

# Chapter 1

## Overview

1.1 The Senate Rural and Regional Affairs and Transport Legislation Committee's (the committee) report on annual reports provides an overview of the committee's examination of annual reports for the 2015–16 financial year tabled between 1 May 2016 and 31 October 2016.

1.2 The committee is responsible for examining the annual reports of departments and agencies within the portfolios of:

- Agriculture and Water Resources; and
- Infrastructure and Regional Development.<sup>1</sup>

1.3 This is the first of two reports on annual reports that the committee is required to produce in 2017.

### Terms of reference

1.4 Under Senate Standing Order 25(20), annual reports of departments and agencies shall stand referred to the legislation 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 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.
- (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.

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1 *Journals of the Senate*, No. 2, 13 November 2013, pp. 88–89.

## **Purpose of annual reports**

1.5 The tabling and scrutiny of annual reports by Senate committees under Standing Order 25(20) is an important element in the process of government accountability to Parliament. The information provided in annual reports is placed on the public record and assists Parliament in its examination of the performance of departments and agencies and the administration of government programs.

## **Reports referred to the committee**

1.6 In accordance with Standing Order 25(20)(f), this report examines annual reports tabled between 1 May and 31 October 2016. The committee examined the following reports:

### ***Non-corporate Commonwealth entities***

#### *Department of State*

- Department of Agriculture and Water Resources
- Department of Infrastructure and Regional Development

#### *Agencies*

- Australian Transport Safety Bureau
- National Capital Authority

### ***Corporate Commonwealth entities***

- Australian Pesticides and Veterinary Medicines Authority
- Airservices Australia
- Australian Maritime Safety Authority
- Civil Aviation Safety Authority
- Infrastructure Australia
- National Transport Commission

### ***Commonwealth companies***

- Australian Rail Track Corporation Limited
- Moorebank Intermodal Company Limited

### ***Statutory office holders***

- International Air Services Commission

## **Reports not examined**

1.7 The committee is not obliged to report on Acts, statements of corporate intent, surveys, corporate plans or errata. The following documents were referred to the committee but have not been examined:

- Airservices Australia Corporate Plan 2016–2017;

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- Airservices Australia—Report on Movement Cap for Sydney Airport—Quarterly report on the maximum movement limit for the period 1 April to 30 June 2016;
  - Civil Aviation Safety Authority Corporate Plan 2016–17 to 2020–21;
  - Invasive Animals Co-operative Research Centre—Report for 2015–16;
  - Regional Forest Agreement between the Commonwealth and Tasmania—Joint Australian and Tasmanian Government response to the Review of the implementation of the Tasmanian regional forest agreement for the period 2007–12, dated April 2016;
  - Register of Foreign Ownership of Agricultural Land Act 2015—Report for 2015–16;
  - Report to the Parliament on Livestock Mortalities During Export by Sea for the Reporting Period 1 January to 30 June 2016;
  - Consolidated financial statements for the year ended 30 June 2016;
  - Tax expenditures statement 2016, dated January 2017; and
  - Mid-year economic and fiscal outlook—2016–17—Statement by the Treasurer (Mr Morrison) and the Minister for Finance (Senator Cormann).

1.8 Appendix 1 sets out a complete list of documents referred to the committee during the period 1 May 2016 to 31 October 2016 (including those not examined). This appendix includes references to the relevant legislation, the letter of transmittal dates, the dates on which the annual reports were sent to, and received by, the relevant minister, and the dates on which the annual reports were tabled in both the House of Representatives and the Senate.

### **Method of assessment**

1.9 Senate Standing Orders require the committee to examine the annual reports referred to it to determine whether they are timely and 'apparently satisfactory'. Under Standing Order 25(20)(e), the committee is empowered to consider annual reports of department and budget agencies in conjunction with examination of estimates. The committee is required under Standing Order 25(20)(g) to draw to the attention of the Senate to any significant matters relating to the operations and performance of the bodies furnishing the annual reports. In forming its assessment, the committee considers whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports.

1.10 The annual reports of 2015–16 mark the first time all portfolio departments and agencies are required to report under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which commenced on 1 July 2014.

1.11 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.

1.12 Taking into account these changes, the 2015–16 annual reports were prepared and assessed under the following arrangements:

*Non-corporate Commonwealth entities (departments, executive agencies and statutory agencies)*

- PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(A);
- for portfolio departments and executive agencies, the *Public Service Act 1999*, sections 63(2) and 70(2);
- for parliamentary departments, the *Parliamentary Service Act 1999*, section 65; and
- for statutory bodies, relevant enabling legislation.<sup>2</sup>

*Corporate Commonwealth entities*

- PGPA Act, section 46 and the PGPA Rule 2014, Division 3A(B); and
- for statutory bodies, relevant enabling legislation.

*Commonwealth companies*

- PGPA Act, section 97; which also refers to requirements under the *Corporations Act 2001* and the PGPA Rule 2014, Part 3–3; and
- for statutory bodies, relevant enabling legislation.

*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.<sup>3</sup> The terms of establishment of the non-statutory body (NSB) may also require it to report on certain topics.

*Statutory office holders*

- Any requirements in the enabling legislation.

### **Timeliness in tabling of annual reports**

1.13 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports.

1.14 Section 46 of the PGPA Act requires Commonwealth entities to prepare an annual report and provide it to the responsible Minister by the 15<sup>th</sup> day of the fourth month after the end of the reporting period for the entity. However, this section of the Act does not provide a timeframe for the Minister to present the report to the Parliament.

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2 For example, many Acts that establish statutory authorities have separate reporting requirements under those Acts. For example, Centrelink reports under section 41 of the *Commonwealth Services Delivery Agency Act 1997* and the Australian Electoral Commission reports under section 17 of the *Commonwealth Electoral Act 1918*.

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

1.15 Prior to the PGPA Rule 2014, the former guidelines on *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities* (Requirements for Annual Reports) stipulated that annual reports must be tabled in Parliament by 31 October each year, except where an agency's own legislation specifies a timeframe for its annual report.<sup>4</sup>

1.16 According to the Rule and the Guidelines for the Presentation of Documents to the Parliament, which refers to the former Requirements for Annual Reports, it remains government policy for all Commonwealth entities to table their annual reports by 31 October each year.<sup>5</sup> 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 these hearings.<sup>6</sup> This ensures that annual reports are available for scrutiny by the relevant Senate standing committee.

1.17 Under subsection 97(2) of the PGPA Act, Commonwealth companies are required to give the responsible Minister a copy of the company's annual report 21 days before its next annual general meeting after the company's reporting period, or four months after the reporting period for the company, whichever is the earlier.

1.18 Section 97(5) of the PGPA Act states:

If the Commonwealth company is a wholly-owned Commonwealth company, or is not required to hold an annual general meeting, the responsible Minister must table the documents in each House of the Parliament as soon as practicable after receiving them. In all other cases, the responsible Minister must table the documents in each House of Parliament as soon as practicable after the annual general meeting of the company.

1.19 For Commonwealth corporate entities, section 34C of the *Acts Interpretation Act 1901* applies in the absence of any specific date regarding the Minister's presentation of the report to the Parliament. This section requires the Minister to present the annual report within 15 sitting days of receipt.

1.20 The reporting requirements for some bodies may be included in their enabling legislation. For non-statutory bodies, the annual reporting requirements may be included in the announcement establishing the body. In the absence of any specific provisions, the Acts Interpretation Act requires bodies to present annual reports to

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4 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and Other Non-Corporate Commonwealth Entities* (Requirements for Annual Reports), dated 25 June 2015, p. 3.

5 The Finance submission to the JCPAA, and JCPAA report 457: *Development of the commonwealth Performance Framework – Second Report*, May 2016, at page 11, confirms it remains government policy to table reports in the Parliament by 31 October each year and before the Supplementary Estimates hearings as best practice.

6 Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Documents to Parliament (including government documents, government responses to committee reports, ministerial statements, annual reports and other instruments)*, dated 12 August 2016, p. 4.

ministers within six months after the end of the reporting period (subsection 34C(2)), and ministers to table reports within 15 sitting days of receipt (subsection 34C(3)).

1.21 While many agencies and other relevant entities presented their report within the specified timeframes, a considerable number were not tabled by 31 October 2016. The committee will continue to monitor the timeliness of future annual reports.

### **Senate debate**

1.22 In accordance with Standing Order 25(20)(d), the committee is required to take into account any relevant remarks about the reports in Senate debates. The committee notes that the annual reports examined in this report have yet to be the subject of comments or debate in the Senate.

### **Comments on reports**

1.23 The committee notes that Infrastructure Australia's (IA) annual report reported against the previous reporting requirements contained in the Commonwealth Authorities Orders 2011.<sup>7</sup> As previously noted, as of 2015–16, all corporate Commonwealth entities are required to report against the PGPA Act and PGPA Rule. The committee intends to closely monitor IA's annual report of 2016–17 to ensure that it complies with the reporting requirements.

1.24 The committee considers that all reports received were 'apparently satisfactory'. The following chapter examines selected annual reports in further detail.

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7 Infrastructure Australia, *Annual Report 2015–16*, p. 58.