

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Environment portfolio

Question No: 171
Hearing: Additional Estimates
Outcome: Corporate
Programme: Legal
Topic: Sunset Provisions
Hansard Page: N/A
Question Date: 19 February 2016
Question Type: Written

Senator Ludwig asked:

1. Please list all current legislation, covered by the department's portfolio, which contain a sunset provision/s. For each, please provide:
 - a) What work has been done towards preparing for the activation of sunset provisions? If no work has commenced, why not?
 - b) Has any consideration been given to delaying or alerting the sunset provisions?
 - c) Please provide a schedule or a workplan for the sunset provisions becoming active
 - d) When did/will this work begin?
2. Will there be any reviews of or relating to the legislation before or after the sunset provision is enacted? If yes:
 - a) When is/was the review due to commence.
 - b) What is the expected report date.
 - c) Who is the minister responsible for the review
 - d) What department is responsible for the review
 - e) List the specific clauses or legislation under review caused by the statutory provision.
 - f) List the terms of reference.
 - g) What is the scope of the review.
 - h) Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?
 - i) What is the budgeted, projected or expected costs of the review?
 - j) When was the Minister briefed on this matter?
 - k) What decision points are upcoming for the minister on this matter?
 - l) List the number of officers, and their classification level, involved in conducting the review
 - m) Will the the report will be tabled in parliament or made public. If so, when?

Answer:

The Department manages sunseting of instruments in accordance with the relevant provisions of the *Legislation Act 2003* and associated guidance issued by coordinating Departments. Work on the implementation of the sunseting regime is ongoing.

There are around 250 legislative instruments made under primary Environment portfolio legislation that are subject to sunseting under the *Legislation Act*.

Legislative instruments may also be reviewed as part of reviews of overarching primary legislation. Those reviews may arise from the operation of review provisions in the legislation, or as part of other processes. In such cases, consideration is given to the optimal scheduling of the review of subordinate instruments, taking into account the sunseting regime contained in the *Legislation Act*.

General processes relating to sunseting

Once the Attorney-General includes a relevant instrument on the list of instruments due to sunset in the next eighteen months, which is regularly tabled in the Parliament, the responsible policy area is notified of its inclusion in that list and takes appropriate action. Relevant Department areas work together on instruments that are due to sunset, including considering on a case-by-case basis whether there is an need to apply for thematic review, whether to apply for a whether an exemption or Parliamentary roll-over will be sought.

Fit for purpose reviews

Fit for purpose reviews under the sunseting regime are conducted in accordance with the Attorney-General's Department guidance note '*Guide to Managing Sunseting of Legislative Instruments*' and the Prime Minister and Cabinet publication "*Sunseting of Legislative Instruments*".

Once a review of the instrument has been undertaken, the Department advises the Minister on the outcomes of the review and provides recommendations as to how the sunseting process should be managed.

It is the Department's policy to ensure that the reports of major fit for purpose reviews it undertakes are made available to the public on the Departmental website.

Fit-for-purpose reviews are under way on some portfolio legislative instruments.

Thematic review

The *Legislation Act* allows for the Attorney-General to make an instrument to align sunset dates for two or more instruments that are closely related but have different sunseting dates, in order to allow for a thematic review.

A thematic review has been approved for instruments made under the Fuel Quality Standards Act. There are no other thematic reviews in progress in the Environment portfolio.

Deferral of sunseting dates

The Attorney-General may also defer sunseting dates by up to twelve months.

To date, there have been no applications for deferral relating to legislative instruments in the Environment portfolio.