

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates Hearing 18-22 November 2013

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Outcome/Program: 1.1 Prime Minister and Cabinet

Topic: MoG changes – APS employees

Senator: Senator the Hon Joe Ludwig

Question reference number: 57

Type of Question: Written

Date set by the committee for the return of answer: 17 January 2014

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Question:

1. What legislative framework underpins the employment of the APS officers at Department of Prime Minister and Cabinet?
2. What framework applies to officers transferred to the department under machinery of government changes from 7 September 2013?
3. Does the same framework apply to officers working in the former department and now division of Indigenous Affairs?
 - a. If not, what employment framework applies to those officers?
4. Are all employees of the Department of Prime Minister and Cabinet engaged under “DEPARTMENT OF THE PRIME MINISTER AND CABINET ENTERPRISE AGREEMENT 2011-2014”, registered with the Fair Work Commission in June 2011?
 - a. What about employees recently transferred into the department by machinery of government changes?
5. Were the recently engaged employees covered by the “DEPARTMENT OF FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS ENTERPRISE AGREEMENT 2012 – 2014”?
 - a. Are they still covered by that agreement?

Answer:

1. APS employees (including employees of the Department of the Prime Minister and Cabinet (PM&C)) are covered by the *Public Service Act 1999* (the PS Act). The PS Act governs the establishment and operation of, and employment in, the Australian Public Service (APS). Employment terms and conditions at the agency level in PM&C are determined by the *Department of the Prime Minister and Cabinet Enterprise Agreement 2011-2014*.

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2. APS officers transferred to PM&C under Machinery of Government changes announced on 18 September 2013 remain covered by the PS Act, as they were prior to the changes. In regards to employment terms and conditions at the agency level for transferring employees, the Minister Assisting the Prime Minister on the Public Service, Senator the Hon Eric Abetz, made two Determinations under section 24(3) of the PS Act to support the orderly transfers of employees and to avoid uncertainty regarding terms and conditions of employment (one covering SES employees, and one covering non-SES). The Determinations provide that, as an interim measure, all employees who are to be transferred because of the Machinery of Government changes announced on 18 September 2013 will continue to have the same terms and conditions of employment (including remuneration) as they had immediately before the making of the AAOs on 18 September 2013.
3. Yes.
4. All (non-SES) employees of PM&C prior to the signing of the AAOs are covered by the *Department of the Prime Minister and Cabinet Enterprise Agreement 2011-2014*.
 - a. Refer to response to Question 2.
5. Employees of the former Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) who transferred to PM&C and were previously engaged under the *Department of Families, Housing, Community Services and Indigenous Affairs Enterprise Agreement 2012-14* are covered by the 24(3) Determination until the new PM&C Enterprise Agreement comes into effect. Employees of other agencies who transferred to PM&C as part of the Machinery of Government changes will be subject to the transferring agencies' terms and conditions, also subject to the 24(3) Determination.
 - a. Refer to response to Question 2.