

Chapter 1

Introduction

1.1 The Senate Legal and Constitutional Affairs Legislation Committee (the committee) is responsible for examining the annual reports of the departments and agencies of the Attorney-General's Portfolio and the Home Affairs Portfolio.

1.2 This report on annual reports (No. 2 of 2020) provides an overview of the committee's examination of annual reports presented to the Parliament between 1 November 2019 and 30 April 2020 (the reporting period).¹ Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat, or [online](#) at the committee's web page.

Terms of reference

1.3 Under Senate Standing Order 25(20), the annual reports of certain departments and agencies stand referred to committees for examination and assessment. 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

¹ Standing Order 25(20)(f) requires the committee to report on annual reports tabled between 1 May and 31 October by the tenth sitting day of the following year, and report on annual reports tabled between 1 November and 3 April by the tenth sitting day after 30 June of that year.

- (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.²

Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 4 July 2019.³ In accordance with that resolution, the committee has responsibility for the oversight of the following, the:

- Attorney-General's Portfolio;⁴ and
- Home Affairs Portfolio.

Requirements for annual reports

1.5 Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of accountability to the Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies, and the administration of government programs.

1.6 Different types of Commonwealth bodies have separate provisions for annual reporting which affect content and preparation requirements. Legislative provisions for Commonwealth bodies include:

- Non-corporate Commonwealth entity⁵—section 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and Subdivision A of Division 3A of Part 2–3 of the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule);

2 The Senate, *Standing Orders and other orders of the Senate*, August 2018, SO 25(20).

3 *Journals of the Senate*, No. 3, 4 July 2019, pp. 83–84.

4 By operation of the Administrative Arrangements Order dated 29 May 2019, responsibility for workplace relations, including work health and safety, rehabilitation and compensation functions was moved from the former Department of Jobs and Small Business to the Attorney-General's Department. The Department of Finance issued an instrument on 21 June 2019 which assigned responsibility for the preparation of the 2018-19 annual report and annual performance statements for those functions to the Department of Employment, Skills, Small and Family Business. Further, by virtue of a motion of the Senate dated 4 July 2019, the responsibility for industrial relations was allocated to the Senate Standing Committee on Education and Employment. As such, matters relating to those functions, including reporting on annual reports, are considered by that committee.

5 An entity that is legally and financially part of the Commonwealth, and includes departments of state, parliamentary departments, statutory authorities, and listed entities (a body, person, group of persons or organisation that is prescribed by rules made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)).

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- Corporate Commonwealth entity⁶—section 46 of the PGPA Act and Subdivision B of Division 3A of Part 2–3 of the PGPA Rule;
 - Commonwealth company⁷—section 97 of the PGPA Act, which refers to additional requirements under the *Corporations Act 2001* and Part 3–3 of the PGPA Rule;
 - Statutory office holders and statutory bodies—statutory office holders are engaged or employed under an Act, which may prescribe annual reporting requirements pursuant to the office. It should be noted that there may be reporting requirements in the enabling legislation for statutory bodies (which may also be a Commonwealth entity);⁸ and
 - Non-statutory bodies (NSBs)—NSBs are established by a minister and are not pursuant to a statute. Guidelines for the preparation of annual reports for NSBs are contained in the government response to the Senate Standing Committee on Finance and Public Administration report on non-statutory bodies.⁹

Reports examined

1.7 In accordance with Standing Order 25(20)(f), this report examines annual reports tabled during the reporting period.

1.8 All annual reports of Commonwealth entities, companies and statutory office holders from the Home Affairs Portfolio were tabled prior to 1 November 2019 and were considered in the *Report on Annual Reports (No. 1 of 2020)*.

1.9 Two annual reports of agencies from the Attorney-General’s Portfolio were tabled and referred during the reporting period and are considered in this report:

- the Independent National Security Legislation Monitor; and
- the High Court of Australia.

1.10 The committee is not obliged to examine reports on the operation of Acts, policy papers, budget documents or corporate plans. A list of all reports referred to the committee, including those not examined in this report, can be found at Appendix 1.

6 A body corporate that has a separate legal personality from the Commonwealth and includes statutory authorities. It can act in its own right exercising certain legal rights such as entering into contracts and owning property.

7 A company established by the Commonwealth under the *Corporations Act 2001* that is wholly controlled by the Commonwealth.

8 For example, some Acts that establish statutory bodies have separate reporting requirements under those Acts. For example, section 17 of the *Commonwealth Electoral Act 1918* prescribes specific reporting requirements for the Australian Electoral Commission.

9 *Senate Hansard*, 8 December 1987, pp. 2643-45.

Timeliness

1.11 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports. The committee considers the timely presentation of annual reports to be an important element in accountability to the Parliament and reiterates its expectation of having annual reports available to the Parliament before Supplementary Budget Estimates hearings.

1.12 Appendix 1 lists the annual reports tabled in the reporting period and referred to the committee for examination. This table includes the dates the reports were tabled in the Senate (or received by the President out of session) and the House of Representatives. For the purposes of the committee's examination of timeliness, the earlier date is taken as the presentation date to the Parliament. The table also includes the dates the reports were submitted to, and received by, the minister, if available.

1.13 The committee notes that all annual reports were submitted within the relevant time period.

Bodies which have not presented annual reports to the Parliament

1.14 Standing order 25(20)(h) requires the committee to report to the Senate on whether there were any bodies that were required but failed to present an annual report to the Senate. The committee notes that all relevant bodies in the portfolios over which the committee has oversight presented annual reports to the Senate.

Annual reports referred to in the Senate

1.15 Under Standing Order 25(20)(d), the committee is required to take into consideration any remarks made in the Senate about each annual report. The committee notes that there were no relevant remarks about tabled annual reports in the Senate for the periods covered in this report.

'Apparently satisfactory'

1.16 Standing Order 25(20)(a) requires the committee to report to the Senate on whether the annual reports referred to it in the relevant period were 'apparently satisfactory'.¹⁰ In assessing these reports, the committee has taken into consideration the position of the annual reports within the legislative requirements for the reports. The committee considers all reports examined to be 'apparently satisfactory', however, it continues to encourage Commonwealth bodies to aim for standards of best practice in preparing annual reports.

10 The Senate, *Standing Orders and other orders of the Senate*, August 2018, SO 25(20)(a).