

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 2

Program: 1.1

Question No. AE15/080

Senator Wong asked the following written question from the 24 February and 27 March 2015 hearings:

- a. Can the Department confirm the first Amending Acts Repeal Bill – Amending Acts 1901 to 1969 Repeal Bill 2014 – had \$210,000 in deregulatory savings attached to it?
- b. Can the Department explain how it calculates \$210,000 in deregulatory savings?
- c. What is the methodology for calculating a saving of \$210,000 as a result of repealing 1,120 acts that will not “substantially alter existing arrangements or make any change to the substance of the law”? Is it based on some costing method that can be described in detail? For example, what unit costs have been assumed in determining the final deregulatory saving amount?
- d. Similarly the second Amending Acts Repeal Bill – Amending Acts 1970 to 1979 Repeal Bill 2014 calculated \$100,000 in deregulatory savings through repealing over 656 amending and repeal acts. Can the Department describe how it has calculated that there will be \$100,000 in deregulatory savings?
- e. With reference to the repeal of Navigation Act 1970 which amended the Navigation Act 1912-1968. Under legal conventions, this amending act became redundant once the amendments passed into law. Were there any deregulatory savings attached to this repeal? If so, how does the Department calculate the amount of savings?
- f. With reference to the Statute Law Revision Bills from Autumn – there were \$350,000 in deregulatory savings involved. Can the Department explain where the deregulatory savings come from? How does the Department calculate \$350,000 from fixing up these technical issues? What is the methodology used to calculate \$350,000?
- g. With reference to the Statute Law Revision Bills from Spring , there were \$420,000 in deregulatory savings from correcting “technical errors in legislation” and repealing spent and obsolete legislation, and repealing three spent Acts. Can the Department outline the methodology it has used to calculate the \$420,000 saving?
- h. What type of benchmarking has the Department used to base its deregulatory savings costs on?

The answer to the honourable senator's question is as follows:

- a. Yes.
- b. Businesses and individuals incur a regulatory burden in reviewing all potentially applicable legislation to understand their legal obligations. This includes legislation that, although spent

and redundant, remains on the statute books. The repeal of these regulations provides greater certainty and clarity, and saves wasted time and effort. This results in a deregulatory saving. The methodology for calculating this saving is outlined in the answer to (c).

- c. The deregulatory savings were calculated with reference to the number of Acts repealed and estimates of the time spent by businesses and individuals accessing these Acts and the cost of this time.

To calculate the time spent by businesses and individuals accessing these acts, the Department obtained usage data for a sample of the amending Acts to be repealed. This data was obtained from the Office of Parliamentary Counsel and the Australian Legal Information Institute (AustLII) for usage of this legislation through the ComLaw and AustLII websites. Each 'view' of relevant legislation was assumed to involve time spent searching for the Act, interpreting it, and potentially downloading and printing it. The estimated use by government users, who are not included in the Regulatory Burden Measurement framework, and users seeking historical data (including lawyers) was discounted. The data was extrapolated to provide an estimate of the total time spent viewing all the Acts repealed by the Bill.

The cost of the time spent by business and individuals was calculated using the default wage rates and on-cost multiplier provided in the Office of Best Practice Regulation's *Interim Regulation Impact Statement Process Guidance Note (2013/14)*.

- d. See the costing methodology in (c).
- e. Yes. See the costing methodology in (c).
- f. Statute Law Revision Bills repeal spent and redundant legislative provisions and Acts. They also make corrections and clarifications that make it easier for businesses and individuals to understand their legal obligations. The time saved by reducing confusion and removing the need to consider redundant laws results in a deregulatory saving.

These savings were calculated using a methodology similar to that outlined in (c). Only amendments that corrected an error or inconsistency that could cause confusion and waste time, or that repealed a spent provision, were considered. Amendments that made minor technical corrections or updated drafting practice were not counted.

Additionally, a larger proportion of users were assumed to be lawyers than for the Amending Acts Repeal Bills, because Statute Law Revision Bills mainly amend principal Acts, which lawyers would need to consider when advising clients. Lawyers' time was costed (as well as that of businesses and individuals), rather than being discounted, because the repeal of redundant laws or correction of errors would reduce the time lawyers would need to spend assessing their clients' legal obligations. The cost of lawyers' time was calculated with reference to the policy *Commonwealth Legal Financial Assistance Schemes - Assessment of Costs* (July 2012).

- g. See (f).
- h. The costing methodology is consistent with the Australian Government's Regulatory Burden Measurement Framework.