



PRIME MINISTER

Departmental No. 27/2017

Executive Council
Meeting No. 29.....

Approved in Council

s 22(1)(a)(ii)

Peter Cosgrove
Governor-General

s 22(1)(a)(ii)

20 DEC 2017

Filed in the Records
of the Council

s 22(1)(a)(ii)

Secretary to the Executive Council

Minute Paper for the Executive Council

Subject

The Constitution

Renaming of Departments of State

Recommended for the approval of His Excellency the Governor-General in Council that under section 64 of the Constitution, he change the name of the Departments of State specified in Column 1 to the names specified in Column 2 opposite the first-mentioned name.

Column 1

Column 2

s 22(1)(a)(ii)

DEPARTMENT OF
IMMIGRATION AND
BORDER PROTECTION

DEPARTMENT OF
HOME AFFAIRS

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Malcolm Turnbull
Prime Minister

EXPLANATORY MEMORANDUM

Minute No. 2 of 2017 – Prime Minister

Subject - *The Constitution*

Renaming of Departments of State

Section 64 of the *Constitution*, in so far as it is relevant, provides that:

The Governor-General may appoint officers to administer such Departments of State of the Commonwealth as the Governor-General in Council may establish.

Section 64 has been construed as clearly implying a power to create, abolish and rename departments. The then Attorney-General, the Hon Nigel Bowen QC advised in 1968, that in his view action taken under section 64 to create, alter or abolish a Department of State has a corresponding effect on a Department of the Public Service.

In the case of renamed departments, the effect of subsection 56(4) of the *Public Service Act 1999* is to rename the corresponding office of the Secretary of the department without further action being required.

It is proposed that three Departments of State be renamed:

s 22(1)(a)(ii)

- The Department of Immigration and Border Protection to the Department of Home Affairs; and

s 22(1)(a)(ii)

The renaming of the departments is recommended by the Prime Minister and is in line with the proposed allocation of functions and government priorities, notably in relation to law enforcement, national security policy and operations. s 22(1)(a)(ii)

A separate Minute recommends changes to the Administrative Arrangements Order to reflect the specific reallocation of functions.

The Minute recommends that the Departments of State be renamed in the form proposed.

Authority: Chapter II of the *Constitution*

s 22(1)(a)(ii)