

~~PROTECTED Sensitive Cabinet~~Ref: C15/5150
Urgent/Low Complexity

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C
Secretary
Ms Kelly
Dr Gruen
Ms Davidson
Ms Lynch
Mr Castellino
Mr Taloni
Mr LangPMO
Chief of Staff

s22

File:

To: Prime Minister (for decision by 30 January 2015)

**ADJUSTMENT TO FUNDING FOR THE 2014-15 FEDERAL BUDGET MEASURE:
SMALLER GOVERNMENT - PRIVACY AND FREEDOM OF INFORMATION
FUNCTIONS – NEW ARRANGEMENTS**

Recommendations - that you:

s47C

s34(3)

TONY ABBOTT

Date:

19/1/15

Comments:

Key Points:

1. In the 2014-15 Budget, the Government announced the abolition of the Office of the Australian Information Commissioner (OAIC) from 1 January 2015. The enabling Bill, the Freedom of Information Amendment (New Arrangements) Bill 2014 (the Bill) has not yet passed the Senate, so the OAIC continues to operate (but in a significantly reduced way). s47C; s47E(d)
s47C; s47E(d)
2. The Budget measure agreed that the OAIC's FOI functions would be undertaken by other agencies and that the OAIC's Privacy Commissioner role and privacy functions would continue but move from the OAIC to the Australian Human Rights Commission (AHRC) (briefing B14/2786 refers). This is to be effected by the Bill.
3. s47C; s47E(d)

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s47C; s47E(d)



4. s47C; s47E(d)



5. s47C; s47E(d)



6. s34(3)



7. In considering the Bill, the Senate has questioned what the Government's approach to the Hawke review is.

8. s47C; 47E(d)



s22



Peter Arnaudo
Assistant Secretary
Legal Policy Branch
27 January 2015

s22



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ATTACHMENTS

ATTACHMENT A DRAFT RESPONSE

ATTACHMENT B INCOMING CORRESPONDENCE

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PRIME MINISTER

Reference: C15/5150

14 FEB 2015

Senator the Hon George Brandis QC
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

A handwritten signature in cursive script, likely of Tony Abbott.

Thank you for your letter received on 16 January 2015 seeking approval to adjust the funding in the 2014-15 Federal Budget Measure *Smaller Government - Privacy and Freedom of Information functions – new arrangements*. You have also sought approval for a minor amendment to the Freedom of Information Amendment (New Arrangements) Bill (the Bill).

I approve the proposed reallocation of funding and the proposed amendment as outlined in your letter.

s34(3)

s47C

s47C

s34(3); s47C

s34(3); s47C

I have copied this letter to the Minister for Finance, Senator the Hon Mathias Cormann, and the Treasurer, the Hon Joe Hockey MP.

Yours sincerely

s22

TONY ABBOTT

Parliament House CANBERRA ACT 2600
Telephone (02) 6277 7700
www.pm.gov.au

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ATTORNEY-GENERAL

CANBERRA

The Hon Tony Abbott MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am writing to seek your approval to make adjustments to the funding for the 2014-15 Budget Measure *Smaller Government – Privacy and Freedom of Information functions – new arrangements*.

The Freedom of Information Amendment (New Arrangements) Bill 2014 (the Bill) was intended to implement the new arrangements for FOI and privacy regulation announced in the Budget by abolishing the Office of the Australian Information Commissioner (OAIC) and providing for an Australian Privacy Commissioner as an independent statutory office holder in the Australian Human Rights Commission (AHRC). These arrangements were due to commence on 1 January 2015.

As the Bill has not yet passed the Senate, the OAIC will continue to operate. s47C; s47E(d)
s47C; s47E(d)

s47C; s47E(d)

The Budget measure provided for the continuation of the privacy functions, but from within the AHRC. Funding for these functions from 1 January 2015 was appropriated to the AHRC in the 2014-15 Budget. s47C; s47E(d)
s47C; s47E(d)

Parliament House Canberra ACT 2600 Telephone: (02) 6277 7300 Facsimile: (02) 6273 4102

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s47C; s47E(d)



s47C; s47E(d)

Under the existing *Australian Information Commissioner Act 2010*, the Privacy Commissioner can exercise all powers and functions of the FOI Commissioner.

While my Department will provide a level of resourcing back to the OAIC, functions such as FOI statistical collection have already be transferred administratively and will remain.

Further detail on the proposed reallocation of funding is attached.

I have copied this letter to the Minister for Finance, Senator the Hon Matthias Cormann, and the Treasurer, the Hon Joe Hockey MP.

Yours faithfully

s22



(George Brandis)

Encl: Reallocation of funds: *Smaller Government – Privacy and Freedom of Information functions – new arrangements – delayed commencement date*

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Urgent/Low Complexity**DEPARTMENT OF THE PRIME MINISTER AND CABINET**PM&C
Secretary
Ms Kelly
Ms Lynch
Mr Castellino
Ms Cattermole**To: Parliamentary Secretary to the Prime Minister**PMO
s22**FREEDOM OF INFORMATION REFORMS – BUDGET AND LEGISLATION**

PSPMO

File:

Recommendation(s) - that you:

s47C; s47E(d)

CHRISTIAN PORTER

s22

Date:

26.03.15

Comments:**Key Points:**

s47C; 47E(d)

2. In the 2014-15 Budget, the Government announced (as part of its smaller government agenda) the abolition of the Office of the Australian Information Commissioner (OAIC) from 1 January 2015. This would also have reduced the number of reviews available in relation to FOI requests by removing the ability for reviews to be made to the OAIC.
3. As the Bill has not come into effect the OAIC continues to operate.
 - a. The OAIC's funding was adjusted in the 2014-15 Budget to reflect that from 1 January 2015 it would no longer exist and its functions would be transferred. It is currently operating on financial reserves and has reduced its staff and activities, particularly its review of FOI decisions, to reduce expenditure.
 - b. Had the Bill passed, merits review of FOI decisions by the OAIC would no longer be possible. Internal agency reviews would still be available, appeals could still be made the Administrative Appeals Tribunal and complaints about how an agency managed an FOI request could be considered by the Commonwealth Ombudsman. The OAIC's FOI guidance functions would be carried out by the Attorney-General's Department (AGD). It was also proposed that the OAIC's privacy functions (including support for the Privacy Commissioner and handling public and private sector privacy complaints)

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would continue but move from the OAIC to the Australian Human Right Commission (AHRC).

4. s47C; s47E(d)



5.

6. s47C; s47E(d)



7.

s22



Peter Arnaudo
Assistant Secretary
Legal Policy Branch

25 March 2015

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ATTACHMENTS

ATTACHMENT A DRAFT REPLY TO THE ATTORNEY-GENERAL

ATTACHMENT B INCOMING CORRESPONDENCE

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PARLIAMENTARY SECRETARY
TO THE PRIME MINISTER

Reference: C15/21712

26 MAR 2015

Senator the Hon George Brandis QC
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General *Alone*

Thank you for your letter dated 11 March 2015 to the Prime Minister regarding the Freedom of Information (New Arrangements) Bill 2014 and the Office of the Australian Information Commissioner (OAIC). The Prime Minister has asked me to reply on his behalf.

s34(3)

s34(3)

s47C; s34(3)

s47C; s34(3)

s34(3)

s34(3)

A copy of this letter has been provided to Minister for Finance.

Yours sincerely

s22

CHRISTIAN PORTER

Parliament House CANBERRA ACT 2600

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ATTORNEY-GENERAL

CANBERRA

11 March 2015

The Hon Tony Abbott MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

Thank you for your letter of 14 February 2015 approving a minor amendment to the
Freedom of Information Amendment (New Arrangements) Bill s47C; s47E(d)

s47C; s47E(d)

s47C; s47E(d)

s47C; s47E(d)

s47C; s47E(d)

The funding for the Freedom of Information (FOI) functions of the OAIC was significantly
reduced from 1 January 2015 in line with the 2014-15 Budget measure, *Smaller Government*.

Privacy and Freedom of Information functions – new arrangements. s47C; s47E(d)

s47C; s47E(d)

13 MAR 2015

MCU

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s47C; s47E(d)



Yours faithfully

s22



(George Brandis)

