

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Group 2**

**Output 1.3**

**Question No. 57**

**Senator Brandis asked the following question at the hearing on 16 October 2012:**

In relation to the proposed National Contract [Law] review:

1. What expenditure has thus far been spent undertaking the review?
  - a. When will this appear in MYEFO?
2. How many meetings with expert stakeholders and peak bodies have been undertaken?
3. What bodies representing the legal profession have taken part?
4. Given the consultation on the review concluded on 20 July, Can you advise:
  - a. The number of submissions the consultation received; and
  - b. Who the submissions were from?
5. What States and Territories have indicated participation in the review?
6. When will the review be finalised and released publicly?
7. Is an Australian contract code a possible outcome/recommendation of the review?
8. What is the view of the Department on the possibility of an Australian Contract code?
9. Does the Department subscribe to the view that a contract code will add complexity and inefficiency to contracts in Australia?
10. What is the Department's estimate of the costs involved in introducing an Australian contract code?

**The answer to the honourable senator's question is as follows:**

1. Expenditure on the review is listed in the table below. Expenditure primarily consists of costs for the Sydney and Melbourne contract law forums including venue hire and incidentals, facilitator fees, flights and accommodation.

Staffing costs have not been included as the review is being undertaken as part of the Department's general policy work. Time spent by staff on the review separate from other projects and policy work is not recorded. To provide this level of detail would be an unreasonable diversion of resources.

- a. The contract law review is being undertaken as part of the Department's general policy work. It is not a budget measure and therefore will not appear in the Mid-Year Economic and Fiscal Outlook.

#	Item	Cost (GST inclusive)
1.	Contract law forum facilitator fees in Melbourne 22/06/12 & Sydney 28/06/12	\$5,561.50
2.	Contract law forums – Melbourne 22/06/12 & Sydney 28/06/12 (venue hire and equipment)	\$4,576.98
3.	Domestic airfares and travel allowance (incl. domestic accommodation) for Departmental staff to manage and attend two contract law forums (in Melbourne 22/06/12 & Sydney 28/06/12)	\$3,253.97
	Total:	\$13,392.45

2. Two contract law forums have been held with expert stakeholders and representatives of peak bodies. The first was in Melbourne on 22 June 2012. The second was held in Sydney on 28 June 2012. The forums drew together forty-two stakeholders representing a variety of consumer, business, academic, legal and professional interests. Departmental officers also met with five other business and legal stakeholders who were unable to attend the forums.

3. Bodies representing the legal profession that have participated in the contract law review include:

- Ashurst (formerly Blake Dawson Waldron)
- Australian Academy of Law
- Australian Business Lawyers and Advisers
- Australian Corporate Lawyers Association
- Australian Government Solicitor
- Herbert Smith Freehills (formerly Freehills)
- King & Wood Mallesons
- Law Council of Australia
- NSW Young Lawyers

4. Public consultation included (i) release of the discussion paper *Improving Australia's law and justice framework: Exploring the scope for contract law in Australia*; and (ii) an online survey.

- a. 58 submissions to the discussion paper were received. The online survey gathered data on the public's experience with contract law from 65 anonymous responses.
- b. A complete list of the submissions to the discussion paper has been included below. Respondents that did not provide their name or details for public release are marked 'anonymous'.

Sub #	Author
1	Mr Tristan Lockwood
2	Dr Bruno Zeller, School of Law, Murdoch University
3	Mr Stuart Connor, Chief Counsel, Alstom Thermal Power, Gas
4	The Hon Geoff Lindsay SC
5	Professor Robyn Carroll, Law School, University of Western Australia
6	Professor Mary Keyes, Law School, Griffith University
7	Licencing Executives Society (Australian and New Zealand)
8	Dr Luke Nottage, Law School, University of Sydney
9	Association of Professional Engineers, Scientists and Managers Australia
10	Professor Kathy Bowrey, Faculty of Law, University of New South Wales
11	Dr Jenny Buchan, School of Business, University of New South Wales
12	CPA Australia
13	Dr Warren Swain and Professor Nick Gaskell, School of Law, the University of Queensland
14	Dr Martin Doris, Chinese University of Hong Kong
15	Ray Steinwall, General Counsel, Novartis Group (Australia and New Zealand)
16	Dr Dan Svantesson Faculty of Law, Bond University
17	Mr Andrew Hii
18	<i>Anonymous</i>
19	Cyberspace Law and Policy Centre, UNSW

20	Consumer Action Law Centre
21	Master Builders Australia Ltd
22	Mr Paul Lynch MP, NSW Shadow Attorney-General
23	Dr Cyril Jankoff
24	Australian Newsagents' Federation Ltd
25	Australian Corporate Lawyers Association
26	Law Council of Australia
27	Consult Australia
28	King & Wood Mallesons
29	Mr Patrick Conheady
30	Australian Copyright Council
31	Sydney Law school academics (and others)
32	Architects Professional Risk Services
33	Redfern Legal Centre
34	Australian Institute of Architects
35	Professor Bryan Horrigan, Ms Lisa Spagnolo and Dr Emmanuel Laryea, Faculty of Law, Monash University
36	Mr Brenton Hill
37	Professor Andrew Stewart, Law School, The University of Adelaide
38	Professorial Visiting Fellow Dr May Fong Cheong , School of Law, University of New South Wales (confidential submission)
39	Professorial Visiting Fellow Dr May Fong Cheong and Assistant Professor Dr Pei Meng Tan, School of Law, University of New South Wales (confidential submission)
40	Professor Philip Clarke, Australian Catholic University and Dr Julie Clarke, Deakin University
41	Australian Academy of Law
42	SME Association of Australia
43	NSW Small Business Commissioner

44	The Hon Kevin Lindgren QC AM
45	Institute of Arbitrators and Mediators Australia
46	<i>Anonymous</i>
47	Civil Contractors Federation
48	The Law Society of NSW Young Lawyers
49	Australian Chamber of Commerce and Industry
50	Small Business Development Corporation
51	Information Technology Contract and Recruitment Association
52	Australian Society of Authors
53	Real Estate Institute of Australia
54	<i>Anonymous</i>
55	The Hon TF Bathurst QC (NSW)
56	Herbert Smith Freehills (formerly Freehills)
57	Australian Bankers' Association
58	Mr Alexander W Street SC

5. All States and Territories participated in the Standing Committee of Attorneys-General (now the Standing Council on Law and Justice (SCLJ)) Harmonisation Forum held in Sydney on 27 May 2011 which initially raised the topic of contract law reform.

The Commonwealth Attorney-General the Hon Nicola Roxon MP wrote to her counterparts in all States and Territories upon release of the discussion paper.

All State and Territory justice departments were invited to attend the contract law forums held in Sydney and Melbourne on 22 and 28 June 2012 respectively. Officers of the Victorian Department of Justice, NSW Department of Attorney-General and Justice, and West Australian Department of Premier and Cabinet accepted the invitation and participated in the contract law forums. The forums were also attended by officers of the NSW and Victorian Offices of the Small Business Commissioner,

6. The Government will consider the feedback received during the review to determine the need for any reform and possible next steps.

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10. No decisions about contract law reform have yet been made. The need for reform and possible next steps will be considered by the Government in light of the consultation.