

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2015 - 2016

Cross Portfolio

Department of Employment Question No. EMSQ16-000451

Senator Ludwig provided in writing.

Question

Sunset Provisions

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 report will be tabled in parliament or made public. If so, when?

Answer

There is one Act in the Employment Portfolio with a sunset provision.

Fair Work (Building Industry) Act 2012

Section 46 of the *Fair Work (Building Industry) Act 2012* provides that the Director of the Fair Work Building Industry Inspectorate may not make an application to a nominated Administrative Appeals Tribunal presidential member for an examination notice under section 45 after the end of five years after the day on which that section commences.

Section 45 commenced on 1 June 2012, therefore applications may not be made after 1 June 2017.

1a. What work has been done towards preparing for the activation of sunset provisions? If no work has commenced, why not?

The Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No. 2], which will re-establish the Australian Building and Construction Commission as the specialist workplace relations regulator for the building and construction industry, passed the House of Representatives on 4 February 2016. These Bills are currently before the Senate.

Item 1 of Schedule 1 to the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No. 2] will repeal the *Fair Work (Building Industry) Act 2012* in its entirety, including section 46 (which is a sunset provision relevant to examination notices).

Part 2 of Chapter 7 of the Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2] contains new examination notice provisions.

1b. Has any consideration been given to delaying or alerting the sunset provisions?

Section 46 of the *Fair Work (Building Industry) Act 2012* originally provided that applications could not be made under section 45 after the end of three years after the day on which that section commenced. The *Construction Industry Amendment (Protecting Witnesses) Act 2015* extended that period to five years in light of ongoing Senate consideration of the original Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013.

No consideration has been given to extending the sunset provision following the passage of the *Construction Industry Amendment (Protecting Witnesses) Act 2015*.

Questions 1c. to 2m.

Not applicable.