

**Employment, Workplace Relations,
Small Business and Education
Legislation Committee**

Scrutiny of Annual Reports

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**Senate Employment, Workplace Relations Small Business and
Education Legislation Committee**

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Senator Jacinta Collins (ALP) Vic

Senator Jeannie Ferris (LP) SA

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PREFACE

Terms of reference

On 24 August 1994, the Senate adopted the following procedural orders relating to the functions of legislation committees and, in particular, their role in relation to annual reports¹:

25(21) Annual report 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 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.

1 *Journals of the Senate*, 24 August 1994, p 2049 with subsequent amendment *Journals of the Senate*, 1 May 1996, p 61

Annual reports referred

1.1 Under a procedural order in the 39th Parliament, the Senate agreed that two departments, Employment, Workplace Relations and Small Business and the Department of Education, Training and Youth Affairs, be allocated to the Employment, Workplace Relations, Small Business and Education Legislation Committee. The list of annual reports that fall within the ambit of the Committee is set out in Appendix 1.

1.2 In accordance with Senate Standing Order 25 (21) (f) this report examines those annual reports referred to the Committee between 1 November 2000 and 30 April 2001. During this period two departmental reports, one report of a statutory authority and one report of a government company were received. These reports are listed in Appendix 2.

Method of assessment

1.3 The Senate Order referred to previously requires that the Committee examine the Reports referred to it to determine whether they are timely and ‘apparently satisfactory’. In forming its assessment the Committee has considered whether the reports comply with the relevant guidelines for the preparation of annual reports:

- for portfolio departments, sections 7 and 25 of the *Public Service Act 1922*, and the *Requirements for Departmental Annual Reports*, Department of Prime Minister and Cabinet, May 2000
- for Commonwealth authorities and companies, the *Commonwealth Authorities and Companies Act 1997*
- for non-statutory bodies, the guidelines contained in the Government response to the Senate Standing Committee on Finance and Public Administration Report on Non-Statutory bodies, Senate *Hansard*, 8 December 1987, pp 2643-45

1.4 With the exception of the *Requirements for Departmental Annual Reports*, these guidelines are printed under Appendix 3.

General Comments on Reports

1.5 The Committee has agreed, under the terms of the procedural order requiring it to report to the Senate on Annual Reports, that all reports described here are apparently satisfactory. In making this assessment, the Committee considers aspects such as the timeliness of presentation and compliance with relevant reporting guidelines.

1.6 The Committee found all reports had been lodged with the appropriate minister on time, were tabled in Parliament within the specified period, and met the required reporting requirements with the exception of the report from the Office of the Employment Advocate. The reports are generally of a high calibre in layout and in the extent of information presented. All reports meet the requirement of being apparently satisfactory.

Comments made in the Senate

The Committee is obliged, under Senate Standing Order 25 (21)(d) to consider any remarks made about these reports in the Senate. Where remarks have been made, the senator's name and the date of the comments have been noted.

Bodies not presenting annual reports to the Senate

The Committee is required to report to the Senate each year on whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

The Committee is satisfied that there are no bodies, within these portfolios, which do not meet their reporting requirements to the Senate.

Senator J Tierney

Chair

COMMENTS ON INDIVIDUAL REPORTS

Education, Training and Youth Affairs Portfolio

Anglo Australian Observatory

The report met all reporting criteria.

Senator Stott Despoja commented on this report in the Senate on 7 February 2001.

Higher Education Report for the 2001 to 2003 Triennium

The report met all legal reporting requirements.

Senators Collins and Stott-Despoja spoke to this report in the Senate on 8 March 2001.

Employment, Workplace Relations and Small Business Portfolio

Employment Advocate

During the consideration of supplementary estimates on 23 November 2000 the Committee noted that the report for the Office of the Employment Advocate was late in being tabled. With the exception noted above in regard to timeliness, this report meets all annual report requirements for a statutory authority.

Employment National Limited – Statement of Corporate Intent 2000/01

Senator Collins commented on what she saw as deficiencies in this report in the Senate on 6 and 8 March 2001.

While noting the comments made by Senator Collins, the Committee reports that Employment National met all reporting requirements in accordance with Governance Arrangements for Commonwealth Government Business Enterprises, June 1997.

APPENDIX 1
ALLOCATION OF ANNUAL REPORTS OF COMMONWEALTH
BODIES TO LEGISLATION COMMITTEES (REVISED 25/11/99)

Education, Training and Youth Affairs Portfolio

- Anglo-Australian Telescope Board – Anglo Australian Observatory
 - Australian Education Council (Ministerial Council on Education, Employment, Training and Youth Affairs) (National Report on Schooling)
 - Australian National Training Authority
 - Australian National Training Authority National Report (Australian Vocational Education and Training System)
 - Australian National University
 - Australian Research Council
 - Department of Education, Training and Youth Affairs
 - Higher Education Report for a Triennium
 - National Board of Employment, Education and Training
 - Operation of section 14 of the *Higher Education Funding Act 1988* and the Higher Education Contribution Scheme (Higher Education Council)
 - Report on determinations made under the *Higher Education Act 1988*
 - *States Grants (Primary and Secondary Education Assistance) Act 1996* - Financial assistance granted to States
-

Employment, Workplace Relations and Small Business Portfolio

- Australian Industrial Relations Commission and Australian Industrial Registry
- Coal Mining Industry (Long Service Leave Funding) Corporation
- Comcare Australia and QWL Corporation Pty Limited
- Defence Force Remuneration Tribunal²
- Department of Employment, Workplace Relations and Small Business
- Developments made under the *Workplace Relations Act 1996*.
- Employment Advocate
- Employment National Limited³
- Employment Services Regulatory Authority
- Equal Opportunity for Women in the Workplace Agency
- *Industrial Chemicals (Notification and Assessment) Act 1989* - National Industrial Chemicals Notification and Assessment Scheme
- National Occupational Health and Safety Commission
- Safety, Rehabilitation and Compensation Commission
- Seafarers Safety, Rehabilitation and Compensation Authority

² Forwarded to the Senate Foreign Affairs, Defence and Trade Legislation Committee also

³ Forwarded to the Senate Finance and Public Administration Legislation Committee also

APPENDIX 2 LIST OF ANNUAL REPORTS REFERRED

List of Annual reports referred by the Senate to the Committee during the period 1 November 2000 to 30 April 2001.

Employment, Workplace Relations and Small Business Portfolio

Body/Report	Submitted to Minister	Received by Minister	Tabled
Employment Advocate	19/10/2000	20/10/2000	28/11/2000
Employment National Limited – Statement of Corporate Intent 2000/01 ⁴	30/1/2001	6/2/2001	6/3/2001

Education, Training and Youth Affairs portfolio

Body/Report	Submitted to Minister	Received by Minister	Tabled
Department of Education, Training and Youth Affairs – Higher Education Report for the 2001 to 2003 Triennium	8/2/2001	15/2/2001	6/3/2001
Anglo-Australian Observatory	20/1/2001	25/1/2001	7/2/2001

4 Forwarded to the Senate Finance and Public Administration Legislation Committee also

APPENDIX 3 - GUIDELINES

DEPARTMENTAL REPORTS

The requirements for departmental annual reports are included in the *Requirements for Departmental Annual Reports*, Department of the Prime Minister and Cabinet, May 1999, and also in sections 7 and 25 of the *Public Service Act 1922*. The sections of this Act which specify the requirements in regard to timeliness of annual reports are reproduced below.

Section 25

(6) Subject to subsections (8A) and (8B), the Secretary of a Department must, as soon as practicable after 30 June in each year, and in any event not later than 15 October in that year, prepare and give to the Minister administering the Department a report on the operation of the Department during the year that ended on that 30 June.

(8) Subject to subsection (8C), the Minister administering a Department must cause a copy of a report given to him or her under subsection (6) to be laid before each House of the Parliament on or before 31 October in the year in which the report is given.

COMMONWEALTH AUTHORITIES AND COMPANIES

The *Commonwealth Authorities and Companies Act 1997* contains detailed rules about reporting and accountability for Commonwealth authorities and Commonwealth companies. Commonwealth companies also must meet other reporting requirements as set out in Corporations Law.

Relevant sections of the *Commonwealth Authorities and Companies Act 1997* for annual reports are set out below.

Part 3 – Reporting and other obligations for Commonwealth authorities

Schedule 1, Part 3, Division 1, Section 7

Section 7 Meaning of Commonwealth Authority

- (1) In this Act, Commonwealth authority means either of the following kinds of body that holds money on its own account:
- (a) a body corporate that is incorporated for a public purpose by an Act;
 - (b) a body corporate that is incorporated for a public purpose by:
 - (i) regulations under an Act; or
 - (ii) an Ordinance of an external Territory (other than Norfolk Island) or regulations under such an Ordinance;

and is prescribed for the purposes of this paragraph by regulations under this Act.

Schedule 1, Part 3, Division 2, Section 9

Section 9 Directors must prepare annual report

- (1) The directors of a Commonwealth authority must:
 - (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

The deadline is the 15th day of the 4th month after the end of the financial year.

- (2) The responsible Minister must table the report in each House of the Parliament as soon as practicable.

Note: The *Acts Interpretation Act 1901* limits the term ‘as soon as practicable’ to 15 sitting days from receipt (s.34C(3)).

Part 4 – Reporting and other obligations for Commonwealth companies

Schedule 1, Part 4, Division 1, Section 34

Section 34 Meaning of Commonwealth company and wholly owned Commonwealth company

- (1) In this Act, Commonwealth company means a Corporations Law company in which the Commonwealth has a controlling interest.

However, it does not include a company in which the Commonwealth has a controlling interest through one or more interposed Commonwealth authorities or Commonwealth companies.

- (2) In this Act, wholly-owned Commonwealth company means any Commonwealth company, other than a company any of the shares in which are beneficially owned by a person other than the Commonwealth.

Schedule 1, Part 4, Division 2, Section 36

Section 36 Annual Report

- (1) At least 14 days before each annual general meeting, a Commonwealth company must give the responsible Minister: (a) a copy of the company's annual report that includes the company's annual general meeting documents (or, if there is no such annual report, a copy of the company's annual general meeting documents); and (b) any additional report under subsection 2.

For this purpose, annual general meeting documents means the documents relating to a financial year that the company is required by the Corporations Law to lay before its annual general meeting.

- (4) If the Commonwealth company is a wholly-owned Commonwealth company, 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 Minister must table the documents in each House of the Parliament as soon as practicable after the annual general meeting of the company.

Schedule 1, Part 1, Section 1

Part 1 - Contents of annual report

Section 1 Summary of contents

The annual report must include:

- a) a report of operations, prepared by the directors in accordance with the Finance Minister's Orders; and
- b) financial statements, prepared by the directors under clause 2 of this Schedule; and
- c) the Auditor-General's report on those financial statements, prepared under Part 2 of this Schedule and addressed to the responsible Minister.

Note: The report may include other matters, for example, matters that are required by another Act or by Ministerial guidelines.

NON-STATUTORY BODIES

1. The date of establishment of each new non-statutory body (NSB) and, in relation to an existing NSB, information regarding the date of its establishment in as much detail as is available.
 2. A statement of each NSB's objectives and functions.
 3. An account of each NSB's significant activities during the year.
 4. An indication that the creation or continued existence of each NSB, its functions and its organisation have received Ministerial approval.
 5. The date on which each NSB will cease to exist or before which it will be reviewed (whichever is the earlier).
 6. In the case of any NSB whose continued existence, functions and organisation have been reviewed and whose continued existence has been approved by the Minister, a summary of the outcome of the review.
 7. A list of any positions provided for ex-officio government members on each NSB and of any positions provided for representatives nominated by particular non-government organisations.
 8. The maximum term of appointment to each other position on an NSB.
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9. Except in cases where there may be little or no continuity of membership from one meeting to the next, the names of individual members of each NSB, and their terms of appointment.
10. The manner in which the level of remuneration (if any) paid to members of each NSB is determined.
11. The manner in which each NSB is funded.
12. A summary of any other financial arrangements such as the kinds of expenditure that can be made from the funds provided, and the nature of secretariat services provided and the way in which these are funded.
13. An indication, in respect of each NSB, as to whether one of its functions is to distribute funds to other organisations or individuals.
14. In the case of each NSB with its own accounting system, an audited financial statement.
15. In the case of each NSB that operates through its parent body's accounts, an account of receipts and expenditures, to be provided on a program basis:
 - with the NSB's work reflected in the parent body's published program structure;
 - and with performance related to objectives and measured in terms of stated criteria, in accordance with standard program budgeting techniques; and
 - the amounts of any grants made by each NSB.

(Derived from the government response to the report on non-statutory bodies of the Senate Standing Committee on Finance and Government Operations, Senate *Hansard*, Vol. S.124, 8 December 1987, pp. 2643–5.)
