

Preface

Introduction

1.1 This is the Senate Economics Legislation Committee's (the committee) first report on annual reports in 2014. It provides an overview of the committee's examination of annual reports for the 2012–13 financial reporting period.

Terms of reference

1.2 The Senate allocated departments and agencies to committees on 13 November 2013. In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Industry portfolio; and
- Treasury portfolio.

1.3 Standing Order 25(20) relating to the consideration of annual reports by committee 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 reports.

Role of annual reports

1.4 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 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.

1.5 Together with Portfolio Budget Statements (PBS) and the Estimates process, annual reports are the principal mechanisms for scrutiny of the operations of

Government. Indeed, as highlighted in the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies (Requirements for Annual Reports)* released by the Department of the Prime Minister and Cabinet (PM&C), and approved by the Joint Committee of Public Accounts and Audit (JCPAA):

Annual reports serve to inform the Parliament (through the responsible Minister), other stakeholders, educational and research institutions, the media and the general public about the performance of departments in relation to services provided. Annual reports are a key reference document and a document for internal management. They form part of the historical record.¹

...

Annual reports and PB Statements are the principal formal accountability mechanisms between government and departments and from departments through (or on behalf of) government to the Parliament.²

Assessment of annual reports

1.6 Senate Standing Order 25(20) requires that the committee examine reports referred to it to determine whether they are timely and 'apparently satisfactory'. The committee must consider whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports in forming its assessment.

1.7 The requirements are set out as follows:

- Departments of State and Executive Agencies present their annual reports pursuant to subsections 63(2) and 70(2) of *Public Service Act 1999*, and the *Requirements for Annual Reports*. As a matter of policy, the *Requirements for Annual Reports* also apply to prescribed agencies under section 5 of the *Financial Management and Accountability Act 1997* (FMA Act).³
- Commonwealth authorities and companies present their annual reports pursuant to their own enabling legislation and/or sections 9, 36 and 48 of the *Commonwealth Authorities and Companies Act 1997* (CAC Act). Those commonwealth authorities and companies reporting under the CAC Act are required to comply with the *Commonwealth Companies (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011*, respectively.
- Guidelines for the annual reports of non-statutory bodies are set out in the Government Response to recommendations of the then Senate Standing

1 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies (Requirements for Annual Reports)*, 24 June 2013, paragraph 5(2).

2 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, paragraph 6(1).

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, paragraph 3(1).

Committee on Finance and Public Administration on Non-statutory bodies, *Senate Hansard*, 8 December 1987, pp 2643–45.

1.8 The legislation governing the annual reports of various agencies and the tabling information is shown in Appendices 1, 2 and 3.

1.9 The enabling legislation of some agencies may require that agency to report on matters other than those included in the guidelines, or impose different reporting requirements. The committee's view is that such agencies, while bound by their enabling legislation, should also comply with the PM&C guidelines, to the extent that the requirements do not conflict.

Changes to reporting requirements

1.10 The 2012–13 annual reports are prepared in accordance with the *Requirements for Annual Reports*. These requirements are reviewed annually and the latest version was issued on 24 June 2013.

1.11 Significant amendments to the most recent *Requirements for Annual Reports* relate to:

- **Spatial reporting**—a new requirement has been added for selected portfolio agencies to report on expenditure in relation to the *Spatial Reporting Framework*.⁴ This framework was established to improve reporting of regional expenditure.

Reports referred to the committee

1.12 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 (and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year). This year that date is 19 March 2014.⁵ This Report on Annual Reports also examines annual reports that were tabled after 31 October 2013 but before this report's tabling.

1.13 The following annual reports were referred to the committee for consideration:

Departments of State

- Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education [includes IP Australia and the Tuition Protection Service];
- Department of Resources, Energy and Tourism [includes Geoscience Australia (non-statutory agency)]; and
- Department of the Treasury;

4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, p. i.

5 The committee is also required to report on annual reports tabled in the Senate by 30 April each year by the tenth sitting day after 30 June of that year.

Prescribed agencies under the FMA Act

- Auditing and Assurance Standards Board (independent statutory agency);⁶
- Australian Accounting Standards Board (independent statutory agency);⁷
- Australian Bureau of Statistics (statutory agency);
- Australian Charities and Not-for-profits Commission—Report for the period 3 December 2012 to 30 June 2013;
- Australian Competition and Consumer Commission [includes the Australian Energy Regulator] (independent statutory authority);
- Australian Office of Financial Management (non-statutory agency);
- Australian Prudential Regulation Authority (statutory agency);
- Australian Securities and Investments Commission (statutory agency);⁸
- Australian Skills Quality Authority (independent statutory agency);
- Australian Taxation Office (statutory agency);
- Commonwealth Grants Commission (statutory agency);
- Corporations and Markets Advisory Committee (statutory agency);⁹
- Inspector-General of Taxation (statutory agency);
- National Competition Council (statutory agency);
- National Offshore Petroleum Safety and Environmental Management Authority (statutory agency);
- Productivity Commission (statutory agency);
- Royal Australian Mint (non-statutory agency);

Statutory bodies/authorities not under the FMA Act

- Australian Statistics Advisory Council;
- Companies Auditors and Liquidators Disciplinary Board (independent statutory body);¹⁰
- Financial Reporting Council (statutory body);¹¹

6 Also stands referred to the Parliamentary Joint Committee on Corporations and Financial Services (PJC).

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- Australian Workforce and Productivity Agency (AWPA) (independent statutory body);
- Superannuation Complaints Tribunal;
- Tax Practitioners Board (independent statutory authority);

Non-statutory bodies

- Takeovers Panel;¹²

Commonwealth authorities (under the CAC Act)

- Australian Institute of Marine Science (statutory authority);
- Australian National University (statutory authority);¹³
- Australian Renewable Energy Agency;
- Australian Reinsurance Pool Corporation;
- Australian Nuclear Science and Technology Organisation;
- Clean Energy Finance Corporation;
- Commonwealth Scientific and Industrial Research Organisation [includes Science and Industry Endowment Fund];
- Reserve Bank of Australia;

Commonwealth companies (under the CAC Act)

- IIF Investments Pty Limited; and

Other companies, limited by shares

- Snowy Hydro Limited (statutory corporation).

1.14 Comments on these individual reports are contained in chapter 1 for departments of state, and chapter 2 for statutory and non-statutory bodies. Reports are listed in alphabetical order under each portfolio.

1.15 Some of the aforementioned reports which are within the Treasury portfolio are also 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 committee's duties, which include:

11 Also stands referred to the Parliamentary Joint Committee on Corporations and Financial Services (PJC).

12 Also stands referred to the Parliamentary Joint Committee on Corporations and Financial Services (PJC).

13 The Australian National University's annual report for 2011-12, which was examined in *Annual reports (No. 2 of 2013)*, was tabled in the Senate on 13 November 2013. Annual Report 2012-13 has not been tabled in the Senate yet.

(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...

1.16 In fulfilment of the PJC committee's duties under subsection 243(b), the PJC reports on the following bodies.

- Auditing and Assurance Standards Board (AUASB);¹⁴
- Australian Accounting Standards Board (AASB);¹⁵
- Australian Securities and Investments Commission;
- Companies Auditors and Liquidators Disciplinary Board;
- Corporations and Markets Advisory Committee;
- Financial Reporting Council;
- Financial Reporting Panel;¹⁶
- Office of the Australian Accounting Standards Board;¹⁷
- Office of the Auditing and Assurance Standards Board;¹⁸ and
- Takeovers Panel.

1.17 Therefore this committee has determined to consider, but not report on the above mentioned annual reports as the PJC has specific responsibility for overseeing these agencies.

Additional reports referred to the committee

1.18 As the committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata, the following documents were referred to the committee for information only:

14 The ASIC Act directs that one annual report will cover both the AASB and the Office of the AASB. Similarly, the AUASB is required to prepare an annual report that addresses its activities and the activities of the Office of the AUASB.

15 The ASIC Act directs that one annual report will cover both the AASB and the Office of the AASB. Similarly, the AUASB is required to prepare an annual report that addresses its activities and the activities of the Office of the AUASB.

16 The Financial Reporting Panel (FRP) ceased to operate on 1 October 2012.

17 The ASIC Act directs that one annual report will cover both the AASB and the Office of the AASB. Similarly, the AUASB is required to prepare an annual report that addresses its activities and the activities of the Office of the AUASB.

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- Australian Competition & Consumer Commission—Telstra's Structural Separation Undertaking, Annual Compliance Report 2011–12, Report to the Minister for Broadband, Communications and the Digital Economy;
 - Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education—Australian Vocational Education and Training System 2011, Section 44 of the *Skilling Australia's Workforce Act 2005*;
 - Department of Resources, Energy and Tourism—Energy use in the Australian Government's Operations, Report 2010–11;
 - Department of Resources, Energy and Tourism—Australian Government response to the Productivity Commission inquiry report into Electricity Network Regulatory Frameworks, dated June 2013;
 - Productivity Commission—
 - Report No. 61—Compulsory Licensing of Patents, Section 12 of the *Productivity Commission Act 1998*;
 - Report No. 62—Electricity Network Regulatory Framework, Volume 1 & Volume 2, Section 12 of the *Productivity Commission Act 1998*;
 - Report No. 63—Safeguards inquiry into the import of processed tomato products, dated 18 September 2013;
 - Report No. 64—Safeguards inquiry into the import of processed fruit products, dated 18 September 2013;
 - Report No. 65—Mineral and energy resource exploration, dated 27 September 2013;
 - Report No. 66—National Access Regime, dated 25 October 2013;
 - Report No. 67—Safeguards inquiry into the import of processed fruit products, dated 12 December 2013;
 - Report No. 68—Safeguards inquiry into the import of processed tomato products, dated 12 December 2013;
 - Reserve Bank of Australia—Reports for 2012–13:
 - Equity and diversity;
 - Payments System Board;
 - Australian National Audit Office
 - Report No. 4 of 2013–14—Performance audit—Confidentiality in government contracts: Senate order for departmental and agency contracts (calendar year 2012 compliance) across agencies; and
 - Report No. 5 of 2013–14—Performance audit—Administration of the taxation of personal services income;
 - Report No. 9 of 2013–14—Performance audit—Determination and collection of financial industry levies: Australian Prudential Regulation Authority; Department of the Treasury;

- Final budget outcome 2012–13—Report by the Treasurer (Mr Hockey) and the Minister for Finance (Senator Cormann);
- Advances provided under the annual Appropriation Acts—Report for 2012–13;
- Mid-Year Economic and Fiscal Outlook (MYEFO) 2013–14—prepared in accordance with the *Charter of Budget Honesty Act 1998*;
- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2014 [Appropriation Bill (No.3) 2013–14]; and
Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2014 [Appropriation Bill (No.4) 2013–14].

Organisational and operational changes

1.19 In response to the changes in the machinery of government on 18 September 2013, the new Administrative Arrangements Orders resulted in the following changes to Industry:

- Outcome 1, Program 3 (Tourism related initiatives and management) from the Department of Resources, Energy and Tourism (DRET) 2013-14 Portfolio Budget Statements (PBS) was transferred to Austrade;¹⁹
- Outcome 2, Program 2.1 (Investment in Higher Education Research) and Outcome 3, programs 3.1 (Higher Education Support), 3.2 (Higher Education Loan Program (HELP)), 3.3 (Tertiary Student Assistance) and 3.6 (International Education Support) from the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE) 2013-14 PBS were transferred to the Department of Education;²⁰
- Outcome 4²¹ from DIICCSRTE 2013-14 PBS was transferred to the Department of Environment.

1.20 As a result of the Administrative Arrangements Orders (AAO) following the election, the small business policy function transferred to the Treasury from the Department of Industry.²²

19 Resources, Energy and Tourism Portfolio, *Portfolio Budget Statements 2013-14* (RET, PBS 2013-14), p. 45.

20 Industry, Innovation, Climate Change, Science, Research and Tertiary Education Portfolio, *Portfolio Budget Statements 2013-14* (IICCSRTE, PBS 2013-14), pp 57 and 77-80.

21 IICCSRTE, PBS 2013-14 p. 114. Outcome 4 – Reduction of Australia's greenhouse gas emissions, adaptation to the impacts of climate change, and negotiation of an effective global solution, through the development and implementation of a national response to climate change; and bilateral, regional and multilateral engagement internationally.

22 Treasury Portfolio, *Portfolio Additional Estimates Statements 2013-14* (Treasury, PAES 2013-14), p. 11.

General comments on the annual reports

'Apparently satisfactory'

1.21 Under the terms of Standing Order 25(20)(a), the committee is required to report to the Senate whether reports are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as compliance with relevant reporting guidelines.

1.22 The annual reports examined by the committee in this report were found to be of a satisfactory standard, adequately describing the functions, activities, performance and financial positions of the departments and agencies. The committee finds all submitted annual reports to be 'apparently satisfactory'.

1.23 Even so, the committee considers that some aspects of agency annual reports could be improved by a closer adherence to the *Requirements for the Annual Reports*. For example, some annual reports should contain a discussion of external scrutiny and parliamentary accountability.

External scrutiny and accountability

1.24 It is required that annual reports:

... must provide information on the most significant developments in external scrutiny of the department and the department's response, including particulars of:

(a) judicial decisions, decisions of administrative tribunals, and decisions by the Australian Information Commissioner, that have had, or may have, a significant impact on the operations of the department; and

(b) reports on the operations of the department, including by the Auditor-General (other than the report on financial statements), a Parliamentary committee, the Commonwealth Ombudsman, or agency capability reviews (once released).²³

1.25 Annual reports should be a primary reference document for parliamentarians and others looking for information about external scrutiny of government agencies. As noted, the primary purpose of annual reports is accountability to the Parliament—it is therefore important that details about external scrutiny are included in a clear manner in annual reports. Details on parliamentary scrutiny should be included in annual reports, including appearances at Senate estimates hearings (which are the subject of bi-annual reports to the Senate) and any evidence or submissions made to parliamentary inquiries. The reports should also note that they are subject to scrutiny by this and any other committee.

23 *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, p. 10. Order 17 of the *Commonwealth Authorities (Annual Reporting) Orders 2011* applies the same requirements to Commonwealth authorities that present their annual reports in accordance with the provisions of section 9 and schedule 1 of the CAC Act.

Timeliness

1.26 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports. The committee commends the departments and agencies discussed in this report for their timeliness.

Departments and FMA Act entities

1.27 Subsection 4(1) of Part 1 of the *PM&C Requirements for Annual Reports* states that annual reports of departments and agencies under the FMA Act framework are to be presented to each House of Parliament on or before 31 October in the year the report is given. Furthermore, if Senate Supplementary Estimates hearings are scheduled to occur prior to 31 October, it is best practice for annual reports to be tabled prior to those hearings. In 2012, hearings for the committee's portfolios commenced on 17 October.

CAC Act entities

1.28 Section 9 of the CAC Act stipulates that the deadline for furnishing the minister with the annual reports of Commonwealth authorities is the 15th day of the 4th month after the end of the financial year; that is, 15 October.

1.29 Section 36 of the CAC Act stipulates that Commonwealth companies must give their annual reports to the responsible minister by the earlier of the following:

- four months after the end of the financial year, or
- 21 days before the next annual general meeting of the company after the end of the financial year.

Other entities

1.30 Entities 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 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 minister must provide the report to the Parliament within 15 sitting days after they receive it.

Government policy for all annual reports

1.31 While the legislative requirements for the tabling of annual reports vary between different types of agencies, the Government's policy is 'that all annual reports should be tabled by 31 October'.²⁴

24 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 24 June 2013, p. 2; Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to the Parliament (Including Government Documents, Government Responses to Committee Reports, Ministerial Statements, Annual Reports and Other Instruments)*, October 2013, paragraph 4.10.

Requests for an extension

1.32 The committee notes that this report includes the examination of one annual report which was tabled after the 31 October deadline. This is the Royal Australian Mint annual report 2012–13, for which an extension was requested. On 29 October 2013, Parliamentary Secretary to the Treasurer, the Hon Steven Ciobo MP, granted a request for an extension to 15 November 2013 for the tabling of the Royal Australian Mint annual report. The details of the extension were tabled in Parliament in accordance with paragraph 34C of the *Acts Interpretation Act 1901*.

1.33 Annual reports and other documents tabled in the Senate after 31 October and before the tabling of this report will be discussed in the committee's *Annual reports (No. 2 of 2014)*.

Compliance indices or lists of requirements

1.34 The inclusion of a compliance index or a list of requirements in annual reports is mandatory for all departments and agencies under the FMA Act and CAC Act. The index preferably should include a nil return entry where the agency has nothing to report under an item. A compliance index is a useful feature of reports and assists the committee considerably in its assessments of the reports. It also assists agencies by clearly showing that their compliance obligations have been met. It can be particularly useful for agencies with reporting requirements under various Acts.

1.35 The committee commends the great majority of agencies for their inclusion of compliance indices in their 2012–13 annual reports.