

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Finance and Administration Portfolio

Department of Finance and Administration

Budget Estimates Hearings 2003-04 – 28 & 29 May 2003

Question: F36 and F37

Outcome 2 Output 2.3.2 – Insurance of Commonwealth Operations

Topic: Commonwealth Payments to the ACT for Fire Protection Services

Hansard Page: F&PA 394-395

Senator Robert Ray asked:

Q36:

[NB The following is subsumed by Q37 below]

I understand all that. There is no agreement – we accept that. We accept you are in negotiations. But what we have been told is that in fact you cannot pay because you are prohibited by the FMA. That begs the question: when did that cut in? Suddenly in the year 2000? Were you acting unlawfully, illegally or improperly prior that? That is what we were asking. So now we are asking what part of the FMA Act prohibits you making those payments?

Q37:

I want to make clear the questions we would like answered on notice, as we want to reflect a bit more on this. [Part (a):] Does the FMA Act prohibit the payment of these things without the appropriate agreements being entered into? [Part (b):] Does this imply that, in the absence of an agreement, previous payments are vulnerable to question so that you do not have to commit yourself too far? These are the things we would like to know. [Part (c):] And if you put provisions in your accounts for the payment of this, are they identifiable in the budget statement?

Answer:

Part (a)

The *Financial Management and Accountability Act 1997* ('FMA Act') prohibits payments where the approver of the payment is not satisfied that the amount of the payment represents efficient, effective and ethical use of Commonwealth funds.

As the amounts sought by the ACT Emergency Services Bureau (ACTESB) since 2000-01 appeared excessive, arbitrary, and not based on a defensible methodology that reflected the level of services provided (particularly in the light of the reduction in property holdings by the Commonwealth in the ACT) Finance considered that to pay these would not represent efficient, effective and ethical use of Commonwealth funds.

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Part (b)

The requirements of the FMA Act have been complied with for all payments up to and including 2000-01.

Payments prior to 2000-01:

During this period, Finance (and before that the Department of Administrative Services) considered that the amounts sought from the Commonwealth by the ACT Government for fire services represented efficient, effective and ethical use of Commonwealth funds. This reflected the large number of Commonwealth owned buildings in the ACT during that time and the nature of the agreements for Fire Services payments that then existed between the Commonwealth and the States and Territories.

With the completion of resource based agreements between the Commonwealth and most States and the Northern Territory and as a large amount of Commonwealth property in the ACT was divested in the late 1990s, Finance came to the view during 2000-01 that the historical level of payments by the Commonwealth to the ACT warranted review.

2000-01 payment:

The payment for 2000-01 of \$3.8m was calculated on a similar basis to the amounts paid to other States and the Northern Territory at that time. The size of the payment was linked to the value of Commonwealth property receiving fire protection services from ACTESB multiplied by the fire service levy rate used by insurers in NSW at that time (in the absence of an ACT levy). Hence Finance considered that this represented efficient, effective and ethical use of Commonwealth funds.

Part (c)

The provision for payment of arrears for ACT Government fire protection services is included within the amount of \$26.2m for 'suppliers' under the "Payables" heading in Table 3.2, "Budgeted Departmental Statement of Financial Position as at 30 June" at page 67 of Budget Related Paper No 1.9, "Portfolio Budget Statements 2003-04 – Finance and Administration Portfolio".