

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry Portfolio
Supplementary Budget Estimates 2014-15
23 October 2014

AGENCY/DEPARTMENT: DEPARTMENT OF INDUSTRY

TOPIC: Statutory Review Provisions

REFERENCE: Written Question – Senator Ludwig

QUESTION No.: SI-136

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

1. None. The GEMS Act requires that a review be undertaken at the fifth anniversary of the commencement of the Act (Section 176 (1)). The review is therefore expected to commence in October 2017. A major review is currently underway of the Intergovernmental Agreement for the Greenhouse and Energy Minimum Standards Legislative Framework and GEMS Act, and is scheduled to conclude in January 2015.
2. Planning has yet to commence.
3. Planning will commence in early 2017.
4. October 2017.
5. To be determined.
6. Minister for Industry.
7. Department of Industry.
8. *Greenhouse and Energy Minimum Standards Act 2012*.
9. To be determined.
10. To be determined.

11. To be determined. The GEMS Act specifies that the review must be undertaken by persons who:
 - (a) in the Minister's opinion possess appropriate qualifications to undertake the review; and
 - (b) include one or more persons who are not APS employees.
12. \$150,000-\$200,000.
13. Not applicable.
14. Not applicable.
15. To be determined.
16. The GEMS Act requires the Minister to table the report in Parliament within 15 sitting days of the day on which the report is given to the Minister, and for a copy to be given to each participating jurisdiction.

Section 127 of the *Australian Jobs Act 2013*

1. None. 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.
5. To be determined.
6. Minister for Industry
7. Department of Industry
8. *Australian Jobs Act 2013*
9. To be determined.
10. To be determined.
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 695 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

1. The Department of Industry has been working since July 2014 to finalise the terms of reference and process for the review and to identify appropriate experts to conduct the review.
2. The review is being undertaken by an independent Review Panel that will establish a work plan once its members are confirmed.
3. Planning and organisation began in July 2014.
4. The review will commence on 1 January 2015.
5. The review is to be completed by 30 June 2015.
6. Minister for Industry.
7. Department of Industry.
8. Section 695 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA) causes a review of the operation of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).
9. The terms of reference are yet to be finalised however will include legislated requirements in accordance with Section 695 (2) of OPGGSA. That is, the 2015 Operational Review of NOPSEMA will include an assessment of the effectiveness of NOPSEMA in bringing about improvements in:

- a. The occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations;
 - b. The structural integrity of facilities, wells and well-related equipment;
 - c. Offshore petroleum environmental management; and
 - d. Offshore greenhouse gas storage environmental management.
10. The review must cover the 3 year period from NOPSEMA's establishment on 1 January 2012 to 1 January 2015 and review the operation of NOPSEMA in relation to NOPSEMA waters.
 11. A Review Panel comprising independent experts with relevant experience will be identified by the Department of Industry. The Panel will be supported by a consultant performing secretariat functions to maintain independence from parties being reviewed. The Panel will be approved by the Minister for Industry. The consultant will be selected through an open tender process. There are no legislated obligations under the OPGGSA.
 12. To be determined.
 13. A brief is currently being prepared for the Minister.
 14. The Minister will have to agree to the proposed method of the review, the terms of reference and the members of the Review Panel.
 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 will be involved in the review process itself. The consultant, which will provide the secretariat for the expert panel, will be chosen by the Department as part of the tender process.
 16. The OPGGSA requires the Minister to table the report in Parliament within 15 sitting days of the day on which the report is given to the Minister.

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

1. The Department of Industry has been working since July 2014 to finalise the terms of reference and process for the review and to identify appropriate approach for undertaking the review.
2. The review will be undertaken by a consultant that will establish a work plan once they are appointed.
3. Planning and organisation began in July 2014.
4. The review will commence on 1 January 2015.
5. The review is to be completed by 30 June 2015.
6. Minister for Industry.
7. Department of Industry.
8. Section 695P of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA) causes a review of the activities of the Titles Administrator.
9. In accordance with Section 695P (2) of the OPGGSA, the 2015 Operational Review of the National Offshore Petroleum Titles Administrator (the Titles Administrator) will make 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 OPGGSA and Regulations including the legislated functions of the Titles Administrator, the review will consider, assess and provide 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; and
 - g. The relationship with NOPSEMA and state and Northern Territory regulators to improve end-to-end service to the industry and reduce costs.
10. The review must cover the 3 year period from the establishment of the Titles Administrator on 1 January 2012 to 1 January 2015 and review the activities of the Titles Administrator.
 11. The Department will undertake a tender process to select a consultant to undertake the review. There are no legislated obligations under the OPGGSA.
 12. To be determined.
 13. A brief is currently being prepared for the Minister.
 14. The Minister will have to agree to the proposed method of the review and the terms of reference.
 15. As the Titles Administrator sits within the Resources Division of the Department of Industry, no one from the Department will be involved in conducting the review. A consultant will be chosen by the Department as part of a tender process.
 16. The OPGGSA requires the Minister to table the report in Parliament within 15 sitting days of the day on which the report is given to the Minister.