SECTION 6

OVERVIEW OF MINISTERIAL RESPONSIBILITIES

Role of the Attorney-General	118
Budget Process and Portfolio Budget	121
Current Departmental Appropriation Priorities	128
Portfolio Measures Funded in the 2010-11 Budget	130
Machinery of Government Changes	132
Government Decision Making	133
Priority/Time Critical Legislation for Introduction in the Spring 2010 Sitting Period	136
Legislation Administered by the Attorney-General's Department	141
Significant Appointments Requiring Attention	147
Ministerial Councils	158
Calendar of Significant Events	167
Legal Services to the Commonwealth	171
Australian Government Solicitor	173
Provision of Legal Assistance to Ministers and their Staff	176
Attorney-General's Department Organisation Structure	177

ROLE OF THE ATTORNEY-GENERAL

ROLE OF THE ATTORNEY-GENERAL

The information in this section is not directly relevant to the responsibilities of the Minister for Home Affairs, but is background on the responsibilities of the Attorney-General as First Law Officer.

Background

The Attorney-General is the First Law Officer of the Commonwealth. The Second Law Officer, under the *Law Officers Act 1964*, is the Solicitor-General.

The Attorney-General has three types of responsibility.

The Attorney-General, and any other Ministers appointed to administer the Portfolio, are responsible for the administration of the Portfolio policy areas, and Commonwealth Acts, set out in the Administrative Arrangements Order. This responsibility is the same as all other Ministers.

As First Law Officer of the Commonwealth, the Attorney-General also has general legal policy responsibility for all Commonwealth laws. The Attorney-General is the legal adviser to the Commonwealth Government. The Department receives a copy of all Cabinet submissions and is able to obtain input from the Australian Government Solicitor if it is required and has not already been obtained.

Third, the Attorney-General traditionally has had a special independent responsibility within government to act in the public interest. The principal areas where this responsibility arises are in litigation and prosecution processes.

The Attorney-General's role in the Cabinet and on Cabinet committees

Traditionally, the Attorney-General has been a member of the Cabinet, representing the interests of the whole portfolio. Under successive governments, the Attorney-General has also been a member of the National Security Committee (NSC) and the Parliamentary Business Committee (PBC). Under current arrangements, the Attorney-General is also a member of the Border Protection Committee and can be co-opted to other committees (such as the Expenditure Review Committee and the Strategic Priorities and Budget Committee) for specific items.

NSC focuses on major international security issues of strategic importance to Australia, national responses to developing situations (either domestic or international) and classified matters relating to aspects of operations and activities of the Australian Intelligence Community. PBC considers priorities for the Australian Government's legislation program.

The Cabinet Handbook requires ministers to take full responsibility for the proposals they bring forward, even where detailed development or drafting may have been done on their behalf by officials. As well as representing his or her portfolio interests in Cabinet, the Attorney-General is at times asked to provide legal advice in relation to proposals

Policy and Legislation

The Attorney-General and the Department provide advice to all Ministers and agencies as part of the development by those Ministers of policy proposals.

The Legislation Handbook requires all Cabinet Submissions proposing legislative action to include a statement as to whether the Attorney-General's Department considers any proposed legislation necessary.

The Office of Parliamentary Counsel, which drafts all Commonwealth legislation, is also part of the Attorney-General's portfolio. The Office of Parliamentary Counsel prepares the Attorney-General's certificate, in accordance with section 58 of the Constitution, advising the Government General whether she should recommend any amendments to the Bill or whether it should be reserved for the Queen's pleasure.

Litigation

The Attorney-General is the first representative of the Crown in the courts.

Proceedings may be brought in the name of the Commonwealth by the Attorney-General or by any person appointed by him for that purpose (*Judiciary Act 1903*: s.61).

Where the Commonwealth is party to proceedings, all process required to be served on the Commonwealth is required to be served on the Attorney-General or a person appointed by the Attorney-General to accept service (*Judiciary Act 1903*: s.63).

Attorneys-General since 1999 have issued Legal Services Directions (Directions) under section 55ZF of the *Judiciary Act 1903*, which set out the requirements for the conduct of legal affairs by the Commonwealth and its agencies (see **Legal Services Directions** for comprehensive brief). The Directions are made as a statutory instrument and have the force of law. They include, amongst other things, obligations in relation to the sharing of advice within the Commonwealth, the Commonwealth's obligation to act as a model litigant, the settlement of claims against the Commonwealth, procurement of legal services including the engagement of counsel on behalf of the Commonwealth. There are also a number of reporting requirements including on significant issues arising in the provision of legal services, legal services expenditure, and annual compliance with the Directions.

Under the Directions, legal work in relation to key strategic areas of the law is tied to certain providers of legal services. This is to ensure a consistent approach by the Commonwealth in these areas of the law; namely, advice to Cabinet, national security, Constitutional law, public international law, and legislative drafting. Generally, this work is tied to the Australian Government Solicitor, the Attorney-General's Department, and in relation to public international law, the Department of Foreign Affairs and Trade.

All cases involving a matter arising under the Constitution or involving its interpretation are required to be brought to the attention of the Attorney-General (*Judiciary Act 1903*: s.78B). The Attorney-General has a right to intervene in any proceedings that relate to a constitutional issue (*Judiciary Act 1903*: s.78A).

The Attorney-General has other specific rights of intervention, and is able to seek to intervene in judicial proceedings in the public interest. The certificate or fiat of the Attorney-General is necessary before proceedings seeking to enforce a public right can be instituted by a private person. This process has generally been overtaken by the use of administrative law procedures, and the relaxed attitude of the courts to standing.

Prosecution Process

Under the *Director of Public Prosecutions Act 1983* (DPP Act) and the *Judiciary Act 1903*, the Attorney-General has the legal authority to:

- · initiate or discontinue a prosecution, or
- issue directions to the Commonwealth Director of Public Prosecutions (CDPP) which
 must be tabled in Parliament, including directions as to the handling of a particular
 case.

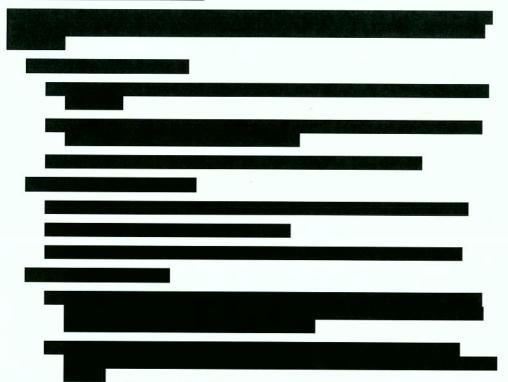
These powers have rarely been exercised since the DPP Act came into force. It has been a longstanding practice to leave prosecution decisions to the independent judgment of the CDPP and avoid the appearance of political intolerance.

The Attorney-General does have an active role in determining whether to consent to certain prosecutions. There are a range of offences that require the Attorney-General's consent to prosecute, generally because there is some issue of international relations or national security that must be weighed against the desirability of proceeding with a prosecution. You will be fully briefed on each of these matters, which typically arise once or twice a year.

BUDGET PROCESS AND PORTFOLIO BUDGET

OVERVIEW - COMMONWEALTH BUDGET PROCESS

Budget Process Operational Rules



Comment [b217]: s34

FINANCIAL SUMMARY - ATTORNEY-GENERAL'S DEPARTMENT 2010/11

The Department has 2 outcomes:

- Outcome 1 A just and secure society through the maintenance and improvement of Australia's law and justice framework and its national security and emergency management system.
- Outcome 2 Good governance in the Australian Territories through the maintenance and improvement of the overarching legislative framework for self-governing territories, and laws and services for non-self-governing territories. [subject to Machinery of Government changes September 2010]

As at the 2010-11 Budget:

- the total departmental operational funding is \$222.162m¹ in appropriation and \$24.771m in other revenue;
 - Outcome 1: \$212.265m; other revenue \$24.771m
 - Outcome 2: appropriation \$9.895m. [subject to Machinery of Government changes September 2010]
- · the departmental capital appropriation funding is \$25.808m
- · the total administered funding is \$591.325m:
 - Outcome 1: \$431.803m²
 - Outcome 2: \$119.488m [subject to Machinery of Government changes September 2010]
 - Capital funding: \$39.509m
 - Special appropriations: \$0.525m
- In addition, the department has \$792.965m in National Partnership Agreements that will be paid to the States and Territories by the Department of Treasury:
 - Legal Aid: \$190.797m
 - Natural Disaster Relief and Recovery Arrangement: \$576.912m
 - National Disaster Resilience Program: \$25.256m

Departmental Expenses 2010-11

The Department's total estimated expenses for 2010-11 are \$264.702m¹. These comprise:

- \$153.869m for employee expenses estimated average staffing level of 1405
- \$65.891m for other supplier expenses
- · \$24.783m office accommodation, and
- \$20.159m depreciation and amortisation.

Notes:

- 1. Depreciation expense is not included in annual funding instead, agencies receive separate funding called Departmental Capital Budget funding, to replace assets.
- 2. Includes Secure Schools Program SPP funding.

ATTACHMENT A

SUMMARY OF AGENCY RESOURCING 2010-11 TO 2013-14

	2010-11	2011-12	2012-13	2013-14	Comments on Significant Changes
Material Agencies	\$m	\$m	\$m	\$m	
Attorney-General's Department					
Departmental resourcing	272.4	279.3	267.3		Funding changes due to increase/decrease in measures. See Note 1.
Average Staffing Level	1,455	1,405	1,331		See note 2.
Administered funding	580.9	540.4	515.5		Funding reduces due to terminating measures. See Note 3.
AGD - NPA	793.0	300.5	304.2	308.2	See note 4.
Civil Justice and Legal Services Grou Material Agencies					
Australian Security Intelligence Orga	\$m	\$m	\$m	\$m	
Departmental resourcing	433.0	437.2	205.4	200.0	S
Average Staffing Level	1,800	1,860	386.4		See note 6.
Family Court of Australia	1,800	1,000	1,860	1,860	
Departmental resourcing	173.5	166.7	167.7	168.7	
Average Staffing Level	597	807	807		Includes transfer from FMC pending Courts restructure
Administered funding	0.0	0.9	0.9	0.9	
High Court of Australia		0.0	0.5	0.5	
Departmental resourcing	22.2	17.1	18.1	18.4	2010-11 includes one-off capital funding. See Note 7.
Average Staffing Level	85	86	86	86	association of capital failuring, see Note 7.
National Capital Authority					
Departmental resourcing	15.8	16.1	15.9	16.1	
Average Staffing Level	52	52	52	52	
Administered funding	0.9	0.9	1.0	1.0	
Small Agencies	\$m	\$m	\$m	\$m	
Administrative Appeals Tribunal			, ,		
Departmental resourcing	34.1	34.1	33.6	35.4	
Average Staffing Level	167	167	167	167	
Australian Human Rights Commissio					
Departmental resourcing	19.9	19.3	19.9	20.0	
Average Staffing Level	107	112	112	112	
Australian Law Reform Commission					
Departmental - Revenue	3.2	3.0	3.0		Savings measure commences in 2010-11.
Average Staffing Level	19	18	18	18	
ederal Court of Australia					
Departmental resourcing	101.7	90.6	91.2		Terminating measure end of 2010-11. See Note 10.
Average Staffing Level	328	315	315	315	
Federal Magistrates Court	50.0	- 0.0			
Departmental resourcing Average Staffing Level	59.0	0.0	0.0		See note 11.
nsolvency and Trustee Service Austr	228	0.0	0.0	0.0	
Departmental resourcing	49.8	34.7	35.1	26.3	not all a declarations and formation
Average Staffing Level	314	251	243		Reduction due to terminating measures end of 2010-11. See Note 12. Result of terminating measure per note 12.
National Native Title Tribunal	314	231	243	233	nesalt of terminating measure per note 12.
Departmental resourcing	27.7	25.3	24.9	24.0	Savings measures commence in 2010-11.
Average Staffing Level	182	154	150		Savings measures commence in 2010-11.
Office of the Director of Public Prose				210	Sormgraned State in 2010-11.
Departmental resourcing	101.9	92.2	89.2	86.5	Reduction due to terminating measures. See Note 13.
Average Staffing Level	550	526	524		Reduction due to terminating measures. See Note 14.
Office of Parliamentary Counsel					The state of the s
Departmental resourcing	10.7	11.3	11.2	11.2	Increase due to new measure. See Note 15.
Average Staffing Level	53	56	56	56	
lational Security and Criminal Justice	e Group				
Material Agencies	\$m	\$m	\$m	\$m	
lustralian Federal Police					
Departmental resourcing	1324.0	1314.7	1349.6	1347.1	
verage Staffing Level	5,570	6,750	6,790	6,790	
dministered funding	38.8	32.6	13.8	3.4	Funding reduces due to terminating measures. See Note 5.
ustralian Customs and Border Prote			***************************************		
Departmental resourcing	1099.6	1049.6	1062.8	1074.5	
verage Staffing Level	5,250	5,150	5,050		See note 16.
dministered funding	0.9	0.9	0.9	0.9	
mall Agencies		\$m	\$m	\$m	
	\$m		- Vill		
	cement inte	rity			
epartmental resourcing	cement Inte	rity 4.8	4.7	4.8	
epartmental resourcing verage Staffing Level	cement inte	rity			
epartmental resourcing verage Staffing Level ustralian Crime Commission	4.8 4.9	4.8 19	4.7 19	4.8 19	
epartmental resourcing verage Staffing Level ustralian Crime Commission epartmental resourcing	4.8 19 101.5	4.8 19	4.7 19 95.4	4.8 19 93.6	Reduction due to change in measures. See Note 8.
epartmental resourcing verage Staffing Level ustralian Crime Commission epartmental resourcing verage Staffing Level	4.8 4.9	4.8 19	4.7 19	4.8 19 93.6	Reduction due to change in measures. See Note 8. Reduction due to change in measures. See Note 9.
repartmental resourcing verage Staffing Level ustralian Crime Commission repartmental resourcing verage Staffing Level ustralian Institute of Criminology	4.8 19 101.5 556	99.1 554	4.7 19 95.4 535	4.8 19 93.6 527	Reduction due to change in measures. See Note 9.
epartmental resourcing verage Staffing Level usstralian Crime Commission epartmental resourcing verage Staffing Level ustralian institute of Criminology epartmental - Revenue	101.5 556	99.1 554	95.4 535	93.6 527	
epartmental resourcing verage Staffing Level ustrallan Crime Commission epartmental resourcing verage Staffing Level ustrallan Institute of Criminology epartmental - Revenue verage Staffing Level	101.5 556 7.4 4.8	99.1 554 4.8 4.8 4.8 99.1 554	4.7 19 95.4 535	4.8 19 93.6 527	Reduction due to change in measures. See Note 9.
epartmental resourcing verage Staffing Level ustralian Crime Commission epartmental resourcing verage Staffing Level ustralian Institute of Criminology epartmental - Revenue verage Staffing Level ustralian Transaction Reports and A	101.5 556 7.4 46	99.1 554 6.4 40	4.7 19 95.4 535 6.3 39	4.8 19 93.6 527 6.2 38	Reduction due to change in measures. See Note 9. Savings measure commences in 2010-11.
epartmental resourcing verage Staffing Level ustralian Crime Commission epartmental resourcing verage Staffing Level ustralian Institute of Criminology epartmental - Revenue verage Staffing Level ustralian Transaction Reports and A epartmental resourcing	101.5 556 7.4 46 nalysis Centre 65.6	99.1 554 6.4 40	4.7 19 95.4 535 6.3 39	4.8 19 93.6 527 6.2 38	Reduction due to change in measures. See Note 9.
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repartmental resourcing verage Staffing Level ustrallan Crime Commission epartmental resourcing verage Staffing Level ustrallan Institute of Criminology epartmental - Revenue verage Staffing Level ustrallan Transaction Reports and A epartmental resourcing verage Staffing Level ustralian Transaction Reports and A epartmental resourcing verage Staffing Level	101.5 556 7.4 46 nalysis Centre 65.6 319	99.1 554 6.4 40 99.0 321	4.7 19 95.4 535 6.3 39 66.0 320	4.8 19 93.6 527 6.2 38 61.5 319	Savings measure commences in 2010-11. Capital funding from 2010-11 Budget measure ends in 2012-13.
ustralian Commission for Law Enforepartmental resourcing verage Staffing Level ustralian Crime Commission epartmental resourcing verage Staffing Level ustralian institute of Criminology epartmental - Revenue verage Staffing Level ustralian Transaction Reports and A epartmental resourcing verage Staffing Level ustralian Transaction Reports and A epartmental resourcing verage Staffing Level iminology Research Council epartmental - Revenue iminology Research Council epartmental resourcing verage Staffing Level virining Research Council epartmental resourcing virining Research Council virining Research Vir	101.5 556 7.4 46 nalysis Centre 65.6	99.1 554 6.4 40	4.7 19 95.4 535 6.3 39	4.8 19 93.6 527 6.2 38 61.5 319	Reduction due to change in measures. See Note 9. Savings measure commences in 2010-11.
repartmental resourcing verage Staffing Level ustrallan Crime Commission epartmental resourcing verage Staffing Level ustrallan Institute of Criminology epartmental - Revenue verage Staffing Level ustrallan Transaction Reports and A epartmental resourcing verage Staffing Level ustralian Transaction Reports and A epartmental resourcing verage Staffing Level	101.5 556 7.4 46 nalysis Centre 65.6 319	99.1 554 6.4 40 99.0 321	4.7 19 95.4 535 6.3 39 66.0 320	4.8 19 93.6 527 6.2 38 61.5 319	Savings measure commences in 2010-11. Capital funding from 2010-11 Budget measure ends in 2012-13.

SUMMARY OF AGENCY RESOURCING 2010-11 to 2013-14

The figures set out in the table summary have been derived as follows:

- the table sets out the resourcing available for each agency for the current year and forward estimates (FEs)
- departmental resourcing comprises annual appropriation funding, capital funding and non-appropriation revenues
- 3. administered funding comprises annual appropriation funding, capital funding and special (standing) appropriations
- 4. National Partnership Agreements (NPAs) are programs where payments to the States and Territories are made by Treasury
- 5. agencies are classified as 'material' or 'small' in accordance with the classification by Department of Finance and Deregulation.

Notes to Summary of Agency resourcing:

- Resourcing includes the commencement of cost recovery for the Personal Property Securities Register which will be transferred to ITSA. Underlying resourcing declines due to terminating measures nearing completion: protecting Australia against terrorist use of chemicals, the wireless priority service, people smuggling, and Pacific Police development.
- The reduction to ASL is due to terminating measures and the impact of the cumulative efficiency dividend.
- Reductions in administered appropriation are primarily due to the completions of projects such as the Commonwealth's share of the Sydney Law Courts building, the Personal Property Securities Register information campaign, National Community Crime Prevention Program, Safer Suburbs and Schools Security programs.
- 4. In 2010-11 \$425m will be reimbursed to the Queensland Government with expenditure largely related to the monsoonal floods in 2009 and 2010 and approximately \$100m will be reimbursed to the Victorian Government for additional expenditure relating to the 2009 Victorian Bushfires.
- 6. ASIO has capital funding in 2010-11 and 2011-12 for new accommodation.
- One-off capital injection is for the High Court building and precinct to remedy structural issues and public safety risks.
- Reduction from 2010-11 to 2011-12 is due to the completion of Sentinel Project. Reductions from 2011-12 to 2012-13 are mainly due to termination of National Indigenous Intelligence Task Force (NIITF) measure and reduced funding for the Wickenby measure.
- Variation from 2011-12 mainly due to the termination of NIITF measure and reduced funding for Wickenby measure. Variation from 2012-13 to 2013-14 due to the termination of the Wickenby measure.
- The reduction in appropriation from 2010-11 to 2011-12 is due to the Federal Court only being appropriated for increased rent in the Commonwealth Law Courts Building to the end of 2010-11.

Comment [b218]: s33(1)(a)(i) and (iii)

- 11. Funding transferred to Family and Federal courts pending courts restructure.
- 12. In the 2009-2010 Budget, ITSA was provided with an increase in resources to maintain service standards in recognition of long-term changes in externally driven workload under the Bankruptcy Act. The additional funding ceases at the end of 2010-11, given that assessments of ongoing changes in workloads can be difficult to predict. A 2010-11 Budget measure to ease debt pressures on those in financial stress provided an equity injection in 2010-11 to improve on-line information and service delivery and to implement the most recent bankruptcy legislative amendments. In addition, in 2010-11 ITSA budgeted to continue its program to replace its bankruptcy case management and information system.
- 13. The reduction in appropriation from 2010-11 to 2011-12 is due in the main to the terminating People Smuggling measure and the phased reduction in the Wickenby measure offset by a slight increase in the Tax Havens measure. The reduction in appropriation from 2011-12 to 2012-13 is due in the main to the completion of the Wickenby measure. The reduction in appropriation from 2012-13 to 2013-14 is due in the main to the completion of the Tax Havens measure.
- 14. The reduction in staffing from 2010-11 to 2011-12 is due in the main to the terminating People Smuggling measure and the phased reduction in the Wickenby measure. The reduction in staffing from 2011-12 to 2012-13 is due in the main to the phased reduction of the Tax Haven measure. The reduction in staffing from 2012-13 to 2013-14 is due in the main to the terminating Tax Havens measure.
- 15. The increase from 2010-11 to 2011-12 is due to increased resources from 2010-11 measure titled stronger, fairer, simpler tax reform development and implementation.
- 16. Notes for

Australian Customs and Border Protection Service:

Departmental Appropriation Revenue

2010-11 and 2011-12

The movement in funding between 2010-11 and 2011-12 of \$28.987m is due primarily to a number of additions and reductions, including the following:

- The impact of measures that terminate from 30 June 2011 including
 - Border Protection Combating People Smuggling Maritime Surveillance Extension of Contract for ACV Triton;
 - Border Protection Combating People Smuggling Communications Campaign;
 - Border Protection Combating People Smuggling Increased Aerial Surveillance of Australia's Northern Waters:
 - Border Protection Combating People Smuggling Increased Maritime Response Capability;
 - PNG improving border security enhancement;
 - Strengthening Customs and Border Protection's operational engagement overseas;
- The transfer of funding to the ATO for the administration of the Excise Equivalent Goods (EEG) activity.
- The implementation of whole of government savings relating to property and travel.

This downward impact on funding is offset by additional funding provided by:

- The measure agreed as part of the 2010-11 Budget Border Security Australian Customs and Border Protection Service - Bay Class Replacement;
- The measure, Border security strengthening passenger and air cargo security, agreed as part of the 2010-11 Budget;
- Additional funding provided due to adjustments made to the Passenger Workload Growth Agreement; and
- The balance of the movement is due to net increases associated with parameter adjustments offset by efficiency dividend.

2011-12 to 2012-13

The movement in funding between 2011-12 and 2012-13 of \$15.454m is due primarily to a number of additions and reductions in funding including.

- Additional funding for the measure Border Security Australian Customs and Border Protection Service - Bay Class Replacement;
- Additional funding provided due to adjustments made to the Passenger Workload Growth Agreement;
- The cumulative minor increase in funding across a number of measures; and
- The positive impact of parameter adjustments offset by efficiency dividend.

These additions are offset by:

 A significant reduction in funding for the measure Border security – strengthening passenger and air cargo security.

2012-13 to 2013-14

The movement in funding between 2012-13 and 2013-14 of \$11.911m is due primarily to the impact of reductions in funding due to the termination of the following measures:

- Border Protection Combating People Smuggling Post Interdiction Management of Illegal Entry Vessels;
- Border Protection Combating People Smuggling International Engagement to Prevent and Disrupt Maritime People Smuggling;
- Southeast Asia Border Security program (amalgamation of NS improved border control in Southeast Asia region and Providing for Australia's Security - regional counter-terrorism assistance - improved border control in the Sulu and Celebes Seas Region;
- Combating people smuggling enhanced operational maritime security initiatives with Indonesia; and
- Combating people smuggling embedded Customs officer in Bakorkamla.
- Border Security continuation of Ashmore Guardian Lease.

These are offset by additional funding provided by:

- The measure Border Security Australian Customs and Border Protection Service Bay Class Replacement; and
- Increased funding due to the impact of for the effects of Parameters/Indexation and as well as increased funding provided under the Passenger Workload Growth Agreement (PWGA) Parameters/Indexation

Departmental - Other Revenue

No material change over the forward estimates.

Departmental capital

The movement in funding between 2010-11 (\$107.32m) to 2011-12 (\$83.993m) relates primarily to funding received from the ICT BAU Gershon Reinvestment Fund as part of the 2010-11 Budget Process. These measures are as follows:

- ICT BRF Wide Area Network (WAN) Optimisation;
- ICT BRF Perpetual Software Licence;
- ICT BRF Mainframe Optimisation;
- ICT BRF Customs Connect facility (CCF) Environmental Remediation;
- ICT BRF Legacy Windows Domain Removal;
- ICT BRF Data Warehouse Consolidation; and
- ICT BRF Interactive Reporting Remediation. (lay description to be provided)

In addition funding was also received for the measure *Border security – strengthening* passenger and air cargo security.

There is no material movement in the out-years resulting from specific measures. Customs and Border Protection's departmental capital does not yet include total capital funding for the - Bay Class Replacement measure.

ASL Estimates

- 2010-11 5,320
- 2011-12 5,150*
- 2012-13 5,050*
- 2013-14 TBC

*Note: It is expected that ASL estimates will vary over the forward estimates as a result of annual internal budget processes and the resulting shifting of resources to other priorities which may not require labour expenditure. Customs and Border Protection is also negotiating a new Enterprise Agreement and the final outcome of that process will impact on staff availability.

Administered non taxation revenue

No material change over the forward estimates.

Administered Appropriation

No material change over the forward estimates.

CURRENT DEPARTMENTAL APPROPRIATION PRIORITIES

National security

- Take a lead role in coordinating a whole-of-government approach to national security, in accordance with the Australian Government's 'all hazards' approach.
- Lead and coordinate government agencies to address emerging threats in the digital environment and strengthen cyber security.
- Build a strong and resilient Australian community to resist the development of violent extremism and terrorism on the home front.
- Contribute to whole-of-government policy development to combat people smuggling.
- Contribute to whole-of-government policy to continually improve aviation and border security.

Emergency management

 Provide national leadership to guide the efforts of all Australian governments to enable a whole-of-nation, resilience-based approach to disaster policy and programs to prevent, prepare for, respond to and recover from disasters.

Organised crime

- Implement the Commonwealth Organised Crime Strategic Framework through measures to promote information sharing between agencies and target unexplained wealth.
- Develop and implement policies to combat online crime and emerging forms of organised crime.

Access to justice

- Strengthen the civil justice system, ensuring equitable access to fair, simple and
 effective dispute resolution mechanisms, focusing on early intervention and
 alternatives to litigation.
- Implement a national coordinated approach to legal assistance, to ensure that all Australians, particularly disadvantaged and vulnerable Australians and Indigenous Australians, have appropriate access to justice when they need it.
- Improve the operation of the administrative law regime, particularly primary decision making.

Protection of rights

- Implement the Australian Human Rights Framework to promote and protect human rights in collaboration with the States and Territories.
- Strengthen community safety for Indigenous Australians, particularly in relation to policing, coordinated service delivery and alcohol management.
- Improve the distribution of benefits from native title settlements.
- Improve the ability of the family law system to address family violence and child protection.

Improvement and modernisation of laws

 Improve Commonwealth and other Australian laws, in collaboration with States and Territories where appropriate, including in the areas of maritime laws, bankruptcy and regulation of the legal profession.

Section 6 - Overview of Ministerial Responsibilities

- Ensure that regulatory regimes in the areas of copyright and classification are appropriate and adapted to meet the challenges of new technologies.
- Increase clarity and reduce complexity of Commonwealth laws.
- Work to strengthen Australia's international leadership of law and justice policy.
- Position Australia as an internationally recognised leader in areas such as trade and commercial arbitration, and work with regional partners to develop their law and justice capabilities.

Government legal services

Improve the provision of legal services across government.

PORTFOLIO MEASURES FUNDED IN THE 2010-11 BUDGET

National Security Measures

- The total funding provided for national security measures for the portfolio in the 2010-11 Budget is \$339.5m over four years – the attached table shows each measure.
- The total funding includes \$154.0m for continuing programs, \$23.5m in savings retained by agencies (AFP) and \$9.1m for measures funded form existing resources (ASIO).
- The measures form part of the Government's commitment to building a more secure Australia by supporting our security, intelligence and law enforcement agencies, as well as promoting an international environment that is stable, peaceful and prosperous.
- The measures announced in this Budget build on the \$685 million national security package in the 2009 Budget.

Border Security Budget Measures

- Funding totalling \$922.6m over four years was allocated to continue two major programs:
 - \$759.4m to maintain AFP aviation security commitments under the Unified Policing Model at 11 major Australian airports, and
 - \$163.2m to continue cross-portfolio efforts to secure Australia's northern waters against illegal foreign fishing.
- In addition, funding totalling \$159.3m over four years was allocated for a range of new measures comprising:
 - \$42.6m for project implementation and enhanced operating costs for replacement vessels for Customs Bay class patrol boats
 - \$15.7m to extend the existing contract for the Guardian currently stationed at Ashmore Reef
 - \$47.2m for the continuation of essential services in Christmas Island to support the increased population [subject to Machinery of Government changes September 2010]
 - \$24.9m to implement Stage 2 of the Enhanced Passenger Assessment and Clearance Centre (EPAC) comprising \$23.7m for Customs and \$1.2m for the Department of Immigration and citizenship [subject to Machinery of Government changes September 2010]
 - \$12.3m for increased police presence at airports, and
 - \$17.8m for additional AFP firearms and explosives detector dogs at major airports.

Civil Justice Measures

The 2010-11 Budget allocated \$225.8 million over four years for measures to improve Australia's civil justice system. These measures include:

 \$154 million over four years for legal assistance programs, which will bring the total Commonwealth contribution to legal assistance services to over \$1.2 billion over the next four years. This is the biggest injection of new funding into the legal assistance sector for well over a decade.

- \$4.5 million to address significant public safety risks and structural issues at the High Court of Australia.
- \$17.9 million over four years to support the implementation of personal property securities (PPS) reform, including the establishment of the PPS Register, data migration and stakeholder engagement and education.
- \$12.6 million over four years to allow ITSA to improve services and accessibility to assist people facing insolvency. It will assist those considering bankruptcy to investigate their options, and where possible, reorganise their affairs to avoid bankruptcy.
- \$4.3 million over four years to continue the Community Partnerships for Human Rights program, which is one component of the National Action Plan to Build on Social Cohesion, Harmony and Security.
- \$11.1 million over four years in ongoing funding to allow the Attorney-General's Department to continue to provide national leadership and coordination of intercountry adoption in Australia.
- \$18.3 million over four years for a range of measures to further protect and promote human rights in Australia as part of the National Human Rights Framework.
- \$3.1 million to continue to support the National Missing Persons Coordination Centre.

MACHINERY OF GOVERNMENT CHANGES

Section 19B and 19BA Orders under the Acts Interpretations Act

Machinery of government changes (such as the re-naming of the titles of Ministers or Departments, or where responsibility for a specific Act or function is transferred) may follow after the election and are given effect by changes to the Administrative Arrangements Order (AAO). Sections 19B and 19BA of the *Acts Interpretation Act 1901* allow the Governor-General to make orders that alter specific references to Departments, Ministers and Secretaries contained in Acts and instruments so that they continue to operate after the changes take effect. The orders are time-critical (without them certain functions and powers under legislation may not be legitimately exercised), and will need to be prepared in time for the first Executive Council (ExCO) meeting following finalisation of the new AAO (prepared by the Department of the Prime Minister and Cabinet for approval by the Governor-General).

GOVERNMENT DECISION MAKING

This document sets out briefly the legal context in which Australian Government decisionmaking takes place.

Sources of Commonwealth power

The Australian Government exercises:

- Executive power which is vested in the Queen and is exercisable by the Governor-General (Constitution: s.61), the Ministers responsible for the Departments of State established by the Governor-General in Council (Constitution: s.64) and to a more limited extent by public servants. The Constitution also confers other specific executive powers on the Governor-General or on the Governor-General in Council.
- the traditional and non-statutory prerogative power of the Crown, such as the power
 to conduct foreign affairs (the negotiation, conclusion and ratification of treaties), to
 make war and peace and to grant mercy. This is now generally seen to be part of the
 executive power vested by s.61 of the Constitution.
- Statutory power which may be conferred by legislation on the Governor-General, a Minister, the Secretary to a Department of State or other persons.

The administrative decisions of the Australian Government, which include the decisions of the Governor-General, Ministers and others who act for the Commonwealth, must:

- · be made within the limits of the powers outlined above
- comply with any specific limitations imposed on particular powers, and
- · satisfy general administrative law requirements.

Exercise of decision-making powers

In most cases the holder of the office in which the Parliament vests a power, such as the Minister, Attorney-General or Secretary of a Department, may arrange for that power to be exercised by another person through operation of:

- an express statutory power to delegate to another person
- a statutory or implied power to authorise an official to exercise the power on that person's behalf, or
- a statutory or implied power to authorise an official to carry out duties that form part of the process of making a decision.

Generally, a change in office-holder, or the designation of an office, does not affect delegations. As a matter of good practice, delegations are reviewed where there is such a change and remade. Authorisations must be reviewed and remade where there is such a change.

General administrative law requirements

In addition to any specific requirements, general administrative law principles apply to the exercise of decision-making powers by ministers and public servants. The requirements for the exercise of decision-making powers are set out by the courts. In general, Ministers or public servants exercising a decision-making power should:

 afford a person affected by a decision procedural fairness. In general, the minimum requirements of procedural fairness are satisfied if the decision-maker is not biased and if the person affected by the decision is given a reasonable opportunity to comment on any relevant material adverse to the person

- exercise their decision in the terms of the decision-making power, for example the terms of the statute conferring a power, and
- make the decision themselves, and not under 'dictation' from another person.

Accountability mechanisms for decision-making

There are a variety of mechanisms for keeping government accountable for its decisions. In addition to judicial review, merits review and the Ombudsman, there are other subject specific agencies such as the Australian Human Rights Commission, the Information Commissioner and the Auditor-General.

Judicial review

Under the Constitution, the High Court can review decisions of Commonwealth officers, including Ministers. The Federal Court has a parallel jurisdiction under s 39B of the *Judiciary Act 1903*. The Federal Court can review decisions of an administrative character made under an enactment (eg legislation, regulations, and legislative instruments) under the *Administrative Decisions (Judicial Review) Act 1977*.

In general, any person whose rights or interests are adversely affected by a government decision, conduct or failure to make a decision can seek judicial review. Judicial review is only available for procedural errors or errors of law. The court does not look at the merits of a particular decision.

The grounds on which an order of review may be sought under the ADJR Act are codified in that Act. These grounds effectively cover failure to comply with the specific requirements of legislation or other decision-making power, and general administrative law principles. Important grounds include failure to afford a person procedural fairness, acting under dictation, failure to follow required procedures, lack of jurisdiction, acting on the basis of a rule or policy without regard to the merits of the case and abuse of power.

Judicial review remedies typically involve either a declaration that a decision was invalid, in which case the government makes the decision again, or an order quashing the decision and remitting the decision to the original decision maker to make again.

Merits Review

Unlike judicial review, merits review involves a reconsideration of the entire decision on the facts. The Administrative Appeals Tribunal's function can review the merits of decisions of Ministers, officers and authorities where there is a law which specifically provides for that review. The AAT can decide that, while a particular decision may be legally correct, it is not the preferable decision, and can substitute its decision for that of the Minister, officer or authority. There are also separate specialised merits review tribunals for social security, migration and veteran's entitlements decisions. The AAT is in the Attorney-General's portfolio, but is an independent agency.

The Ombudsman

The Ombudsman has broad powers to investigate complaints about administrative action and to make recommendations to the department or authority concerned and to the responsible Minister. In some circumstances, the Ombudsman may inform the Prime Minister of matters, and make special reports to Parliament. The Ombudsman has considerable powers under the *Ombudsman Act 1976* to obtain information and may investigate administrative action of his/her own motion.

Information Commissioner

The Australian Information Commissioner is a newly established office, to commence on 1 November 2010. The Information Commissioner will have functions relating to freedom of information and privacy legislation. The Information Commissioner will be supported by two statutory officers: the Privacy Commissioner and the FOI Commissioner.

The object of the Commonwealth *Freedom of Information Act 1982* (FOI Act) is to give the Australian community access to information held by the Australian Government. The FOI Act gives an individual the right to request documents and to ask for information about him or her to be corrected. Decisions may be reviewed by the AAT. From 1 November 2010, the Australian Information Commissioner, supported by the FOI Commissioner, will have wide ranging functions related to the oversight of the FOI Act. This includes the functions of reviewing FOI decisions and investigating complaints about the handling of FOI applications. A right of review to the AAT will lie from a review decision made by the Commissioners.

The *Privacy Act 1988* is the principal legislation governing the protection of personal information in the federal public sector and in the private sector. The Act includes Privacy Principles addressing the collection, use, disclosure, quality and security of personal information as well as access to personal information. An individual may complain to the Privacy Commissioner about certain interferences with his or her privacy, which includes where the individual believes there has been a breach of the Privacy Principles. From 1 November 2010, the Australian Information Commissioner, supported by the Privacy Commissioner, will have the Commissioner functions under the Privacy Act.

Reasons and Documents

The ADJR Act and AAT Act confer on persons able to seek review of a decision, the right to obtain a written statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving reasons for the decision for a decision (subject to certain exceptions).

The Freedom of Information Act 1982 imposes a legal duty to provide to members of the public access to government information, including official documents of Ministers, unless those documents fall within defined classes of exempt documents.

Further information

The Legislation Handbook requires the Attorney-General's Department to be consulted on legislative proposals for:

- the conferral of new jurisdiction on courts and tribunals
- · the conferral of administrative discretions
- the review of administrative decision-making powers, and
- the creation or amendment of criminal offences and penalties.

PRIORITY/TIME CRITICAL LEGISLATION FOR INTRODUCTION IN THE SPRING 2010 SITTING PERIOD

BILL	PURPOSE	COMMENTS
Access to Justice (Family Court Restructure and Other Measures) Bill 2010	To restructure the federal family courts to make the Family Court of Australia the primary court hearing matters under the <i>Family Law Act 1975</i> and leaving the Federal Magistrates Court with general federal law jurisdiction.	On 24 June 2010, the former Attorney-General, the Hon Robert McClelland MP introduced this Bill into the Parliament. In the former Attorney-General's remarks at the Annual Judges Meeting on 6 March 2010, he commented that as soon as Government had made its decision on the review of delivery of federal court services, he would move as quickly as he could to implement the decision.
Aviation Crimes and Policing Legislation Amendment Bill 2010	Strengthen the existing legislative framework surrounding Australia's international and domestic aviation security regime	The Bill is not time critical, but it is a priority. It contains amendments that support moving to an 'All-in' policing model at airports by ensuring standard AFP powers are available.
Civil Dispute Resolution Bill 2010	The Bill encourages resolution of disputes outside of the courts and improves access to justice by focussing on the early resolution of disputes. It will require parties to take 'genuine steps' to resolve their dispute before proceedings are commenced in the Federal Court or Federal Magistrates Court.	On 16 June 2010 the former Attorney-General, the Hon Robert McClelland MP introduced this Bill into the Parliament. The Bill is not time critical.

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On 10 June 2010, the former Attorney-General, the Hon Robert McClelland MP, announced at a speech to the Family Pathways Networks forum that he anticipates the enhanced family dispute resolution measures will commence on 1 July 2011.	This has been the subject of public consultation, and had been given T status for the spring sittings. Introduction in the Spring 2010 sitting period will make it harder for organised crime groups to continue to misuse the remittance sector.	This Bill is a priority because the Australian Government has made a public commitment to ratify the <i>International Convention for the Suppression of Acts of Nuclear Terrorism</i> 'within the coming year' (Nuclear Security Summit in Washington on April 12-13 2010, Senator Faulkner, Minister for Defence). Australia has ratified 12 of the 15 international counter-terrorism instruments. Ratifying the remaining three instruments will reinforce Australia's security and reputation as an international citizen. There is significant international pressure on Australia to ratify these instruments as they contain important provisions targeted at combating terrorism.
The Civil Dispute Resolution Bill (No. 2) contains measures to enhance family dispute resolution by providing families broader options for mediation, conciliation and arbitration of parenting, property and spousal maintenance disputes and to complement reforms to the International Arbitration Act included in the International Arbitration Amendment Bill 2009 (and other miscellaneous amendments).	This Bill will strengthen the regulatory regime for remittance dealers to help protect against criminal infiltration of the remittance sector, including by those seeking to facilitate the funding of people smuggling and other serious and transnational crimes.	To provide for the domestic implementation of Australia's international obligations under the: • Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation • Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf • International Convention for the Suppression of Acts of Nuclear Terrorism • Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel
Civil Dispute Resolution Bill (No. 2) 2010	Combating the Financing of People Smuggling and Other Measures Bill	Crimes Legislation Amendment (International Terrorism) Bill 2010

Section 6 – Overview of Ministerial Responsibilities

The Bills implement legislative elements of Australia's Human Rights Framework announced in April 2010. The Government agreed that these measures would commence from 1 January 2011.	On 24 June 2010, the former Attorney-General, the Hon Robert McClelland MP introduced this Bill into the Parliament. In a joint media release on 24 May 2010 with the then Minister for Defence, it was stated that the new court would commence operation in late 2011. Passage in the Spring sittings 2010 is required to enable the court to commence operating on 1 October 2011.	The Bills are a priority as there may be criticism if not progressed. The amendments in the Bills respond to various reviews and were the subject of a lengthy public consultation process in 2009. The Bills were passed by the House of Representatives and were the subject of a Senate Committee inquiry prior to the proroguing of Parliament. There has been some recent criticism in the media of the delay in implementing some key recommendations, including a cap on the investigation period for terrorism offences and parliamentary oversight of the AFP.
Establishes a Parliamentary Joint Committee on Human Rights and sets out the functions and administrative arrangements for the Committee. Introduces a requirement for statements of compatibility to be prepared for all bills and legislative instruments subject to disallowance. Makes consequential amendments.	To establish a new Chapter III court to hear and determine service offences, in response to the High Court's decision in Lane and Morrison [2009] HCA 29.	Amendments to improve counter-terrorism laws in response to various reviews, including the Clarke Inquiry into the case of Dr Mohammed Haneef; and to improve oversight of the Australian Federal Police.
Human Rights (Parliamentary Scrutiny) Bill and Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill	Military Court of Australia Bill 2010	National Security Legislation Amendment Bill and Parliamentary Joint Committee on Law Enforcement Bill

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Allow for major housing construction funded under the National Partnership on Remote Indigenous Housing to continue in 2011	The Bill implements a decision of the Standing Committee of Attorneys-General (SCAG) and the States and Territories await the proposed amendments. As the Commonwealth relies on the States and Territories to enforce its pecuniary penalties, the amendments will also impact upon how Commonwealth fines are enforced against offenders who move between jurisdictions. The Bill has been introduced into Parliament on 16 June 2010 and lapsed with prorogation	The Bill could also be used as a vehicle for the amendments to the Age Discrimination Act 2004 to establish the position of Age Discrimination Commissioner.	in Timely accession to the Cybercrime Convention.
Allow for the construction of public infrastructure, especially housing, on Indigenous held land which is, or may be, subject to native title	To provide a new cooperative and simplified scheme for the mutual recognition between States and Territories of pecuniary penalties imposed by courts of summary jurisdiction. This scheme is based on alternative, less punitive, sanctions for fine enforcement and it no longer relies on apprehension and imprisonment for enforcing court imposed fines across State and Territory borders.	The Bill will strengthen protections against sexual harassment and discrimination on the grounds of family responsibilities, including establishing breastfeeding as a separate ground of discrimination and ensure the SDA provides equal coverage for men and women.	To amend the stored communications regime in the Telecommunications (Interception and Access) Act 1979 to facilitate accession to the Council of Europe's Convention on Cybercrime.
Native Title Amendment Bill (No.2) 2009	Service and Execution of Process Amendment (Interstate Fine Enforcement) Act 2010	Sex Discrimination Amendment Bill 2010	Telecommunications (Interception and Access) Amendment Bill 2010

LEGISLATION ADMINISTERED BY THE ATTORNEY-GENERAL'S DEPARTMENT as at 21 August 2010

Legislation	Division Responsible
Aboriginal and Torres Strait Islander Heritage Protection Act 1984, section 30	Social Inclusion Division
Aboriginal Land Rights (Northern Territory) Act 1976, sections 54C and 74A	Social Inclusion Division
Aboriginal and Torres Strait Islander Heritage Protection Act 1984, section 30	Social Inclusion Division
ACT Supreme Court (Transfer) Act 1992	Access to Justice Division
Acts Citation Act 1976	Access to Justice Division
Acts Interpretation Act 1901	Access to Justice Division
Acts Publication Act 1905	Access to Justice Division
Administrative Appeals Tribunal Act 1975	Access to Justice Division
Administrative Appeals Tribunal Act 1975, sections 30A and 69	Social Inclusion Division
Administrative Decisions (Judicial Review) Act 1977	Access to Justice Division
Admiralty Act 1988	Office of International Law
Age Discrimination Act 2004	Social Inclusion Division
Age Discrimination (Consequential Provisions) Act 2004	Social Inclusion Division
Anti-Money Laundering and Counter-Terrorism Financing Act 2006	Criminal Justice Division
AusCheck Act 2007	National Security Law and Policy Division
Australia Act 1986	Priorities and Coordination Division
Australia (Request and Consent) Act 1985	Priorities and Coordination Division
Australian Crime Commission Act 2002	Criminal Justice Division
Australian Crime Commission Act 2002, section 27	Social Inclusion Division
Australian Crime Commission Establishment Act 2002	Criminal Justice Division
Australian Federal Police Act 1979	Criminal Justice Division
Australian Human Rights Commission Act 1986	Social Inclusion Division
Australian Human Rights Commission Act 1986, section 46PU	Social Inclusion Division
Australian Law Reform Commission Act 1996	Priorities and Coordination Division
Australian Security Intelligence Organisation Act 1979	National Security Law and Policy Division
Australian Security Intelligence Organisation Act 1979, section 34ZX	Social Inclusion Division
Bankruptcy Act 1966	Civil Law Division
Bankruptcy (Estate Charges) Act 1997	Civil Law Division
Circuit Layouts Act 1989	Civil Law Division
Classification (Publications, Film and Computer Games) Act 1995	Civil Law Division
Coastal Waters (Northern Territory Powers) Act 1980	Office of International Law
Coastal Waters (Northern Territory Title) Act 1980	Office of International Law
Coastal Waters (State Powers) Act 1980	Office of International Law
Coastal Waters (State Title) Act 1980	Office of International Law
Commerce (Trade Descriptions) Act 1905	Australian Customs and Border Protection Service
Common Informers (Parliamentary Disqualifications) Act	Priorities and Coordination Division

Legislation	Division Responsible
Commonwealth Motor Vehicles (Liability) Act 1959	Civil Law Division
Commonwealth Places (Application of Laws) Act 1970	Criminal Justice Division
(in consultation with Civil Law Division on civil law	
aspects)	
Complaints (Australian Federal Police) Act 1981, excep	Criminal Justice Division
to the extent administered by the Prime Minister	
Copyright Act 1968	Civil Law Division
Corporations Act 2001, paragraph 1315(1)(c) and	Criminal Law and Law
section 1316	Enforcement
Crimes Act 1914	Criminal Justice Division
(except for IIA, s70, Part VII, s89 and 89A, Part 1B)	
Crimes Act 1914	National Security Law and Policy
(Parts II and IIA, s70, Part VII, s79, 89 and 89A)	Division
Crimes Act 1914 Part 1B	Criminal Justice Division
Crimes at Sea Act 2000	Criminal Justice Division
Crimes (Aviation) Act 1991	National Security Law and Policy
Orienta (Di I. i. 114)	Division
Crimes (Biological Weapons) Act 1976	National Security Law and Policy
0:	Division
Crimes (Currency) Act 1981	Criminal Justice Division
Crimes (Foreign Incursions and Recruitment) Act 1978	National Security Law and Policy
	Division
Crimes (Hostages) Act 1989	National Security Law and Policy
	Division
Crimes (Internationally Protected Persons) Act 1976	National Security Law and Policy
	Division
Crimes (Overseas) Act 1964	International Crime Cooperation
	Division
Crimes (Ships and Fixed Platforms) Act 1992	National Security Law and Policy
0.1	Division
Crimes (Superannuation Benefits) Act 1989	Criminal Justice Division
Crimes (Traffic in Narcotic Drugs and Psychotropic	Criminal Justice Division
Substances) Act 1990	
Criminal Code Act 1995	Criminal Justice Division
(except Divisions 71,72, 73, Part 5.1, Part 5.2 and Part	
5.3 (excluding Division 103 in Part 5.3) and Division	
271)	
Criminal Code Act 1995	National Security Law and Policy
(Divisions 71 and 72, Part 5.1, Part 5.2 and Part 5.3	Division
(except Division 103 in Part 5.3))	
Criminal Code Act 1995 (Divisions 73, 271 and Division	Criminal Justice Division
270 with Criminal Law and Law Enforcement)	
Criminology Research Act 1971	Criminal Justice Division
Customs Act 1901	Australian Customs and Border
	Protection Service
Customs Act 1901	Criminal Justice Division
Division 3 of Part XIII (forfeiture))	
Customs Act 1901	Civil Law Division
(insofar as it relates to the making of regulations	
making provisions in the nature of censorship of	
mported goods (including printed matter and films))	
Customs Act 1901	Australian Customs and Border

Legislation	Division Responsible
Customs Depot Licensing Charges Act 1997	Australian Customs and Border
	Protection Service
Customs Securities (Penalties) Act 1981	Australian Customs and Border
	Protection Service
Customs Tariff Act 1995	Australian Customs and Border
	Protection Service
Customs Tariff (Anti-Dumping) Act 1975	Australian Customs and Border
	Protection Service
Customs (Tariff Concession System Validations) Act	Australian Customs and Border
1999	Protection Service
Customs Undertakings (Penalties) Act 1981	Australian Customs and Border
300 95 ts	Protection Service
Death Penalty Abolition Act 1973	Criminal Justice Division
Defence Act 1903, Part IIIAAA insofar as it relates to the	National Security Law and Policy
powers or functions of the Attorney-General as an	Division
authorising Minister	
Defence Force Discipline Appeals Act 1955	Access to Justice Division
Defence Force Discipline Appeals Regulations 1957,	Social Inclusion Division
Regulation 11	1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Defence (Visiting Forces) Act 1963	International Crime Cooperation
	Division
Director of Public Prosecutions Act 1983	Criminal Justice Division
Disability Discrimination Act 1992	Social Inclusion Division
Domicile Act 1982	Access to Justice Division
Electronic Transactions Act 1999	Civil Law Division
Environment Protection (Northern Territory Supreme	Access to Justice Division
Court) Act 1978	
Euthanasia Laws Act 1997	Criminal Justice Division
vidence Act 1995	Access to Justice Division
Evidence and Procedure (New Zealand) Act 1994	Access to Justice Division
Extradition Act 1988	International Crime Cooperation
	Division
Extradition (Repeal and Consequential Provisions) Act	International Crime Cooperation
1988	Division
air Work Act 2009	Access to Justice Division
Part 4-2 but not section 569)	
air Work (Registered Organisations Act) 2009	Social Inclusion Division
sections 324-328)	
amily Court of Western Australia (Orders of Registrars)	Access to Justice Division
Act 1997	
amily Law Act 1975	Access to Justice Division
except to the extent administered by the Minister for	
amilies, Community Services and Indigenous Affairs)	
ederal Court of Australia Act 1976	Access to Justice Division
ederal Court of Australia (Consequential Provisions)	Access to Justice Division
ct 1976	
ederal Magistrates Act 1999	Access to Justice Division
except Sch 1, Div 2)	The state of the s
ederal Magistrates (Consequential Amendments) Act	Access to Justice Division
999	The to duction bividion
ederal Proceedings (Costs) Act 1981	Social Inclusion Division
inancial Transaction Reports Act 1988	Criminal Justice Division
	Ommiai Justice Division

Legislation	Division Responsible	
Foreign Evidence Act 1994	Access to Justice Division	
(Parts I, II, IV, V and VI)		
Foreign Evidence Act 1994	International Crime Cooperation	
(Part III)	Division	
Foreign Judgments Act 1991	Access to Justice Division	
Foreign Proceedings (Excess of Jurisdiction) Act 1984	Office of International Law	
Foreign States Immunities Act 1985	Office of International Law	
Freedom of Information Act 1982, section 66	Social Inclusion Division	
Geneva Conventions Act 1957	Office of International Law	
(other than Part IV)	omes of mismatishar Law	
Genocide Convention Act 1949	Social Inclusion Division	
High Court Justices (Long Leave Payments) Act 1979	Access to Justice Division	
High Court of Australia Act 1979	Access to Justice Division	
Human Rights and Equal Opportunity Commission	Social Inclusion Division	
(Transitional Provisions and Consequential	Godiai inclusion bivision	
Amendments) Act 1986		
Human Rights (Sexual Conduct) Act 1994	Social Inclusion Division	
Import Processing Charges Acts	Australian Customs and Border	
	Protection Service	
Intelligence Services Act 2001,	National Security Law and Policy	
insofar as it relates to the Australian Security	Division	
Intelligence Organisation	DIVISION	
International Arbitration Act 1974	Office of International Law	
International Criminal Court Act 2002	Office of International Law	
	International Crime Cooperation Division	
nternational Criminal Court (Consequential	International Crime Cooperation	
Amendments)	Division	
Act 2002		
nternational Transfer of Prisoners Act 1997	International Crime Cooperation Division	
nternational War Crimes Tribunals Act 1995	International Crime Cooperation Division	
nternational War Crimes Tribunals (Consequential	International Crime Cooperation	
Amendments) Act 1995	Division	
	Access to Justice Division	
	Access to Justice Division	
ludiciary (Diplomatic Representation) Act 1977	Access to Justice Division	
Iudiciary (Diplomatic Representation) Act 1977 Iudiciary Act 1903, Parts VIIIA (Legal practitioners).		
ludiciary (Diplomatic Representation) Act 1977 ludiciary Act 1903, Parts VIIIA (Legal practitioners), /IIIB (Australian Government Solicitor), VIIIC (Legal	Access to Justice Division	
Iudiciary (Diplomatic Representation) Act 1977 Iudiciary Act 1903, Parts VIIIA (Legal practitioners), //IIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63	Access to Justice Division	
ludiciary (Diplomatic Representation) Act 1977 ludiciary Act 1903, Parts VIIIA (Legal practitioners), /IIIB (Australian Government Solicitor), VIIIC (Legal	Access to Justice Division	
Iudiciary (Diplomatic Representation) Act 1977 Iudiciary Act 1903, Parts VIIIA (Legal practitioners), VIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), v78A and s78B (constitutional matters)	Access to Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), JUIIB (Australian Government Solicitor), VIIIC (Legal Bervices Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), JUIII (Constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction)	Access to Justice Division Civil Law Division Criminal Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), VIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), VIIIA and s78B (constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction) Judiciary Act 1903, sections 69(3) and 78B	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), VIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), VIIIA and s78B (constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction) Judiciary Act 1903, sections 69(3) and 78B Judiciary Act 1903, s 39B	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division Access to Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), VIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), s78A and s78B (constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction) Judiciary Act 1903, sections 69(3) and 78B Judiciary Act 1903, other than specified above	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division Access to Justice Division Access to Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), JIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 Service of process when the Commonwealth is a party), JUDICIAN STAR (Constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction) Judiciary Act 1903, sections 69(3) and 78B Judiciary Act 1903, other than specified above Jurisdiction of Courts (Cross-vesting) Act 1987	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division Access to Justice Division Access to Justice Division Access to Justice Division Access to Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), VIIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 service of process when the Commonwealth is a party), VIIIA and s78B (constitutional matters) Judiciary Act 1903 (Part X - criminal jurisdiction) Judiciary Act 1903, sections 69(3) and 78B Judiciary Act 1903, s 39B Judiciary Act 1903, other than specified above Jurisdiction of Courts (Cross-vesting) Act 1987 Jurisdiction of Courts (Cross-vesting) Act 1987, section	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division Access to Justice Division Access to Justice Division	
Judiciary (Diplomatic Representation) Act 1977 Judiciary Act 1903, Parts VIIIA (Legal practitioners), JUIIB (Australian Government Solicitor), VIIIC (Legal Services Directions), s61 (suits by Commonwealth), s63 Service of process when the Commonwealth is a party), JUIIT (Services Directions), s61 (suits by Commonwealth), s63 Service of process when the Commonwealth is a party), JUIT (Services Directions), s63 Service of process when the Commonwealth is a party), JUIT (Services Directions), s63 JUIT (Services Directions) JUIT (Se	Access to Justice Division Civil Law Division Criminal Justice Division Social Inclusion Division Access to Justice Division Access to Justice Division Access to Justice Division Access to Justice Division	

Legislation	Division Responsible	
Law Enforcement Integrity Commissioner Act 2006	Criminal Justice Division	
Law Enforcement Integrity Commissioner Act 2006, sections 103 and 221	Social Inclusion Division	
Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006	Criminal Justice Division	
Law Enforcement (AFP Professional Standards and Related Matters) Act 2006	Criminal Justice Division	
Law Officers Act 1964	Civil Law Division	
Legislative Instruments Act 2003	Access to Justice Division	
Maintenance Orders (Commonwealth Officers) Act 1966	Access to Justice Division	
Marine Insurance Act 1909	Office of International Law	
Marriage Act 1961, except to the extent administered by the Minister for Families, Community Services and Indigenous Affairs	Access to Justice Division	
Mutual Assistance in Criminal Matters Act 1987	International Crime Cooperation Division	
Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987	International Crime Cooperation Division	
Narcotic Drugs Act 1967, sections 12 and 22 and subsection 24(2), and so much of the remaining provisions of that Act (other than sections 9, 10, 11, 13, 19 and 23 and subsection 24(1)) as relate to powers and functions under those sections	Australian Customs and Border Protection Service	
National Crime Authority (Status and Rights of Former Chairman) Act 1984	Criminal Justice Division	
National Firearms Program Implementation Acts	Criminal Justice Division	
National Handgun Buyback Act 2003	Criminal Justice Division	
National Security Information (Criminal and Civil Proceedings) Act 2004 (administered by Security Coordination Branch within EMA, primary responsibility rests with Security Law Branch)	National Security Law and Policy Division	
Native Title Act 1993, except to the extent administered by the Minister for Families, Community Services and Indigenous Affairs	Social Inclusion Division	
Native Title Act 1993, section 213A	Social Inclusion Division	
Nauru (High Court Appeals) Act 1976	Access to Justice Division	
Parliamentary Counsel Act 1970	Office of Parliamentary Counsel Access to Justice Division	
Parliamentary Papers Act 1908	Access to Justice Division	
Parliamentary Privileges Act 1987	Priorities and Coordination Division	
(in consultation with CRJ on criminal law aspects.)		
Passenger Movement Charge Act 1978	Australian Customs and Border Protection Service	
Passenger Movement Charge Collection Act 1978	Australian Customs and Border Protection Service	
	Civil Law Division	
	Civil Law Division	
Personal Property Securities Act 2009 Privacy Act 1988, section 63	Civil Law Division Social Inclusion Division	

Legislation	Division Responsible	
Proceeds of Crime Act 1987	Criminal Justice Division	
Proceeds of Crime Act 1987, section 102	Social Inclusion Division	
Proceeds of Crime Act 2002	Criminal Justice Division	
Proceeds of Crime (Consequential Amendments and	Criminal Justice Division	
Transitional Provisions) Act 2002		
Psychotropic Substances Act 1976	Australian Customs and Border	
	Protection Service	
Public Order (Protection of Persons and Property) Act	National Security Law and Policy	
1971	Division	
Racial Discrimination Act 1975	Social Inclusion Division	
Removal of Prisoners (Territories) Act 1923	Criminal Justice Division	
(insofar as it relates to the release of prisoners and		
criminal lunatics removed from the Northern Territory of		
Australia)		
Royal Commission into the New South Wales Police	National Security Law and Policy	
Service (Access to Information) Act 1994	Division	
Seas and Submerged Lands Act 1973	Office of International Law	
Service and Execution of Process Act 1992	Access to Justice Division	
Service and Execution of Process (Transitional	Access to Justice Division	
Provisions and Consequential Amendments) Act 1992		
Sex Discrimination Act 1984	Social Inclusion Division	
Special Prosecutors Act 1982	Criminal Justice Division	
Statute of Westminster Adoption Act 1942	Priorities and Coordination Division	
Statute Stocktake Act 1999	Access to Justice Division	
Statutory Declarations Act 1959	Access to Justice Division	
Surveillance Devices Act 2004	National Security Law and Policy	
	Division	
Telecommunications (Interception and Access) Act 1979		
	Division	
Trade Practices Act 1974, section 170	Social Inclusion Division	
Transfer of Prisoners Act 1983	Criminal Justice Division	
Trans-Tasman Proceedings Act 2010	Access to Justice Division	
Trans-Tasman Proceedings (Transitional and	Access to Justice Division	
Consequential Provisions) Act 2010	Access to eduction Bivioloti	
Trusts (Hague Convention) Act 1991	Access to Justice Division	
War Crimes Act 1945	Criminal Justice Division	
War Crimes Act 1945, section 19	Social Inclusion	
Witness Protection Act 1994	Criminal Justice Division	
Workplace Relations Act 1996, sections 324-328	Access to Justice Division	
inclusive of Schedule 1 in respect of powers under those		
sections; and Part 20 except for sections 848, 849 and		
856		

Page 147 of 177

Comments Division responsible Access To Justice Civil Law Civil Law Civil Law Civil Law Position Appointee Federal Court of Australia Copyright Tribunal Copyright Tribunal Copyright Tribunal Copyright Tribunal Body **End Date**

SIGNIFICANT APPOINTMENTS REQUIRING ATTENTION

Section 6 – Overview of Ministerial Responsibilities

Comments Division responsible Priorities and Coordination Access To Justice Position Appointee Federal Court of Australia Federal Court of Australia Australian Law Reform Commission Administrative Review Council Administrative Administrative Appeals Tribunal Appeals Tribunal Body **End Date**

Section 6 – Overview of Ministerial Responsibilities

Page 148 of 177

Section 6 - Overview of Ministerial Responsibilities

End Date	Body	Appointee	Position	Division responsible	Comments
	Family Law Council			Access to Justice	
	Copyright Tribunal			Civil Law	
	Administrative Appeals Tribunal			Access to Justice	This position is subject to a merit selection process. Interviews have been held but no decision has been made.
	Australian Government Solicitor - Advisory Board			Civil Law	Under AGS's Corporate Governance Arrangements, the Board is to consist of a minimum of three and a maximum of five members. The AGS will be in breach of its Governance Arrangements and the CAC Act (audit committee composition) if this appointment is not renewed or refreshed.
	Australian Government Solicitor - Advisory Board			Civil Law	Under AGS's Corporate Governance Arrangements, the Board is to consist of a minimum of three and a maximum of five members. The AGS will be in breach of its Governance Arrangements and the CAC Act (audit committee composition) if this appointment is not renewed or refreshed.
	Administrative Appeals Tribunal			Access to Justice	

Section 6 – Overview of Ministerial Responsibilities

Section 6 – Overview of Ministerial Responsibilities

Comments				
Division responsible	Access to Justice	Access to Justice	Access to Justice	Access to Justice
Position				
Appointee		L	1	
Body	Administrative Appeals Tribunal	National Alternative Dispute Resolution Advisory Council	National Alternative Dispute Resolution Advisory Council	National Alternative Dispute Resolution Advisory Council
End Date				

Section 6 - Overview of Ministerial Responsibilities

			\			
Comments					This position is subject to a merit selection process. Interviews have been held but no decision has been made.	
Division responsible	Access to Justice	Access to Justice	Access to Justice	Access to Justice	Access to Justice	Access to Justice
Position						
Appointee				L		
Body	National Alternative Dispute Resolution Advisory Council	Administrative Appeals Tribunal	Administrative Appeals Tribunal	Administrative Appeals Tribunal	Administrative Appeals Tribunal	Administrative Appeals Tribunal
End Date						

Section 6 - Overview of Ministerial Responsibilities

Section 6 - Overview of Ministerial Responsibilities

Section 6 – Overview of Ministerial Responsibilities

Page 155 of 177

Section 6 - Overview of Ministerial Responsibilities

Page 156 of 177

Section 6 – Overview of Ministerial Responsibilities

MINISTERIAL COUNCILS

STANDING COMMITTEE OF ATTORNEYS-GENERAL (SCAG)

Objectives

SCAG is a ministerial council which provides a forum for Attorneys-General to discuss and progress issues of national significance which require cooperation across jurisdictions, including through uniform or harmonised action where appropriate. SCAG also oversees the national classification scheme for film, computer games and publications.

Commonwealth SCAG priority projects

The Commonwealth will progress the following projects as a priority over the next 12 months:

- Organised Crime: the Commonwealth will support mechanisms to ensure a
 coordinated national effort to effectively prevent, investigate and prosecute organised
 crime activities and target the proceeds of organised criminal groups.
- <u>National Legal Profession Reforms:</u> the Commonwealth will progress national legal profession reforms, including the development of model legislation, through the National Legal Profession Reform Taskforce.
- <u>Indigenous Justice</u>: the Commonwealth will support identification and evaluation of programs under the recently finalised National Indigenous Law and Justice Framework, and assist Attorneys General to develop justice 'Closing the Gap' targets, and
- Access to Justice: the Commonwealth will support a strategic approach to access to
 justice in_the civil justice system, including a review of the interrelationship of
 Commonwealth and State and Territory justice systems and the development of a
 harmonised approach for greater cost recovery of justice services.

Frequency of Meetings

SCAG generally meets three times a year, around March/April, June/July and October/November. Meetings are held in each jurisdiction on a rotational basis and are chaired by the Minister who is hosting the particular meeting.

SCAG meetings are held in conjunction with the Ministerial Council for Corporations. The Minister for Financial Services, Superannuation and Corporate Law has portfolio responsibility for that meeting.

The next SCAG meeting is scheduled for 4-5 November 2010 in Canberra (refer to **Calendar of Significant Events**). The Minister for Home Affairs currently has responsibility for items including criminal law and censorship.

Membership

SCAG members include the Commonwealth Attorney-General, the Minister for Home Affairs (for items that fall within that Minister's responsibilities), the State and Territory Attorneys-General and the New Zealand Minister of Justice. Norfolk Island has observer status at SCAG meetings.

SCAG is supported by the National Justice CEOs Group (NJCEO) which is made up of the Chief Executive Officers of Attorney-General's and Justice Departments from the Commonwealth, States and Territories, as well as New Zealand. The Commonwealth CEO is the Secretary of the Department.

Secretariat

The permanent SCAG Secretariat is located in the New South Wales Department of Justice and Attorney General (DJAG). The Secretary to SCAG is Mr Laurie Glanfield AM, Director General, NSW DJAG.

The Secretariat provides support to SCAG (including to the Model Criminal Law Officers' Committee and the Censorship Officers' Standing Committee) and the NJCEOs Group. The homepage can be accessed at: http://www.scag.gov.au.

Kym Duggan, Acting First Ass	istant Secretary	y, Priorities and Coordination
Phone: (02) 6141 4109	Mobile:	

Comment [b231]: s47F

MINISTERIAL COUNCIL ON DRUG STRATEGY (MCDS)

Objectives

MCDS deals with all matters relating to drugs, both licit and illicit in Australia and oversees and coordinates the activities of the National Drug Strategy.

Frequency of meetings

MCDS meetings are held biannually. The next meeting is scheduled for 19 November 2010 in Darwin (refer to Calendar of Significant Events).

Membership

MCDS comprises two Ministers from each State and Territory representing health and law enforcement portfolios, together with the Commonwealth Minister for Health and the Commonwealth Minister responsible for law enforcement (currently the Minister for Home Affairs). Where appropriate, Special Ministers of State with responsibility for drugs are also members. New Zealand Ministers for health and law enforcement have observer status.

Jurisdictions rotate in hosting meetings and a Minister from the host jurisdiction chairs the meeting.

Secretariat

A permanent secretariat is located within the Department of Health and Ageing.

lain Ande	erson, First Assistant	Secretary, Crir	ninal Justice
Phone:	(02) 6141 3560	Mobile:	

Comment [b232]: s47F

MINISTERIAL COUNCIL ON THE ADMINISTRATION OF JUSTICE (MCAJ) - OVERVIEW

The Ministerial Council on the Administration of Justice (MCAJ) is an umbrella organisation for justice-related councils:

- Corrective Services Ministers' Conference (CSMC)
- Intergovernmental Committee of the Australian Crime Commission (IGC-ACC)
- Ministerial Council for Police and Emergency Management—Police (MCPEMP) and
- Ministerial Council for Police and Emergency Management—Emergency Management (MCPEMEM).

Detail relating to each of these councils is set out in the following pages.

The Department provides Secretariat support to these Councils. Secretariat responsibilities are shared between the Criminal Justice Division (which provides support to MCPEMP, IGC-ACC and CSMC) and the National Security Resilience Policy Division (which provides support to MCPEMEM).

lain And	erson, First Assistant	Secretary, Crin	ninal Justice		
Phone:	(02) 6141 3560	Mobile:			

Comment [b233]: s47F

CORRECTIVE SERVICES MINISTERS' CONFERENCE (CSMC)

Objectives

The role of the CSMC is to consider and manage issues relating to both prison and community based corrections. Current priorities include:

- · progressing national themes and priority areas in relation to Indigenous issues
- · the implementation of the National Disability Strategy in the corrections sector
- · the treatment and management of sex offenders
- · developing a national response to increasing numbers of female prisoners
- · legislative reform surrounding interstate transfers, and
- examining emerging technologies and their potential application in the corrections sector.

Frequency of meetings

The CSMC meets annually, usually in conjunction with the first MCPEMP and IGC-ACC meetings for the year. The CSMC may not meet again because the Hawke Review of Ministerial Councils recommends disbanding the CSMC by March 2011.

Membership

CSMC comprises Ministers for Corrective Services from each State, Territory and New Zealand. The Commonwealth is not a member of the CSMC but the Minister for Home Affairs is invited to attend as an observer. Chairmanship rotates each calendar year on a jurisdictional hosting basis. This year CSMC is chaired by the ACT Attorney-General, the Hon Simon Corbell MLA.

Secretariat

The MCAJ Secretariat within the Criminal Justice Division of the Department provides secretariat support to CSMC. The MCAJ Secretariat also supports the associated senior officers' group, the Corrective Services Administrators' Council (CSAC).

Iaili Allu	erson, First Assistant	Secretary, Crim	nai Justice
Phone:	(02) 6141 3560	Mobile:	

Comment [b234]: s47F

INTER-GOVERNMENTAL COMMITTEE OF THE AUSTRALIAN CRIME COMMISSION (IGC-ACC)

Objectives

As legislated under s8 of the *Australian Crime Commission Act 2002*, the IGC-ACC has the following functions:

- to generally monitor the work of the ACC and ACC Board
- to oversee the strategic direction of the ACC and ACC Board, and
- to receive reports from ACC Board for transmission to the governments represented on the IGC-ACC, and transmit those reports accordingly.

Frequency of Meetings

The IGC-ACC meets twice a year, immediately prior to MCPEMP. The next meeting will be held on 26 November 2010 in the ACT (refer to **Calendar of Significant Events**).

Membership

The IGC-ACC comprises the Police Ministers of States and Territories and the Commonwealth Minister for Home Affairs. The Minister for Home Affairs chairs IGC-ACC meetings.

Secretariat

The MCAJ Secretariat within the Criminal Justice Division of the Department provides secretariat support to the IGC-ACC.

lain And	erson, First Assistant	Secretary, Criminal Justice	
Phone:	(02) 6141 3560	Mobile:	

Comment [b235]: s47F

MINISTERIAL COUNCIL FOR POLICE AND EMERGENCY MANAGEMENT - POLICE (MCPEMP)

Objectives

In November 1988, MCPEMP adopted the following objectives:

- · further advancement of the professionalism of policing
- identification of major policy issues and the provision of a forum for their debate
- establishment of agreed positions on critical issues on the national law enforcement agenda, and
- appropriate participation in debates in and around the community on major law enforcement issues as a means of raising the community's awareness and understanding of those issues and measures being implemented to address them.

In addition, MCPEMP has identified the following priorities for 2010:

- · serious and organised crime
- · interoperability and information sharing
- · illicit drugs and precursors
- · alcohol and public safety
- · child protection/child pornography
- · road safety
- · counter-terrorism and consequence management, and
- · indigenous justice issues.

Frequency of Meetings

MCPEMP meetings are held biannually. The next meeting is scheduled for 26 November 2010 in the ACT (refer to **Calendar of Significant Events**).

Membership

MCPEMP comprises the Police Ministers of States, Territories and New Zealand and the Commonwealth Minister for Home Affairs. Chairmanship rotates each calendar year. This year MCPEMP is chaired by the ACT Minister for Police and Emergency Services.

Secretariat

The MCAJ Secretariat within the Criminal Justice Division of the Department provides secretariat support to MCPEMP. The MCAJ Secretariat also provides support to the MCPEMP Senior Officers' Group (MCPEMP-SOG).

lain Ande	erson, First Assistant	Secretary, Crin	ninal Justice	
Phone:	(02) 6141 3560	Mobile:		

Comment [b236]: s47F

MINISTERIAL COUNCIL FOR POLICE AND EMERGENCY MANAGEMENT - EMERGENCY MANAGEMENT (MCPEMEM)

Objectives

The agreed objectives of the MCPEMEM are to:

- provide national leadership and strategic direction on emergency management (all hazards), including national policies and priorities, and
- encourage best practice in emergency management among jurisdictions.

Frequency of Meetings

The Council meets at least once per calendar year. Extraordinary meetings may be held as a consequence of discussion and agreement among members.

Membership

The Council comprises the Commonwealth Attorney-General, State and Territory Ministers with responsibility for emergency management, the President of the Australian Local Government Association, and the New Zealand Minister for Civil Defence. Other Ministers may be invited to participate in Council meetings with the prior agreement of the Chair. The permanent Chair of the Council is the Commonwealth Attorney-General.

Secretariat

The National Security Resilience Policy Division within the Department provides secretariat support to the Council.

Mike Rot	hery, First Assistant	Secretary, Nati	onal Security Resilience Policy
Phone:	(02) 6141 2886	Mobile:	

Comment [b237]: s47F

IMPLICATIONS OF THE HAWKE REVIEW FOR MINISTERIAL COUNCILS IN THE PORTFOLIO

In April 2009, COAG commissioned Dr Allan Hawke to undertake a review of its ministerial councils. The review considered options for the reform of ministerial councils, the supporting secretariat structure and their relationship with COAG.

COAG considered the review in April 2010 and recommended the rationalisation of the ministerial council system. There will now be 11 Standing Councils, including SCAG and 'Police and Emergency Services'.

The impact of the review on SCAG will therefore be quite limited (ie possible changes to priorities and/or removal or addition of items, including items from disbanded councils etc).

With respect to MCAJ, it is anticipated that this rationalisation will involve the disbanding of the CSMC and the IGC-ACC and the merging of MCPEMP and MCPEMEM. The MCDS could be covered by SCAG or Police and Emergency Services.

The Secretariats are jointly considering how best to transition the work of each council to the new ministerial council system, and the implications of this review for Secretariat arrangements. You will be provided with further information on this matter as it becomes available.

			Calendar of	Calendar of Significant Events		
Month	Date	Event	Venue	Audience	Division	By reference to Ministerial arrangements as at 19 July 2010
September	21 September	Speech for e- Security for Government 2010 conference	Waters Edge, Walsh Bay	Industry, government and the public	NSRPD	Office of the Attorney-General confirmed this commitment in July 2010.
	28 September	Launch of Cyber Storm III exercise	Innovation Centre, University Drive South, University of Canberra, Bruce	CEOs and CIOs of critical infrastructure companies, '5 eyes' heads of mission and other major stakeholders	NSRPD	A separate briefing will be provided requesting the Attorney-General launch the exercise. Cyber Storm III is the third in a series of large scale, national and international cyber security exercises sponsored by the US Department of Homeland Security and within Australia by this Department.
October	At your discretion	Ministerial statement VBRC	НоК	Нок	NSRPD	NSRPD in consultation with the Office of the Attorney-General will draft the statement.
	ТВА	International Cyber Security Awareness Day	ТВА	ТВА	NSRPD	DBCDE has the lead on events to mark this day. Those arrangements are yet to be confirmed.
	TBA	Parliament House Briefing Room opening ceremony	Parliament House, ACT	TBA	ЕМА	Possible formal opening ceremony (involving the Prime Minister and/or Attorney-General), and/or a handover from AGD to PM&C. Arrangements are

Section 6 – Overview of Ministerial Responsibilities

underway with PM&C.	It is anticipated that the Attorney-General will be a keynote speaker at the conference. The Attorney-General is also expected to announce the recipient of the Indigenous Legal Professional of the Year Award during the conference. Ite	AJD Attorney-General will be invited to attend part of this meeting.	ges AJD Attorney-General may be invited to attend.	AJD Attorney-General due to speak on 18 October.	rom SID It is expected that the Attorney-General would be invited to attend the conference.
	Legal professionals, Indigenous community workers, Indigenous Community Elders, community legal centres, local government, Aboriginal legal services, land councils, native title representative bodies and academics.	Council Members	Family Court Judges and Federal Magistrates	Family Lawyers	Representatives from community legal centres across Australia and New
	Australian National University, Canberra	Canberra	Canberra	Canberra	Melbourne Convention and Exhibition Centre
	ANU National Indigenous Legal Conference	Family Law Council Meeting	First combined meeting of Family Court Judges and Federal Magistrates	14 th National Family Law Conference	The 2010 National Association of Community Legal Centres Conference
	1-2 October	11-12 October	14-16 October	18-22 October	25-27 October

Section 6 - Overview of Ministerial Responsibilities

	TBA (October or November)	Business Government Advisory Group	The Boathouse, Canberra	CEOs of significant organisations	NSPRD	Group chaired by the Attorney-General. Meeting was postponed in July.
November	ТВА	Administrative Review Council meeting	Canberra	Council members	AJD	Attorney-General will be invited to attend a session at this proposed meeting.
	2 November	Keynote address to Resilience Conference	Torrens Institute, Adelaide	Emergency management community and the public	NSRPD	Office of the Attorney-General confirmed this commitment in July 2010.
	3-5 November (day TBA)	Family Relationships Service Australia Conference	Melbourne	Family Relationship Services providers	AJD	Office of the Attorney-General has confirmed this commitment.
	4-5 November	Standing Committee of Attorneys-General	Canberra, with Cth as host	Regular meeting with Attorneys-Ceneral from all Australian jurisdictions, NZ and Norfolk Island.	РСБ	Attendance by Attorney-General essential, as the Cth is the hosts for this meeting. Current draft agenda would require Minister for Home Affairs attendance (subject to change). Meeting held on afternoon of 4 th and morning of 5 th Dinner also held on evening of 4 th .
	4-6 November	International Conference on Human Rights Education	University of Western Sydney	Representatives from the public sector, non-government organisations, legal professionals and academics and students.	SID	The Attorney-General is scheduled to deliver a keynote address on the opening day of the conference.

(MCDS)
Committee of the Australian Crime Commission (IGC-ACC)
Ministerial Council for Police and Emergency Management - Police (MCPEMP)

LEGAL SERVICES TO THE COMMONWEALTH

LEGAL SERVICES DIRECTIONS

Background

The Legal Services Directions 2005 is a statutory instrument issued by the Attorney-General under section 55ZF of the Judiciary Act 1903, about the performance of legal work for the Commonwealth (whether performed in-house, by the Australian Government Solicitor or by other external legal service providers).

The Legal Services Directions 2005

The current Directions commenced on 1 March 2006 (an earlier version of the Directions commenced on 1 September 1999) and have been amended a number of times, most recently in January 2010. The Chief Executive Officer of an agency regulated under the *Financial Management and Accountability Act 1997* (essentially Departments of State and other agencies that perform core government functions), is responsible for ensuring that their agency adopts appropriate management strategies and practices so as to achieve compliance with the Directions.

The Directions help to ensure that Commonwealth agencies receive consistent and well-coordinated legal services that are of a high standard, uphold the public interest and are sensitive to their context of Commonwealth interests (which are broader than the interests of any one agency). In turn, this approach protects the Commonwealth's legal and financial position. The Directions were issued after most Australian Government legal work was opened to competition in 1999. Before then, agencies had been required to obtain most legal services from AGS which, until that time, was part of the Attorney-General's Department.

The Directions are largely a statement of those policies that have governed the conduct of Commonwealth litigation for a number of years. In their application to FMA agencies the Directions deal with:

- what constitutes 'tied work'; that is, work that must be performed by Government legal services providers (constitutional, Cabinet, national security, public international law and most drafting work)
- the reporting, management and control of litigation raising 'significant issues'
 concerning sensitive legal, political or policy matters, a disagreement between
 Commonwealth agencies or a Commonwealth and a State or Territory agency,
 involving a significant level of cooperation between agencies, or the likelihood that a
 significant precedent will be set (see paragraph 3 of the Directions)
- the manner in which Commonwealth agencies and their legal services providers are to conduct litigation (the model litigant obligation) (see Appendix B to the Directions)
- the principles for settlement of monetary claims by Commonwealth agencies (Appendix C to the Directions)
- the use of in-house legal services by Commonwealth agencies for the conduct of litigation
- · the fees for counsel engaged to appear on behalf of an agency
- · claims for public interest immunity
- pleading a defence based on the expiry of, or opposing an application for the extension of, an applicable limitation period

- the manner in which requests by officials employed by Commonwealth agencies for financial assistance in civil and criminal proceedings are to be determined
- the consultation obligation upon a Commonwealth agency obtaining advice on legislation administered by another agency or on areas of significant interest to another agency
- the reporting of legal services expenditure, and on compliance with the Directions,
 and
- the requirement to use the common form tender package when procuring legal services from external providers.

Bodies subject to the *Commonwealth Authorities and Companies Act 1997* are required to comply with a more limited subset of the Directions, generally obliging them to inform the Attorney-General of litigation involving constitutional issues or a disagreement with another Commonwealth agency, conduct themselves as a model litigant, comply with the Directions in relation to the engagement of counsel and claims for public interest immunity, report on legal services expenditure, and to comply with the requirement to use the common form tender package.

The Directions are enforceable by the Attorney-General who, in exceptional cases, may give a specific direction to prevent a breach of the Directions. Compliance with the Directions is not enforceable by any person other than the Attorney-General under subsection 55ZG(2) of the Judiciary Act. While members of the public can and do make complaints to OLSC about the Commonwealth's conduct in litigation, it is ultimately a matter for the Attorney-General to decide whether the conduct complained of was or was not appropriate, and whether any sanction should be applied.

The Office of Legal Services Coordination in the Attorney-General's Department:

- oversees administration of and compliance with the Directions, including legal and legal policy advice on the Directions, decision-making on approvals and exemptions under the Directions, outreach and education on the Directions through advice to agencies on specific situations, delivery of training presentations to both agencies and their law firm providers and preparation and dissemination of guidance material, and the investigation of alleged breaches of the Directions and by assisting agencies to develop compliance strategies
- provides support and advice to the Attorney-General in relation to the Commonwealth legal services market and the Attorney-General's role as a stakeholder in the Australian Government Solicitor, and
- coordinates the ongoing relationships between the Department and its external legal services providers. The Department's panel firms are AGS and Blake Dawson Waldron. AGS is the major provider of legal services to the Department and, in addition, the relationship with AGS extends to cooperation with the Department in other areas (eg shared use of a legal opinions database).

AUSTRALIAN GOVERNMENT SOLICITOR

About AGS

Please refer to Australian Government Solicitor in Agencies and Their Priorities.

AGS Performance

AGS has operated successfully since becoming a government business enterprise (GBE) on 1 September 1999, maintaining a strong position and profile in the Australian Government legal services market.

Over the ten year period to the end of June 2009, AGS's revenue grew on average at 4.2% per annum and earnings (before interest and tax) as a percentage of turnover averaged 9.7% per annum. AGS's total dividend payments (excluding special dividends) have been \$56.60m.

The table below provides a summary of AGS's financial performance over this period (figures for 2009-10 will be available following the signing of AGS's financial statements for 2009-10):

	1999- 00	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09
Legal service revenue (other than interest) - \$m	81.48	83.12	94.53	98.61	101.52	108.65	113.19	119.49	125.18	118.21
Profit before tax from legal service trading (excluding interest) - \$m	11.00	8.67	12.64	11.33	9.24	11.55	11.56	11.97	9.56	3.95
Earnings before interest and tax as percentage of turnover	13.5%	10.4%	13.4%	11.5%	9.1%	10.6%	10.2%	10.0%	7.6%	3.3%
Dividend - \$m	5.12	4.33	8.50	5.92	5.10	5.83	6.52	6.77	5.69	2.82

Factors reported by AGS as contributing to reduced revenue growth and profitability include:

- general tightening of the Commonwealth's budgetary environment and expenditure on legal services
- · increased competition from private sector firms
- · the significant growth of client in-house units
- the ending of a number of large litigation matters and the changing nature of litigation in the Commonwealth, including the increasing use of alternative dispute resolution
- · greater sharing of work among panel firms by clients.

AGS Employees

On 30 June 2010, AGS had 675 employees (632.4 full time equivalents). AGS employees are employed under terms and conditions determined by the Chief Executive Officer (CEO)

under the authority of the *Judiciary Act 1903*. AGS has an enterprise agreement in place that was negotiated between AGS and the CPSU.

AGS's Corporate Governance Arrangements

AGS was established under the *Judiciary Act 1903* as a statutory authority, within the Attorney-General's portfolio, on 1 September 1999. AGS is subject to the reporting and accountability requirements of the *Commonwealth Authorities and Companies Act 1997* (CAC Act). Regulations made under the CAC Act prescribe AGS as a GBE.

AGS's corporate governance arrangements, issued by the shareholder Ministers under the authority contained in the Judiciary Act, complement and expand AGS's obligations under the CAC Act and specify AGS's objectives.

AGS has a CEO, Mr Ian Govey, who is AGS's sole director for the purposes of the CAC Act. Mr Govey commenced as AGS's CEO on 29 March 2010 for a period of three years. The CEO is appointed by shareholder Ministers and is responsible to them for managing AGS.

Annually, AGS prepares a confidential rolling corporate plan covering an outlook period of three years for consideration by shareholder Ministers. A Statement of Corporate Intent, which is a high-level summary of the corporate plan, is tabled in Parliament annually. Confidential progress reports against the corporate plan, including financial statements, are provided to shareholder Ministers at the end of each quarter. Each year, AGS submits an annual report to the Attorney-General for tabling in Parliament.

Australian Government Solicitor (AGS) Senior Contacts

Chief Executive Officer	lan Govey	(02) 6253 7200
Chief Operating Officer	Louise Vardanega PSM	(02) 6253 7217
Chief Counsels and National Practic	e Leaders	
Chief General Counsel	Robert Orr PSM QC	(02) 6253 7129
Chief Counsel Litigation	Tom Howe QC	(02) 6253 7415
Chief Counsel Commercial	John Scala	(03) 9242 1321
National Practice Leader Government	Leo Hardiman	(02) 6253 7074
National Practice Leader Litigation and Dispute Management	Simon Daley	(02) 9581 7490
National Practice Leader Commercial	Linda Richardson	(02) 6253 7207
AGS Directors		
AGS Canberra	Louise Vardanega PSM	(02) 6253 7217
AGS Sydney	Megan Pitt	(02) 9581 7474
AGS Melbourne & Hobart	Martin Bruckard	(03) 9242 1386

Section 6 - Overview of Ministerial Responsibilities

Richard Silver	(07) 3360 5700
Graeme Windsor	(08) 9268 1102
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David Riggs	(02) 6253 7220
Liz Lajos	(02) 6253 7292
	Graeme Windsor Rodger Prince David Riggs

PROVISION OF LEGAL ASSISTANCE TO MINISTERS AND THEIR STAFF

Part 3 of the *Parliamentary Entitlements Regulations 1997* (the Regulations) establishes a scheme for the provision of assistance to Ministers (and former Ministers) to defend legal proceedings against them arising out of the performance of their ministerial duties or their position as Minister. The total expenditure under Part 3 of the Regulations in the 2009-10 financial year was \$248,619.27 (GST exclusive).

The Regulations do not exhaustively cover the circumstances in which assistance can be provided to Ministers in legal proceedings. Under existing arrangements, the Commonwealth normally meets the costs of administrative law challenges to a Minister's decisions or in responding to subpoenas relating to a Minister's current portfolio.

The Attorney-General is the approving Minister under the Regulations except where the Attorney-General is involved in the matter for which an application for assistance has been made. In summary, the Regulations:

- enable assistance to be given to current and former Ministers who held that office on or after 24 May 1990:
 - for certain legal proceedings against them, including claims for damages and other relief, and for criminal proceedings, where the proceedings have arisen out of the performance of their ministerial duties
 - for inquiries involving a Minister, where the proceedings have arisen out of the performance of their ministerial duties, but not a court challenge to the conduct or validity of the inquiry
 - where a Minister is sued only because of being, or having been, the holder of the office of Minister, and
 - where a subpoena to give evidence or produce documents is received by a Minister and relates to the performance of Ministerial duties or holding the office of Minister
- establish the criteria relevant to giving assistance and the level of assistance that can be given to a Minister
- provide for conditions to be imposed on a decision to give assistance, the revocation
 of decisions to give assistance and the repayment of money paid if a condition of
 approval is breached
- require the Secretary to this Department to monitor strategies in legal proceedings for which assistance has been given and to inform the approving Minister if he or she considers that proposed expenditure is unreasonable, and
- require the Attorney-General to report to Parliament on decisions to give assistance and to table a consolidated statement of expenditure at the end of each financial year.

Ministerial Staff

The Commonwealth may also pay the legal costs of ministerial staff, employed under the *Members of Parliament (Staff) Act 1984*, for proceedings arising out of their duties assisting a Minister in performing ministerial duties. Provision for such assistance is set out in Appendix E of the *Legal Services Directions 2005*. The Directions are a statutory instrument issued by the Attorney-General under section 55ZF of the *Judiciary Act 1903*, about the performance of legal work for the Commonwealth.

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