
Legal and Constitutional
Legislation Committee

Annual Reports (No. 2 of 2002)

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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 and Indigenous 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 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. The Legislation Committee was required to table this report on or before 17 September 2002.

Annual reports referred to the Committee

Under normal circumstances, this report would include those reports referred to the Committee between 1 November 2001 and 30 April 2002. As a result of the calling of a general election, Parliament was prorogued on 8 October 2001. Consequently, after the last sitting day of the 39th Parliament on 27 September 2001, annual reports could not be tabled but were presented to the President of the Senate and subsequently tabled on the first sitting day of the new Parliament on 12 February 2002. Therefore, annual reports tabled on 12 February 2002 were included in the previous Report on the Examination of Annual Reports, No. 1 of 2002, tabled in March 2002.

This report includes those reports tabled in the Senate after 13 February 2002. Since that date, 23 reports and one corrigenda were referred to the Committee. Of those 23 reports, 5 reports are from indigenous bodies, initially referred to the Finance and Public Administration Legislation Committee. Indigenous agencies now fall within the purview of the Legal and Constitutional Legislation Committee following the reallocation of portfolios. All reports considered are 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

1 *Requirements for Departmental Annual Reports*, June 2001 (for departments/agencies whose heads have powers of a secretary under the *Public Service Act 1999*); 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.2643-2645

Timeliness

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

Inclusion of annual reports on internet sites

The Committee was pleased that agencies and bodies who have websites have utilised this resource to provide electronic versions of their annual reports. Each year, the number of links to associated organisations continues to improve.

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.

This being the first year that the Legal & Constitutional Legislation Committee has considered reports under the indigenous portfolio, the Committee would like to commend all indigenous land councils, organisations and corporations on their clear and concise reporting.

Comments on particular reports are set out in the following chapters.

Senator Marise Payne

Chair

CHAPTER 1

ANNUAL REPORTS OF STATUTORY AUTHORITIES

Reports referred to the Committee

1.1 The following annual reports of statutory authorities for the financial year 2000 - 2001 were referred to the Committee for examination and report:

- Aboriginal Benefit Account
- Aboriginal Land Commissioner
- Aboriginal Legal Rights Movement
- Administrative Review Council
- Australian Security Intelligence Organisation (ASIO)
- Cape York Land Council
- Central Queensland Land Council Aboriginal Corporation
- Gurang Land Council
- Indigenous Business Australia
- Kimberley Land Council
- Mirimbiak Nations Aboriginal Corporation
- National Crime Authority
- Ngaanyatjarra Council
- North Queensland Land Council Aboriginal Corporation
- Queensland South Representative Body Aboriginal Corporation
- Torres Strait Protected Zone Joint Authority (1999-2000)
- Yamatji Barna Baba Maaja Aboriginal Corporation

Reporting Guidelines

1.2 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.

1.3 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 June 2001 (re-issued in June 2002 but does not fall within

this reporting period), and comply with them as far as it is considered appropriate to do so.

1.4 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.

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

Administrative Review Council

1.6 The Committee notes that this is the 25th anniversary edition of the Administrative Review Council's (ARC) annual report, and notes the following key achievements of the Council over the 2000-2001 period:

- The launch of the *Practical Guidelines for preparing Statements of Reasons* and the associated *Commentary on the Guidelines* on 12 October 2000;
- The Council's submission to and appearance before the Senate Committee on Legal and Constitutional Affairs in relation to the Administrative Review Tribunal Bill 2000;
- The completion and tabling in Parliament of Report No. 44 *Internal Review of Agency Decision Making* and its accompanying *Best Practice Guide*;
- The finalisation and launching in October 2001 of the *Guide to Standards of Conduct for Tribunal Members*.

1.7 The Committee commends the ARC's longterm practice of publishing its Letters of Advice in its annual report.

Australian Security Intelligence Organisation (ASIO)

1.8 The Committee notes that a client survey, conducted by ASIO, showed that 96 per cent of clients rated ASIO's product as "always or usually useful" and while 54 per cent of clients considered ASIO product to be "always timely", 41 per cent said it was "usually on time". It also notes that ASIO records a greater need for timely information for police clients, who use their information to inform tactical and resourcing decisions.

1.9 The Committee notes the postscript to the Director-General of Security's *Year in Review*¹, stating that since the events of September 11 2001 in the USA, the majority of ASIO's investigative and analytical resources have been directed to investigations relating to the attacks, and that this threat environment will impose significantly increased demands on ASIO and other Australian agencies.

1 ASIO Report to Parliament 2000-2001, p.7

Cape York Land Council

1.10 The Committee congratulates Mr Alan Creek on his appointment as Chairman in June 2001.

1.11 The Committee notes the number of native title achievements by the Council over the last year, including Silver Plains, Kaurareg, Wuthathi, Lockhart River and the signing of the Western Cape Communities Co-existence Agreement.

Indigenous Business Australia

1.12 The Committee notes that this is Indigenous Business Australia's (IBA) inaugural annual report, which encompasses the activities of the former Aboriginal and Torres Strait Islander Commercial Development Corporation for the period 1 July 2000 to 17 April 2001.

1.13 The Committee notes the following aspects of the Report for 2000-2001:

- In December 2000, the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC) celebrated its 10th anniversary and its 100th Board meeting;
- In March 2001, the Parliament of Australia approved legislation creating IBA from the former CDC. The legislation was subsequently proclaimed and came into force on 17 April 2001;
- A 29% increase in total operating revenue from \$6.57 million to \$8.496 million;
- A 30% increase in operating profit of \$3.901 million compared to an operating profit of \$2.997 million in the previous financial year;
- An estimated \$1.5 million in distribution or equivalent to indigenous organisations as a result of their involvement in joint ventures with IBA;
- Over 670 jobs directly funded through joint ventures with over 105 being filled with indigenous people.

National Crime Authority

1.14 The Committee notes the establishment of 2 new joint agency agreements – in Victoria between the NCA, Australian Federal Police (AFP), Australian Customs Service (ACS), Australian Taxation Office and the Victoria Police; and in Western Australia, between the NCA, AFP, ACS and the Western Australia Police Service.

1.15 The Committee notes the launch of the NCA's website in June 2001 and commends the establishment of a confidential toll-free telephone line for members of the public.

Torres Strait Protected Zone Joint Authority

1.16 As stated in the *Torres Strait Fisheries Act 1984*², the Torres Strait Protected Zone Joint Authority (PZJA) is not required to report on its activities within the same year of the reporting period, therefore the 1999-2000 report has been tabled in this reporting period.

1.17 The PZJA report is very informative and well laid out. The addition of a table on funding arrangements with the Commonwealth and the Queensland Governments, would assist understanding of those arrangements.

2 *Torres Strait Fisheries Act 1984*, Section 41(4), p. 47

CHAPTER 2

ANNUAL REPORTS OF NON-STATUTORY BODIES

Reports referred to the Committee

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

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

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

Reports on the operation of non-statutory bodies

2.3 Pursuant to the Reporting Requirements for the Annual Reports of Non-Statutory Bodies¹, the Committee makes the following comments in respect of the 2000-2001 Annual Reports.

Audio-Visual Copyright Society Ltd (Screenrights)

2.4 The Committee notes that Screenrights was a major contributor in respect of the passing of the *Copyright Amendment (Digital Agenda) Act 2000* which came into force in March 2001. The Act introduces two new rights that will protect the interests of Screenrights' members and licensees in the digital environment: the communication right and the retransmission right.

2.5 The Committee notes the following financial achievements of Screenrights over the 2000-2001 financial year:

- Collections totalled \$14.6 million, an increase of 3.6 per cent on the previous year;
- Expenses to collection ratio has remained steady on just under 16 per cent;
- There was a continued growth in membership; and
- Payment of \$13.2 million to copyright owners over the 12-month period.

2.6 The Committee acknowledges the corrigenda, tabled with the report, relating to page 1 – Letter to the Attorney-General from the Chief Executive.

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

Copyright Agency Limited (CAL)

2.7 The Committee notes the use of graphs to depict data in CAL's report. This is a welcome inclusion which renders data more user-friendly.

2.8 The Committee notes the following licensing data during 2000-2001:

- CAL collected \$36.2 million in licensing revenue, an increase of 13 per cent over the 1999-2000 result of \$32 million;
- Total revenue (including interest) was \$39.8 million, an increase of 15 per cent over the 1999-2000 result of \$34.5 million; and
- CAL manages 2,016 licence agreements, covering copying in about 20,000 organisations.

2.9 It was noted by the Committee that \$185,600 was contributed to CAL's Cultural Fund during 2000-2001 from licensing fees collected during 1999-2000, and in total since 1995-1996, CAL has allocated \$869,490 to the fund. Monies in the fund are used to fund the Centre for Copyright Studies which is a company established to undertake social, economic and legal copyright research.

CrimTrac Agency – Corrigenda

2.10 The Committee acknowledges the corrigenda, tabled separately to the report, which relates to Page 118, Appendix 6 – Amounts over \$1500 only.

CHAPTER 3

ANNUAL REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

3.1 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.

- *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 2001*
- Aboriginal & Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2001*
- Department of Immigration and Multicultural Affairs – *Access and Equity Annual Report 2001*

APPENDIX 1

ANNUAL REPORTS FOR 2000-2001 CONSIDERED IN THIS REPORT

	Tabled / Received
Statutory Authorities:	
Aboriginal Benefit Account	25 September 2001
Aboriginal Land Commissioner	19 September 2001
Aboriginal Legal Rights Movement	14 May 2002
Administrative Review Council	12 March 2002
Australian Security Intelligence Organisation (ASIO)	13 February 2002
Cape York Land Council	12 March 2002
Central Queensland Land Council Aboriginal Corporation	9 January 2002
Gurang Land Council	12 March 2002
Indigenous Business Australia	19 February 2002
Kimberley Land Council	12 March 2002
Mirimbiak Nations Aboriginal Corporation	12 March 2002
National Crime Authority	14 May 2002
Ngaanyatjarra Council	12 March 2002
North Queensland Land Council Aboriginal Corporation	9 January 2002
Queensland South Representative Body Aboriginal Corporation	12 March 2002
Torres Strait Protected Zone Joint Authority (1999-2000)	24 January 2002
Yamatji Barna Baba Maaja Aboriginal Corporation	9 January 2002

Tabled / Received**Non-Statutory Authorities:**

Audio-Visual Copyright Society Limited (Screenrights)	14 May 2002
Copyright Agency Limited	12 March 2002
CrimTrac Agency (Corrigenda)	18 June 2002

Other Reports:

Aboriginal and Torres Strait Islander Social Justice Commissioner – Social Justice Report	14 May 2002
Aboriginal and Torres Strait Islander Social Justice Commissioner – Native Title Report	14 May 2002
Department of Immigration and Multicultural and Indigenous Affairs – Access and equity report	14 May 2002
<i>Telecommunications (Interception) Act 1979</i>	14 May 2002

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)

