

# Chapter 1

## Overview

1.1 The committee is responsible for examining the annual reports of departments and agencies within two portfolios:

- Agriculture, Fisheries and Forestry; and
- Infrastructure, Transport, Regional Development and Local Government.

### Terms of reference

1.2 Under Senate Standing Order 25(20), annual reports of departments and agencies shall stand referred to the 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.<sup>1</sup>

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1 *Standing orders and other orders of the Senate*, September 2006, p. 27. (This Standing Order was amended 24 August 1994, 13 February 1997, 11 November 1998, 3 December 1998, 13 February 2002, 19 November 1992, 14 August 2006: with effect from 11 September 2006).

## Purpose of annual reports

1.3 The tabling and scrutiny of annual reports by Senate committees, under Standing Order 25(20), is an important element in the process of accountability to Parliament. The information provided in annual reports is placed on the public record and assists Parliament in its examination of the performance of departments and agencies and the administration of government programs.

## Requirements

1.4 Annual reports are examined by the committee to determine whether they are timely and 'apparently satisfactory'. In forming its assessment, the committee considers whether the reports comply with the relevant legislation and guidelines for the preparation of annual reports:

- for departments of state and executive agencies these are: the *Public Service Act 1999*, subsections 63(2) and 70(2), and the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, Department of Prime Minister and Cabinet, updated June 2007 and approved by the Joint Committee of Public Accounts and Audit on 13 June 2007;
- for Commonwealth authorities and companies: the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), sections 9, 36 and 48, and the *Commonwealth Authorities and Companies (Report of Operations) Orders 2005*; and
- for non-statutory bodies: the requirements are contained in the Government response to the report of the Senate Standing Committee on Finance and Government Operations on Non-statutory bodies, *Senate Hansard*, 8 December 1987, pp 2643–45.

## Reports referred to the committee

1.5 Standing Order 25(20)(f) requires the committee to report on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year. In this instance, the relevant date was 17 September 2008. On that date, the committee sought and obtained an extension of time to report until 13 November 2008. The committee is also required to report on annual reports tabled by 31 October each year by the tenth sitting day of the following year.

1.6 Annual reports which were tabled in the Senate or presented to the President of the Senate between 1 November 2007 and 30 April 2008 are considered in this report. This includes annual reports submitted to the minister before 31 October 2007, but tabled subsequent to that date and therefore not considered as part of the committee's report *Annual reports (No. 1 of 2008)*.

1.7 The committee examined four annual reports of agencies within the Agriculture, Fisheries and Forestry portfolio and five annual reports of agencies

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within the Infrastructure, Transport, Regional Development and Local Government portfolio, as follows:

- Australian Fisheries Management Authority;
- Cotton Research and Development Corporation;
- Land and Water Australia;
- Sugar Research and Development Corporation;
- Airservices Australia;
- Civil Aviation Safety Authority;
- National Transport Commission;
- Australian Rail Track Corporation; and
- International Air Services Commission.

1.8 A complete list of reports referred to the committee (including those not examined) appears at Appendix 1.

### **Reports not examined**

1.9 The committee is not obliged to report on Acts, statements of corporate intent, surveys, corporate plans or errata. The following eight documents were referred to the committee but have not been examined:

- *Australian Meat and Live-stock Industry Act 1997*—Report to Parliament on Live-stock Mortalities for Exports by Sea for the Reporting Period 1 July to 31 December 2007;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region – Annual report 2002-03;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region – Annual report 2003-04;
- Regional Forest Agreement for the North East Region of New South Wales (Upper North East and Lower North East Regions) – Progress on the implementation of the Regional Forest Agreement for the North East Region – Annual report 2002-03;
- Regional Forest Agreement for the North East Region of New South Wales (Upper North East and Lower North East Regions) – Progress on the implementation of the Regional Forest Agreement for the North East Region – Annual report 2003-04;
- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region – Annual report 2002-03;

- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region – Annual report 2003-04; and
- *Sydney Airport Demand Management Act 1997*—quarterly report on the maximum movement limit for the period 1 July to 30 September 2007.

## Timeliness

1.10 Standing Order 25(20)(c) requires the committee to report to the Senate on the late presentation of annual reports.

1.11 As stated in the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies* (Requirements for Annual Reports), annual reports must be tabled in Parliament by 31 October each year, except where an agency's own legislation specifies a timeframe for its annual report.<sup>2</sup> Those agencies reporting under the CAC Act are required to provide their annual reports to the minister by the 15<sup>th</sup> day of the fourth month after the end of the financial year.<sup>3</sup> Where the financial year ends on 30 June, this deadline translates to 15 October.

1.12 As noted in the committee's report, *Annual reports (No. 1 of 2008)*, a number of annual reports were tabled in the Senate after the appropriate deadlines, and consequently will be examined in this report.<sup>4</sup>

1.13 The committee notes that due to the election period, eight out of the nine reports examined were presented to the Senate out of session after 31 October 2007, and formally tabled on the next sitting day of the Senate, 12 February 2008. The remaining report was tabled in the Senate on 11 March 2008. These reports are identified in Appendix 1.

1.14 The committee is concerned that six out of seven agencies reporting under the CAC Act failed to submit their annual reports to the minister by 15 October as required. The committee expects that all agencies subject to the CAC act will ensure that upcoming annual reports meet the relevant deadlines.

1.15 The committee notes that as the Wheat Export Authority's (WEA) financial year ends on 30 September annually, it is not required to provide the minister with its annual report until 15 January the following year. The committee has noted on previous occasions the failure of the WEA to meet its annual reporting deadline.<sup>5</sup> The

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2 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, p. 2.

3 *Commonwealth Authorities and Companies Act 1997*, s. 9.

4 Senate Standing Committee on Rural and Regional Affairs and Transport, *Annual reports (No. 1 of 2008)*, March 2008, p. 4.

5 Senate Rural and Regional Affairs and Transport Committee, *Annual reports (No. 2 of 2006)*, p. 4; and *Annual reports (No. 2 of 2007)*, p. 4.

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committee is disappointed that the WEA has once again failed to meet this deadline. As the WEA's report was not tabled until 13 May 2008 it will be examined in the committee's next report on annual reports.

1.16 While the committee is not required to consider reports on the implementation or operation of Acts or programmes, the committee notes a very significant delay in the tabling of the following reports:

- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region – Annual report 2002-03;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region – Annual report 2003-04;
- Regional Forest Agreement for the North East Region of New South Wales (Upper North East and Lower North East Regions) – Progress on the implementation of the Regional Forest Agreement for the North East Region – Annual report 2002-03;
- Regional Forest Agreement for the North East Region of New South Wales (Upper North East and Lower North East Regions) – Progress on the implementation of the Regional Forest Agreement for the North East Region – Annual report 2003-04;
- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region – Annual report 2002-03; and
- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region – Annual report 2003-04.

1.17 The committee recognises that some bodies are required to comply with the timeframes stipulated in their enabling legislation, and appreciates that the relevant deadlines are adhered to by those agencies. Nonetheless, the committee reminds all bodies that, as stated in the Requirements for Annual Reports, the government maintains its policy that all annual reports are to be tabled by 31 October.<sup>6</sup>

### **Comments on reports**

1.18 Under Standing Order 25(20)(a) the committee is required to scrutinise annual reports and inform the Senate as to whether they are 'apparently satisfactory'. To form this assessment the committee examines whether annual reports comply with the statutory reporting guidelines relevant to each particular report.

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<sup>6</sup> Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, p. 2.

1.19 The committee is of the view that the reports examined are generally 'apparently satisfactory', although some do not comprehensively address all of the legislative requirements they are subject to. It is noted, however, that any divergence from these requirements is only minor in nature. The issues of most concern are discussed below.

### ***Aids to Access: Indexes***

#### *Alphabetical indexes*

1.20 Under subsection 8(2) of the Requirements for Annual Reports, all annual reports are required to incorporate aids to access, including alphabetical indexes.<sup>7</sup> The committee notes the importance of an alphabetical index in assisting readers to navigate annual reports. While most reports did include alphabetical indexes, some were quite brief and did not effectively aid readers. The committee again notes that the National Transport Commission (NTC) would benefit from including an alphabetical index.

#### *Compliance indexes*

1.21 As mentioned in the committee's previous reports on annual reports, although compliance indexes are no longer mandatory, the committee recommends their inclusion in annual reports.<sup>8</sup> Compliance indexes greatly facilitate the committee's task of ensuring adherence to reporting requirements, and also assist agencies to clearly demonstrate that all legislative obligations have been met.

1.22 The committee found that some compliance indexes were more useful than others. Unfortunately, many compliance indexes did not address all of the reporting requirements and in some cases, the page references given in the compliance indexes were incorrect or too broad to be useful.

1.23 The committee commends those agencies which included compliance indexes for each piece of legislation they are required to report under, and notes that the compliance indexes of the Australian Fisheries Management Authority (AFMA) and the Cotton Research and Development Corporation (CRDC) annual reports were exemplary. Further, the committee is pleased that a number of agencies have now adopted the recommended practice of including a nil, n/a or "-" entry where the body has nothing to report under an item.

1.24 The committee is disappointed that despite comments made in its previous reports, the Australian Rail Track Corporation Limited (ARTC) and the NTC again

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7 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, pp 5 and 17.

8 Senate Rural and Regional Affairs and Transport Committee, *Annual reports (No. 1 of 2006)*, p. 4; *(No. 2 of 2006)*, p. 5; *(No. 1 of 2007)*, p. 5; *(No. 2 of 2007)*, p. 5; and *(No. 1 of 2008)*, p. 5.

failed to include compliance indexes in their annual reports.<sup>9</sup> Consequently the committee found it difficult to determine whether these reports complied with a number of relevant requirements.

### ***Report on performance***

1.25 The committee considers that most annual reports would benefit from an explanation (textual or visual) which clearly defines and links, where applicable, statutory objectives, annual operational plan or corporate plan objectives, research and development objectives and outputs/outcomes. This would assist in demonstrating how agencies have performed in relation to each of these requirements, as required under the *Commonwealth Authorities and Companies (Report of Operations) Orders 2005* (CAC Orders), and whether they have achieved their objectives.<sup>10</sup>

### ***Legislative requirements for Commonwealth authorities***

1.26 The committee draws attention to section 17 of the CAC Orders which notes that the annual reports of Commonwealth authorities must include certain matters required by the relevant sections of the following legislation:<sup>11</sup>

- *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) section 516A;
- *Freedom of Information Act 1982* (FOI Act) subsection 8(1) ; and
- *Occupational Health and Safety (Commonwealth Employment) Act 1991* (OH&S Act) section 74.

The committee encourages agencies to look carefully at the reporting requirements under these pieces of legislation when compiling upcoming reports.

1.27 The committee reminds agencies that they are required to report on *all* five requirements under subsection 516A(6) of the EPBC Act, as exemplified in the AFMA report. The committee particularly notes that several agencies failed to include information required under paragraphs 516(6)(c) and (e) of the EPBC Act, and encourages agencies to address these requirements in more detail in the future.

1.28 The committee observed that several agencies did not adequately address all requirements under subsection 8(1) of the FOI Act. In particular, the committee observed that a number of bodies omitted to provide information on arrangements that exist for others to participate in the agency's policy formulation processes. AFMA and

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9 Senate Rural and Regional Affairs and Transport Committee, *Annual reports (No. 1 of 2006)*, p. 4; *(No. 2 of 2006)*, p. 5; *(No. 1 of 2007)*, p. 6; and *(No. 2 of 2007)*, p. 6.

10 *Commonwealth Authorities and Companies (Report of Operations) Orders 2005*, para. 10(1)(a).

11 *Commonwealth Authorities and Companies (Report of Operations) Orders 2005*, s. 17.

the Civil Aviation Safety Authority (CASA) both addressed this requirement comprehensively.

1.29 Omissions were again noted in most agencies' attempts to report against the OH&S Act, particularly regarding paragraph 74(1)(c). The committee considers that the CASA annual report provides a good example of how this requirement should be addressed.

### ***Commonwealth Disability Strategy***

1.30 Under section 18 of the CAC Orders, an assessment of an authority's performance in implementing the Commonwealth Disability Strategy (the Strategy) must be provided in accordance with the terms set out in the Guide to the Performance Reporting Framework.<sup>12</sup> The committee again observed significant variation in the level of detail provided regarding compliance with the Strategy. The committee strongly encourages agencies to assess compliance in accordance with the recommended guide in future reports.

### ***Consultancy contracts and competitive tendering and contracting***

1.31 The committee notes that under the Requirements for Annual Reports, agencies are required to provide information about consultancy contracts and any competitive tendering and contracting undertaken.<sup>13</sup> The committee reminds agencies that the method of presentation for this information is specified in detail in the Requirements for Annual Reports. While a majority of agencies provided some basic information about consultancies, most of it was not in the required format and did not provide an adequate level of detail. In several annual reports, however, the committee was unable to locate any information about consultancies.

1.32 Consequently, the committee emphasises that, as a matter of best practice, CAC Act bodies should comply with the Requirements for Annual Reports, and provide all relevant detail in accordance with the required proforma. Further, the committee suggests that all agencies list consultancy and contract services in the compliance index or at the very least in the alphabetical index of their annual reports.

### ***Fraud Control Certification***

1.33 While most agencies provided varying degrees of information about their fraud control plans, the committee draws attention to the *Commonwealth Fraud Control Guidelines 2002*. Under these guidelines:

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12 *Commonwealth Authorities and Companies (Report of Operations) Orders 2005*, s. 18. This Guide can be accessed on the Commonwealth Disability Strategy website at <http://www.facs.gov.au/cds>.

13 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, pp 11–13 and 26–29.



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CEOs of agencies covered by the Commonwealth Fraud Control Guidelines are to certify to their Minister or Presiding Officer in their agency's annual report that they are satisfied that their agency has prepared fraud risk assessments and fraud control plans, and has in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the agency and comply with the Guidelines.<sup>14</sup>

1.34 The committee encourages agency heads to make a specific certification in keeping with the guidelines. The committee highlights the CASA annual report as an example of how to fully comply with this requirement.

### ***Consistency of reporting documents***

1.35 The committee also took account of the Senate Finance and Public Administration Committee report, *Transparency and accountability of Commonwealth public funding and expenditure*, in its examination of annual reports. The committee took particular note of the following comment:

It would be useful therefore if Legislative and General Purpose Committees in their reports on annual reports checked that the reports accurately reflect the performance indicators in the PBSs and PAES. It would also be useful if they reported on comparisons of the final expenditure on outputs (or programs) with the estimates.<sup>15</sup>

1.36 The committee notes that in several cases, performance indicators differed between budget documents and agencies' annual reports. The committee also found that estimates expenditure figures in budget documents and actual expenditure figures in annual reports were often not easily comparable.

1.37 The committee encourages agencies to ensure that outcome/output information and performance indicators remain consistent between budget documents and annual reports. Further, where there is variation between these documents, the accountability process would be enhanced if both the former and the new performance information were provided, as well as the reasons for the revisions.

1.38 The committee notes that under the Requirements for Annual Reports the provision of such information is a mandatory requirement, and as a matter of best practice, CAC Act bodies should also provide this information.<sup>16</sup>

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14 Attorney-General's Department, *Commonwealth Fraud Control Guidelines 2002*, May 2002, p. 2. See also Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, p. 8.

15 Senate Standing Committee on Finance and Public Administration, *Transparency and accountability of Commonwealth public funding and expenditure*, March 2007, p. 64.

16 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2007, p. 6.

### **Senate remarks on annual reports**

1.39 In accordance with Senate Standing Order 25(20)(d), the committee is required to take into account remarks made in the Senate which are relevant to the annual reports under consideration. No substantive debate on annual reports within the committee's portfolios took place in the Senate.

### **Comment on significant matters**

1.40 Finally, Senate Standing Order 25(20)(g) directs the committee to comment on significant matters raised in annual reports relating to the operations and performance of reporting bodies. The committee has considered the annual reports of the following agencies in Chapter 2:

- Australian Fisheries Management Authority (AFMA);
- Cotton Research and Development Corporation (CRDC);
- Land and Water Australia (LWA);
- Sugar Research and Development Corporation (SRDC);
- Airservices Australia;
- Civil Aviation Safety Authority (CASA);
- National Transport Commission (NTC); and
- Australian Rail Track Corporation (ARTC).