

The Parliament of the Commonwealth of Australia

**SENATE LEGAL AND CONSTITUTIONAL
LEGISLATION COMMITTEE**

**REPORT ON THE EXAMINATION OF ANNUAL
REPORTS**

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PREFACE

Terms of reference

On 1 May 1996 a resolution of the Senate allocated the following portfolios to the Legal and Constitutional Legislation Committee:

- Attorney-General's Portfolio; and
- Immigration and Multicultural Affairs Portfolio.

This report was prepared pursuant to Standing Order 25(21) relating to the consideration of annual reports by legislation committees. The Standing Order states:

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 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.

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 continues to be an important element of accountability to Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies and the administration of government programs.

Timing of presentation of reports on annual reports

Standing order 25(21)(f) requires that legislation committees report on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year. The Legislation Committee was required to table this report on or before 28 August 2001.

Annual Reports referred to the Committee

This report includes those reports referred to the Committee between 1 November 2000 and 30 April 2001. During this period, fifteen annual reports (in addition, one Errata and one Erratum, one Corrigendum, and one Addendum) were referred to the Committee. These are listed at Appendix 1. Other reports received, on which the Committee is not required to report, are also listed at Appendix 1.

“Apparently satisfactory”

Under the terms of standing order 25(21)(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.¹

Timeliness

Under standing order 25(21)(c) the Committee must also report to the Senate on any lateness in the presentation of annual reports.

Conclusion

This examination of annual reports has shown that the reports referred to the Committee continue to be of a high standard in both format and content. The Committee has found that the annual reports examined in this report are apparently satisfactory. Comments on particular reports are set out in the following chapters.

Senator J McKiernan

Deputy Chair

¹ *Requirements for Departmental Annual Reports*, March 1994 (for departments/agencies whose heads have powers of a secretary under the *Public Service Act 1922*); Guidelines for Annual Reports by Statutory Authorities are contained in the Commonwealth Authorities and Companies Orders 1998; and Reporting Requirements for the Annual Reports of Non-Statutory Bodies, are 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.

CHAPTER 1

ANNUAL REPORTS OF GOVERNMENT DEPARTMENTS

Reports referred to the Committee for examination and report

1.1 In 1994, the Department of Prime Minister and Cabinet prepared revised guidelines for the preparation of annual reports by government departments, which the Parliamentary Joint Committee of Public Accounts approved. Revised requirements have been developed and were approved by the Joint Committee of Public Accounts and Audit in June 2001. These revised requirements will apply to annual reports dealing with financial years ending on or after 30 June 2001. The material covered in this second report by the Legal and Constitutional Legislation Committee for 2001 predates this and therefore the earlier requirements apply.

1.2 Subsection 25(7) of the Public Service Act 1922 requires that government departments prepare annual reports in accordance with these guidelines. The annual reporting guidelines “are designed to emphasise program performance and the achievement of program objectives – that is, (a) focus on results”.¹

1.3 The Committee examines annual reports by reference to these guidelines. During this process it is also the responsibility of the Committee to draw the Senate’s attention to any significant matters relating to the operation and performance of the relevant bodies during the reporting period. Matters relating to performance in each portfolio which the Committee wishes to highlight, are noted below.

Department of Immigration and Multicultural Affairs Annual Report 1999-2000 – Corrigendum

1.4 In respect of its comments in the last report, the Committee notes that the Corrigendum was tabled on 27 March 2001.

Conclusion

1.5 The Committee finds this Corrigendum to be apparently satisfactory. However, it emphasises the following:

- the corrigendum contains extensive changes to material concerning a major area of Departmental operations, where accuracy and timeliness of information is essential;

1 Requirements for Departmental Annual Reports, Department of Prime Minister and Cabinet, March 1994 (for departments/agencies whose heads have powers of a secretary under the Public Service Act 1922); Guidelines for the Content, Preparation and Presentation of Annual Reports by Statutory Authorities, included at Appendix 2 (for future reports, the relevant guidelines are contained in the Commonwealth Authorities and Companies Orders 1998); and Reporting Requirements for the Annual Reports of Non-Statutory Bodies, included at Appendix 3.

- as previously noted in the Committee's Report No. 1 of 2001, the delay in advising the Committee and the further, unexplained, five-week delay in tabling the corrections.

CHAPTER 2

ANNUAL REPORTS OF STATUTORY AUTHORITIES

2.1 The following annual reports of statutory authorities for the financial year 1999-2000 were referred to the Committee for examination and report:

- Administrative Review Council
- Australian Government Solicitor
- Family Court Law Council
- Family Court of Australia - Addendum
- Federal Magistrates Service
- Human Rights and Equal Opportunity Commission
- Migration Agents Registration Authority
- National Crime Authority

Reporting Guidelines

2.2 Annual reports prepared by statutory authorities are examined by reference to the Guidelines for the Content, Preparation and Presentation of Annual Reports by Statutory Authorities, tabled in the Senate on 11 November 1982. These are reproduced in Appendix 2.

2.3 The Committee notes that the reporting requirements for statutory authorities are guidelines only and therefore differing approaches to, and formats for, reporting may be adopted. However, statutory authorities whose operations are similar to those of government departments must consult the revised requirements for departmental annual reports, issued in May 1999, and comply with them as far as it is considered appropriate to do so.

2.4 Regardless of the guidelines or requirements that statutory authorities use, the Committee considers that accountability to Parliament should be the central objective of the annual reports of statutory authorities.

2.5 The Committee has elected to comment on the annual reports and performance of all of the statutory authorities. These comments constitute the remainder of this chapter.

Administrative Review Council

2.6 The Committee congratulates Mrs Bettie McNee on her appointment as President of the Council in August 1999. The Committee also congratulates Ms Robin Creyke and Mr Stephen Gageler on their appointment to the Council.

2.7 The Committee also wishes to express its appreciation of the work of the retiring President, Professor Marcia Neave AO.

2.8 The Committee notes that the Council has developed a 3 year working program for its future directions. It also notes that the Council published guidelines on *What decisions should be subject to merits review?* These provide objective and reasoned indicators of when merits review is appropriate, and assist agencies, decision-makers and legislators, and improve administrative law policy making.

Australian Government Solicitor

2.9 The Committee notes that AGS became a Commonwealth authority and a government business enterprise on 1 September 1999.

2.10 The Committee notes that a client survey, completed in July 1999, showed a significant improvement in client satisfaction since 1997, when a survey was conducted as part of the Logan Report that recommended to Government the corporatisation of AGS.

Family Court Law Council

2.11 The Committee notes that much of the Council's work during the year involved significant legislative developments in family law, including *Property and Family Law: Options for Change* and *Child Contact Orders: Enforcement and Penalties*.

2.12 The Committee also notes that the Council had three major projects during the year involving parenting plans, litigants in person and the interaction between the Family Law Act and State and Territory child and family services legislation. The first of these projects resulted in advice being sent to the Attorney-General in March 2000, while the other two projects remain to be completed.

2.13 The Committee congratulates Mr Mark McArdle on his appointment to the Council in March 2000.

Family Court of Australia – Addendum

2.14 The Committee acknowledges the Addendum received listing further information for 2. It includes, 'Consultants and Competitive Tendering – Main categories or purpose for which consultants engaged 1999-00'.

Federal Magistrates Service

2.15 The Committee notes that this is the first report of the Federal Magistrates Service and covers the period from 23 December 1999, when the Federal Magistrates Act 1999 received royal assent, leading up to the commencement of operations of the Court on 23 June 2000.

2.16 The Committee also notes that as the Federal Magistrates Service was not established as an agency under the *Financial Management and Accountability Act 1997* until 1 July 2000, the provisions of subsection 117(2) of the *Federal Magistrates Act 1999* did not apply to its report.

2.17 The Committee congratulates Ms Diana Bryant QC on her appointment as Chief Federal Magistrate of the Federal Magistrates Service.

2.18 The Committee acknowledges the work undertaken during the period March-June 2000 to establish the Federal Magistrates Service in order that it could begin to receive applications on 23 June 2000.

Human Rights and Equal Opportunity Commission

2.19 The Committee notes the significant changes and developments undertaken by the Commission in this reporting period. These include: the structural reform of the Commission, legislative amendments, management change, and the transfer of hearing functions to the Federal Court and Federal Magistrates' Court. Major initiatives for this reporting period include: the *Youth Challenge* program, continued work on Indigenous human rights issues and pregnancy discrimination. The Commission also conducted the inquiry into *'The Accessibility of E-commerce and New Technologies to Older People and People with a Disability'*, and *'The National Inquiry into Regional and Remote Education'*.

2.20 The Committee notes that in respect of the Complaint Handling Section's Customer Satisfaction Survey that in the period 1999-2000, results indicated an increased satisfaction with the timeliness and perceived fairness of the complaint handling process.

2.21 The Committee acknowledges that the complaint handling statistics are presented in a slightly different format to previous Annual Reports due to changes to the Commission's legislation.

Migration Agents Registration Authority

2.22 The Committee notes that in order to maintain professional standards the Authority has focused on a continuing professional development program that has resulted in increased communication and support within the profession. The Committee also notes that, to further ensure better standards, the Authority proposes to introduce an audit process for continuing professional development providers and activities in the coming year.

2.23 The Committee notes that the losses incurred by the Authority during 1999-2000 were the result of its relocation to new offices resulting in the writing-off of the fit-outs in its old premises and the sudden collapse of Barlow & Co which had been involved in the migration advice industry for many years and had employed 16 migration agents.

2.24 The Committee acknowledges that the collapse of Barlow & Co became a major issue for the Authority involving some 3500 client files. The Committee commends the Authority for its work in this matter.

Migration Agents Registration Authority – Errata

2.25 The Committee acknowledges the Errata, relating to pages 15, 17, 19 and 31 of the Annual Report.

National Crime Authority

2.26 The Committee notes that this is the first Annual Report with Mr Gary Crooke QC as Chairman, and that in May 2000, he delivered the statement, *'Future Direction of the National Crime Authority'*. This statement outlines 'the NCA's renewed focus upon its legislative charter and provides a blueprint for the agency's response to contemporary organised crime'.

2.27 The contents of this Annual Report have been considered in detail during the Committee's current inquiry into the *'Aspects of funding and operation of the Australian Federal Police and the National Crime Authority'*.

Refugee Review Tribunal - Erratum

2.28 The Committee acknowledges the Erratum relating to page 23 and the breakdown of the 'List of Members and Terms of Appointment'.

CHAPTER 3

ANNUAL REPORTS OF NON-STATUTORY BODIES

Reports referred to the Committee

3.1 During this period, the Committee was referred the following reports from non-statutory bodies.

- Audio-Visual Copyright Society Ltd (Screenrights)
- Copyright Agency Limited

3.2 The reports and their tabling dates in the Senate are recorded in Appendix 1.

Reports on the operation of non-statutory bodies

3.3 Pursuant to the Reporting Requirements for the Annual Reports of Non-Statutory Bodies¹, the Committee makes the following comments in respect of the 1999-2000 Annual Reports.

Audio-Visual Copyright Society Ltd (Screenrights)

3.4 The Committee notes that the Screenrights was a major contributor in respect of the passing of the *Copyright Amendment (Digital Agenda) Act 2000*.

3.5 This legislation extends the Australian educational copying provisions, allowing educational institutions to communicate copies of programs made for educational purposes as well as establishing a new scheme to ensure payment for the transmission of free-to-air television broadcasts. The Committee notes that Screenrights have indicated that they will be applying to the Attorney-General to administer the new scheme.

3.6 The Committee notes that in May 2000, Screenrights was successful in its application to the Australian Copyright Tribunal to be declared the collecting society for government copying.

3.7 The Committee notes that Screenrights reported a 20% increase in the number of New Zealand schools taking out a Screenrights licence and that they have piloted, in New Zealand, online program guides for educators in licensed schools.

Copyright Agency Limited (CAL)

3.8 The Committee notes the work done by CAL, on behalf of its members, in relation to the current copyright reform process and its investigations of new methods of monitoring and measuring copying to improve the accuracy and efficiency of its data management.

1 Reproduced at Appendix 3. See also Senate Hansard, Vol.128, 8 December 1987, pp.2643-5

CHAPTER 4

ANNUAL REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

Reports on the Operation of Acts and Programs

4.2 Standing Order 25(21) does not provide for consideration of annual reports on the implementation or operation of Acts or programs. The Committee is not therefore required to include them in its Report on the Examination of Annual Reports. The Committee has chosen, at this stage, only to list them.

- Freedom of Information Act 1982
- Telecommunications (Interception) Act 1979 (Report pursuant to Division 2 of Part IX of the Act)
- Aboriginal & Torres Strait Islander Social Justice Commissioner, *Native Title Report 2000*
- Aboriginal & Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2000*
- Department of Immigration and Multicultural Affairs *Access and Equity Annual Report 2000* titled *Public Service in a Culturally Diverse Society*

APPENDIX 1

LIST OF ANNUAL REPORTS FOR 1999-2000 REFERRED TO THE COMMITTEE DURING THE PERIOD 1 NOVEMBER 2000 AND 30 APRIL 2000 AND DATE OF TABLING IN SENATE

Tabled:

Department of State

Department of Immigration and Multicultural Affairs, including a report pursuant to the Immigration (Education) Act 1971 – Corrigendum 27 March 2001

Statutory Authorities:

Administrative Review Council	6 December 2001
Audio-Visual Copyright Society Ltd (Screenrights)	7 November 2001
Australian Government Solicitor	8 November 2001
Copyright Agency Limited	6 February 2001
Family Court of Australia - Addendum	7 February 2001
Family Law Council	4 December 2001
Federal Magistrates Service	6 February 2001
Human Rights and Equal Opportunity Commission	9 November 2001
Migration Agents Registration Authority	5 December 2001
Migration Agents Registration Authority – Errata	6 February 2001
National Crime Authority	6 February 2001
Refugee Review Tribunal - Erratum	7 November 2001

Other Reports

Department of Immigration & Multicultural Affairs – Progress in implementing the Charter of Public Service in a Culturally Diverse Society – Access and equity report for 2000 6 December 2001

Human Rights and Equal Opportunity Commission – Aboriginal and Torres Strait Islander Social Justice Commissioner – Native Title (Report 1/2001)	28 March 2001
Human Rights and Equal Opportunity Commission – Aboriginal and Torres Strait Islander Social Justice Commissioner – Native Title (Report 1/2001)	28 March 2001
Freedom of Information Act 1982	4 December 2001
Telecommunications (Interception) Act 1979 (Report pursuant to Division 2 of Part IX of the Act)	28 March 2001
War Crimes Act 1945	6 February 2001

APPENDIX 2

GUIDELINES FOR THE CONTENT, PREPARATION AND PRESENTATION OF ANNUAL REPORTS BY STATUTORY AUTHORITIES

11 November 1982

Introduction

These guidelines are intended to cover generally the annual reporting requirements for statutory authorities (incorporated or unincorporated authorities established by or pursuant to a law of the Commonwealth or of the ACT) and are subject to refinement in the light of experience.

Reports of small unincorporated authorities and office holders within the public account may continue to be included in the related departmental reports where it is practical to do so.

The guidelines do not, of course, override statutory requirements imposed by the legislation on individual authorities, but to the extent that they require a higher standard than does the legislation, they should be followed by all such authorities.

All authorities are to provide annual reports as soon as possible after the end of their financial year, if possible in time for the estimates debate in the Budget Sitings. At the very latest reports should be submitted within six months (unless a shorter period is provided in the legislation of an individual authority). An explanation will be submitted to Parliament if the deadline has to be extended in exceptional cases (the new deadline is to be mentioned in the explanation). Ministers will ensure that reports are tabled within fifteen sitting days of receipt.

Where there is a requirement for a form of financial statements to be approved by the Minister for Finance, authorities should commence negotiations with the Department of Finance early enough to allow issues to be resolved without delaying the annual report. Authorities also need to bear in mind the need for reasonable time to be allowed for completion of auditing of the financial statement within the six month deadline.

Report contents

Reports should be the means of providing a wide dissemination of information on authorities, with special attention being given to making available material that might not otherwise be made public as a matter of course.

The following information is to be provided in future annual reports:

- (i) Enabling Legislation: A clear statement of the legislation (if any) under which the organisation operates.
- (ii) Responsible Minister: To be shown. A description of any statutory powers of direction which the Minister has over the authority and details of the exercise of any such powers, subject to the need to protect confidential information, to be included.

- (iii) Powers, Functions and Objects: To be detailed.
- (iv) Membership and Staff: A list of the members of the body and their terms of appointment, together with listing of senior executive staff and a statement of the total number of staff employed by the organisation. In addition, the basis for staffing the organisations should be identified. The address and phone number of the information officer should also be included.
- (v) Financial Statements: All Government bodies should provide statements which adequately disclose financial aspects of their activities. For example, where the form of a body's financial statements is approved by the Minister for Finance, the approval form must, of course, be followed; where an unincorporated body has no specific financial responsibilities and no financial reporting requirement exists, it might be appropriate to disclose departmental receipts and expenditures relevant to its operations, while avoiding unnecessary duplication of the information contained in the annual Financial Statements prepared by the Minister for Finance. The requirement for adequate disclosure will extend to bodies incorporated under companies legislation if the Commonwealth is sole owner or shareholder; this will not affect the need to satisfy the reporting requirements under company law. The Department of Finance and the Auditor-General's Office are preparing guidelines which will assist Commonwealth undertakings in preparing financial statements; an exposure draft entitled 'Proposed Guidelines for the Form and Standard of Financial Statements of Commonwealth Undertakings' was issued in August 1980. The Exposure Draft has been considered by the relevant Parliamentary Committees.
- (vi) Activities and Reports: A description of the principal programs and activities of the body noting objectives and reviewing achievements. Information on interaction with other authorities, departments and State and international bodies should be provided as should a list of publications during the reporting period.
- (vii) Operational Problems: A description of the major problems which have arisen in the body's activities, including details of requisite Government action to overcome such problems, e.g. the amendment of the enabling Act.
- (viii) Subsidiaries: Details of subsidiary companies formed, or interest acquired in existing companies, are to be provided. It is a desirable practice to include the annual report of such subsidiaries as are controlled by the parent authority with the report of that authority, where this is feasible.

(Senate, *Hansard*, Vol. S.96, 11 November 1982, pp. 2261-2)

APPENDIX 3

REPORTING REQUIREMENTS FOR THE ANNUAL REPORTS OF NON-STATUTORY BODIES

8 December 1987

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.

([After] Senate, *Hansard*, Vol. S.124, 8 December 1987, pp. 2643-5)

