From:	FOI Requests
To:	FOI
Cc:	FOI Requests
Subject:	RE: Seeking information - for advice by 31 October 2019, if possible (PM&C ref: FOI/2019/319 [SEC=OFFICIAL]
Date:	Wednesday, 6 November 2019 3:44:06 PM

Good afternoon s 22(1)(a)(ii)

My sincere apology for the delay. Please find below a paragraph for the FOI applicant:

The Australian Government does not provide or release legal advice to the public. If you have concerns about any particular laws or have legal queries, you may wish to seek independent legal advice. However, the following general comments may be of assistance.

The Australia Act was enacted by the Commonwealth parliament at the request of the Australian States in accordance with section 51(xxxviii) of the Constitution, which provides that the Commonwealth has legislative power with respect to:

the exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia.

The Australia Act 1986 was enacted in virtually identical terms by the United Kingdom parliament. As the long title of the Act indicates, it brought certain arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a fully independent, federal nation. Section 1, in particular, confirmed that the United Kingdom parliament no longer had power to make laws for Australia. The High Court has treated the Australia Act as enacted by the Commonwealth parliament as valid and effective (see, for example, Attorney-General (WA) v Marquet (2003) 217 CLR 545 at [66]-[67]).

In addition, the line area have advised that they do not think clarifying the applicant's misreading of section 1 of the Constitution would be particularly useful at this time, although they can put some text together if required.

I hope that this helps and feel free to contact me on s 22(1)(a)(ii) if you have any questions.

Regards

s 22(1)(a)(ii)
FOI Case Officer

Freedom of Information and Parliamentary | Strategy and Governance Branch
Attorney-General's Department
T: 02 6141 6666| E: foi@ag.gov.au<mailto:foi@ag.gov.au>

From: FOI [mailto:FOI@pmc.gov.au]
Sent: Tuesday, 5 November 2019 2:40 PM
To: FOI Requests <foi@ag.gov.au>; FOI <FOI@pmc.gov.au>
Subject: RE: Seeking information - for advice by 31 October 2019, if possible (PM&C ref: FOI/2019/319 [SEC=OFFICIAL]

Thanks s 22(1)(a)(ii)) much appreciated.

Regards

s 22(1)(a)(ii)

s 22(1)(a)(ii) | FOI Administration Officer/Adviser
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From: FOI Requests <foi@ag.gov.au<mailto:foi@ag.gov.au>>
Sent: Tuesday, 5 November 2019 2:27 PM
To: FOI <FOI@pmc.gov.au<mailto:FOI@pmc.gov.au>>
Cc: FOI Requests <foi@ag.gov.au<mailto:foi@ag.gov.au>>
Subject: RE: Seeking information - for advice by 31 October 2019, if possible (PM&C ref: FOI/2019/319 [SEC=OFFICIAL]

Hi s 22(1)(a)(ii)

Sorry about the delay. The line area are waiting on SES clearance. I'm hoping to get something to you shortly.

Regards

s 22(1)(a)(ii)
FOI Case Officer

Freedom of Information and Parliamentary | Strategy and Governance Branch
Attorney-General's Department
T: 02 6141 6666| E: foi@ag.gov.au<mailto:foi@ag.gov.au>

From: FOI [mailto:FOI@pmc.gov.au]
Sent: Tuesday, 5 November 2019 12:15 PM
To: FOI Requests <foi@ag.gov.au<mailto:foi@ag.gov.au>>
Cc: FOI <FOI@pmc.gov.au<mailto:FOI@pmc.gov.au>>
Subject: FW: Seeking information - for advice by 31 October 2019, if possible (PM&C ref: FOI/2019/319 [SEC=OFFICIAL]

Hi s 22(1)(a)(ii)

Just following up my request please.

As discussed, grateful if you could provide some comments ASAP for us to insert into our invalid email please.

Thanks for your assistance.

Kind Regards

s 22(1)(a)(ii)

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From: FOI <FOI@pmc.gov.au<mailto:FOI@pmc.gov.au>>
Sent: Tuesday, 29 October 2019 2:19 PM
To: 'FOI Requests' <foi@ag.gov.au<mailto:foi@ag.gov.au>>
Cc: FOI <FOI@pmc.gov.au<mailto:FOI@pmc.gov.au>>
Subject: Seeking information - for advice by 31 October 2019, if possible (PM&C ref: FOI/2019/319 [SEC=OFFICIAL]

OFFICIAL

OFFICIAL

Dear s 22(1)(a)(ii)

As discussed yesterday afternoon, on Sunday 27 October 2019, the Department of the Prime Minister & Cabinet (the Department) received the attached FOI request seeking information in relation to the Australia Act 1986 from an Anonymous applicant on behalf of Right to Know.

Briefly, the applicant requests access to a range of information as follows:

I would like to request any information on how and why the Australia Act 1986 is valid and legal because there are some fundamental issues. Some of these issues include:

* The Australia Act 1986 has no head of power. The Head of Power under 'The Commonwealth of Australia Constitution Act 1900' is the Crown of the United Kingdom and Ireland.

* The Australia Act 1986 was enacted by the "Parliament of Australia" which is not recognised as a legislator under section 1 of 'The Commonwealth of Australia Constitution Act 1900'.

* The Australia Act 1986 was an attempt to equalise powers exclusive to the Federal Government to that of the States by allowing the States to put aside any obligations to the inherited laws of England and obligations to the Federal Government, this attempt was put to the people in question 2 of the 1984 Federal Referendum and failed.
PM&C is proposing to reply to the applicant noting this request is invalid (as they are seeking information rather than documents) and also provide some information to assist with further requests if required. Given the subject matter referred to in the request, PM&C is seeking your advice in regards to the Constitutional Law aspect of the request.
We would be grateful for advice a soon as possible, but preferably by COB Thursday 31 October 2019 please.
Happy to discuss further.
Kind regards, s 22(1)(a)(ii)

s 22(1)(a)(ii) | FOI Administration Officer/Adviser
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