

**Senate Community Affairs Committee**

**ANSWERS TO ESTIMATES QUESTIONS ON NOTICE**

**HEALTH PORTFOLIO**

**Additional Estimates 2015 - 2016, 10 February 2016**

**Ref No: SQ16-000167**

**OUTCOME:** 0 - Whole of Portfolio

**Topic:** Statutory Review Provisions

**Type of Question:** Written Question on Notice

**Senator:** Ludwig, Joe

**Question:**

Please list all current legislation, covered by the department's portfolio, which contain a statutory review provision/s. For each, please provide:

1. What work has been done towards preparing for the review? If none, why not?
2. Please provide a schedule or a workplan for the review
3. When did/will this work begin?
4. When is/was the review due to commence.
5. What is the expected report date.
6. Who is the minister responsible for the review
7. What department is responsible for the review
8. List the specific clauses or legislation under review caused by the statutory provision.
9. List the terms of reference.
10. What is the scope of the review.
11. Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?
12. What is the budgeted, projected or expected costs of the review?
13. When was the Minister briefed on this matter?
14. What decision points are upcoming for the minister on this matter?
15. List the number of officers, and their classification level, involved in conducting the review
16. Will the report will be tabled in parliament or made public. If so, when?

**Answer:**

Please see the Department of Health's response to Question on Notice SQ14-001451 from Supplementary Budget Estimates 2014 for additional information.

The below response refers only to statutory reviews completed since Supplementary Budget Estimates in 2014 and statutory review provisions in legislation now administered by the Department as a result of the machinery of government changes in September 2015.

### ***Aged Care (Living Longer Living Better) Act 2013***

1. *What work has been done towards preparing for the review? If none, why not?*

The Minister has not made a decision about who will conduct the Review. Decisions about Review processes will be made by the independent appointee.

2. *Please provide a schedule or a workplan for the review*

Activities		Date
2016	Review commences	As soon as practicable after 1 August 2016
2017	Reviewer must give the Minister a written report of the Review within 12 months after the end of the three year period	1 August 2017
	Minister to table report in both houses	Within 15 sitting days of receiving the report.

3. *When did/will this work begin?*

On appointment of the independent appointee.

4. *When is/was the review due to commence.*

As outlined in the *Aged Care (Living Longer Living Better) Act 2013* (the Act) the Review must commence as soon as practicable after 1 August 2016.

5. *What is the expected report date?*

A written report of the Review must be given to the Minister by 1 August 2017.

6. *Who is the minister responsible for the review?*

The Minister for Health.

7. *What department is responsible for the review?*

The Department of Health.

8. *List the specific clauses or legislation under review caused by the statutory provision.*

As part of the changes to aged care announced in 2012, a comprehensive review of the impact of the reforms is set out in section 4 of the *Aged Care (Living Longer Living Better) Act 2013* (the Act) which is replicated in full in answer to Question 9 below.

9. *List the terms of reference.*

Excerpt from the *Aged Care (Living Longer Living Better) Act 2013*

4. Review of operation of amendments

(1) The Minister must cause an independent review to be undertaken of the operation of the amendments made by:

- a) this Act; and
- b) the *Aged Care (Bond Security) Amendment Act 2013*; and

- c) the *Aged Care (Bond Security) Levy Amendment Act 2013*.
- (2) The review must consider at least the following matters:
- a) whether unmet demand for residential and home care places has been reduced;
  - b) whether the number and mix of places for residential care and home care should continue to be controlled;
  - c) whether further steps could be taken to change key aged care services from a supply driven model to a consumer demand driven model;
  - d) the effectiveness of means testing arrangements for aged care services, including an assessment of the alignment of charges across residential care and home care services;
  - e) the effectiveness of arrangements for regulating prices for aged care accommodation;
  - f) the effectiveness of arrangements for protecting equity of access to aged care services for different population groups;
  - g) the effectiveness of workforce strategies in aged care services, including strategies for the education, recruitment, retention and funding of aged care workers;
  - h) the effectiveness of arrangements for protecting refundable deposits and accommodation bonds;
  - i) the effectiveness of arrangements for facilitating access to aged care services;
  - j) any other related matter that the Minister specifies.
- (3) The review must make provision for public consultation and, in particular, must provide for consultation with:
- a) approved providers; and
  - b) aged care workers; and
  - c) consumers; and
  - d) people with special needs; and
  - e) carers; and
  - f) representatives of consumers.
- (4) The review must be undertaken as soon as practicable after the end of the period of 3 years after the commencement of Schedule 1.
- (5) The person who undertakes the review must give the Minister a written report of the review within 12 months after the end of the year period.
- (6) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of receiving it.

#### *10. What is the scope of the review?*

The independent appointee engaged to conduct the Review will make decisions about the scope of the Review in line with the Terms of Reference.

*11. Who is conducting the review? How were they selected? What are the legislated obligations for the selection of the person to conduct the review?*

The Minister has not made a decision about who will conduct the Review. However, subsection 4(1) of the *Aged Care (Living Longer Living Better) Act 2013* states “The Minister must cause an independent review to be undertaken...”

*12. What is the budgeted, projected or expected costs of the review?*

Costs of the Review are unknown at this time.

*13. When was the Minister briefed on this matter?*

The Department has not briefed the Minister on this matter.

*14. What decision points are upcoming for the minister on this matter?*

Decision about the independent appointee.

Decision under paragraph 4(2)(j) “any other related matter that the Minister specifies”.

*15. List the number of officers, and their classification level, involved in conducting the review*

Decisions about Review processes will be made by the independent appointee.

*16. Will the report will be tabled in parliament or made public. If so, when?*

The Minister must cause a copy of the report of the Review to be tabled in each House of the Parliament within 15 sitting days of receiving it.

### ***Dental Benefits Act 2008***

*1. What work has been done towards preparing for the review? If none, why not?*

The third review of the *Dental Benefits Act 2008* was completed in December 2015.

*2. Please provide a schedule or a workplan for the review*

The review panel was appointed on 22 June 2015. The panel had three meetings on 12 August, 27 August and 23 November 2015.

*3. When did/will this work begin?*

The review was completed in March 2016

*4. When is/was the review due to commence.*

The review commenced 22 June 2015.

5. *What is the expected report date.*

The review was tabled in Parliament on 3 March 2016.

6. *Who is the minister responsible for the review*

The Minister for Health

7. *What department is responsible for the review*

The Department of Health

8. *List the specific clauses or legislation under review caused by the statutory provision.*

The entire *Dental Benefits Act 2008*.

9. *List the terms of reference.*

The Review Panel reported on the administration of the *Dental Benefits Act 2008* and the extent to which it attains its purposes, including supporting the establishment and operation of the Child Dental Benefits Schedule from 1 January 2014, and the operation and closure of the Medicare Teen Dental Plan up to 31 December 2013.

The Review Panel also assessed the practical operation of the *Dental Benefits Act 2008* in regard to access and delivery of services, including an assessment of:

- eligibility notification and confirmation processes;
- claiming processes; and
- the Informed Financial Consent regime.

The Review Panel could also consider opportunities to improve the operation and administration of the Child Dental Benefits Schedule to allow for the most efficient, effective and sustainable delivery of dental benefits and services.

10. *What is the scope of the review.*

Section 68 of the *Dental Benefits Act 2008* provides that the operation of that Act is to be reviewed.

11. *Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

Subsection 68(4) of the *Dental Benefits Act 2008* provides that the review must be conducted by a panel of at least five people, including:

- The Commonwealth Chief Medical Officer;
- a person nominated by the Australian Dental Association;

- a person nominated by the Consumers' Health Forum of Australia; and
- two other persons nominated by the Minister, at least one of whom must have qualifications in medicine or dentistry.

*12. What is the budgeted, projected or expected costs of the review?*

The review expenditure totalled \$8,368.42 at completion.

*13. When was the Minister briefed on this matter?*

Written briefs were provided to the Minister's Office on 30 March 2015 and 21 December 2015.

*14. What decision points are upcoming for the minister on this matter?*

None as the review has been completed.

*15. List the number of officers, and their classification level, involved in conducting the review*

The Secretariat of the review panel was supported by:

- 1x EL2
- 1x EL1
- 1x APS6
- 1x Graduate

*16. Will the report will be tabled in parliament or made public. If so, when?*

The report was tabled in Parliament on 3 March 2016 and the report is available on the Department's website.

### ***Health Insurance Act 1973***

*1. What work has been done towards preparing for the review? If none, why not?*

The *Health Insurance Act 1973* includes two provisions that have statutory review provisions, section 10C and section 19AD.

The review required under section 10C of the *Health Insurance Act 1973* was completed and tabled in 2011.

Section 19AD of the *Health Insurance Act 1973* is proposed to be repealed by the Omnibus Repeal Day (Spring 2015) Bill 2015, which is currently before the Senate. As such, this review required under this section has not been undertaken.

*2. Please provide a schedule or a workplan for the review*

See answer to question 1

3. *When did/will this work begin?*

See answer to question 1

4. *When is/was the review due to commence.*

See answer to question 1

5. *What is the expected report date.*

See answer to question 1

6. *Who is the minister responsible for the review*

The Minister for Health

7. *What department is responsible for the review*

The Department of Health

8. *List the specific clauses or legislation under review caused by the statutory provision.*

Determinations made under section 10B of the *Health Insurance Act 1973*

9. *List the terms of reference.*

See answer to question 1

10. *What is the scope of the review.*

See answer to question 1

11. *Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

See answer to question 1

12. *What is the budgeted, projected or expected costs of the review?*

See answer to question 1

13. *When was the Minister briefed on this matter?*

See answer to question 1

14. *What decision points are upcoming for the minister on this matter?*

See answer to question 1

15. *List the number of officers, and their classification level, involved in conducting the review*

See answer to question 1

16. *Will the report will be tabled in parliament or made public. If so, when?*

The report made under section 10C was tabled in 2011.

### ***Gene Technology Act 2000***

1. *What work has been done towards preparing for the review? If none, why not?*

The report for the purposes of section 194 has been completed and was tabled on 3 December 2014.

2. *Please provide a schedule or a workplan for the review*

See answer to question 1

3. *When did/will this work begin?*

See answer to question 1

4. *When is/was the review due to commence.*

The review was due to commence as soon as possible after 22 June 2005

5. *What is the expected report date.*

See answer to question 1

6. *Who is the minister responsible for the review*

Minister for Health

7. *What department is responsible for the review*

Department of Health

8. *List the specific clauses or legislation under review caused by the statutory provision.*

The entire *Gene Technology Act 2000*

9. *List the terms of reference.*

See answer to question 1

10. *What is the scope of the review.*

See answer to question 1

11. *Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

See answer to question 1

12. *What is the budgeted, projected or expected costs of the review?*

See answer to question 1

13. *When was the Minister briefed on this matter?*

See answer to question 1

14. *What decision points are upcoming for the minister on this matter?*

See answer to question 1

15. *List the number of officers, and their classification level, involved in conducting the review*

See answer to question 1

16. *Will the report will be tabled in parliament or made public. If so, when?*

The report was tabled in December 2013

### ***National Health Act 1953***

1. *What work has been done towards preparing for the review? If none, why not?*

The draft report for the purposes of subsection 89A(5) has been completed and was tabled on 3 December 2014.

2. *Please provide a schedule or a workplan for the review*

See answer to question 1

3. *When did/will this work begin?*

See answer to question 1

4. *When is/was the review due to commence.*



See answer to question 1

5. *What is the expected report date.*

See answer to question 1

6. *Who is the minister responsible for the review*

Minister for Health

7. *What department is responsible for the review*

Department of Health

8. *List the specific clauses or legislation under review caused by the statutory provision.*

See answer to question 1

9. *List the terms of reference.*

See answer to question 1

10. *What is the scope of the review.*

See answer to question 1

11. *Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

See answer to question 1

12. *What is the budgeted, projected or expected costs of the review?*

See answer to question 1

13. *When was the Minister briefed on this matter?*

See answer to question 1

14. *What decision points are upcoming for the minister on this matter?*

See answer to question 1

15. *List the number of officers, and their classification level, involved in conducting the review*

See answer to question 1

16. *Will the report will be tabled in parliament or made public. If so, when?*

The draft report was completed and tabled on 3 December 2014

### ***My Health Records Act 2012***

1. *What work has been done towards preparing for the review? If none, why not?*

Work towards preparing the review has not yet commenced. The statutory review must report to the Minister no later than 27 November 2018. However, if the Minister makes a Rule (under Schedule 1 of the Act) implementing opt-out registration nationally before 27 November 2018, the review must instead report to the Minister within three years of that Rule being made.

2. *Please provide a schedule or a workplan for the review*

No schedule or workplan has yet been developed.

3. *When did/will this work begin?*

It is expected that work establishing the review of the *My Health Records Act 2012* will commence within the next two years. The review may commence later, as outlined in

response 1, if the Minister makes a Rule applying opt-out registration nationally.

*4. When is/was the review due to commence.*

The My Health Records Act does not specify when the review is to commence.

*5. What is the expected report date.*

The expected date for completion of the report on the statutory review of the *My Health Record Act 2012* are by the periods outlined in response 1.

*6. Who is the minister responsible for the review*

The Minister for Health.

*7. What department is responsible for the review*

The Department of Health.

*8. List the specific clauses or legislation under review caused by the statutory provision.*

The operation of the *My Health Records Act 2012*.

*9. List the terms of reference.*

Terms of reference will be a decision of Government.

*10. What is the scope of the review.*

The scope of the review has not been determined. The *My Health Records Act 2012* provides that the review is to relate to the operation of the Act, regulations and rules.

*11. Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

The review is to be conducted by an individual appointed by the Minister following consultation with the COAG Health Council.

*12. What is the budgeted, projected or expected costs of the review?*

The costs, or projected costs, of the review have not been estimated.

*13. When was the Minister briefed on this matter?*

The Minister has not been briefed.

*14. What decision points are upcoming for the minister on this matter?*

None at this time.

*15. List the number of officers, and their classification level, involved in conducting the review*

The review is to be conducted by an individual appointed by the Minister following consultation with the COAG Health Council. No decisions have been made on the number of officers, or their classification levels, that may be required to assist the individual appointed to conduct the review.

*16. Will the report will be tabled in parliament or made public. If so, when?*

The review report will be tabled in Parliament by the Minister within 15 sitting days after receiving the report in accordance with subsection 108(3) of the *My Health Records Act 2012*.

### ***Healthcare Identifiers Act 2010***

*1. What work has been done towards preparing for the review? If none, why not?*

Work towards preparing the review has not yet commenced. The statutory review must report to the Minister no later than 27 November 2018.

*2. Please provide a schedule or a workplan for the review*

No schedule or workplan has yet been developed.

3. *When did/will this work begin?*

It is expected that work establishing the review of the *Health Identifiers Act 2010* will commence within the next two years.

4. *When is/was the review due to commence.*

The *Health Identifiers Act 2010* does not specify when the review is to commence.

5. *What is the expected report date.*

The expected date for completion of report on the statutory review of the *Health Identifiers Act 2010* is by the period outlined in response 1.

6. *Who is the minister responsible for the review*

The Minister for Health.

7. *What department is responsible for the review*

The Department of Health.

8. *List the specific clauses or legislation under review caused by the statutory provision.*

The operation of the *Healthcare Identifiers Act 2010*

9. *List the terms of reference.*

Terms of reference will be a decision of Government.

10. *What is the scope of the review.*

The scope of the review has not been determined. The *Health Identifiers Act 2010* provides that the review is to relate to the operation of the Act and regulations.

11. *Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?*

The review is to be conducted by an individual appointed by the Minister following consultation with the COAG Health Council. The process for identifying that individual has not been determined.

12. *What is the budgeted, projected or expected costs of the review?*

The costs, or projected costs, of the review have not been estimated.

13. *When was the Minister briefed on this matter?*

The Minister has not been briefed.

14. *What decision points are upcoming for the minister on this matter?*

None at this time.

15. *List the number of officers, and their classification level, involved in conducting the review*

The review is to be conducted by an individual appointed by the Minister following consultation with the COAG Health Council. No decisions have been made on the number of officers, or their classification levels, that may be required to assist the individual appointed to conduct the review.

16. *Will the report will be tabled in parliament or made public. If so, when?*

The review report will be tabled in Parliament by the Minister within 15 sitting days after receiving the report in accordance with subsection 35(3) of the HI Act.