

Chapter 1

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 Science¹ and Treasury portfolios.

1.2 This is the committee's first report on annual reports for 2019 and provides an overview of selected annual reports presented to the Parliament between 1 May and 31 October 2018 for the 2017–18 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.

1 The Administrative Arrangements Order of 28 August 2018 changed the name of the portfolio from Industry, Innovation and Science (part of the Jobs and Innovation portfolio) to the Industry, Innovation and Science portfolio.

Allocated portfolios

1.4 The Senate allocated departments and agencies to committees on 17 September 2018.² 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.³

...

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.⁴

2 *Journals of the Senate, No. 118*, 17 September 2018, pp. 3768–3769.

3 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).

4 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.⁵ This year that date is 28 May 2018. The committee will present this report on 2 April 2019.

Reports examined

1.11 During the period of 1 May to 31 October 2018, the required annual reports of all bodies or statutory office holders of the Treasury and Industry, Innovation and Science portfolios were presented to the Parliament and referred to the committee. This report also examines reports and documents referred to the committee up to 31 March 2019. 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].

Corporate Commonwealth entities

- Australian Institute of Marine Science;
- Australian Nuclear Science and Technology Organisation;⁶
- Commonwealth Scientific and Industrial Research Organisation;

5 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.

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

- National Offshore Petroleum Safety and Environmental Management Authority; and
- Northern Australia Infrastructure Facility.

Other

- Innovation and Science Australia (formerly Innovation Australia—statutory office holder).

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;
- 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;
- 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);

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

1.12 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;
- 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;⁷
- Office of the Auditing and Assurance Standards Board;⁸ and
- Takeovers Panel.

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

- Strengthening for Purpose: Australian Charities and Not-for-profits Commission—Legislation Review 2018—Section 16 of the *Australian*

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

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

Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012, tabled 22 August 2018;

- Misconduct in the banking, superannuation and financial services industry—Royal Commission—Interim report (3 volumes), dated 28 September 2018;
- Misconduct in the banking, superannuation and financial services industry—Royal Commission—Final report (3 volumes), dated 4 February 2019;
- Final budget outcome 2017–18, dated September 2018;
- *Register of Foreign Ownership of Agricultural Land Act 2015*—Report of registrations for 2017–18, tabled 20 December 2018;
- *Register of Foreign Ownership of Water or Agricultural Land Act 2015*—Report of registrations as at 30 June 2018, tabled 1 March 2019;
- Reserve Bank of Australia—Payments System Board—Annual Report 2017–18 (tabled HoR 20 September 2018–Senate 15 October 2018);
- Reserve Bank of Australia—Equity and Diversity Annual Report 2017–18 (tabled HoR 20 September 2018–Senate 15 October 2018);
- Department of the Treasury—Tax Benchmarks and Variations Statement 2018;
- Australian Taxation Office:
- Productivity Commission—Report no. 90—Murray-Darling Basin Plan: five-year assessment, dated 19 December 2018;
- Productivity Commission—Report no. 91—Superannuation: Assessing efficiency and competitiveness, dated 21 December 2018;
- Mid-Year Economic and Fiscal Outlook (MYEFO) 2018–19, dated 17 December 2018; and

Industry portfolio

- Review of the implementation of the Australian Jobs Act 2013, dated 26 November 2018.

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 15th day of the fourth month after the 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.⁹

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. Under the *Acts Interpretation Act 1901* an extension would only need to be sought should a specified timeframe not be met. However, it remains the government's policy that all annual reports should be tabled by 31 October.¹⁰

Other entities

1.20 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.

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

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

Timeliness of 2017–18 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 2018 and referred to the committee including the relevant tabling dates.

1.23 The committee notes that all annual reports for 2017–18 were presented in Parliament in a timely manner, by 31 October 2018.

1.24 The committee notes that some annual reports, although tabled on time, were not available prior to the 2018 Supplementary Budget Estimates hearings on 24 and 25 October 2018. The committee commends those entities whose annual reports were presented in the Parliament prior to the hearings.

1.25 Innovation Australia is an independent statutory board established under the *Industry Research and Development Act 1986*, and tabled its annual report on 26 November 2018. The board is required to report to the Minister as soon as practicable after 30 June each year. The committee thanks Innovation Australia for the prompt tabling of its report.

1.26 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 thanks FIRB for continuing to report to the Parliament each year.

1.27 Annual reports and other documents tabled in the Senate after 31 March 2019 will be discussed in the committee's *Annual reports (No. 2 of 2019)*.

Senate Debate

1.28 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

1.29 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.

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

Apparently satisfactory

1.31 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.

1.32 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.

