



**Australian Government**

**GOVERNMENT RESPONSE TO  
SENATE STANDING COMMITTEE ON  
FINANCE AND PUBLIC ADMINISTRATION  
REPORT**

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## INTRODUCTION

The Australian Government welcomes the report of the Senate Standing Committee on Finance and Public Administration into the committee's examination of annual reports for portfolios that it has oversight, which were tabled for the period between 1 May 2008 and 31 October 2008.

The Government recognises that the primary purpose of annual reports of departments is accountability, in particular to the Parliament. Annual reports serve to inform the Parliament, other stakeholders, educational and research institutions, the media and the general public about the operation and performance of Commonwealth entities.

## RESPONSE TO RECOMMENDATION

The Committee made four recommendations.

### Recommendation 1

*The committee recommends that Ministers ensure that annual reports are tabled in the Parliament as soon as is practicable after receipt of reports from agencies.*

### Response

The Government notes Recommendation 1.

While it is good practice for Ministers to table annual reports as soon as practicable after receipt of reports from agencies, unless it is otherwise specified in legislation, it remains the Government's policy that all annual reports should be tabled by 31 October.

The requirement for *Financial Management and Accountability Act 1997* (FMA Act) agencies to table annual reports by 31 October is specified in the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies* ("the Requirements for Annual Reports"). Agencies need to seek an extension under the *Acts Interpretation Act 1901* should that timeframe not be met.

Current legislative arrangements for Commonwealth authorities and Commonwealth companies provide for the tabling of annual reports in Parliament as soon as practicable after the receipt of reports from agencies. Under the existing framework, paragraph 9(2)(a) of the *Commonwealth Authorities and Companies Act 1997* (CAC Act) provides that the annual report of a Commonwealth authority must be given to its responsible Minister by the 15th day of the fourth month after the end of the financial year.

Subsection 36(1A) of the CAC Act provides that the annual report of a Commonwealth company must be given to its responsible Minister if the company is required by the *Corporations Act 2001* to hold an annual general meeting, 21 days before the next annual general meeting or four months after the end of the financial year, whichever is earlier. In any other case, the Commonwealth company must provide its responsible Minister with its annual report four months after the end of the financial year.

Paragraph 9(2)(b) and subsection 36(1A) of the CAC Act also provide that an annual report for a Commonwealth authority and a Commonwealth company respectively, may be given to the responsible Minister at the end of such further period granted by the Minister under subsection 34C(5) of the *Acts Interpretation Act 1901*.

The time taken for a report to be tabled in Parliament, once it is received by the responsible Minister, is determined by subsection 34C(3) of the *Acts Interpretation Act 1901*. That is, the Minister must table the annual report in both Houses of Parliament within 15 sitting days of receiving the report.

**Recommendation 2**

*The committee recommends that all departments and agencies include a compliance index in future reports.*

**Response**

The Government supports recommendation 2 and has implemented the recommendation for agencies that are subject to the *Financial Management and Accountability Act 1997*. Those agencies must prepare their annual report in accordance with the requirements set out in the Requirements for Annual Reports. Compliance indexes were listed as a mandatory requirement when that document was reissued in June 2010.

The inclusion of a compliance index in the annual reports of Commonwealth authorities and wholly-owned Commonwealth companies under the CAC Act is also supported. The Department of Finance and Deregulation will consult departments of State and agencies on the issue of including an index of reporting requirements in future annual reports.

**Recommendation 3**

*The committee recommends that agencies adhere to the Commonwealth Fraud Control Guidelines by including a signed statement by the CEO or agency head certifying that they are satisfied that their agency is in compliance with the guidelines.*

**Response**

The Government notes Recommendation 3.

This proposal is already covered by other arrangements for FMA Act agencies and for Commonwealth authorities or wholly-owned Commonwealth companies that may be subject to the requirements.

The *Commonwealth Fraud and Control Guidelines* apply to all agencies that are subject to the FMA Act and the reporting requirements of FMA Act agency heads, as specified in the *Commonwealth Fraud and Control Guidelines*, are noted in the Requirements for Annual Reports. Agencies are responsible for ensuring that they are compliant with those requirements.

Prior to 1 July 2008, where a Commonwealth authority or wholly-owned Commonwealth company received a notification under sections 28 or 43 of the CAC Act, respectively, to apply a policy such as the *Commonwealth Fraud Control Guidelines* the body must comply with the reporting requirements in the policy. A Commonwealth authority that must comply with the policy must also, in accordance with the *Commonwealth Authorities and Companies (Report of Operations) Orders 2008*, report instances of non-compliance with the policy in their annual report. Since 1 July 2008, the process for applying Commonwealth policies to Commonwealth authorities or wholly-owned Commonwealth companies has changed and

Commonwealth policies are now applied through general policies orders. To date, no such orders have been issued, however the Department of Finance and Deregulation is in discussion with a number of agencies, including the Attorney-General's Department, to identify Commonwealth policies, such as the *Commonwealth Fraud Control Guidelines*, to apply to CAC Act bodies a general policy order.

**Recommendation 4**

*The committee recommends that Commonwealth Authorities and Companies Act 1997 bodies consider adhering to the Requirements for Annual Reports issued by the Department of the Prime Minister and Cabinet.*

**Response**

The Government does not support Recommendation 4. There are separate annual reporting requirements for Commonwealth authorities and Commonwealth companies.

Consistent with section 9 of the CAC Act, the annual reporting requirements for Commonwealth authorities are set out in Schedule 1 of the CAC Act, which includes preparing a report in accordance with the *Commonwealth Authorities and Companies (Report of Operation Orders) 2008*. These were issued by the Finance Minister and commenced on 30 June 2008 and therefore were compulsory for 2008-09 reports, due on 15 October 2009.

In accordance with section 36 of the CAC Act, the annual reporting requirements for Commonwealth companies are set out in two places. First, base requirements are set out in the *Corporations Act 2001*.

Second, as of 1 July 2008, the Finance Minister may make orders for wholly-owned Commonwealth companies. As explained in the explanatory memorandum to the Commonwealth Authorities and Companies Amendment Bill 2008, this allows for the Finance Minister to require the reporting of matters in addition to those required by the *Corporations Act 2001* "that are appropriate to be included in [Commonwealth companies] annual reports with a view to ensuring consistent reporting of public sector governance and accountability obligations".

Orders relating to wholly-owned Commonwealth companies, similar to the *Commonwealth Authorities and Companies (Report of Operation Orders) 2008* for Commonwealth authorities, are being prepared for consideration by the Finance Minister.