

Additional Estimates 2010–11

1.1 On 10 February 2011, the Senate referred to the Finance and Public Administration Legislation Committee (the Committee), the following documents for examination and report:

- particulars of proposed additional expenditure in respect of the year ending on 30 June 2010 [Appropriation Bill (No. 3) 2010-11];
- particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2010 [Appropriation Bill (No. 4) 2010-11]; and
- final budget outcome 2009-10 and the Issues from the advances under the annual Appropriation Acts for 2009-10.

Portfolio coverage

1.2 The Committee has responsibility for examining the expenditure and outcomes of the following:

- Parliament¹;
- Prime Minister and Cabinet portfolio, including the Department of Regional Australia, Regional Development and Local Government; and
- Finance and Deregulation portfolio.

Appendix 1 lists the departments, agencies, authorities and companies under the portfolios mentioned above.

Variation of portfolios

1.3 As described in the Committee's second report on annual reports for 2010, there have been two recent major changes to the Committee's portfolio oversight. Following the release of the *Administrative Arrangement Orders* in September 2010, the areas of arts and sport were transferred to the Department of the Prime Minister and Cabinet. At the same time, the Department of Regional Australia, Regional Development and Local Government was established within the Prime Minister and Cabinet portfolio.

1.4 In addition, the Committee previously examined the Human Services portfolio, however on 29 September 2010, the Senate allocated the portfolio to the Community Affairs Committee for oversight.²

1 As a matter of comity between the Houses, neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

2 See paragraph 1.5 of the committee's previous report: Senate Finance and Public Administration Legislation Committee, *Annual reports (No. 2 of 2010)*, November 2010, p. 2.

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Prime Minister and Cabinet

1.5 There were a number of significant changes to the outcomes and programs for the Prime Minister and Cabinet portfolio following the 2010 federal election.

1.6 Further to the information above, responsibility for cultural affairs—including moveable cultural heritage and support for the arts—has been transferred to the Department of the Prime Minister and Cabinet (PM&C) as well as the responsibility for sport and recreation. These areas have become outcomes two and three respectively of the department. The Committee had the opportunity to question the arts and sports outcomes and agencies for the first time at Supplementary Budget Estimates in October last year.

1.7 Other changes to the PM&C portfolio following the Administrative Arrangement Orders of 14 September 2010 were the establishment of the Office of the Non-Profit Sector and a cyber security unit to provide a single point of coordination and advice for the Government. In addition, the Remuneration Tribunal has been transferred from the Education, Employment and Workplace Relations portfolio to the Australian Public Service Commissioner (within the PM&C portfolio coverage).³

1.8 On 1 November 2010, the Office of the Australian Information Commissioner (OAIC) was established. The Office was created following commitments by the Government to improve freedom of information regulation and privacy protections. OAIC incorporates the Office of the Privacy Commissioner.⁴

Department of Regional Australia, Regional Development and Local Government

1.9 The Department of Regional Australia, Regional Development and Local Government (DRARDLG) was established last year to 'improve the social, economic and environmental outcomes for Australia's regions'. It also delivers on the *Commitment to Regional Australia* agreement signed between the Australian Labor Party and Mr Rob Oakshott MP and Mr Tony Windsor MP, following the 2010 federal election.⁵

1.10 The regional development and local government functions of the new department were transferred from the former Department of Infrastructure, Transport, Regional Development and Local Government. DRARDLG also has responsibilities

3 Prime Minister and Cabinet portfolio, *Portfolio Additional Estimates Statements 2010-11, Explanations of Additional Estimates 2010-11*, p. 6.

4 Prime Minister and Cabinet portfolio, *Portfolio Additional Estimates Statements 2010-11, Explanations of Additional Estimates 2010-11*, p. 7.

5 Department of Regional Australia, Regional Development and Local Government, *Portfolio Additional Estimates Statements 2010-11, Explanations of Additional Estimates 2010-11*, p. 3.

for Australia's territorial functions including the National Capital Authority which previously were within the Attorney-General's portfolio.⁶

Department of Finance and Deregulation

1.11 There have been no significant changes to the Finance and Deregulation portfolio since the Committee last reported on Estimates. Following the Administrative Arrangement Orders of September last year, the functions associated with the Prime Minister's Official Establishments were transferred from PM&C to the Department of Finance and Deregulation.

Hearings

1.12 The Committee held public hearings on Monday, 21 and Tuesday, 22 February 2011. Over the course of the two days' hearings—totalling over 21 hours—the Committee took evidence from the President of the Senate, Senator the Hon John Hogg; Senator the Hon Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations, representing the Prime Minister; Senator the Hon Mark Arbib, Minister for Sport⁷; Senator the Hon Penny Wong, Minister for Finance and Deregulation; and Senator the Hon Nick Sherry, Minister for Small Business, representing the Minister for Regional Australia, Regional Development and Local Government, together with officers of the departments and agencies concerned. The Committee expresses its appreciation for the assistance of the President, Ministers, Departmental Secretaries and the officers who appeared before it.

1.13 The Office of the Commonwealth Ombudsman was the only agency to be released from the hearings without examination.

1.14 The following agencies were dismissed prior to the hearings: Australian Institute of Family Studies, Australian Public Service Commission, National Archives of Australia, National Australia Day Council, Australian Sports Commission, Australian Sports Foundation Ltd, Australian National Maritime Museum, Australian Film, Television and Radio School, Bundanon Trust, Australia Council, Australia Business Arts Foundation, Albury-Wodonga Development Corporation, Australian Industry Development Corporation, Australian Reward Investment Alliance, Australian River Co Ltd and ASC Pty Ltd.

1.15 Copies of the *Hansard* transcripts are available on the internet at the following address: <http://www.aph.gov.au/hansard/index.htm>

6 Infrastructure and Transport portfolio, *Portfolio Additional Estimates Statements 2010-11, Explanations of Additional Estimates 2010-11*, p. 3, Attorney-General's portfolio, *Portfolio Additional Estimates Statements 2010-11, Explanations of Additional Estimates 2010-11*, p. 3.

7 Senator the Hon Mark Arbib replaced Senator the Hon Chris Evans, representing the Prime Minister as Minister at the table after the dinner break on Monday 21 February, *Committee Hansard*, 21 February 2011, pp 95-115.

1.16 In accordance with Standing Order 26, the Committee is required to set a date for the lodgement of written answers and additional information. The Committee resolved that written answers and additional information be submitted by Friday, 15 April 2011.

1.17 Further written information from departments and agencies will be tabled, as received, in the Senate. This information is available on the Committee's website: http://www.aph.gov.au/Senate/committee/fapa_ctte/estimates/index.htm

Programming

1.18 As noted in the Committee's previous report on Budget Estimates,⁸ the Committee's program included approximate timings for each departments' outcomes and for agencies. The Committee continues to find this approach helpful as it enables senators to focus their questioning on matters within the program and contributes to the smooth running of the hearing.

Procedural Matters

Claims for public interest immunity

1.19 During the estimates hearings the Australian Electoral Commission (AEC) claimed public interest immunity when requested to provide advice from the Director of Public Prosecutions relating to an AEC investigation. Mr Paul Pirani, Chief Legal Officer, AEC, stated that the reason for not releasing the advice was that it was 'normal Commonwealth practice in all Commonwealth agencies...that public interest immunity is claimed on all of those legal advisings from DPP'. The Minister informed the Committee that a full and detailed explanation would be provided as to why the DPP advice could not be publicly released.⁹

1.20 The Minister was questioned further on whether it was possible to claim public interest immunity without providing 'the committee with a statement of the grounds for her conclusion and specifying the harm to the public interest that could result from the disclosure of the document'.¹⁰ The Minister, quoting from the Senate Procedure Committee's third report of 2009, stated that:

8 Senate Finance and Public Administration Legislation Committee, *Budget estimates 2010-11*, June 2010, p. 2.

9 Senator the Hon Penny Wong, Minister for Finance and Deregulation, *Committee Hansard*, 22 February 2011, p. F&PA 72.

10 *Committee Hansard*, 22 February 2011, p. F&PA 74.

It is also open to a Senate minister who is responsible for the matters under consideration to defer, and further consider, a decision on whether to make a public interest immunity claim.¹¹

1.21 The Committee received advice from the Clerk of the Senate in relation to this matter. The Clerk noted that:

...it would...not be unreasonable for the minister to seek to provide the rationale on notice. The significant point for the committee is that it should be provided with a considered and well-founded explanation for the claim. Conceding that the Minister may need to take advice and to consider the matter is not at all inconsistent with the practices of the Senate.¹²

The full response provided by the Clerk was read into the *Hansard* record and tabled by the Committee. A copy is also available on the Committee's website.

1.22 The sections of the report that follow list various issues considered by the Committee and discuss some of these in detail. The order is not based on hierarchy but rather on the order in which the portfolio issues arose during the hearings.

11 Senate Standing Committee on Procedure, *Third report of 2009: Committee proceedings and public interest immunity claims: order of the Senate of 13 May 2009, Senators caring for an infant: standing order 175, 20 August 2009*, pp 1-2.

12 *Committee Hansard*, 22 February 2011, p. F&PA 80.

