

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2015 - 2016

Cross Portfolio

Department of Employment Question No. EMSQ16-000445

Senator Ludwig provided in writing.

Question

Statutory Review Provisions

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 [sic] 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

Responses for each Act containing a statutory review provision are attached.

Attachment A – *Asbestos Safety and Eradication Agency Act 2013*

Attachment B – *Coal Mining Industry (Long Service Leave) Administration Act 1992*

Attachment C – *Fair Work Amendment Act 2015*

Attachment D – *Road Safety Remuneration Act 2012*

Attachment E – *Safe Work Australia Act 2008*

Asbestos Safety and Eradication Agency Act 2013

Question	Response
1. What work has been done towards preparing for the review? If none, why not?	No work has yet commenced on a review as it is not required to commence until 1 July 2018.
2. Please provide a schedule or a work plan for the review	N/A
3. When did/will this work begin?	N/A
4. When is/was the review due to commence?	1 July 2018
5. What is the expected report date?	January 2019
6. Who is the minister responsible for the review?	Minister for Employment
7. What department is responsible for the review?	Department of Employment
8. List the specific clauses or legislation under review caused by the statutory provision.	<p>Section 47 Review of the Agency's role and functions</p> <p>(1) The Minister must cause a review of the Agency's ongoing role and functions to be conducted.</p> <p>(2) The review must:</p> <ul style="list-style-type: none"> (a) start 5 years after the commencement of this section; and (b) be completed within 6 months. <p>(3) The Minister must cause a written report about the review to be prepared.</p> <p>(4) The Minister must cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the completion of the report.</p>
9. List the terms of reference.	N/A
10. What is the scope of the review?	The ongoing role and functions of the Agency.
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?	Not yet determined
12. What is the budgeted, projected or expected costs of the review?	Not yet determined
13. When was the Minister briefed on this matter?	N/A

14. What decision points are upcoming for the minister on this matter?	N/A
15. List the number of officers, and their classification level, involved in conducting the review.	Not yet determined
16. Will the report will be tabled in parliament or made public. If so, when?	Yes, the report will be tabled in parliament or made public 15 sitting days after completion of the report.

Coal Mining Industry (Long Service Leave) Administration Act 1992

The review requirement in section 55 of the *Coal Mining Industry (Long Service Leave) Administration Act 1992* is triggered by the Board of the Corporation providing a report to Minister that it considers that the Fund is likely within the ensuing 12 months to be sufficient to reimburse employers in accordance with the Employer Reimbursement Rules.

The report has been received by the Minister so the requirement has been triggered.

Question	Response
1. What work has been done towards preparing for the review? If none, why not?	Initial scoping work is being undertaken.
2. Please provide a schedule or a work plan for the review.	A schedule or work plan will be finalised following completion of the initial scoping work.
3. When did/will this work begin?	The initial scoping work began in 2015.
4. When is/was the review due to commence?	The review is due to commence as soon as possible after the Minister receives the report mentioned above.
5. What is the expected report date	A report date has not been finalised.
6. Who is the minister responsible for the review?	Minister for Employment
7. What department is responsible for the review?	Department of Employment
8. List the specific clauses or legislation under review caused by the statutory provision.	<p>Section 55 Review of the Act</p> <p>The Minister is to arrange for the carrying out of an independent review of the operation of this Act as soon as possible after the Minister receives a report from the Board under subsection 43(6).</p> <p>Section 43 Sufficiency of the Fund</p> <p>(6) If the Board forms the opinion, having regard to any advice obtained by it under this section, that the Fund is likely within the ensuing 12 months to be sufficient to reimburse employers in accordance with the Employer Reimbursement Rules, the Board must give to the Minister a written report stating that it has formed that opinion and setting out the reasons for that opinion.</p>
9. List the terms of reference.	The terms of reference have not been finalised.

10. What is the scope of the review	The scope of the review has not been finalised.
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?	Conduct of the review has not commenced.
12. What is the budgeted, projected or expected costs of the review?	Projected costs of the review have not been finalised.
13. When was the Minister briefed on this matter?	The Minister was briefed about the content of the report initiating the review when it was received in late 2015 and will be further briefed on the details of the review following the initial scoping work.
14. What decision points are upcoming for the minister on this matter?	Determining the details of the review.
15. List the number of officers, and their classification level, involved in conducting the review	<p>No officers are working on the conduct of the review as it has not commenced. Three officers are involved part-time in the initial scoping work:</p> <ul style="list-style-type: none"> • Executive Level 2 • Executive Level 1 • APS Level 5
16. Will the report will be tabled in parliament or made public. If so, when?	The legislation does not specify that the report must be tabled.

Fair Work Amendment Act 2015

Question	Response
1. What work has been done towards preparing for the review? If none, why not?	No work has yet commenced on a review as the relevant provisions commenced on 27 November 2015 and a review is not due for two years.
2. Please provide a schedule or a work plan for the review	N/A
3. When did/will this work begin?	N/A
4. When is/was the review due to commence?	Before 27 November 2017
5. What is the expected report date?	Before 27 November 2017
6. Who is the minister responsible for the review?	Minister for Employment
7. What department is responsible for the review?	Department of Employment
8. List the specific clauses or legislation under review caused by the statutory provision.	<p>4 Review of the operation of amendments</p> <p>(1) The Minister must cause an independent review of the operation of the amendments made by Part 5 of Schedule 1 to be undertaken and completed within 2 years after the commencement of that Part.</p> <p>(2) The review must consider:</p> <p style="padding-left: 40px;">(a) the effect of the amendments made by Part 5 of Schedule 1; and</p> <p style="padding-left: 40px;">(b) any other related matter that the Minister specifies.</p> <p>(3) The person who undertakes the review must give the Minister a written report of the review.</p> <p>(4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sittings days of receiving it.</p>
9. List the terms of reference.	N/A
10. What is the scope of the review?	The changes to the greenfields agreement provisions of the <i>Fair Work Act 2009</i> made by Part 5 of Schedule 1 of the <i>Fair Work Amendment Act 2015</i> .

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?	Not yet determined
12. What is the budgeted, projected or expected costs of the review?	Not yet determined
13. When was the Minister briefed on this matter?	N/A
14. What decision points are upcoming for the minister on this matter?	N/A
15. List the number of officers, and their classification level, involved in conducting the review.	Not yet determined
16. Will the report will be tabled in parliament or made public. If so, when?	Yes, the report will be tabled in parliament or made public 15 sitting days after completion of the report.

Road Safety Remuneration Act 2012

Question	Response
1. What work has been done towards preparing for the review? If none, why not?	The review has been completed.
2. Please provide a schedule or a work plan for the review.	The review has been completed.
3. When did/will this work begin?	Work commenced on 27 June 2015, the day on which the Work Order to engage PricewaterhouseCoopers (PwC) to conduct the review was executed.
4. When is/was the review due to commence?	The <i>Road Safety Remuneration Act 2012</i> requires a review to commence by 1 July 2015.
5. What is the expected report date?	<ul style="list-style-type: none"> • A provisional report was provided to the Department of Employment by PwC on 23 December 2015. • The department requested PwC to revise the report to take into account a Road Safety Remuneration Order issued by the Road Safety Remuneration Tribunal on 18 December 2015. This was done and a final report was provided to the department on 28 January 2016. • The department requested PwC to correct minor typographical errors and inconsistencies in the final report. This was done and the amended final report was provided to the department on 8 February 2016.
6. Who is the minister responsible for the review?	Minister for Employment
7. What department is responsible for the review?	Department of Employment
8. List the specific clauses or legislation under review caused by the statutory provision.	Section 120 of the <i>Road Safety Remuneration Act 2012</i> (the Act) requires a 'review of the operation of this Act'. The requirement does not specify any clauses.
9. List the terms of reference.	<p>The Review considered the operation of the Road Safety Remuneration System since the Act commenced on 1 July 2012, including the Road Safety Remuneration Tribunal (the Tribunal) and the education and compliance framework administered by the Fair Work Ombudsman.</p> <p>The Review considered:</p> <ul style="list-style-type: none"> • the impact of the Tribunal's first two

	<p>road safety remuneration orders;</p> <ul style="list-style-type: none"> • the effectiveness of the various sector inquiries by the Tribunal; • the Tribunal's progress to date setting appropriate rates of remuneration; and • the effectiveness of the Tribunal's processes, including its stakeholder consultation processes. <p>The review undertook various data analyses, research and economic modelling tasks including, including:</p> <ul style="list-style-type: none"> • modelling the data on the safety performance of the road transport industry; • reviewing the literature and evidence on safety regulation of the road transport industry; • assessing any safety outcomes of the Road Safety Remuneration System; • assessing the financial and economic impacts of the Road Safety Remuneration System; and • undertaking an overall cost benefit analysis of the Road Safety Remuneration System.
10. What is the scope of the review?	To review of the operation of the Act. See also answer to question 9.
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?	PwC conducted the review. PwC was directly sourced using the Department's Research, Evaluation and Analysis Panel. The Act does not prescribe any obligations for the selection of a person to conduct the review.
12. What is the budgeted, projected or expected cost of the review?	\$190,000 (incl GST) budgeted.
13. When was the Minister briefed on this matter?	The Department provided the review to the Minister on 16 February 2016.
14. What decision points are upcoming for the minister on this matter?	The Act does not require the Minister to make any decision as a result of the review.
15. List the number of officers, and their classification level, involved in conducting the review	No officers were involved in conducting the review.
16. Will the report will be tabled in parliament or made public? If so, when?	The report will be published on the website of the Department, as required under section 120 of the Act. Timing is yet to be determined.

Safe Work Australia Act 2008

Question	Response
1. What work has been done towards preparing for the review? If none, why not?	The Review has commenced.
2. Please provide a schedule or a work plan for the review.	November 2015 - February 2016 – Project planning and developing Terms of Reference 26 February - 16 March 2016 – Stakeholder consultation 15 April 2016 – Draft report 29 April 2016 – Final report
3. When did/will this work begin?	Friday, 26 February 2016
4. When is/was the review due to commence?	6 years after commencement of the Act
5. What is the expected report date	Friday, 29 April 2016
6. Who is the minister responsible for the review?	Minister for Employment
7. What department is responsible for the review?	Department of Employment
8. List the specific clauses or legislation under review caused by the statutory provision.	<p>Safe Work Australia Act 2008 (Cth) 72 Review of Safe Work Australia's role and functions</p> <p><i>Minister must conduct review</i></p> <p>(1) The Minister must cause a review of Safe Work Australia's ongoing role and functions to be conducted.</p> <p><i>When review is to start and be completed</i></p> <p>(2) The review must:</p> <p style="padding-left: 40px;">(a) start 6 years after the commencement of this section; and</p> <p style="padding-left: 40px;">(b) be completed within 6 months.</p> <p><i>Report about review</i></p> <p>(3) The Minister must cause a written report about the review to be prepared.</p> <p><i>Parliament to be given report</i></p> <p>(4) The Minister must cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the Minister receives the report.</p>

9. List the terms of reference.	See below
10. What is the scope of the review	The ongoing role and functions of Safe Work Australia as required by s.72 of the Act.
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?	<p>Bryan Russell and Associates with assistance from the Department of Employment.</p> <p>Direct source on the basis of expertise and experience in work health and safety. The Department of Employment provided the Minister for Employment a shortlist comprising a number of people with relevant expertise and experience to undertake the review.</p> <p>There are no legislated obligations under the <i>Safe Work Australia Act 2008</i> (Cth) for the selection of the person to conduct the review.</p>
12. What is the budgeted, projected or expected costs of the review?	A budget of \$100 000 has been allocated to the Review.
13. When was the Minister briefed on this matter?	Minister initially briefed on 6 November 2015.
14. What decision points are upcoming for the minister on this matter?	Consideration of the final report.
15. List the number of officers, and their classification level, involved in conducting the review	<p>Executive Level 2 – 0.6 people</p> <p>Executive Level 1 – 1 person</p>
16. Will the report will be tabled in parliament or made public. If so, when?	Yes, the report will be tabled in parliament or made public 15 sitting days after completion of the report.

Terms of Reference for the Review of Safe Work Australia

The Review

Under section 72 of the *Safe Work Australia Act 2009* (Cth), the Minister for Employment must conduct a review of the ongoing role and functions of Safe Work Australia. The review must start six years after the commencement of the Act (1 November 2015) and be completed within six months.

The review is to be an evidence-based assessment and will examine and report on:

1. the extent to which Safe Work Australia has fulfilled its role and functions
2. the need for Safe Work Australia's role and functions to be updated

3. the future role and functions for Safe Work Australia.

The review is to report to the Minister for Employment by 30 April 2016.