

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 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

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 2009 and approved by the Joint Committee of Public Accounts and Audit on 17 June 2009;
- 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* (CAC Orders); 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 31 October each year by the tenth sitting day of the following year. This year, that date is 11 March 2010. The committee is also required to report on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.

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 2002, 14 August 2006: with effect from 11 September 2006, 13 May 2009: with effect on 14 May 2009).

1.6 This report considers annual reports which were tabled in the Senate or presented to the President of the Senate between 1 May 2009 and 31 October 2009.

1.7 The committee examined eight annual reports of agencies within the Agriculture, Fisheries and Forestry portfolio and six annual reports of agencies within the Infrastructure, Transport, Regional Development and Local Government portfolio, as follows:

- Department of Agriculture, Fisheries and Forestry—Report for 2008-09;
- Australian Wine and Brandy Corporation—Report for 2008-09;
- Australian Pesticides and Veterinary Medicines Authority—Report for 2008-09;
- Wheat Exports Australia—Report for 2008-09;
- Northern Territory Fisheries Joint Authority—Report for 2006-07;
- Queensland Fisheries Joint Authority—Report for 2005-06;
- Torres Strait Protected Zone Joint Authority—Report for 2006-07;
- Western Australian Fisheries Joint Authority—Report for 2004-05;
- Department of Infrastructure, Transport, Regional Development and Local Government—Report for 2008-09;
- Airservices Australia—Report for 2008-09;
- Civil Aviation Safety Authority—Report for 2008-09;
- National Transport Commission—Report for 2008-09;
- Australian River Co. Limited—Report for 1 December 2007 to 30 November 2008; and
- International Air Services Commission—Report for 2008-09.

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 13 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 January to 30 June 2009;
- *Australian Meat and Live-stock Industry Act 1997*—Report to Parliament in relation to statutory funding agreement with the Australian Livestock Export Corporation Limited (LiveCorp)—Report for 2007-08;

- Dairy Australia Limited—Deed of variation to statutory funding agreement with the Commonwealth (Deed dated September 2009);
- *Dairy Produce Act 1986*— Report to Parliament in relation to statutory funding agreement with Dairy Australia Limited—Report for 2007-08;
- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region—Report for 2004-05;
- 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—Report for 2004-05;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region—Report for 2004-05;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region—Report for 2005-06;
- Airservices Australia—Corporate Plan 2009-2014;
- Australian Rail Track Corporation Ltd—Statement of corporate intent 2009-10;
- *Local Government (Financial Assistance) Act 1995*—Report for 2006-07 on the operation of the Act;
- *Sydney Airport Demand Management Act 1997*—quarterly report on the maximum movement limit for the period 1 January to 31 March 2009; and
- *Sydney Airport Demand Management Act 1997*—quarterly report on the maximum movement limit for the period 1 April to 30 June 2009.

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.² Those agencies reporting under the CAC Act are required to provide their annual reports to the Minister by the

2 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2009, p. 1 (section 4).

15th day of the fourth month after the end of the financial year.³ Where the financial year ends on 30 June, this deadline translates to 15 October.

1.12 A number of annual reports were tabled in the Senate after the appropriate deadlines, beyond the date that they may be considered in this report. Annual reports which were tabled late will be examined in the committee's next report on annual reports. A list of those reports appears at Appendix 2.

1.13 Although not subject to the timeframes in the CAC Act or the *Financial Management and Accountability Act 1997* (FMA Act), the committee notes significant delays in the tabling of the following reports:

- Northern Territory Fisheries Joint Authority—Report for 2006-07;
- Queensland Fisheries Joint Authority—Report for 2005-06;
- Torres Strait Protected Zone Joint Authority—Report for 2006-07;
- Western Australian Fisheries Joint Authority—Report for 2004-05;
- Regional Forest Agreement for the Eden Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Eden Region—Report for 2004-05;
- 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—Report for 2004-05;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region—Report for 2004-05;
- Regional Forest Agreement for the Southern Region of New South Wales – Progress on the implementation of the Regional Forest Agreement for the Southern Region—Report for 2005-06; and
- *Local Government (Financial Assistance) Act 1995*—Report for 2006-07 on the operation of the Act.

1.14 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.⁴

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

4 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2009, p. 1 (section 4).

Comments on reports

1.15 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.

1.16 The committee considers that the reports examined are generally 'apparently satisfactory', although some do not comprehensively address all of their legislative requirements. While any divergence from these requirements is mostly minor in nature, the committee encourages agencies to pay particular attention to the matters discussed below.

Aids to Access: Indexes

Alphabetical indexes

1.17 Under subsection 8(2) of the Requirements for Annual Reports, all annual reports are required to incorporate aids to access, including alphabetical indexes.⁵ 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

1.18 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.⁶ 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.

1.19 The committee found that some compliance indexes were more useful than others. A number of 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.

1.20 The committee commends those agencies which included compliance indexes for each piece of legislation they are required to report under. 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.

5 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2009, pp 4 and 16.

6 See for example, Senate Rural and Regional Affairs and Transport Legislation Committee, *Annual reports (No. 2 of 2009)*, p. 6.

1.21 The committee is disappointed that despite comments made in its previous reports, the NTC again failed to include a compliance index in its annual report.⁷ Consequently the committee found it difficult to determine whether this report complied with a number of relevant requirements.

Report on performance

1.22 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 CAC Orders, and whether they have achieved their objectives.⁸

Legislative requirements for Commonwealth authorities

1.23 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:⁹

- *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.

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

1.25 The committee reminds agencies that they are required to report on all five requirements under subsection 516A(6) of the EPBC Act. Several agencies failed to include information required under paragraphs 516(6)(c) and (e) of the EPBC Act, in relation to documenting the effect of activities on the environment and mechanisms for reviewing and improving these measures. The committee encourages agencies to address these requirements in more detail in future.

1.26 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

7 Senate Rural and Regional Affairs and Transport Committee, *Annual reports (No. 1 of 2006)*, p. 4; *Annual reports (No. 1 of 2007)*, p. 6; *Annual reports (No. 2 of 2008)*, pp 6–7; and *Annual reports (No. 2 of 2009)*, p. 6.

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

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

exist for others to participate in the agency's policy formulation process. The committee notes that Airservices Australia, the Civil Aviation Safety Authority (CASA) and the Department of Agriculture, Fisheries and Forestry (DAFF) addressed the FOI requirements comprehensively.

1.27 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 DAFF and CASA annual reports provide good examples of how this requirement should be addressed.

Commonwealth Disability Strategy

1.28 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.¹⁰ 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. The committee considers that the Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure) has addressed this requirement to a high standard.

Consultancy contracts and competitive tendering and contracting

1.29 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.¹¹ 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 basic information about consultancies, some 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.

1.30 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.

1.31 The committee commends Infrastructure, Wheat Exports Australia (WEA) and the Australian Pesticides and Veterinary Medicines Authority (APVMA) for fully

10 *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>.

11 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2009, pp 10–12 and 24–27.

complying with this requirement and providing information on consultancy services in accordance with the mandatory proforma.

Fraud Control Certification

1.32 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:

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.¹²

1.33 The committee encourages agency heads to make a specific certification in keeping with the guidelines. The committee highlights the Australian Wine and Brandy Corporation (AWBC), DAFF and Infrastructure annual reports as examples of how to fully comply with this requirement.

Consistency of reporting documents

1.34 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.¹³

1.35 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.

1.36 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

12 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 2009, p. 7.

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

accountability process would be enhanced if both the former and the new performance information were provided, as well as the reasons for the revisions.

1.37 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.¹⁴ In addition, agencies are encouraged to provide information on expenditure by outcome/output in a form that is comparable with budget documentation.

1.38 Once again, the committee notes that Infrastructure has complied with this requirement particularly well. New or modified performance indicators since the 2008-09 Portfolio Budget Statements (PBS) are clearly identified in a table format at Appendix K of Infrastructure's annual report.

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.

1.41 In Chapter 2, the committee has considered the following annual reports:

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

1.42 In Chapter 3, the committee has considered the annual reports of the following agencies:

- Australian Wine and Brandy Corporation;
- Australian Pesticides and Veterinary Medicines Authority;
- Wheat Exports Australia;
- Airservices Australia;
- Civil Aviation Safety Authority; and
- National Transport Commission.

14 Department of Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, June 2009, p. 5.