

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,¹ and the departments and agencies of the Prime Minister and Cabinet Portfolio and the Finance Portfolio.

1.2 This is the only report on annual reports of this committee for 2019 and provides an overview of selected annual reports presented to the Parliament between 1 May 2018 and 30 April 2019.² 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;

1 As a matter of comity between the Houses of Parliament, neither House enquires into the operations of the other House. For this reason, neither the annual report of, or the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

2 Standing Order 25(20)(f) requires the committee to report on annual reports tabled between 1 May and 31 October by the tenth sitting day of the following year, and report on annual reports tabled between 1 November and 30 April by the tenth sitting day after 30 June of that year. Due to the nature of the 2019 Parliamentary sitting pattern, the committee has decided to present its report on all 2017–18 annual reports together.

- (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 4 July 2019.³ 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.

Performance Reporting Framework

1.5 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) established a performance reporting framework for all Commonwealth entities and companies. Section 38 of the PGPA Act requires all Commonwealth entities to measure and assess their performance.

1.6 The performance framework provides for planning, measurement and reporting by an entity through performance information presented in an entity's corporate plan and aligned to the Portfolio Budget Statements (PBS), and then reported in the annual performance statement within the annual report.

1.7 These documents are an essential part of the accountability system that provides the Minister, the Parliament and the public with detailed information about the actual financial and non-financial performance of entities through the cycle of reporting periods, and facilitate the examination of how the use of public resources achieve the intended results for a Commonwealth body.⁴

1.8 The Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) supports the implementation of the PGPA Act and outlines the requirements of annual reports for Commonwealth entities.

3 *Journals of the Senate* (Proof), No. 3, 4 July 2019, pp. 85–86.

Allocations for the 45th Parliament were made on 31 August 2016, and amended 12 and 15 February 2018 and 17 September 2018. See *Journals of the Senate*, No. 2, 31 August 2016, pp. 75–76; *Journals of the Senate*, No. 84, 12 February 2018, pp. 2668–2669; *Journals of the Senate*, No. 87, 15 February 2018, p. 2740; *Journals of the Senate*, No. 118, 17 September 2018, pp. 3770–3771.

4 Department of Finance, Resource Management Guide No. 130, *Overview of the enhanced Commonwealth performance framework*, July 2016, pp. 3–4, <https://www.finance.gov.au/resource-management/managing-performance/> (accessed 21 June 2019).

Requirements for Annual Reports

1.9 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. Within the Commonwealth performance framework, annual reports are 'the primary document through which responsible Ministers report to the Parliament on the actual performance of entities'.⁵

1.10 Different types of Commonwealth bodies have separate provisions for annual reporting which affect content and preparation requirements. Legislative provisions for Commonwealth bodies include:

- Non-corporate Commonwealth entity⁶—section 46 of the PGPA Act and Subdivision A of Division 3A of Part 2-3 of the PGPA Rule;
- Corporate Commonwealth entity⁷—section 46 of the PGPA Act and Subdivision B of Division 3A of Part 2-3 of the PGPA Rule;
- Commonwealth company⁸—section 97 of the PGPA Act, which refers to additional requirements under the *Corporations Act 2001* and Part 3–3 of the PGPA Rule;
- Statutory office holders and statutory bodies—statutory office holders are engaged or employed under an Act, which may prescribe annual reporting requirements pursuant to the office. It should be noted that there may be reporting requirements in the enabling legislation for statutory bodies (which may also be a Commonwealth entity);⁹ and
- Non-statutory bodies—non-statutory bodies (NSBs) are established by a Minister and are not pursuant to a statute. Guidelines for the preparation of annual reports for NSBs are contained in the government response to the Senate Standing Committee on Finance and Public Administration report on non-statutory bodies.¹⁰

5 Department of Finance, Resource Management Guide No. 130, *Overview of the enhanced Commonwealth performance framework*, July 2016, p. 7, <https://www.finance.gov.au/resource-management/performance/> (accessed 28 May 2019).

6 An entity that is legally and financially part of the Commonwealth, and includes departments of state, parliamentary departments, statutory authorities, and listed entities (a body, person, group of persons or organisation that is prescribed by rules made under the PGPA Act).

7 A body corporate that has a separate legal personality from the Commonwealth, and includes statutory authorities. It can act in its own right exercising certain legal rights such as entering into contracts and owning property.

8 A company established by the Commonwealth under the *Corporations Act 2001* that is wholly controlled by the Commonwealth.

9 For example, some Acts that establish statutory bodies have separate reporting requirements under those Acts. For example, section 17 of the *Commonwealth Electoral Act 1918* prescribes specific reporting requirements for the Australian Electoral Commission.

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

1.11 In addition to legislative requirements, the Department of Finance (Finance) provides guidance material for Commonwealth entities and companies which sets out further detail on the content requirements for annual reports under the Commonwealth performance framework in accordance with the PGPA Act and PGPA Rule.¹¹ The material available from this website includes the following guides which apply to the reports being examined:

- *Resource Management Guide No. 135—Annual reports for non-corporate Commonwealth entities;*
- *Resource Management Guide No. 136—Annual reports for corporate Commonwealth entities; and*
- *Resource Management Guide No. 137—Annual reports for Commonwealth companies.*

1.12 The committee notes that Finance has published updated versions of these guidance documents in May 2019 intended for 2018–19 annual reports, which include implementation steps resulting from the review outlined below.

Independent review into the PGPA Act

1.13 Section 112 of the PGPA Act requires the Minister for Finance to cause an independent review into the operations of the PGPA Act and rules made under the Act as soon as practical after a period of three years following the commencement of the section. The report of this review, the *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule* (the review), was tabled in both Houses on 19 September 2018.¹²

1.14 Chapter 6 of the review considers annual reporting requirements and Parliamentary scrutiny of annual reports:¹³

...current tabling arrangements do not give the Parliament enough time to get across the detail in annual reports before Senate Supplementary Budget Estimates hearings. By the time the reports are tabled, senators may only have a few days to consider content and information about the entities' performance... There is little point in improving the quality of the performance information in annual reports, and the quality of annual reports more generally, if the Parliament does not get the information when it needs it. Timing is critical for proper accountability.¹⁴

11 Department of Finance, *Managing performance*, <http://www.finance.gov.au/resource-management/performance/> (accessed 24 June 2019).

12 *Journals of the Senate*, No. 120, 19 September 2018, p. 3807; *House of Representatives Votes and Proceedings*, No. 139, 19 September 2018, p. 1848.

13 Department of Finance, *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, pp. 39–42.

14 Department of Finance, *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, p. 40.

1.15 Recommendations 30–32 suggest the implementation of digital reporting, the prescribing of a tabling deadline of annual reports to Parliament, and improved performance statement scrutiny by Senate Legislation Committees.¹⁵ The committee notes these recommendations by the review and welcomes changes that assist the committee with its scrutiny of Commonwealth bodies.

Reporting framework legislative changes for future annual reports

1.16 Two amendments to the PGPA Rule were registered on 4 April 2019. These amendments, the Public Governance, Performance and Accountability Amendment (Annual Reporting) Rules 2019 and the Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019, affect reporting obligations for entities' and Commonwealth companies' annual reports. The amendments expand Commonwealth entity and company annual reporting requirements in the following aspects:

Public Governance, Performance and Accountability Amendment (Annual Reporting) Rules 2019

- providing for annual reports to be published using Finance's digital reporting tool as soon as practical after presentation to the Parliament;
- creating a requirement to report on statistics of all employees of an entity or company (in addition to statistics on Australian Public Service (APS) employees of the entity or company);
- inclusion of compliance index templates for corporate Commonwealth entities and companies, in a structure similar to the existing compliance index for non-corporate commonwealth entities;¹⁶

Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019

- providing for further requirements for Commonwealth entities and companies to report on the details of the remuneration of key management personnel and other senior executives in their annual report;
- establishing further requirements for Commonwealth entities and companies to report on their policies and practices for the remuneration of key management personnel; and
- requiring Commonwealth entities and companies to publish their annual reports on their website as soon as practical after tabling in either House of Parliament, if required to do so.¹⁷

15 Department of Finance, *Independent review into the operation of the Public Governance, Performance and Accountability Act 2013 and Rule*, September 2018, pp. 39–42.

16 Public Governance, Performance and Accountability Amendment (Annual Reporting) Rules 2019, Explanatory Memorandum, pp. 1–4.

17 Public Governance, Performance and Accountability Amendment (Reporting Executive Remuneration) Rules 2019, Explanatory Memorandum, pp. 1–11.

1.17 The committee welcomes the additional elements of accountability that the new reporting requirements have introduced, with mandatory compliance indexes using the template provided in the revised PGPA Rule being of particular benefit to committee scrutiny of annual reports.

Reports examined

1.18 In accordance with Standing Order 25(20)(f), this report examines annual reports tabled in the periods 1 May 2018 to 31 October 2018 and 1 November 2018 to 30 April 2019. In these periods, 32 annual reports of Commonwealth entities, companies and statutory office holders were tabled in the Senate and referred to the committee. The reports examined in this report are categorised as follows:

Non-corporate Commonwealth entities

Parliamentary Departments

- Department of the Senate—Report for 2017–18
- Department of Parliamentary Services—Report for 2017–18
- Parliamentary Budget Office—Report for 2017–18

Departments of State

- Department of the Prime Minister and Cabinet—Report for 2017–18
- Department of Finance—Report for 2017–18

Commonwealth Agencies

- Australian National Audit Office—Report for 2017–18
- Australian Public Service Commission—Report for 2017–18—Incorporating the Report of the Merit Protection Commissioner
- Digital Transformation Agency—Report for 2017–18
- Office of the Official Secretary to the Governor-General—Report for 2017–18
- Workplace Gender Equality Agency—Report for 2017–18
- Australian Electoral Commission—Report for 2017–18
- Future Fund Management Agency—Report for 2017–18
- Independent Parliamentary Expenses Authority—Report for 2017–18

Corporate Commonwealth Entities

- Anindilyakwa Land Council—Report for 2017–18
- Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 2017–18
- Central Land Council—Report for 2017–18
- Indigenous Business Australia—Report for 2017–18

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- Indigenous Land Corporation—Report for 2017–18¹⁸
 - Northern Land Council—Report for 2017–18
 - Tiwi Land Council—Report for 2017–18
 - Torres Strait Regional Authority—Report for 2017–18
 - Wreck Bay Aboriginal Community Council—Report for 2017–18
 - Commonwealth Superannuation Corporation—Report for 2017–18

Commonwealth Companies

- National Australia Day Council—Report for 2017–18
- Aboriginal Hostels Limited—Report for 2017–18
- Outback Stores Pty Ltd—Report for 2017–18
- ASC Pty Ltd—Report for 2017–18
- Australian Naval Infrastructure Pty Ltd—Report for 2017–18

Statutory Office Holders¹⁹

- Parliamentary Service Commissioner—Report for 2017–18, including report of the Parliamentary Service Merit Protection Commissioner
- Remuneration Tribunal—Report for 2017–18
- Aboriginal Land Commissioner—Report for 2017–18
- Office of Township Leasing—Report for 2017–18

Reports not examined

1.19 The committee is not obliged to examine reports on the operation of Acts, policy papers, budget documents or corporate plans. Where a report is referred to two standing committees, the committee has deferred examination of those reports to the committee which has primary oversight of the portfolio where the agency sits. Accordingly, the following documents were also referred to the committee but not examined for the purposes of this report:

Reports referred in the period 1 May 2018 to 31 October 2018

- Australian National Action Plan on Women—Peace and Security 2012–2018—Progress report 2018
- Commonwealth Ombudsman—Report for 2017–18 (*also referred to the Legal and Constitutional Affairs Legislation Committee*)

18 Due to the commencement of the *Aboriginal and Torres Strait Islander Amendment (Indigenous Land Corporation) Act 2018*, from 1 February 2019 this entity is now the Indigenous Land and Sea Corporation.

19 While statutory office holders are not required to prepare annual reports for presentation to Parliament under the PGPA Act and Rule, such reports that have been tabled and referred to the committee have been examined for the purposes of this report.

- Defence Housing Australia—Report for 2017–18 (*also referred to the Foreign Affairs, Defence and Trade Legislation Committee*)
- Clean Energy Finance Corporation (CEFC)—Report for 2017–18 (*also referred to the Environment and Communications Legislation Committee*)
- *Commonwealth Electoral Act 1918*—Redistribution in electoral divisions—Queensland—Report, together with composite map and compact disc of supporting information, dated March 2018
- *Commonwealth Electoral Act 1918*—Redistribution in electoral divisions—Australian Capital Territory—Report, together with composite map and compact disc of supporting information, dated July 2018
- *Commonwealth Electoral Act 1918*—Redistribution in electoral divisions—South Australia—Report, together with composite map and compact disc of supporting information, dated July 2018
- *Commonwealth Electoral Act 1918*—Redistribution in electoral divisions—Victoria—Report, together with composite map and compact disc of supporting information, dated July 2018
- Final Budget Outcome 2017–18—Report by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann), dated September 2018
- *Members of Parliament (Staff) Act 1984*—Annual Report 2017–18—Report on ministerial consultants engaged
- Moorebank Intermodal Company Limited—Report for 2017–18 (*also referred to the Rural and Regional Affairs Legislation Committee*)
- *Public Governance, Performance and Accountability Act 2013*—Independent review of the operation of the Act and Rule, dated September 2018
- Regional Investment Corporation—Report for the period 8 March to 30 June 2018 (*also referred to the Rural and Regional Affairs Legislation Committee*)

Reports referred in the period 1 November 2018 to 30 April 2019

- *Aboriginal Land Rights (Northern Territory) Act 1976*—Aboriginal Land Commissioner—Report on review of detriment: Aboriginal land claims recommended for grant but not yet finalised
- Workplace Gender Equality Agency—Progress report 2017-18
- *Low Aromatic Fuel Act 2013*—Review of the operation of the Act
- Closing the Gap report—Ministerial statement by the Prime Minister (Mr Morrison), dated 14 February 2019; Prime Minister's Report 2019
- Department of Finance—Consolidated financial statements for the year ended 30 June 2018
- Department of Finance—Campaign advertising by Australian Government departments and agencies—Report for 2017-18

- Department of the Treasury—Tax Benchmarks and Variations Statement 2018
- Mid-year economic and fiscal outlook 2018-19—Statement by the Treasurer (Mr Frydenberg) and the Minister for Finance (Senator Cormann)
- Advance to the Finance Minister—Report on advances provided under the annual Appropriation Acts for 2017-18
- *Public Governance, Performance and Accountability Act 2013*—Independent review into the operation of the Act and Rule—Government response, dated 2 April 2019

Timeliness

1.20 Section 46 of the PGPA Act requires Commonwealth entities (corporate and non-corporate) to prepare annual reports and for such reports to be provided to the responsible Minister by the 15th day of the fourth month after the end of the reporting period for the entity. The PGPA Act does not provide a timeframe for presentation to the Parliament; however the Minister is obliged to present it within 15 sitting days upon receiving the report.²⁰

1.21 Under section 97(2) of the PGPA Act, Commonwealth companies are required to prepare an annual report and provide it to the responsible Minister:

(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*.

1.22 In relation to the tabling of an annual report in the Parliament, subsection 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.

1.23 The PGPA Rule states that annual reports for corporate Commonwealth entities, non-corporate Commonwealth entities and Commonwealth companies must

20 *Acts Interpretation Act 1901*, subsection 34C(3).

comply with the *Guidelines for the Presentation of Documents to the Parliament* which is prepared by PM&C (the guidelines).²¹

1.24 The guidelines advise that for all entities:

As per past practice, it is expected that the responsible Minister will present the report to each House of Parliament on or before 31 October. 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. This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.²²

Timeliness of reports examined

1.25 The committee considers the timely presentation of annual reports to be an important element in accountability to the Parliament and reiterates its preference of having annual reports available to the Parliament before supplementary budget estimates hearings.

1.26 Appendices 1 and 2 list the reports referred to the committee over the two reporting periods (1 May 2018 to 31 October 2018 and 1 November 2018 to 30 April 2019, respectively). These tables list the date each report was:

- submitted to its responsible Minister;
- first sighted by the responsible Minister; and
- tabled (or presented) in both Houses of Parliament.

1.27 The committee notes that two Commonwealth entities failed to submit their annual report to the responsible Minister by the prescribed date of 15 October: the Office of the Official Secretary to the Governor-General and the Tiwi Land Council. In addition, several of the reports examined did not adhere to best practice advice from the PM&C guidelines by tabling before the committee's supplementary budget estimates hearings on 22, 23 and 26 October 2018.

1.28 The committee again encourages Commonwealth entities and companies to prepare annual reports in accordance with the timeframe outlined by the PGPA Rule, the PM&C guidelines and the Finance resource management guides.

Bodies which have not presented annual reports to the Parliament

1.29 Standing order 25(20)(h) requires the committee to report to the Senate on whether there were any bodies that did not present an annual report to the Senate and

21 See Public Governance, Performance and Accountability Rule 2014, s. 17AB, 17BC and 28C.

22 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)*, February 2017, pp. 4–5. The committee notes that these guidelines have been superseded by new guidelines from PM&C, *Tabling Guidelines* (published June 2019), however this was not available for bodies for 2017–18 annual reports.

which should have. The committee notes that all relevant bodies in the portfolios over which the committee has oversight presented annual reports to the Senate.

Annual reports referred to in the Senate

1.30 Under Standing Order 25(20)(d), the committee is required to take into account any remarks made in the Senate about each annual report. The committee notes that there were no relevant remarks about tabled annual reports in the Senate for the periods covered in this report.

Assessment of reports

1.31 The committee is required to report to the Senate on whether the annual reports referred to it in the relevant period were 'apparently satisfactory'.²³ In assessing these reports, the committee has taken into consideration the reports' position within the Commonwealth performance framework, the legislative requirements for annual reports and guidance for best practice issued by the PM&C guidelines and the Finance resource management guides. The committee considers all reports examined to be 'apparently satisfactory', however, as noted above, continues to encourage Commonwealth bodies to aim for standards of best practice in preparing annual reports.

23 The Senate, *Standing Orders and other orders of the Senate*, August 2018, SO 25(20)(a).

