

# Chapter One

## Introduction

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

1.2 This is the committee's first report on annual reports for 2017 and provides an overview of selected annual reports presented to the Parliament between 1 May and 31 October 2016 for the 2015–16 reporting period.

## Terms of reference

1.3 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.

## Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 13 November 2013.<sup>1</sup> In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Industry, Innovation and Science Portfolio; and
- Treasury Portfolio.

## Role of 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 Together with Portfolio Budget Statements (PBS), Portfolio Additional Estimates Statements (PAES) and the Estimates process, annual reports are the primary mechanisms for scrutiny of the operations of government. Indeed, as highlighted in the *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-corporate Commonwealth Entities* (Requirements for Annual Reports or PM&C guidelines) released by the Department of the Prime Minister and Cabinet (PM&C), and approved by the Joint Committee of Public Accounts and Audit (JCPAA) under subsections 63(2) and 70(2) of the *Public Service Act 1999* (PS Act):

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.<sup>2</sup>

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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.<sup>3</sup>

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1 *Journals of the Senate, No. 1*, 13 November 2013, pp. 88–89.

2 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-corporate Commonwealth Entities* (Requirements for Annual Reports), 25 June 2015, paragraph 5(2).

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 25 June 2015, paragraph 6(1).

## **Annual reporting requirements**

1.7 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which commenced on 1 July 2014, establishes a performance reporting framework for all Commonwealth entities and companies.

1.8 Section 46 of the PGPA Act sets out the annual reporting requirements in relation to non-corporate Commonwealth entities, including that annual reports must comply with any requirements prescribed by the PGPA Rule 2014. Section 97 sets out the annual reporting requirements for corporate Commonwealth entities.

1.9 The enabling legislation of some agencies may require that agency to report on matters other than those included in the PM&C 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.

## **Reports referred to the committee**

1.10 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>4</sup> This year that date is 22 March 2017.

## **Reports examined**

1.11 During the period of 1 May to 31 October 2016, 28 annual reports of bodies or statutory office holders were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

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

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

##### *Departments of State*

- Department of Industry, Innovation and Science [incorporating the reports of non-statutory, non-corporate Commonwealth entities Geoscience Australia and IP Australia]; and

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

- Australian Institute of Marine Science;
- Australian Nuclear Science and Technology Organisation<sup>5</sup>;
- Commonwealth Scientific and Industrial Research Organisation;
- National Offshore Petroleum Safety and Environmental Management Authority (statutory agency);

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4 The 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

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

## ***Treasury Portfolio***

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

#### *Departments of State*

- Department of the Treasury.

#### *Agencies*

- Office of the Auditing and Assurance Standards Board (statutory agency)<sup>6</sup>;
- Office of the Australian Accounting Standards Board (statutory agency)<sup>7</sup>;
- Australian Bureau of Statistics (statutory agency);
- Australian Charities and Not-for-profits Commission (statutory office holder);
- Australian Competition and Consumer Commission [incorporating the report of the Australian Energy Regulator] (statutory agency);
- Australian Office of Financial Management (non-statutory agency);
- Australian Prudential Regulation Authority (statutory agency);
- Australian Securities and Investments Commission (statutory agency)<sup>8</sup>;
- Commissioner of Taxation (Australian Taxation Office) (statutory agency);
- Commonwealth Grants Commission (statutory agency);
- Inspector-General of Taxation (statutory agency);
- National Competition Council (statutory agency);
- Productivity Commission (statutory agency); and
- Royal Australian Mint (non-statutory agency);
- Australian Statistics Advisory Council (statutory office holder);
- Companies Auditors and Liquidators Disciplinary Board (statutory body)<sup>9</sup>;
- Financial Reporting Council (statutory body)<sup>10</sup>;
- Superannuation Complaints Tribunal (statutory body);
- Tax Practitioners Board (statutory body); and

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

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- Takeovers Panel (non-statutory body).<sup>11</sup>

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

- Australian Reinsurance Pool Corporation; and
- Reserve Bank of Australia.

1.12 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'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...

1.13 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)<sup>12</sup>;
- Australian Accounting Standards Board (AASB)<sup>13</sup>;
- Australian Securities and Investments Commission (ASIC);
- Companies Auditors and Liquidators Disciplinary Board;
- Corporations and Markets Advisory Committee (abolished in May 2014 Budget and report 2013–14 was the final report)<sup>14</sup>;
- Financial Reporting Council;
- Office of the Australian Accounting Standards Board<sup>15</sup>;
- Office of the Auditing and Assurance Standards Board<sup>16</sup>; and
- Takeovers Panel.

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

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

13 The ASIC Act directs that one annual report will cover both the AASB and the Office of the AASB.

14 The CAMAC Bill to abolish the body lapsed when Parliament was prorogued on April 15 April 2016.

15 The ASIC Act directs that one annual report will cover both the AASB and the Office of the AASB.

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

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

1.14 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:

### ***Treasury portfolio***

- Australian Taxation Office—Register of Foreign Ownership of Agricultural Land—Report of registrations as at 30 June 2016—Section 34 of the Register of Foreign Ownership of Agricultural Land Act 2015, presented 31 August 2016.
- Final budget outcome 2015–16, dated September 2016.
- Reserve Bank of Australia—Payments System Board—Annual Report 2016 (tabled HoR 13 October 2016—Senate 7 November 2016)
- Reserve Bank of Australia—Equity and Diversity Annual Report 2016 (tabled HoR 13 October 2016—Senate 7 November 2016)
- Australian Taxation Office:
  - Low Income Superannuation Contributions—Quarterly Report—for the period 1 April 2016 to 30 June 2016—Section 12G of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
  - Low Income Superannuation Contributions—Annual Report—1 July 2015 to 30 June 2016—Section 12G of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
  - Super Co-contributions Quarterly Report—for the period 1 April 2016 to 30 June 2016—Section 54 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
  - Super Co-contributions Annual Statutory Report—1 July 2015 to 30 June 2016—Section 54 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
- Productivity Commission—Report no. 78—Intellectual Property Arrangements, dated 23 September 2016.
- Tax expenditures statement 2016, dated January 2017, received 30 January 2016.
- Australian Small Business and Family Enterprise Ombudsman—Inquiry into small business loans Report, dated 12 December 2016.

### **Timeliness**

1.15 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 PGPA Act entities***

1.16 Section 46 of the PGPA Act, which applies to annual reports of Commonwealth entities, states that annual reports of departments and agencies must be provided to the responsible Minister by the 15<sup>th</sup> day of the fourth month after the

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end of the reporting period (generally, 15 October of the relevant year). The responsible Minister must, in turn, present the report to each House of the Parliament on or before 31 October in the year in which the report is given. Furthermore, 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>17</sup>

1.17 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*.

1.18 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.

1.19 The provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901* apply in relation to an application for extension of the period. An extension under the *Acts Interpretation Act 1901* would need to be sought only should a specified timeframe not be met. However, it remains the government's policy that all annual reports should be tabled by 31 October.<sup>18</sup>

### ***Other entities***

1.20 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 the end of the particular period to which the reports relates. The committee draws

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

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

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 days after receipt by the Minister.

### ***Timeliness of 2015–16 reports examined***

1.21 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 relevant timeframes.

1.22 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 May and 31 October 2016 and referred to the committee with relevant tabling dates.

1.23 The committee notes that three non-corporate Commonwealth entities submitted their annual reports to the Minister after 15 October 2016.

1.24 The committee also notes, however that all annual reports for 2015–16 were presented in Parliament in a timely manner, by 31 October 2016.

1.25 The committee commends those entities whose annual reports were presented in the Parliament prior to the Supplementary Budget Estimates hearings which were held in the week beginning 17 October 2016.

1.26 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 2017)*.

### **Senate Debate**

1.27 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.

### **Non-reporting bodies**

1.28 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.

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

### **Apparently satisfactory**

1.30 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.

1.31 The committee has examined all annual reports referred under the Industry, Innovation and Science and Treasury portfolios during the reporting period and considers that they are apparently satisfactory.

