



16/5829-04

7 June 2016

Ms Sophie Dunstone  
Committee Secretary  
Senate Standing Committee on Legal  
and Constitutional Affairs  
PO Box 6100  
CANBERRA ACT 2600

Dear Ms Dunstone

### Clarifications to Hansard

I write to you concerning evidence provided by officers from the Attorney-General's Portfolio to the Senate Standing Committee on Legal and Constitutional Affairs during the Budget Estimates hearing on 5 May 2016.

Officers from the portfolio who provided evidence to the Committee have identified the following clarifications:

#### Evidence of Senator the Hon George Brandis QC:

On pages 52 and 53 of the transcript, in responding to Senator the Hon Ian McDonald's question regarding the termination of Australian Human Rights Commission (the Commission) statutory appointments, Senator Brandis referred to section 46I of the *Australian Human Rights Commission Act 1986* (Cth) (the Act) as applying to any member of the Commission, including the President.

**Senator Brandis:** Yes. My exceptionally industrious staffer here, Mr Brennan, has found the provision, which appears to be section 46I of the Australian Human Rights Commission Act, 'Termination of appointment'. It states:

(1) The Governor-General may terminate the appointment of the Commissioner—

I take it that this applies to any member of the commission, including the president—

because of:

- (a) misbehaviour; or
  - (b) a disability that makes the Commissioner incapable of performing the inherent requirements of office.
- (2) The Governor-General must terminate the appointment of the Commissioner if the Commissioner:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
  - (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or
  - (c) engages in paid employment outside the duties of the office of Commissioner otherwise than with the approval of the Minister.

The Attorney-General's Department wishes to clarify that section 46I applies only to the termination of the appointment of the Aboriginal and Torres Strait Islander Social Justice Commissioner and not to other members of the Commission or the President.

The Department wishes to clarify that the following provisions govern the termination of appointments of other members of the Commission, including the President:

- Section 41 of the Act governs the termination of the appointment of the President and the Human Rights Commissioner.
- Section 46MJ of the Act governs the termination of the National Children's Commissioner appointment.
- Section 102 of the *Sex Discrimination Act 1984* (Cth) governs the termination of the Sex Discrimination Commissioner appointment.
- Section 119 of the *Disability Discrimination Act 1992* (Cth) governs the termination of the Disability Discrimination Commissioner appointment.
- Section 53G of the *Age Discrimination Act 2004* (Cth) governs the termination of the Age Discrimination Commissioner appointment.
- Section 34 of the *Racial Discrimination Act 1975* (Cth) governs the termination of the Race Discrimination Commissioner appointment.

The conditions of termination specified in these provisions are substantially similar, but do vary in some cases according to the specific requirements of the appointment and the time at which the provisions were enacted.

The action officer for this matter is Ena Pawar who can be contacted on (02) 6141 3627.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Para Cheyne', written in a cursive style.

Para Cheyne  
Director  
Governance Office  
Strategy and Delivery Division