

The Senate

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

Annual reports (No. 2 of 2003)

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MEMBERS OF THE COMMITTEE

Chair:	Senator John Tierney	(LP) NSW
Members:	Senator George Campbell (Deputy Chair)	(ALP) NSW
	Senator Kim Carr	(ALP) VIC
	Senator David Johnston	(LP) WA
	Senator Natasha Stott Despoja	(AD) SA
	Senator Guy Barnett	(LP) Tas

Substitute Members:

Senator Murray (AD) WA for Senator Stott Despoja for workplace relations matters

Senator Cherry (AD) QLD to substitute for Senator Stott Despoja for employment matters

Senator Allison (AD) VIC to substitute for Senator Stott Despoja for matters relating to schools and training

Secretariat

Secretary:	Mr John Carter
Principal Research Officer:	Ms Margaret Blood
Senior Research Officer:	Ms Loes Slattery
Estimates/Research Officer:	Ms Jan Willis
Executive Assistant:	Ms Ruth Clark

Address

SG.52

Parliament House

CANBERRA ACT 2600

Phone (02) 6277 3520

Fax (02) 6277 5706

E-mail eeet.sen@aph.gov.au

Website: www.aph.gov.au/senate_employment

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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, the Department of Employment and Workplace Relations and the Department of Education, Science and Training be allocated to the Employment, Workplace Relations, 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 2002 and 30 April 2003. During this period 5 annual reports and 1 erratum of statutory authorities, 2 reports on the operation of legislation, 1 annual report of a government company, 1 departmental report, and 2 annual reports and 1 corrigendum of a departmental report were received. These reports are listed in Appendix 2. Those reports which were presented out of session prior to 31 October 2002 and tabled within this reporting period were reported on in the previous report on annual reports. The titles 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 63 (2) and 70 (2) of the *Public Service Act 1999*, and the *Requirements for Departmental Annual Reports*, Department of Prime Minister and Cabinet, revised June 2002.
- for Commonwealth authorities and companies, the *Commonwealth Authorities and Companies Act 1997* including sections 9, 36 and 48.
- 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. The reports are generally of a high standard of in

layout and in the extent of information presented. All reports meet the requirement of being apparently satisfactory.

Comments made in the Senate

1.7 The committee is obliged, under Senate Standing Order 25 (21)(d) to consider any remarks made about these reports in the Senate. Two senators made comments in the Senate on the *National Report to Parliament on Indigenous Education and Training*. These comments are referred to in the section below on comments on individual reports.

Bodies not presenting annual reports to the Senate

1.8 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 do so.

1.9 The committee is satisfied that there are no bodies, within these portfolios, which have not met their reporting requirements to the Senate.

Senator J Tierney

Chair

Comments on Individual Reports

1.10 Following is a list of reports of departments or agencies whose annual reports have been referred to the committee for consideration. All reports are considered to have met the requirements of the various guidelines that apply to them and were timely in their presentation to the Parliament, except where noted. The Auditor-General did not qualify any of the agency's financial statements. Mention of individual reports in the Senate are noted.

DEPARTMENTAL ANNUAL REPORTS

Department of Education, Science and Training

National Report to Parliament on Indigenous Education and Training, 2001

1.11 Senator's Crossin and Ridgeway both commented on this report in the Senate Chamber on 14 November 2002.

Department of Employment and Workplace Relations

Corrigendum to Annual Report 2001-02

ANNUAL REPORTS OF STATUTORY AUTHORITIES

Education, Science and Training Portfolio

Anglo Australian Observatory Annual Report 2001 - 2002

Employment and Workplace Relations Portfolio

Office of the Employment Advocate Annual Report 2001-2002

Office of the Employment Advocate Annual Report 2001-2002 Erratum

Coal Mining Industry (Long Service Leave Funding) Corporation 2002 Annual Report

1.12 While the Corporation submitted the report to the Minister on time, the *Commonwealth Authorities and Companies Act 1997* in conjunction with (s.34C(3)) of the *Acts Interpretation Act 1901* (see page 18 of this report), requires the Minister to table the report within 15 sitting days of receipt. The committee notes a delay in tabling of four sitting days.

COMPANIES

Education, Science and Training Portfolio

Enterprise and Career Education Foundation Annual Report 2001-2002

1.13 The committee notes the government's announcement to transfer most of the Foundation's functions to the department by 30 September 2003 at which date the Foundation will cease to exist. The advisory responsibilities of the Foundation will be continued by a new body which is yet to be announced.

ANNUAL REPORTS ON THE OPERATIONS OF ACTS

Education, Science and Training Portfolio

States Grants (Primary and Secondary Education Assistance) Act 2000 Report on financial assistance granted to each State in respect of 2001

Employment and Workplace Relations Portfolio

Remuneration Tribunal Annual Report 2001-2002

1.14 The committee notes that the Administrative Arrangements Orders of 26 November 2001 transferred responsibilities for the *Remuneration Tribunal Act 1973* from the Minister for Finance and Administration to the Minister for Employment and Workplace Relations.

APPENDIX 1

Allocation of Annual Reports of Commonwealth Bodies to Legislation Committees

Education, Science and Training 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 Institute of Marine Science
 - Australian Nuclear Science and Technology Organisation
 - Australian Maritime College
 - Australian National Training Authority
 - Australian National Training Authority National Report (Australian Vocational Education and Training System)
 - Australian National University
 - Australian Research Council
 - Commonwealth Scientific and Industrial Research Organisation
 - 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 and Workplace Relations 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*.
- Office of the 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 2002 to 30 April 2003.

A number of reports were presented to the President out of session before 31 October 2002 and tabled in the Senate within this reporting period. Those reports were reported on in Annual Reports (No. 1 of 2003) but are also included in this list.

Education, Science and Training portfolio

Body/Report	Submitted to Minister	Received by Minister	Tabled
Department			
Department of Education, Science and Training Annual Report 2001–2002 *	-	-	(24/10/2002) 11/11/2002
National Report to Parliament on Indigenous Education and Training, 2001			14/11/2002
Statutory authorities			
Anglo-Australian Observatory Annual Report 2001-2002	5/12/2002	9/12/2002	11/12/2002
Commonwealth Scientific and Industrial Research Organisation Annual Report 2001-2002 *	-	-	(24/10/2002) 11/11/2002
Companies			
Enterprise and Career Education Foundation 2001-02	10/10/2002	10/10/2002	13/11/2002
Reports on Legislation			
<i>States Grants (Primary and Secondary Education Assistance) Act 2000</i> Report on financial assistance granted to each State in respect of 2001	29/10/2002	30/10/2002	3/12/2002

* Reported on the in the previous Report on Annual Reports

Employment and Workplace Relations Portfolio

Body/Report	Submitted to Minister	Received by Minister	Date Presented/ Tabled
Department			
Department of Employment and Workplace Relations Annual Report 2001 – 2002 *	-	-	(29/10/2002) 11/11/2002
Department of Employment and Workplace Relations Annual Report 2001 – 2002 Corrigendum	10/12/2002	10/12/2002	5/2/2003
Statutory authorities			
Equal Opportunity for Women in the Workplace Agency Annual Report 2001 – 2002 *	-	-	(25/10/2002) 11/11/2002
Office of the Employment Advocate Annual Report 2001-2002	-	-	(24/10/2002) 11/11/2002
Office of the Employment Advocate Annual Report 2001-2002 Erratum	12/11/2002	12/11/2002	19/11/2002
Coal Mining Industry (Long Service Leave Funding) Corporation 2002 Annual Report	4/10/2002	4/10/2002	10/12/2002
Reports on legislation			
Remuneration Tribunal Annual Report 2001-2002	2/12/2002	3/12/2002	10/12/2002

* Reported on the in the previous Report on Annual Reports

APPENDIX 3 - Guidelines

DEPARTMENTAL REPORTS

The requirements for departmental annual reports are included in the *Requirements for Departmental Annual Reports*⁴, Department of the Prime Minister and Cabinet, revised June 2002, agreed to by the Joint Committee of Public Accounts and Audit, and also in sections 63 and 70 of the *Public Service Act 1999*. The sections of this Act which specify the requirements in regard to timeliness of annual reports are reproduced below.

S 63 (1) After the end of each financial year, the Secretary of a Department must give a report to the Agency Minister, for presentation to the Parliament, on the Department's activities during the year.

(2) The report must be prepared in accordance with guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit.

S 70 (1) After the end of each financial year, the Head of an Executive Agency must give a report to the Agency Minister, for presentation to the Parliament, on the Agency's activities during the year.

(2) The report must be prepared in accordance with guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit.

The *Requirements for Departmental Annual Reports* specify that annual reports of departments, executive and prescribed agencies must be tabled by 31 October. In the event a department cannot meet this deadline the secretary is required to advise the responsible minister of the reason, the expected tabling date and what action is proposed so that the deadline will be met for the following year's annual report. The responsible minister is to table this explanation in the Parliament on the next available sitting day.

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

4 available from www.pmc.gov.au

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.

Schedule1, 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

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.

- (3) 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.

Schedule1, 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 Fiance 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.
 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.)
