A summary of news from overseas parliaments

Australia

Former members included in Foreign Influence Transparency Scheme

Former members of Parliament are among the designated position holders who, from December, must register under the Foreign Influence Transparency Scheme if they undertake certain activities on behalf of a foreign government, a foreign government-related entity or individual, or a foreign political organisation. Registrable activities comprise parliamentary lobbying, general political lobbying, communications activity, to the public or a section of the public, and disbursement activity. Registration is required if the former member undertakes the activity at any time within 15 years of leaving office, and if in undertaking the activity they contribute experience, knowledge, skills or contacts gained in their capacity as a member. The names of the registrant and the foreign principal, and the kind of activities undertaken, will be published on the internet. The requirement to register does not apply to members of Parliament while they are in office.

Act: Foreign Influence Transparency Scheme Act 2018, 29 June 2018
Press release: Foreign Influence Transparency Scheme to commence December 10, 23 Nov. 2018

Claim of parliamentary privilege over seized documents

A claim of parliamentary privilege by the Chair of the Senate’s Legal and Constitutional Affairs References Committee over material seized by police officers executing search warrants at the office and home of an Australian Border Force employee should be upheld, the Committee of Privileges recommended. The email exchanges with the Chair, in relation to her committee’s inquiry into allegations concerning the inappropriate use of ministerial powers with respect to the visa status of au pairs, came within the definition of parliamentary proceedings. Neither the senator concerned nor the President of the Senate had been notified of the warrants before their execution. The Committee of Privileges questioned how well the agreed processes for the execution of warrants that potentially involve parliamentary privilege had operated to ensure that there was no improper interference with the functioning of Parliament, and to ensure that its members were provided with a proper opportunity to raise claims of parliamentary privilege.

Report: Senate Committee of Privileges, Disposition of material seized under warrant, 26 Nov. 2018

Covert execution of computer access warrants could affect parliamentary privilege

The President of the Senate has expressed concern over the effect on parliamentary privilege of the extension of the use of intrusive powers, particularly the power to execute computer access warrants covertly, contained in a bill before Parliament. Covert access would offer no opportunity for a parliamentarian who considered that material was protected by privilege to raise such a claim. The powers could also be exercised by organisations that are not currently covered by the arrangements for executing warrants that potentially involve parliamentary privilege. The President suggests that Parliament may be able to negotiate with the government an effective settlement as to the interaction between the use of the proposed extended powers and the proper protection of parliamentary material. Alternatively, privilege may best be secured through a legislative amendment that it is unlawful for proceedings in Parliament to be seized, accessed, listened to, recorded or observed by use of such powers.
Submission: President of the Senate, Review of the Telecommunications and Other Legislation Amendment

First Nations Voice to Parliament

Aboriginal and Torres Strait Islander delegates at a National Constitutional Convention in 2017 called for
the establishment of a First Nations Voice enshrined in the Constitution. The Referendum Council
recommended holding a constitutional referendum for a representative body to give Aboriginal and Torres
Strait Islander peoples a Voice to Parliament. The Council noted that the various proposals for a Voice had
in common the intention that it would not exercise a veto or limit the legislative power of Parliament, but
rather provide input where such power is exercised in relation to Aboriginal and Torres Strait Islander
peoples. A select committee has recommended that the government should initiate a co-design process
with Aboriginal and Torres Strait Islander peoples to achieve a design for the Voice that best suits their
needs and aspirations. The committee had observed broad support for the concept of a Voice, particularly
for a greater say in policy and legislation governing Aboriginal and Torres Strait Islander affairs.

Report: Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples,
Media article: Backing for Indigenous Voice to Parliament but proposal 'needs more work', The Sydney Morning

Canada

E-petition system considered a success

The House of Commons’ Standing Committee on Procedure and House Affairs reported that it was highly
satisfied with the functioning of the e-petition system, introduced in 2015. It was impressed by the level of
public use and engagement with the e-petitions website and considered its implementation a success.
Among a small number of changes recommended by the Committee is the replacement of the fixed length
of 120 days for which a petition is open for signature on the website with options of 30, 60, 90 or 120 days,
the length to be chosen by the petitioner. This would make it easier to use e-petitions as a tool to raise
matters of concern in a timely manner. To be accepted for publication on the website a petition must be
sponsored by an MP. It is explicitly stated that this does not necessarily mean that the MP supports or
agrees with the petition’s content, but some MPs are uncomfortable that the term sponsor implies support.
The Committee recommended that an MP should instead authorise a petition’s publication.

Report: House of Commons Standing Committee on Procedure and House Affairs, Approval and updating of the House

Establishment of Senate audit and oversight committee recommended

In accordance with an earlier recommendation from the Senate Standing Committee on Internal Economy,
Budgets and Administration, the Standing Committee on Rules, Procedures and the Rights of Parliament
has recommended the establishment of a Standing Committee on Audit and Oversight. This Committee
would be authorised, on its own initiative, to retain the services of and direct the Senate’s internal and
external auditors, oversee and direct the Senate’s internal audit function, and report and make
recommendations to the Senate. No senator could be a member of both the Committee on Audit and
Oversight and the Committee on Internal Economy, Budgets and Administration.

Report: Senate Standing Committee on Rules, Procedures and the Rights of Parliament, Tenth report, 29 Nov. 2018
Use of indigenous languages in the House of Commons

The use of indigenous languages in proceedings of the House of Commons and committees has been approved. Simultaneous interpretation services will be made available for members who intend to speak in an indigenous language in any proceedings. Members must inform the Clerk of the language to be used and provide reasonable notice as to when they will be speaking in it. This will allow the House Administration and the Translation Bureau to secure the required interpretation services, if possible, and translation services in a timely manner.

Press release: Use of indigenous languages in proceedings of the House of Commons and committees, 29 Nov. 2018

Finland

Amendments proposed to citizens’ initiatives process

Since the introduction of citizens’ initiatives in 2012, 28 of the approximately 800 initiatives lodged have succeeded in attracting the 50,000 eligible supporters necessary for presentation to Parliament. Initiatives may take the form of a bill, or a proposal that legislative measures be taken. Once presented, an initiative is debated in a plenary session and referred to a committee, which may consider it further and report to Parliament, or may decide not to support it. Committees have found that as initiatives cannot be expected to meet the same standards as government bills, significantly more work is involved in their consideration. Proposed amendments to the citizens’ initiative process are intended to make it clearer and more flexible. The number of proposers required for lodging an initiative would increase from one to five, partly to encourage better preparation of the content of an initiative. The time for gathering supporters would be extended from six months to one year to allow more control over the timing of an initiative’s presentation.

Bill: Regeringens proposition till riksdagen med förslag till lag om ändring av lagen om medborgarinitiativ, 29 Nov. 2018

Former members’ adjustment pension to be abolished

Members elected to Parliament before March 2011, who have served at least seven years, are entitled to receive an adjustment pension if, on leaving Parliament, they are unemployed. In March 2011 new rules came into force under which members elected since then may receive an adjustment allowance, varied according to any earned or capital income, for up to three years, depending on their length of service, after they leave Parliament, or until they reach 65 if aged 59 years or over. A bill introduced by members of most of the parliamentary parties would end the exemption from the new rules for members elected before March 2011. Existing recipients of the pension could instead receive an allowance for three years from the new law’s entry into force, and other eligible former members for one or two years, depending on their length of service, or, in both cases, until they reach 65 if aged 59 years or over. The bill follows a citizens’ initiative presented to Parliament earlier in the year which sought to abolish the adjustment pension.

Bill: Lagmotion med förslag till lag om upphävande av 2 mom. i ikraftträdandebestämmelsen i lagen om ändring av lagen om pension för riksdagsmän och till vissa lagar som har samband med den, 30 Nov. 2018

Media article: Bill portends end to MPs’ pension parachute, Yle, 30 Nov. 2018
https://yle.fi/uutiset/osasto/news/bill_portends_end_to_mps_pension_parachute/10534295;
France

**Member reprimanded for wearing yellow vest in chamber**

As a minister began answering a question on what measures the government envisaged taking to maintain security in response to the ‘yellow vest’ protests, a deputy donned a yellow vest, to mixed protest and applause. He was promptly told by the President of the National Assembly to take the vest off and to go and demonstrate outside the chamber. The President said there would be consequences for his action. When in the chamber deputies are required to wear neutral business attire, which must not be used as a means to express opinions of any kind. In particular the wearing of religious symbols that are easily visible, uniforms, commercial logos and messages, and political slogans is prohibited.


New South Wales

**Regulations Committee should be established as standing committee**

The Legislative Council’s Regulation Committee was established on a trial basis for 2018 to inquire into and report on any regulation, including the policy or substantive content of a regulation, and trends or issues that relate to regulations. During the trial period the Committee conducted two short inquiries into particular pieces of delegated legislation. Reviewing its work at the end of the year, the Committee considered that focusing on substantive policy issues regarding a small number of regulations of interest had proven to be efficient, effective and valuable. The inquiries had highlighted systemic issues with the government’s public consultation processes when developing regulations. The Committee recommended that the Regulation Committee be established as a standing committee in the next Parliament and that representations be made to the NSW Treasury seeking appropriate resourcing for it.

**Ethics seminars for members recommended**

With some additional amendments, the revised version of the Members’ Code of Conduct recommended by a Legislative Assembly committee earlier this year should be adopted, the Legislative Council’s Privileges Committee recommends. The Committee also recommends that changes be made to the frequency of lodging pecuniary interests returns, and that the returns be published on the internet. Despite some misgivings, it continues to support introducing disclosure of the interests of related parties. The Committee recommends that ethics seminars for both new and re-elected members should be scheduled after the summer and winter recesses in 2019, and that party leaders and whips be asked to encourage members to attend. Members’ attendance at the introductory and refresher seminars, and their completion of any online ethics training module provided for them, should be reported on by the Department of the Legislative Council, either in its annual report or on the Legislative Council website.

Changes recommended to registration of pecuniary interests

Members are required by the Constitution (Disclosures by Members) Regulations 1983 to lodge a primary return of their pecuniary interests within three months of taking the pledge of loyalty, and thereafter an ordinary return by 1 October each year and a supplementary ordinary return by 31 March. The Legislative Assembly’s Standing Committee on Parliamentary Privilege and Ethics has recommended that the six monthly updating of the register be replaced by continuous disclosure. If such a model is adopted, consideration should be given to creating an online register that members could update on a regular and independent basis in real time. The Committee has also recommended that the disclosure threshold for income, gifts or debts should be raised from $500 to $1,000, and for contributions to travel from $250 to $500. The present thresholds now capture smaller amounts of expenditure than was the intention when they were set in 1983.


Review of legislation for adverse effects on rights and liberties

The Legislation Review Committee, a joint committee of both houses, scrutinises all bills, and all regulations subject to disallowance by Parliament. Its examination focuses on whether a bill or regulation adversely affects personal rights and liberties, or enables the inappropriate use of government or legislative power. The phrase ‘personal rights and liberties’ is not defined in the Act under which the Committee operates. The Committee considers that it would assist the scrutiny process if it were to determine the rights and liberties against which it will review bills and regulations and inform Parliament of these at the start of each session. It recommends that the member responsible for a bill should be required to address during debate on the bill any matters identified by the Committee. It also recommends that the government consider amending the Act to establish a separate committee to examine subordinate legislation. Having separate committees would permit a greater focus on both bills and regulations.


Norway

Supporting documentation required for travel expenses claims

From January, when claiming expenses for internal travel members will be required to provide documentation that makes it clear what the purpose of the journey was. Examples of documentation include emails with arrangements, copies of invitations, printouts of conference programmes, and screenshots of Facebook posts showing what took place. The change comes after it was revealed that a member had been claiming expenses for several years for journeys that he had not made. The President of the Storting remarked that nevertheless the system for claiming expenses must still be based on trust. Even with stricter requirements for documenting the purpose of travel, it was not possible to insure 100% against abuse of the system.

Glossary: Stortinget – Parliament

Papua New Guinea

Parliament vandalised by police and corrections officers

Hundreds of police and corrections officers converged on Parliament demanding payment of the allowances promised to them for security work during the previous week’s APEC Summit. A small number then broke into and vandalised the Parliament building and harassed parliamentary staff. The Speaker has put an initial estimate of between US$3 million and US$4 million on the damage.

Media articles: Hundreds of PNG police descend on parliament – reports, Radio New Zealand, 20 Nov. 2018
https://www.radionz.co.nz/international/pacific-news/376396/hundreds-of-png-police-descend-on-parliament-reports;
More than $US3m worth of damage to PNG parliament, Radio New Zealand, 29 Nov. 2018
https://www.radionz.co.nz/international/pacific-news/377089/more-than-us3m-worth-of-damage-to-png-parliament

Scotland

Unpublished committee reports must be kept confidential

A committee report which has been agreed by a committee, but is still unpublished, must be kept confidential unless the committee decides otherwise. To avoid disclosing its conclusions, members must not express dissent from an unpublished report. Nor may they disclose any information to which they have privileged access. The Standards, Procedures and Public Appointments Committee recommended that a member be suspended for five sitting days for breaching these provisions of the Code of Conduct for MSPs. The member had contributed comments on prisoner voting to a party press release issued three days before a committee report on prisoner voting was published. The Commissioner for Ethical Standards in Public Life in Scotland found that one comment referred obliquely to the terms of the report, and that others involved disclosure of information to which the member had privileged access. A clear statement that the party did not support the proposals understood to be in the committee’s report implied dissent.


Breaches of confidentiality around members’ conduct complaints will be punished

Members are required by the Code of Conduct for MSPs not to disclose, communicate or discuss any complaint, or intention to make a complaint, to the Commissioner for Ethical Standards in Public Life in Scotland to or with the media until the Standards, Procedures and Public Appointments Committee has considered the Commissioner’s report and presented its own report to Parliament. On several occasions members have breached this requirement. The Committee has said that it will take any further breaches of the Code seriously, and that it intends to sanction any member found to be in breach unless there are valid mitigating circumstances. The Committee believes that reporting of and commentary about details of complaints prior to and during its consideration of them can unhelpfully overshadow its work and may discourage victims from coming forward in the future.

**Making Parliament a guarantor of human rights**

Recommendations made by the Equalities and Human Rights Committee aim to bolster Parliament’s and MSPs’ roles as guarantors of human rights. The recommendations include tracking the government’s progress against international human rights obligations and integrating human rights considerations into all parliamentary scrutiny. The Committee said that, with the support of a legal adviser with the necessary human rights expertise, it would pilot systematic scrutiny of all government bills for the rest of the session. Matters highlighted by the legal adviser would be brought to the attention of the government and the lead committee responsible for the bill. All committees should take human rights into account when undertaking post-legislative scrutiny. Every committee should also identify one of its members as the committee’s human rights champion. Tailored training on human rights should be delivered to members as part of their induction and continuing development, and to committee staff.


**South Australia**

**Whistleblower disclosures to and about members of Parliament**

Under the new Public Interest Disclosure Act 2018, a person who has disclosed public interest information to the appropriate authority may disclose substantially the same information to a member of Parliament, if the appropriate authority has not notified the person within the prescribed time limits of the action being taken and its outcome, or that no action is being taken. The person must believe on reasonable grounds that the information is true. A public servant who reasonably suspects that information relating to a member of Parliament raises a potential issue of corruption, misconduct or maladministration in public administration may make a public interest disclosure to the Presiding Officer of the relevant House.


**Spain**

**Caretaker governments are subject to parliamentary oversight**

Following the general election in December 2015 no party was able to win an investiture vote in the Congress. In 2016 the caretaker government informed the President of the Congress that ministers would not answer questions in plenary sessions, as the government could not be subject to a Congress with which it had no relationship of confidence. Congress voted to refer the government’s rejection of its oversight to the Constitutional Court. The Court has ruled that although oversight of the government is normally exercised within the framework of the relationship of confidence that exists between the government and Congress, this does not mean that it cannot be exercised in those periods when no such relationship exists. Parliament’s oversight function is implicit in Parliament’s representative nature and in the form of parliamentary government established by the Constitution. The fact that a government is a caretaker one does not prevent either house of Parliament from exercising oversight.

United Kingdom

**Reducing the size of the House of Lords**

Addressing the size of the House of Lords is now an indispensable imperative, says the House of Commons Public Administration and Constitutional Affairs Committee. It supports a House of Lords committee’s proposal that the House’s membership be capped at 600, but recommends that this be achieved more quickly than at the proposed rate. It also recommends that all political parties and the House of Lords Appointment Commission, which nominates crossbench peers, should provide a written statement setting out why a person is being nominated for a peerage and how they are qualified to contribute to the House. Nominees should also make a written statement setting out how they will contribute, to be published when their peerage is announced. Regarding the House of Lords committee’s proposal for a non-renewable fixed term of 15 years for all new members, the Committee thinks that a fixed-term limit is desirable but not essential and should continue to be kept under consideration.


**House of Lords declined to approve committee’s recommendation to suspend member**

Complaints about peers’ conduct are investigated by the House of Lords Commissioner for Standards. If the Commissioner finds a member has breached the Code of Conduct, the member may appeal the findings, and the sanction recommended by the Sub-Committee on Lords’ Conduct, to the Committee for Privileges and Conduct. Following an appeal by a member, the Committee endorsed the Commissioner’s conclusions that the member had breached the Code in failing to act on his personal honour by sexually harassing the complainant and offering her corrupt inducements to sleep with him. It decided to replace the Sub-Committee’s recommended sanction of expulsion with a recommendation that the member be suspended from the House until June 2022. On a motion to approve the Committee’s report, the House voted in favour of an amendment to return the report to the Committee because the Commissioner had failed to comply with the requirement to act in accordance with the principles of natural justice and fairness.

*Hansard:* Privileges and conduct, *House of Lords Hansard*, 15 Nov. 2018  
https://hansard.parliament.uk/Lords/2018-11-15/debates/283f584-59e3-4e3e-89e0-4f67cedd6635/PrivilegesAndConduct  
*Media article:* Lords committee defends decision to suspend Anthony Lester, *The Guardian*, 20 Nov. 2018  
https://www.theguardian.com/politics/2018/nov/20/lords-committee-defends-decision-to-suspend-anthony-lester

**Proper use of delegated legislation**

The House of Lords Select Committee on the Constitution has observed an increasing and constitutionally objectionable trend, it says, for the government to seek wide delegated powers that would permit the determination, as well as the implementation, of policy through secondary legislation. Delegated powers should be sought only when their use can be clearly anticipated and defined. Broad or vague powers, or those sought for the convenience of flexibility for the government, are unacceptable. Primary legislation should not be amended by the lighter-touch processes of secondary legislation, other than in exceptional circumstances. The Committee finds it difficult to envisage any circumstances in which skeleton bills are acceptable. It is also troubled by the government’s use of guidance as a substitute for legislation. Guidance is not legislation and should not include matters that should properly be in legislation.

Documents produced in response to committee order

A House of Commons committee used its power to order the production of documents within the United Kingdom to obtain documents from a visiting American businessman whose company is in dispute with Facebook. The committee believed that the documents were relevant to its inquiry into disinformation and fake news. The Serjeant at Arms was sent to the businessman’s hotel to give him a final warning to comply with the order, and a two-hour deadline in which to do so. When the businessman did not comply, it is understood that he was escorted to Parliament, where he was told that he risked fines and imprisonment if he failed to produce the documents. He agreed to produce them.


Western Australia

Changes recommended to motions on notice procedure

Motions on notice provide an opportunity for members who are not ministers or private secretaries to put propositions to the Legislative Council on matters of concern to citizens, to scrutinise the government’s activities, and to hold it accountable through resolutions or orders. The Standing Committee on Procedure and Privileges has recommended the adoption of temporary orders to address the problem that arose in the previous Parliament of a backlog of motions on notice that extended beyond the life of the Parliament. Each party would be allocated a quota of motions relative to its size. The dates assigned for each party’s motions would be set out in an annual schedule. The time allowed for debating a motion would be one hour, at the end of which every question necessary to dispose of the motion would be put.


Temporary protection for Parliament’s forecourt

Large concrete blocks have been installed in Parliament’s forecourt as a temporary solution for protection against vehicle attacks of people gathered at Parliament. Currently there is not sufficient funding to install expensive infrastructure, and the blocks are an affordable and effective alternative. They will be removed when a full security redesign of the forecourt and Parliament House has been completed.


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