

# Chapter 1

1.1 The Senate Economics Legislation Committee (committee) is responsible for examining the annual reports of the departments and agencies of the Treasury Portfolio and the Industry, Innovation and Science Portfolio.

1.1 This report on annual reports (No. 1 of 2020) provides an overview of the committee's examination of selected annual reports presented to Parliament between 1 May 2019 and 31 October 2019.

## Terms of reference

1.2 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies are referred to committees for examination. Each committee is required to:

- (a) examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- (b) consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- (c) investigate and report to the Senate on any lateness in the presentation of annual reports;
- (d) in considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- (e) if the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- (f) report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;
- (g) draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (h) report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.<sup>1</sup>

## Allocated portfolios

1.3 The Senate allocated departments and agencies to committees on 13 February 2020.<sup>2</sup> In accordance with that resolution, the committee has

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1 *The Senate, Standing Orders and other orders of the Senate*, January 2020, SO 25(20).

2 *Journals of the Senate*, No. 42, 13 February 2020, pp. 1268–1269.

responsibility for the oversight of the Treasury Portfolio and the Industry, Innovation and Science Portfolio (excluding matters relating to energy and small business).

### ***Updated Administrative Arrangements Order***

1.4 On 5 December 2019, the Governor-General of the Commonwealth of Australia issued an Administrative Arrangements Order (AAO) which revoked all previously ordered administrative arrangements and ordered new arrangements to commence from 1 February 2020.<sup>3</sup> The provisions of the AAO resulted in significant machinery of government changes, including the allocation of matters relating to energy and small business to the (renamed) Department of Industry, Science, Energy and Resources.<sup>4</sup> The AAO also incorporated several Commonwealth entities into the Industry, Innovation and Science Portfolio, for which the committee has portfolio oversight.<sup>5 6</sup>

1.5 Following the AAO, the Senate updated its allocation of departments and agencies and included provisions which, in effect, retained matters relating to energy and small business with the committees to which those matters were allocated prior to the AAO changes. Energy matters were reallocated to the Senate Standing Committees on Environment and Communications and small business matters were reallocated to the Senate Standing Committees on Education and Employment.<sup>7</sup>

### **Role of annual reports**

1.6 Annual reports place a significant amount of information about the performance of government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of executive accountability to the Parliament and, through the Parliament, accountability to the Australian public. The information included in annual reports provides transparent information necessary for the examination of the performance of Commonwealth entities and, by extension, examination of the performance of executive governments.

1.7 Together with Portfolio Budget Statements, Portfolio Additional Estimates Statements and the estimates process, annual reports are a primary mechanism by which the Senate is able scrutinise the operations of executive government.

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3 Commonwealth of Australia, *Administrative Arrangements Order*, 5 December 2019.

4 Prior to the Administrative Arrangements Order (AAO), the Department was named the Department of Industry, Innovation and Science.

5 Agencies incorporated into the Industry, Innovation and Science Portfolio by the AAO were the: Australian Renewable Energy Agency; Australian Small Business and Family Enterprise Ombudsman; Clean Energy Finance Corporation; Clean Energy Regulator; Climate Change Authority; and the Snowy Hydro Corporation.

6 The Department of Finance's *Flipchart of Commonwealth entities and companies* (as at 1 February 2020), provides an overview of the allocation of entities within government portfolios and is accessible via the following web address:  
<https://www.finance.gov.au/government/managing-commonwealth-resources/structure-australian-government-public-sector/pgpa-act-flipchart-list> (accessed 2 February 2020).

7 *Journals of the Senate*, No. 42, 13 February 2020, pp. 1268–1269.

## Annual reporting requirements

1.8 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) establishes the performance reporting framework for all Commonwealth entities and companies and establishes the annual reporting requirements for Commonwealth entities.

1.9 The committee has previously reported on the PGPA Act's annual reporting requirements.<sup>8</sup> In summary, annual reports should:

- meet the requirements of section 46 of the PGPA Act, if the entity is non-corporate or corporate Commonwealth body,<sup>9</sup> or section 97 of the PGPA Act if the entity is a Commonwealth company;
- be compliant with the reporting requirements of the enabling legislation of an entity; and
- be in accordance with government guidelines relating to annual reports.

1.10 The Department of Finance publishes resource management guides which detail the annual reporting obligations for each type of Commonwealth entity: non-corporate Commonwealth entities;<sup>10</sup> corporate Commonwealth entities;<sup>11</sup> and Commonwealth companies.<sup>12</sup> The Department of Prime Minister and Cabinet has also published guidelines for preparation of annual reports and guidelines for the presentation of documents to Parliament.<sup>13</sup>

## Reports referred to and examined by the committee

1.11 Under Standing Order 25(20)(f), the committee is required to report on the annual reports of departments and agencies tabled by 31 October each year by the tenth sitting day of the following year.<sup>14</sup> This year that date is 26 February 2020.

1.12 All 2018–19 annual reports of Commonwealth entities and companies in the Treasury Portfolio and the Industry, Innovation and Science Portfolio have been presented to Parliament and referred to the committee.

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8 See Senate Economics Legislation Committee, *Annual reports (No. 1 of 2019)*, pp. 3, 6–9.

9 Including a requirement to comply with the relevant provisions of the Public Governance, Performance and Accountability Rule 2014.

10 Department of Finance, *Annual report for non-corporate Commonwealth entities: Resource Management Guide No. 135*, May 2019.

11 Department of Finance, *Annual report for corporate Commonwealth entities: Resource Management Guide No. 136*, May 2019.

12 Department of Finance, *Annual report for Commonwealth companies: Resource Management Guide No. 137*, May 2019.

13 See Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 25 June 2015; Department of Prime Minister and Cabinet, *Guidelines for the presentation of documents to Parliament*, February 2017.

14 Annual reports tabled by 30 April each year are to be reported on by the committee by the tenth sitting day after 30 June of that year.

1.13 The reports referred to the committee are listed below.<sup>15</sup>

## **Treasury Portfolio**

### ***Non-corporate Commonwealth entities***

#### *Departments of State*

- Department of the Treasury.

#### *Agencies*

- Australian Bureau of Statistics;
- Australian Competition and Consumer Commission (incorporating the report of the Australian Energy Regulator);
- Australian Office of Financial Management;
- Australian Prudential Regulation Authority;
- Australian Securities and Investments Commission;
- Australian Taxation Office;
- Commonwealth Grants Commission;
- Infrastructure and Project Financing Agency;
- Inspector-General of Taxation;
- National Competition Council;
- Office of the Auditing and Assurance Standards Board and the Office of the Australian Accounting Standards Board;
- Productivity Commission; and
- Royal Australian Mint.

### ***Corporate Commonwealth entities***

- Australian Reinsurance Pool Corporation;
- National Housing Finance and Investment Corporation; and
- Reserve Bank of Australia.

### ***Commonwealth Company***

- Financial Adviser Standards and Ethics Authority.

### ***Other***

- Australian Charities and Not-for-profits Commission (statutory office holder);
- Australian Statistics Advisory Council (statutory office holder);
- Companies Auditors Disciplinary Board (statutory office holder);

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15 Information on the dates on which these reports were presented to Parliament is available at *Appendix 1*.

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- Financial Reporting Council (statutory office holder);
  - Superannuation Complaints Tribunal (statutory office holder);
  - Tax Practitioners Board (statutory office holder); and
  - Takeovers Panel (statutory office holder).

1.14 Some of the aforementioned reports for entities within the Treasury Portfolio are subject to scrutiny by the Parliamentary Joint Committee on Corporations and Financial Services (PJC), established by Part 14 of the *Australian Securities and Investments Commission Act 2001*. Section 243 specifies the PJC's duties, which include:

(b) to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed...

1.15 In fulfilment of the PJC committee's duties under subsection 243(b), the PJC reports on the:

- Auditing and Assurance Standards Board;
- Australian Accounting Standards Board;
- Australian Securities and Investments Commission;
- Companies Auditors and Liquidators Disciplinary Board;
- Financial Reporting Council;
- Office of the Australian Accounting Standards Board;<sup>16</sup>
- Office of the Auditing and Assurance Standards Board;<sup>17</sup> and
- Takeovers Panel.

## **Industry, Innovation and Science Portfolio**

### ***Non-corporate Commonwealth entities***

#### *Departments of State*

- Department of Industry, Innovation and Science (incorporating the reports of Geoscience Australia and IP Australia).

### ***Corporate Commonwealth entities***

- Australian Institute of Marine Science;
- Australian Nuclear Science and Technology Organisation;<sup>18</sup>

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16 The *Australian Securities and Investments Commission Act 2001* direct that one annual report will cover both the AASB and the Office of the AASB.

17 The AUASB is required to prepare an annual report that addresses its activities and the activities of the Office of the AUASB.

- Commonwealth Scientific and Industrial Research Organisation;
- National Offshore Petroleum Safety and Environmental Management Authority; and
- Northern Australia Infrastructure Facility.

### ***Other***

- Innovation and Science Australia<sup>19</sup>—statutory office holder.

### **Additional reports referred to the committee**

1.16 The committee is not obliged to report on acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The committee notes the following documents were referred for information:

- Productivity Commission—Report no. 93—A better way to support veterans, dated 27 June 2019 (2 volumes);
- Reserve Bank of Australia—Equity and diversity report for 2018–19, tabled 11 November 2019;
- Reserve Bank of Australia—Payment System Board report 2018–19, tabled 11 November 2019;
- Department of Finance—Consolidated financial statements for the year ended 30 June 2019;
- Department of the Treasury—Tax Benchmarks and Variations Statement 2019, received 31 January 2020;
- Mid-year economic and fiscal outlook 2019-20—Statement by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann), tabled 10 February 2020;
- Advance to the Finance Minister—Report on advances provided under the annual Appropriation Acts for 2018-19, tabled 11 February 2020; and
- *Superannuation (Government Co-contribution for Low Income Earners) Act 2013*—Operation of the Government co-contribution scheme—Quarterly reports for the period 1 October to 31 December 2019—Subsection 12(G)(1) and Subsection 51(1), tabled 2 April 2019..

### **Timeliness**

1.1 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports. In August 2019, the committee wrote to the heads of departments and agencies within the committee's portfolio oversight to remind those entities of the established practice for ministers to present annual reports to

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18 ANSTO Nuclear Medicine Pty Ltd is a Corporations Act company and a Public Non-financial Corporation entity under the PGPA Act.

19 Formerly named Innovation Australia.

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Parliament by 31 October each year and prior to the committee considering Supplementary Budget Estimates.

1.2 The committee notes that the annual reports of all agencies within the committee's allocated portfolios, with the exception of the Australian Nuclear Science Technology Organisation (ANSTO), were presented to Parliament prior to the committee's Supplementary Budget Estimates hearings on 23 and 24 October 2019. The 2018–19 annual report of ANSTO was presented to Parliament on 19 November 2019.<sup>20</sup>

### ***Departments and PGPA Act entities***

1.3 It is a requirement of Section 46 of the PGPA Act that the accountable authority of a Commonwealth entity must provide an annual report to the entity's responsible Minister by the 15<sup>th</sup> day of the fourth month after the end of the reporting period (generally, 15 October of the relevant year). The responsible Minister is then expected to present the report to each House of the Parliament on or before 31 October in the year in which the report is given. If Senate Supplementary Budget Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those hearings.<sup>21</sup>

1.4 Section 97 of the PGPA Act sets out the requirements for the provision of the annual reports of Commonwealth companies to the responsible Minister. Subsection 2 states that the company must give the reports and information by:

(a) if the company is required by the *Corporations Act 2001* to hold an annual general meeting—the earlier of the following:

(i) 21 days before the next annual general meeting after the end of the reporting period for the company;

(ii) 4 months after the end of the reporting period for the company;  
and

(b) in any other case—4 months after the end of the reporting period for the company; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

1.5 Section 97(5) of the PGPA Act states that:

(5) If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company.

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20 *Journals of the Senate*, No. 28, 25 November 2019, p. 876.

21 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 25 June 2015, p. 2.

1.6 The provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901* apply in relation to an application for extension of the period. Under the *Acts Interpretation Act 1901* an extension would only need to be sought should a specified timeframe not be met. However, the government has stated that all annual reports should be tabled by 31 October each year.<sup>22</sup>

### ***Other entities***

1.7 Entities reporting in accordance with their own legislation are often required to prepare their annual report for the relevant Minister 'as soon as is practicable' after the end of the particular period to which the reports relates. The committee draws attention to subsections 34C(2) and 34C(3) of the *Acts Interpretation Act 1901*, which stipulate that where no date for providing a report to a Minister is specified, the report should be presented no more than six months after the reporting period, and the report must be provided to the Parliament within 15 days after receipt by the Minister.

### ***Timeliness of 2018–19 reports examined***

1.8 The committee considers the timely presentation of annual reports to be an important element of accountability to the Parliament and continues to encourage bodies and statutory offices to endeavour to meet the relevant reporting timeframes.

1.9 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 May and 31 October 2019 and referred to the committee including the relevant tabling dates.

1.10 The committee notes that all annual reports for 2018–19, with the exception of the 2018–19 annual report for ANSTO, were presented in Parliament in a timely manner, by 31 October 2019.

1.11 The committee notes that annual reports for all agencies in the committee's portfolio, with the exception of ANSTO, were tabled in time for examination at the committee's 2019-20 Supplementary Budget Estimates hearings on 24 and 25 October 2019. The committee commends those entities whose annual reports were presented in the Parliament prior to the hearings.

1.12 The Foreign Investment Review Board (FIRB) is a non-statutory body, established by the Minister, and is therefore not subject to the reporting requirements set out in the PGPA Act. FIRB does not have a legislative requirement to table an annual report. The committee notes the 2018–19 annual report for FIRB has not been presented to Parliament as yet.

### **Senate debate**

1.13 In accordance with Standing Order 25(20)(d) the committee is required to take into account any relevant remarks about the reports made during debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comment or debate in the Senate.

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22 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 25 June 2015, p. 2.



**Non-reporting bodies**

1.14 Standing order 25(20)(h) requires that the committee inquire into, and report on any bodies which do not present annual reports to the Senate but should present such reports.

1.15 The committee makes no recommendations for any bodies not presenting an annual report to do so.

**Apparently satisfactory**

1.16 Standing Order 25(20)(a) requires that the committee report to the Senate on whether the annual reports of departments and agencies in its portfolios are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as timeliness of presentation and compliance with relevant reporting requirements.

1.17 The committee has examined the 2018–19 annual reports of the agencies within the Treasury Portfolio and the Industry Innovation and Science Portfolio and considers that they are apparently satisfactory.