

Federal Coalition

Submission to Joint Select Committee on the Parliamentary Budget Office

Summary

The Coalition proposes the Parliamentary Budget Office should be:

- An independent and well resourced statutory authority located in Parliament House; and
- Be tasked with providing objective and impartial advice and analysis on:
 - The Commonwealth Budget and budget cycle
 - Medium and long-term budget projections
 - The costs of policy proposals; and
 - Other matters as requested by Members and Senators.

The Coalition also proposes an amendment to the Charter of Budget Honesty to remove what will become a redundant provision providing for election policies to be submitted to the Departments of Treasury and Finance for costing.

Background

A private members bill to create a Parliamentary Budget Office was first introduced into the Senate by Senator Barnett in June 2010.

On 24 June 2010 the Senate referred the establishment of a PBO to the Senate Finance and Public Administration Committee for inquiry and report. The review was interrupted by the calling of the election.

The establishment of a PBO became a Coalition election commitment.

The initiative was subsequently embodied in the agreement with the independents of 7 September 2010. It provided that a PBO be established, based in the Parliamentary Library, to provide independent costings, fiscal analysis and research to all members of parliament, especially non-government members. It also determined that the structure, resourcing and protocols for such an office be the subject of a decision by a special committee of the Parliament which is truly representative of the Parliament.

The key elements of the original June proposal were:

- The PBO will be independent and will enhance the transparency and accountability of the budget process and help deliver better policy and financial outcomes for Australian taxpayers.
- The PBO will be well resourced and provide objective and impartial advice and analysis across the parliament on the Commonwealth budget and budget cycle, including the impact of major policy announcements. The PBO will also work to increase the transparency of the budget process.

- The PBO will be headed by the Parliamentary Budget Officer, who will be appointed by the presiding officers of the parliament on the advice of a committee of senior government officials. The Office will have a small, but highly trained staff, whose calibre will reflect the Office's status as an independent body.
- The new body will be accountable to the Parliament rather than the Executive, much like the Auditor-General or Commonwealth Ombudsman.
- The PBO will provide a politically independent alternative to the Treasury as a potential source of policy advice and economic research.

Coalition Proposals

There are a number of aspects on which the Coalition proposes to depart from what was initially proposed in June and also from what was laid down in the agreement with the independents. These changes are intended to strengthen the independence and to broaden the functions of the PBO.

A draft bill which embodies these changes is attached.

Section 3 establishes the PBO. The Coalition believes the PBO should be an independent statutory authority rather than a sub department of the Parliamentary Library.

The object of the PBO should be broadened to include medium and long term budget projections, a policy costing function, and other matters as requested. The policy costing function is particularly important and is intended as a replacement for the current right of the Opposition under the Charter of Budget Honesty to submit costings – with the permission of the Prime Minister – to Treasury and Finance. The aim is for the PBO to provide a completely discrete and confidential costing function, unlike the public process available under the Charter of Budget Honesty.

Section 5. The Parliamentary Budget Officer is to be appointed no later than 6 months from the date of the office becoming vacant. This is to avoid a situation where the PBO is emasculated by the absence of a chief executive.

Section 7 has been redrafted to more fully spell out the full range of functions of the PBO.

Section 11 (f) gives the PBO the power to second staff from government departments and agencies. This is to allow the PBO to obtain specialist staff that are not otherwise available.

Section 16 (2) includes a change to the composition of the panel who recommend the PBO Officer, with the Secretary to the Treasury deleted and replaced by the Chair of the Productivity Commission. The Coalition judges that it is inappropriate for the Secretary to the Treasury to play a part in appointing a fellow public servant whose function is in part to review the work of the Secretary.

Section 28 provides for the PBO to be located within Parliament House. The rationale is simply that it is sensible for an agency which exists to service parliamentarians to be conveniently located.

Section 32 (4) provides for the budget of the PBO to be set at an adequate level, as a percentage of the budget of the Department of the Treasury. This is intended to prevent the PBO being emasculated through a reduction in funding.

Schedule 1 details the information gathering powers and confidentiality obligations of the PBO. These are based on those of the Auditor General, but do not include search powers, or the power to require information to be provided by other than public service agencies.

Separately, amendment to the Charter of Budget Honesty will be required to remove the provision providing for election policies to be submitted to the Departments of Treasury and Finance for costing. This will become redundant once the PBO assumes the policy costing function.

2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

Presented and read a first time

Version 05 for Mr Hockey - 17 November 2101

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This draft is supplied in confidence and should be given appropriate protection.

Parliamentary Budget Office Bill 2010

No. , 2010

(Mr Hockey)

**A Bill for an Act to establish the Parliamentary
Budget Office, and for related purposes**

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6 **A Bill for an Act to establish the Parliamentary**
7 **Budget Office, and for related purposes**

8 The Parliament of Australia enacts:

Section ^1

1 **Part 1—Preliminary**
2

3 **^1 Short title**

4 This Act may be cited as the *Parliamentary Budget Office Act*
5 *2010*.

6 **^2 Commencement**

7 (1) Each provision of this Act specified in column 1 of the table
8 commences, or is taken to have commenced, in accordance with
9 column 2 of the table. Any other statement in column 2 has effect
10 according to its terms.
11

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections ^1, ^2 and ^3	The day this Act receives the Royal Assent.	
2. The remainder of the Act	The day after an Act authorising the appropriation of funds for the establishment of the office of Parliamentary Budget Officer and the operation of the PBO receives the Royal Assent. However, if such an Act does not commence within 24 months after this Act receives the Royal Assent, these provisions do not commence at all.	

12 Note: This table relates only to the provisions of this Act as originally
13 enacted. It will not be amended to deal with any later amendments of
14 this Act.

15 (2) Any information in Column 3 of the table is not part of this Act.
16 Information may be inserted in this column, or information in it
17 may be edited, in any published version of this Act.

^3 Object

2 The object of this Act is to establish an independent statutory
3 office of Parliamentary Budget Officer to provide objective and
4 impartial advice and analysis on:

- 5 (a) the Commonwealth budget and budget cycle; and
6 (b) medium and long-term budget projections; and
7 (c) the costs of policy proposals; and
8 (d) other matters as requested by Members and Senators.

^4 Definitions

10 (1) In this Act:

11 ***authorised committee*** means:

- 12 (a) the Joint Committee of Public Accounts and Audit; or
13 (b) another committee of either House, or of both Houses, that is
14 authorised by resolution of that House, or of both Houses, for
15 the purpose of the relevant provision.

16 ***Commissioner*** means the Parliamentary Service Commissioner
17 appointed under the *Parliamentary Services Act 1999*.

18 ***deputy***, in relation to a Presiding Officer, means the senior-most
19 Deputy Speaker or Deputy President, as the case may be, who is
20 not of the same political party or coalition of parties as the
21 Presiding Officer.

22 ***House*** means a House of the Parliament.

23 ***PBO*** means the Parliamentary Budget Office established under
24 section ^25.

25 ***Presiding Officer*** means:

- 26 (a) in relation to the Senate—the President of the Senate; and
27 (b) in relation to the House of Representatives—the Speaker of
28 the House of Representatives.

29 (2) Unless the contrary intention appears:

- 30 (a) a reference to the Presiding Officers means the Presiding
31 Officers acting jointly; and

Part 1 Preliminary

Section ^4

- 1 (b) a reference to a decision or determination of the Presiding
2 Officers means a decision or determination in writing jointly
3 signed by each of the Presiding Officers.
- 4 (3) If either House passes a resolution in relation to this Act or the
5 powers and functions of the Parliamentary Budget Officer, the
6 Presiding Officer of that House:
- 7 (a) must not take any action under this Act which is contrary to
8 that resolution; and
- 9 (b) must comply with any direction given in that resolution in
10 relation to the exercise of the Presiding Officer's functions
11 under this Act.
- 12

1 **Part 2—The Parliamentary Budget Officer**

2 **Division 1—Establishment and independence**

3 **^5 Establishment**

- 4 (1) The office of Parliamentary Budget Officer is established by this
5 section.
- 6 (2) Whenever a vacancy occurs in the office of Parliamentary Budget
7 Officer, an appointment must be made to the office as soon as
8 practicable and no later than 6 months from the date the office
9 became vacant.

10 **^6 Independence of the Parliamentary Budget Officer**

- 11 (1) The Parliamentary Budget Officer is an independent officer of the
12 Parliament.
- 13 (2) The functions, powers, rights, immunities and obligations of the
14 Parliamentary Budget Officer are as specified in this Act and other
15 laws of the Commonwealth. There are no implied functions,
16 powers, rights, immunities or obligations arising from the
17 Parliamentary Budget Officer being an independent officer of the
18 Parliament.
- 19 (3) The powers of the Parliament to act in relation to the Parliamentary
20 Budget Officer are as specified in or applying under this Act and
21 other laws of the Commonwealth. For this purpose, *Parliament*
22 includes:
23 (a) each House of the Parliament; and
24 (b) the Members of each House of the Parliament; and
25 (c) the committees of each House of the Parliament and joint
26 committees of both Houses of the Parliament.
27 There are no implied powers of the Parliament arising from the
28 Parliamentary Budget Officer being an independent officer of the
29 Parliament.
- 30 (4) Subject to this Act and to other laws of the Commonwealth, the
31 Parliamentary Budget Officer has complete discretion in the

Section ^7

- 1 performance or exercise of his or her functions and powers. In
2 particular, the Parliamentary Budget Officer is not subject to
3 direction from anyone in relation to:
4 (a) whether or not a particular function is to be undertaken; or
5 (b) the way in which a particular function is to be undertaken; or
6 (c) the priority to be given to any particular matter.

7 **Division 2—Functions of the Parliamentary Budget Officer**

8 **^7 Functions**

- 9 (1) The Parliamentary Budget Officer has the following functions:
10 (a) helping Members and Senators better understand the
11 Commonwealth budget cycle and budget issues by:
12 (i) analysing and reporting on documents and policy
13 announcements related to the budget cycle; and
14 (ii) making medium and long-term projections of budget
15 parameters and the effects of budget proposals or other
16 developments that the Officer considers significant; and
17 (iii) analysing and reporting on issues referred to the Officer
18 by either House or by an authorised committee; and
19 (iv) analysing and reporting on related issues that the Officer
20 considers will assist Members and Senators;
21 (b) providing advice on the costs of particular policy proposals at
22 the request of individual Members or Senators;
23 (c) providing advice on particular financial or economic issues at
24 the request of individual Members or Senators;
25 (d) engaging in or commissioning research related to these
26 functions;
27 (e) functions conferred on the Officer under this or another Act;
28 (f) any functions incidental to these functions.
- 29 (2) A copy of a report or document produced for paragraph (1)(a) must
30 be given to the Presiding Officer of each House and published on a
31 website.

1 **^8 Parliamentary Budget Officer to have regard to priorities of**
2 **Parliament**

3 In performing or exercising his or her functions and powers, the
4 Parliamentary Budget Officer must have regard to:

- 5 (a) the priorities of the Parliament expressed in resolutions of
6 either or both Houses; and
7 (b) any reports on matters connected to the functions of the
8 Officer made by committees of either or both Houses.

9 **^9 Information-gathering powers and secrecy**

10 The Parliamentary Budget Officer and the staff of the PBO have
11 the powers and obligations set out in Schedule 1.

12 **^10 General powers**

13 The Parliamentary Budget Officer has power to do everything
14 necessary or convenient to be done for, or in connection with, the
15 performance of the functions of the Officer.

16 **^11 Flexibility and range of working methods in performance of**
17 **functions**

18 In the performance and exercise of his or her functions and powers,
19 the Parliamentary Budget Officer:

- 20 (a) is not required to act in a formal manner; and
21 (b) may inform himself or herself on any matter in any way he or
22 she thinks fit; and
23 (c) may consult with anyone he or she thinks fit; and
24 (d) may receive written or oral information or submissions; and
25 (e) may establish working groups and task forces; and
26 (f) may second staff from government departments and agencies
27 and hire other staff.

1 **Division 3—Operational Plan**

2 **^12 Operational plan**

- 3 (1) The Parliamentary Budget Officer must prepare operational plans
4 in accordance with this section.
- 5 (2) An operational plan must:
- 6 (a) define the Parliamentary Budget Officer's principal
7 objectives in performing his or her functions; and
- 8 (b) give a broad outline of the strategies to be pursued by the
9 Officer to achieve those objectives; and
- 10 (c) set out a schedule of:
- 11 (i) the matters on which the Officer expects to report
12 during the period of the plan, which must include the
13 annual budget statements, the mid-year economic and
14 fiscal outlook reports and the final budget outcome
15 reports; and
- 16 (ii) other kinds of matters on which the Officer will report
17 should events make it desirable.
- 18 (4) The first operational plan is to relate to the period ending on
19 30 June 2013, and must include details of the Parliamentary
20 Budget Officer's intentions in respect of:
- 21 (a) establishing and staffing the PBO; and
- 22 (b) developing in the PBO the expertise to undertake its
23 functions; and
- 24 (c) increasing its program of reports.
- 25 (5) Each subsequent operational plan is to relate to the 3-year period
26 commencing on 1 July in each subsequent year and must include
27 details of how the Parliamentary Budget Officer intends to fulfil its
28 schedule of reports and its other functions.
- 29 (6) The Parliamentary Budget Officer must give a copy of an
30 operational plan to the Presiding Officer of each House:
- 31 (a) for the first operational plan— as soon as practicable after the
32 establishment of the PBO; and

1 (b) for a subsequent operational plan—before the period to
2 which it relates.

3 **^13 Variation of operational plan**

4 (1) Either House, or both Houses, may, by resolution, request that the
5 Parliamentary Budget Officer vary an operational plan.

6 (2) The Parliamentary Budget Officer must consider any request under
7 subsection (1) to vary an operational plan and may vary the plan
8 accordingly.

9 (3) If the Parliamentary Budget Officer varies an operational plan, he
10 or she must present a copy of the varied operational plan to each
11 House of the Parliament as soon as practicable after the variation is
12 made.

13 **^14 Compliance with plans**

14 When performing his or her functions and exercising his or her
15 powers, the Parliamentary Budget Officer must take into account
16 the operational plan that is in force.

17 **Division 4—Appointment and conditions**

18 **^15 Appointment**

19 (1) The Parliamentary Budget Officer is to be appointed by the
20 Presiding Officers by written instrument, following a selection
21 process undertaken in accordance with section 16.

22 (2) The Parliamentary Budget Officer is to be appointed on a full-time
23 basis

24 (3) The Parliamentary Budget Officer holds office for the period
25 specified in the instrument of appointment. The period must not
26 exceed 5 years.

27 Note: The Parliamentary Budget Officer is eligible for reappointment: see
28 subsection 33(4A) of the *Acts Interpretation Act 1901*.

Section ^16

1 **^16 Selection**

- 2 (1) The selection of a Parliamentary Budget Office must follow the
3 process set out in this section.
- 4 (2) The Presiding Officers must establish a panel comprising the
5 holders of at least 3 of the following offices:
6 (a) the Ombudsman;
7 (b) the Auditor-General;
8 (c) the Governor of the Reserve Bank of Australia;
9 (d) the Chair of the Productivity Commission.
- 10 (3) The panel must assess and recommend to the Presiding Officers a
11 short-list of at least 2 candidates for appointment to the position.
- 12 (4) The Presiding Officers may delegate administrative responsibility
13 for the selection process to the Commissioner.
- 14 (5) The Presiding Officers, together with their deputies, must select an
15 appointee from the short-listed candidates. If this group is unable
16 to select an appointee, the Presiding Officers must commence a
17 new selection process.

18 **^17 Acting Parliamentary Budget Officer**

- 19 (1) The Presiding Officers may appoint a person to act as the
20 Parliamentary Budget Officer:
21 (a) during a vacancy in the office of the Parliamentary Budget
22 Officer (whether or not an appointment has previously been
23 made to the office); or
24 (b) during any period, or during all periods, when the Officer is
25 absent from duty or from Australia, or is, for any reason,
26 unable to perform the duties of the office.
- 27 Note: Section 33A of the *Acts Interpretation Act 1901* has rules that apply to
28 acting appointments.
- 29 (2) Anything done by or in relation to a person purporting to act under
30 an appointment is not invalid merely because:
31 (a) the occasion for the appointment had not arisen; or

- 1 (b) there was a defect or irregularity in connection with the
2 appointment; or
3 (c) the appointment had ceased to have effect; or
4 (d) the occasion to act had not arisen or had ceased.

5 **^18 Remuneration and allowances**

- 6 (1) Subject to subsection (3), the Parliamentary Budget Officer is to be
7 paid the remuneration and allowances that are determined by the
8 Remuneration Tribunal. If no such determination is in operation,
9 the Parliamentary Budget Officer is to be paid the remuneration
10 and allowances that are determined by the Presiding Officers by
11 written instrument.
- 12 (2) This section has effect subject to the *Remuneration Tribunal Act*
13 *1973*.
- 14 (3) The remuneration and allowances of the Parliamentary Budget
15 Officer must be broadly equivalent to the remuneration and
16 allowances of the Auditor-General.

17 **^19 Leave of absence**

- 18 (1) The Parliamentary Budget Officer has the recreation leave
19 entitlements that are determined by the Remuneration Tribunal.
- 20 (2) The Presiding Officers may grant the Parliamentary Budget Officer
21 leave of absence, other than recreation leave, on the terms and
22 conditions as to remuneration or otherwise that they determine.

23 **^20 Disclosure of interests**

24 The Parliamentary Budget Officer must give written notice to the
25 Presiding Officers of all interests, pecuniary or otherwise, that the
26 Officer has or acquires and that conflict or could conflict with the
27 proper performance of the Officer's functions.

Section ^21

1 **^21 Outside employment**

2 The Parliamentary Budget Officer must not engage in paid
3 employment outside the duties of his or her office without the
4 approval of the Presiding Officers.

5 **^22 Other terms and conditions**

6 The Parliamentary Budget Officer holds office on the terms and
7 conditions (if any) in relation to matters not covered by this Act
8 that are determined by the Presiding Officers.

9 **^23 Resignation**

- 10 (1) The Parliamentary Budget Officer may resign his or her
11 appointment by giving the Presiding Officers a written resignation.
- 12 (2) The resignation takes effect on the first day it is received by either
13 of the Presiding Officers, or, if a later day is specified in the
14 resignation, on that later day.

15 **^24 Termination of appointment**

- 16 (1) The Presiding Officers may terminate the appointment of the
17 Parliamentary Budget Officer for misbehaviour or physical or
18 mental incapacity.
- 19 (2) The Presiding Officers may terminate the appointment of the
20 Parliamentary Budget Officer if:
- 21 (a) the Officer:
- 22 (i) becomes bankrupt; or
- 23 (ii) applies to take the benefit of any law for the relief of
24 bankrupt or insolvent debtors; or
- 25 (iii) compounds with his or her creditors; or
- 26 (iv) makes an assignment of his or her remuneration for the
27 benefit of his or her creditors; or
- 28 (b) the Officer is absent, except on leave of absence, for 14
29 consecutive days or for 28 days in any 12 months; or

- 1 (c) the Officer engages, except with the approval of the
2 Presiding Officers, in paid employment outside the duties of
3 his or her office (see section 21); or
4 (d) the Officer fails, without reasonable excuse, to comply with
5 section 20 (disclosure of interests).
- 6 (3) The appointment of the Parliamentary Budget Officer can be
7 terminated for any reason by a resolution of both Houses.
8

1 **Part 3—Parliamentary Budget Office**
2

3 **^25 Establishment**

- 4 (1) The Parliamentary Budget Office (**PBO**) is established by this
5 section.

6 **^26 Constitution of the PBO**

7 The PBO consists of:

- 8 (a) the Parliamentary Budget Officer; and
9 (b) the staff of the PBO.

10 **^27 Function of the Parliamentary Budget Office**

11 The PBO's function is to assist the Parliamentary Budget Officer in
12 the performance of the Officer's functions.

13 **^28 Location of the Parliamentary Budget Office**

14 The PBO must be located in Parliament House

15 **^29 Staff**

- 16 (1) The staff of the PBO are to be persons engaged under the *Public*
17 *Service Act 1999*.
- 18 (2) For the purposes of the *Public Service Act 1999*:
19 (a) the Parliamentary Budget Officer and the staff of the PBO
20 together constitute a Statutory Agency; and
21 (b) the Parliamentary Budget Officer is the Head of that
22 Statutory Agency.
- 23 (3) Directions to staff of the PBO relating to the performance of the
24 Parliamentary Budget Officer's functions may only be given by:
25 (a) the Parliamentary Budget Officer; or
26 (b) a member of the staff of the PBO authorised by the Officer to
27 give such directions.

1 ^30 Consultants

- 2 (1) The Parliamentary Budget Officer may engage a person who has
3 suitable qualifications and experience to assist in the performance
4 of any of the functions of the Parliamentary Budget Officer.
- 5 (2) The terms and conditions of engagement are to be determined, in
6 writing, by the Parliamentary Budget Officer.

7 ^31 Delegation by Parliamentary Budget Officer

- 8 (1) The Parliamentary Budget Officer may, by written instrument,
9 delegate any of the Parliamentary Budget Officer's powers or
10 functions to:
11 (a) an SES employee or acting SES employee in the PBO; or
12 (b) a person engaged under section 30 whose skills and
13 responsibilities are equivalent to, or exceed, the skills and
14 responsibilities expected of an SES employee.

15 Note: *SES employee* and *acting SES employee* are defined in section 17AA
16 of the *Acts Interpretation Act 1901*.

- 17 (2) In exercising powers or functions under the delegation, the
18 delegate must comply with any directions of the Parliamentary
19 Budget Officer.
20

1 **Part 4—Miscellaneous**
2

3 **^32 Appropriation**

- 4 (1) The PBO is to be funded from money appropriated by the
5 Parliament for the purpose.
- 6 (2) Provisions for the appropriation of funds for the purposes of the
7 PBO must be proposed in the annual and additional appropriation
8 bills.
- 9 (3) The Finance Minister must consult with the Parliamentary Budget
10 Officer to seek agreement on the estimates of proposed expenditure
11 for the PBO for inclusion in those bills.
- 12 (4) The appropriation of funds for the Parliamentary Budget Office in
13 a non election year must not be less than 10% of the departmental
14 appropriation for the Department of the Treasury.
- 15 (5) Consideration must be given to increasing the appropriations in a
16 year in which there is an election for the House or the Senate
- 17 (6) The Parliamentary Budget Officer may, at any time, present to
18 each House of the Parliament, or to an authorised committee:
19 (a) a statement of his or her estimates of expenditure required for
20 the PBO to undertake its functions; or
21 (b) a report on any consultations which have taken place with the
22 Finance Minister in accordance with subsection (3); or
23 (c) a copy of any agreement made under subsection (3).
- 24 (7) If appropriation bills are introduced that propose estimates of
25 expenditure for the PBO other than in accordance with an
26 agreement made under subsection (3), the Finance Minister must
27 present a statement to each House of the Parliament prior to
28 consideration of the bills, setting out the reasons for the failure to
29 reach agreement on the estimates.
- 30 (8) Subsection (3) does not apply in relation to the initial appropriation
31 made by the Parliament to establish the office of Parliamentary
32 Budget Officer.

1 **^33 Authorised committee may request draft estimates for PBO**

- 2 (1) An authorised committee may request the Parliamentary Budget
3 Officer to submit to the committee draft estimates for the PBO for
4 a financial year before the annual Commonwealth budget for that
5 financial year.
- 6 (2) The Parliamentary Budget Officer must comply with the request in
7 time to allow the committee to consider the draft estimates and
8 make recommendations on them before the budget.

9 **^34 Guaranteed availability of parliamentary appropriations**

10 The Finance Minister must issue drawing rights under section 27 of
11 the *Financial Management and Accountability Act 1997* that cover
12 in full the amounts that the Parliament appropriates for the
13 purposes of the PBO.

14 **^35 Parliamentary Budget Officer may approve expenditure**

15 The Parliamentary Budget Officer has authority to approve a
16 proposal to spend money under an appropriation for the PBO.

17 Note: The Parliamentary Budget Officer's power under this section may be
18 delegated under section 31.

19 **^36 Indemnity**

- 20 (1) The Commonwealth must indemnify a person for any liability that
21 the person incurs for an act or omission of the person in the course
22 of performing a function of the Parliamentary Budget Officer.
- 23 (2) The indemnity does not apply if the liability arose from an act or
24 omission in bad faith.
- 25 (3) The indemnity does not cover a liability of a person to the extent to
26 which the person is entitled to be indemnified for the liability by a
27 person other than the Commonwealth, whether under a contract of
28 insurance or otherwise.

Section ^37

1 **^37 Annual report**

2 The Parliamentary Budget Office must, as soon as practicable after
3 the end of each financial year, prepare and give to the Presiding
4 Officer of each House a report of the operations of the PBO during
5 that financial year.

6 **^38 Delegation**

7 (1) The Presiding Officers may, in writing, delegate any or all their
8 functions and powers under this Act (other than their functions and
9 powers under Division 4 of Part 2) jointly to the Secretaries of the
10 Departments established under the *Parliamentary Service Act*
11 1999.

12 (2) In exercising functions or powers delegated under subsection (1),
13 the delegates must comply with any directions of the Presiding
14 Officers.

15 **^39 Determinations**

16 The Presiding Officers may, by legislative instrument, determine
17 matters:

- 18 (a) required or permitted by this Act to be determined; or
19 (b) necessary or convenient to be determined for carrying out or
20 giving effect to this Act.
21

Schedule 1—Information gathering powers and secrecy

1 Relationship of information-gathering powers with other laws

The operation of clause 3:

(a) is limited by laws of the Commonwealth (whether made before or after the commencement of this Act) relating to the powers, privileges and immunities of:

(i) each House of the Parliament; and

(ii) the members of each House of the Parliament; and

(iii) the committees of each House of the Parliament and joint committees of both Houses of the Parliament; but

(b) is not limited by any other law (whether made before or after the commencement of this Act), except to the extent that the other law expressly excludes the operation of clause 3.

2 Purpose for which information-gathering powers may be used

The powers under clause 3 may be used for the purpose of, or in connection with, a function given to the Parliamentary Business Officer by this Act.

3 Power of Parliamentary Budget Officer to obtain information

(1) The Parliamentary Budget Officer may, by written notice, direct an employee of an agency to do all or any of the following:

(a) to provide the Officer with any information that the Officer requires;

(b) to attend and give evidence before the Officer or an authorised officer;

(c) to produce to the Officer any documents in the custody or under the control of the employee.

Note: A proceeding under paragraph (1)(b) is a “judicial proceeding” for the purposes of Part III of the *Crimes Act 1914*. The Crimes Act prohibits certain conduct in relation to judicial proceedings.

(2) The Parliamentary Budget Officer may direct that:

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1 (a) the information or answers to questions be given either orally
2 or in writing (as the Officer requires);

3 (b) the information or answers to questions be verified or given
4 on oath or affirmation.

5 The oath or affirmation is an oath or affirmation that the
6 information or evidence the person will give will be true, and may
7 be administered by the Officer or by an authorised officer.

8 (3) An employee of an agency must comply with a direction under this
9 clause.

10 Penalty: 30 penalty units.

11 Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of
12 criminal responsibility.

13 Note 2: Section 4AA of the *Crimes Act 1914* sets the current value of a
14 penalty unit.

15 (4) A determination under section 40 of this Act may prescribe scales
16 of expenses to be allowed to persons who are required to attend
17 under this clause.

18 (5) In this clause:

19 **agency** has the same meaning as in the *Financial Management and*
20 *Accountability Act 1997*.

21 **authorised officer** means a person who:

22 (a) is an official within the meaning of the *Financial*
23 *Management and Accountability Act 1997*; and

24 (b) is authorised by the Parliamentary Budget Officer, in writing,
25 to exercise powers or perform functions under this section.

26 **4 Confidentiality of information**

27 (1) If a person has obtained information in the course of performing a
28 function of the Parliamentary Budget Officer given by this Act or
29 any other Act, the person must not disclose the information except
30 in the course of performing an function given to the Parliamentary
31 Budget Officer by this Act or another Act.

32 Penalty: Imprisonment for 2 years.

1 Note: Chapter 2 of the *Criminal Code* sets out the general principles of
2 criminal responsibility.

- 3 (2) Subclause (1) does not prevent the Parliamentary Budget Officer
4 from disclosing particular information to the Commissioner of the
5 Australian Federal Police if the Officer is of the opinion that the
6 disclosure is in the public interest.

7 **5 Sensitive information not to be included in reports**

- 8 (1) The Parliamentary Budget Officer must not include particular
9 information in a report or advice if:
- 10 (a) the Officer is of the opinion that disclosure of the information
11 would be contrary to the public interest for any of the reasons
12 set out in subclause (2); or
- 13 (b) the Attorney-General has issued a certificate to the Officer
14 stating that, in the opinion of the Attorney-General,
15 disclosure of the information would be contrary to the public
16 interest for any of the reasons set out in subclause (2).
- 17 (2) The reasons are the following:
- 18 (a) it would prejudice the security, defence or international
19 relations of the Commonwealth;
- 20 (b) it would involve the disclosure of deliberations or decisions
21 of the Cabinet or of a Committee of the Cabinet;
- 22 (c) it would prejudice relations between the Commonwealth and
23 a State;
- 24 (d) it would divulge any information or matter that was
25 communicated in confidence by the Commonwealth to a
26 State, or by a State to the Commonwealth;
- 27 (e) it would unfairly prejudice the commercial interests of any
28 body or person;
- 29 (f) any other reason that could form the basis for a claim by the
30 Crown in right of the Commonwealth in a judicial proceeding
31 that the information should not be disclosed.
- 32 (3) The Parliamentary Budget Officer cannot be required, and is not
33 permitted, to disclose to:
- 34 (a) a House of the Parliament; or
35 (b) a member of a House of the Parliament; or

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Section 5

- 1 (c) a committee of a House of the Parliament or a joint
2 committee of both Houses of the Parliament;
3 information that subclause (1) prohibits being included in a report
4 or advice.
- 5 (4) In this section:
6 *State* includes a self-governing Territory.
7