

The Senate

Economics Legislation Committee

Annual reports (No. 1 of 2006)

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Senate Economics Legislation Committee

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Senator Ursula Stephens, Deputy Chair	New South Wales, ALP
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REVIEW OF ANNUAL REPORTS

Introduction

1.1 Annual reports of departments and agencies are referred to Legislation Committees under Senate Standing Order 25(21) in accordance with an allocation of departments and agencies in a resolution of the Senate¹. In accordance with that resolution, the Economics Legislation Committee has responsibility for the oversight of the following portfolios:

- Industry, Tourism and Resources; and
- the Treasury.

1.2 Standing order 25(21) requires the Committee 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 reports².

1 *Journals of the Senate*, 9 February 2006, pp. 1844-1845

2 Standing Order 25(21), *The Senate, Standing Orders and other orders of the Senate*, February 2006, pp. 27-28.

Purpose and requirements of annual reports

1.3 Annual reports provide information on the success (or otherwise) of departments and agencies in meeting targets outlined in the portfolio budget statements, their primary function being to assist in ensuring the public accountability of government departments and their agencies. This is undertaken through the tabling of annual reports in the Parliament; and their scrutiny by Senate Committees in accordance with Senate Standing Order 25(21). This process thus allows Parliament to make informed judgments on the executive's performance in administering government programs.

1.4 Departments of State and Executive Agencies present their annual reports pursuant to sections 63(2) and 70(2) of the *Public Service Act*, respectively. These are required to comply with the Department of Prime Minister and Cabinet's *Requirements for Annual Reports* (updated June 2005), approved by the Joint Committee of Public Accounts and Audit on 29 June 2005.

1.5 Section 3(1) of the *Requirements for Annual Reports* states that 'As a matter of policy, they [the annual reporting requirements] also apply to prescribed agencies under section 5 of the Financial Management and Accountability Act 1997' (FMA Act).

1.6 Statutory authorities and government companies also present their annual reports pursuant to their own enabling legislation and/or sections 9 and 36 of the *Commonwealth Authorities and Companies Act 1997* (CAC Act), respectively. These reports must be produced in accordance with the Commonwealth Authorities and Companies (Report of Operations) Orders 2002, the Finance Minister's Orders made under section 48 of the CAC Act, stipulating the requirements for annual reports presented pursuant to the Act. Annual reports of government companies limited by shares are required to comply with Corporations Law requirements.

1.7 The Department of Finance (DoFA) publishes a useful chart which shows which agencies are subject to the FMA Act and the CAC Act. This information is also available on the DoFA website at http://www.finance.gov.au/finframework/fma_agencies.html; and http://www.finance.gov.au/finframework/cac_bodies.html.

1.8 The enabling legislation of prescribed agencies, including some FMA Act agencies, may require each agency to report on matters other than those included in the guidelines, or impose different reporting requirements, for example in relation to the date by which the report should be presented. The Committee's view is that such agencies, while bound by their enabling legislation, should also comply with the requirements imposed under the government's policy, to the extent that the requirements do not conflict. This matter is discussed further in relation to the reports

of the Productivity Commission and the Australian Securities and Investments Commission.

Timeliness

1.9 Standing Order 25(21)(c) requires the Committee to report to the Senate on the late presentation of annual reports.

1.10 Section 4 of the *Requirements for Annual Reports* states that annual reports are to be laid before the Parliament on or before 31 October in the year the report is given. Section 9 of the CAC Act stipulates that the deadline for furnishing the Minister with relevant annual reports is the 15th day of the 4th month after the end of the financial year, that is, 15 October where the end of the financial year is 30 June.

1.11 The Committee notes that government agencies reporting in accordance with their own legislation are often required to prepare for the relevant Minister their annual report 'as soon as is practicable' after a particular date. The Committee draws attention to sections 34C(2) and (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 Minister must provide the report to the Parliament within 15 sitting days after he receives it.

1.12 The Committee notes that the annual report for 2003-2004 of IIF Investments Pty Limited, IIF (CM) Investments Pty Limited, IIF BioVentures Pty Limited, IIF Foundation Pty Limited, IIF Neo Pty Limited was not tabled by the deadline specified by section 9 of the CAC Act, that is by the 15th day of the 4th month after the financial year, namely 15 October 2004. This report was tabled more than 9 months after this date.

Reports referred to the Committee

1.13 This report must examine those annual reports tabled between 1 May 2005 and 31 October 2005. The following reports have been referred to the Committee for examination and report:

Departments and executive and prescribed agencies

- Australian Bureau of Statistics - Annual Report 2004-05
- Australian Statistics Advisory Committee - Annual Report 2004-05
- Australian Competition and Consumer Commission - Annual Report 2004-05
- Australian Office of Financial Management - Annual Report 2004-05
- Commissioner of Taxation - Annual Report 2004-05
- Department of Industry, Tourism and Resources - Annual Report 2004-05
- Inspector-General of Taxation - Annual Report 2004-05

- National Competition Council - Annual Report 2004-05
- National Offshore Petroleum Safety Authority - Report for 1 January 2005 to 30 June 2005
- National Offshore Petroleum Safety Authority Board - Report for 1 January 2005 to 30 June 2005
- Productivity Commission - Annual Report 2004-05
- The Treasury - Annual Report 2004-05

Statutory authorities

- Australian Prudential Regulation Authority - Annual Report 2004-05
- Australian Reinsurance Pool Corporation - Annual Report 2004-05
- Australian Securities and Investments Commission - Annual Report 2004-05
- Corporations and Markets Advisory Committee - Annual Report 2004-05
- Financial Reporting Council, Australian Accounting Standards Board and Auditing Assurance Standards Board - Annual Reports 2004-05
- Reserve Bank of Australia - Annual Report 2004-05
- Reserve Bank - Payments System Board 2005
- Reserve Bank - Equity and Diversity 2005
- Takeovers Panel - Annual Report 2004-05
- Tourism Australia - Annual Report 2004-05

Commonwealth companies

- IIF Investments Pty Limited, IIF (CM) Investments Pty Limited, IIF BioVentures Pty Limited, IIF Foundation Pty Limited, IIF Neo Pty Limited - Annual Report 2003-04

Reports on the operation of Acts

- Report on the government Co-contribution Scheme under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* - Annual Report 2004-05
- Report of Interaction with the Data-Matching Program (Assistance and Tax) - Australian Taxation Office's involvement with the program - 2001-04
- Report of Interaction with the Data-Matching Program (Assistance and Tax) - Australian Taxation Office's involvement with the program - 2003-04

Comments on reports

1.14 In accordance with Standing Order 25(21)(a) the Committee is required to examine reports and inform the Senate as to whether they are 'apparently satisfactory'. The Committee considers compliance with the reporting guidelines stipulated by the legislation under which various departments and agencies present their annual reports.

1.15 The Committee considers that the reports it has examined are generally 'apparently satisfactory', although some do not appear to completely meet all of the *Requirements for Annual Reports*. Generally, the departures from the requirements are minor.

1.16 While not required under the reporting requirements, the Committee recommends the inclusion of a compliance index in annual reports, particularly for executive departments and FMA Act agencies. Some departments and agencies already include such an index. This is a useful feature of reports, and considerably simplifies the task of checking that agencies have taken full account of reporting requirements.

Australian Office of Financial Management

1.17 The Committee considers that the index in this report provides limited detail, and is of the view that it would be helpful to readers if a more extensive index could be provided in future reports.

1.18 The Committee notes the correction to the Australian Office of Financial Management's Annual Report of 2003-04 on page viii of its 2004-05 Annual Report.

Department of Industry, Tourism and Resources

1.19 Departments are required to make a list of discretionary grants administered by the department available, either in an appendix to the report, or on the Internet. While the Department of Industry, Tourism and Resources does make such a list available on its website, it could only be located with some difficulty. The Committee considers that it would be preferable for the path to the location of this information to be included in the annual report.

Inspector-General of Taxation

1.20 According to section 12(1)(d) of *Requirements for Annual Reports*, 'agency heads are required to certify in their annual reports that their agency has prepared fraud risk assessment and fraud control plans'. The Committee notes that the Inspector-General of Taxation's Annual Report does not include such a certification.

1.21 The Committee notes that the 'Inspector-General has evaluated the Treasury Disability Action Plan and is considering options appropriate to a small agency'³.

National Competition Council

1.22 The National Competition Council is a prescribed agency under the FMA Act. As such, the government's policy in relation to reporting guidelines is applicable. The Committee notes the National Competition Council's non-compliance with a number of the *Requirements for Annual Reports* (e.g. summary resource tables by outcomes, performance pay, advertising and market research, ecologically sustainable development and environmental performance reporting). The Committee also considers that a more substantial index would be a useful aid to access.

National Offshore Petroleum Safety Authority

1.23 The Committee welcomes the first report by the National Offshore Petroleum Safety Authority, for the period 1 January to 30 June 2005. The Committee notes that the letter of transmittal is undated, however is generally satisfied with the standard of reporting in accordance with the guidelines set out in the *Requirements for Annual Reports*.

Productivity Commission

1.24 The Committee notes that the Productivity Commission's comments on page 64 of its report that:

The Senate Economics Legislation Committee's March 2005 report on annual reports noted that the Commission's 2003-04 Annual Report did not include a Chairman's forward summary, and that the report was not tabled by the 31 October timeline. The Committee's March 2004 report also noted the late tabling of the Commission's 2002-03 Annual Report, a fact not reported by the Commission in its 2003-04 Annual Report as it was unaware of the comment at that time.⁴

1.25 Further, the Committee notes the Productivity Commission's comments, also on page 64, that:

...as a statutory agency, the Commission's legal obligations in regard to annual reporting derive from its own legislation (section 10 of the *Productivity Commission Act 1998*). Nevertheless it will continue its endeavours to comply as fully as possible with the Parliament's broader requirements for annual reporting. In particular, the Commission has scheduled completion of this annual report so as to allow tabling by 31 October 2005⁵.

3 *Inspector-General of Taxation*, Annual Report 2004-05, October 2005, p. 29

4 *Productivity Commission*, Annual Report, 2004-05, September 2005, p. 64

5 *Productivity Commission*, Annual Report, 2004-05, September 2005, p. 64

1.26 The Committee agrees that the Commission's timeframe for reporting is set by its own legislation, as prescribed by clause 4 of part 1 of *Requirements for Annual Reports*.

1.27 However, the Commission is a prescribed agency under the FMA Act, and is therefore required to comply with the Government's policy in relation to the reporting obligations of FMA Act agencies, as well as the requirements imposed by its governing legislation.

1.28 The Committee wishes to make it clear that it regards the Commission's report as useful, of a high standard and almost completely fully compliant with the reporting requirements. The Committee notes that the Commission's report still lacks the equivalent of a Secretary's Review (presumably in the case of the Commission this would, if provided, take the form of a Chairman's review). However, the report is comprehensive and it is questionable whether the addition of a Chairman's review would improve it further. The Committee intends to seek further advice as to whether the Commission's report should include a Chairman's review.

The Treasury

1.29 The Committee notes the correction to the Annual Report of 2003-04, specifically that '[in] 2004-05 Treasury reviewed new and existing contracts entered into between 1 July 2003 and 30 June 2005. The review identified that a number of non-consultancy contracts were incorrectly defined and reported as consultancy contracts'⁶.

Australian Securities and Investments Commission

1.30 The Committee notes that the comments in a letter from the Australian Securities and Investment Commission to the Senate Economics Legislation Committee dated 1 April 2005, that:

ASIC is currently the only Commonwealth agency that is subject to both the *Commonwealth Authorities and Companies Act 1997 (CAC Act)* and the *Financial Management and Accountability Act 1997 (FMA Act)*. However, ASIC is a prescribed agency for the purposes of the FMA Act only in regard to public money that it holds on behalf of the Commonwealth. In all other respects, ASIC is a body covered by the CAC Act. As a consequence, the *Requirements for Annual Reports* issued by the Department of Prime Minister and Cabinet in June 2004 have no application to ASIC. The annual report requirements that ASIC must comply with are those set out in section 9 of the CAC Act⁷.

6 *The Treasury*, Annual Report 2004-05, p. 251

7 Letter from Mr Jeffrey Lucy AM from the *Australian Securities and Investments Commission* to the Chair of the *Senate Economics Legislation Committee*, 1 April 2005

1.31 The Committee considers that this matter requires clarification and has decided to refer it to the Minister for Finance for advice.

Remarks made in the Senate

1.32 Senate Standing Order 25 (21)(d) directs the Committee to take into account remarks made in the Senate when considering annual reports.

1.33 None of the annual reports considered in this report have been the subject of discussion in the Senate.

Recommendation

1.34 While not required under the reporting requirements, the Committee recommends the inclusion of a compliance index in annual reports, particularly for executive departments and FMA Act agencies.

SENATOR GEORGE BRANDIS
Chairman

Appendix 1

Industry, Tourism and Resources Portfolio

List of Annual Reports referred to the Committee during the period 1 May 2005 to 31 October 2005

Reporting Body	Date of letter of transmittal	Tabled or presented*	Consideration in the Senate - debate
Industry, Tourism and Resources	20/9/2005	12/10/2005	No debate
IIF Investments Pty Limited, IIF (CM) Investments Pty Limited, IIF BioVentures Pty Limited, IIF Foundation Pty Limited, IIF Neo Pty Limited	31/5/2005	20/7/2005*	No debate
National Offshore Petroleum Safety Authority	No date	11/10/2005	No debate
National Offshore Petroleum Safety Board	20/7/2005	11/10/2005	No debate
Tourism Australia	26/9/2005	28/10/2005*	No debate

Appendix 2

Treasury Portfolio

List of Annual Reports referred to the Committee during the period 1 May 2005 to 31 October 2005

Reporting Body	Date of letter of transmittal	Tabled or presented*	Consideration in the Senate - debate
The Treasury	29/9/2005	25/10/2005*	No debate
Australian Bureau of Statistics	1/9/2005	4/10/05	No debate
Australian Competition and Consumer Commission	31/8/2005	11/10/05	No debate
Australian Office of Financial Management	10/10/2005	25/10/05*	No debate
Australian Prudential Regulation Authority	23/9/2005	28/10/05*	No debate
Australian Reinsurance Pool Corporation	20/9/2005	28/10/2005*	No debate
Australian Securities and Investments Commission	No letter of transmittal	14/10/2005*	No debate
Australian Statistics Advisory Council	5/9/2005	4/10/2005	No debate
Commissioner of Taxation	7/10/2005	25/10/2005*	No debate
Corporations and Markets Advisory Committee	8/9/2005	27/10/2005*	No debate
Financial Reporting Council, Australian Accounting Standards Board and Auditing and Assurance Standards Board	23/9/05	24/10/2005*	No debate
Inspector-General of Taxation	10/10/2005	27/10/2005*	No debate

Reporting Body	Date of letter of transmittal	Tabled or presented*	Consideration in the Senate - debate
National Competition Council	11/10/2005	11/10/2005	No debate
Productivity Commission	30/9/2005	31/10/2005*	No debate
Report of Interaction with the Data-Matching Program (Assistance and Tax) 2003-04	May 2005	21/6/2005	No debate
Report of Interaction with the Data-Matching Program (Assistance and Tax) 2003-04	May 2005	21/6/2005	No debate
Reserve Bank - Equity and Diversity	No letter of transmittal	4/10/2005	No debate
Reserve Bank - Payments System Board	No letter of transmittal	4/10/2005	No debate
Reserve Bank of Australia	1/9/2005	13/9/2005	No debate
Report on the Government Co-contribution Scheme under the <i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i> -	24/8/2005	14/9/2005	No debate
Takeovers Panel	15/9/2005	28/10/2005*	No debate