proposed by Senator Herbert Payne, which introduced compulsory voting at Federal elections;
- the *Smoking and Tobacco Products Advertisements (Prohibition) Act 1989* proposed by Senator Janet Powell, which banned tobacco advertising in the print media; and
- the *Parliamentary Privileges Act 1987* proposed by the then-President of the Senate, Senator the Hon Doug McClelland, which codified the Parliament’s legal immunities and its powers to protect the integrity of its processes.

Estimates and executive oversight

Senate Estimates

Senate Estimates are legislative inquiries into government appropriations bills. Through the process, government expenditure estimates are referred to Senate Committees as part of the annual budget cycle for examination, who then question ministers, decision-makers and government officials on government policy.

This opportunity to examine the operations of government plays a key role in the parliamentary scrutiny of the executive.

There are eight estimates committees, each with responsibility for a number of departments which report to the Senate upon the completion of their inquiries. The committees are as follows:

- Community Affairs
- Economics
- Education and Employment
- Environment and Communications
- Finance and Public Administration
- Foreign Affairs, Defence and Trade
- Legal and Constitutional Affairs
- Rural and Regional Affairs and Transport

These estimates committees examine in detail the estimates of annual expenditure and reports of government departments and agencies, looking to see whether revenue is being spent appropriately and efficiently and scrutinise the performance of departments.

Relevant Senate ministers and senior departmental officials also appear before the committee to explain expenditure proposals and to answer questions concerning the effectiveness and efficiency of various programs.

Senate Estimates provide individual Senators, in particular non-government Senators, with an opportunity to gather information on the operations of government. Although Senators can seek information from the government during question time in the Senate chamber, their questions can only be directed to the Minister concerned and they are unable to question the relevant officials directly and extensively as they can at an Estimates Committee hearing.

Estimates also serve an important accountability function, enabling the Parliamentary scrutiny of the executive. Although there are many methods by which facts, figures and general information from the Government can be obtained, Senate Estimates provide an opportunity for *explanation* from relevant officials for the reasons for government administration and action.

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

Other executive oversight

Harradine Orders

On the 14 November 1994 the Senate agreed to a motion by Senator the Hon Brian Harradine requiring all Australian Government departments and agencies to produce an indexed list of files every six months for tabling before Parliament.

The lists are tabled twice a year, once in the Spring sittings and once in the Autumn sittings and are intended to make the operations of government more transparent to the Australian public.

For spring sittings, files created in the preceding July to December are listed.

For autumn sittings, lists files created in the preceding January to June are listed.

Returns to Order

The Senate is able to compel the production of documents through Returns to Order.

Most orders for production of documents start with a notice of motion, which is moved and determined during on any sitting day, although sometimes an order for production of documents is contained in an amendment moved to a motion for a particular stage in the consideration of a bill.

An order for production of documents can be directed at a minister, a statutory authority or an office holder. A deadline for production of documents is also specified, which includes the volume and nature of the documents requested should be taken into account. The deadline may be a specific time and date or contingent on another event occurring.

The documents are then identified by title or by description of individual or classes of documents. Particular information may be excluded from the order to make it clear that the Senate is not requiring publication of certain documents, such as commercially sensitive information or cabinet documents.

Although there are technically no exemptions, exceptions or limits on the documents which may be ordered to be tabled, ministers sometimes refuse to produce all or part of the information on a number of grounds, such as public interest, commercial confidentiality or legal professional privilege.

The refusal of a minister to comply with an order of the Senate may ultimately be dealt with as a contempt of the Senate, which can result in punitive and coercive penalties. However, on most occasions ministerial refusals to produce information are resolved through political means.

Senate Committees

Parliamentary Committees consist of a small number of Senators or Members of the House of Representatives (or both) appointed to conduct inquiries and report back to the Parliament. They have both Government and non-Government members and have considerable powers to undertake work on behalf of the Parliament.

Senators serve on about 30 parliamentary committees, and participation in committees has become a very important aspect of the work of senators. More time is spent by senators attending committee meetings and hearings than in attending sittings of the Senate. In 2013, the total meeting hours of Senate Committees was 1365, whereas the Senate itself only met for a total of 369 hours.

Committees perform functions which the Houses of Parliament themselves are not well fitted to perform: carrying out inquiries, examining evidence, hearing witnesses, conducting detailed discussions and formulating reasoned conclusions.

As they are small and can operate concurrently, their work is able to cover a wide range of matters. By concentrating on specific tasks or subjects, Committees also offer the benefits of specialisation.

The Hawker Britton Occasional Paper on Parliamentary Committees and their functions is available [here](#).

The Hawker Britton Guide to participating in the Parliamentary Committee process is available [here](#).

The Hawker Britton Occasional Paper on current Parliamentary Committee inquiries is available [here](#).