



Program 1 — Legal Policy and Services to the Commonwealth

Program Objective

To advance and protect the interests of the Commonwealth, its ministers and agencies by the provision of sound, constructive and timely legal policy advice.



1.1 Executive and Support

Corporate Services Division

OBJECTIVE

To add value through the achievement of best practice in the provision of advice and a range of support services.

The administrative separation of the Australian Government Solicitor led to the creation in April 1998 of the Corporate Services Division, comprising the departmental elements of the former Resources Group of the Attorney-General's Legal Practice. Financial information and staffing figures for the Corporate Services Division is included in the Resources Summary for the Australian Government Solicitor for the reporting period.

ROLE

The Division provides policy advice and services to the Attorney-General and the Minister for Justice, and supports the Department in relation to the management of human, financial and physical resources.

The Division comprises the Executive Branch, the Financial Management Branch and the Information Technology Branch. In addition, the Audit and Evaluation Section, although overseen by an Audit Committee, reports administratively to the General Manager, Corporate Services Division.

Resources Summary — Sub-program 1.1 Executive and Support

FINANCIAL	<i>1996-97</i> <i>Actual</i> <i>\$('000)</i>	<i>1997-98</i> <i>Estimate</i> <i>\$('000)</i>	<i>1997-98</i> <i>Actual</i> <i>\$('000)</i>
Appropriation Bill No. 1			
Running Costs			
Departmental			
• Salaries (120-1) (p)	475	1,156	964
• Other (120-1) (p)	8,412	8,271	6,357
Legal Practice			
• Salaries (121-1) (p)	3,103	3,127	2,877
• Other (121-1) (p)	5,397	7,473	6,639
RUNNING COSTS APPROPRIATIONS	17,387	20,027	16,836
Other Program Costs			
• Grants to Australian Organisations (120-2-01) (p)	8	3	-
• Compensation & Legal Expenses (120-2-04) (p)	1,037	2,640	2,639
• Publication of Acts & Statutory Rules (120-2-05)	1,252	1,415	984
Appropriation Bill No. 2			
• Departmental Plant & Equipment (805-1-01) (p)	824	781	-
• Dr C. Lawrence - Legal costs in relation to the Marks Royal Commission (807-02)	50	-	-
TOTAL APPROPRIATIONS	20,558	24,866	20,459
Adjustments affecting Outlays			
• Revenue			
- Miscellaneous	67	217	217
• Section 35 (Audit Act) Receipts	16	9	9
TOTAL OUTLAYS	20,475	24,640	20,233

Attorney-General's Department

Resources Summary — Sub-program 1.1 Executive and Support (Cont.)

STAFFING	1996-97	1997-98	1997-98
	<i>Actual</i>	<i>Estimate</i>	<i>Actual</i>
	<i>\$(000)</i>	<i>\$(000)</i>	<i>\$(000)</i>
Staff Years	8.6	17.1	14.7
REVENUE AND/OR ITEMS NOT AFFECTING OUTLAYS			
Miscellaneous Receipts	1,045	850	850

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format. Funding and staffing levels for this sub-program includes corporately funded projects, such as SAP implementation and the Ayers Review, but does not include the Corporate Services Division which is included in Sub-program 2.1.

Strategy

Provide sound, timely advice and effective strategic information, planning and documentation.

PERFORMANCE MEASURE

Meeting targets set by the Government and the Board of Management; positive feedback from management and clients and continued reliance on advice provided.

PERFORMANCE OUTCOME

A number of projects undertaken in 1997-98 reflected management's confidence in the capacity of the Division and the level of reliance on the advice provided.

During 1997-98 the Division facilitated the administrative separation of the AGS from the Department, in accordance with a decision of the Government to establish the AGS as an independent statutory body. This task involved the identification and costing of services provided to the AGS by the Division and the rationalisation of shared services provided to the Department and the AGS.

Management adopted an integrated approach to corporate performance management within the Department, as proposed by the Division, to facilitate strategic resource management and the setting of priorities with the Ministers and their staff. Central to the approach is the development of operational plans consistent with agreed objectives and strategies which define tasks and provide relevant resource information.

Through the Public Affairs Unit the Division provided strategic, professional communications advice to senior management of the Department in relation to various public campaigns and policy implementation projects, as well as successfully managing the public education campaign associated with the firearms buyback which ended in early October 1997. Independent research showed the campaign's messages had high recognition among gun owners. The Division successfully managed the reimbursement of funds to the State and Territory governments under the firearms buyback program. During 1997-98, \$88.7 million was paid to the State and Territory governments under the program.

The Division coordinated the development of a new enterprise agreement for the Department. The draft agreement, which was finalised on 30 June 1998, was the outcome of six months of consultation with staff and unions. In preparing the document the Division worked closely with the Office of Legislative Drafting, the Department of Workplace Relations and Small Business and the Public Service and Merit Protection Commission.

The Division effectively managed the overall budget and associated processes for the Department.

Executive and Support
13

Proposals associated with governmental information technology (IT) policy initiatives such as the Edna project, year 2000 issues and Office of Government Information Technology (OGIT) shared system suites were endorsed by management, as was a proposal to integrate the Australian Protective Service computer infrastructure.

PERFORMANCE MEASURE

Meeting agreed timeframes for the release of corporate documents and reports.

PERFORMANCE OUTCOME

The Attorney-General's Department Annual Report for 1996-97 was tabled in advance of the due date of 30 October 1997 and in compliance with the requirements governing the production of annual reports.

The deadline of 30 June for the release of the Department's service charter was met with the release of a broad service charter which was supported by individual charters for the Insolvency and Trustee Service, Australia and the Civil Procedures Unit of the Civil Law Division. A complaints handling policy was promulgated as an adjunct to the Department's service charter. A brochure was produced for public dissemination outlining the process for making a complaint about the Department.

The Portfolio Budget Statements and Portfolio Additional Estimates Statements were tabled in the Senate in accordance with the specified dates, and the Department's financial statements were prepared on target and in compliance with requirements of the Auditor-General.

Strategy

Provide and maintain credible and effective management information systems and processes.

PERFORMANCE MEASURE

Reporting targets met and management information of a high standard provided over time to meet operational requirements.

PERFORMANCE OUTCOME

The Division continued to provide effective and timely support in terms of ministerial and parliamentary briefing, correspondence and facilities. Positive feedback was received from the Ministers' offices, the departmental Executive and departmental officers in relation to the provision of regular status reports covering various aspects of ministerial services to the Board of Management and the Ministers' offices.

The refurbishment of the Department's computing infrastructure provided an improved standard of management information. The email system was replaced and key elements of the communications network infrastructure were upgraded to provide more reliable and enhanced performance.

Significant effort was involved in the successful separation of the Department's computing infrastructure to accommodate the administrative separation of the AGS.

PERFORMANCE MEASURE

Users regard departmental corporate systems as the authoritative source of accurate and reliable information.

PERFORMANCE OUTCOME

In order to meet changes in reporting requirements with the proposed introduction of accrual budgeting and output based reporting, a detailed selection process was undertaken to find a suitable financial replacement management system which would meet future departmental needs and year 2000 specifications. The Division implemented SAP R/3 with the approval of the Board of Management and with the assistance of the Deloitte & Touche Consulting Group, ICS, for use by the whole Department. The project was completed on time and within the allocated budget. The system performed to expectations.

Attorney-General's Department

Corporate computer systems, including the Department's finance, personnel and legal information retrieval systems, were maintained by the Division at high levels of availability and performance, and with a reduction in overall cost.

The Division maintained close contact with the Department of Finance and Administration in relation to the implementation of accrual budgeting and was represented on the Systems Reference Group.

The Division is responsible for the implementation of accrual budgeting within the Department. Work commenced on the development of an outcomes and outputs framework for implementation in 1999-2000 and the identification of the accrual budgeting training needs of staff.

PERFORMANCE MEASURE

Enhanced accountability through the timely identification of operational/system anomalies requiring remedial action.

PERFORMANCE OUTCOME

A program of continuous improvement was implemented in the Department aimed at promoting an efficient and effective organisation. The program places an emphasis on developing teamwork and cooperation to achieve solutions and outcomes that meet the needs of clients. The object of the program is to enhance productivity and to achieve cost savings as well as securing the commitment of staff by engaging them in the reform process.

Specific projects were initiated to:

- improve the process of handling ministerial correspondence;
- develop a flexible organisation;
- design an outputs/outcomes framework;
- develop an enhanced people strategy;
- improve communication and collaboration within the organisation;
- improve workplace health and safety, with particular regard to stress and occupational overuse syndrome.

The Division was a key driver of the Collaborative and Inclusive Organisation Project and the Outcomes and Outputs Framework Project. The former seeks to define the internal and external communications needs of the Department following the separation of the AGS. The project team is due to report in September 1998. The Outcomes and Outputs Framework Project was established to develop a framework for the implementation of accrual budgeting in the 1999-2000 financial year.

During the year the Board of Management approved a revision of the Audit Committee charter to ensure compliance with the Better Practice Guidelines of the Australian National Audit Office (ANAO). Subsequently the Audit Committee approved a revised version of the departmental internal audit charter. In the course of the year the Audit Committee considered responses to ANAO findings as well as monitoring those relating to internal audit reviews. Through effective liaison with the ANAO the widest possible audit coverage of departmental activities by the ANAO and internal audit was achieved.

Internal audit reviews were completed on budget in accordance with an approved annual work program. Audit findings were recognised by management as part of the process of continuous improvement as well as providing some assurances of effective management.

In response to the introduction of the *Financial Management Accountability Act 1997* (the FMA Act), the Division produced a set of Chief Executive instructions and procedural rules. The instructions and rules have regard to s. 44 of the FMA Act which requires the Secretary to manage the affairs of the Department to promote efficient and effective use of Commonwealth resources.

The Division revised the Department's directions prescribing departmental policy and procedures for the assessment and payment of Fringe Benefits Tax (FBT). The revision reflected the latest requirements with respect to FBT legislation and Australian Taxation Office (ATO) rulings on FBT costs.

The Division upgraded computer security systems with the introduction of new and improved computer virus checking procedures. Departmental computer security was further enhanced with the implementation of secure communications network gateways to cater for increased Internet traffic. A major initiative was introduced to deal with issues concerning year 2000 problems.

Strategy

Foster innovative, cost-effective and appropriately targeted operational support and services.

PERFORMANCE MEASURE

Targeted, timely provision of reference and research services.

PERFORMANCE OUTCOME

The Lionel Murphy Library continued to provide services for the Department and other portfolio agencies. It also assisted and supported the law libraries of Western Samoa, Tonga and Nauru by providing legal materials and professional services and advice.

A number of software applications were developed, and several existing applications redeveloped, using World Wide Web technologies. In addition, desktop access to legal research and management information via the Internet was made available through the use of the Secure Gateway Environment, a whole-of-government secure Internet 'firewall' facility.

PERFORMANCE MEASURE

Client satisfaction with service quality, availability, timeliness and cost.

PERFORMANCE OUTCOME

Feedback from clients has confirmed a high level of satisfaction with the timeliness and quality of services being delivered by the Division.

The Division provided a wide range of high-quality, cost-effective and timely support services to its clients during 1997-98. In addition to providing extensive assistance with the relocation of physical elements of the Department, the Division also played a significant role in the AGS separation process. The Division effected the relocation of the AGS from the Robert Garran Offices to its new accommodation at 51 Blackall Street, and provided ongoing records management assistance to the AGS in respect of the identification, editing and transfer of records.

Total costs for the delivery of IT facilities and services to the Department by the Division were significantly reduced. Where appropriate the Division's IT forward work plan and business case analysis methodology was used to target services of most value to clients. There was an increase in demand for IT services. Clients expressed satisfaction with quality, timeliness and cost of IT services provided.

PERFORMANCE MEASURE

Comparative performance with public sector and industry best practice in the provision of support services.

PERFORMANCE OUTCOME

Restructuring undertaken during 1997-98 in relation to the provision of support services placed the Division in a sound position to continue delivering high-quality, cost-effective and timely support services to clients, comparing favourably with public sector and industry best practice.

Attorney-General's Department

A review of departmental IT service requirements and service levels conducted by an external consultant was undertaken during the year. The review disclosed that high levels of service delivery and performance were being delivered at costs that compared favourably with industry standards. Preparation for market testing of IT services, in line with government initiatives, commenced.

PERFORMANCE MEASURE

The implementation of an effective individual performance monitoring program providing for regular performance feedback, and agreement to personal development plans

PERFORMANCE OUTCOME

The Division developed a new performance improvement program for all non-SES staff during the year. The program provides for the regular review of performance, incorporating simple non-prescriptive documentation and performance criteria which encapsulate the achievement and behavioural expectations required if the Department is to develop into the high-performance organisation it aims to be.



1.2 Civil Law Division

COMPONENT OBJECTIVE

Protection of the rights of individuals and provision of access to justice through development of appropriate domestic and international laws and structures.

ROLE

The Civil Law Division promotes and enhances the protection of the rights of individuals and their access to justice by developing an appropriate legal structure. The Division provides advice and formulates legislative initiatives in the areas of family and marriage law, administrative law, human rights and humanitarian law, legal procedure and judicial administration. It is also responsible for international legal cooperation in matters of civil procedure and family law.

The Division coordinates support for the Standing Committee of Attorneys-General (SCAG) and for the Secretary as a member of the Administrative Review Council (ARC). It provides research and secretariat support for the Family Law Council, the National Alternative Dispute Resolution Advisory Council and the Federal Costs Advisory Committee, and coordinates the Department's law and justice amendment legislation.

The Division is organised into the following components:

The **Civil Justice Branch** administers the *Judiciary Act 1903*, the *Jurisdiction of Court (Cross-vesting) Act 1987*, the *Law Officers Act 1964* and the *Mutual Recognition Act 1992*, as well as legislation dealing with Commonwealth courts and tribunals. It provides advice on administrative law issues, administers the *Administrative Decisions (Judicial Review) Act 1977* and is responsible for consideration and implementation of ARC reports.

The branch is also responsible for processing appointments to Commonwealth courts and tribunals. The branch supports the National Alternative Dispute Resolution Advisory Council. It also assists the Secretary in his membership of the ARC.

The **Human Rights Branch** deals with, and provides advice on, a wide range of human rights issues both internationally and domestically, and administers relevant legislation on race, sex and disability discrimination as well as the *Human Rights and Equal Opportunity Commission Act 1986*. The branch also provides advice on issues relating to HIV-AIDS and humanitarian law.

The **Family Law Branch** administers the *Family Law Act 1975* and the *Marriage Act 1961*, and is responsible for the implementation of the recommendations of the Joint Select Committee inquiring into the Family Law Act as well as reports for reform from such other bodies as the Family Law Council and the Australian Law Reform Commission (ALRC). The branch advises on international child abduction and maintenance matters, taking of evidence and service of process under multilateral conventions, and the enforcement of foreign judgments. The branch also supports the Family Law Council.

The **Legal Procedure Unit** is responsible for the *Service and Execution of Process Act 1992*, the *Evidence Act 1995*, the *Evidence and Procedure (New Zealand) Act 1994*, censorship legislation and implementation of the ALRC reports *Choice of Law* and *Cost Shifting: Who Pays for Litigation?* In addition, the unit is developing arrangements with New Zealand on a range of procedural and enforcement matters.

Resources Summary — Sub-program 1.2 Civil Law Division

FINANCIAL	1996-97 <i>Actual</i> \$(000)	1997-98 <i>Estimate</i> \$(000)	1997-98 <i>Actual</i> \$(000)
Appropriation Bill No. 1			
Running Costs			
Departmental			
• Salaries (120-1) (p)		190	12
• Other (120-1) (p)		369	177
Legal Practice			
• Salaries (121-1) (p)	5,701	3,669	3,498
• Other (121-1) (p)	5,141	3,940	3,907
RUNNING COSTS APPROPRIATIONS	10,842	8,168	7,595
Other Program Costs			
• Grants to Australian Organisations (120-2-01) (p)	231	237	212
• International Bodies — Membership contributions (120-2-02) (p)	83	85	78
• Compensation & Legal Expenses (120-2-04) (p)	463	526	526
TOTAL APPROPRIATIONS	11,619	9,016	8,411
Adjustments affecting Outlays			
• Revenue			
– Miscellaneous	6	4	4
• Trust Account Transactions — Law Enforcement Projects			
– Receipts	–	–	–
– Expenditure	130	–	–
• Section 35 (Audit Act) Receipts	271	22	22
TOTAL OUTLAYS	11,473	8,990	8,385
STAFFING			
Staff Years	57.1	51.3	57.5

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Strategy

Pursue a range of measures for enhancing legal structures, processes and procedures in areas such as courts and tribunals administration and alternate dispute resolution.

PERFORMANCE MEASURE

The degree to which initiatives:

- *increase equity and access to justice;*
- *implement government policy and take account of client group requirements;*
- *are effective and efficient.*

PERFORMANCE OUTCOME

Restructure of the Human Rights and Equal Opportunity Commission: On 8 April 1998 the Attorney-General introduced into the House of Representatives the Human Rights Legislation Amendment Bill (No. 2) to reorganise the Human Rights and Equal Opportunity Commission (HREOC) and rename it the Human Rights and Responsibilities Commission. The new structure proposed will consist of a President and three Deputy Presidents. One Deputy President will have general responsibility for sex discrimination and equal opportunity, one will have responsibility for human rights and disability discrimination and one will deal with Aboriginal and Torres Strait Islander social justice and race discrimination. The Deputy Presidents will also be able to develop expertise in other areas as necessary without, as is the case under the current structure, the need to consider appointing specialist commissioners as each new area develops. At 30 June 1998 the Bill was awaiting consideration in the Senate.

Attorney-General's Department

Child support: The government review of the principles underlying the Child Support Scheme, as well as options for improving the administration and design of the scheme, were announced together with the Government's response to the report of the Joint Select Committee on the Child Support Scheme in September 1997. Legislation giving effect to a number of the responses to the Joint Select Committee report was before the Parliament.

Small business access to the legal system: The Department commenced a review of small business access to the legal system. The review was one element of a package of measures announced in the Government's statement on fair trading, *New Deal: Fair Deal*, in September 1997. The objectives of the review were to make recommendations to the Government aimed at improving access to the Commonwealth civil legal system for small business; helping small business to resolve civil disputes without going to court; and assisting small business to identify and deal with legal issues before they become legal problems. The review team, based in the Civil Justice Branch, consulted small business, their advisers and business organisations, the courts and other relevant bodies about the difficulties small businesses face when dealing with disputes in courts and tribunals.

As part of the review, the Attorney-General will release a consultation paper in early 1998-99. Once the consultations are completed the review team will make recommendations to the Government on ways to improve access to justice for small business.

Restructure of merits review tribunals: The Department worked with other departments to develop proposals for government consideration in relation to the amalgamation of specialist merits review tribunals with the Administrative Appeals Tribunal. Such an amalgamation had been recommended by the ARC in its *Better Decisions* report. Following government consideration of the proposals in early 1998, the Department undertook consultations with the tribunals, relevant government agencies, peak bodies representing clients of the tribunals and other key bodies such as the ARC, the ALRC, the Law Council of Australia and Legal Aid Australia on implementation of the amalgamation proposal.

Primary dispute resolution services in family law: In September 1997, the Department released a discussion paper entitled *Delivery of Primary Dispute Resolution Services in Family Law*. The paper discussed possible changes to the management and delivery of primary dispute resolution services, including a greater role for community-based organisations. Submissions were received from lawyers, the Family Court, community organisations, community and court-based counsellors, community and legal services, legal aid providers, professional bodies and individuals.

The submissions enabled the Department to identify action required, including further research and development, to enable community-based services to take on a greater role in primary dispute resolution. A paper setting out the issues identified through consultation and those requiring further research was to be issued by the Attorney-General early in 1998-99. The Attorney-General also asked the Family Law Council and the Family Services Council to provide advice on relevant issues.

Administration of the federal court system: The Civil Justice Branch provided advice to the Attorney-General on the operation of the justice system and issues relating to jurisdiction of federal courts. The branch also assisted the Attorney-General in relation to the making of 33 appointments to federal courts and tribunals. This included 13 judicial appointments.

Review of fee scales: In accordance with the recommendations of the 1994 report on access to justice, and with funding provided from the 1995 Justice Statement, a review of the purpose and nature of fee scales in federal courts continued. Fee scales are used by courts for a variety of purposes. Although the level of the fees has been reviewed by the Federal Costs Advisory Committee on a regular basis, the content of the scales is outdated and fails to take into account technological developments. The work of the review is directed by a steering group consisting of judicial and other representatives of the High Court, Federal Court and Family Court, and members of the Law Council and the Department. Much of the work of the review is being undertaken by Professor Philip Williams of the University of Melbourne.

Strategy

Develop effective policy and legislation.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General, Minister for Justice and client groups with policy initiatives developed.

PERFORMANCE OUTCOME

China human rights dialogue: In August 1997 the Human Rights Branch played a major role in the first meeting of representatives of the People's Republic of China and the Commonwealth of Australia in Beijing as part of ongoing bilateral discussions on issues concerning human rights.

That dialogue included discussions with a number of key Chinese government agencies and officials directly responsible for matters affecting human rights in China.

One of the key outcomes was an agreement between the two countries to initiate a program of technical cooperation specifically aimed at China's needs in the promotion, protection and administration of human rights. The second meeting of representatives was scheduled to take place in August 1998 in Australia.

Human rights reports: The Human Rights Branch provided input into various human rights reports, and in particular to the report to the UN Committee on the Elimination of Racial Discrimination. The branch was also represented on the Australian delegation which appeared before the UN Committee on the Rights of the Child in Geneva in September 1997. At this meeting the committee considered Australia's first report under the UN Convention on the Rights of the Child.

Development of international instruments: The Human Rights Branch was a participant in three UN working groups developing optional protocols to the Convention on the Rights of the Child, the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women.

Sex Discrimination Amendment Bill 1996: This Bill was introduced into the Parliament on 6 November 1996, and was passed by the House of Representatives. If enacted the Bill will remove or limit exemptions contained in the *Sex Discrimination Act 1984* (SDA), thus making the law fairer by removing or limiting protection for unjustified discrimination. The Bill implements the outcomes of a review conducted in accordance with s. 40A of the SDA. The Bill awaits passage by the Senate.

Human Rights Legislation Amendment Bill (No. 1) 1998: The Bill transfers the determination function from HREOC to the Federal Court and makes significant changes to the functions of the commissioners in relation to complaint handling. To streamline existing processes the function of dealing with complaints has been transferred to the President of HREOC. The President will not be able to delegate this function to any of the commissioners.

Additionally, the Bill confers on the President the role and functions of Chief Executive Officer and provides for common definitions and best practice procedural provisions for complaint handling. Provisions relating to complaints are removed by this Bill from the *Race Discrimination Act 1975* (RDA), the SDA and the *Disability Discrimination Act 1992* (DDA) and centralised in the *Human Rights and Equal Opportunity Commission Act 1986*. The Bill was passed in the House of Representatives on 19 June 1997 and referred to the Senate Legal and Constitutional References Committee for consideration. The committee submitted a report on the Bill to which the Government responded. The Bill is currently awaiting passage in the Senate.

Human Rights Legislation Amendment Bill (No.2) 1998: In addition to the reforms of the offices of the commissioners the Bill makes a number of other changes. Education, dissemination of information on human rights and assistance to business and the general community are central functions of the new commission. The Bill also provides for an Office of the Privacy Commissioner as a separate statutory authority. There is no other change to the functions or powers of the Privacy Commissioner.

Attorney-General's Department

The new commission, with the approval of the Attorney-General, will have the power to intervene in court proceedings which involve human rights or discrimination issues. The Community Relations Council, and the provision for the establishment of advisory committees, are abolished. The new commission will not have powers of delegation under the DDA, the RDA and the SDA. Under the renamed Human Rights and Responsibilities Commission Act there will be one delegation provision. In addition the new commission will not have a power to recommend the payment of damages or compensation following inquiries into certain types of complaints.

Disability standards: During 1997–98 the Human Rights Branch was engaged in the development of disability standards under the DDA. Such standards are designed to make clearer the rights and obligations provided for by the DDA. In conjunction with a number of other agencies, work was undertaken in relation to possible draft standards in the areas of:

- public transport — a revised draft regulation impact statement with updated information from the States and Territories is being prepared for release in August 1998;
- employment — a redrafted standard was circulated for consultation;
- education — a task force of the Ministerial Council on Employment, Education, Training and Youth Affairs was established to consider issues relating to standards in education, and a discussion paper was circulated. Responses supported the development of a draft standard in this area.

The Human Rights Branch also assisted the Australian Building Codes Board (ABCB) with a review of the access provisions of the Building Code of Australia to ensure the provisions of the code dealing with access for people with a disability meet the requirements of anti-discrimination law. The ABCB conducted consultations on possible changes to the code, and a document detailing these changes was released in July 1997 and subjected to extensive consultation. In January 1998 the ABCB also published a regulation impact statement on the draft proposals which was the subject of major consultation. In June 1998 the ABCB published a report of the proposals that it intended to recommend be inserted into the Building Code of Australia in January 1999.

Evidence Act: Proposals for minor amendments to the Evidence Act were developed in consultation with the Evidence Act Monitoring Committee. The Evidence Regulations were amended to modify the requirements relating to notice of intention to adduce certain kinds of evidence.

Service and execution of process: The Service and Execution of Process Regulations were amended to enable Sheriff's officers in three States and the ACT, and bailiffs in the ACT, to execute warrants relating to interstate fine enforcement, and to amend certain forms.

Matrimonial property: The Attorney-General and the Treasurer jointly released a position paper on superannuation and family law on 19 May 1998. The Department's examination of matrimonial property, superannuation in the benefits stage and spousal maintenance continued in line with the Government's election commitment to review matrimonial property reforms to ensure greater certainty and clarity in allocation, and to protect the interests of all parties. It is expected that a position paper will be released in 1998–99.

Section 121 review: Section 121 of the Family Law Act prohibits the publication of information about parties to Family Court proceedings. The Parliament has on two occasions considered and made significantly different recommendations on s. 121. The Attorney-General is considering a review by the former Chief Judge of the Family Court of Western Australia, the Hon. Ian McCall AO.

Hague Conference on Private International Law: The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for Protection of Children was concluded at the Hague on 19 October 1996. The Division consulted widely with the State and Territory governments, courts and interest groups on the implications of the convention for Australia. The issue of Australia's ratification of the convention is under consideration by SCAG and the Community Service Ministers' Conference.

Hague Convention on Intercountry Adoption: Agreement was concluded with State and Territory governments on arrangements for the implementation in Australia of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Following acceptance by the Standing Committee on Treaties, ratification is expected early in 1998-99.

Hague Convention on Taking of Evidence Abroad: The Division administers the Hague Convention on Taking of Evidence Abroad in Civil and Commercial Matters. The Division also administers a number of bilateral treaties regarding assistance in legal proceedings in civil and commercial matters, in particular assistance in effecting service of process through diplomatic channels and in arranging for the taking of evidence for foreign legal proceedings. In November 1996 the text of a draft bilateral treaty with Thailand, the Agreement on Judicial Assistance in Civil and Commercial Matters and Cooperation in Arbitration, was finalised after extensive consultation with the State and Territory governments and interested groups. The treaty was signed in November 1997 and is to commence operation in July 1998.

Foreign Judgments Regulations: The Division administers the *Foreign Judgments Act 1991*. The Foreign Judgments Regulations implement reciprocal arrangements on the recognition and enforcement of judgments in civil and commercial matters with foreign jurisdictions. Australia participated in the work of the Hague Conference on Private International Law to develop a new multilateral convention on recognition and enforcement of civil judgments. The Division takes an active role in disseminating information to the public and legal practitioners on the registration and enforcement of foreign judgments.

'Grey letter' law: The Civil Justice Branch participated in an interdepartmental committee chaired by the Office of Regulation Review which examined the extent of 'quasi-regulation' — the term used to describe the range of rules, instruments and standards where government influences business to comply, but which does not form part of explicit government regulations (i.e. is not 'black letter' law). The report of the committee was submitted to the Assistant Treasurer in December 1997 and a formal government response was awaited.

Strategy

Provide high-quality legal services, legal advice and legal policy advice to the Attorney-General, Minister for Justice and Commonwealth departments and agencies.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General, Minister for Justice and client groups with service provided. Objective, comprehensive, accurate and timely advice.

PERFORMANCE OUTCOME

The Human Rights Branch organised three meetings of the Attorney-General's forum of non-government organisations (NGOs) to discuss domestic human rights issues and to enable advice to be provided to the Attorney-General and to other relevant agencies on current domestic human rights concerns and their policy implications. The meetings were held in August and December 1997 and May 1998. Thirty-five NGOs attended. It was resolved that such meetings should occur annually.

Major legal and legal policy advice included:

- briefings on the further consideration by SCAG on the ALRC's report into the recognition of Aboriginal customary law and the possible recognition of such law in a possible constitution for a Northern Territory State;
- advice to the Great Barrier Reef Marine Park Authority on proposed dugong protection measures and the RDA;
- advice on a number of aspects of HREOC's report on the separation of Aboriginal and Torres Strait Islander children;

Attorney-General's Department

- advice on a number of significant litigation matters involving constitutional issues and the RDA;
- advice on issues concerning the use of human genetic material, including a submission to the Senate Legal and Constitutional Affairs References Committee on the Genetic Privacy and Non-Discrimination Bill 1998;
- advice on the compatibility of the RDA and the two-year waiting period for newly arrived migrants for certain benefits.

The Department was also involved in a task force providing advice to the Government on the development by the UN of the Draft Declaration on the Rights of Indigenous Peoples, particularly in relation to issues concerning self-determination.

The Human Rights Branch provided advice to the Attorney-General and other departments and agencies on the Sex Discrimination Act.

The Division completed a report to the Australian National Council on AIDS and Related Diseases on the state of implementation, in each Australian jurisdiction, of the recommendations for law reform of the Legal Working Party of the Intergovernmental Committee on AIDS.

The Department commenced consideration of the ALRC and HREOC report entitled *Seen and Heard* concerning children and the justice system.

Following a process of public consultation the Legal Procedure Unit provided advice to the Attorney-General about the ALRC's report *Beyond the Doorkeeper: Standing to Sue for Public Remedies*. The Government decided not to implement any of the recommendations in this report.

In response to the Government's election commitment to undertake a statute stocktake of Commonwealth legislation, the Legal Procedure Unit was involved in the development of the Statute Stocktake Bill 1997. The Bill provides for repeal of redundant Acts. The unit coordinated material for the Attorney-General relating to the repair of existing legislation.

Censorship: The Legal Procedure Unit continued to provide legal policy advice on a wide range of censorship issues. These included amendments to the *Classification (Publications, Films and Computer Games) Act 1995*, recommendations arising from the report of the Ministerial Committee on the Portrayal of Violence, issues arising from the Government's censorship policies and introduction of full cost recovery for the Office of Film and Literature Classification.

Marriage: Extensive advice was provided on the operation and interpretation of the Marriage Act to other areas of the Department and to other departments, to registrars of births, deaths and marriages and to marriage celebrants. Issues of particularly high public profile included that of under-age marriage, and whether the concept of covenant marriages developed in some US States should be adopted in Australia.

Perjury: The Department considered a large number of allegations of perjury and contempt during the year. These allegations represented a significant workload as the papers provided by complainants were generally extensive and complex. Matters were referred to the Department by individuals, the Family Court and the Australian Federal Police (AFP). The role of the Department is to consider, in accordance with the prosecution policy of the Commonwealth, whether a *prima facie* case of the commission of an offence exists.

Several cases were referred to the AFP for further investigation. Some were also referred to the Australian Taxation Office or the Department of Social Security for further action in relation to evidence of tax evasion or fraud.

Child support review: The Department participated in the development of a response to the report of the Joint Select Committee on Certain Family Law Issues for consideration by the Government. A government members sub-committee on child support was formed, which provided advice to the Assistant Treasurer and the Minister for Social Security. In addition to consideration and development of proposals regarding recommendations of the Joint Select Committee, those concerns of the sub-committee which related to family law were taken into account in developing options for the Government.

Intervention: The Attorney-General receives a number of requests each year for intervention, and notices under s. 78B of the Judiciary Act, in relation to cases before the Family Court. The Department considers each request and provides advice to the Attorney-General where intervention is warranted.

The Attorney-General appeared personally in an intervention before the Full Court of the Family Court in the first case in which major issues of the interpretation and role of the objects and principles of the new Part VII of the Family Law Act, inserted by the *Family Law Reform Act 1995*, were fully explored by the court. The court's judgment, handed down on 9 July 1997, accepted the importance of the changes and the central arguments advanced by the Attorney-General. The Department provided advice on a number of cases in which the issue of confidentiality of counselling sessions, provided for by s. 19N, was an issue. Decisions in those cases were awaited.

Domestic violence: The Division was represented on the Domestic Violence Forum Steering Committee, which developed proposals for consideration of domestic violence issues. The forum, convened by the Office of the Status of Women, was held in September 1996. The Division also provided input into a review of Division 11 of Part VII of the Family Law Act, which deals with the interaction between the Family Law Act and State domestic violence legislation.

International child abduction: The Division is responsible for the operation and administration in Australia of the Hague Convention on Civil Aspects of International Child Abduction. During 1997-98, 62 applications were received from parents in Australia seeking return of their children from other convention countries. Children were returned in 18 cases, 11 applications were withdrawn, 22 applications were pending and 11 applications were rejected by foreign agencies. At the same time 49 applications were received from other convention countries requesting the return of children brought to Australia. Children were returned from Australia in 21 cases, six applications were withdrawn, 16 applications were pending and six applications were rejected. The combined total of applications in 1997-98 was 111, involving 148 children. In addition to the abduction applications, there were seven access applications made under the convention affecting 10 children.

This work was the subject of considerable media attention. The Division's publications on child abduction continued to be sought, and numerous requests for information and advice were received from the public and legal practitioners. The Division worked closely with the Department of Foreign Affairs and Trade on a number of difficult cases involving Australian children taken to other convention countries.

Criminal penalties for child abduction: The Attorney-General referred the question of new criminal penalties for child abduction to the Family Law Council for consideration and advice. The council's report on the subject was finalised and sent to the Attorney-General in February 1998.

Overseas child maintenance: The Division administers overseas child maintenance arrangements under a number of bilateral agreements and under the multilateral UN Convention on the Recovery Abroad of Maintenance. Under the bilateral agreements for reciprocal registration and enforcement of maintenance orders, the Division sent 204 Australian orders overseas and received 118 foreign orders for registration and enforcement in Australia. Under the UN convention, 23 applications for maintenance were sent to other convention countries and 62 applications were received from other convention countries.

Reciprocal arrangements for child support: Work commenced on developing new legislation for the improvement and extension of Australia's current system for enforcing Australian child support liabilities overseas, including possible Australian accession to the Hague Convention on the Recognition and Enforcement of Maintenance Obligations.

Public awareness of maintenance arrangements to improve the effectiveness of those arrangements was increased through the continued distribution of publications, media publicity for the Division's role in assisting parents and responses to the public's requests for advice.

Reciprocal arrangements for service of documents: During 1997-98 the Division sent 13 applications for service to overseas countries and received 16 applications from overseas countries.

Attorney-General's Department

Taking of evidence abroad: During 1997–98 requests were forwarded to two overseas countries while 14 countries made requests on Australian jurisdictions.

Among the more significant legislative and related policy proposals worked on were:

- corporatisation of government businesses;
- changes to private health insurance arrangements;
- merits review of decisions under trade practices regulations;
- reform of Aboriginal and Torres Strait Islander heritage protection;
- changes to visa decision-making under migration legislation;
- reform of the migration advice industry;
- changes to infrastructure borrowing arrangements;
- aspects of the new arrangements for the Australian Government Solicitor;
- changes to national transmission network arrangements;
- changes to gas pipelines access arrangements;
- reform of road transport regulation;
- development of national environment protection legislation;
- reform of the Australian financial system;
- reform of Australia's anti-dumping system;
- development of regional forest agreements;
- television broadcasting reforms;
- changes to review of decisions within the Veterans' Affairs portfolio.

Review of the ARC: The Civil Justice Branch advised the Attorney-General in relation to the report by the Senate Legal and Constitutional Legislation Committee on the role and function of the ARC.

Strategy

Fully develop the skills and knowledge of staff in their particular areas of operation by providing focused professional and personal development opportunities to enable them to provide quality service to our clients.

PERFORMANCE MEASURE

Satisfaction or effectiveness measured through the regular assessment of staff development.

PERFORMANCE OUTCOME

Officers in the Division attended conferences on family law, discrimination law and administrative law issues, as well as conferences with others working in related areas, to enhance their knowledge of the subject area. The Division encouraged an open working environment, facilitating regular feedback and dialogue and conducting performance appraisals to ensure that officers were able to improve their performance continually.



1.3 Criminal Law Division

COMPONENT OBJECTIVE

A fair and effective criminal justice system at the national level, which responds to government priorities and current and emerging needs, and addresses the international character of much criminal activity.

ROLE

The responsibilities of the Criminal Law Division relate to criminal law and the Commonwealth criminal justice system. The Division is responsible for legal and policy advice and for assisting the portfolio Ministers — the Attorney-General and Minister for Justice — in the administration and improvement of relevant legislation and international arrangements, multilateral and bilateral.

The Division assists the Ministers with their responsibilities for criminal law reform, including development of the Commonwealth Criminal Code and the model uniform code, and review of laws relating to law enforcement powers and safeguards, sentencing and administration of Commonwealth prisoners, penalty levels and proceeds of crime and other confiscation provisions. Relevant statutes administered by the Attorney-General include the *Director of Public Prosecutions Act 1983*, the *Financial Transaction Reports Act 1988*, the *Proceeds of Crime Act 1987* and the *Crimes Act 1914*, including its provisions relating to Commonwealth prisoners.

With respect to international matters the Division's functions extend to extradition, mutual assistance in criminal matters and business regulation, the status of foreign visiting forces and work on proposals with respect to international transfer of prisoners and an international criminal court.

The Division examines and advises on all draft legislation (including subordinate legislation) which impacts upon Commonwealth criminal law, for example by creating or amending an offence, by conferring an intrusive power such as a power of entry or arrest, by affecting the privilege against self-incrimination or by raising issues relating to evidence or procedure in criminal matters.

The purpose of the Division's scrutiny of legislation is to ensure that any proposals accord with Commonwealth criminal-law policy and are in a form acceptable to the Parliament and its committees (principally the Senate Scrutiny of Bills Committee). The focus is on providing practical solutions to problems. The scrutiny process impacts on social justice by ensuring that different regulatory regimes do not apply different standards without justification, which is particularly important where personal liberty might be at stake.

Resources Summary — Sub-program 1.3 Criminal Law Division

FINANCIAL	1996-97	1997-98	1997-98
	<i>Actual</i>	<i>Estimate</i>	<i>Actual</i>
	<i>\$('000)</i>	<i>\$('000)</i>	<i>\$('000)</i>
Appropriation Bill No. 1			
Running Costs			
• Salaries (121-1) (p)	2,520	2,535	2,460
• Other (121-1) (p)	2,376	2,502	2,344
RUNNING COSTS APPROPRIATIONS	4,895	5,036	4,804
Other Program Costs			
• International Bodies — Membership contributions (120-2-02) (p)	14	-	-
• Compensation & Legal Expenses (120-2-04) (p)	4	30	30
TOTAL APPROPRIATIONS	4,913	5,067	4,834
Adjustments affecting Outlays			
• Section 35 (Audit Act) Receipts	54	6	6
TOTAL OUTLAYS	4,859	5,060	4,828
STAFFING			
Staff Years	34.8	35.0	35.4

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Strategy

Improve and update Commonwealth criminal laws.

PERFORMANCE MEASURE

Submission to the Attorney-General and Minister for Justice of practical reform proposals in accordance with a timetable for progressive development of the Commonwealth Criminal Code. Progressive harmonisation of other statutes aiming at completion of harmonisation by 1999-2000.

PERFORMANCE OUTCOME

Proposals for implementation of the model criminal code report *Theft, Fraud and Related Offences in the Commonwealth Criminal Code* were approved by the Government. Drafting instructions were issued to the Office of Parliamentary Counsel.

The harmonisation of other statutes continued. The Government decided that the timetable for completion of harmonisation should be March 2000, when the general principles of criminal responsibility contained in the Criminal Code will apply to all Commonwealth offences.

PERFORMANCE MEASURE

Timely submission of proposals for new or amending legislation, in accordance with Attorney-General's priorities, with special priority given to urgent amendments. All legislative proposals developed through the appropriate consultative processes. Appropriate advice and support to Ministers and their offices in progressing Bills through the Parliament.

PERFORMANCE OUTCOME

The rapid preparation and passage of the *Criminal Code Amendment Act 1998* introduced more appropriate rules concerning the criminal responsibility of an accused who is intoxicated.

Attorney-General's Department

An exposure draft of the Criminal Code Amendment (Bribery of Foreign Officials) Bill 1998 was circulated in February 1998 for public consultation and consideration by the Joint Standing Committee on Treaties. The committee was expected to report on the relevant Organisation for Economic Cooperation and Development (OECD) convention and the proposed Bill in July 1998.

The Criminal Code Amendment (Slavery and Sexual Servitude) Bill 1998 was prepared for introduction into the Parliament. The aim of this important legislative project was to overhaul the Imperial enactments on slavery and slave trading (some aspects of which had become unenforceable) and develop new offences to deal with the increasingly serious international problem of sexual servitude.

The Bill was in part made possible by the preparation of model offences by the Model Criminal Code Officers Committee, which sought to achieve consistency between Commonwealth, State and Territory slavery and sexual servitude offences. In May 1998 the Standing Committee of Attorneys-General circulated a discussion paper on the model offences for the purposes of public consultation supporting appropriate legislation.

Legislation proposals were also prepared with respect to amendments to portfolio legislation relating to international law enforcement cooperation. The aim of the proposed amendments was to rectify minor deficiencies in the current legislation and to clarify a number of provisions.

The Division prepared regulations amending the Financial Transaction Reports Regulations to install an identification regime for customers of bullion sellers (including companies). Because of the nature of the industry a lengthy process was required to refine the regulations to create an administratively workable policy. However, the final product was agreed in all respects with the Australian Securities Commission, the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the larger players in the bullion industry.

The Financial Transaction Reports (FTR) Act was amended in October 1997, adding the NSW Police Integrity Commission and the Australian Bureau of Criminal Intelligence as recipients of FTR information.

The Crimes (Superannuation Benefits) Amendment Bill 1997 was introduced in the House of Representatives by the Attorney-General on 26 November 1997. The Bill implements some key changes to the *Crimes (Superannuation Benefits) Act 1989* and Part VA of the *Australian Federal Police Act 1979*. These changes include:

- allowing the tracing of amounts that have been paid to superannuation providers (e.g. amounts that have been rolled-over) and enabling them to be recovered under a superannuation order;
- enabling the Official Trustee to take custody and control of restrained property and to sell or otherwise dispose of it in satisfaction of a superannuation order;
- providing a mechanism by which persons charged with or convicted of corruption offences may have their employer-funded superannuation benefits temporarily suspended;
- facilitating the provision of information to the Commonwealth by superannuation entities concerning Commonwealth employees;
- simplifying the way in which information is provided to a court that certifies the amount of a person's superannuation benefits in superannuation order proceedings, including the tracing and recovery of benefits that are rolled-over into private funds and the suspension of employer-funded benefits of a Commonwealth employee on being charged (or convicted) of an offence involving corruption.

The *Crimes Amendment (Enforcement of Fines) Act 1998* was passed by the Parliament on 22 June 1998 and commenced operation on 29 June 1998. The Act allows new fine default penalties to be imposed on federal offenders (e.g. driver's licence cancellation) and resolves existing conflicts between applied State and Territory fine enforcement laws and the separation of powers requirements under the Commonwealth Constitution.

A further Bill being considered by Parliament was the Crimes Amendment (Forensic Procedures) Bill 1997, based on model legislation developed by the Model Criminal Code Officers Committee. It will regulate the authorisation and conduct of forensic procedures on persons suspected of indictable offences against

Commonwealth law, and will clarify the powers available to police to conduct forensic procedures while introducing a number of safeguards to ensure protection of the rights of suspects. It will also regulate the retention, storage, use and admissibility of forensic procedure results. Because the procedures involved are intrusive by nature, extensive consultation occurred with various civil liberty groups before parliamentary introduction to ensure that the need for effective law enforcement was appropriately balanced with the need to protect the rights of the individual. The Bill enhances the investigative repertoire available to law enforcement bodies, giving access to modern technological aids to investigation. It impacts on social justice in that it provides comprehensive safeguards for suspects, including special provisions for the protection of vulnerable groups such as children, Aboriginal and Torres Strait Islander people, those incapable of managing their own affairs and those whose command of English is inadequate.

PERFORMANCE MEASURE

Relevant legislative proposals and draft legislation of other areas and portfolios scrutinised for conformity with Commonwealth criminal law policy.

PERFORMANCE OUTCOME

During 1997–98 the Division examined approximately 120 Bills.

This examination often raises complex legal and policy issues, including issues relating to the application of the principles of the *Criminal Code Act 1995* principles, powers of arrest, entry, search, seizure and forfeiture, reversal of the onus of proof, corporate liability, inchoate offences, self-incrimination and civil and administrative penalties.

Strategy

Contribute to the development of, and Australian participation in, international arrangements, programs and proposals in the criminal justice field.

PERFORMANCE MEASURE

Extradition and mutual assistance casework handled in accordance with deadlines so that process does not break down for preventable reasons. Policy advice, legal advice, briefing and other support provided to the Attorney-General and the Minister for Justice as required.

PERFORMANCE OUTCOME

Extradition casework is handled in accordance with statutorily imposed deadlines and international treaty obligations. During 1997–98 the number of new extradition requests made by Australia was similar to that during 1996–97. The number of extradition requests made to Australia was also similar to that during 1996–97. Further details can be found at Appendix 11.

During 1997–98 there was an increase in the number of requests made to Australia for mutual assistance in criminal matters, although there was a decrease in the number of requests made by Australia. There was an overall reduction in the number of outstanding requests. However, the increasing use of procedural challenges on the mutual assistance process, and the complexity of multijurisdictional fraud cases being handled, meant that cases generally took longer to complete. Further details are at Appendix 11.

The Attorney-General is authorised under the *Migration Act 1958* to issue Criminal Justice Certificates to non-citizens who are required in Australia for criminal justice purposes. A breakdown of these figures is provided at Appendix 11.

The International War Crimes Tribunal remained active in seeking Australian assistance in locating and interviewing witnesses and potential suspects. The Division, along with other relevant departments, plays an active role in coordinating arrangements to ensure that suspected war criminals are identified.

Attorney-General's Department

The Attorney-General and the Minister for Justice were provided with policy and legal advice as well as briefing and other support in relation to extradition and mutual assistance matters. During the course of the year a number of extradition cases, such as the Dunn request to the US, received significant media coverage. The hand-over of Hong Kong to the People's Republic of China by the United Kingdom on 1 July 1997 resulted in a successful appeal to the High Court by the Attorney-General during the course of the year on the validity of Australia's extradition arrangements with Hong Kong. The Attorney-General also successfully resisted a Federal Court challenge to the validity of a mutual assistance request which Australia made to Switzerland in relation to investigations of Mr Alan Bond.

PERFORMANCE MEASURE

Treaties and other international arrangements updated and kept under review in accordance with current policies and programs and as developments require. Advice on current and proposed arrangements, briefing and other support provided to the Attorney-General as required.

PERFORMANCE OUTCOME

Australia's international criminal justice interests were advanced by continuing efforts to increase the network of treaties on extradition and mutual assistance in criminal matters where appropriate. During the year extradition treaties with Paraguay and Poland were signed and a mutual assistance in criminal matters treaty with Ecuador entered into force.

On 1 November 1997 the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime entered into force for Australia.

The Division provided briefings for negotiations in respect of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Government began considering whether Australia should become a party to the convention.

Negotiations for extradition and mutual assistance in criminal matters treaties continued with several countries. Six treaties were considered to be close to finalisation. Efforts to modernise extradition arrangements with selected Commonwealth countries continued.

PERFORMANCE MEASURE

Establishment of a Commonwealth-State scheme for the international transfer of prisoners progressed as far as possible within Commonwealth and State legislative programs and priorities.

PERFORMANCE OUTCOME

The Commonwealth was awaiting the passage of complementary legislation in each of the participating States and Territories. Such legislation was enacted in NSW, Queensland, South Australia and Tasmania, and a Bill was introduced into the Victorian Parliament. The remaining jurisdictions were expected to introduce appropriate legislation and consultations on this issue were continuing. Once the domestic legislation is passed, Australia will be able to conclude the international arrangements required before transfer of prisoners can commence. Preparatory steps were being taken to enable these arrangements to be brought into effect as soon as possible after the enactment of the domestic legislation.

PERFORMANCE MEASURE

Australian position on the proposed International Criminal Court developed and presented effectively at international meetings. Proposals for constructive participation in UN criminal justice program, multilateral conventions and South Pacific technical cooperation developed and pursued to extent of available resources. Appropriate support provided for Australian representation at Commonwealth law ministers and senior officers meetings and the Pacific Islands Law Officers Meeting (PILOM).

PERFORMANCE OUTCOME

The Division continued to play a key role in respect of Australia's participation in UN negotiations on the establishment of an International Criminal Court and in the development of Australia's position on this matter. Officers from the Division were members of the Australian delegations at meetings of the preparatory committee to prepare a draft statute in December 1997 and March-April 1998, and the Division was represented on the Australian delegation to the diplomatic conference being held in Rome from 15 June to 17 July 1998.

The Acting Deputy Secretary and an officer of the Division represented Australia at the 1997 PILOM held in Nuku'alofa, Tonga, in October 1997. Preparations began for the 1998 PILOM, to be held in Canberra in October 1998.

An officer of the Division accompanied the Secretary at the Meeting of Senior Officials of Commonwealth Law Ministries in London on 26-29 May 1998. This meeting considers legal and related issues of common interest, including cooperative law enforcement arrangements within the Commonwealth, support for human rights and good governance in Commonwealth countries and assistance in relation to law and justice matters for smaller and less developed member countries. An officer of the Division also represented Australia at the Joint Meeting of Commonwealth Finance and Law Officials on Money Laundering held in London on 1-2 June 1998.

The Division remains responsible for coordinating Australia's involvement in the UN Commission on Crime Prevention and Criminal Justice. Australia is an observer at the commission. At the seventh session, held in Vienna on 21-30 April 1998, the Australian delegation achieved solid results in respect of resolutions on international cooperation against organised transnational crime, illicit trafficking of firearms and smuggling of aliens. In February 1998 the Division represented Australia at a meeting of an intergovernmental group of experts working on a preliminary draft of a possible convention against organised transnational crime. An officer of the Division also represented Australia at the Asian Regional Ministerial Meeting on Transnational Crime held in Manila on 23-25 March 1998. This meeting produced the Manila Declaration on the Prevention and Control of Transnational Crime.

During the year the Division's policy role in relation to Australia's participation in the Financial Action Task Force and money laundering issues was transferred to the Law Enforcement Coordination Division. However, the Criminal Law Division continued to support the work of other portfolio agencies in this area as appropriate.

Strategy

Support Attorney-General and Minister for Justice in the administration of relevant portfolio legislation and related responsibilities of office.

PERFORMANCE MEASURE

Setting up and maintaining a system for the efficient administration of matters relating to Commonwealth prisoners and applications by persons convicted of Commonwealth offences. Processing of such matters and applications within deadlines and to the satisfaction of the Attorney-General and the Minister for Justice.

PERFORMANCE OUTCOME

The Division provides assistance and advice to the Attorney-General, the Minister for Justice and senior departmental officers acting as delegates in relation to a range of matters concerning federal offenders. The Division's activities in this area are directed to community safety, ensuring justice for individual offenders and securing effective law enforcement.

Attorney-General's Department

Community safety: The Division provides advice on whether an offender should be granted parole, on the conditions that should be imposed on parole or early release and on whether a parole order or release licence should be revoked for breach of conditions.

Justice: The Division provides advice on whether there are exceptional circumstances justifying the early release of a prisoner on licence, or justifying the full or partial remission of a penalty. Early release on licence may be granted, for example, if the prisoner provides substantial assistance to law enforcement authorities, and remission of a fine may be granted if the fine will cause undue hardship. The Division advises whether or not an application for the interstate transfer of a prisoner on welfare grounds deserves support, and whether the overseas travel of a person on parole or early release should be approved.

Where it is claimed that fresh evidence casts doubt on the correctness of a conviction, the Division advises whether there is justification for granting a pardon or for statutory review of the conviction by a court. The Minister for Justice referred two convictions to State appeal courts during 1997–98, thereby allowing consideration of significant new evidence in circumstances where appeal rights had been exhausted.

Law enforcement: The Division facilitates law enforcement cooperation with prisoners — by providing advice on whether to grant a prisoner early release for such cooperation, for example — and with correctional authorities (e.g. by advising whether or not to support the interstate transfer of a prisoner to stand trial).

The Attorney-General, the Minister for Justice and departmental officers acting as delegates made decisions in 186 matters relating to federal offenders submitted to them by the Division during 1997–98.

PERFORMANCE MEASURE

Timely and practical advice, briefing and other support provided to the Attorney-General and the Minister for Justice with respect to their statutory and other responsibilities, particularly in relation to prosecutions, proceeds of crime and cash transaction reporting

PERFORMANCE OUTCOME

The Minister for Justice was briefed on and made, within the required time, a determination of the amount in the Confiscated Assets Trust Fund that could be transferred to consolidated revenue under s. 34D of the Proceeds of Crime Act.

Under s. 30(4A) of the Act the Minister was briefed in relation to her decision to authorise the Commonwealth being registered as owner of real property, forfeited under s. 30, to the value of \$700 000.

The Minister was also briefed on 13 people in relation to her authorising the Director of Public Prosecutions under s. 16 of the Crimes (Superannuation Benefits) Act to apply for a superannuation order in respect of each of those people. The superannuation order effects the confiscation of employer contributions or benefits made or payable by the Commonwealth or a Commonwealth authority under any superannuation scheme.

Strategy

Promote improvement and rationalisation of criminal laws of all Australian jurisdictions.

PERFORMANCE MEASURE

Timely and practical advice, briefing and other support to the Attorney-General and the Minister for Justice with respect to the model criminal code project. Efficient provision of secretariat and other services to the Model Criminal Code Officers Committee to maintain progress in development of the code and other cooperative law reform projects

PERFORMANCE OUTCOME

It was a productive year for the model criminal code project. Two final reports were developed by the Model Criminal Code Officers Committee, *Contamination of Goods Offences* (March 1998) and *Administration of Justice Offences* (June 1998). Discussion papers were issued in relation to slavery and sexual servitude offences (April 1998) and fatal offences against the person (June 1998). Following the model criminal code discussion paper *Serious Drug Offences*, released in June 1997, the Department issued the discussion paper *Commonwealth Serious Drug Offences* in February 1998. This paper proposed ways of harmonising Commonwealth offences with the model criminal code proposals.

PERFORMANCE MEASURE

So far as practicable, constructive participation in ministerial councils and related officers' meetings to promote adoption of uniform, cooperative or complementary approaches on criminal law issues.

PERFORMANCE OUTCOME

A working group established by SCAG to develop model domestic violence legislation completed a discussion paper which was launched by the Prime Minister, Premiers and Chief Ministers at the Domestic Violence Summit in November 1997. The public response was very positive. A final report based on consultation was being developed for release later in 1998.

The Division participated in the development of a complementary proposal by the Commonwealth, States and Territories for the regulation of electronically transmitted material. The National Office for the Information Economy has major carriage of the Commonwealth aspects of this initiative, which involves an essentially self-regulatory scheme with criminal sanctions for serious breaches by Internet service providers of rules under the *Broadcasting Services Act 1992* or a registered code of practice. The Division has responsibility for the development of this scheme.

Through the Censorship Ministers Forum, consisting of ministers with censorship responsibilities from all jurisdictions, the Division played a major part in the development of proposed model legislation to be enacted by States and Territories to regulate the conduct of persons providing content to online sites. A draft Bill was prepared and was being considered by States and Territories.

In SCAG the Division had carriage of a project to prohibit all aspects of slavery and sexual servitude. The Commonwealth developed a proposal dealing with the international aspects of this conduct, and assisted in the development of complementary State and Territory legislation.

A further SCAG project for which the Division had responsibility involved a proposal to overcome the effects of the High Court ruling in *Jacobsen and Dibb v Rogers* on 17 February 1995. While the High Court held that a Commonwealth search warrant can authorise search and seizure in relation to State/Territory premises and State/Territory material, there is a question whether a State/Territory warrant would be legally effective, in all situations and of its own force, to obtain access to Commonwealth material (for example, because of statutory non-disclosure provisions). It is desirable that the procedures and conditions for access to such information be clarified. The Commonwealth prepared a discussion paper containing recommendations which were being considered by State and Territory jurisdictions.

PERFORMANCE MEASURE

Timely and practical advice, briefing, and other support to the Attorney-General and the Minister for Justice in responding to representations and proposals on criminal law issues generally.

PERFORMANCE OUTCOME

During the reporting period the Division responded to 1989 ministerial representations. Of these 26.8 per cent were answered within the required timeframes. The delay with respect to a large proportion of letters was caused by the difficulties facing the Criminal Law Reform Unit (CLRU) in responding to an extended letter-writing campaign. Processing was also affected by changes in ministerial arrangements. Consequently, of the 1425 ministerial representations finalised in the CLRU, approximately 90 per cent were outside the required timeframe. For the balance of 564 ministerial representations handled by other areas of the Division, a timeliness rate of approximately 70 per cent was achieved.

The Division provided urgent advice on the application of Part IIA of the Crimes Act to industrial disturbances which occurred during the year.

The Minister for Justice was provided with an urgent briefing regarding progress in the development of a national database, for use by law enforcement agencies, of intelligence concerning paedophile offenders.

Strategy

Ensure that deployment of staff resources best services needs, objectives and priorities of clients.

PERFORMANCE MEASURE

Priority tasks are appropriately resourced.

PERFORMANCE OUTCOME

Casework functions continued to be effectively performed and two major initiatives progressed on schedule. Particular areas of focus for the Division were statutory functions and matters of high priority to Australia nationally and internationally.

Strategy

Develop the skills and capacity of staff by providing, within budget, appropriate professional and personal development opportunities to enhance their ability to provide quality service to our clients.

PERFORMANCE MEASURE

Regular assessment of staff development needs conducted.

PERFORMANCE OUTCOME

An assessment of staff development needs is made annually as part of various performance appraisal schemes. Only a very limited number of staff were not regularly assessed by those schemes during the year.

PERFORMANCE MEASURE

Personal development plans in place for each individual staff member.

PERFORMANCE OUTCOME

Legal staff and senior officers in the Division discussed and planned their individual development with their supervisors as part of formal performance appraisal schemes. Development plans for administrative and senior executive staff were made on an opportunistic basis and subject to consultation with supervisors, in an environment where regular feedback and dialogue was encouraged.

PERFORMANCE MEASURE

Staff development and training targeted in accordance with agreed individual development plans subject to resources.

PERFORMANCE OUTCOME

The Division maintained tight criteria for staff attending training courses to limit high-cost training, especially where other costs such as travel were involved. Accordingly, training undertaken was closely targeted to individual development plans after close consultation with supervisors to ensure relevance to divisional needs.

Officers of the Division attended conferences, seminars and training courses on 170 person days during the year, which is an increase of eight per cent over 1996-97. The most resource-intensive training was for all divisional staff being trained in Microsoft Exchange, the Department's new email system, which took four hours each over two days. Training for the Department's new financial management system totalled 19 days.

1.4 Information and Security Law Division

COMPONENT OBJECTIVES

To ensure that Australia's security interests are protected as a basis for the exercise of democratic rights and freedoms.

To facilitate the development of electronic commerce nationally and internationally by implementing an appropriate legal framework and representing Australia's position at appropriate international forums.

To protect individual rights and freedoms in relation to copyright, privacy and information access.

ROLE

The Division was established in February 1997 to support the Attorney-General and the Minister for Justice by providing comprehensive advice on information issues, including those arising out of the emerging global information infrastructure, and to achieve an appropriate balance between competing interests. The Division provides policy and legal advice on privacy, information access, intellectual property, electronic commerce and national security matters. It also provides policy and legal advice on issues relating to the effectiveness and accountability of law enforcement agencies.

In addition to its security and law enforcement role, the Division has responsibility for monitoring Aboriginal justice issues, primarily through the Division's provision of secretariat support to the National Aboriginal Justice Advisory Committee which meets several times a year.

The Division collects statistics from all relevant agencies on the operation of the *Freedom of Information Act 1982* (the FOI Act) and the *Telecommunications (Interception) Act 1979*, and prepares annual reports for publication by the Attorney-General on the administration of those Acts, including those statistics.

Resources Summary — Sub-program 1.4 Information and Security Law Division

FINANCIAL	1996-97	1997-98	1997-98
	Actual \$(000)	Estimate \$(000)	Actual \$(000)
Appropriation Bill No. 1			
Running Costs			
Departmental			
• Other (120-1) (p)	-	8	-
Legal Practice			
• Salaries (121-1) (p)	1,997	2,657	2,641
• Other (121-1) (p)	2,054	2,140	2,075
RUNNING COSTS APPROPRIATIONS	4,051	4,805	4,716
Other Program Costs			
• Grants to Australian Organisations (120-2-01) (p)	6	-	-
• International Bodies - Membership contributions (120-2-02) (p)	197	224	220
• Compensation & Legal Expenses (120-2-04) (p)	5	4	4
TOTAL APPROPRIATIONS	4,259	5,033	4,940
Adjustments affecting Outlays			
• Revenue			
- Miscellaneous	4	-	-
• Section 35 (Audit Act) Receipts	120	150	150
TOTAL OUTLAYS	4,135	4,883	4,789
STAFFING			
Staff Years	34.0	39.0	38.8

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Information and Security Law Division

Strategy

Contribute to the development of a national and international framework to facilitate a secure global information infrastructure for the information society.

PERFORMANCE MEASURE

Degree of acceptance by the national and international communities of policies which facilitate electronic commerce, protect privacy and meet law enforcement and national security requirements.

PERFORMANCE OUTCOME

In addition to the ongoing role of successfully interacting with industry and the community, both in Australia and overseas, a range of specific activities were undertaken.

Privacy issues relating to the global information infrastructure were considered by the OECD Group of Experts on Security and Privacy.

In June 1997 the Attorney-General established an Electronic Commerce Expert Group comprising representatives from industry associations, business, the legal profession and government. The expert group, chaired by an officer of the Security Law and Justice Branch, was set up to consider the legal issues arising from the development of electronic commerce and report on the form and scope of the appropriate arrangements for regulation, if any, of electronic commerce, having regard to international developments. The expert group presented its report to the Attorney-General on 31 March 1998. The Attorney-General launched the report on 2 April 1998, which was then made available for public comment until the end of May.

The Security Law and Justice Branch represents Australia at meetings of the UN Commission on International Trade Law (UNCITRAL) Working Group on Electronic Commerce considering the development of uniform rules on electronic signatures and certification authorities. International agreement on these issues is important for the continued development of electronic commerce. The Australian position concurred with the broad developing consensus.

A departmental officer chaired the Security Working Group of Project Gatekeeper which was developing the government public key infrastructure. The infrastructure will facilitate the use of authentication and encryption by the Government and its clients in the delivery of online services. The report on Project Gatekeeper, released in May 1998, is critical to the development of government online service delivery.

Strategy

Develop, promote and implement policy initiatives for the provision and regulation of telecommunications interception and the use of listening devices by law enforcement and national security agencies, while appropriately balancing individuals' privacy interests against other community interests.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General and the Minister for Justice with the development, promotion and implementation of policy initiatives.

PERFORMANCE OUTCOME

The *Telecommunications (Interception) and Listening Device Amendment Act 1997* received Royal Assent on 11 November 1997. The most significant of the amendments permitted the Attorney-General to nominate specified members of the Administrative Appeals Tribunal (AAT) to issue interception warrants to law enforcement agencies. This amendment was made necessary by a decision of the judges of the Federal Court of Australia that they would no longer perform the administrative function of issuing these warrants. The

Attorney-General's Department

amendments did not change existing provisions allowing federal judges to issue warrants should they consent to do so. A number of AAT members have been nominated by the Attorney-General since the commencement of the Amendment Act.

A further significant amendment was the inclusion of the Police Integrity Commission of NSW as an eligible authority under the Telecommunications (Interception) Act. This was required so the Commission could be declared an agency under s. 34 of the Telecommunication (Interception) Act and therefore be permitted to apply for interception warrants. The commission was established under the *Police Integrity Commission Act 1996* (NSW) to prevent and investigate police misconduct following a recommendation of the Wood Royal Commission into the NSW Police Service.

The Security Law and Justice Branch was closely involved in the development of the Telecommunications Legislation Amendment Act which amended the Telecommunications (Interceptions) Act to implement the Government's new policy on the provision and financing of interception capabilities of telecommunications services in the future. One of the innovations was to establish the role of agency coordinator to act as the formal decision-maker on behalf of those law enforcement and national security agencies which may intercept telecommunications under warrant. The agency coordinator may make decisions on behalf of the intercepting agencies about the need for, and nature of, interception capabilities and related matters. The Amendment Act confers this function on the Secretary of the Department unless the Attorney-General makes a determination appointing some other person. In February 1998 the Attorney-General conferred this function on the head of the Information and Security Law Division. In March 1998 the agency coordinator facilitated the interception agencies' consideration of the first of the annual interception capability plans submitted by telecommunications carriers. The agency coordinator also considered a number of applications from several carriers for exemptions from their statutory obligations to provide a suitable interception capability for particular telecommunications services.

Strategy

Provide prompt, high-quality legal and policy advice to ministers and other clients in the area of information, copyright and security law.

PERFORMANCE MEASURE

Level of client satisfaction with timeliness and quality of advice provided.

PERFORMANCE OUTCOME

There was a high level of acceptance of the advice provided to the Attorney-General, other areas of the Department and other agencies on the interpretation and application of the Information Privacy Principles and other provisions in the *Privacy Act 1988*, the interpretation and administration of the FOI Act and a wide range of privacy and information access policy issues, including in relation to the electronic information environment, health, the National Heritage Trust, disclosure of defence rank information and environmental assessments.

The Division provided advice to the Department of the Prime Minister and Cabinet on negotiating with the owner of copyright in the Aboriginal flag the terms for the reproduction of the flag by most Commonwealth departments and agencies. The Department of the Prime Minister and Cabinet indicated its satisfaction with the successful outcome of the negotiations.

The Security Law and Justice Branch prepared briefings and Cabinet submissions for the Attorney-General and the Secretary in their respective roles as members of the National Security Sub-committee of Cabinet and the Secretaries' Committee on National Security. These committees consider matters of relevance to national security, including defence and intelligence matters. Most of the matters that are considered by the Cabinet sub-committee are considered first by the Secretaries' committee.

Information and Security Law Division

On two occasions during 1997-98 the Department was required at short notice to brief the Attorney-General and obtain evidentiary certificates in connection with prosecutions under the *Crimes (Foreign Incursions and Recruitment) Act 1978*. The Department provided legal advice and assistance to the Australian Security Intelligence Organization (ASIO) and the Australian Protective Service (APS) on a wide range of matters.

Strategy

Promote Australia's interests in international forums and activities on information, copyright and security law relevant to Australia's interests.

PERFORMANCE MEASURE

Extent to which Australian objectives in international negotiations are reflected in the outcomes of negotiations

PERFORMANCE OUTCOME

Australia's position on privacy was reflected in the guidelines on cryptography developed by the OECD Group of Experts on Security and Privacy. Discussions continued with the European Commission on privacy and data flows.

Australia's position was successfully represented in meetings convened by the World Intellectual Property Organisation (WIPO) in Geneva on performers' rights in their performances in films, television programs and other audio-visual productions. Pending a decision on additional performers' rights in Australia, the concern was to avert the possibility of an international agreement on new performers' rights that would be outside the range of possible rights under consideration in Australia. This concern did not arise during the course of WIPO negotiations in 1997-98.

The Division effectively represented Australia at a meeting, also convened by WIPO, on exchanging information on possible new legal protection of databases as a form of intellectual property. The Division was represented on Australian delegations to two meetings of the Asia-Pacific Economic Cooperation (APEC) Intellectual Property Experts Group.

During 1997-98 officers of the Department were re-elected to chair the OECD Group of Experts on Information Security and Privacy and the APEC Task Group on Public Key Authentication. The preliminary report of the APEC task group was accepted by the APEC Telecommunications Working Group in September 1997 and was well received both within and outside APEC.

In July 1997 the Department successfully hosted the Working Meeting on International Cooperation on Cryptography Policy attended by representatives from 22 countries as well as the European Union and the OECD. The conference identified a number of issues relating to lawful access to encrypted data and crossborder recognition of certifying authorities, with the objective of ensuring consistency of policy to ensure interoperability in the global information infrastructure.

The Department has developed effective international contacts to discuss common issues relating to the telecommunications industry and law enforcement interests.

Departmental officers led Australian delegations in negotiations in bodies established by the UN General Assembly on two proposed conventions: the International Convention for the Suppression of Terrorist Bombings, the text of which was adopted in December 1997, and the Convention for the Suppression of Acts of Nuclear Terrorism. Discussions on the latter were to continue in September 1998.

The Government conducted consultations with the States and Territories on the issue of Australia becoming a party to the International Convention for the Suppression of Terrorist Bombings and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

Strategy

Develop policy initiatives that appropriately balance the rights and interests of copyright owners, institutional copyright users and the community.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General with policy initiatives developed.

PERFORMANCE OUTCOME

The Division gave evidence to the Senate Legal and Constitutional Legislation Committee in relation to its consideration of the Copyright Amendment Bill 1997, on which the committee reported on 27 October 1997. The main reforms in the Bill were the reallocation of the ownership of copyright in employed journalists' works and allowing importation for a commercial purpose of genuine goods with copyright packaging or labelling without needing the consent of the copyright owner. The Attorney-General was assisted by the Division's advice on the Government's response to the Senate committee's report and in subsequent consultations and negotiations on the Bill.

The Division provided advice and assistance in proposing amendments to the *Copyright Act 1968* to allow parallel importation of sound recordings, and in the preparation and introduction of the Copyright Amendment Bill (No.2) giving effect to the decision. The Attorney-General accepted the Division's advice on the Government's response to the report by the Senate Legal and Constitutional Legislation Committee and on the amendments to the Bill.

The Division, in conjunction with the Department of Communications and the Arts, prepared two discussion papers. These were released jointly by the Attorney-General and the Minister for Communications, the Information Economy and the Arts.

The first, *Copyright Reform and the Digital Agenda*, was released in July 1997. A new right for copyright owners over transmissions to the public of their material, along with other reforms that were proposed in the discussion paper, were the basis for the digital agenda reforms to the Copyright Act that were approved by the Government and announced on 30 April 1998. These reforms included agreement by the Government to a number of recommendations in the report of the Copyright Law Review Committee (CLRC) on computer software protection. The Division provided advice and assistance to the Government in making its decision.

The second discussion paper, *Performers' Intellectual Property Rights*, was released in December 1997. The paper invited comments on extending existing performers' rights under the Copyright Act along the lines of the requirements of the WIPO Performances and Phonograms Treaty of 1996. Submissions on the paper were received until 29 May 1998.

The Division prepared two submissions and gave oral evidence to the House of Representatives Standing Committee on Legal and Constitutional Affairs on its inquiry into the licensing of the playing of music in public by small businesses. On 1 June 1998 the committee presented its report, entitled *Don't Stop the Music!*

The Division provides the secretariat for the CLRC. On 9 June 1998 the CLRC presented, within time, its report *Exceptions to the Exclusive Rights of Copyright Owners*, which covers part of its reference on simplification of the Copyright Act. The committee began work on its report on the remainder of the reference.

Progress was made on the following policy projects:

- public consultation on possible Australian accession to the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty;
- copyright-related recommendations in the report on designs by the ALRC;
- ownership and duration of copyright in photographs;
- the ceiling on the royalties payable for broadcasting sound recordings;

Information and Security Law Division

- development of improved protection for indigenous arts and cultural expression;
- development of the Government's response to the Simpson review of Australian copyright collecting societies.

PERFORMANCE MEASURE

Perception by copyright owners, institutional copyright users and the community of appropriate balance in new copyright law and proposals

PERFORMANCE OUTCOME

The Senate Legal and Constitutional Legislation Committee, when considering both the Copyright Amendment Bill 1997 and the Copyright Amendment Bill (No.2) 1997, received submissions and heard evidence from interested individuals and representatives of interested bodies. The discussion paper *Copyright Reform and the Digital Agenda* was widely commended by interests on all sides, indicating that it was perceived as striking a fair balance.

PERFORMANCE MEASURE

Effectiveness of liaison with copyright owners, performers, institutional users and relevant community groups

PERFORMANCE OUTCOME

Extensive and ongoing liaison with copyright owners and users (including institutional users) was achieved.

Following the tabling of the report of the Senate committee that examined the Copyright Amendment Bill 1997 there were extensive consultations with affected interests regarding changes recommended by the committee to the Bill's moral rights provisions. The body representing one of the principal stakeholder groups publicly commended the Department for its consultative efforts in regard to the moral rights recommendations. There were also discussions with parties objecting to allowing the importation of goods with copyright packaging or labelling. In conjunction with the Department of Communications and the Arts, there were extensive consultations with all major affected interests on the proposals in the discussion paper *Copyright Reform and the Digital Agenda*.

The CLRC conducted a further round of consultations with representatives of affected interests in December 1997 in formulating its recommendations in its report *Exceptions to the Exclusive Rights of Copyright Owners*.

The Division maintained support for the Intellectual Property Consultative Committee (IPCC), which meets twice yearly in Canberra to facilitate the exchange of information between government officials and representatives of intellectual property owners and users.

In May 1998 the Division inaugurated a copyright newsletter, the *AGD E-News on Copyright*, which is distributed electronically to a wide range of copyright owner and user representatives, legal practitioners and academics. It contains a compilation of extracts from announcements and speeches on recent government copyright reform and policy achievements and activities. Departmental contacts for the various policy issues mentioned were identified. The response was positive and the newsletter prompted many appreciative comments.

Strategy

Develop, promote and implement policy initiatives in relation to access to information.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General and the Minister for Justice with the development, promotion and implementation of policy initiatives

PERFORMANCE OUTCOME

In February 1998, following policy development work by the Department, the Government announced that it would legislate to extend the application of the FOI Act to government outsourcing. The proposed legislation will ensure that under the FOI Act individuals can seek access to, and correction of, records containing personal information about them where those records are held by contractors providing government services, and that general access can also be sought under the Act to all records held by such contractors where the Government has a right of access to them.

The Department commenced consultations with other departments and began working with the Office of Parliamentary Counsel to develop draft legislation. The proposed application of the FOI Act to government outsourcing addresses issues raised in the ALRC/ARC report *Open Government: A Review of the Federal Freedom of Information Act 1982*. Other issues raised in that report are under consideration. The Department has provided assistance to the ARC in its project on contracting out of government services, and to the ALRC in the development of its review of the *Archives Act 1983*. In addition, it has provided a wide range of policy assistance to other departments in developing their policy initiatives to ensure that those initiatives reflect appropriate consideration of FOI issues.

Strategy

Develop, promote and implement policy initiatives for the protection of privacy within the public sector and the private sector which appropriately balance individuals' privacy interests against other community interests.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General with the development, promotion and implementation of policy initiatives

PERFORMANCE OUTCOME

Following policy development work by the Department, the Privacy Amendment Bill 1998 was passed by the House of Representatives on 1 April 1998 and went before the Senate. The Bill aimed to ensure that personal information is protected by the Privacy Act where it is collected or held by contractors providing services to or for the Government. The Department participated in consultations leading to the issue by the Privacy Commissioner of the national principles for the fair handling of personal information, launched by the Attorney-General on 20 February 1998. The Human Rights Legislation Amendment Bill 1998 was introduced into the House of Representatives on 8 April 1998. This Bill establishes the Office of the Privacy Commissioner as a separate entity. During the year the Department conducted a number of informal negotiations with the European Commission on a European Union directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The Department also assisted the ARC in its enquiry into contracting out, and assisted other agencies in developing policy initiatives to ensure that privacy issues were appropriately considered.

Strategy

Develop and promote defamation law policy initiatives.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General with the development and promotion of policy initiatives

PERFORMANCE OUTCOME

The Department provided advice to the Attorney-General on defamation policy, including in relation to consideration of the matter by the Standing Committee of Attorneys-General.

Strategy

Support the Attorney-General in administration of relevant portfolio legislation and related responsibilities of office.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General and the Minister for Justice with the administration of relevant portfolio legislation and related responsibilities of office.

PERFORMANCE OUTCOME

The Department prepared an annual report to Parliament on the operation of the FOI Act for consideration by the Attorney-General.

The Department also provided advice and briefings to the Attorney-General and the Minister for Justice in relation to legislation for which the Information and Security Law Division is responsible, as well as providing draft correspondence, speeches and answers to parliamentary questions for both ministers.

Strategy

Support the Attorney-General in relation to the Government's response to recommendations of the Royal Commission on Aboriginal Deaths in Custody and the continuing work of the National Aboriginal Justice Advisory Committee (NAJAC).

PERFORMANCE MEASURE

Satisfaction of the Attorney-General with policy initiatives, including coordination arrangements to address recommendations of the Royal Commission.

PERFORMANCE OUTCOME

The Ministerial Summit on Indigenous Deaths in Custody was held in Canberra on 4 July 1997. The summit was co-hosted by the Attorney-General and the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron. It was attended by 18 State and Territory ministers responsible for Aboriginal affairs, justice, policing and corrections, and 10 indigenous representatives.

A communique was drafted in which ministers agreed, in partnership with indigenous people, to develop strategies to reduce the indigenous incarceration rate and consequently the death in custody rate. The communique was signed by all but one minister and one indigenous representative. The resulting strategies will attempt to address underlying social, economic and cultural issues, justice issues, customary law, law reform and funding. They will also include jurisdictional targets for reducing the number of indigenous people in the criminal justice system, planning mechanisms, methods of service delivery, and monitoring and evaluation.

Attorney-General's Department

The summit was an event of great significance, as it was the first time that relevant ministers and indigenous representatives had come together to discuss indigenous incarceration rates and deaths in custody.

The summit was the culmination of 12 months' work by officers of the Security Law and Justice Branch. A steering committee which met fortnightly was established to organise the summit. This committee included representatives from the Attorney-General's Department, the Aboriginal and Torres Strait Islander Commission, the Department of the Prime Minister and Cabinet and the offices of the Attorney-General and the Minister for Aboriginal Affairs. The committee was chaired by the Assistant Secretary of the Security Law and Justice Branch. The branch prepared a publication of the record of the summit which included transcripts of the speeches presented by ministers and the other participants.

The Division continued to provide secretariat and support services to NAJAC. Agenda papers for regular NAJAC meetings were prepared by the Division, in consultation with the States, Territories and the indigenous community, to facilitate the consideration of Aboriginal justice issues. The Division continued to support NAJAC's role in the progression of the outcomes of the ministerial summit.

Strategy

Support in the development of policy initiatives to promote the accountability and effectiveness of law enforcement agencies.

PERFORMANCE MEASURE

Acceptance by the Government of policy initiatives

PERFORMANCE OUTCOME

In the first quarter of the reporting year the Security Law and Justice Branch continued to provide policy advice to the Government in relation to the Australian Federal Police Act and the *National Crime Authority Act 1998*, but from September 1997 responsibility for administering these Acts was transferred to the Office of Law Enforcement Coordination. In April 1998 this was renamed the Law Enforcement Coordination Division.



1.5 Office of International Law

OBJECTIVE

Further Australia's interests through the development and application of international law and the enhancement of opportunities for the export of Australian legal services.

ROLE

The Office of International Law provides specialist advice on international law, including international trade law, human rights and treaties. In particular it provides advice on implementation of international law in Australia and on constitutional issues relating to such implementation. It also assists with developing and implementing projects in the international law field and in international and domestic litigation involving international law.

The office consists of two branches. In addition to the more general functions of the office outlined above, each branch has a number of more specific functions. In the case of the Public International Law Branch, these include responsibility for the preparation of Australia's reports under a number of human rights treaties and for responding to complaints by individuals made to international committees established by those treaties. The International Trade and Environment Law Branch is responsible for areas of policy related to international trade law, including international commercial arbitration. It is also responsible for the promotion of trade in Australian legal services.

Resources Summary — Sub-program 1.5 Office of International Law

FINANCIAL	1996-97 <i>Actual</i> \$('000)	1997-98 <i>Estimate</i> \$('000)	1997-98 <i>Actual</i> \$('000)
Appropriation Bill No. 1			
Running Costs			
• Salaries (121-1) (p)	1,133	1,480	1,353
• Other (121-1) (p)	1,058	1,126	1,095
RUNNING COSTS APPROPRIATIONS	2,191	2,606	2,448
Other Program Costs			
• Grants to Australian Organisations (120-2-01) (p)	-	4	4
• International Bodies — Membership contributions (120-2-02) (p)	-	70	65
• Compensation & Legal Expenses (120-2-04) (p)	57	-	-
TOTAL APPROPRIATIONS	2,249	2,680	2,517
Adjustments affecting Outlays			
• Section 35 (Audit Act) Receipts	279	211	211
TOTAL OUTLAYS	1,969	2,469	2,306
STAFFING			
Staff Years	17.6	19.1	19.1

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Strategy

Provide high-quality international law services, including both legal and policy advice.

PERFORMANCE MEASURE

Comprehensive, timely and accurate advice.

PERFORMANCE OUTCOME

The Office of International Law provides advice on a broad range of international law issues, as well as on issues of domestic and constitutional law associated with the implementation of international law. This advice is provided to ministers, particularly the Attorney-General, other government departments and agencies as well as to other areas within the Attorney-General's portfolio.

General areas in which advice was given in 1997–98 included maritime delimitation, maritime zones, oceans policy, archipelagic sealanes, marine pollution, sea dumping, the application of native title offshore, fisheries and whaling, maritime surveillance and enforcement, the Torres Strait Treaty, treaty law, air law and space law, human rights, the laws of armed conflict and humanitarian law, consular and diplomatic law, dispute settlement under international law, cultural heritage, world heritage, hazardous wastes, nuclear liability, Antarctica, World Trade Organization legal issues, bilateral trade in legal services and market access issues, the draft Multilateral Agreement on Investment, investment promotion and investment agreements, the Energy Charter, trade agreements, double tax treaties, the extraterritorial application of laws and the implementation of UN Security Council sanctions.

Much of the advice deals with complex questions of international law and its implementation in Australia, and is provided relatively quickly.

The Office of International Law also assisted in domestic litigation, including that relating to offshore native title, immigration and extradition matters. For example, the office provided assistance in the international legal and maritime zones aspects of the Croker Island case dealing with offshore native title. It also provided assistance to the Criminal Law Division in the Tse case, which dealt with extradition to Hong Kong.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General and other clients

PERFORMANCE OUTCOME

The advice sought by the Attorney-General and by other clients was provided within the required timeframes and was well-received. On occasions, clients sought further advice clarifying or elaborating upon the initial advice. On other occasions amending advice was given, either because of further consideration of particular issues or because further information was provided.

Strategy

Promote Australia's interests at international forums and assist other departments and the Parliament in measures implementing Australia's compliance with its international legal obligations.

PERFORMANCE MEASURE

Effective presentation of Australian position by officers of the Office of International Law in international forums

PERFORMANCE OUTCOME

The Office of International Law represented Australia at a number of international negotiations which were likely to result in outcomes beneficial to Australia. A representative from the office led the Australian delegation to the Legal Committee of the International Maritime Organization and was re-elected as deputy chair of that committee. Among matters being considered by that committee was a draft convention on the removal of wrecks and an Australian proposal concerning compensation for pollution from ships' bunkers. A member of the office also led the Australian delegation to the Legal Experts Meeting on Antarctic Liability. The same officer also attended the Antarctic Treaty Consultative Parties meeting. The office also represented

Attorney-General's Department

Australia at the annual session of the UN Commission on International Trade Law. That session considered a legislative guide to privately financed infrastructure projects and also adopted an amendment to the UNCITRAL Model Law on Electronic Commerce. The office was also represented on Australian delegations negotiating investment protection and promotion agreements with India and Russia.

PERFORMANCE MEASURE

Client satisfaction with assistance received.

PERFORMANCE OUTCOME

The office provided a range of assistance to other departments and other areas of the Attorney-General's Department on a wide range of projects. The areas in which such assistance was provided included:

- implementation of the 1997 Maritime Delimitation Agreement with Indonesia, including the development of legislation to give effect to that treaty and submissions to the inquiry into the treaty by the Joint Standing Committee on Treaties;
- legal aspects of the development of a comprehensive oceans policy;
- the Kutubu gas pipeline from Papua New Guinea to Australia;
- illegal fishing;
- issues relating to space launches in Australia, including assistance in the drafting of commercial space launch legislation, the development of a commercial launch agreement with Kistler Corporation and the development of an intergovernmental agreement with Russia;
- reform of environment legislation;
- delimitation of the outer limit of the continental shelf;
- dispute resolution;
- designation of sealanes in Indonesian archipelagic waters.

The office also provided support to the operation of the treaty processes introduced by the Government in 1996. The office cleared all national interest analyses which were tabled in Parliament. Members of the Office of International Law appeared regularly before the Joint Standing Committee on Treaties when that committee considered treaties tabled in Parliament.

The office also participated in the Commonwealth–State Standing Committee on Treaties which met on a number of occasions. The office provided assistance in preparation for the first meeting of the Treaties Council which was held on 7 November 1997.

Strategy

Report on Australia's compliance with human rights treaties and respond to communications under those treaties alleging violations of international human rights obligations.

PERFORMANCE MEASURE

Focused compliance reporting within realistic timeframes.

PERFORMANCE OUTCOME

Reporting under international human rights treaties: A draft of the Third Report and the Fourth Report under the International Covenant on Civil and Political Rights (ICCPR) was approved by the Attorney-General. Preparations were made for printing the reports for lodgement with the Human Rights Centre in Geneva early in 1998–99. The drafting of Australia's Second Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was under preparation.

Australia's First Report under the Convention on the Rights of the Child was considered by the UN Committee on the Rights of the Child in September 1997. The Australian delegation was led by the Attorney-General's Department and included representatives from other government departments and the States. Mr Bill Taylor, MP, the Chairman of the Joint Standing Committee on Treaties, was an observer on the delegation. The Committee on the Rights of the Child complimented Australia on its report and its presentation. It made a number of criticisms of Australian laws and practices, including on matters relating to indigenous health and welfare and the corporal punishment of children.

Communications under international human rights complaints mechanisms: Of the 23 communications made under the Optional Protocol to the ICCPR since the protocol came into effect for Australia on 25 December 1991, four were received during 1997-98. Submissions on admissibility and/or merits were prepared for the Human Rights Committee in six communications and the Government was notified of final decisions in two communications. In both of these the committee decided there had been no violation of the ICCPR. The Government provided its response to the views of the Human Rights Committee in *A v Australia* on 16 December 1997. This was a matter in which the committee expressed its view that the detention of an asylum-seeker was contrary to certain articles of the ICCPR. The Government, in its response, disagreed with the views of the committee.

There were three communications under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination. The committee declared one communication inadmissible. Two communications were declared admissible and submissions on the merits of these communications were being prepared.

There were two communications under Article 22 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Government's submissions on the admissibility and merits of these communications were being prepared.

Treaty body reform: The Office of International Law drafted a paper suggesting reforms to the UN Human Rights Committee's Rules of Procedure concerning communications. The paper was presented to the committee as a joint initiative of the Australian, Canadian and New Zealand Governments. The Office of International Law also drafted the Australian Government's comments on the UN Experts Report on Treaty Body Reform.

PERFORMANCE MEASURE

Satisfaction of the Attorney-General with responses.

PERFORMANCE OUTCOME

The reports under the ICCPR were approved by the Attorney-General. The Attorney-General also approved the tabling of the outlines of communications to the UN human rights committees. The Attorney-General is kept informed of Australian responses to communications made to human rights committees.

PERFORMANCE MEASURE

Effective liaison with international human rights committees.

PERFORMANCE OUTCOME

The Department maintained effective contact with the committees, both directly and indirectly. The Department had meetings with the chair and vice-chair of the Committee on the Rights of the Child and with a member of the Human Rights Committee. The Department also maintained contact with the Office of the High Commissioner for Human Rights (which provides the secretariat to the human rights committees) through the Department of Foreign Affairs and Trade and the Australian Mission in Geneva. There were also direct discussions with that office on issues of treaty body reform.

Attorney-General's Department

Strategy

Developing Australia's access to international markets in legal services, including developing legal relations with other countries, especially in the Asia-Pacific region.

PERFORMANCE MEASURE

Secretariat assistance provided to the satisfaction of the International Legal Services Advisory Council (ILSAC) and ministerial satisfaction with progress achieved.

PERFORMANCE OUTCOME

The Office of International Law provided the secretariat to ILSAC. Under the chairmanship of the Hon. Sir Laurence Street AC, KCMG, ILSAC continued its work to improve Australia's international performance in legal and related services in the second year of its current triennium (1996-99). Membership and other information concerning ILSAC and its secretariat is available on the Internet at <http://www.law.gov.au/ilsac>.

The secretariat assisted ILSAC in undertaking research and providing advice to ministers and departments in its main areas of interest, disseminating information and facilitating consultation between the Government and the private sector on international legal services, and initiating or participating in a range of other activities. During the year ILSAC's reporting responsibilities were expanded to include the Minister for Trade in addition to the Attorney-General in respect of trade-related legal services matters. Australia's exports of legal services are worth nearly \$180 million a year.

In the area of global legal services and market access, the secretariat assisted ILSAC in providing advice to ministers and departments regarding impediments to traded legal services in a number of countries and economies. ILSAC assisted with ministerial representations concerning the issue of additional foreign law licences in China, and prepared a submission to a committee appointed by the Singapore Government inquiring into Singapore's strategic legal needs in the financial services sector. ILSAC's Legal Services Country Profiles were updated and revised as resources permitted. ILSAC continued its support for the adoption of uniform foreign lawyer legislation by States and Territories in accordance with a model Bill developed for this purpose. It also developed a proposal to raise the international profile of Australian law firms in Asia.

ILSAC's work in the field of international commercial dispute resolution included participation in an initiative to establish an umbrella dispute resolution body in Australia with the objective of achieving a higher profile for Australia in dispute resolution in the Asia-Pacific region. ILSAC was represented at the Asia-Pacific Economic Cooperation dispute mediation conference in Bangkok in April 1998, and its *Australia-Indonesia Contract Management Handbook* was circulated to APEC's Dispute Mediation Experts Group.

In the area of international legal cooperation, ILSAC received ministerial endorsement for its focus on developing Australia-Indonesia links in law and legal services. Its Australia-Indonesia legal visits program received funding from AusAID, and the ILSAC secretariat developed a successful legal cooperation proposal for the Attorney-General's Department under AusAID's Government Sector Linkages Program (GSLP). The secretariat also assisted ILSAC in providing advice and assistance in a number of other legal cooperation activities concerning Indonesia.

In respect of Vietnam, ILSAC maintained its interest in legal cooperation activities initiated by the Australian International Legal Cooperation (AILEC) Committee, now subsumed within ILSAC. The Attorney-General launched the publication by Butterworths Asia of a volume of legal research and international commentaries on the law of Vietnam commissioned under AILEC and ILSAC, and the Department participated in a legal training program for a group of visiting Vietnamese lawyers in August 1997. ILSAC also directly encouraged the development of legal cooperation links with India, China and other countries by organising or taking part in study tours and other activities.

In the area of international legal education and training, ILSAC developed closer links with the Australian Committee of Law Deans on matters of mutual interest. ILSAC supported the joint initiative of the Centre for Legal Education and a group of 17 Australian law schools for a consultant's study of overseas opportunities in international legal education and training, facilitated new sponsorship and expanded distribution arrangements for the 1999 edition of *Studying Law in Australia*, and provided advice in respect of ministerial and other representations concerning international legal education matters.

Strategy

Administer and update legislation for which the Office of International Law is responsible.

PERFORMANCE MEASURE

Complete review of the Marine Insurance Act 1909 by 30 June 1999.

PERFORMANCE OUTCOME

Discussions were held with practitioners and the maritime industry in Sydney and Melbourne, and informal discussions were held with practitioners in Brisbane.

A number of submissions received in response to an issues paper stressed the importance of maintaining international consistency. Reform issues were discussed with the Comité Maritime International, which is examining the possible development of an international convention on marine insurance.

It was decided that the Act should be reviewed for consistency with the National Competition Principles Agreement. This may mean that the full review of the Act will not be completed by 30 June 1999.

PERFORMANCE MEASURE

Declaration of the outer boundary of a contiguous zone under the Seas and Submerged Lands Act 1973.

PERFORMANCE OUTCOME

The Department, in conjunction with other government departments and agencies, made preparations for the proclamation of a contiguous zone outer boundary which will generally be 24 nautical miles from the territorial sea baselines. Discussions were held with the Australian Customs Service and the Australian Surveying and Land Information Group concerning the location of that boundary in the Torres Strait.

PERFORMANCE MEASURE

Amendment of the exclusive economic zone (EEZ) boundary.

PERFORMANCE OUTCOME

Preparations were made for an amendment to the EEZ boundary which would give effect to the boundary agreed in the maritime delimitation treaty between Australia and Indonesia, signed in March 1997. The office gave evidence to the Parliamentary Joint Standing Committee on Treaties in relation to that boundary, and the committee's report in November 1997 recommended that Australia ratify the treaty. The amendment to the boundary of the EEZ to give effect to the treaty will need to enter into force on the day on which the treaty itself comes into force. This date is unknown and is in part dependent on completion of parliamentary procedures in Indonesia.

PERFORMANCE MEASURE

Passage of legislation responding to the decision of the High Court in the Teoh case.

PERFORMANCE OUTCOME

The Administrative Decisions (Effect of International Instruments) Bill 1997 was passed by the House of Representatives. It was referred to the Senate Legal and Constitutional Legislation Committee on 26 June 1997 and was reported on by that committee in October 1997. The Office of International Law made two submissions to that committee and gave evidence to it. The committee recommended that the Bill be passed by the Senate as introduced. At 30 June 1998 the Bill was awaiting passage in the Senate.

Strategy

Provide, within budget, appropriate professional development opportunities to staff and ensure staff feel valued and that good performance is appropriately recognised.

PERFORMANCE MEASURE

Assessment of staff development needs and professional development opportunities given to meet assessed needs.

PERFORMANCE OUTCOME

Personal and professional development are considered to be part of the performance appraisal scheme in which most staff participate. The Office of International Law encourages officers to participate in professional development opportunities relevant to the work of the office. This includes officers both giving and receiving training in international law. By way of example, most of the legal staff of the office participated as judges in the national finals of the Jessup International Law Moot Competition which were held in February of 1998. Also, most staff attended the Australia-New Zealand Society of International Law Annual General Conference in June 1998. A number of officers gave presentations at that conference, as well as at a major conference on human rights held at the Australian National University in December 1997.

PERFORMANCE MEASURE

Satisfactory level of staff morale and job satisfaction.

PERFORMANCE OUTCOME

There has been no formal process in place to gauge the level of staff morale and job satisfaction. However, much of the work of the office is of a highly specialised nature dealing with public international law (particularly in the fields of human rights, international trade and the environment) and the development of trade in legal services. The officers dealing with such work were recruited, in part, on the basis of their interest, training and expertise in those areas of work. Consequently, they are highly motivated and gain a good deal of satisfaction in working in the area of their chosen expertise. Supervisors in the office are encouraged to give constructive feedback on work being carried out within the office. Also, opportunities have been taken to give publicity to achievements within the office through such means as articles in the departmental newsletter.

An officer from the Office of International Law, Ms Robyn Frost, was awarded an Australia Day achievement award for her contribution to the preparation and presentation of Australia's first report under the UN Convention on the Rights of the Child.



1.6 Office of Legislative Drafting

OBJECTIVES:

To provide our clients with high-quality drafting and advising services for legislative and other instruments.

To enhance access to the law.

ROLE

The Office of Legislative Drafting (OLD) is responsible for a broad range of functions associated with drafting regulations, ordinances for Australia's non-self-governing territories, disallowable instruments and a wide variety of other Commonwealth delegated legislation. The OLD also provides tabling and gazettal services to client agencies, and facilitates public access to the law through its consolidation of legislation and its publication of legislation and court decisions,

The OLD is made up of three drafting units and the Legislative Services Unit, the CONSOL Unit, the Federal Register of Legislative Instruments/SCALEplus Unit and the Business Operations Unit.

The drafting units are each responsible for drafting instruments for, and providing advice to, Commonwealth departments and agencies. Although the core work involves drafting regulations, proclamations, rules of court and laws of the non-self-governing territories, the units also draft a broad range of other instruments such as determinations and appointments.

The Legislative Services Unit provides legislative support services to the Principal Legislative Counsel and the drafting units, and provides specialised IT application services. The unit also manages the OLD's editing quality assurance process and the continuous improvement program.

The CONSOL Unit prepares Commonwealth legislation in an up-to-date form and supplies consolidated legislation to the SCALEplus Unit for publication on the Department's *Window on the Law* (WOTL) website and to AusInfo for printing. It is also involved in the preparation of annual volumes of Acts and statutory rules, and distributes printed legislation throughout the Department.

The FRLI/SCALEplus Unit manages the proposed Federal Register of Legislative Instruments (FRLI), its precursor the Legislative Instruments Database (LID) and the electronic publication of Commonwealth and State legislation and case law on the SCALEplus databases. The unit also arranges gazettal, printing and tabling of statutory rules.

The Business Operations Unit provides financial, human and physical resource management to both the OLD and the Office of International Law.

Resources Summary — Sub-program 1.6 Office of Legislative Drafting

FINANCIAL	1996-97	1997-98	1997-98
	<i>Actual</i>	<i>Estimate</i>	<i>Actual</i>
	<i>\$(000)</i>	<i>\$(000)</i>	<i>\$(000)</i>
Appropriation Bill No. 1			
Running Costs			
• Salaries (121-1) (p)	2,456	4,262	3,372
• Other (121-1) (p)	2,486	3,823	2,722
TOTAL APPROPRIATIONS	4,942	8,085	6,093
Adjustments affecting Outlays			
• Revenue			
– Miscellaneous	–	1	1
• Section 35 (Audit Act) Receipts	183	1,334	1,334
TOTAL OUTLAYS	4,758	6,751	4,759
STAFFING			
Staff Years	37.8	54.4	54.4

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Strategy

Meet client requirements for legislative drafting and advising services.

PERFORMANCE MEASURE

Extent of demand for the OLD's drafting and advising services.

PERFORMANCE OUTCOME

The demand for budget-funded drafting remained stable. However, the OLD more than doubled its billable revenue in 1997-98, indicating high levels of demand for billable work.

The drafting units were involved in a number of major projects in 1997-98, including drafting a range of instruments for the Government's reforms in aged care, child care, the public service, superannuation, telecommunications and the youth allowance. Over 600 instruments, totalling approximately 5500 pages, were drafted during the year.

The OLD drafted a Workers' Compensation Act for Tuvalu in 1997 and was asked by AusAID to draft Fiji's new public service laws. There appeared to be good prospects for other drafting work for a number of Pacific Island countries, including the Cook Islands.

PERFORMANCE MEASURE

Extent to which client requirements for services are met in a timely way.

PERFORMANCE OUTCOME

The OLD endeavours to meet all demands for its drafting services within the deadline set by, or agreed to with, the client, and there is no significant backlog of drafting work. Whenever necessary, the OLD deploys its drafting resources in a flexible way to meet client requirements. For example, drafters and support staff from all units were engaged on various parts of the aged care principles to meet client deadlines during 1997-98.

Attorney-General's Department

As part of its continuous improvement strategy, the OLD began implementing a new time-recording and matter-tracking system to ensure that all matters are completed in either a six-week period or within a timeframe specified by individual clients.

OLD procedures and processes were under review to improve both the timeliness and quality of the services offered to clients.

PERFORMANCE MEASURE

Level of satisfaction by clients with the quality of the OLD's drafting and advising services.

PERFORMANCE OUTCOME

Relations with clients ranged from good to excellent. The OLD puts considerable effort into ensuring good long-term relations with its clients. Client feedback is encouraged on every drafting task and any client dissatisfaction is addressed as early as possible. Overall, client feedback indicated a high level of satisfaction with the OLD's drafting and advising services in 1997-98.

Strategy

Ensure that instruments drafted by the OLD:

- are legally effective to meet client policy objectives in an efficient way;
- meet contemporary legal and parliamentary standards;
- are accurate, easy to read and understand, and as simple as possible.

Ensure that advice provided by the OLD is legally accurate, client-focused and easy to read.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for drafting and advising services.

PERFORMANCE OUTCOME

The OLD has two essential quality assurance processes for its drafting work. First, it follows a strict two-counsel rule. All instruments are prepared by a legally qualified drafter and fully checked ('settled') by at least one other legally qualified drafter. The settling process covers all issues affecting the quality of instruments, including obvious issues of style and formatting. Second, the OLD follows editing quality assurance procedures. The procedures are carried out by drafters and trained editing staff at the end of the drafting process. The checks focus particularly on the textual accuracy of instruments and the OLD's style, formatting and language-usage requirements. The OLD's editing processes were the focus of a comprehensive quality review in 1997-98 resulting in a series of improvements.

PERFORMANCE MEASURE

Level of satisfaction by the Senate Standing Committee on Regulations and Ordinances with the quality of the OLD's instruments.

PERFORMANCE OUTCOME

The OLD's high standards were commended by the Senate Standing Committee on Regulations and Ordinances.

Strategy

Maintain and develop an efficient and effective Legislative Instruments Database as a precursor to the proposed Federal Register of Legislative Instruments.

PERFORMANCE MEASURE

Extent to which new legislative instruments are available on the LID in a timely way.

PERFORMANCE OUTCOME

Performance indicators were developed during 1997-98 to measure how efficiently and effectively the LID was being maintained. These indicators were consistently met. For example, statutory rules made by the Governor-General were registered on the LID and published on the Internet within one business day after being made. The publication on the LID of regulations within one day is a much quicker way of notifying the public that a new regulation has been made. Notification in the *Commonwealth of Australia Gazette* takes almost a week, and previously regulations would often be available only on the day they commenced.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for the LID.

PERFORMANCE OUTCOME

The OLD has quality assurance measures in place to ensure the integrity of the LID and the accuracy of its contents. All scanned instruments are checked before registration on the database and index information is regularly checked and updated.

PERFORMANCE MEASURE

Level of satisfaction by users with the operation of, and the extent of access to, legislative instruments provided by the LID.

PERFORMANCE OUTCOME

Despite the LID's relatively low profile, the OLD has received positive feedback about the LID from law librarians and the public. As anticipated, the level of user access to the LID via the Internet fluctuated but remained at a satisfactory level.

Strategy

Maximise the efficiency and effectiveness of SCALEplus.

PERFORMANCE MEASURE

Extent to which new legislation, case law and legal information is available on SCALEplus in a timely way.

PERFORMANCE OUTCOME

During the year performance indicators were developed to measure how efficiently the SCALEplus databases were being maintained. These indicators were largely met. SCALEplus is regularly updated with new information. For example, High Court and Federal Court decisions are usually published, via SCALEplus, on the Internet within one hour and one day of receipt respectively. Commonwealth legislation is usually published within five business days of receipt.

Towards the end of the financial year, work commenced on the programmatic mark-up of SCALEplus legislative data to replace some manual processes. This efficiency measure is expected to allow the SCALEplus team to handle more data without an increase in staff, while improving the timeframe for publishing data on the system.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for SCALEplus

PERFORMANCE OUTCOME

Quality assurance processes have been established to ensure the integrity of SCALEplus data. The processing of all legislative and case law data is checked before being added to the system. The OLD planned a review of SCALEplus quality assurance processes during 1998-99 to take into account the effect of the new programmatic mark-up system.

PERFORMANCE MEASURE

Level of satisfaction by users with the operation of, and the extent of access to, legislative and legal materials provided by SCALEplus

PERFORMANCE OUTCOME

SCALEplus was launched on the Internet in July 1997. By the end of 1997-98 public use of the SCALEplus databases had increased 300 per cent. User feedback suggested a growing public awareness of the extent to which SCALEplus provides access to materials in a timely way. A program of continuing development (including, in 1998, a new search interface, enhanced search features, automatic hypertext links and increased database content) was partly responsible for the increase in usage.

Strategy

Ensure that up-to-date reprints and electronic consolidations are available for Commonwealth legislation.

PERFORMANCE MEASURE

Extent to which, and the timeliness with which, up-to-date reprints and electronic consolidations for Commonwealth legislation are prepared and made available.

PERFORMANCE OUTCOME

Performance indicators were developed to improve turnaround times for reprints and consolidations of Commonwealth legislation. The CONSOL Unit was gradually achieving improved performance while handling a backlog of conversion work resulting from the change in format to Word 6. During the year more than 300 titles of legislation were updated.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for reprints and electronic consolidations.

PERFORMANCE OUTCOME

The CONSOL Unit has a quality assurance process in place to ensure that all legislation processed is thoroughly checked. A process of review and documentation of all CONSOL procedures commenced as part of the continuous improvement strategy adopted by the OLD.

PERFORMANCE MEASURE

Extent of satisfaction by users with the quality and usefulness of reprints and electronic consolidations.

PERFORMANCE OUTCOME

Although public demand for paper reprints remained stable in 1997-98, CONSOL received positive feedback from clients about the quality and usefulness of the reprints. The Department continues to rely heavily upon the reprints and electronic consolidations produced by CONSOL. Electronic consolidations of legislation are available to the public via SCALEplus on the Internet. The dramatic increase in SCALEplus use over the past year suggests that public demand for access to electronic consolidations of legislation is high.

Strategy

Ensure that Commonwealth statutory rules are printed, published and tabled in a timely way.

PERFORMANCE MEASURE

Extent to which Commonwealth statutory rules are printed, published and tabled in a timely way.

PERFORMANCE OUTCOME

Indicators have been developed and implemented to ensure that numbered statutory rules are available to the public and the Parliament as soon as possible after they are made. These indicators have consistently been met since their implementation.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for the printing, publishing and tabling of statutory rules and other legislative instruments.

PERFORMANCE OUTCOME

The OLD has developed and implemented quality assurance measures to ensure that numbered statutory rules are thoroughly checked before being printed. Procedural documentation for handling statutory rules and other legislative instruments was to be reviewed as part of the OLD's continuous improvement program.

PERFORMANCE MEASURE

Level of satisfaction by clients with the OLD's printing, publishing and tabling services for statutory rules and other legislative instruments.

PERFORMANCE OUTCOME

The OLD regularly receives positive feedback from clients about its notification and tabling services for legislative instruments.

Strategy

Ensure that annual volumes of Commonwealth Acts and statutory rules are available in a timely way.

PERFORMANCE MEASURE

Extent to which annual volumes of Commonwealth Acts and statutory rules are prepared in a timely way.

PERFORMANCE OUTCOME

A program to improve the timeliness with which the annual volumes are prepared was instituted during 1997–98. Performance indicators were developed and implemented, with the result that overall timeliness in preparatory work improved. It was expected that the indicators would be fully met during 1998–99.

PERFORMANCE MEASURE

Extent to which the OLD develops and applies quality assurance processes for annual volumes.

PERFORMANCE OUTCOME

As a result of a quality assurance review in 1997, the annual volumes were produced electronically instead of manually. This substantially improved the definition quality of the print used in the annual volumes.

PERFORMANCE MEASURE

Extent of demand for annual volumes

PERFORMANCE OUTCOME

Public demand for annual volumes of Acts and statutory rules remained stable in 1997–98. During the year volumes of 1996 Acts and statutory rules were sent to the printer for sale in government bookshops. Production began of the volumes for 1997 for delivery in 1998–99. Approximately 2000 copies will be printed, distributed and sold through government bookshops. Feedback received from users indicates that the annual volumes are highly regarded in terms of their quality and usefulness.

Strategy

Develop initiatives to enhance the accessibility and comprehensibility of legislative instruments and the ability of all people to have access to the law.

PERFORMANCE MEASURE

Extent of developments and their impact.

PERFORMANCE OUTCOME

The OLD continues to provide free to the public, via the Internet, a comprehensive range of legislative materials through SCALEplus and the LID. Over the course of 1997–98 the OLD has added a substantial amount of additional data to facilitate further the comprehensibility and use of legislative materials to enhance access to the law.

SCALEplus has always concentrated on Commonwealth legal data, both legislation and case law. In 1998 a database was constructed which, for the first time, collected the full text of Commonwealth Bills, Explanatory Memoranda (for Acts) and Explanatory Statements (for regulations), linking them automatically to both a Bills digest and to the text of the legislation itself. It became possible to follow a particular piece of legislation from its introduction in the Parliament to its final published version.

Another innovation — the ‘Notify Me When’ feature — was introduced into SCALEplus during 1998. A user can build up a profile of items or areas of law that are of interest and be notified automatically by daily email of any documents added to SCALEplus in the previous 24 hours that match the profile. A hypertext link in the email message takes the user directly to the document in SCALEplus.

Strategy

Provide a challenging, flexible, rewarding and safe working environment for the OLD's staff that promotes both the enhanced quality of the OLD's work and career, professional and personal development.

PERFORMANCE MEASURE

Satisfactory level of staff morale and job satisfaction.

PERFORMANCE OUTCOME

Overall, morale in the OLD was good in 1997-98. OLD sick-leave levels and attributable workers' compensation premiums were low.

The OLD has a training committee and four team-building working groups, the members of which are drawn from across the OLD. The working groups were established to do further work on issues that emerged from the OLD's team-building exercise, such as communications, client relations, improving the OLD's profile and making optimum use of individual potential. Another team-building exercise was planned to address changes to the OLD's structure.

Strategy

Financial and human resources are allocated in accordance with the objectives and priorities of the OLD.

PERFORMANCE MEASURE

The OLD meets operational commitments.

PERFORMANCE OUTCOME

During 1997-98 the OLD was satisfactorily resourced to meet its operational commitments.

Strategy

Development of benchmarking strategies for the OLD.

PERFORMANCE MEASURE

The OLD's performance is benchmarked against private sector best practice.

PERFORMANCE OUTCOME

During 1998-99 the OLD will develop a program to benchmark the OLD's performance against comparable private sector organisations as appropriate.

1.7 Office of Legal Services Coordination

OBJECTIVE

Sound policy direction and the achievement of the optimum outcome in the provision of legal services to the Government and Commonwealth departments and agencies.

ROLE

The Office of Legal Services Coordination (OLSC) provides advice to departments and agencies in relation to the supply and procurement of legal services to the Commonwealth. The advice takes into account the competitive contracting and tendering policies of the Government.

The OLSC is also available to assist departments and agencies to obtain quality and cost-effective legal services, and to put appropriate monitoring systems in place. The OLSC will also advise the Attorney-General in relation to any issues arising in relation to the application of directions in the provision of legal services and in relation to the Attorney-General's responsibilities for the Australian Government Solicitor.

Resources Summary — Sub-program 1.7 Office of Legal Services Coordination

FINANCIAL	1996-97	1997-98	1997-98
	<i>Actual</i> \$('000)	<i>Estimate</i> \$('000)	<i>Actual</i> \$('000)
Appropriation Bill No. 1			
Running Costs			
• Salaries (121-1) (p)	-	299	295
• Other (121-1) (p)	-	101	52
TOTAL APPROPRIATIONS	-	401	347
Adjustments affecting Outlays			
• Section 35 (Audit Act) Receipts	-	1	1
TOTAL OUTLAYS	-	400	346
STAFFING			
Staff Years	-	3.0	2.9

These figures are expressed in cash terms. The accompanying audited Financial Statements are presented in accrual format.

Strategy

Advise the Attorney-General on the Judiciary Amendment Bill 1997 and the development of legal services directions.

PERFORMANCE MEASURE

Level of satisfaction of the Attorney-General, Secretary and Deputy Secretary with this work.

PERFORMANCE OUTCOME

The OLSC is responsible, within the Department, for the Judiciary Amendment Bill. During 1997-98 it provided advice and assistance to the Attorney-General on the Bill's preparation.

The Bill gives effect to the Government's decision to accept the recommendations of the review of the Attorney-General's Legal Practice, issued in March 1997. The review was established by the Attorney-General in November 1996 to consider the needs of the Commonwealth for legal services, and how these needs might best be met.

The review's report made 16 recommendations, concluding essentially that the legal services needs of the Commonwealth could best be met by a combination of a central Commonwealth legal services provider and

Office of Legal Services Coordination

private sector and in-house providers, operating with a maximum of competitive neutrality and contestability, and with only limited tying (of core and high-risk matters) to the central provider.

The report recommended that the Department's Legal Practice be restructured to comply with competitive neutrality principles, to enable it to compete with the private sector and to be transparent and accountable. To this end, the report recommended that most of the legal service elements of the Legal Practice be placed in a separate organisational structure — the Australian Government Solicitor — and that the policy and other elements of the Legal Practice remain within the Department.

The Judiciary Amendment Bill was drawn up to provide a framework for implementing these recommendations. The Bill:

- establishes the AGS as a statutory authority separate from the Department, and sets out the constitution, functions and powers of the AGS (including the persons and bodies for whom the AGS may provide legal and other services);
- sets out certain rights, duties and obligations of AGS lawyers and the Department's lawyers;
- provides for the appointment and terms and conditions of a Chief Executive Officer and staff for the AGS;
- deals with arrangements for tax-equivalent payments by the AGS and the corporate governance of the AGS;
- empowers the Attorney-General to issue legal services directions relating to the performance of Commonwealth legal work.

During the year the OLSC provided advice and assistance on the Bill to the Attorney-General after consultation with the acting Secretary, the Deputy Secretary, the AGS and relevant areas of the Department. The OLSC instructed the Office of Parliamentary Counsel in the preparation of the Bill, and assisted with the Bill's consideration by the House of Representatives.

It was originally intended that the Bill be enacted and in force by 1 July 1998. The Bill was introduced in Parliament in November 1997. It was passed by the House of Representatives, but was still awaiting consideration by the Senate at the end of the reporting period.

Strategy

Advise the Attorney-General, Secretary and Deputy Secretary on directions and policies for Commonwealth legal services, especially litigation, and on the application of those directions and policies in particular cases; exercise various administrative delegations.

PERFORMANCE MEASURE

Level of satisfaction of the Attorney-General, Secretary and Deputy Secretary with this work.

PERFORMANCE OUTCOME

The development of legal services directions relating to Commonwealth legal work, in anticipation of the enactment of the Judiciary Amendment Bill, was a task of major importance for the OLSC in 1997–98.

Most of the current arrangements for the provision of legal services are set out in the Directions for the Provision of Legal Services to Government Departments and Agencies, issued on 1 July 1995. They apply to Commonwealth departments and agencies which operate on the Commonwealth Public Account and are staffed, or supported by staff, appointed or employed under the *Public Service Act 1922*.

The directions provide that the AGS must be used for Commonwealth litigation unless the Attorney-General or his delegate has agreed otherwise.

The AGS's monopoly on Commonwealth court litigation is being progressively opened up to competition. Full competition is expected to commence after the Bill is enacted, subject to the tying of some sensitive matters (primarily Cabinet, national security, constitutional and public international law matters).

Attorney-General's Department

The changes now under way are being implemented in a manner consistent with the overriding public interest in ensuring proper coordination and quality in the conduct of the Commonwealth's legal affairs. This is an important part of the Attorney-General's responsibilities as First Law Officer. To this end, the Judiciary Amendment Bill gives the Attorney-General power to issue legal services directions relating to Commonwealth legal work.

The directions are intended to address the risks that would arise if legal services for the Commonwealth (in particular in the area of litigation) were inconsistent, lacked coordination or did not identify and appropriately deal with whole-of-government and public-interest issues.

The directions will have legal effect and will be capable of applying to AGS clients and to providers of legal services to Commonwealth departments and agencies, including the AGS, private legal firms and in-house lawyers. The directions will be enforceable solely by the Attorney-General.

The OLSC, in consultation with Commonwealth departments and agencies, private law firms and the AGS, carried out substantial work on the preparation of draft directions. In May 1998 the Department distributed a discussion paper setting out the nature of possible directions. Departments and associated agencies were invited to comment on the paper and on the question of which agencies should be subject to the directions. The paper drew heavily on the existing guidelines and policies applying to the progressive untying of litigation.

The possibility was also raised that, pending the enactment of the Judiciary Amendment Bill, a revised, comprehensive policy might be issued to apply to the delivery of legal services to the Commonwealth.

The proposed directions would:

- be capable of applying generally to Commonwealth legal work, to a particular category of legal work or to specific cases and matters;
- deal with such issues as what work is to be tied to government providers, reporting arrangements and compliance by legal service providers with Commonwealth policies (e.g. those relating to the settlement of claims, the pleading of statutes of limitation and the obligation of the Commonwealth to act as a model litigant);
- be able to impose limits on the fees that may be paid to counsel engaged to appear in court litigation, or before tribunals or inquiries.

The OLSC also played a major role in advising the Attorney-General on litigation policies for the Commonwealth. The policies, which were considered and approved by the Attorney-General following advice from the OLSC, included the approach to be taken by the Attorney-General for the progressive untying of litigation, the Commonwealth as a model litigant and policies for handling monetary claims, assistance to officials in relation to legal proceedings and counsel fees for tribunals and inquiries.

In developing these policies, the OLSC regularly consulted the Office of Litigation in the AGS and relevant areas of the Department.

The policies were posted on the OLSC website at www.law.gov.au/olsc.

Other Commonwealth policies for which the OLSC is responsible include the policy on the pleading of statutes of limitation and the policy on assistance to ministers in relation to legal proceedings.

The preparation of a report reviewing the Commonwealth policy on counsel fees was a major task undertaken by the OLSC during the year. The policy of capping the level of fees that can be paid to counsel at the private bar and engaged by the Commonwealth has operated for a number of years. Through the policy, the Commonwealth frequently engages counsel at less than market rates. It has been estimated that this practice saves the Commonwealth around \$7 million dollars annually.

The existing policy applies to briefs to appear before courts, tribunals and inquiries. The review process included examining the suitability of the policy, the possibility of expanding its scope to other work performed by counsel, and whether any changes were required in light of the proposed untying of litigation.

Office of Legal Services Coordination

The report was prepared in consultation with the AGS and presented to the Attorney-General for consideration.

In advance of the full untying of litigation, the OLSC dealt with applications for litigation to be handled other than by the AGS, in accordance with guidelines approved by the Attorney-General for the progressive untying of litigation. All 17 requests for untying were approved.

Under the policies relating to Commonwealth legal work, the Director of the OLSC also has the following responsibilities:

- to approve counsel fees of more than \$2250 per day, up to and including \$3200 per day, in respect of appearances in untied litigation, in tribunals and before inquiries;
- to approve the waiver of periods of limitation (i.e. periods of time within which an action must be brought) in actions involving Commonwealth departments and agencies which are currently required to use the AGS.

Strategy

Advise the Attorney-General, Secretary and Deputy Secretary as required on the separation of the AGS from the Department and the purchase of legal services for the Department.

PERFORMANCE MEASURE

Level of satisfaction of the Attorney-General, Secretary and Deputy Secretary with this work.

PERFORMANCE OUTCOME

With the administrative separation of the AGS from the Department, new arrangements were required for future dealings with the AGS. The OLSC had the primary responsibility for developing these arrangements, and arranged and participated in regular liaison meetings between senior management of the Department and the AGS to consider issues pertaining to the separation. Agreement was reached on a number of issues concerning future cooperation between the Department and the AGS, and the Department's purchase of legal services from the AGS.

Strategy

Liaise with the AGS and the Department of Finance and Administration on the separation of the AGS and the Department.

PERFORMANCE MEASURE

Level of satisfaction of the Attorney-General, Secretary and Deputy Secretary with this work.

PERFORMANCE OUTCOME

Following close liaison with the AGS, the OLSC prepared two MOUs between the Department and the AGS on issues related to the separation. The first dealt with such matters as cooperation in the handling of policy, administrative matters and international law work; information-sharing; and staff transfers and secondments between the Department and the AGS. The second MOU contained arrangements for the purchase of legal services from the AGS during 1998-99.

The OLSC also liaised with the Department of Finance and Administration on the governance arrangements for the AGS and prepared a draft of the arrangements, to apply as far as possible on an administrative basis.

Under the Judiciary Amendment Bill it is proposed that the AGS will be a Government Business Enterprise, and that the Attorney-General and the Minister for Finance and Administration will act, in effect, as joint shareholders in relation to the commercial operations of the AGS. The OLSC, together with the Corporate Services Division, is responsible for advising the Attorney-General in this capacity.

Attorney-General's Department

The Bill contains several measures to ensure that, consistent with the Government's competitive neutrality policy, the AGS will not enjoy any competitive advantage over private law firms through being owned by the Government.

The Bill also provides a process for determining the corporate governance requirements to apply to the AGS. The Attorney-General and the Finance Minister, acting jointly and after consultation with the Chief Executive Officer of the AGS, are to inform the Chief Executive Officer in writing of the governance arrangements applying to the AGS. These provisions enable the establishment of policies for the operation of the AGS, similar to those applying generally to Government Business Enterprises but taking into account the particular structure of the AGS and its unique function of providing legal services to the Commonwealth.

Further, the Bill requires the AGS to pay annually to the Commonwealth an amount equivalent to the total amount of any taxation liability that would have been incurred by it under Commonwealth, State and Territory laws if it were a firm of legal practitioners. While the AGS will not be subject to State and Territory taxation laws unless they are specially prescribed, requiring the AGS to make a tax equivalent payment will ensure that it enjoys no competitive taxation advantage over private law firms.

Under the arrangements, the AGS Chief Executive Officer is required to give the 'shareholder ministers' an annual corporate plan covering such matters as business strategies, financial targets and non-financial measures, and to keep the ministers informed of any significant changes to the plan. In addition, the AGS is to provide the ministers with regular progress reports against the corporate plan, and an annual report on operations for tabling in Parliament.

The arrangements provide that the ministers are jointly to approve the appointment of an advisory board for the AGS, comprising people with an appropriate balance of relevant skills, to help achieve the AGS's objectives by providing independent advice on AGS operations.

Strategy

Provide advice to, and consult with, departments, agencies and the private sector on Commonwealth legal services.

PERFORMANCE MEASURE

Level of satisfaction of the Attorney-General, Secretary and Deputy Secretary with this work.

PERFORMANCE OUTCOME

During 1997-98 the OLSC was active in raising awareness about changes in the Government's legal services policies, and in ensuring that new policies were widely distributed.

Commonwealth departments and agencies were advised of the new policies developed relating to Commonwealth legal services. In May 1998 departments and their agencies were invited to comment on a discussion paper describing possible legal services directions, and on the question of what agencies should be subject to the directions. The OLSC also wrote to law societies, bar associations and interested law firms on the untying of Commonwealth legal services.

The Director of the OLSC explained the new arrangements to representatives of major law firms operating in Canberra, and sought comment on the possible content of Commonwealth policies for legal services. The Director also had several informal meetings with representatives of individual law firms.

OLSC officers met with officers from many departments and agencies to discuss the operation of current policies and proposals for legal services directions. An OLSC officer also addressed a meeting of senior representatives of corporate services areas of various departments and agencies.

The Secretary, the Director and the AGS Chief Executive Officer outlined the new arrangements to a large audience of departmental and agency lawyers at a seminar held on 10 June 1998.

Office of Legal Services Coordination