

CHAPTER 1

ANNUAL REPORTS OF STATUTORY AUTHORITIES

1.1 The reports of the following statutory authorities for the financial year 2009-10 were referred to the committee for examination and report.

Attorney-General's Portfolio

- Audio-Visual Copyright Society Limited (Screenrights)
- Australian Crime Commission
- Australian Customs and Border Protection Service
- Australian Human Rights Commission
- Commonwealth Director of Public Prosecutions
- Commonwealth Ombudsman
- Copyright Agency Limited
- Insolvency and Trustee Service Australia

Immigration and Citizenship Portfolio

- Migration Review Tribunal and Refugee Review Tribunal

1.2 As in previous reports of the committee, it has decided to select a small number of annual reports for closer examination. On this occasion, the reports of the following agencies will be examined:

- Australian Customs and Border Protection Service;
- Australian Human Rights Commission;
- Insolvency and Trustee Service Australia; and
- Migration Review Tribunal and Refugee Review Tribunal.

1.3 The committee has determined to consider, but not report on, the annual report of the Australian Crime Commission, as the Parliamentary Joint Committee on Law Enforcement has specific responsibility for overseeing this agency.

1.4 The annual report of the Commonwealth Ombudsman also stands referred to the Senate Finance and Public Administration Legislation Committee and, as this body sits within the Prime Minister and Cabinet Portfolio, the committee has also determined to consider, but not to report on, this annual report.

Australian Customs and Border Protection Service (Customs)

1.5 The annual report of Customs was tabled in the Senate on 16 November 2010 and in the House of Representatives on 28 October 2010. The Minister received the report on 7 October 2010 and satisfied the legislative requirement of presenting the report in each House of Parliament within 15 sitting days of receipt.

1.6 The report includes a list of requirements,¹ now mandatory under the Requirements for Annual Reports, which assisted the committee in its examination of the report. The report closely adheres to the Requirements.

1.7 Customs has again presented an impressive report which provides the Parliament with a useful and detailed description of performance and achievements for the year under review. Performance information was presented for the five programs which contribute to the agency outcome, and also against each of the six border risks which the agency manages: terrorism; irregular movement of people; biosecurity; prohibited, restricted or regulated goods; unlawful activity in Australia's maritime zone; and revenue.

1.8 In his review, the Chief Executive Officer highlighted a number of achievements for 2009-10, including the delivery of an effective maritime security program that successfully deterred illegal foreign fishing in Australia's northern waters and maintained an effective on-water interception response to maritime people smuggling. Other achievements included the prevention of an extensive range of prohibited, restricted or regulated goods entering Australia; the facilitation of travel by processing of over 26 million international passengers with an average of 97.9% of inwards passengers processed within 30 minutes of joining the queue; and the facilitation of trade by processing air and sea cargo in internationally competitive release times.²

1.9 Following the examination of last year's annual report, which highlighted the development of the risk-based approach to cargo intervention, the committee was interested in the results of its implementation.³ This year's report outlined the implementation of the Cargo Intervention Strategy which resulted in a move from mass screening to an intelligence-led, risk-based approach to intervention. It was explained that under the refined system all air and sea cargo will continue to be risk-assessed electronically. Cargo identified as high-risk will be subject to physical examination.⁴

1.10 The report noted:

1 *Australian Customs and Border Protection Service Annual Report 2009-10*, pp 230-233.

2 *Australian Customs and Border Protection Service Annual Report 2009-10*, pp xi-xii.

3 *Legal and Constitutional Affairs Legislation Committee, Annual Reports (No. 2 of 2010)*, p. 2.

4 *Australian Customs and Border Protection Service Annual Report 2009-10*, p. 25.

Despite considerably reduced intervention across all streams, we maintained a comparable detection rate against 2008-09 detections, although there was a decline in the overall weight of drugs detected in sea cargo during 2009-10.⁵

1.11 The committee notes the financial performance of Customs this year included an operating surplus of \$4.5 million. This compares to an operating deficit of \$11.8 million for 2008-09.⁶

1.12 The committee commends Customs for the high standard of design and presentation of this year's report. Particular features which the committee notes, include clear layout and overall design, and the use of tables and graphs to assist in presenting information. The committee considers the annual report of Customs for 2009-10 to be 'apparently satisfactory'.

Australian Human Rights Commission (AHRC)

1.13 The annual report of the AHRC for 2009-10 was tabled in the House of Representatives on 28 October 2010 and in the Senate on 16 November 2010. The report was tabled promptly after receipt by the Minister on 26 October 2010.

1.14 Early in the report, ten key achievements for the year are listed and summarised. These include the launch of the *2009 Social Justice Report*, the Human rights consultation and framework, assisting in the creation of the National Congress of Australia's First Peoples, and the launch of the *Gender Equality Blueprint 2010*.⁷

1.15 The committee was once again disappointed to note that, although performance information was provided, it was not always evaluated against key performance indicators as presented in the Portfolio Budget Statements (PBS) 2009-10 for the agency. For example, performance information in relation to website usage and distribution of publications indicated that targets were exceeded in both areas. However, the report does not note the results as compared to the targets.⁸ The report incorrectly refers the reader to Appendix 1 for further information. The correct appendix is Appendix 2, and provides a breakdown of the website usage, but no reference to performance targets.⁹

1.16 Another key performance indicator in the PBS for 2009-10 relates to the customer/stakeholder survey to rate the effectiveness of major educational and promotional activity, with an 80% target rate as effective. The results of this survey could not be located in the report.

5 *Australian Customs and Border Protection Service Annual Report 2009-10*, p. 22.

6 *Australian Customs and Border Protection Service Annual Report 2009-10*, p. 126.

7 *Australian Human Rights Commission Annual Report 2009-10*, pp 8-9.

8 *Australian Human Rights Commission Annual Report 2009-10*, p. 22.

9 *Australian Human Rights Commission Annual Report 2009-10*, p. 143.

1.17 Conversely, performance information in relation to complaints handling was well set out, with results presented against performance standards. The report notes that assisting in the resolution of complaints about discrimination and breaches of human rights is a core function of the agency. All performance targets in relation to complaints handling were exceeded for 2009-10.¹⁰ The report also includes detailed breakdown of statistics on the different categories of complaints received, which provides useful background.¹¹

1.18 The Commission's financial statements indicated that the agency again ran at an operating deficit of \$614,000.¹² The committee could not locate any discussion on financial performance for the year under review within the body of the report.

1.19 The report generally follows the Requirements for Annual Reports. However, the committee was disappointed to note again this year that a list of requirements with an index of page references was not included. The committee has suggested previously, when it was not a mandatory item, the inclusion of a compliance index as an accountability device and to assist in examination of the report. It is now a mandatory item under the Requirements for Annual Reports issued in June 2010, which were applicable to this annual report of the AHRC. The Requirements state:

The List of Requirements must be included as an appendix to the annual report. If an item specified in the checklist is not applicable to an agency, it should be reported as not applicable rather than omitted from the list. Agencies should include a column indicating the location of the information in the annual report.¹³

1.20 The committee considers the AHRC annual report 2009-10 to be 'apparently satisfactory', but does express concern about its overall quality and accuracy. The committee hopes to see relevant omissions corrected in the AHRC's next annual report.

Insolvency and Trustee Service Australia (ITSA)

1.21 While the annual report of ITSA for 2009-10 was not tabled in the Senate until 16 November 2010, the committee notes that it was tabled in the House of Representatives on 28 October 2010. The report was submitted to, and received by, the Minister on 12 October 2010.

1.22 The committee was pleased to note that, in examining the annual report against the list of requirements under the Requirements for Annual Reports, all mandatory items were included in the report and a number of suggested items were

10 *Australian Human Rights Commission Annual Report 2009-10*, p. 99.

11 *Australian Human Rights Commission Annual Report 2009-10*, pp 74-90.

12 *Australian Human Rights Commission Annual Report 2009-10*, p. 107.

13 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, 23 June 2010, p. 33.

also included.¹⁴ The report includes an index to the 'list of requirements'¹⁵ which referenced page numbers in the report. However, the index contains incorrect page number references for nearly all the items listed and appears to be a copy of the index from last year's annual report. The committee considers this to be an unfortunate error, in addition to some other minor editing oversights,¹⁶ which detract from the overall quality of the report.

1.23 The Chief Executive's review outlines areas of change and renewal within the agency during the year under review, as well as the provision of key statistics. Some areas of note include the smooth implementation of a new business structure on 1 July 2009, and the publication of a vision statement embodying the core values and aspirations of the organisation.¹⁷

1.24 Also noted in the Chief Executive's review was ITSA's close working relationship with the Attorney-General's Department to progress the implementation of the new Personal Properties Securities regime, where ITSA will assume operational responsibility for the Personal Properties Securities Register and the associated Contact Centre to be established in Adelaide.¹⁸

1.25 The Chief Executive reported an overall marginal increase of 0.07% in total activity under the *Bankruptcy Act 1966* for 2009-10 from the previous year. These responsibilities comprise bankruptcies, debt agreements and personal insolvency agreements. It was further noted that this is the fourth consecutive year of growth.¹⁹

1.26 Performance information is thorough and well presented. In some instances, data from the previous year (or years) is included to provide trend information. The discussion of the performance results is informative and concise, without focussing excessively on the detail of activities performed in achieving results.²⁰

1.27 For some programs, the performance discussion includes a brief case study or case studies. The committee found these useful to illuminate some of the processes in which the agency is involved.

14 See, for example, sections on suggested items: names of senior executives and their responsibilities, pp 13-14; the social justice and equity impact p. 56; policy and practices on the establishment and maintenance of appropriate ethical standards p. 63.

15 *Insolvency and Trustee Service Australia Annual Report 2009-10*, pp 157-158.

16 See, for example, incorrect page number references, *Insolvency and Trustee Service Australia Annual Report 2009-10*, pp 63 and 135.

17 *Insolvency and Trustee Service Australia Annual Report 2009-10*, p. 10.

18 *Insolvency and Trustee Service Australia Annual Report 2009-10*, p. 10.

19 *Insolvency and Trustee Service Australia Annual Report 2009-10*, p. 10.

20 *Insolvency and Trustee Service Australia Annual Report 2009-10*, pp 17-47.

1.28 In the section on Client Service, the committee notes that general complaints have increased from 409 in 2008-09 to 456 in 2009-10. It was further noted that, of these, 338 were considered either justified or partially justified. The report explains that 'general complaints' concerned service delivery standards, as distinct from complaints about the way in which debtors became bankrupt, which is outside ITSA's control.²¹ While the committee acknowledges that the large increase in recent years is attributed to a new complaints and compliments management system which was rolled out during 2007-08,²² it nonetheless notes the continued rise in general complaints during the most recent financial year.²³

1.29 Last year's annual report identified the time taken to deal with complaints as an area for improvement in 2009-10. In that report, it was noted that 55% of complaints were resolved in 14 days and over 18% of complaints took in excess of 150 days to finalise.²⁴ It was disappointing that the 2009-10 report did not appear to follow up on this particular issue. The committee will continue to monitor this issue in future reports.

1.30 On a more positive note, the committee notes that compliments about the quality of service provided by ITSA employees increased slightly to 228 in 2009-10, from 215 for the previous year.²⁵

1.31 The committee considers the annual report of ITSA to be 'apparently satisfactory'.

Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT)

1.32 The report of the MRT-RRT was tabled in both the Senate and the House of Representatives on 16 November 2010. The Principal Member was questioned on this matter by the committee during the supplementary budget estimates 2010-11 hearings on 19 October 2010:

Senator BARNETT—Firstly, based on your statement here, your annual report is to be lodged next month. What is the reason for the delay?

Mr O'Brien—As you know, Senator, last year we managed to table our report before the hearing of this committee. The process associated with the election was the main delay factor in getting our financial statements approved by the minister and so forth. That was the main contributor.

21 *Insolvency and Trustee Service Australia Annual Report 2009-10*, p. 53.

22 *Insolvency and Trustee Service Australia Annual Report 2008-09*,

23 54 in 2005-06; 23 in 2006-07; 62 in 2007-08.

24 *Insolvency and Trustee Service Australia Annual Report 2008-09*, p.

25 *Insolvency and Trustee Service Australia Annual Report 2009-10*, p. 54. The committee notes that the figure for the total number of compliments received in 2008-09, referred to in the current report as '58', is incorrect and the correct figure as listed in the 2008-09 annual report is 215.

Senator BARNETT—We try and have these reports in advance of estimates so that we can then talk and ask questions about the reports. That is our objective; you are aware of that?

Mr O'Brien—Yes, I understand that.²⁶

1.33 As noted in the Preface to this report, the committee hopes to see a more timely tabling of the annual report in the future.

1.34 There was an increase in lodgements and in the number of cases decided by the combined tribunals in 2009-10. Case decisions increased from 8,229 in 2008-09 to 9,737 in 2009-10 (the largest number of cases since 2005-06²⁷). Eighteen per cent more cases were decided by the tribunals in comparison to the previous year.²⁸

1.35 The committee was pleased to note that the percentage of tribunal decisions taken to judicial review declined in 2009-10. The report notes that judicial review applications were lodged in relation to 7.7 per cent of tribunal decisions in 2009-10, compared to 13.2 per cent of decision made in 2008-09.²⁹

1.36 The Principal Member's report on the tribunals' operations for 2009-10 provides a good account of what is described as a 'challenging year'. In addition to the increase in overall workload, it was also reported that there were significant changes to the composition of the MRT lodgements and the representation of source countries for the RRT caseload. The Principal Member addressed these challenges:

To respond to the increasing volume and shifting composition of the tribunals' caseload we have developed strategies, underpinned by extensive analysis of the caseload, to allocate cases to members in a way that makes the most efficient and effective use of member resources. In 2009-10 the target was to allocate 10,000 cases for the year and, in the end, 9,428 cases were allocated to members. This result was affected by the need to reallocate cases from 21 members who were not reappointed for a further term.³⁰

1.37 The performance section is clearly laid out with results presented against targets set for key performance indicators and deliverables.³¹ This section of the report articulates the strategies which have been implemented in response to the growth in the MRT caseload, which includes:

[I]mproved case management training for members; increasing the opportunities for members to specialise, recognising that appropriate

26 *Committee Hansard*, 19 October 2010, p. 10.

27 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 10.

28 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 10.

29 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 11.

30 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 11.

31 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 25.

specialisation can improve the timeliness, quality and consistency of decision-making; increased use of batching cases with like issues to enhance efficiency; and more regular feedback on performance for members, including closer monitoring of and reporting on older cases.³²

1.38 The tribunals' financial performance for 2009-10 is also discussed in this section of the report. A net loss of \$4.6 million was recorded for the financial year.³³

1.39 The report also includes a detailed breakdown of caseload statistics which provides useful background.³⁴

1.40 The report is attractively presented with good design and a clear and concise style. It closely follows the Requirements for Annual Reports and presents a good account of the year under review. The committee considers the report to be 'apparently satisfactory'.

32 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 25.

33 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, p. 26.

34 *Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009-10*, pp 23-33.