

# Chapter 1

## Introduction

1.1 The Senate Finance and Public Administration Legislation Committee (the committee) is responsible for examining the annual reports of the parliamentary departments,<sup>1</sup> and the departments and agencies of the Prime Minister and Cabinet Portfolio and the Finance Portfolio.

1.2 This is the second report on annual reports for 2015 and provides an overview of selected annual reports presented to the Parliament between 1 November 2014 and 30 April 2015. Copies of this and other committee reports can be obtained from the Senate Table Office, the committee secretariat or [online](#) at the committee's web page.

## Terms of reference

1.3 Under Senate Standing Order 25(20) the annual reports of certain departments and agencies stand referred to committees for examination and assessment. 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.

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1 As a matter of comity between the Houses of Parliament, neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

## **Allocated portfolios and changes to portfolios**

1.4 The Senate allocated departments and agencies to committees on 13 November 2013.<sup>2</sup> In accordance with that resolution, the committee has responsibility for the oversight of the following:

- Parliament;
- Prime Minister and Cabinet Portfolio (PM&C Portfolio); and
- Finance Portfolio.

## **Role of annual reports**

1.5 Annual reports place a great deal of information about government departments and agencies on the public record in relation to the performance, activities, management and financial position of the reporting body. The *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies* (PM&C Requirements for Annual Reports), note that '[t]he primary purpose of annual reports of departments is accountability, particularly to the Parliament.'<sup>3</sup> Annual reports assist the Parliament in the effective examination of the performance of departments and agencies, and the administration of government programs.

## **Reports examined**

1.6 During the period of 1 November 2014 to 30 April 2015, eleven annual reports of bodies or statutory office holders under the committee's oversight were presented to the Parliament and referred to the committee. The reports examined are categorised as follows:

### *Commonwealth authorities*

- Indigenous Business Australia – Report for 2013-14
- Torres Strait Regional Authority – Report for 2013-14
- Anindilyakwa Land Council – Report for 2013-14
- Northern Land Council – Report for 2013-14
- Tiwi Land Council – Report for 2013-14
- Central Land Council – Report for 2013-14
- Wreck Bay Aboriginal Community Council – Report for 2013-14
- Commonwealth Superannuation Corporation – Report for 2013-14

### *Commonwealth companies*

- Outback Stores Pty Ltd – Report for 2013-14

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

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 29 May 2014, p. 3.

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*Statutory office holders*

- Executive Director of Township Leasing – Report for 2013-14
- Aboriginal Land Commissioner – Report for 2013-14

**Reports not examined**

1.7 The committee is not obliged to examine reports on the operation of Acts, statements of corporate intent, surveys, policy papers, budget documents, corporate plans or errata. The following documents were also referred to the committee but not examined in this report:

- Australian Public Service Commission – State of the Service Report 2013-14
- Report of the Royal Commission into Trade Union Governance and Corruption - interim report – Volumes 1 and 2, 15 December 2014 (*Also referred to the Education and Employment Legislation Committee and the Legal and Constitutional Affairs Legislation Committee*)
- Wangkangurru Land Claim No. 156 - Report of the former Aboriginal Land Commissioner, Peter R A Gray, to the Minister for Indigenous Affairs and to the Administrator of the Northern Territory – Report No. 72
- Statement relating to extension of time for presentation of a periodic report – Outback Stores Pty Ltd Report for 2013-14
- Indigenous Australians – Closing the Gap
  - Ministerial Statement by the Minister for Indigenous Affairs
  - Prime Minister's report 2015 – Closing the Gap
- Official Witnesses before parliamentary committees and related matters – Government guidelines, dated February 2015
- Defence Housing Australia – Report for 2013-14 and Statement of Corporate 2014-15 (*Also referred to the Foreign Affairs, Defence and Trade Committee*)<sup>4</sup>
- *Members of Parliament (Staff) Act 1984* – Report for 2013-14
- Department of Finance – Consolidated financial statements for the year ended 30 June 2014
- Department of the Treasury - Tax Expenditures statement 2014
- Department of Finance – Certificate of Compliance Report for 2013-14
- Mid-year Economic and Fiscal Outlook – 2014-15
- Department of Finance – Campaign Advertising by Australian Government departments and agencies – Report for 2013-14, Replacement pages [4]

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4 This report was tabled in the House of Representatives on 30 October 2014 and in the Senate on 17 November 2014 and was inadvertently omitted from the committee's Report on Annual Reports (Report 1 of 2015).

- *Personal Property Securities Act 2009* – Review of the Act – Final report by Mr Bruce Whittaker (Also referred to the Legal and Constitutional Affairs Legislation Committee)

### **Method of assessment**

1.8 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.

1.9 The *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act) were repealed on 30 June 2014 and replaced by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) on 1 July 2014. Major changes to the PM&C Requirements for Annual Reports for the 2014-15 financial year in response to the PGPA Act were expected. However, the recently released PM&C Requirements for Annual Reports, dated 25 June 2015, note that '[s]ignificant revisions to the Requirements are anticipated for the 2015-16 financial year with the commencement of the performance reporting model under the...PGPA Act'.<sup>5</sup>

1.10 The 2013–14 annual reports of bodies examined in this report were prepared under the arrangements existing as at 30 June 2014 and set down in the following instruments:

- for portfolio departments and agencies, and the parliamentary departments: 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 PM&C Requirements for Annual Reports (for departments and prescribed agencies under the FMA Act);
- for Commonwealth authorities and companies: the CAC Act, in particular, sections 9, 36 (which refers to requirements under the *Corporations Act 2001* for companies) and 48; and the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011*; 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, *Senate Hansard*, 8 December 1987, pp 2632-45.

### **Non-reporting bodies**

1.11 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.

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5 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 25 June 2015, p. i.

1.12 The committee notes that the last report of the Australian Political Exchange Council presented to the Parliament was on 12 May 2011<sup>6</sup> and was prepared as a triennial report covering the financial years 2007-08, 2008-09 and 2009-10.

1.13 The Australian Political Exchange Council is a non-statutory body that sits within the Finance Portfolio and aims to develop 'young Australian political leaders by providing opportunities to gain insights into the political systems and cultures of countries with which the Council has established exchange programmes.<sup>7</sup> The Department of Finance (Finance) provides secretariat services to the Council and its website states that it is funded through an annual appropriation to Finance and also receives in-kind donations from organisations and individuals.<sup>8</sup> The Council's expenditure is noted in Finance's annual report under the resource statement for Outcome 3.<sup>9</sup>

1.14 There is no statutory requirement for the Council to prepare an annual report by a specified date for presentation to the Parliament. However, the Council's operations are governed by its terms of reference which include a reporting requirement that the Council seek to:

arrange for regular reporting on the Council's activities to Parliament, the Principals and sponsors.<sup>10</sup>

1.15 The committee has previously urged the Council to take greater effort to meet this term of reference<sup>11</sup> and has encouraged the Council to adopt the practice of reporting within four months of the end of the financial year.<sup>12</sup> However, as noted above, the Council had moved to a triennial reporting period and does not appear to have prepared any further reports after 2011.

1.16 The Council's website has the last triennial report covering the years 2007-08, 2008-09 and 2009-2010 available and does not have any earlier reports. The committee notes that the Council's website does include details of incoming and outgoing delegations from 2011. While this is a useful inclusion in the absence of regular reports to the Parliament, the committee nonetheless reiterates its earlier view that the Council should endeavour to more appropriately meet its reporting requirements under its terms of reference. The committee's view is that the Council

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6 This report was tabled in the House of Representatives on 12 May 2011 and the Senate on 14 June 2011.

7 See <http://www.polexchange.org.au/index.html> (accessed 7 July 2015).

8 See <http://www.polexchange.org.au/councils-purpose.html> (accessed 7 July 2015).

9 See for example, *Department of Finance Annual Report 2013-14*, p. 66.

10 See <http://www.polexchange.org.au/councils-purpose.html> (accessed 7 July 2015).

11 Senate Finance and Public Administration Legislation Committee, Annual Reports (No. 1 of 2012), March 2012, p. 9.

12 Senate Finance and Public Administration Legislation Committee, Annual Reports (No. 2 of 2009), September 2009, p. 7.

should reinstate a more frequent and regular reporting regime to improve transparency and accountability of the Council's operations to the Parliament.

### **Timeliness**

1.17 Annual reports for departments, executive agencies and former FMA Act bodies are required to be tabled in Parliament by 31 October each year unless another date is specified in an agency's legislation and/or charter. The PM&C Requirements for Annual Reports state that 'it remains the Government's policy that all annual reports should be tabled by 31 October' and further notes that it is best practice for annual reports to be tabled prior to the Supplementary Budget Estimates hearings.<sup>13</sup> The committee considers the timely presentation of annual reports to be an important element in accountability and continues to encourage agencies to follow this policy.

1.18 Commonwealth authorities reporting under the CAC Act are required to provide an annual report to the responsible minister by the fifteenth day of the fourth month after the end of the financial year. For the standard financial year, this is 15 October. In accordance with section 34C(3) of the *Acts Interpretation Act 1901*, the Minister is required to present the report to the Parliament within 15 sitting days of that House after the day on which the report was received.<sup>14</sup>

1.19 Commonwealth companies are required under section 36 of the CAC Act to provide a report to the Minister four months after the end of the financial year, which is usually 31 October.<sup>15</sup> The Minister is required to table the report in the Parliament as soon as practicable after receiving it, or in the case of a company required to hold an annual general meeting, as soon as practicable after the meeting.<sup>16</sup>

1.20 Appendix 1 lists the annual reports tabled (or presented) in Parliament between 1 November 2014 and 30 April 2015, and referred to the committee, with relevant tabling dates.

1.21 As set out in Appendix 1, some bodies did not meet the required deadline for the provision of their annual report to the Minister in accordance with the requirements for Commonwealth authorities and companies as set out above. However, it is noted that all reports were presented to the Parliament within the required legislative timeframe by relevant Ministers.

1.22 It is noted that Outback Stores Pty Ltd sought an extension from the Minister for Indigenous Affairs for tabling the 2013-14 annual report in a letter dated 12 November 2014 due to an audit issue concerning the omission of a related party disclosure. The Minister agreed to the extension in a letter dated 10 December 2014

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13 PM&C Requirements for Annual Reports, 29 May 2014, p. 3.

14 Section 9, CAC Act.

15 If a company is required by the *Corporations Act 2001* to hold an annual general meeting, the company must give the report to the Minister on whichever is the earlier date of the following: 21 days before the next annual general meeting after the end of the financial year; or four months after the end of the financial year (see subsection 36(1A) of the CAC Act).

16 Section 36(4), CAC Act.

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which was subsequently tabled on 9 February 2015. In agreeing to the extension, the Minister noted:

I am concerned about the withdrawal of the audit opinion by the Australian National Audit Office (ANAO) and related party disclosures being omitted from the Outback Stores' annual reports since 2009. I ask that this matter be clarified with the ANAO as soon as practicable. I also acknowledge that the Board will be implementing revised practices to avoid such situations occurring in the future.<sup>17</sup>

1.23 The Aboriginal Land Commissioner and the Executive Director of Township Leasing met their reporting requirements under the relevant sections of the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALR Act) and the Minister subsequently presented these reports to the Parliament within 15 sitting days of receipt.

1.24 Although most of reports examined were presented within the required reporting timeframes, they were, nonetheless, all presented after 31 October 2014. The committee continues to encourage the presentation of all reports to the Parliament before this date and, if possible, before the Supplementary Budget Estimates hearings to assist in its examination of agencies at this time.

### **Senate debate**

1.25 In accordance with Standing Order 25(20)(d) the committee is required to take into account any relevant remarks about the reports made in debate in the Senate. The committee notes that none of the annual reports examined in this report have been the subject of comments or debate in the Senate.

### **Assessment of reports**

1.26 Under Standing Order 25(20)(a), the committee is required to examine the annual reports of departments and agencies and report to the Senate on whether they are 'apparently satisfactory'. In its examination of the annual reports referred, the committee found them to be of a satisfactory standard and adhere to relevant guidelines. The committee considers the reports examined to be 'apparently satisfactory'.

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17 Correspondence from Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, to Mr Stephen Bradley, Chairman, Outback Stores Pty Ltd, dated 10 December 2014, tabled in the Senate on 9 February 2015.

