

ANNUAL REPORTS (DEPARTMENTS) ACT 1985 No.156

NEW SOUTH WALES.



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ANNUAL REPORTS (DEPARTMENTS) ACT 1985 No. 156

New South Wales



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ELIZABETHÆ II REGINÆ

Act No. 156, 1985

An Act to make provision with respect to the annual reports of certain
Departments. [Assented to, 28th November, 1985.]

See also Miscellaneous Acts (Annual Reports—Departments) Amendment Act 1985; Miscellaneous Acts (Special Deposits Account)
Amendment Act 1985; Public Finance and Audit (Further Amendment) Act 1985.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART I
PRELIMINARY

Short title

1. This Act may be cited as the "Annual Reports (Departments) Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"appropriate Minister", in relation to a Department, means the Minister responsible for the Department;

"Department" means a person, group of persons or body specified in Column 1 of Schedule 3 to the Public Finance and Audit Act 1983;

"Department Head", in relation to a Department, means the person holding the position specified in Column 2 of Schedule 3 to the Public Finance and Audit Act 1983 opposite the name or description of the Department in Column 1 of that Schedule;

"financial year" means—

- (a) in relation to a Department, other than the Department of Education or the Department of Technical and Further Education—the financial year of the Department determined in accordance with section 4 of the Public Finance and Audit Act 1983; and

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(b) in relation to the Department of Education and the Department of Technical and Further Education—

- (i) for the purpose of preparing financial statements in accordance with Division 4A of Part III of the Public Finance and Audit Act 1983—the financial year determined in accordance with section 4 of that Act; and
- (ii) for the purpose of preparing the report of the operations of each Department and the annual report of each Department in accordance with this Act and the regulations—the period from 1 January to the next following 31 December;

“Public Accounts Committee” means the Public Accounts Committee for the time being constituted under Part IV of the Public Finance and Audit Act 1983;

“regulations” means the regulations made under this Act.

Auditor

4. For the purposes of this Act and the regulations, the auditor of a Department is—

- (a) except as provided by paragraph (b)—the Auditor-General; or
- (b) in relation to the Auditor-General’s Office—the auditor appointed for the time being under section 47 (1) of the Public Finance and Audit Act 1983.

Relationship with other Acts, etc.

5. The provisions of this Act and the regulations are in addition to any other statutory provisions relating to the preparation of an annual report of a Department but, in the event of any inconsistency between the provisions of this Act and the regulations and any other such statutory provisions, the provisions of this Act and the regulations shall, to the extent of the inconsistency, prevail.

Inclusion of other reports in annual reports

6. Where, under any other statutory provision, the appropriate Minister or a Department Head is required to prepare an annual report relating to any function of the Department, it shall be sufficient compliance with that provision if the report is included in the annual report of the Department prepared in accordance with this Act and the regulations.

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Application of Act to Auditor-General's Office

7. Sections 12, 13, 14 and 16 do not apply to or in respect of the Auditor-General or the Auditor-General's Office.

Act binds Crown

8. This Act binds the Crown.

**PART II
ANNUAL REPORTS**

Annual reports

9. (1) The annual report of a Department shall comprise—
- (a) except as provided by subsection (2), financial statements prepared in accordance with Division 4A or 5 of Part III of the Public Finance and Audit Act 1983, as the case requires, and the regulations under that Act;
 - (b) the certificate of the auditor as to those statements;
 - (c) a report of the operations of the Department prepared in accordance with this Act and the regulations; and
 - (d) such other matters as may be prescribed.
- (2) The Treasurer may, after consultation with the appropriate Minister—
- (a) direct a Department Head to prepare the financial statements in relation to—
 - (i) a branch or section of the Department specified in the direction; or
 - (ii) a fund or account of the Department or a branch or section of the Department specified in the direction,in accordance with Division 3 of Part III of the Public Finance and Audit Act 1983; and
 - (b) give other directions as to the content and form of those financial statements for the purpose of enabling them to be consolidated

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with or otherwise related to the other financial statements of the Department.

(3) A Department Head shall comply with a direction given to the Department Head under subsection (2).

Preparation of report of operations

10. A Department Head shall, within the period of 4 months after the end of each financial year of the Department, prepare a report of its operations for the financial year then ended.

Nature of report of operations

11. (1) The report of the operations referred to in section 10 of a Department shall include (whether in the following order or otherwise) particulars in relation to the following matters:

- (a) charter;
- (b) aims and objectives;
- (c) access;
- (d) management and structure;
- (e) summary review of operations;
- (f) legal change.

(2) The report of the operations referred to in section 10 of a Department shall, in addition to the particulars and matters referred to in subsection (1), include such particulars, if any, as may be prescribed in relation to such matters, if any, as may be prescribed.

(3) The report of the operations referred to in section 10 of a Department shall be prepared in such manner, if any, and such form, if any, as may be prescribed.

Submission of annual report to appropriate Minister

12. (1) A Department Head shall, not later than 4 months after the end of the financial year of the Department, submit the Department's annual report in relation to that financial year to the appropriate Minister.

(2) A Department Head shall, at the time the Department Head submits the Department's annual report to the appropriate Minister, where the

appropriate Minister is not the Treasurer, submit a copy of the annual report to the Treasurer.

Presentation of annual report to Parliament

13. (1) The appropriate Minister shall, within the period of 1 month after the receipt by that Minister of the annual report of a Department, lay the report or cause it to be laid before both Houses of Parliament.

(2) If, within or on the expiration of the period referred to in subsection (1), the Legislative Assembly is not sitting, the appropriate Minister shall transmit copies of the annual report to the Clerk of the Parliaments and the Clerk of the Legislative Assembly.

(3) Where the appropriate Minister has, in accordance with subsection (2), transmitted copies of an annual report to the Clerk of the Parliaments and the Clerk of the Legislative Assembly, the report shall be deemed to have been laid before both Houses of Parliament and to be a document published under the authority of both Houses of Parliament.

Public availability of annual reports

14. A Department Head shall, as soon as practicable after the Department's annual report has been laid before both Houses of Parliament in accordance with section 13 (1) or copies of the annual report have been transmitted to the Clerk of the Parliaments and the Clerk of the Legislative Assembly in accordance with section 13 (2), make copies of the report available for public sale or distribution in such manner or at such place or places as may be prescribed.

Annual report of Auditor-General's Office

15. The Auditor-General shall include the annual report of the Auditor-General's Office as an appendix to the report prepared in accordance with section 49 (1) of the Public Finance and Audit Act 1983 for the year to which the annual report relates.

Application for extension of time

16. (1) A Department Head may, at any time within the period of 6 weeks after the end of the financial year of the Department, apply to the Treasurer for an extension of the period within which the Department Head is required to comply with section 10 or 12.

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(2) An application under subsection (1) shall include detailed reasons and other relevant information in support of the application.

(3) The Treasurer may, after consultation with the appropriate Minister, extend a period within which a Department Head is required to comply with section 10 or 12 or any requirement of those sections.

(4) Where the Treasurer extends a period within which a Department Head is required to comply with section 10 or 12 or any requirement of those sections, the Department Head shall comply with section 10 or 12 or the requirement, as the case may require, within the extended period.

(5) Where the Treasurer—

- (a) under section 45H of the Public Finance and Audit Act 1983, extends a period within which a Department Head is required to comply with section 45D of that Act or any requirement of section 45D of that Act; or
- (b) under this section, extends a period within which a Department Head is required to comply with section 10 or 12, or any requirement of those sections, as the case may be,

the Department Head shall include in the Department's annual report in respect of which the extension is granted particulars of the extension.

PART III
MISCELLANEOUS

Land register

17. (1) A Department Head shall, within such time or times as may be specified by the Secretary of the Premier's Department and in accordance with such directions as may be given by the Secretary, furnish to the Secretary details of—

- (a) all land vested in or owned or occupied by, or subject to the control of, the appropriate Minister or the Department;
- (b) the current use of that land;
- (c) all land which is, at the time at which the details are furnished,

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considered by the Department Head to be essential to the operations of the Department;

- (d) all land which is, at the time at which the details are furnished, considered by the Department Head not to be essential to the operations of the Department; and
- (e) such other matters relating to the land vested in or owned or occupied by, or subject to the control of, the appropriate Minister or the Department as the Secretary may determine.

(2) Without limiting the generality of subsection (1) (e), the Secretary of the Premier's Department may require a Department Head to give detailed reasons and other relevant information to indicate why land to which subsection (1) (c) applies is considered by the Department Head to be essential to the operations of the Department.

(3) The Secretary of the Premier's Department shall cause to be kept a register which includes the details furnished to the Secretary under this section.

(4) The Secretary of the Premier's Department may exempt a Department Head from compliance with such of the provisions of this section as are specified in the exemption.

(5) An exemption may be granted generally or subject to such conditions as the Secretary of the Premier's Department may specify in the exemption or in relation to such matters as may be so specified.

(6) An exemption ceases to apply where the Secretary of the Premier's Department, by notice in writing, so informs the Department Head to whom the exemption was granted.

Additional information

18. (1) The Treasurer or the appropriate Minister may, at any time, direct a Department Head to provide, within such time, if any, as is specified in the direction, as part of the Department's annual report or by means of a separate report, such information relating to the accounts or operations, or both, of the Department as is so specified.

(2) A Department Head shall comply with a direction given to the Department Head under subsection (1).

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(3) Except in so far as the Treasurer or the appropriate Minister, as the case may require, may otherwise determine, having regard to—

- (a) the confidential nature of any information provided by a Department Head in accordance with this section;
- (b) the effect of the dissemination of that information on the business or commercial operations of the Department; or
- (c) the circumstances of the case and the public interest,

section 13 applies to and in respect of a separate report, provided under subsection (1), of a Department in the same way as it applies to and in respect of the Department's annual report.

Reference of matters to Public Accounts Committee

19. (1) The Treasurer may refer any matter relating to the annual reports of Departments to the Public Accounts Committee for examination and report to the Treasurer.

(2) The Treasurer shall refer to the Public Accounts Committee for examination and report to the Treasurer any proposal to amend this Act or make a regulation, other than a proposal made by the Public Accounts Committee.

(3) Nothing in subsection (2) requires the Treasurer to refer a proposal to the Public Accounts Committee if, at the time the Treasurer formulates or receives the proposal—

- (a) no members have been appointed to the Committee; or
- (b) the members of the Committee have ceased to hold office.

(4) Nothing in subsection (1) or (2) prevents the Public Accounts Committee, after the Committee has reported to the Treasurer, from reporting to the Legislative Assembly on any matter referred to it by the Treasurer under subsection (1) or (2).

(5) The provisions of section 57 (4) and (5) of the Public Finance and Audit Act 1983 apply to and in respect of a report under subsection (4) in the same way as those provisions apply to and in respect of a report in accordance with section 57 (1) of that Act.

Making of regulations

20. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or

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permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to—

- (a) the information and particulars to be included in the report of the operations of a Department;
- (b) the form of the report of the operations of a Department;
- (c) the manner of preparation of the report of the operations of a Department;
- (d) the distribution to the public of the annual report of a Department;
- (e) the cost of distribution to the public of the annual report of a Department; and
- (f) the granting of exemptions from provisions of the regulations.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, group of persons or body.

or may do any combination of those things.
