

Preface

Terms of reference

On 12 November 2013, 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 Border Protection portfolio.

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 2015.

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. 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

This is the first time departments and agencies are reporting under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which commenced on 1 July 2014. The PGPA Act consolidates the governance, performance and accountability requirements contained in the *Financial Management and Accountability Act 1997* (FMA Act) and the *Commonwealth Authorities and Companies Act 1997* (CAC Act). It also establishes a performance reporting framework for all Commonwealth entities and companies.

Section 46 of the PGPA Act sets out the annual reporting requirements in relation to Commonwealth entities, including that annual reports must comply with any requirements prescribed by rules. Section 97 sets out the annual reporting requirements for Commonwealth companies.

However, as with 2013–14 annual reports, 2014–15 annual reports were prepared under the arrangements existing at 30 June 2014 as follows:

- for non-corporate Commonwealth entities (departments, executive agencies and statutory agencies): the *Public Service Act 1999*, sections 63(2) and 70(2), and the *Parliamentary Service Act 1999*, section 65; other relevant enabling legislation for statutory bodies; and the Requirements for Annual Reports;
- for corporate Commonwealth entities: the Commonwealth Authorities (Annual Reporting) Orders 2011 prescribe material that must be included in corporate entities' annual reports. These Orders continue to apply to 2014–15 annual reports under the PGPA (Consequential and Transitional Provisions) Rule;
- for Commonwealth companies: the Commonwealth Companies (Annual Reporting) Orders 2011 prescribe material that must be included in corporate entities' annual reports. These Orders continue to apply to 2014–15 annual reports under the PGPA (Consequential and Transitional Provisions) Rule; and
- for non-statutory bodies: the guidelines are contained in the government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies.¹

In its report on the development of the Commonwealth performance framework, the Joint Committee of Public Accounts and Audit (JCPAA) foreshadowed that in future years the annual report requirements 'will be replaced through the consolidation of all mandatory requirements into a rule made for the purposes of section 46 of the PGPA Act'.²

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

2 Joint Committee of Public Accounts and Audit, *Report 452 Development of the Commonwealth Performance Framework*, December 2015, p. 12.

Requirements for Annual Report for 2014–15 reports

The Requirements for Annual Reports were issued by the Department of the Prime Minister and Cabinet on 25 June 2015 and approved by the JCPAA. Two significant changes were made to the Requirements for Annual Reports issued on 25 June 2015 in relation to:

- small business procurement – three requirements have been added to reflect the government's commitment to improve small business access to Commonwealth contracts; and
- Indigenous employment – reporting on Indigenous employment has been added to the existing requirement to report on the management of human resources.³

While the Requirements for Annual Reports issued on 25 June 2015 apply to annual reports for 2014–15, it was noted that:

Significant revisions to the Requirements are anticipated for the 2015–16 financial year with the commencement of the performance reporting model under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).⁴

Reports examined

This report examines the following reports; tabled in the Senate or presented out of session to the President of the Senate and referred to the committee between 1 May 2015 and 31 October 2015:

Department of state

- Department of Immigration and Border Protection–Annual Report 2014–15;⁵ and
- Attorney-General's Department–Annual Report 2014–15, including the reports on the operations of the:
 - *Telecommunications (Interception and Access) Act 2004*–Annual Report 2014–15; and
 - *Surveillance Devices Act 2004*–Annual Report 2014–15.

3 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. i.

5 Received 28 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

Statutory agencies/authorities

Department of Immigration and Border Protection portfolio

- Australian Customs and Border Protection Service—Annual Report 2014–15;⁶ and
- Migration Review Tribunal and Refugee Review Tribunal—Annual Report 2014–15.⁷

Attorney-General's portfolio

- Administrative Appeals Tribunal—Annual Report 2014–15;⁸
- Australian Financial Security Authority—Annual Report 2014–15;⁹
- Australian Human Right Commission—Annual Report 2013–14;¹⁰
- Commonwealth Director of Public Prosecutions—Annual Report 2014–15;¹¹
- CrimTrac—Annual Report 2014–15.
- Federal Circuit Court of Australia—Annual Report 2014–15;¹²
- Office of the Australian Information Commissioner—Annual Report 2014–15;¹³ and
- Social Security Appeals Tribunal—Annual Report 2014–15.¹⁴

6 Received 28 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

7 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

8 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

9 Received 29 October 2015 and subsequently not available for the Supplementary Budget Estimates hearing on 19 and 20 October.

10 The Australian Human Rights Commission's Annual Report for 2013–14 was not provided within either reporting period for 2014, hence its inclusion in the 2014–15 report. The Australian Human Rights Commission's Annual Report for 2014–15 was not provided to the Senate by the 31 October 2015 deadline.

11 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

12 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

13 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

14 Received 26 October 2015 and subsequently not available for the Supplementary Budget Estimates hearings on 19 and 20 October.

'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.

Section 46 of the PGPA Act sets out the requirements for the presentation of annual report for Commonwealth entities to the responsible minister by the 15th day of the fourth month after the end of the reporting period for the entity. The Requirements for Annual Reports, which relate to departments, executive agencies and other non-corporate Commonwealth entities, state that 'the responsible minister must, in turn, present the report to each House of the Parliament on or before 31 October in the year in which the report is given'.¹⁵ Where a body is unable to meet this deadline, an extension of time to report can be sought under the provisions of subsections 34C(4)–(7) of the *Acts Interpretation Act 1901*.¹⁶

Section 97 of the PGPA Act sets out the requirements for the provision of annual reports of Commonwealth companies to the responsible minister.

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 2015 and 31 October 2015, and which have been referred to the committee for examination, can be found at Appendix 1.¹⁷ 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 2015.

The following annual reports were not tabled in the Senate, nor referred to the committee by the 31 October deadline. These reports will be examined by the committee in its next *Report on Annual Reports (No. 2 of 2016)*:

- Australian Commission for Law Enforcement Integrity—Annual Report 2014–15;

15 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 2.

16 Acts Interpretation Act 1901, s. 34.

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

- Australian Crime Commission (ACC)–Annual Report 2014–15;
- Australian Federal Police–Annual Report 2014–15;
- Australian Government Solicitor–Annual Report 2014–15;
- Australian Human Rights Commission–Annual Report 2014–15;
- Australian Institute of Criminology–Annual Report 2014–15;
- Australian Law Reform Commission–Annual Report 2014–15;
- Australian Security Intelligence Organisation–Annual Report 2014–15;
- Australian Transaction Reports and Analysis Centre–Annual Report 2014–15;
- Family Court of Australia–Annual Report 2014–15;
- Family Law Council–Annual Report 2014–15;
- Federal Court of Australia–Annual Report 2014–15;
- High Court of Australia–Annual Report 2014–15;
- National Archives of Australia and National Archives of Australia Advisory Council–Annual Report 2014–15; and
- Office of Parliamentary Counsel–Annual Report 2014–15.

The committee 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.¹⁸

Requirement for non-reporting bodies to report

In accordance with Standing Order 25(20)(h), the committee is required to report on bodies that do not present an annual report to the Senate and which should present such a report. On this occasion, all bodies have provided their annual reports to the Senate.

18 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies, and other Non-Corporate Commonwealth Entities*, 25 June 2015, p. 2.