



New South Wales

Annual Reports (Departments) Regulation 2010

under the

Annual Reports (Departments) Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Reports (Departments) Act 1985*.

ERIC ROOZENDAAL, MLC
Treasurer

Explanatory note

The object of this Regulation is to repeal and remake the *Annual Reports (Departments) Regulation 2005 (the 2005 Regulation)* which would otherwise be repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

In remaking the 2005 Regulation, this Regulation continues to deal generally with the annual reports to be prepared by Government departments and, in particular, with the report of operations that forms part of any such annual report. However, in implementing various recommendations resulting from a review of annual reporting requirements that was undertaken as part of the Government's Internal Government Red Tape Review, this Regulation removes or modifies several of the reporting requirements contained in the 2005 Regulation. This Regulation also requires Government departments to provide Parliament with an electronic copy of an annual report that is tabled in Parliament (as recommended by the Public Bodies Review Committee in its *Report on an Inquiry into Web-Based Annual Reporting in the NSW Public Sector* of September 2008).

This Regulation is made under the *Annual Reports (Departments) Act 1985*, including sections 6, 9, 11, 14 and 20 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely, matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Annual Reports (Departments) Regulation 2010

under the

Annual Reports (Departments) Act 1985

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Annual Reports (Departments) Regulation 2010*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Annual Reports (Departments) Regulation 2005* which would otherwise be repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

executive officer means a person who holds an executive position, and includes a person acting in such a position for 6 months or more.

executive position means:

- (a) a position in the Chief Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002*, or
- (b) a position in the Senior Executive Service under Chapter 3 of the *Public Sector Employment and Management Act 2002* or in the NSW Police Force Senior Executive Service.

level means the level by which the remuneration of an executive officer is determined, being level 1, 2, 3, 4, 5, 6, 7 or 8.

remuneration package of an executive officer, in relation to a reporting year, means the total amount of the monetary remuneration for the executive officer, and the cost of employment benefits (within the meaning of section 73 of the *Public Sector Employment and Management Act 2002*) provided for the executive officer, under the officer's contract of employment for that year, but does not include any performance-related incentive payments.

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Clause 3 Annual Reports (Departments) Regulation 2010

Part 1 Preliminary

report of the operations of a Department means a report of its operations under section 10 of the Act.

reporting year means:

- (a) in relation to a Department, other than the Department of Education and Training—the financial year of the Department determined in accordance with section 4 of the *Public Finance and Audit Act 1983*, or
- (b) in relation to the Department of Education and Training—the period from 1 January to the next following 31 December.

the Act means the *Annual Reports (Departments) Act 1985*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Annual reports generally

4 Identification of audited financial reports

The start and finish of the audited financial report of a Department required under section 9 (1) (a) of the Act is to be clearly indicated in the annual report of the Department.

5 Inclusion of unaudited financial reports and information

If an unaudited financial report or unaudited financial information is included in the annual report of a Department, the fact that the financial report or financial information has not been audited is to be clearly indicated by note or otherwise.

6 Additional matters for inclusion in annual reports

For the purposes of section 9 (1) (d) of the Act, there must be shown in the annual report of a Department:

- (a) a statement of the action taken by the Department in complying with the requirements of the *Privacy and Personal Information Protection Act 1998*, and
- (b) statistical details of any review conducted by or on behalf of the Department under Part 5 of the *Privacy and Personal Information Protection Act 1998*, and
- (c) particulars of any matter (arising after the end of the reporting year and before the report is submitted to the appropriate Minister under section 12 (1) of the Act) which could have a significant effect in the succeeding reporting year on:
 - (i) the financial operations of the Department, or
 - (ii) the other operations of the Department, or
 - (iii) the clientele or section of the community served by the Department, and
- (d) a statement of the total external costs (such as fees for consultants and printing costs) incurred in producing the report, and
- (e) the Internet address at which the report may be accessed (disclosure of the Department's homepage address is sufficient compliance with this paragraph), and
- (f) a statement of whether the report is available in any other non-printed format (such as on CD-ROM).

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Clause 7 Annual Reports (Departments) Regulation 2010

Part 2 Annual reports generally

7 Performance of executive officers—additional matter for inclusion in annual reports

- (1) For the purposes of section 9 (1) (d) of the Act, there must be shown in the annual report of a Department a statement on the performance of each executive officer of the Department of or above level 5 holding office at the end of the reporting year.
- (2) The statement:
 - (a) is to be made by the person responsible by law for reviewing the officer's performance, and
 - (b) is to indicate the officer's performance having regard to the officer's agreed performance criteria and, if any performance-related incentive payments were paid or payable in respect of the officer, is to include the details set out in subclause (3), and
 - (c) is to be prepared in accordance with guidelines issued to Departments by the Treasurer from time to time.
- (3) The details to be included of the performance-related incentive payments paid or payable to the officer are as follows:
 - (a) if the performance-related incentive payments are accounted for on an accrual basis, the total amount of such payments for the reporting year that were paid or due and payable to the officer,
 - (b) if performance-related incentive payments are accounted for on a cash basis, the total amount of such payments that were paid during the reporting year to the officer, and the periods to which the payments relate,
 - (c) a summary of the criteria for determining the total performance-related incentive payments to the officer as referred to in paragraph (a) or (b).
- (4) This clause also applies to any statutory officer who is the chief executive officer of a Department but does not hold an executive position and, in any such case, applies as provided in guidelines issued to Departments by the Treasurer from time to time.

Part 3 Report of operations

8 Numbers of executive officers

- (1) The report of the operations of a Department is to include the following particulars about the staff of the Department:
 - (a) the number of executive positions at each level at the end of the reporting year, compared with the number at the end of the previous reporting year,
 - (b) the number of female executive officers at the end of the reporting year, compared with the number at the end of the previous reporting year,
 - (c) the name of, position held by and level and remuneration package of each executive officer of or above level 5 holding office at the end of the reporting year.
- (2) This clause also applies to any statutory officer who is the chief executive officer of a Department but does not hold an executive position and, in any such case, applies as provided in guidelines issued to Departments by the Treasurer from time to time.

9 Information and particulars in report of operations

For the purposes of section 11 (2) of the Act, the particulars set out in Column 2 of Schedule 1 are prescribed in relation to the matters described in Column 1 of that Schedule.

10 Annual report of Department of Education and Training to include EEO matters relating to Teaching Service

The report of the operations of the Department of Education and Training is to include a statement setting out the equal employment opportunity achievements of the Teaching Service during the reporting year and the key equal employment opportunity strategies proposed by the Director-General of that Department for the following year in respect of the Teaching Service.

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Clause 11 Annual Reports (Departments) Regulation 2010

Part 4 Miscellaneous

Part 4 Miscellaneous

11 Form of annual reports—generally

- (1) The annual report of a Department must be effectively presented and arranged with attention given to the following:
 - (a) material information reported,
 - (b) logical sequence of information,
 - (c) appropriate layout of information,
 - (d) clear readable text,
 - (e) appropriately captioned charts, diagrams or photographs.
- (2) The annual report of a Department is to contain an index and a table of contents, arranged so as to assist in identifying the reporting requirements of the Act complied with in the report.

12 Form of annual reports—presentation to Parliament

- (1) The copies of an annual report of a Department that are laid before Parliament or distributed to members of Parliament are to be of the size ISO A4.
- (2) The appropriate Minister, in transmitting copies of an annual report to the Clerk of the Parliaments and the Clerk of the Legislative Assembly pursuant to section 13 (2) of the Act, must transmit a sufficient number of copies for distribution to the members of Parliament.

13 Public availability of annual reports

- (1) A Department Head must keep, at the office of the Department, sufficient copies of its annual report to meet normal public demand.
- (2) A Department Head must ensure that a copy of the annual report of the Department:
 - (a) is made publicly available on the Department's Internet site (or other relevant Internet site), and
 - (b) is made available to Parliament (for publication on Parliament's Internet site) in an electronic form determined by the Secretary of the Treasury,as soon as practicable after the report has been presented to Parliament.
- (3) A Department Head must, if required by the Treasurer to do so, furnish copies of its annual report to such person or persons as may be specified by the Treasurer.

14 Exemptions

- (1) The Treasurer may, on application by a Department Head made at any time, grant an exemption from any or all of the provisions of this Regulation (this clause excepted), in relation to the annual report of the Department for a particular reporting year.
- (2) An exemption may be granted subject to such conditions as the Treasurer may determine.
- (3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the Department Head to whom the exemption was granted.
- (4) Details of an exemption, and the reasons for the exemption, must be included under a separate heading entitled "Exemptions from the Reporting Provisions" in the annual report for the reporting year in which the exemption applies.

15 Exemption for small Departments to report annually on certain matters

- (1) This clause applies in relation to any Department that the Secretary of the Treasury determines to be a small Department for the purposes of this clause. In making any such determination, the Secretary may take into consideration the number of staff that are employed in the Department.
- (2) The particulars set out in Column 2 of Schedule 1 in relation to the following matters (as described in Column 1 of that Schedule) are required to be included in a Department's annual report on a triennial basis only (although a Department may include such particulars in its annual report more frequently if it so chooses):
 - (a) Disability plans,
 - (b) Equal employment opportunity,
 - (c) Multicultural policies and services program,
 - (d) Occupational health and safety,
 - (e) Waste.
- (3) A reporting of particulars in relation to a matter set out in subclause (2) (a)–(e) in a Department's annual report must relate to:
 - (a) the reporting year for which the report is prepared (and the following reporting year, if required by Schedule 1), and
 - (b) any of the 2 previous reporting years in relation to which those particulars have not yet been reported in an annual report of the Department.

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Clause 16 Annual Reports (Departments) Regulation 2010

Part 4 Miscellaneous

- (4) A reporting of particulars in relation to a matter set out in subclause (2) (a)–(e) in a Department’s annual report need not relate to any of the 2 previous reporting years in relation to which those particulars have already been reported in an annual report of the Department.

16 Repeal and savings

- (1) The *Annual Reports (Departments) Regulation 2005* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Annual Reports (Departments) Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Report of operations

(Clause 9)

Column 1	Column 2
Charter	A statement of the manner in which and the purpose for which the Department was established and a statement of the principal legislation administered within the Department.
Aims and objectives	Information as to what the Department sets out to do, the range of services provided by the Department and the clientele or section of the community served by the Department.
Access	The address and telephone number of the principal office or offices of the Department and the business and service hours of the Department.
Management and structure	The names of the principal officers of the Department, the offices they occupy and particulars of any appropriate qualifications of those officers. An organisation chart indicating functional responsibilities within the Department.
Summary review of operations	A narrative summary of the significant operations for the reporting year. Selected financial and other quantitative information associated with the administration of programs or the operations of the Department.
Funds granted to non-government community organisations	The name of the organisation receiving the grant of funds. The amount of funds granted. The program area, as defined in the relevant Budget paper for the reporting year. The program, as defined in the relevant Budget paper for the reporting year. Further details in accordance with guidelines issued to the Department by the Treasurer from time to time.
Legal change	Changes in Acts and subordinate legislation and significant judicial decisions affecting the Department or the users of the services provided by the Department.

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Schedule 1 Report of operations

Column 1	Column 2
Economic or other factors	Factors that have affected the achievement of the operational objectives of the Department during the reporting year.
Management and activities	<p>A description of the nature and range of activities undertaken.</p> <p>If practicable, qualitative and quantitative measures and indicators of performance showing the level of efficiency and effectiveness.</p> <p>The nature and extent of performance review practices and of improvements in organisational achievements as assessed by both internal and external performance reviews.</p> <p>Benefits achieved as a result of management and strategy reviews.</p> <p>A description of management improvement plans adopted by the Department and achievements in reaching previous targets.</p> <p>A description of the major problems and issues that have arisen.</p> <p>Details, lists or tables of major works in progress, the cost of those works to date and the estimated dates of completion, together with particulars of significant cost overruns in major works or programs.</p> <p>The reasons for any significant delays to, or amendment, deferment or cancellation of, major works or programs.</p>
Research and development	Particulars of completed research and continuing research and development activities, together with the resources allocated for that research and those activities, unless the inclusion of those particulars would, in the opinion of the Department Head, adversely affect the business or commercial operations of the Department.
Human resources	<p>The number of officers and employees, by category, with comparison to each of not less than 3 years before the reporting year.</p> <p>Any exceptional movement in wages, salaries or allowances.</p> <p>Personnel policies and practices.</p> <p>Industrial relations policies and practices.</p>

Column 1	Column 2
Consultants	<p>In respect of the engagement during the reporting year of a consultant by or on behalf of the Department, the cost of which is equal to or more than \$50,000, the following details relating to the consultant:</p> <ul style="list-style-type: none"> (a) the name of the consultant, (b) if the consultant has been engaged for a particular project, the title of the project, (c) the actual cost of engaging the consultant. <p>In respect of the engagement during the reporting year of consultants by or on behalf of the Department if the cost of each such engagement is less than \$50,000, the following details relating to the consultants:</p> <ul style="list-style-type: none"> (a) the total number of engagements costing less than \$50,000, (b) the total cost of all such engagements. <p>If no consultants were engaged by or on behalf of the Department during the reporting year, a statement of that fact.</p>
Equal employment opportunity	<p>A statement setting out the equal employment opportunity achievements of the Department during the reporting year and the key equal employment opportunity strategies proposed by the Department (as detailed within the Department's EEO Management Plan) for the following year.</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury.</p>
Disability plans	<p>A statement setting out the progress during the reporting year in implementing the Department's disability plan required under the <i>Disability Services Act 1993</i>.</p>

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Schedule 1 Report of operations

Column 1	Column 2
Land disposal	<p>A list of properties disposed of during the reporting year by means other than public auction or tender and that had a value of more than \$5,000,000, including in each case the name of the person who acquired the property and the proceeds from the disposal of the property.</p> <p>Details of any family connection or business association between a person who acquired any property disposed of during the reporting year and the person responsible for approving the disposal of the property.</p> <p>A short statement giving the reasons for the disposal of properties during the reporting year.</p> <p>The purpose or purposes for which the proceeds from the disposal of properties during the reporting year were used.</p> <p>A statement that an application for access to documents concerning details of properties disposed of during the reporting year may be made in accordance with the <i>Government Information (Public Access) Act 2009</i>.</p>
Promotion	<p>Overseas visits undertaken by officers and employees with the main purposes highlighted.</p>
Consumer response	<p>The extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made.</p>
Payment of accounts	<p>Details of performance in paying accounts (assessed in accordance with indicators determined by the Treasurer from time to time) during the reporting year, including details, where appropriate, of action taken to improve performance in paying accounts.</p>
Time for payment of accounts	<p>All instances where interest has become payable as a result of late payment by the Department for goods or services supplied to the Department, and the reason for the delay in making the payment that led to the payment of the interest.</p>
Risk management and insurance activities	<p>A report on the risk management and insurance arrangements and activities affecting the Department.</p>
Controlled entities	<p>A detailed statement of the name, objectives, operations, activities, performance targets and actual performance measures of each entity controlled by the Department that is an entity of the kind referred to in section 45A (1A) of the <i>Public Finance and Audit Act 1983</i>.</p>

Column 1	Column 2
Multicultural policies and services program	A statement setting out the key multicultural strategies proposed by the Department for the following year and the progress in implementing the Department's multicultural policies and services plan and information as to the multicultural policies and services plans of any body reporting to the Department.
Agreements with the Community Relations Commission	A statement describing any agreement entered into between the Department and the Community Relations Commission under the <i>Community Relations Commission and Principles of Multiculturalism Act 2000</i> and a statement setting out the Department's progress in implementing any such agreement.
Occupational health and safety	<p>A statement setting out the Department's occupational health and safety performance during the reporting year (including details of work-related injuries, work-related illnesses and prosecutions under the <i>Occupational Health and Safety Act 2000</i>).</p> <p>Statistical information for the reporting year of such kind, and set out in such form, as is determined by the Secretary of the Treasury.</p>
Waste	<p>A statement on the implementation of the Government's Waste Reduction and Purchasing Policy, including information on measures taken and progress on the following:</p> <ul style="list-style-type: none"> (a) reducing the generation of waste, (b) resource recovery, (c) the use of recycled material.
