

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry, Innovation and Science Portfolio
Additional Estimates 2015-16
19 February 2016

DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: Statutory Review Provisions

REFERENCE: Written Question - Senator Ludwig

QUESTION No.: AI-81

Please list all current legislation, covered by the department's portfolio, which contain a statutory review provision/s. For each, please provide:

1. What work has been done towards preparing for the review? If none, why not?
2. Please provide a schedule or a workplan for the review
3. When did/will this work begin?
4. When is/was the review due to commence.
5. What is the expected report date.
6. Who is the minister responsible for the review
7. What department is responsible for the review
8. List the specific clauses or legislation under review caused by the statutory provision.
9. List the terms of reference.
10. What is the scope of the review.
11. Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?
12. What is the budgeted, projected or expected costs of the review?
13. When was the Minister briefed on this matter?
14. What decision points are upcoming for the minister on this matter?
15. List the number of officers, and their classification level, involved in conducting the review
16. Will the the report will be tabled in parliament or made public. If so, when?

ANSWER

Section 127 of the Australian Jobs Act 2013

1. The *Australian Jobs Act 2013* commenced on 27 December 2013 and the review is required to be undertaken within 5 years after commencement of the Act.
2. Planning has yet to commence.
3. 2017-2018.
4. To be determined. The review is required to be undertaken on or before 26 December 2018.
5. To be determined.
6. The Minister for Industry, Innovation and Science.
7. The Department of Industry, Innovation and Science.
8. *Australian Jobs Act 2013*.
9. To be determined.

10. As prescribed in section 127 of the *Australian Jobs Act 2013*.
11. To be determined.
12. To be determined.
13. Not applicable.
14. Not applicable.
15. To be determined.
16. The *Australian Jobs Act 2013* requires the Minister to table the report in Parliament within 15 sitting days of the day on which the report is completed.

Section 176 of the Greenhouse and Energy Minimum Standards Act 2012 (the GEMS Act)

1. The review of the GEMS Act was undertaken during 2014-15.
2. The review was conducted between September 2014 and February 2015 and comprised a method development stage, followed by a review of secondary evidence and 98 in-depth interviews with a range of stakeholders. These included government, industry, consumer and environmental groups, retailers, sector experts and test laboratories. In addition, an online survey was hosted to gather further feedback and two submissions were received from industry and consumer/environmental representatives.
3. September 2014.
4. During 2014-15.
5. The report was dated 15 June 2015.
6. The former Minister for Industry and Science.
7. The Department of Industry, Innovation and Science then known as the Department of Industry and Science.
8. *Greenhouse and Energy Minimum Standards Act 2012*.
9. The Terms of Reference can be accessed at: <https://old-energyrating-gov-au.industry.slicedtech.com.au/document/gems-review-terms-reference> .
10. The scope of the review is detailed in the 'scope' section of the Terms of Reference listed above in the answer to question 9.
11. The review was undertaken by Data Build. They were selected through a competitive tender process.
12. The cost was \$184,800 (GST inclusive).
13. The report was presented to the Energy Ministerial Council in July 2015.
14. Not applicable.
15. One EL1 and one APS6 set up the Terms of Reference, with input from the branch and the GEMS Regulator. One EL1 managed the review and delivered the final report.
16. The report was released on 23 July 2015.

Section 695 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006

1. The Department of Industry, Innovation and Science has completed the review of the operations of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).
2. See above, answer 1.

3. See above, answer 1.
4. The review commenced on 6 March 2015.
5. The review was completed on 30 June 2015.
6. The former Minister for Industry and Science.
7. The Department of Industry, Innovation and Science then known as the Department of Industry and Science.
8. Section 695 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA) provides that the Minister must cause a review of the operation of NOPSEMA to be undertaken. Section 4 of the OPGGSA provides that NOPSEMA is responsible for the administration of: (a) occupational health and safety provisions; (b) structural integrity provisions; and (c) environmental management provisions.
9. In accordance with Section 695 (2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, the 2015 Operational Review of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) gave consideration to:
 - a. The effectiveness of NOPSEMA in bringing about improvements in:
 - i. The occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations.
 - ii. The structural integrity of facilities, wells and well-related equipment.
 - iii. Offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA's functions since 1 January 2012 (but not specific issues to be reviewed as part of the 2015 review of the environmental streamlining Program).
 - iv. Offshore greenhouse gas storage environmental management.

This included NOPSEMA's performance against its functions and powers as set out in the OPGGS Act and regulations and consideration of opportunities consistent with the Government's deregulation agenda.
 - b. NOPSEMA's governance arrangements in the context of its expanded functions and the requirements of the Public Governance, Performance and Accountability Act 2013.
 - c. NOPSEMA's capacity to respond to changes in industry including emerging issues such as changes in industry operations and new technologies.
 - d. NOPSEMA's interaction with external parties (including industry, Federal, State and Territory government bodies, other stakeholders and the NOPSEMA Advisory Board) to improve regulatory outcomes in an objectives-based regulatory environment.

This Review had regard to the findings of related reviews including the 2008 and 2011 NOPSAs Operational Reviews, the Government Response to the Montara Commission of Inquiry and the 2014 ANAO Report into the Establishment and Administration of NOPSEMA.
10. The review covered the three year period from NOPSEMA's establishment on 1 January 2012 to 31 December 2014 and reviewed the operation of NOPSEMA in relation to NOPSEMA waters.
11. A Review Panel comprising independent experts with relevant experience undertook the review of NOPSEMA's operations. Panel members were:
 - a. Mr Ken Fitzpatrick
 - b. Mr Peter Wilkinson
 - c. Mr David Agostini

The Panel was supported by Noetic Solutions, who undertook the secretariat functions. The Panel was appointed by the then Minister for Industry, the Hon Ian Macfarlane MP. The consultant (Noetic) was selected through an open tender process. There are no legislated obligations under the OPGGSA in relation to who should conduct the review.

12. The cost of hiring Noetic Solutions to undertake the secretariat services was \$146,025.
13. The former Minister for Industry and Science was briefed on the review:
 - a. to approve the Terms of Reference in December 2014;
 - b. to appoint the panel in February 2015;
 - c. on completion of the review in June 2015; and
 - d. in September 2015 following completion of the Government Response.

The Minister for Resources, Energy and Northern Australia was briefed in December 2015 on the Government Response.

14. The review has been completed. A progress report on implementation of the recommendations arising from the Review is due to the responsible Commonwealth Minister by 31 August 2016.
15. The Department is responsible for the policy framework that underpins the legislation for the regulator and therefore is responsible for the development of the terms of reference for the review. No Departmental representatives were involved in the review process itself. The consultant (Noetic), which provided the secretariat for the expert panel, was chosen by the Department as part of an open tender process.
16. The Operational Review report was tabled in both Houses of Parliament on 16 September 2015, with the Government Response tabled on 2 December 2015. Both documents were published online once tabled in Parliament.

Section 695P of the Offshore Petroleum and Greenhouse Gas Storage Act 2006

1. The Department of Industry, Innovation and Science has completed the review of the activities of the National Offshore Petroleum Titles Administrator (NOPTA).
2. See above, answer 1.
3. See above, answer 1.
4. The review commenced in March 2015.
5. The review was completed on 30 June 2015.
6. The former Minister for Industry and Science.
7. The Department of Industry, Innovation and Science then known as the Department of Industry and Science.
8. Section 695P of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) provides that the Minister must cause reviews of the activities of the Titles Administrator to be undertaken.
9. In accordance with Section 695P (2) of the OPGGS Act, the 2015 Operational Review of the National Offshore Petroleum Titles Administrator (the Titles Administrator) made an assessment of the effectiveness of the Titles Administrator in contributing to the efficiency of the decision making by a Joint Authority for a State or the Northern Territory.

In the context of the OPGGS Act and Regulations including the legislated functions of the Titles Administrator, this assessment considered, assessed and provided recommendations in relation to:

- a. The extent to which the establishment of the Titles Administrator has met the objectives of the Australian Government's response to the Productivity Commission's report Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector
- b. The current operating arrangements for provision of advice to Joint Authorities and the Responsible Commonwealth Minister on titles and titles related matters
- c. The management and performance of the legislated, publicly available, register of petroleum titles with Geographic Information System (GIS) support
- d. The compliance, monitoring and enforcement activities of the Titles Administrator
- e. The management of arrangements for information and data receipt and storage
- f. Engagement with stakeholders, including industry, Geoscience Australia, and state and territory agencies
- g. The relationship with NOPSEMA and state and Northern Territory regulators to improve end-to-end service to the industry and reduce costs

The review had regard to opportunities consistent with the Government's deregulation agenda.

10. The review covered the 3 year period from NOPTA's establishment on 1 January 2012 to 31 December 2014 and reviewed the activities of the Titles Administrator.
11. The Review was conducted by Noetic Solutions who were the successful tenderers through an open approach to market. There are no legislated obligations under the OPGGS Act in relation to who should conduct the review.
12. The cost of hiring Noetic Solutions to undertake the review was \$108,240.
13. The former Minister for Industry and Science was briefed on the review:
 - a. to approve the Terms of Reference in December 2014;
 - b. on completion of the review in June 2015; and
 - c. in September 2015 following completion of the Government Responses.

The Minister for Resources, Energy and Northern Australia was briefed in December 2015 on the Government responses.

14. The review has been completed. A progress report on implementation of the recommendations arising from the Review is due to the responsible Commonwealth Minister by 31 August 2016.
15. The Department is responsible for the policy framework that underpins the legislation for the regulator and therefore is responsible for the development of the terms of reference for the review. No Departmental representative was involved in the review process itself. The consultant (Noetic), who conducted the review, was chosen by the Department as part of an open tender process
16. The Operational Review report was tabled in both Houses of Parliament on 16 September 2015, with the Government Response tabled on 2 December 2015. Both documents were published online once tabled in Parliament.