

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 178

**Division/Agency:** Office of the General Counsel

**Topic:** Involvement of the Office of the General Counsel in looking at the contractual arrangement between APVMA and the ACT government

**Proof Hansard page:** 26

**Senator CAMERON asked:**

**Senator CAMERON:** Can anyone advise me of the contractual arrangement between APVMA and the ACT government?

**Dr Grimes:** Again, I suspect that is going to be a matter that would be best addressed directly by the APVMA.

**Senator CAMERON:** I do not think so. This is a departmental issue. I am advised that in 1995 there was a legal agreement reached between the ACT government and the Commonwealth in relation to maintaining APVMA in Canberra. Does anyone here know anything about that?

**Mr Glyde:** It is one of the factors that we are investigating.

**Senator CAMERON:** So you are aware of it?

**Mr Glyde:** I am aware of it, yes.

**Senator CAMERON:** Okay; tell me what it says.

**Mr Glyde:** I am not aware of it to that level of detail.

**Senator CAMERON:** Who is aware of it to that—

**Mr Glyde:** I am aware that the issue exists.

**Senator CAMERON:** I would have thought that this was an issue that you would have been aware of, Mr Glyde. If there is a legal contractual arrangement in place between the ACT government and the Commonwealth, then you either breach that contract or you do not move. I thought that would be pretty fundamental, and you are telling me you are not really across it?

**Mr Glyde:** No; I am not saying that at all.

**Senator CAMERON:** Have you had advice?

**Question:** 178 (continued)

**Mr Glyde:** The government has indicated that it wants to move in a particular direction and we are investigating the consequences—the costs, the benefits, the risks et cetera—of moving. With due diligence, these are the sorts of things that we investigate. What I am trying to say is that we are in that process. I am aware of it, but am I personally aware of the specifics of that contract? No, I am not.

**Senator CAMERON:** Where is your legal team? Who is here from your legal department?

**Dr Grimes:** We have our Office of the General Counsel, but I do not believe this has been a matter involving them. It may have been. We can take that on notice, but we are not aware of our Office of the General Counsel being involved. The APVMA itself has a legal office that can assist in providing advice on legal matters.

**Answer:**

The department has located a copy of correspondence between the Commonwealth and the Australian Capital Territory in relation to the ongoing employment location of individuals engaged in agricultural and veterinary chemical evaluation. The Office of the General Counsel has not provided advice on this matter.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 179

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information applications

**Proof Hansard page:** 51

**Senator CAMERON asked**

**Senator CAMERON:** Ms Luscombe, how many freedom of information applications are you currently dealing with?

**Ms Luscombe:** This financial year to date we have received 22 requests. How many are we dealing with right now? I will take it on notice.

**Answer:**

As at 20 November 2014, the department was processing eight Freedom of Information requests.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 180

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** 52

**Senator CAMERON asked:**

**Senator CAMERON:** Have you had processes and procedures in the past where the department deals with freedom of information requests that come through the department to the minister?

**Ms Luscombe:** I am not aware of any arrangements in the past where the department did accept requests on behalf of the minister. Certainly there have been times when the minister's office has requested the department to assist in the processing of requests, but not to accept on its behalf.

**Senator CAMERON:** Have other departments got formal processes in place for when a department gets an FOI request from a minister?

**Dr Grimes:** I only have general awareness here but I think there may be other departments where there are established processes in place. As Ms Luscombe has indicated, that is not currently the case with our department.

**Senator CAMERON:** Ms Luscombe, are you talking from past experience?

**Ms Luscombe:** Certainly I am not aware of any previous arrangements. The FOI team, which I have responsibility for, have not made me aware of any arrangements in the past. I do not think it has been the common practice of the department.

**Senator CAMERON:** How long have you been here?

**Ms Luscombe:** Eighteen months.

**Senator CAMERON:** So you would not know. Is there anyone here who can tell me what has happened further into the past than eighteen months?

**Dr Grimes:** There may actually be an officer here who has got longer knowledge of our handling. No. I have looked back to see if there are any officers here who might be able to assist with the longer term perspective. We can take that on notice and provide information to you.

**Senator CAMERON:** Okay.

**Senator HEFFERNAN:** I think it came in in 1981—if you can remember that far.

**Question:** 180 (continued)

**Dr Grimes:** I think where Senator Cameron is going is to the processes for having a department handle FOI matters on behalf of the minister and the protocols that are in place to accept FOI requests on behalf of the minister.

**Senator HEFFERNAN:** I remember the changes we made back in '81 to that effect. Most of you were not born then.

**Senator CAMERON:** So, Ms Luscombe, you do not know of anything other than the previous 18 months?

**Ms Luscombe:** No, I could find out for you if there have been arrangements in the past, but I am not aware of them.

**Answer:**

The current Director of the department's FOI team has managed the team for over four years. She and her predecessor have confirmed that, during the last six years at least, there have been no arrangements in place for the department to accept or process an FOI request on behalf of the minister.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 181

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** 52

**Senator CAMERON asked:**

**Senator CAMERON:** Are you processing your freedom of information requests in the time that is normally allocated?

**Ms Luscombe:** Yes. The record of the agency in timeliness and its response times is very strong.

**Senator CAMERON:** What is your KPI, to use the jargon?

**Ms Luscombe:** We need to report the timeliness of the processing of our requests, and I think we do that annually. So we would have to report if—

**Senator CAMERON:** But there is a time period that you must deal with them in, isn't there?

**Ms Luscombe:** That is right.

**Senator CAMERON:** So I am asking you: are you dealing with them in the allocated time period?

**Ms Luscombe:** Yes, we are.

**Senator CAMERON:** Are there any that have gone beyond the period?

**Ms Evans:** I am not aware of any and, if there are, I will provide that information.

**Answer:**

From 7 September 2013 to 30 November 2014, the department received 89 requests for documents under the FOI Act.

74 of these requests were finalised within the regular timeframes under the FOI Act. Eight requests were still in progress as at 30 November 2014.

Seven of these requests were granted an extension under s 15AA of the FOI Act.

One request was also granted an extension of time under s 15AB of the FOI Act.

No requests were finalised out of time.

**Rural and Regional Affairs and Transport Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 182

**Division/Agency:** Office of the General Counsel

**Topic:** FOI expert allocated to the minister's office

**Proof Hansard page:** 53

**Senator CAMERON asked:**

**Senator CAMERON:** Is there an FOI expert allocated to the minister's office?

**Ms Luscombe:** I am not aware of whether there is or not.

**Senator CAMERON:** Senator Colbeck, how many FOI requests have come to the minister?

**Senator Colbeck:** I would have to take that on notice; I do not know.

**Senator CAMERON:** That is good; take it on notice.

**Answer:**

There is no FOI expert allocated to the Minister's Office.

From 07 September 2013 to 30 November 2014, the department is advised that the Minister received four FOI requests.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 183

**Division/Agency:** Office of the General Counsel

**Topic:** FOI processes in the PSO and MO offices

**Proof Hansard page:** 54

**Senator CAMERON:** What is the arrangement in your office, Senator Colbeck?

**Senator Colbeck:** I have not had any direct FOIs to my office, so it is not something I have had to contemplate—it may be something I should consider. There have been some FOIs regarding some of my expenses made to the department, which have been responded to, as I understand, in consultation with my office. I have not had any direct FOIs to my office.

**Senator CAMERON:** Could you then on notice come back to us and let us know if you make any changes to the arrangements so we know what they are. Could you on notice to the minister ask him to outline what the FOI processes in place in his office are.

**Senator Colbeck:** I will take that on notice.

**Answer:**

All FOI requests are managed by the offices of the Minister for Agriculture and his Parliamentary Secretary in accordance with the *Freedom of Information Act 1982*.



**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 184

**Division/Agency:** Office of the General Counsel

**Topic:** Statutory review provisions

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

1. Please list all current legislation, covered by the department's portfolio, which contain a statutory review provision/s. For each, please provide:
  - a. What work has been done towards preparing for the review? If none, why not?
  - b. Please provide a schedule or a work plan for the review
  - c. When did/will this work begin?
  - d. When is/was the review due to commence.
  - e. What is the expected report date.
  - f. Who is the minister responsible for the review
  - g. What department is responsible for the review
  - h. List the specific clauses or legislation under review caused by the statutory provision.
  - i. List the terms of reference.
  - j. What is the scope of the review.
  - k. Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?
  - l. What is the budgeted, projected or expected costs of the review?
  - m. When was the Minister briefed on this matter?
  - n. What decision points are upcoming for the minister on this matter?
  - o. List the number of officers, and their classification level, involved in conducting the review
  - p. Will the report will be tabled in parliament or made public. If so, when?

**Question:** 184 (continued)

**Answer:**

1. The Administrative Arrangements Order (AAO), made on 12 December 2013, lists 88 Acts that are administered by the Minister for Agriculture.

Based on a preliminary search of agriculture Acts listed on the AAO and advice from the Office of Parliamentary Counsel, the following current agriculture Acts contain statutory review provisions that require a review of the operation or effect of a law (not of individual decisions or agreements or plans made under it).

- *Agricultural and Veterinary Chemicals (Administration) Act 1992*. Section 72 requires a the minister to ensure that, at least every ten years, there is a review of the operation of the following Acts, and any instruments made under those Acts: *the Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994*; *the Agricultural and Veterinary Chemical Products Levy Imposition (Customs) Act 1994*; *the Agricultural and Veterinary Chemical Products Levy Imposition (Excise) Act 1994*; *the Agricultural and Veterinary Chemical Products Levy Imposition (General) Act 1994*; *the Agricultural and Veterinary Chemicals Act 1994*; *the Agricultural and Veterinary Chemicals (Administration) Act 1992*; and *the Agricultural and Veterinary Chemicals Code Act 1994*.

At least one of the persons conducting the review must not be otherwise appointed, employed or engaged by the Commonwealth. The review must include a request for, and consideration of, submissions from members of the public. A copy of the review must be tabled in parliament within 15 sitting days after: (a) for the first review under this section—the tenth anniversary of the commencement of this section; and (b) for later reviews—the tenth anniversary of the day on which the written report of the immediately preceding review was laid before each House of the Parliament. This section was inserted by the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* and commenced on 1 July 2013.

- *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013*. Section 4 requires a review of the operation of amendments to be conducted, and the review report to be tabled within 15 sitting days of 1 July 2019. Section 5 provides for a separate review of matters relating to the powers and functions of the APVMA. There is no deadline for the completion or tabling of the review, and the section ceases to have effect five years after the day the Act receives assent. The Act received assent on 29 June 2013.
- *Australian Meat and Live-Stock Legislation (Consequential Amendments and Transitional Provisions) Act 1985*. Under section 17 of the *Meat Research Act 1960*, the Australian Meat Research Committee was required to prepare a report each year on the operation of that Act. *Australian Meat and Live-Stock Legislation (Consequential Amendments and Transitional Provisions) Act 1985* (the amendment Act) repealed the *Meat Research Act 1960*. Section 38 of the Amendment Act requires that the Committee shall prepare one final annual report on the operations of the *Meat Research Act 1960*. This provision is spent.

**Question:** 184 (continued)

- *Dairy Produce Act 1986*. Section 76 requires the Dairy Adjustment Authority to conduct, during 2002-03, a review and prepare a report to the minister on the adequacy of collections of dairy adjustment levy to fund payments made under the Dairy Structural Adjustment Program scheme and the Supplementary Dairy Assistance scheme and dairy exit payments. The minister must table the report in parliament within 15 sitting days after the completion of the report. This provision is spent.
- *Horse Disease Response Levy Collection Act 2011*. Section 35 requires the minister to ensure that at least once every five years there is a review of whether a levy on manufactured feed and worm treatments is the most appropriate way of raising money to meet the costs of any emergency response to a disease affecting horses. This review is not required if regulations are in force under the *Horse Disease Response Levy Act 2011* providing for the working out of an amount (except a nil amount) of levy on a disposal of manufactured feed or worm treatment. If there is not a review in that five-year period, the minister must ensure that one is undertaken as soon as practicable after there are not any such regulations in force.
- *Illegal Logging Prohibition Act 2012*. Section 84 requires the minister to cause a review to be undertaken within the first five years of the operation of this Act. The review report must be completed within 12 months of the end of the five year period, and must be tabled in parliament within 15 sitting days of receipt. Sections 1 and 2 of the Act commenced on 28 November 2012.

The department will ensure that all statutory reviews, if not already completed, will be undertaken in accordance with the legislation.

a. – p. To respond to Questions a. to p. individually would be a significant diversion of the department's resources.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 185

**Division/Agency:** Office of the General Counsel

**Topic:** Sunset provisions

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

Please list all current legislation, covered by the department's portfolio, which contain a sunset provision/s. For each, please provide:

1. What work has been done towards preparing for the activation of sunset provisions? If no work has commenced, why not?
2. Has any consideration been given to delaying or alerting the sunset provisions?
3. Please provide a schedule or a work plan for the sunset provisions becoming active
4. When did/will this work begin?
5. When is/was the review due to commence.
6. What is the expected report date.
7. Who is the minister responsible for the review
8. What department is responsible for the review
9. List the specific clauses or legislation under review caused by the statutory provision.
10. List the terms of reference.
11. What is the scope of the review.
12. Who is conducting the review. How were they selected? What are the legislated obligation for the selection of the person to conduct the review?
13. What is the budgeted, projected or expected costs of the review?
14. When was the Minister briefed on this matter?
15. What decision points are upcoming for the minister on this matter?
16. List the number of officers, and their classification level, involved in conducting the review
17. Will the report will be tabled in parliament or made public. If so, when?

**Question:** 185 (continued)

**Answer:**

The Administrative Arrangements Order (AAO), made on 12 December 2013, lists 88 Acts that are administered by the Minister for Agriculture. There are also approximately 200 pieces of portfolio subordinate legislation. The number of subordinate legislation fluctuates regularly as instruments are created and repealed.

Based on a preliminary search of agriculture Acts listed on the AAO and advice from the Office of Parliamentary Counsel, the following current agriculture legislation contain a provision that uses some form of the word "sunset" or that has the effect of repealing or ceasing something:

- *Australian Meat and Livestock (Quotas) Amendment Act 1993*. Section 3 of the Act is named "sunset clause". It amends a sunset provision located in section 9 of the *Australian Meat and Live-stock (Quotas) Act 1990* by omitting "expiration of 3 years after the date of commencement of this Act" and substituting "end of 28 December 1996". The sunset provision in Section 3 is spent. Section 9 of the *Australian Meat and Live-stock (Quotas) Act 1990* was further amended in 1997 to repeal and substitute section 9, which now deals with regulation making.
- *Fisheries Legislation (Consequential Provisions) Act 1991* (the Act). *The Fisheries Act 1952*, except Part IVA, was repealed by the Act. Section 7 of the Act states that Part IVA of the *Fisheries Act 1952*, unless sooner repealed, ceases to have effect at the end of the period of three years beginning on the day on which this section commences. The section commenced on 16 December 1993. Part IVA has ceased to have effect.
- *Torres Strait Finfish Fishery Management Plan 2013* (the Plan). The Plan makes a number of references to "sunset licences" granted under section 19 of the *Torres Strait Fisheries Act 1984*. Under section 4.3 of the Plan, a sunset licence can only be granted to a group and is granted for the purpose of the group temporarily transferring the licence to another group or to an individual. It allows the holder to fish commercially for finfish in the fishery during the period of the licence, using the boat nominated to the licence.
- *Wheat Marketing Amendment Act 2007* (the Amending Act). Schedule 3 inserts a new section 3AA into the *Wheat Marketing Act 1989*, including a subsection called "sunset", which specifies that the minister must not exercise certain powers after 30 June 2008. The *Wheat Marketing Act* was repealed on 1 July 2008 and so the sunset provision is spent. The amending Act has not been repealed as it amends the *Financial Management and Accountability Regulations 1997*, which are still in force and now known as the *Financial Framework (Supplementary Powers) Regulations 1997*.

Of the 200 pieces of subordinate legislation, approximately 160 portfolio instruments will automatically repeal after ten years under the *Legislative Instruments Act 2003*.

**Question: 185 (continued)**

The *Legislative Instruments Act 2003* is administered by the Attorney-General's Department. The department liaises regularly with the Attorney-General's Department on strategies to manage the review and sunset dates of the agriculture instruments. For example, the Legislative Instruments (Agricultural Export Instruments) Sunset-altering Declaration 2014, made on 13 November 2014, extended the sunset dates of forty agriculture instruments to 1 April 2020 to facilitate a thematic review of these instruments.

The department also actively repeals spent instruments via the Spent and Redundant Instruments Repeal Regulations.

The department has implemented arrangements to ensure there is appropriate governance and management of its sunset instruments. It will ensure the sunset instruments are managed in accordance with the *Legislative Instruments Act 2003* and are repealed or preserved, following ministerial approval, prior to their sunset dates.

1. – 17. To respond to Questions 1. - 17. individually would be a significant diversion of the department's resources.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 186

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

Since Budget Estimates in June, 2014:

1. How many requests for documents under the FOI Act have been received?
2. Of these, how many documents have been determined to be deliberative documents?
3. Of those assessed as deliberative documents:
  - a. For how many has access to the document been refused on the basis that it would be contrary to the public interest?
  - b. For how many has a redacted document been provided?

**Answer:**

1. From 1 May 2014 to 30 November 2014, the department received 40 requests for documents under the FOI Act.
2. Of these requests, only one document was determined to contain deliberative material which, after applying the public interest test, was exempt from disclosure.
3. A redacted version of this document was provided to the FOI applicant.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 187

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

1. How many FOI requests were received between 7 September 2013 to date?
2. How many of those requests were finalised within the regular timeframes provided under the FOI Act?
3. How many of those requests were granted an extension of time under s 15AA of the FOI Act?
4. How many of those requests were granted an extension of time under s 15AB of the FOI Act?
5. How many of those requests were finalised out of time?

**Answer:**

1. From 7 September 2013 to 30 November 2014, the department received 89 requests for documents under the FOI Act.
2. 74 of these requests were finalised within the regular timeframes under the FOI Act. Eight requests were still in progress as at 30 November 2014.
3. Seven of these requests were granted an extension under s 15AA of the FOI Act.
4. One request was also granted an extension of time under s 15AB of the FOI Act.
5. No requests were finalised out of time.



**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 188

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

**Consultations with other Departments, Agencies and the Minister**

1. Other than for the purpose of discussing a transfer under section 16 of the Act, does the Department consult or inform other Departments or Agencies when it receives Freedom of Information requests?
2. If so, for each instance provide a table setting out the following information:  
Other than for the purposes of discussing a transfer under section 16 of the Act, has the Department consulted or informed the Minister's office about Freedom of Information requests it has received?
  - a. The Department or Agency which was consulted;
  - b. The document;
  - c. The purpose of the consultation;
  - d. Whether an extension of time was sought from the applicant to allow time for the consultation, including whether it was granted and the length of the extension;
  - e. Whether an extension of time was sought from the Information Commissioner to allow time for the consultation, including whether it was granted and the length of the extension.
3. Other than for the purposes of discussing a transfer under section 16 of the Act, has the Department consulted or informed the Minister's office about Freedom of Information requests it has received?
4. If yes, provide a table setting out the following information:
  - a. The requests with respect to which the Minister or Ministerial office was consulted;
  - b. The Minister or Ministerial office which was consulted;
  - c. The purpose of the consultation;

**Question: 188 (continued)**

- d. Whether an extension of time was sought from the applicant to allow time for the consultation, including whether it was granted and the length of the extension;
- e. Whether an extension of time was sought from the Information Commissioner to allow time for the consultation, including whether it was granted and the length of the extension.
- f. Whether any briefings (including formal briefs, email briefings and verbal briefings) were provided to the Minister's office.

**Staffing**

1. From 18 September 2013, what was the average FTE allocated to processing FOI requests?

**FOI Disclosure Log**

1. For the purposes of meeting its obligations under 11C of the Act, does the Department or Agency:
  - a. Maintain a webpage allowing download of documents released under section 11A (direct download)?
  - b. Require individuals to contact the Department or Agency to ask for the provision of those documents (request for provision)?
  - c. Facilitate to those documents in a different manner (if so, specify).
2. If the Department or Agency has moved from a system of meetings its 11C obligations by direct download, to a system of meeting those obligations by request for provision, provide the following information:
  - a. The dates for which documents were made available for direct download, and the dates for which documents were made available through request for provision;
  - b. The total number of direct downloads of documents released under 11A the Departmental or Agency website;
  - c. The total number of requests for provision to documents that had been directly received, and how many had been processed by [date]?
  - d. What was the average FTE allocated to monitoring incoming email, collating and forwarding documents providing under a request for provision?
  - e. What was the approximate cost for salaries for the FTE staff allocated to this task?
3. Has the Department or Agency charged any for access to a document under section 11C(4)?
4. If so, please provide the following information in a table:
  - a. On how many occasions charges have been imposed;

**Question: 188 (continued)**

- b. The amount charged for each document
- c. The total amount charged;
- d. What is the highest charge that has been imposed.

**With respect to FOI requests:**

- 1. How many documents were assessed (at internal review or - if internal review was not requested - by the original decision maker) as conditionally exempt?
- 2. Of those, how many were:
  - a. Released in full
  - b. Released in part
  - c. Refused access on the grounds that release of the document would be contrary to the public interest
  - d. Other (please specify)

**Answer:**

**Consultations with other Departments, Agencies and the Minister**

- 1. Yes.
- 2. Agencies are required to provide information and statistics to the Information Commissioner on a quarterly and annual basis. They are not required to keep statistics on the frequency and purpose of consultations with other Commonwealth agencies or the minister.
- 3. Yes.
- 4. See answer to question 2 above.

**Staffing**

- 1. From 1 May 2014 to 30 November 2014, an average of two FTE was allocated to primarily processing FOI requests.

**Question: 188 (continued)**

**FOI Disclosure Log**

Agency	Question 1a.	Question 1b.	Question 1c.	Question 2.	Question 3.	Question 4.
Department of Agriculture	Yes*	Yes*	N/A	N/A	No	N/A
AFMA	Yes*	Yes*	N/A	One. Documents provided 8 Sept 2014. 10% of FTE at an approximate cost of \$8 700.	No	N/A
APVMA	No	Yes	N/A	See answer to Q 2 below	No	N/A
FRDC	Yes	Yes	Yes	N/A	No	N/A
CRDC	Yes	No	N/A	N/A	No	N/A
RIRDC	No	Yes	N/A	N/A	No	N/A
GRDC	No	Yes	N/A	See answer to Q 2 below	No	N/A
Wine Australia (AGWA)	No	Yes	N/A	N/A	No	N/A

\*Some documents are available for direct download; others are available upon request only.

**Question 2.**

Agency	Question 2a.	Question 2b.	Question 2c.	Question 2d.
APVMA	Since July 2013, APVMA uses a process of request for provision.	Nil	Nil	Nil
GRDC	4 April 2014	N/A	Nil	Less than 1% of FTE.

**Question:** 188 (continued)

**With respect to FOI requests:**

1. From 1 May 2014 to 30 November 2014, 29 documents were assessed as containing conditionally exempt material.
2. Of those:
  - a. No documents were released in full.
  - b. 28 documents were released in part.
  - c. One document (due to exemptions under s33 of the FOI Act as well being conditionally exempt under s47E).
  - d. N/A.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates November 2014

**Agriculture**

**Question:** 189

**Division/Agency:** Office of the General Counsel

**Topic:** Legal costs

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

Since Budget Estimates in June, 2014:

1. List all legal costs incurred by the department or agency
2. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
3. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
4. How was each piece of advice procured? Detail the method of identifying legal advice

**Answer:**

- 1-3. Agencies are required (under the Legal Services Directions 2005) to report legal services expenditure figures to the Office of Legal Service Coordination (OLSC). Those figures are required to be reported by 30 August each year. To require the department and its portfolio bodies to review and provide detail of all legal services and legal services expenditure other than in accordance with the OLSC methodology would be a significant diversion of resources.

Legal expenditure for each portfolio agency is detailed below and has been calculated consistently with the methodology for calculating legal expenditure for the OLSC.

For the period 1 June 2014 to 31 October 2014, the department and relevant portfolio agencies spent (including GST) as follows:

**Department of Agriculture**

- \$757 006 on legal services from the Australian Government Solicitor
- \$128 708 on legal services from private law firms
- \$1 012 969 on internal legal services

**Question:** 189 (continued)

**Australian Fisheries Management Authority (AFMA)**

- \$13 622 on legal services from the Australian Government Solicitor
- \$23 756 on legal services from private law firms
- \$201 753 on internal legal services
- \$12 943 on briefing counsel directly

**Australian Pesticides and Veterinary Medicines Authority (APVMA)**

- \$ 184 400 on legal services from the Australian Government Solicitor
- \$ 86 881 on legal services from private law firms
- \$ 529 749 on internal legal services.

**Australian Grape and Wine Authority (AGWA)**

- Nil on legal services from the Australian Government Solicitor
- \$ 14 441 on legal services from private law firms

**Cotton Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$8637 on legal services from private law firms

**Fisheries Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$15 918 on legal services from private law firms

**Grains Research and Development Corporation (GRDC)**

- \$4800 on legal services from the Australian Government Solicitor
- \$67 705 on legal services from private law firms
- \$130 566 on internal legal services

**Rural Industries Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$43 829 on legal services from private law firms

**Question: 189 (continued)**

4. The Department and portfolio agencies all obtain external domestic legal services from legal service providers on the Legal Services Multi-Use List. In addition, internal legal advice is provided by the OGC in the Department of Agriculture. AFMA, APVMA, AGWA and GRDC also have in-house legal teams. The in-house legal teams do not charge for the legal advice they provide, nor do they estimate the commercial value of that advice.