

# Chapter 1

## Introduction

1.1 This is the first report on annual reports for 2016 of the Senate Environment and Communications Legislation Committee (the committee). It provides an overview of annual reports of agencies within the allocated portfolios tabled in the Senate between 1 May 2015 and 31 October 2015.

1.2 Annual reports inform the Parliament, stakeholders and other interested parties of the operations and performance of public sector departments, agencies and companies. They are a primary accountability mechanism. Additionally, annual reports are important reference documents and form part of the historical record.<sup>1</sup>

### Terms of reference

1.3 Under Standing Order 25(20), the annual reports of certain departments and agencies are referred to the committee for examination and assessment. The 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 report 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 the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports.

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1 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 3.

- (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 In accordance with the resolution of the Senate on 12 November 2013, the committee has oversight of the following portfolios:

- Environment; and
- Communications and the Arts.<sup>2</sup>

### **Annual reporting requirements**

1.5 This is the first time departments and agencies are reporting under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which commenced on 1 July 2014. The PGPA Act consolidates the governance, performance and accountability requirements that were contained in the *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act). It also establishes a performance reporting framework for all Commonwealth entities and companies.

1.6 Section 46 of the PGPA Act sets out the annual reporting requirements in relation to Commonwealth entities, including that annual reports must comply with any requirements prescribed by rules. Section 97 sets out the annual reporting requirements for Commonwealth companies.

1.7 However, as with 2013–14 annual reports, 2014–15 annual reports were prepared under the arrangements existing at 30 June 2014 as follows:

- for non-corporate Commonwealth entities (departments, executive agencies and statutory agencies): the *Public Service Act 1999*, sections 63(2) and 70(2), and the *Parliamentary Service Act 1999*, section 65; other relevant enabling legislation for statutory bodies; and the *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities* (Requirements for Annual Reports);
- for corporate Commonwealth entities: the Commonwealth Authorities (Annual Reporting) Orders 2011 prescribe material that must be included in corporate entities' annual reports. These Orders continue to apply to 2014–15 annual reports under the PGPA (Consequential and Transitional Provisions) Rule;
- for Commonwealth companies: the Commonwealth Companies (Annual Reporting) Orders 2011 prescribe material that must be included in corporate entities' annual reports. These Orders continue to apply to 2014–15 annual

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reports under the PGPA (Consequential and Transitional Provisions) Rule; and

- for non-statutory bodies: the guidelines are contained in the government response to the Senate Standing Committee on Finance and Public Administration report on non-statutory bodies.<sup>3</sup>

1.8 In its report on the development of the Commonwealth performance framework, the Joint Committee of Public Accounts and Audit (JCPAA) foreshadowed that in future years the annual report requirements 'will be replaced through the consolidation of all mandatory requirements into a rule made for the purposes of section 46 of the PGPA Act'.<sup>4</sup>

### ***Requirements for Annual Report for 2014–15 reports***

1.9 The Requirements for Annual Reports were issued by the Department of the Prime Minister and Cabinet on 25 June 2015 and approved by the JCPAA. Two significant changes were made to the Requirements for Annual Reports issued on 25 June 2015 in relation to:

- small business procurement—three requirements have been added to reflect the Government's commitment to improve small business access to Commonwealth contracts; and
- Indigenous employment—reporting on Indigenous employment has been added to the existing requirement to report on the management of human resources.<sup>5</sup>

1.10 While the Requirements for Annual Reports issued on 25 June 2015 apply to annual reports for 2014–15, it was noted that:

Significant revisions to the Requirements are anticipated for the 2015–16 financial year with the commencement of the performance reporting model under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).<sup>6</sup>

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3 *Senate Hansard*, 8 December 1987, pp 2632–45.

4 Joint Committee of Public Accounts and Audit, *Report 453 Development of the Commonwealth Performance Framework*, December 2015, p. 12.

5 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

6 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

### *Financial statements*

1.11 The PGPA Act provides for the financial reporting of Commonwealth entities and requires the preparation of annual financial statements for an entity for inclusion in the entity's financial report. Subsection 42(2) of the PGPA Act requires that annual financial statements must 'comply with the accounting standards and any other requirements prescribed by the rules'.

1.12 On 4 February 2015, the Minister for Finance made the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR). The FRR applies to all Commonwealth entities that need to prepare financial statements for reporting periods commencing on or after 1 July 2014. The explanatory statement to the FRR states that:

The FRR sets out the financial reporting requirements for the preparation of financial statements and provides consistent financial reporting across the Commonwealth to facilitate comparison between entities' financial statements. This allows for the consolidation of Commonwealth reporting entity financial statements to prepare the Australian Government consolidated financial statements.<sup>7</sup>

1.13 Financial statements are not required to be prepared under the FRR for a company for the purposes of the *Corporations Act 2001* (Corporations Act) or the subsidiary of a Commonwealth entity as these are not Commonwealth entities. Financial statements for these bodies are prepared under the Corporations Act or other relevant legislation.<sup>8</sup>

1.14 A number of major changes have been incorporated in the FRR compared to the previous 2013–14 Finance Minister's Orders for Financial Reporting. This included 'streamlining the director/senior management personnel (executive) remuneration disclosure to generally match up with AASB 124: *Related Party Disclosure* that is applicable to the private sector'.<sup>9</sup>

1.15 Previously, the requirements for financial statements for FMA Act and CAC Act entities were set out in Finance Minister's Orders. The final Finance Minister's Orders were made on 8 March 2012 and included the requirements for the reporting of the remuneration of directors, senior executives and other highly paid

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7 Explanatory statement to Public Governance, Performance and Accountability (Financial Reporting) Rule 2015, p. 1.

8 Explanatory statement to Public Governance, Performance and Accountability (Financial Reporting) Rule 2015, p. 2.

9 Explanatory statement to Public Governance, Performance and Accountability (Financial Reporting) Rule 2015, p. 2.

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employees.<sup>10</sup> For each senior executive and highly paid employee, the following components of reportable remuneration were required:

- reportable salary (including reportable fringe benefits and reportable employer superannuation contributions);
- contributed superannuation;
- reportable allowances, and
- bonus paid.<sup>11</sup>

1.16 The committee notes that the Orders made on 16 March 2011 under the FMA Act and CAC Act made changes to the requirements for director/executive remuneration in financial statements relating to the disclosure of average performance bonus paid. The explanatory statement commented that 'these changes increase accountability and transparency in relation to the remuneration of senior executives and other highly paid employees'.<sup>12</sup>

1.17 The approach to the reporting of director and senior executive remuneration under the FRR in financial statements is significantly different to that under the previous Orders: no longer will Commonwealth entities have to report on the remuneration of other highly paid employees; and, the remuneration of directors and senior executives is provided as a single total figure for each of the following categories as required by AASB 124:

- short-term employee benefits;
- post-employment benefits;
- other long-term benefits; and
- termination benefits.<sup>13</sup>

1.18 The explanatory statement to the FRR commented on the new requirements as follows:

The purpose of this section is to set out minimum requirements for reporting entities financial reporting disclosures for senior management personnel remuneration. The intention is to report the cost to the Commonwealth of employing senior management personnel for the

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10 Finance Minister's Orders (Financial Statements for reporting periods ending on or after 1 July 2011).

11 Finance Minister's Orders (Financial Statements for reporting periods ending on or after 1 July 2011), Schedule 1, item 23.

12 Explanatory Statement, Financial Management and Accountability Orders (Financial Statements for reporting periods ending on or after 1 July 2010) and Commonwealth Authorities and Companies Orders (Financial Statements for reporting periods ending on or after 1 July 2010), p. 3.

13 Australian Accounting Standard Board, *AASB 124: Related Party Disclosures*, paragraph 17.

reporting period, but not reporting the individual benefits received by those persons.<sup>14</sup>

1.19 The effect of the FRR is seen in the 2014–15 financial statements of Commonwealth entities. Only a single total amount for directors/senior executives is provided in each of the categories required by AASB 124.<sup>15</sup> In addition, remuneration information is no longer provided for 'other highly paid employees'.

*Committee comment*

1.20 The committee notes that the explanatory statement to the FRR comments that the streamlining of director/senior management personnel (executive) remuneration will now 'generally match up with AASB 124: *Related Party Disclosures* that is applicable to the private sector'. While welcoming moves to streamline information provided to the Parliament, the committee questions whether it is appropriate for the disclosure of remuneration information in the public sector to be aligned with that of the private sector. In particular, the basis of accountability and scrutiny in the public sector is very different to that of the private sector.

1.21 In addition, while the FRR sets out a 'minimum' requirement, no entities within the committee's portfolio areas provided any additional information on director/senior executive remuneration in financial statements. However, the committee notes that the NBN Co Annual Report 2014–15 provided full disclosure of senior executive remuneration. As a Commonwealth company, it is not required to provide this level of information on remuneration. The committee acknowledges NBN Co's commitment to transparency.

1.22 As a consequence of the FRR, it is more difficult, and for some entities not possible, to establish senior executive remuneration except for the total remuneration paid across the categories set out in AASB 124. The committee considers that full, disaggregated remuneration information for each director and senior executive should be available to the Parliament: the disclosure of remuneration of senior executives is part of the accountability process and aids transparency; and, the remuneration of senior executives amounts to many millions of dollars and may include performance payments which will no longer be disclosed separately in financial statements.

1.23 The committee considers this matter raises significant transparency and accountability issues and should be pursued further. In the first instance, the committee will write to the Minister for Finance seeking further information on the basis for the changes made to the disclosure of director and senior executive remuneration in financial statements. Secondly, the committee will draw this matter to

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14 Explanatory statement to Public Governance, Performance and Accountability (Financial Reporting) Rule, p. 7.

15 See for example, Australia Post, *Annual Report 2014–15*, p. 86; Department of the Environment, *Annual Report 2014–15*, p. 305; Department of Communications and the Arts, *Annual Report 2014–15*, p. 125.

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the attention of the JCPAA. The JCPAA is currently examining the proposed annual reporting guidelines under the PGPA Act for Commonwealth entities. The committee believes that the JCPAA should give strong consideration to ensuring that the full disclosure of directors and senior executive remuneration, as previously required under Finance Minister's Orders, is a mandatory requirement for the annual reports of Commonwealth entities.

## **Reports examined**

1.24 This report examines the following reports, tabled in the Senate or presented out of session to the President of the Senate and referred to the committee between 1 May 2015 and 31 October 2015:

### ***Departments of state***

- Department of Communications—Annual Report 2014–15; and
- Department of the Environment—Annual Report 2014–15, including reports on the operation of the:
  - *Environment Protection and Biodiversity Conservation Act 1999*;
  - *Natural Heritage Trust of Australia Act 1997*;
  - *Product Stewardship Act 2011*;
  - *Product Stewardship (Oil) Act 2000*;
  - *Fuel Quality Standards Act 2000*;
  - *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
  - *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*;
  - *Water Efficiency Labelling and Standards Act 2005*; and
  - *Water Act 2007*.

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

- Australian Communications and Media Authority—Annual Report 2014–15;
- Clean Energy Regulator—Annual Report 2014–15;
- Climate Change Authority—Annual Report 2014–15; and
- Great Barrier Reef Marine Park Authority—Annual Report 2014–15.

### ***Executive Agencies***

- Bureau of Meteorology—Annual Report 2014–15; and
- Old Parliament House (Museum of Australian Democracy)—Annual Report 2014–15.

***Corporate Commonwealth entities***

- Australian Broadcasting Corporation—Annual Report 2014–15;
- Australia Council—Annual Report 2014–15;
- Australian Film, Television and Radio School—Annual Report 2014–15;
- Australian National Maritime Museum—Annual Report 2014–15;
- Australian Postal Corporation (Australia Post)—Annual Report 2014–15;
- Australian Renewable Energy Agency—Annual Report 2014–15;
- Clean Energy Finance Corporation—Annual Report 2014–15;
- Director of National Parks—Annual Report 2014–15;
- National Film and Sound Archive—Annual Report 2014–15;
- National Gallery of Australia—Annual Report 2014–15;
- National Library of Australia—Annual Report 2014–15;
- National Museum of Australia—Annual Report 2014–15;
- National Portrait Gallery of Australia—Annual Report 2014–15;
- Screen Australia—Annual Report 2014–15;
- Special Broadcasting Service—Annual Report 2014–15; and
- Sydney Harbour Federation Trust—Annual Report 2014–15.

***Commonwealth companies***

- Australia Business Arts Foundation Ltd (Creative Partnerships Australia)—Annual Report 2014–15;
- Bundanon Trust—Annual Report 2014–15;
- NBN Co Limited—Annual Report 2014–15.

**Reports not examined**

1.25 The committee is not obliged to report on Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The following were referred to the committee between 1 May and 31 October 2015 but are not examined in this report:

- Australian Competition and Consumer Commission—Telstra's Structural Separation Undertaking Report 2014–15;
- Australian Postal Corporation (Australia Post)—Diversity and Inclusion Report 2014–15;
- Regional Telecommunications Independent Review—Regional Telecommunications Review Unlocking the Potential in Regional Australia 2015;

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- *Broadcasting Services Act 1992*—Review of Local Content and Local Presence Requirements on Regional Commercial Radio Broadcasters;
  - *Interactive Gambling Act 2001*—Report on the Operation of the Prohibition of Interactive Gambling Services Advertisements;
  - Port of Gladstone Independent Review—Report on Findings;
  - Port of Gladstone Independent Review—Supplementary Report;
  - Port of Gladstone Independent Review—Bund Wall at the Port of Gladstone Report on Findings;
  - Port of Gladstone Independent Review—Government Response to the Port of Gladstone and the Bund Wall at the Port of Gladstone Reports on Findings;
  - *Renewable Energy (Electricity) Act 2000*—Report for 2014 on the Operation of the Act; and
  - *Water Efficiency Labelling and Standards Act 2005*—Independent Review of the Water Efficiency Labelling and Standards Scheme Second and Final Report.

## Timeliness

1.26 Section 46 of the PGPA Act requires the provision of an annual report of a Commonwealth entity to the responsible minister by the 15<sup>th</sup> day of the fourth month after the end of the reporting period for the entity. The Requirements for Annual Reports, which relate to departments, executive agencies and other non-corporate Commonwealth entities, reflects the PGPA Act and states that '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'.<sup>16</sup> Where a body is unable to meet this deadline, an extension of time to report can be sought under the provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901*.<sup>17</sup>

1.27 Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister.

### *Reports received after 31 October 2015*

1.28 The committee is disappointed to note that three agencies within the Environment Portfolio presented their annual reports after 31 October 2015. The Australian Renewable Energy Agency, the Supervising Scientist and the Sydney Harbour Federation Trust presented their respective annual reports to the President of

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16 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 2.

17 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 2.

the Senate on 2 November 2015. The annual reports were tabled in the Senate on 9 November 2015. Those annual reports received after the 31 October deadline will be examined and considered in the committee's *Annual Reports (No. 2 of 2016)*.

### **Senate debate**

1.29 Under Standing Order 25(20)(d), the committee is obliged to note any remarks made in the Senate about annual reports. None of the annual reports examined in this report were the subject of Senate debate.

### **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 during the reporting period and considers that they are apparently satisfactory.