



Australian Government
Attorney-General's Department
Office of Corporate Counsel

13/8694

1 July 2013

Mr James Gray
66 Gladys Street
INNISFAIL QLD 4860

Sent via email to: foi+request-123-283aa011@righttoknow.org.au

Dear Mr Gray

Freedom of information request number FOI 13/060

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

Summary

I, Frances Brown, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 31 May 2013, you requested access to documents from the Attorney-General's Department (the Department) relating to the change of title of the Australian Parliament from the "Parliament of the Commonwealth" to the "Parliament of Australia". Specifically you sought access to:

- *'a copy of the relevant government legislation authorizing this change to the Constitution of the Commonwealth of Australia Act 1901', and*
- *'a copy of the referendum data that authorized this change. It is my understanding that the Constitution of the Commonwealth of Australia Act 1901 cannot be amended without a majority vote by Australian electors.'*

On 4 June 2013, the Department acknowledged your request as a valid request under s 15 of the FOI Act. I note you sent two requests in the same terms to the Department on 31 May 2013, the second one clarifying that it was a request under the FOI Act. I have treated the second email as a clarification of your first email, rather than a separate request.

No documents were identified falling within the scope of either part of your request. Accordingly, I have refused your request under s 24(1)(b)(ii) of the FOI Act as the documents sought do not exist and all reasonable steps have been taken to find the documents. More information, including my reasons for my decision, is set out below.

Material taken into account

I have taken the following material into account in making my decision:

- the FOI Act (specifically section 24A), and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Decision and reasons for decision

The line area within the Department which has carriage of these matters has advised that the Constitution refers to the Australian Parliament as the "Parliament of the Commonwealth", not as the "Parliament of Australia". As the Constitution has not been amended to refer to the Australian Parliament as the "Parliament of Australia", there is no legislation to make such a change in the Constitution, nor is there referendum data authorizing this change. I note that neither has a referendum seeking to make such a change to the Constitution been held. Accordingly, the Department does not hold any documents within the scope of either part of your request.

Therefore, I have refused your request for documents under s 24A(i)(a)(ii) of the FOI Act as all reasonable steps have been taken to find the document within the scope of the request and no documents exist.

For your reference, a list of all successful and unsuccessful referendums to alter the Constitution can be found on the Australian Electoral Commission's website:
http://www.aec.gov.au/Elections/referendums/Referendum_Dates_and_Results.htm. A list of all legislation amending the Constitution can be found in the Note 1 of the Schedule of the Constitution. A copy of the Constitution can be found on ComLaw:
<http://www.comlaw.gov.au/Details/C2004C00469>.

Your review rights

If you are dissatisfied with my decision, you may apply for an internal review within the Department or an external review by the Information Commissioner. If you wish to apply for a review, we encourage you to seek internal review as it is a far quicker process.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the FOI and Privacy Section of the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. If possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter and be lodged in one of the following ways:

Online: <https://forms.australia.gov.au/forms/oaic/foi-review/>

E-mail: enquiries@oaic.gov.au

Post: GPO Box 2999, Canberra ACT 2601

In person: Level 3, 175 Pitt Street, Sydney NSW

More information about a review by the Information Commissioner is available on the Office of the Australian Information Commissioner website at: http://www.oaic.gov.au/foi-portal/review_complaints.html#foi_merit_reviews.

Questions about this decision

If you wish to discuss this decision, please contact me on (02) 6141 2735 or e-mail foi@ag.gov.au.



Frances Brown
Director
FOI and Privacy Section
Office of Corporate Counsel
Attorney-General's Department