

Office of the Official Secretary to the Governor-General
2006-07 Budget Estimate Hearings – May 2006
Questions on Notice

Senator Murray asked in an email dated 11 May 2006

In the Senate debate of Wednesday 10 May 2006 concerning the *Australian Broadcasting Corporation Amendment Bill 2006*, the obligations of the Governor General under that Act were discussed.

These questions are asked in the context not just of the Act debated on Wednesday 10 May, but in terms of any statutory provisions which impose significant obligations on the Governor-General, for example, provisions which empower the Governor-General to make appointments to statutory boards, particularly where the statute requires that appointments meet specified criteria.

Question 1

Does the Governor General exercise the powers and obligations required of him under statute, and satisfy himself that his decisions are appropriately supported?

Response

Under the Constitution, the Governor-General acts on the advice of Ministers and in accordance with longstanding practice, scrutinises matters brought before him to be satisfied that the processes of government are lawfully conducted.

Question 2

What arrangements and facilities are available to the Governor-General to assist him in making decisions under these kinds of provisions?

Response

The Federal Executive Council Handbook provides an overview of Federal Executive Council processes, with a focus on the preparation of documents for consideration by the Governor-General in Council. The procedures set out in the Handbook include a requirement that each Executive Council agenda item be accompanied by an explanatory memorandum prepared by the Department of Agency responsible for that item which:

- (a) provides a plain English explanation of the proposal, outlining the purpose of the proposed action, the reason for doing it, and the likely impact and effect of the action;
- (b) clearly shows the source of the Governor-General's power to approve the proposed action, including specific reference to all relevant legislative or constitutional authority;
- (c) details any conditions that need to be satisfied before that power may be exercised, including all relevant legal or other pre-conditions and requirements (e.g. qualifications for appointment or consultation requirements); and
- (d) advises how any conditions have been satisfied.

For any other matters, the Governor-General requires that the relevant source of power be identified and that the matter is certified as being in accordance with that head of power.

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The Governor-General is supported in this by officers of the Federal Executive Council Secretariat, the Official Secretary, and his staff, who check that the requirements have been met and that the information is expressed clearly.

Question 3

By what administrative means does the Governor-General satisfy himself that the decisions he takes are in accordance with the letter and the spirit of the statutes, and otherwise proper and appropriate?

Response

See answers to 1 and 2 above.

Question 4

What role does the Governor-General's staff play in assisting him in this regard?

Response

See 1 and 2 above.

Question 5

How is the Governor-General assisted to gain access to information necessary for him to make appropriate decisions, such as information about proposed appointees?

Response

An explanatory memorandum relating to a proposed appointment would include a curriculum vitae of the proposed appointee.

Question 6

What assistance has the Governor-General in assessing and weighing the material available to him?

Response

Section 62 of the Constitution establishes the Federal Executive Council to 'advise the Governor-General in the government of the Commonwealth'. The Executive Council generally meets every fortnight, but may meet more frequently when necessary.