



AUSTRALIAN SENATE

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D17/15694

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Senator Lee Rhiannon
Parliament House
Canberra ACT 2600

By email: senator.rhiannon@aph.gov.au

Dear Senator Rhiannon

SENATE ORDER ON FORMER MINISTERS AND LOBBYING MEETINGS

You have asked for advice about the Senate order of continuing effect on lobbying by former ministers (referred to as [Order 20C](#), agreed to by the Senate on 23 November 2016), following yesterday's estimates hearing of the Finance and Public Administration Legislation Committee in which the validity of the order was discussed. I note that the transcript of the hearing refers to advice from the Clerk of the House of Representatives, which I have not seen.

In particular, you ask 'whether the Senate Order applies to Ministers in the House of Representatives, and whether it applies to Ministers in the Senate'. In short, a Senate order cannot bind a minister in the House of Representatives, but that is not what the order in question seeks to do.

Rather, the order requires Senate ministers to provide information about their own portfolios and about the portfolios of ministers from the House of Representatives that they represent in the Senate. Many similar orders have been structured this way. In particular, the introductory wording of the order is the same as that contained in [Order 20B](#), requiring Senate ministers to provide statements listing unanswered estimates questions, which has routinely been complied with since it was agreed to by the Senate in June 2014.

Order 20C requires the production of statements listing details of 'all meetings...at which lobbying, advocacy or the consideration of business took place...between current ministers, secretaries or deputy secretaries (or equivalent), of any Commonwealth Department or Agency and former ministers'.

The order has the following elements:

- It identifies the persons to whom it is directed, being 'each minister in the Senate'. (It does not purport to be an order directed at ministers in the House.)
- It identifies the departments and agencies on which each Senate minister is required to produce a statement, being each department or agency:
 - administered by that [Senate] minister, or
 - administered by a minister in the House of Representatives represented by that [Senate] minister'.
- It identifies a timeframe for the production of each statement, connected to the commencement of each round of estimates hearings.
- It identifies the detail required in each statement, being – in respect of 'each former minister' – details of meetings at which the relevant contact occurred between ministers, secretaries etc. and former ministers.
- It defines relevant terms, including 'former minister', thereby constraining the scope of the order to cover only former ministers who departed from the Parliament within the previous 18 months.

In my view, no question about the validity of the order can arise from the identity of the relevant former ministers, or whether they were ministers in the House or in the Senate. The statements sought are statements about the attendance and details of meetings of executive departments and agencies. The statements are sought by the Senate from those executive ministers accountable to the Senate for the management of those departments and agencies in accordance with the representational arrangements notified by the Leader of the Government in the Senate from time to time.

As with all orders for documents, it is for the Senate to determine whether sufficient compliance has occurred and, if not, what action the Senate might take in response.

Let me know if I can be of any further assistance in relation to this matter.

Yours sincerely



(Richard Pye)
Acting Clerk