

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

Group 2

Program 1.3

Question No. 68

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

In relation to reforms to the *Native Title Act*:

1. How are these reforms progressing?
2. Who has the Government been in consultation with regarding these reforms?
3. When are the reforms expected to be passed?

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

Courts and Tribunals Legislation Amendment (Administration) Bill 2012

1 and 3. The reforms are progressing well.

The Courts and Tribunals Legislation Amendment (Administration) Bill 2012 was introduced into Parliament on Wednesday 31 October 2012 and was immediately referred to the House Standing Committee on Social Policy and Legal Affairs and the Senate Standing Committee on Legal and Constitutional Affairs. Passage of the Bill is subject to the Parliamentary process.

The T-status Bill amends the *Native Title Act 1993* to:

- facilitate the transfer of the National Native Title Tribunal's appropriations, staff and some of its administrative functions to the Federal Court of Australia, and
- reflect that the National Native Title Tribunal is no longer a prescribed Agency for the purposes of the *Financial Management and Accountability Act 1997* (the FMA Act).

These reforms were first announced as part of the 2012-13 Budget, and give effect to recommendations contained in the *Report of the Strategic Review of Small and Medium Agencies in the Attorney-General's portfolio* (Skehill Review).

Implementation of the reforms commenced on 1 July 2012, when the regulations of the FMA Act were amended to revoke the National Native Title Tribunal's status as a prescribed Agency for the purposes of the FMA Act. At this time, the National Native Title Tribunal's budget appropriation and its corporate services staff were transferred to the Federal Court of Australia.

The Bill will finalise the implementation process by aligning the *Native Title Act 1993* with the change in administrative practice, removing legal risk, and providing clarity for agencies and stakeholders.

The Attorney-General's Department continues to work closely with the National Native Title Tribunal and the Federal Court of Australia to implement the reforms through a Steering Committee and Working Groups on human resources, information communication technology, finance and property. These groups have met regularly and as needed depending on the work required for each group, since the reforms were announced. All groups are expected to wrap up by the end of 2012.

2. As part of the Department of Finance and Deregulation's Skehill Review, affected agencies, including the National Native Title Tribunal, Federal Court of Australia, the Department of Families, Housing, Community Services and Indigenous Affairs and the Attorney-General's Department, were consulted. Consultations with broader stakeholders were not required given the review's limited scope, which only considered options for improving efficiency in court and tribunal administration.

In responding to the review, the Government and the Attorney-General's Department consulted and/or advised key stakeholders, including the National Native Title Tribunal, the Federal Court of Australia, CEOs of Native Title Representative Bodies and other Indigenous stakeholders, ahead of the official Budget announcement.

The Department also provided information on the reforms on its website and discussed the reforms with Native Title Representative Bodies, Industry, State and Territory governments and other Australian Government Departments at the Native Title Consultative Forum on 14 May 2012. This meeting was attended by 51 native title stakeholders, including various State and Territory representatives. The Department also offered individual discussions with any interested attendees to further discuss the reforms.

Native Title Amendment Bill 2012

1 and 3. The reforms are progressing well.

The Native Title Amendment Bill 2012 was introduced into Parliament on Wednesday 28 November 2012. The A-status Bill amends the *Native Title Act 1993* to:

- enable parties to agree to disregard historical extinguishment of native title in areas such as parks and reserves,
- clarify the requirement to negotiate in 'good faith' under the 'right to negotiate' provisions, and
- streamline Indigenous Land Use Agreement (ILUA) processes.

The Bill has been referred to the Senate Committee on Legal and Constitutional Affairs and the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. Passage of the Bill is subject to the Parliamentary process.

2. The Attorney-General's Department has undertaken extensive consultations with key stakeholders in the development of the Bill, including Indigenous bodies, State and Territory governments, farmers, miners and other peak bodies and organisations. Stakeholder views were taken into account in the drafting process.