

The Senate

Legal and Constitutional Affairs
Legislation Committee

Annual reports (No. 1 of 2014)

March 2014

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ISBN 978-1-74229-957-0

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44th Parliament

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PREFACE

Terms of reference

On 29 September 2010, a resolution of the Senate allocated the following portfolios to the Senate Standing Committee on Legal and Constitutional Affairs:

- Attorney-General's portfolio; and
- Immigration and Citizenship portfolio.¹

This report was prepared pursuant to Standing Order 25(20) relating to the consideration of annual reports by committees. The Standing Order states:

Annual reports of departments and agencies shall stand referred to the committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (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.

This report examines annual reports tabled in the Senate or presented to the President between 1 May and 31 October 2013. It includes the reports of bodies that were allocated to the committee's portfolios following a Senate resolution on 13 November 2013.

1 Following a resolution of the Senate on 13 November 2013, the Immigration and Citizenship portfolio was renamed the Immigration and Border Protection portfolio.

Role of annual reports

Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of accountability to Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies, and the administration of government programs.

Annual reporting requirements

Standing Order 25(20)(f) requires that committees 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.

Pursuant to subsections 63(2) and 70(2) of the *Public Service Act 1999*, departments of state and executive agencies must prepare annual reports in accordance with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies* (Requirements for Annual Reports). As a matter of policy, the Requirements for Annual Reports also apply to prescribed agencies under section 5 of the *Financial Management and Accountability Act 1997* (FMA Act).²

The 2012–13 annual reports are prepared in accordance with the Requirements for Annual Reports issued on 24 June 2013. Amendments to the latest issue of the Requirements for Annual Reports are:

- Spatial reporting – a new requirement has been added for selected portfolio agencies to report on expenditure in relation to the *Spatial Reporting Framework*.³

Orders made by the minister under section 48 of the *Commonwealth Authorities and Companies Act 1997* (CAC Act) set out guidelines for the annual reports of Commonwealth authorities. The content of annual reports of Commonwealth companies is based on the reporting requirements under the *Corporations Act 2001*, in accordance with section 36 of the CAC Act.

Statutory authorities must also report in accordance with their establishing legislation.

Guidelines for the annual reports of non-statutory bodies are set out in the government response to recommendations of the then Senate Standing Committee on Finance and Government Operations, in its report entitled *Reporting Requirements for the Annual Reports of Non-Statutory Bodies*. The government response was incorporated into the Senate Hansard of 8 December 1987.⁴

2 Department of the Prime Minister and Cabinet (DPMC), *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies (Requirements for Annual Reports)*, 24 June 2013, Part 1, subsection 3(1).

3 DPMC, *Requirements for Annual Reports*, 24 June 2013, p. i.

4 *Official Senate Hansard*, 8 December 1987, pp 2643–2645.

'Apparently satisfactory'

Under the terms of Standing Order 25(20)(a), the committee is required to report to the Senate whether reports are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as compliance with relevant reporting guidelines.

The committee found all of the reports submitted to be 'apparently satisfactory', describing the functions, activities, performance and financial positions of the departments and agencies. In considering the reports, the committee did not identify any relevant remarks about the reports made in debate in the Senate.

Timeliness

Under Standing Order 25(20)(c), the committee must also report to the Senate on any lateness in the presentation of annual reports.

In accordance with the Requirements for Annual Reports, agencies are required to present:

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

...

Where an agency's own legislation provides a timeframe for its annual report, for example "within six months" or "as soon as practicable after 30 June in each year", that timeframe applies.⁵

If a department or agency is unable to meet this deadline, the secretary or agency head is to advise the responsible minister of the reasons for the delay and the expected tabling date. The responsible minister is to table this explanation in the Parliament.⁶

Subsection 9(1) of the CAC Act requires the director of a Commonwealth authority to:

- (a) prepare an annual report in accordance with Schedule 1 for each financial year; and
- (b) give it to the responsible Minister by the deadline for the financial year for presentation to the Parliament.

...

- (2) The deadline is:
 - (a) the 15th day of the 4th month after the end of the financial year; or
 - (b) the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

5 DPMC, *Requirements for Annual Reports*, 24 June 2013, Part 1, section 4.

6 DPMC, *Guidelines for the Presentation of Documents to the Parliament (including government documents, government responses to committee reports, ministerial statements, annual reports and other instruments)*, October 2013, p. 5. Provisions for seeking an extension to the reporting period can be found in subsections 34C(4) to (7) of the *Acts Interpretation Act 1901*.

Under section 36 of the CAC Act:

- (1) A Commonwealth company must give the responsible Minister:
- (a) a copy of the company's financial report, directors' report and auditor's report that the company is required by the *Corporations Act 2001* to have for the financial year (or would be required by that Act to have if the company were a public company); and
 - (b) any additional report under subsection (2); and
 - (c) in the case of a wholly-owned Commonwealth company— any additional information or report required by the Finance Minister's Orders.

(1A) The Commonwealth company must give the reports and information by:

- (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 financial year;
 - (ii) 4 months after the end of the financial year; and
- (b) in any other case—4 months after the end of the financial year; or the end of such further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

In the absence of any specific provision, the *Acts Interpretation Act 1901* requires bodies to present annual reports to ministers within six months after the end of the period reported upon (subsection 34C(2)), and ministers must table reports within 15 sitting days after receipt.

A table listing the annual reports of departments and agencies tabled in the Senate (or presented out of session to the President of the Senate) between 1 May 2013 and 31 October 2013, and which have been referred to the committee for examination, can be found at Appendix 1.⁷ Also included in this table is the date each report was tabled in the House of Representatives.

The annual reports included and examined in this report met the reporting deadline of 31 October 2014. The Migration Review Tribunal and Refugee Review Tribunal missed the deadline in the Senate, tabling their report on 12 November 2013.

Two Commonwealth authorities provided annual reports to the responsible minister one day after the reporting deadline under Subsection 9(1) of the CAC Act that requires reports of Commonwealth authorities to be given to the responsible minister for presentation to parliament by the 15th day of the 4th month after the end of the financial year.⁸ The following bodies presented their annual reports on the 16 October 2013:

- Australian National Maritime Museum; and
- National Library of Australia.

7 The table also includes reports on the operation of acts or programs which have been referred to the committee.

8 *Commonwealth Authorities and Companies Act 1997*, subsection 9(1).

The committee is pleased that the majority of reports presented to Parliament were available for examination prior to the Supplementary Budget Estimates hearings on 18 and 19 November 2013, noting that this may have been due to the scheduling of hearings after the tabling deadline for the reporting period. Even so, the committee acknowledges the timely presentation of the reports and continues to encourage bodies to table annual reports before the Supplementary Budget Estimates hearings in October each year, in accordance with best practice, as outlined in the Requirements for Annual Reports.⁹

Requirement for non-reporting bodies to report

In accordance with Standing Order 25(20)(h), the committee is required to report on bodies which do not present an annual report to the Senate and which should present such a report.

On this occasion, the committee has no bodies to report which failed to present an annual report.

9 DPMC, *Requirements for Annual Reports*, 24 June 2013, Part 1, section 4.

CHAPTER 1

ANNUAL REPORTS OF DEPARTMENTS

1.1 The annual reports of the following departments for the financial year 2012–13, were referred to the committee for examination and report:

- Attorney-General's Department; and
- Department of Immigration and Citizenship.¹

Attorney-General's Department

Tabling of report

1.2 The 2012–13 annual report was presented out of session to the President of the Senate on 30 October 2013 and tabled in the Senate on 12 November 2013. The report was available to senators for the Supplementary Budget Estimates 2013–14 hearings.

Secretary's review

1.3 The secretary's highlights for 2012–13 included supporting the operations of the Defence Abuse Response Taskforce, established in November 2012, and the Royal Commission into Institutional Responses to Child Sexual Abuse, established in January 2013.² Additionally, the department assisted in the development of a National Plan to Combat Cybercrime to unify and align current and future efforts across jurisdictions.³

Changes to the portfolio structure

1.4 The report outlines changes made to the portfolio in early 2013, which included the Federal Magistrates Court of Australia being renamed the Federal Circuit Court of Australia in April 2013; and institutional reforms in relation to the operations of the National Native Title Tribunal and the Federal Court of Australia coming into effect in March 2013. As a result of the reforms, the Tribunal is no longer considered a *Financial Management and Accountability Act 1997* (FMA Act) agency.⁴

1.5 The committee is aware of machinery of government changes of late 2013, following the federal election, and looks forward to the addition of the cultural affairs and arts agencies in the department's 2013–14 annual report.

1 Following a resolution of the Senate in November 2013, the department was renamed the Department of Immigration and Border Protection.

2 *Attorney-General's Department Annual Report 2012–13*, p. 4.

3 *Attorney-General's Department Annual Report 2012–13*, p. 6.

4 *Attorney-General's Department Annual Report 2012–13*, p. 9.

Performance reporting

1.6 The annual report's performance review addressed the key performance indicators (KPIs) of each of the department's programs, as listed in the Portfolio Budget Statements (PBS) and Portfolio Additional Estimates Statements (PAES).⁵ The report included a comprehensive account of the department's achievements and work progress within each program. However, discussion and analysis of departmental performance against KPI targets within individual programs was limited and did not adequately consider the department's effectiveness in achieving its stated outcomes.⁶ The committee draws the department's attention to the Requirements for Annual Reports which state that '[d]escriptions of processes and activities should be avoided. Rather, reporting should be aimed at providing an assessment of how far the agency has progressed towards the achievement of its stated outcomes'.⁷

1.7 The committee notes that the performance information provided in the department's annual report did not include specific program objectives or deliverables contained in the PBS and PAES.⁸ The committee suggests including program objectives, where possible immediately before a narrative report of the major achievements within each program, to provide context of how these achievements contributed to the program's objective. The inclusion of such information would contribute to achieving a 'clear read' of the PBS and PAES.

1.8 The tabular presentation of KPIs was consistent with the format used in the 2011–12 and 2010–11 annual reports, and was accessible and generally informative. The report assessed the KPIs as being 'achieved', 'substantially achieved', 'partially achieved' or 'not achieved', with a brief explanation supporting each result.⁹ The use of categories such as these to assess the department's effectiveness in achieving each KPI is particularly helpful when addressing performance against qualitative KPIs, as it facilitates direct comparisons of KPI results within and amongst programs.

1.9 However, the report lacked quantitative KPI targets. The committee notes these were also missing from the 2011–12 and 2010–11 reports. The committee acknowledges the difficulty in assessing the effective operations of departmental programs that involve policy development using quantitative KPI targets. However, in some instances, where KPIs address timeliness, it would be helpful to include a

5 *Attorney-General's Department Annual Report 2012–13*, pp 34–35, 47–49, 52, 55, 59, 64, 69 and 71. See also *Portfolio Budget Statements 2012–13, Attorney-General's Portfolio*, pp 13–52, and *Portfolio Additional Estimates Statements 2012–13, Attorney-General's Portfolio*, pp 11–39.

6 *Attorney-General's Department Annual Report 2012–13*, pp 23–71.

7 DPMC, *Requirements for Annual Reports*, 24 June 2013, Part 3, subsection 11(1).

8 *Portfolio Budget Statements 2012–13 Attorney-General's Portfolio*, pp 25–36. Also, for performance information on Program 1.8 see *Portfolio Additional Estimates Statements 2012–13 Attorney-General's Portfolio*, p. 24.

9 *Attorney-General's Department Annual Report 2012–13*, pp 34–35, 47–49, 52, 55, 59, 64, 69 and 71.

quantitative performance target. For example, in *Program 1.7 – Australian Government Disaster Financial Support Payments* (Program 1.7), one of the KPIs was '[t]imeliness of receipt of assistance'.¹⁰ The use of a quantitative performance target in this instance would provide a more accurate assessment as to whether the intended KPI result was achieved and more evidence to support whether the program accomplished its objectives.

1.10 Furthermore, upon closer examination of KPI results for Program 1.7, the committee notes the supporting commentary included quantitative values to report the KPI results, and stated that the KPIs were achieved despite there being no indication of what the intended results or performance targets were for each KPI.¹¹ The committee suggests that where quantitative figures are provided to present KPI results, they should be assessed against definitive performance standards determined by the department as well as compared to results from previous years.

1.11 The committee reminds the department of best practice for the development of KPIs, which is outlined in the Australian National Audit Office's (ANAO) *Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework*:

The tendency for entities to rely on qualitative KPIs reduces their ability to measure the results of program activities over time. A mix of effectiveness KPIs, that place greater emphasis on quantitative KPIs and targets, would provide a more measureable basis for performance assessment. Targets, in particular, should be used more often to express quantifiable performance levels to be attained at a future date. By enabling a more direct assessment of performance, the greater use of targets would assist to clarify and simplify the process of performance monitoring.¹²

Social justice agenda

1.12 The annual report described the department's social justice agenda as being 'founded on the principles of access and equity and the rights of all citizens to live in a just and secure society that accords with the *Charter of Public Service in a Culturally Diverse Society*'.¹³ The department has continued to administer programs and partake in initiatives that contribute to the social justice agenda, and the department progressed work on:

- the development and implementation of an external merits review model for the DisabilityCare scheme through collaboration with the National Disability Insurance Scheme (NDIS) taskforce;¹⁴

10 *Attorney-General's Department Annual Report 2012–13*, p. 69.

11 *Attorney-General's Department Annual Report 2012–13*, p. 69.

12 Australian National Audit Office, *Audit Report No. 5 2011–12, Performance Audit, Development and Implementation of Key Performance Indicators to Support the Outcomes and Programs Framework*, p. 53.

13 *Attorney-General's Department Annual Report 2012–13*, p. 72.

14 *Attorney-General's Department Annual Report 2012–13*, p. 75.

- reductions in community and family violence by facilitating the Family Violence Prevention Legal Services Program, where 14 service providers are funded to provide culturally safe services to 31 identified high-need geographic areas;¹⁵ and
- projects to improve Indigenous community safety and reduce Indigenous offending and re-offending. This included 40 projects in the areas of prison throughcare, youth prevention and diversion, restorative justice and community patrols.¹⁶

Financial performance

1.13 The department's overall financial performance was briefly outlined in the 2012–13 annual report. The department reported an operating deficit of \$19,779 million for 2012–13. This compares to an operating deficit of \$78,181 million in 2011–12. The report's discussion and analysis of financial performance did not provide an explanation for the significant difference in operating deficits over the 2012–13 and 2011–12 reporting periods. The operating deficit for the 2012–13 financial period was reported to be primarily attributable to non-appropriated depreciation and amortisation expenses of \$21,020 million.¹⁷

1.14 The committee notes that administered expenses were \$620,018 million, compared to \$510,241 million in 2011–12. The 2012–13 expenses included \$175,351 million in personal benefits payments to individuals following the floods and bushfire events that occurred early in 2013.¹⁸

Conclusion

1.15 The committee draws attention to its earlier comments on performance reporting and KPIs. The report includes most 'suggested' items in addition to 'mandatory' requirements.¹⁹ The committee considers the report to be 'apparently satisfactory'.

Department of Immigration and Citizenship

Tabling of report

1.16 The department's annual report for 2012–13 was presented out of session on 29 October 2013 and tabled in the Senate on the 12 November 2013. As a result, the report was available to the committee for examination during the Supplementary Budget Estimates hearings on 18 and 19 November 2013.

15 *Attorney-General's Department Annual Report 2012–13*, p. 74.

16 *Attorney-General's Department Annual Report 2012–13*, p. 73.

17 *Attorney-General's Department Annual Report 2012–13*, p. 15.

18 *Attorney-General's Department Annual Report 2012–13*, p. 15.

19 The list of requirements in the annual report conforms to DPMC, *Requirements for Annual Reports*, 24 June 2013, Attachment F.

Secretary's review

1.17 The secretary's review described the department's development and progress in 2012–13, highlighting major initiatives and challenges. The 2012–13 Migration Program resulted in a total of 190 000 places, which was an increase of 5000 places from the previous year's program. Additionally, a total of 20 019 visas were granted through the 2012–13 Humanitarian Program, making it the largest Humanitarian Program in almost 30 years.²⁰

1.18 The department's first ImmiCards were issued to bridging e visa and protection visa holders, the result of a two year project that streamlined processes across the department, consequently replacing the visa evidence card with a more secure document.²¹

1.19 Reforms to the subclass 457 visa program were introduced from 1 July 2013 in order to 'strengthen the department's capacity to prevent misuse' of the 457 visa program,²² and the visa simplification and deregulation project was established to enable clients to better understand and navigate the visa framework. The project has seen a reduction in the number of visa subclasses from 149 at the start of the project in 2009, to 99 by July 2013.²³

1.20 One of the significant highlights in 2012–13 for the Office of the Migration Agents Registration Authority (MARA) included the introduction of a streamlined approach to complaints handling to improve professional standards and consumer protection, resulting in 'shorter timeframes for resolving complaints and a substantial reduction of outstanding complaint numbers'.²⁴

Office of the Migration Agents Registration Authority

1.21 The department presented the Office of the MARA's performance results against deliverables and KPIs that were consistent with those provided in the PBS and PAES.²⁵ The department reported that the Office of the MARA met or exceeded its targets in four of the five KPIs.²⁶

1.22 For example, in relation to the 'percentage of complete registration applications finalised within service standards', the Office of the MARA exceeded its

20 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 5.

21 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 5.

22 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 6.

23 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 6.

24 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 7.

25 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 99–104. See also *Portfolio Budget Statements 2012–13, Immigration and Citizenship Portfolio*, pp 20–28 and *Portfolio Additional Estimates Statements 2012–13, Immigration and Citizenship Portfolio*, pp 24–33.

26 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 104.

KPI target of 95 per cent with a result of 97.4 per cent.²⁷ Additionally, the KPI target for the 'percentage of registered migration agents who participated in continuing professional development activities and found them useful' was met with an actual result of greater than 65 per cent.²⁸ The KPI target measuring the 'percentage of complete complaints finalised within service standards' was not met: a 75.8 per cent result was achieved in 2012–13 as opposed to the KPI target of 100 per cent, despite demonstrating an improvement from the 2011–12 result of 70 per cent.²⁹

1.23 Nevertheless, the committee notes improvements in the performance of complaints handling by the Office of the MARA in comparison to 2011–12 outcomes. The committee is aware of the independent review by The Navigator Company that recommended:

- development of a risk model to improve the prioritisation of complaints; and
- further streamlining the existing investigation process for less serious professional conduct matters.³⁰

1.24 The Office of the MARA implemented the recommendations of the complaints handling review to resolve complaints involving minor issues in a more timely manner with an educative focus, resulting in a continued reduction of on-hand complaint numbers.³¹ More specifically, the volume of complaints has reportedly decreased by 15.4 per cent from 2011–12.³²

Social inclusion agenda

1.25 The annual report provided a brief statement describing the activities and programs administered by the department to promote the social inclusion of new arrivals.³³ The department provided settlement services to assist new arrivals to establish themselves in the Australian community, such as the humanitarian settlement services program, the complex case support program, and the settlement grants program.³⁴ Programs such as these enabled access to local services such as health, housing, employment, community and family programs.³⁵ The department also supported other departments and agencies in the development of their first biennial

27 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 104.

28 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 104

29 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 104. See also *Committee Hansard*, 19 November 2013, p. 20.

30 *Office of the Migration Agents Registration Authority Annual Report 2011–12*, p. 17.

31 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 104.

32 *Committee Hansard*, 19 November 2013, p. 20.

33 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 328.

34 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 328.

35 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 328.

Agency Multicultural Plans, significantly contributing to the implementation of the strengthened multicultural access and equity policy across Australian government.³⁶

Performance reporting

1.26 The department's performance information was comprehensive and well-presented, and included outcome strategies, objectives, deliverables, KPIs and performance results at each program level. The information was arranged logically, and the outcomes and programs structure was presented in a straightforward format that allowed the reader to easily access and compare the information in the annual report to the PBS and PAES.³⁷ As a result, the performance reporting provided a 'clear read' between the annual report and the relevant PBS and PAES.³⁸

1.27 The report contained a performance review of each program, providing an assessment of how far the department has progressed towards achievement of its stated outcomes. Each program review covered major achievements and challenges for the department and included meaningful qualitative and quantitative analysis of migration programs and visa categories, in the form of detailed statistics and supporting discussion. Where possible, historical trends of KPI performance over the last three reporting periods accompanied actual results for 2012–13.³⁹

1.28 In 2012–13, the department reported that the percentage of onshore protection visa applications decided within 90 days in accordance with legislation⁴⁰ was 51 per cent, falling well below the target of 100 per cent.⁴¹ The median number of days taken to decide primary cases rose drastically from 44 days in 2011–12 to 89 days in 2012–13.⁴² The department identified factors that contributed to KPIs not being met. For example, 86 per cent of decisions not made within the required timeframe were due to department-related delays caused by the 'increased number of arrivals, arrangements for allowing people to apply, the complexity of certain cases that required additional investigation, and resource-related issues'.⁴³

1.29 There were 26 427 protection visa applications and refugee status determination requests from people seeking asylum in Australia during 2012–13,

36 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 328.

37 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 26–28. See also *Portfolio Budget Statements 2012–13, Immigration and Citizenship Portfolio*, pp 13–102 and *Portfolio Additional Estimates Statements 2012–13, Immigration and Citizenship Portfolio*, pp 9–108.

38 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 38–272.

39 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 38–272.

40 Provisions for protection visa decision-making can be found in subsection 65A of the *Migration Act 1958*.

41 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 115.

42 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 129.

43 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 129.

compared to 14 436 in 2011–12,⁴⁴ (an increase of 83 per cent on the previous year). The difference was predominantly in the number of Irregular Maritime Arrival (IMA) refugee status determination requests received between the two reporting periods, while a similar number of non-IMA protection visa applications were lodged in 2011–12 compared to 2012–13.⁴⁵ The number of protection visas granted to Irregular Maritime Arrivals (IMAs) and non-IMAs in 2012–13 was similar to the previous reporting period, with 7,504 granted in 2012–13 compared to 7,041 in 2011–12.⁴⁶

Financial performance

1.30 The department's 2012–13 financial performance was reported as 'strong despite the challenges posed by increased activity and complex operational demands'.⁴⁷

1.31 An operating deficit of \$87.7 million was reported in 2012–13 compared to \$98.5 million in 2011–12.⁴⁸ The department incurred \$98.4 million in depreciation and amortisation expenses. Government funding for depreciation and amortisation expenses ceased in 2010–11: continued funding for these items would have resulted in a \$7.2 million surplus in 2012–13.⁴⁹ Factors contributing to the department's financial performance in 2012–13 included:

- a strong focus on performance and associated financial management;
- a continued focus on improving business planning and monthly financial reporting activities; and
- an increase in the government long-term bond rate that reduced the department's employee expenses by approximately \$6 million.⁵⁰

Conclusion

1.32 The annual report closely adheres to the Requirements for Annual Reports and provides a detailed analysis of departmental performance and operations during the year. The committee considers the report to be 'apparently satisfactory'.

44 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 126–127.

45 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 127.

46 *Department of Immigration and Citizenship Annual Report 2012–13*, pp 126–127.

47 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 30.

48 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 30.

49 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 30.

50 *Department of Immigration and Citizenship Annual Report 2012–13*, p. 30.

CHAPTER 2

ANNUAL REPORTS OF AGENCIES

2.1 The annual reports of the following agencies were referred to the committee for examination and report during the period 1 May to 31 October 2013:

Attorney-General's Portfolio

Prescribed agencies

- Administrative Appeals Tribunal
- Australian Commission for Law Enforcement Integrity¹
- Australian Crime Commission²
- Australian Federal Police³
- Australian Human Rights Commission
- Office of the Australian Information Commissioner
- Australian Institute of Criminology
- Australian Law Reform Commission
- Australian Security Intelligence Organisation
- Australian Transaction Reports and Analysis Centre
- Office of the Director of Public Prosecutions
- Office of the Commonwealth Ombudsman⁴
- CrimTrac Agency
- Family Court of Australia
- Family Law Council
- Federal Circuit Court of Australia
- Federal Court of Australia
- Insolvency and Trustee Service Australia⁵

1 Also stands referred to the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, under the *Law Enforcement Integrity Commissioner Act 2006*.

2 Also stands referred to the Parliamentary Joint Committee on Law Enforcement under the *Australian Crime Commission Act 2002*.

3 Also stands referred to the Parliamentary Joint Committee on Law Enforcement under the *Australian Federal Police Act 1979*.

4 Also forwarded to the Finance and Public Administration Legislation Committee.

5 On 15 August 2013 the Insolvency & Trustee Service Australia was renamed the Australian Financial Security Authority.

- National Archives of Australia and National Archives of Australia Advisory Council
- Office of Parliamentary Counsel

Commonwealth authorities

- Australian Government Solicitor
- Australia Council
- Australian Film, Television and Radio School
- Australian National Maritime Museum
- National Film and Sound Archive of Australia
- National Gallery of Australia
- National Library of Australia
- National Museum of Australia
- Screen Australia

Commonwealth companies

- Bundanon Trust Limited

Other bodies

- Classification Board and Classification Review Board
- Copyright Agency Limited

Immigration and Citizenship Portfolio⁶

Statutory bodies

- Australian Customs and Border Protection Service
- Office of the Migration Agents Registration Authority

Consideration of annual reports

2.2 The committee considered, but has not reported on, the annual reports of the Australian Commission for Law Enforcement Integrity and the Australian Crime Commission, as the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity and the Parliamentary Joint Committee on Law Enforcement have specific responsibility for overseeing these agencies.

2.3 Similarly, the committee has considered, but not reported on, the annual reports of the Australian Federal Police and the Office of the Commonwealth Ombudsman, as the Parliamentary Joint Committee on Law Enforcement and the Senate Finance and Public Administration Legislation Committee have specific responsibility for overseeing these agencies.

6 Following a resolution of the Senate in November 2013, the portfolio was renamed the Immigration and Border Protection portfolio.

2.4 On this occasion, the committee has examined in more detail the reports of the Copyright Agency Limited, the National Library of Australia and the Australian Human Rights Commission.

Copyright Agency Limited

2.5 The committee understands that the Copyright Agency Limited (CAL) is a not-for-profit rights management organisation or 'declared collecting society' and operates in accordance with the *Corporations Act 2001* as a public company, limited by guarantee.⁷

2.6 The agency is appointed by the Australian government to manage the statutory licences in the *Copyright Act 1968* (Copyright Act).⁸ The licences regulate the use of text, images and print music, by educational institutions and people with disabilities, and for reproduction by Commonwealth, state and territory governments.⁹ CAL assists in reproducing, storing and sharing copyright material whilst delivering fair payment to the rights owners of content and managing the resale royalty schemes of artists.¹⁰

2.7 The committee corresponded with the agency in 2003 to identify CAL's annual reporting requirements and it was noted that the agency observes obligatory reporting requirements as a declared collecting society, submitting its annual report and accounts of operations for each financial year to the Attorney-General in accordance with section 135ZZD of the Copyright Act. The agency also complies with the requirements in the Attorney-General's Guidelines for Declared Collecting Societies.¹¹

2.8 The 2011–12 annual report of CAL was tabled in the Senate on 25 June 2013, almost one year after the end of the 2011–12 financial year, but during the reporting period for this report on annual reports. Despite this, the report was tabled in accordance with its respective legislative requirements, which provide that:

- (1) A collecting society shall, as soon as practicable after the end of each financial year, prepare a report of its operations during that financial year and send a copy of the report to the Minister.
- (2) The Minister shall cause a copy of the report sent to the Minister under subsection (1) to be laid before each House of Parliament within 15 sitting days of that House after the receipt of the report by the Minister.¹²

7 *Copyright Agency Limited Annual Report 2011–12*, pp 32–33 and 36. See also *Copyright Agency Limited Annual Report 2012–13*, p. 24.

8 *Copyright Agency Limited Annual Report 2011–12*, pp 32 and 35.

9 *Copyright Agency Limited Annual Report 2011–12*, pp 32 and 35.

10 *Copyright Agency Limited 2011–12 Annual Report*, p. 6.

11 *Copyright Agency Limited Annual Report 2011–12*, pp 35–36.

12 *Copyright Act 1968*, subsections 135ZZD(1) and (2).

2.9 The committee is satisfied that the annual report of CAL met all of its reporting requirements under section 135ZZD of the Copyright Act. Furthermore, as a public company limited by guarantee,¹³ the agency adequately addressed its reporting responsibilities towards its members. Useful information was included in the report, such as a description of the licences CAL offers to its members in order to licence certain uses of their material, as well as the statutory licences CAL is required to manage as a consequence of its appointment as a collecting society by the Australian government.¹⁴ The report also included informative statistics relating to the collection of licence fees and payments to content creators.¹⁵

2.10 Some possible areas for improvement were identified by the committee. For example, the report is separated into three parts, each with its own table of contents. The committee suggests integrating the information into a single table of contents at the beginning of the report to ensure information can be easily located. Similarly, the addition of an index would be a useful reference tool. Further, the report lists the legislation and guidelines that outline the agency's governance and accountability obligations.¹⁶ The committee suggests supplementing this information with the specific provisions in the legislation that are applicable to the preparation of the annual report. This would be particularly instructive, as the committee understands it has not been general practice for the agency to include a copy of the letter of transmittal in the annual report for some years.

2.11 The agency reported an increase in membership of 4515 members in 2011–12, representing the largest number recorded in a year, and an eighty per cent increase from the last two reporting periods, bringing total membership in 2011–12 to 24 342 members.¹⁷ The agency saw an increase in revenue from the previous year of 2.6 per cent, reporting total revenue of \$126.1 million in 2011–12.¹⁸ Amongst the company activities outlined in the Chair's report was the achievement during the 2011–12 reporting period of the distribution of a total of one billion dollars to their membership since the establishment of the agency, a significant milestone.¹⁹

2.12 The committee considers the report of the CAL to be 'apparently satisfactory'.

National Library of Australia

2.13 The National Library of Australia is a statutory body established under section 5 of the *National Library Act 1960*. It is also a Commonwealth authority under the CAC Act for annual reporting purposes and is therefore required to comply with

13 *Copyright Agency Limited Annual Report 2011–12*, p. 35.

14 *Copyright Agency Limited Annual Report 2011–12*, pp 43–55.

15 *Copyright Agency Limited Annual Report 2011–12*, pp 56–72.

16 *Copyright Agency Limited Annual Report 2011–12*, p. 35.

17 *Copyright Agency Limited Annual Report 2011–12*, p. 12.

18 *Copyright Agency Limited Annual Report 2011–12*, p. 18.

19 *Copyright Agency Limited Annual Report 2011–12*, p. 4.

ministerial orders under section 48 of the CAC Act, which are provided in the *Commonwealth Authorities (Annual Reporting) Orders 2011*.

2.14 The 2012–13 annual report of the National Library of Australia was submitted to the minister on 16 October 2013 and presented out of session on 31 October 2013. The agency just missed the deadline under subsection 9(1) of the CAC Act, which requires the report to be provided to the responsible minister by the 15th day of the 4th month after the end of the financial year. The committee is not aware of any extensions granted by the minister under subsection 34C(5) of the *Acts Interpretation Act 1901*.

2.15 The committee is pleased to note that the annual report of the National Library of Australia 2012–13 was well-presented, and the content included in the report was relevant, coherent and concise.

2.16 The Director-General's review highlighted significant developments throughout the reporting period. Among them were the recent advances in the Library's ongoing transition from a print-based collecting model to a digital library model.²⁰ The report's performance information summarised the agency's involvement in major initiatives over the reporting period in response to the changing digital environment.

2.17 For example, the Annual Report on Operations included the agency's progress in redeveloping its digital infrastructure to enable more effective digitisation and storage of its collections through the Digital Library Infrastructure Replacement Project. The first phase of the project's implementation began in early 2013, with commencement of digitisation scheduled for 2013–14.²¹

2.18 Of particular interest to the committee was the Library's engagement in consultations for the extension of legal deposit provisions to include material published in digital form.²² The realisation of the need for a legislative framework, enabling the preservation of material published in digital form was realised through a variety of contributing factors including the significant decline in the number of Australian print publications received through legal deposit in recent years, with a notable decrease in 2012–13.²³

2.19 In conclusion, the committee considers the annual report of the National Library of Australia to be 'apparently satisfactory', with close adherence to the reporting requirements.

20 *National Library of Australia Annual Report 2012–13*, p. 5.

21 *National Library of Australia Annual Report 2012–13*, pp 5–6 and 54.

22 *National Library of Australia Annual Report 2012–13*, pp 5–6 and 54.

23 *National Library of Australia Annual Report 2012–13*, p. 55.

Australian Human Rights Commission

2.20 The 2012–13 annual report of the Australian Human Rights Commission (the commission) was presented out of session in a timely manner on the 29 October 2013 and tabled in the Senate on the 12 November 2013.

2.21 The commission is a national independent statutory body, subject to annual reporting requirements under section 45 of its enabling legislation, the *Australian Human Rights Commission Act 1986* (AHRC Act).²⁴ Furthermore, as a prescribed agency under the *Financial Management and Accountability Act 1997* (FMA Act) the commission is also obliged to prepare annual reports according to the criteria in the Requirements for Annual Reports.²⁵ The committee finds that generally, the information included in the annual report gave a fair overview of the commission's role, functions, and work throughout the year. The report included material that is largely effective in meeting the Requirements for Annual Reports to report on performance, management and accountability and the financial position of the commission throughout the 2012–13 reporting period.

2.22 However, the committee expresses its concern at the commission's apparent disregard for some of the reporting obligations in the Requirements for Annual Reports, as demonstrated by the repeated omission of a mandatory and integral reporting requirement from the commission's annual report in recent years; namely the compliance index, set out in Attachment F of the Annual Reporting Requirements.²⁶

2.23 The inclusion of a compliance index in the commission's annual report would vastly improve the report's clarity by increasing the accessibility of the information. Making the reporting criteria more available for examination would also enhance the transparency with which the commission reports on its yearly activities, by ensuring the annual report fulfils its main function of appropriately providing information on organisational administration and performance for parliamentary scrutiny.

2.24 The committee finds the agency's performance reporting to provide a fair evaluation of most of the commission's KPIs set out in the Portfolio Budget Statements (PBS);²⁷ however, the committee could not locate any information in the annual report describing the commission's performance against the first and last KPIs listed in the PBS, specifically:

- customer/stakeholder survey to rate the effectiveness of major educational and promotional activity; and
- extent of contact with government, community and industry groups.²⁸

24 *Australian Human Rights Commission Annual Report 2012–13*, p. 1.

25 DPMC, *Requirements for Annual Reports*, 24 June 2013, Part 1, subsection 3(1).

26 DPMC, *Requirements for Annual Reports*, 24 June 2013, Attachment F.

27 *Portfolio Budget Statements 2012–13, Attorney-General's Portfolio*, pp 185–202.

28 *Portfolio Budget Statements 2012–13, Attorney-General's Portfolio*, p. 191.

2.25 Furthermore, a 'clear read' between the PBS and annual report was not achieved, as much of the information included in the PBS that gives context to the commission's outcome and stated performance targets was not included in the annual report (such as the objectives and deliverables of the agency's program). The commission's stated outcome and program were not referred to in performance reporting, although they were included in other areas of the report, in the context of the departmental overview and financial reporting.²⁹

2.26 The committee suggests including the commission's planned outcomes and objectives from the PBS in the annual report, to accompany the actual results against KPIs for the reporting period. This would provide valuable background to the commission's own evaluation of its effectiveness in achieving planned outcomes.

2.27 Conversely, the report provided a comprehensive analysis of the agency's performance against the three KPIs that address the commission's complaints handling in 2012–13.³⁰ The committee understands a large component of the commission's work is attributed to resolving discrimination and human rights complaints,³¹ and is pleased to note that the commission exceeded all of the KPI targets associated with complaint handling.³² The report also included a useful breakdown and analysis of complaint statistics.³³ The committee notes there was a 35 per cent decrease in complaints received under the AHRC Act, which the report attributed to a decrease in the number of complaints about immigration detention.³⁴

2.28 The committee considers the Australian Human Rights Commission annual report 2012–13 to be 'apparently satisfactory', but expresses some concern about its overall quality due to the absence of some reporting requirements. The committee is hopeful there will be improvements in the reporting standards of annual reports from the commission in the future.

29 *Australian Human Rights Commission Annual Report 2012–13*, pp 2, 81, 116–119 and 122–123.

30 *Australian Human Rights Commission Annual Report 2012–13*, pp 61 and 124–147.

31 *Australian Human Rights Commission Annual Report 2012–13*, p. 3.

32 *Australian Human Rights Commission Annual Report 2012–13*, p. 61.

33 *Australian Human Rights Commission Annual Report 2012–13*, pp 124–147.

34 *Australian Human Rights Commission Annual Report 2012–13*, p. 124.

CHAPTER 3

REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

3.1 Standing Order 25(20) does not require that consideration of reports include the implementation or operation of acts or programs. The committee is not therefore required to include them in its report on the examination of annual reports. However, as on previous occasions, the committee has chosen to examine the following reports:

- Report to the Attorney-General on the results of inspections of records under section 55 of the *Surveillance Devices Act 2004* (inspections finalised between 1 July – 31 December 2012); and
- Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013 (published by the Refugee Review Tribunal).

Report to the Attorney-General on the results of inspections of records under section 55 of the *Surveillance Devices Act 2004*

3.2 Subsection 55(1) of the *Surveillance Devices Act 2004* (SD Act) requires the Commonwealth Ombudsman (Ombudsman) to inspect the records of each law enforcement agency to determine the extent of their compliance with the SD Act. Under subsection 6(1) of the SD Act, 'law enforcement agency' is defined as including the Australian Crime Commission (ACC), the Australian Federal Police (AFP), the Australian Commission for Law Enforcement Integrity (ACLEI), state and territory police forces, and other specified state and territory law enforcement agencies.¹ Section 61 of the SD Act requires the Ombudsman to report to the relevant minister (the Commonwealth Attorney-General) at six-monthly intervals on the results of each inspection. Each report covers inspections that are finalised within the reporting period and inspection results are considered finalised once the Ombudsman's internal report to the agency is completed and the agency has been provided the opportunity to comment on findings.²

3.3 The report reviewed by the committee covers the inspections finalised between 1 July and 31 December 2012, and examines the ACC, the AFP and the Victoria Police. The report is informative and well-presented. It includes the objective and scope of the inspections³ in addition to detailed inspection results outlining the

1 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 1.

2 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 1.

3 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 2.

progress made since the previous report and the issues that arose from the inspection, for each law enforcement agency examined during the reporting period.

3.4 The objective of the inspection is to determine the extent of compliance with the Act by agencies and their law enforcement officers, using the following criteria to assess compliance:

1. Were applications for warrants and authorisations properly made?
2. Were warrants and authorisations properly issued?
3. Where surveillance devices used lawfully?
4. Were revocations or warrants properly made?
5. Were records properly kept and used by the agency?
6. Were reports properly made by the agency?⁴

3.5 Based on the criteria provided, the inspection found the ACC to be compliant with the SD Act. However, four instances of non-compliance were identified. These instances concerned occasions where a requirement to specify the nature of the authorisation sought in relation to verbal applications for tracking device authorisations was not met during the inspection, and the agency did not meet the destruction requirements under subsection 46(1)(b).⁵

3.6 The Ombudsman's report to the ACC suggested that measures be taken to ensure sufficient information is recorded when making verbal applications for tracking device authorisations to meet the requirements of the SD Act. The ACC subsequently advised that it has updated its templates to include a prompt for applicants to detail the nature of the authorisation sought.⁶ The ACC self-disclosed that protected information obtained under 15 warrants was retained longer than the authorised timeframe without the chief officer's certification and as a result the ACC did not meet the requirements under section 46(1)(b)(ii) of the SD Act in these instances.⁷

3.7 The AFP was assessed as compliant with the SD Act. There were two exceptions: where the AFP did not notify the Attorney-General of extraterritorial surveillance activities, and the AFP did not meet the destruction requirements under subsection 46(1)(b).⁸

4 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 2.

5 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 4.

6 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 5.

7 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 6.

8 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 3.

3.8 The AFP has advised that it will update existing procedures to address the issues resulting in non-compliance to ensure that in future, the Attorney-General is notified of extraterritorial surveillance in a timely manner under section 42(6) of the SD Act.⁹ Additionally, the Ombudsman identified 32 instances of retaining protected information longer than the authorised timeframe without the required certification from the Commissioner of the AFP.¹⁰ Further to this, on the 27 June 2012 the AFP advised that the protected information pertaining to the 32 records had been destroyed or retained with the Commissioner's certification and that retention and destruction procedures have been updated to ensure they meet the requirements under the SD Act.¹¹

3.9 No recommendations were made to the law enforcement agencies examined in the report as a result of the inspections carried out by the Ombudsman.

Report pursuant to Section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days

3.10 Section 440A of the *Migration Act 1958* (Migration Act) requires the Refugee Review Tribunal (RRT) to report on the conduct of reviews not completed within 90 days. The RRT is required to report every four months. The report reviewed by the committee covers the period 1 November 2012 to 28 February 2013.

3.11 The table below sets out the number of RRT reviews completed within various timeframes (for example, within or outside of the reporting period, and if within the reporting period, within or outside of the 90 day decision-making period), as well as the corresponding statistics that were recorded for the previous two reporting periods.¹²

3.12 The average processing time for reviews completed during the reporting period (either within or outside the 90 day decision period) was 155 days for the

9 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 8.

10 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 8.

11 *Report to the Attorney-General on the results of inspections of records under s 55 of the Surveillance Devices Act 2004*, March 2013, p. 8.

12 *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013*, p. 1; *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 July 2012 to 31 October 2012*, p. 1; *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 March 2012 to 30 June 2012*, p. 1.

period 1 November 2012 to 28 February 2013 compared to a similar result of 148 days for the previous reporting period of 1 July 2012 to 31 October 2012.¹³

| | 1 March 2012 to 30 June 2012 | 1 July 2012 to 31 October 2012 | 1 November 2012 to 28 February 2013 |
|--|--|--|--|
| Number of RRT reviews decided <i>outside</i> of the 90 day decision-making period | 847 (or 74% of 1,147 reviews) | 720 (or 66% of 1,083 reviews) | 838 (or 66% of 1,265 reviews) |
| Number of RRT reviews decided <i>within</i> the 90 day decision-making period (or RRT had no jurisdiction) | 300 (or 26% of 1,147 reviews) | 363 (or 34% of 1,083 reviews) | 427 (or 34% of 1,265 reviews) |
| Total number of RRT reviews completed during the reporting period | 1,147 | 1,083 | 1,265 |
| Total number of RRT reviews incomplete after the 90 day decision-making period and at the end of the reporting period | 642 (or 43% of 1,501 active reviews on hand at 30.06.12) | 816 (or 36% of 2,279 active reviews on hand at 21.10.12) | 1,416 (or 53% of 2,664 active reviews on hand at 28.02.13) |
| Total number of RRT reviews on hand at the end of the reporting period. | 1,501 | 2,279 | 2,664 |

3.13 The Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT) has maintained a KPI target of 70 per cent of RRT cases decided within 90 calendar days during the last three reporting periods.¹⁴

13 Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013, p. 1; Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 July 2012 to 31 October 2012, p. 1.

14 Migration Review Tribunal - Refugee Review Tribunal Annual Report 2012–13, p. 15.

3.14 The committee notes that the percentage of RRT reviews completed within the decision period of 90 days has increased to 34 per cent for the two most recent reporting periods, compared to 26 per cent for the period 1 March to 30 June 2012, yet remains below the MRT-RRT's KPI target of 70 per cent.

3.15 Common reasons attributed to reviews completed within the reporting period but not within the 90 day decision-making period for the report covering 1 November 2012 to 28 February 2013 were: applicant/adviser related; compliance with statutory procedural requirements; third party responsibility; and tribunal responsibility.¹⁵

3.16 The committee notes that the total number of RRT reviews that remain on hand at the end of the reporting period has significantly increased over the course of time from the period 1 March 2012 to 28 February 2013. Comparatively, the percentage of RRT reviews not completed at the end of the reporting period has fluctuated, and in the most recent report, comprised 53 per cent of the active reviews on hand at 28 February 2013. Reasons attributed to the delays were similar to those provided earlier, for reviews completed within the reporting period but not within the 90 day decision-making period.

3.17 RRT reviews involving applicants in detention and irregular maritime arrivals (IMAs) are given highest priority. Approximately 69 per cent of reviews of applicants in detention and 59 per cent of IMA reviews were decided within 90 days during the reporting period 1 November 2012 to 28 February 2013.¹⁶

3.18 The report identified the challenge for the tribunals in balancing priorities across the RRT and MRT caseloads, both of which have grown significantly from previous years.¹⁷

**Senator the Hon Ian Macdonald
Chair**

15 *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013.*

16 *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013.* p. 1.

17 *Report pursuant to section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 November 2012 to 28 February 2013.* p. 1.

APPENDIX 1

Reports tabled during the period 1 May 2013 and 31 October 2013 and referred to the committee

| Department/authority/ operation of an act or program | Date submitted to minister/date received by minister | Date tabled in Senate (received in Senate out of session) | Date tabled in the House of Reps |
|---|--|---|---|
|---|--|---|---|

Attorney-General's Portfolio

| <i>Department/authority – Report</i> | | | |
|--|---|----------------------|---------|
| Australian Human Rights Commission - Report for 2011–12 – Corrigendum | 15.4.13/ 15.4.13 | 14.5.13 (30.4.13) | 14.5.13 |
| Australian Human Rights Commission - Report No.59 – DA v Commonwealth of Australia (Australian Federal Police) | 11.2.13/ 11.2.13 | 14.5.13 (11.4.13) | 14.5.13 |
| Australian Human Rights Framework - National Human Rights Action Plan Report for 2012. | <i>No legislative requirement to table the report</i> 4.3.13/ 4.3.13 | 14.5.13 (9.5.13) | 14.5.13 |
| Australian Law Reform Commission – Report No.114 – Family violence: a national legal response – Government response, dated June 2013. | <i>No legislative requirement to table the report.</i> 30.5.13/ 30.5.13 | 25.6.13 | 25.6.13 |
| Australian Law Reform Commission – Report No.120 – Access all ages: Older workers and Commonwealth laws: - Final report, dated March 2013. - Summary report, dated March 2013. | 10.4.13/ 10.4.13 | 18.6.13 | 30.5.13 |

| | | | |
|--|--|--------------------------|----------|
| Council of Australian Governments – Review of counter-terrorism legislation. | 1.3.13/ 1.3.13 | 14.5.13 | 14.5.13 |
| Copyright Agency Limited - Annual Report for 2011–12. | 27.5.13/ 27.5.13 (Attorney- General) 24.4.13/ 24.4.13 (Minister for the Arts) | 25.6.13 | 20.6.13 |
| United Nations – Convention on the Rights of the Child – Committee on the Rights of the Child – Consideration of reports submitted by State parties – Concluding observations: Australia – Sixtieth session, 29 May to 15 June 2012. | <i>No legislative requirement to table the report.</i> 29.4.13/ 29.4.13 | 18.6.13 | 30.5.13 |
| Administrative Appeals Tribunal - Report for 2012–13 | 14.10.13/ 14.10.13 | 12.11.13 (17.10.13) | 13.11.13 |
| Attorney-General’s Department - Report for 2012–13 | 27.9.13/ 27.9.13 | 12.11.13 (30.10.13) | 13.11.13 |
| Defence Abuse Response Taskforce – Third Interim Report to the Attorney-General and Minister for Defence, dated September 2013 | 26.9.13/ 26.9.13 | 12.11.13 (4.10.13) | 13.11.13 |
| Australia Council – Report for 2012–13 | 14.10.13/ 14.10.13 | 12.11.2013 (30.10.13) | 13.11.13 |
| Australian Commission for Law Enforcement Integrity – Report of the Integrity Commissioner for 2012–13 ¹ | 3.10.13/ 3.10.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Australian Crime Commission - Report for 2012–13 ² | 1.10.13/ 1.10.13 | 12.11.13 (30.10.13) | 13.11.13 |

1 Also stands referred to the Joint Committee on the Australian Commission for Law Enforcement Integrity, under the *Law Enforcement Integrity Commissioner Act 2006*.

2 Also stands referred to the Joint Committee on Law Enforcement, under the *Australian Crime Commission Act 2002*.

| | | | |
|--|-----------------------|------------------------|----------|
| Australian Federal Police - Report for 2012–13 ³ | 26.9.13/ 26.9.13 | 12.11.13 (17.10.13) | 13.11.13 |
| Australian Film, Television and Radio School - Report for 2012–13 | 14.10.13/ 14.10.13 | 12.11.13 (23.10.13) | 13.11.13 |
| Australian Government Solicitor - Report for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (24.10.13) | 13.11.13 |
| Australian Human Rights Commission - Report for 2012–13 | 17.10.13/ 17.10.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Australian Human Rights Commission – Audit report – Review into the treatment of women at the Australian Defence Force Academy, dated July 2013 | 18.7.13/ 18.7.13 | 12.11.13 (23.7.13) | 13.11.13 |
| Australian Information Commissioner - Report for 2012–13 | 22.10.13/ 22.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| Australian Institute of Criminology - Report for 2012–13 | 27.9.13/ 27.9.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Australian Law Reform Commission – Report No. 121 – Report for 2012–13 | 15.10.13/ 15.10.13 | 12.11.13 (23.10.13) | 13.11.13 |
| Australian National Maritime Museum - Report for 2012–13 | 16.10.13/ 16.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| Australian Security Intelligence Organisation - Report for 2012–13 | 15.10.13/ 15.10.13 | 12.11.13 (31.10.13) | 13.11.13 |
| Australian Transaction Reports and Analysis Centre – Report for 2012–13 | 16.10.13/ 16.10.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Bundanon Trust Limited – Report for 2012–13 | 15.10.13/ 15.10.13 | 12.11.13 (31.10.13) | 13.11.13 |

3 Also stands referred to the Parliamentary Joint Committee on Law Enforcement, under the *Australian Federal Police Act 1979*.

| | | | |
|---|-----------------------|------------------------|----------|
| Classification Board and Classification Review Board – Reports for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (18.10.13) | 13.11.13 |
| Commonwealth Director of Public Prosecutions – Report for 2012–13 | 2.10.13/ 2.10.13 | 12.11.13 (31.10.13) | 13.11.13 |
| Commonwealth Ombudsman - Report for 2012-13 ⁴ | 15.10.13/ 23.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| CrimTrac Agency – Report for 2012–13 | 26.9.13/ 26.9.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Family Court of Australia - Report for 2012–13 | 14.10.13/ 14.10.13 | 12.11.13 (23.10.13) | 13.11.13 |
| Family Law Council – Report for 2012–13 | 9.10.13/ 9.10.13 | 12.11.13 (23.10.13) | 13.11.13 |
| Federal Circuit Court of Australia - Report for 2012–13 | 15.10.13/ 15.10.13 | 12.11.13 (24.10.13) | 13.11.13 |
| Federal Court of Australia - Report for 2012–13 including the National Native Title Tribunal report for 2012–13. | 22.10.13/ 22.10.13 | 12.11.13 (24.10.13) | 13.11.13 |
| Insolvency and Trustee Service Australia ⁵ – Report for 2012–13, including reports on the operation of the <i>Bankruptcy Act 1966</i> and <i>Personal Property Securities Act 2009</i> | 9.10.13/ 9.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| National Archives of Australia and National Archives of Australia Advisory Council - Report for 2012–13 | 16.10.13/ 16.10.13 | 12.11.13 (31.10.13) | 13.11.13 |
| National Film and Sound Archive - Report for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (30.10.13) | 13.11.13 |

4 Also forwarded to the Finance and Public Administration Legislation Committee.

5 On 15 August 2013 the Insolvency & Trustee Service Australia was renamed the Australian Financial Security Authority.

| | | | |
|---|--|------------------------|----------|
| National Gallery of Australia - Report for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (23.10.13) | 13.11.13 |
| National Library of Australia - Report for 2012–13 | 16.10.13/ 16.10.13 | 12.11.13 (31.10.13) | 13.11.13 |
| National Museum of Australia - Report for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (31.10.13) | 13.11.13 |
| Office of Parliamentary Counsel - Report for 2012–13 | 18.10.13/ 18.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| Public Lending Right Committee - Report for 2012–13 | 11.10.13/ 11.10.13 | 12.11.13 (30.10.13) | 13.11.13 |
| Screen Australia – Report for 2012–13 | 14.10.13/ 14.10.13 | 12.11.13 (24.10.13) | 13.11.13 |
| <i>Operation of an act/program</i> | | | |
| <i>Surveillance Devices Act 2004</i> – Commonwealth Ombudsman's reports on inspections of surveillance device records for the period 1 July to 31 December 2012 – Australian Crime Commission and Australian Federal Police for the period 1 July to 31 December 2011 – Victoria Police for the period 1 July 2011 to 30 June 2012. | 22.4.13/ 22.4.13 | 14.5.13 (9.5.13) | 14.5.13 |
| <i>War Crimes Act 1945</i> – Annual report for 2011–12 on the operation of the Act. | 12.2.13/ 12.2.13 | 18.6.13 | 29.5.13 |
| <i>Australian Federal Police Act 1979</i> – Annual report for 2012–13 on the Commonwealth Ombudsman's activities under Part V of the <i>Australian Federal Police Act 1979</i> | <i>No ministerial approval required to table the report.</i> | 12.11.13 (1.10.13) | 13.11.13 |
| <i>Crimes Act 1914</i> – Australian Commission for Law Enforcement Integrity – Reports 2012–13 - Authorisations for the acquisition and use of assumed identities - Witness identity protection certificates | 4.10.13/ 4.10.13 | 12.11.13 (29.10.13) | 13.11.13 |

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| <i>Crimes Act 1914</i> Authorisations for the acquisition and use of assumed identities – Australian Federal Police – Report for 2012–13 | 26.9.13/ 26.9.13 | 12.11.13 (17.10.13) | 13.11.13 |
| <i>Crimes Act 1914</i> Controlled operations – Report for 2012–13 | 26.9.13/ 26.9.13 | 12.11.13 (17.10.13) | 13.11.13 |
| <i>Freedom of Information Act 1982 and Australian Information Commissioner Act 2010</i> — Review on the operation of the Acts — Report by Mr Allan Hawke AC, dated 1 July 2013 | 3.7.13/ 3.7.13 | 12.11.13 (2.8.13) | 13.11.13 |
| <i>Witness Protection Act 1994</i> – Report for 2012–13 on the operation of the National Witness Protection Program. | 26.9.13/ 26.9.13 | 12.11.13 (17.10.13) | 13.11.13 |

Immigration and Citizenship Portfolio

| <i>Department/authority – Report</i> | | | |
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| Department of Immigration and Citizenship - Report for 2012–13 | 24.9.13/ 25.9.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Department of Immigration and Citizenship – Access and equity in government services - Report for 2010–12 | 31.5.13/ 5.6.13 <i>No legislative requirement to table the report.</i> | 12.11.13 (26.7.13) | 13.11.13 |
| Migration Agents Registration Authority - Report for 2012–13 | 26.9.13/ 30.9.13 | 12.11.13 (29.10.13) | 13.11.13 |
| Australian Customs and Border Protection Service – Report for 2012–13 | 2.10.13/ 2.10.13 | 12.11.13 (31.10.13) | 13.11.13 |

| <i>Migration Act 1958</i> | | | |
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| <p>Section 486O – Assessment of detention arrangements – Personal identifiers: 741/12, 745/12, 815/12, 818/12, 822/12, 826-7/12, 835/12, 837/12, 839-841/12, 845/12, 848/12, 852/12, 865-6/12, 868/12, 871/12, 877-8/12, 949/12, 961-963/12, 965-6/12, 974-978/12, 980-1/12, 986-988/12, 1027/12, 1044/12, 1046-1049/12, 1060-1/12, 1063/12, 1065-1072/12, 1101-1103/12, 1105/12, 1107/12, 1109-10/12, 1114/12, 1117/12, 1119/12, 1121-1126/12, 1132/13, 1135/13, 1139-1141/13, 1148/13, 1152/13, 1154-1157/13, 1159-1165/13, 1168-1197/13, 1201-1213/13, 1215-1220/13, 1222-1262/13, 1264-1298/13, 1300-1335/13, 1337-1357/13, 1359-1366/13, 1369-70/13, 1372/13, 1374-5/13, 1377/13, 1379/13, 1381/13, 1384-1392/13, 1394-5/13, 1407-1421/13, 1423/13, 1425-6/13, 1428-1437/13, 1458-1466/13, 1469-1476/13, 1478--1480/13, 1482/13</p> <p>- Commonwealth Ombudsman's reports.</p> <p>- Government response to Ombudsman's reports, dated 21 June 2013.</p> | 06.06.13/ 06.06.13 | 26.06.2013 | 26.6.13 |
| <p>Reports for the period 1 November 2012 to 28 February 2013</p> <p>- Section 440A – Conduct of Refugee Review Tribunal reviews not completed within 90 days.</p> | 11.4.13/ 11.4.13 | 19.6.13 | 19.6.13 |
| <p>Reports for the period 1 November 2012 to 28 February 2013</p> <p>- Section 91Y – Protection visa processing taking more than 90 days.</p> | 22.4.13/ 24.4.13 | 19.6.13 | 19.6.13 |