



THE SENATE

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION
Legislation Committee

6 December 2013

Chair
Joint Committee of Public Accounts and Audit
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Public Governance, Performance and Accountability Act 2013- JCPAA review of draft regulations

I write as chair of the Senate Finance and Public Administration Legislation Committee (the committee).

In relation to the *Public Governance, Performance and Accountability Act 2013* (the Act) the committee understands there is an intention for the draft regulations to be made available to the Joint Committee of Public Accounts and Audit (JCPAA) for scrutiny.¹ The committee also notes the role of the JCPAA in approval of the Requirements for Annual Reports developed by the Department of Prime Minister and Cabinet.

The committee wishes to draw a matter to the attention of the JCPAA regarding the timing for tabling annual reports in Parliament to ensure it receives appropriate attention and clarification during this review of the proposed regulations and/or guidelines.

Section 46 of the Act specifies the latest date that an annual report can be provided to the responsible minister as 31 October.² It then notes that annual reports must comply with any requirements prescribed by the rules.

The current guidelines for Financial Management and Accountability Act agencies contain the following statement:

*A copy of the annual report is to be presented to each House of the Parliament on or before 31 October in the year in which the report is given.*³

¹ Joint Committee of Public Accounts and Audit, *Report 438 – Advisory Report on the Public Governance, Performance and Accountability Bill 2013*, p. 26.

² Or the end of any further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

While the guidelines recognise some variation, where the legislation for an agency provides a timeframe for its annual report, it emphasises that:

*It remains the Government's policy that all annual reports should be tabled by 31 October.*⁴

Under the Act entities may provide reports to the minister earlier than 31 October. However, should an entity need to utilise the latest date to present its report to the minister, it would be very unlikely that the report would be tabled by 31 October.

The committee is therefore concerned that new regulations or guidelines may extend the timetable for reporting to Parliament well beyond 31 October. For example, if the regulations or guidelines do not specify the timing of tabling then it appears the provisions of the *Acts Interpretation Act 1901* may apply.⁵ Depending on the sitting timetable for the Parliament, this could potentially extend the tabling date by several weeks or months beyond 31 October.

The current guidelines recognise the primary purpose of annual reports is to ensure the accountability of departments and agencies, particularly to the Parliament. The committee considers that there should not be a diminution of the requirement for entities to table annual reports by 31 October.

The importance of the availability of annual reports for estimates hearings is also recognised in the current guidelines:

*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.*⁶

The committee also wishes to ensure that the need for reports to be available for Supplementary Budget Estimates hearings is recognised in the regulations or guidelines.

If you require further information, please contact the committee secretary Ms Lyn Beverley on (02) 6277 3530.

Yours sincerely

Senator Cory Bernardi
Chair

³ Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, p. 2.

⁴ Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, p. 2.

⁵ Within 15 sitting days after receipt.

⁶ Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 24 June 2013, p. 2.