

Annual Reports (Statutory Bodies) Act 1984 No 87

[1984-87]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2004 No 91](#) (not commenced — to commence on 1.1.2005)

Authorisation

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Annual Reports (Statutory Bodies) Act 1984 No 87



New South Wales

An Act to make provision with respect to the annual reports of certain statutory bodies.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Annual Reports (Statutory Bodies) Act 1984*.

2 Commencement

- (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 in respect thereof and as may be notified by proclamation published in the Gazette.

3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

appropriate Minister, in relation to a statutory body, means the Minister for the time being administering the Act by or under which the statutory body is appointed, constituted or regulated.

financial year, in relation to a statutory body, means the financial year of the statutory body determined in accordance with section 4 of the *Public Finance and Audit Act 1983*.

Public Accounts Committee means the Public Accounts Committee for the time being constituted under Part 4 of the *Public Finance and Audit Act 1983*.

regulations means the regulations made under this Act.

statutory body means:

- (a) a person, group of persons or body to which Division 3 of Part 3 of the *Public*

Finance and Audit Act 1983 applies, not being an entity referred to in section 39 (1A) of that Act, or

(b) a person, group of persons or body who or which is prescribed to be a statutory body for the purposes of this Act.

(2) In this Act, except in so far as the context or subject-matter otherwise indicates or requires, words importing the neuter gender include the masculine gender and the feminine gender.

(3) Notes included in this Act do not form part of this Act.

4 Auditor

For the purposes of this Act and the regulations, the auditor of a statutory body is:

(a) except as provided by paragraphs (b) and (c)—the Auditor-General, or

(b) where, in relation to the statutory body (other than the Auditor-General's Office), an Act authorises or enables the appointment by the statutory body of an auditor other than the Auditor-General to be the sole auditor in respect of the statutory body—the auditor so appointed, or

(c) in relation to the Auditor-General's Office—the auditor appointed for the time being under section 47 of the *Public Finance and Audit Act 1983*.

5 Relationship with other Acts etc

(1) The provisions of this Act and the regulations are in addition to any other statutory provisions relating to the preparation by a statutory body of an annual report 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.

(2) The regulations may declare a matter that is dealt with by this Act or the regulations to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to:

(a) the whole of the Corporations legislation to which Part 1.1A of the *Corporations Act 2001* of the Commonwealth applies, or

(b) a specified provision of that legislation, or

(c) that legislation other than a specified provision, or

(d) that legislation otherwise than to a specified extent.

Note—

Section 5F of the *Corporations Act 2001* of the Commonwealth provides that if a State law declares a matter

to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth, then the provisions that are the subject of the declaration will not apply in relation to that matter in the State concerned.

- (3) The regulations may declare a relevant provision of this Act to be a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth (either generally or specifically in relation to a provision of the Corporations legislation to which Part 1.1A of the *Corporations Act 2001* of the Commonwealth applies).

Note—

Section 5G of the *Corporations Act 2001* of the Commonwealth provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, then any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply in the State concerned to the extent necessary to avoid the inconsistency.

- (4) In this section:

matter includes act, omission, body, person or thing.

relevant provision of this Act means a provision that is:

- (a) a post-commencement provision within the meaning of section 5G of the *Corporations Act 2001* of the Commonwealth, or
- (b) materially amended within the meaning of that section on or after the commencement of the *Corporations Act 2001* of the Commonwealth if the amendment is enacted on or after that commencement.

5A Inclusion of other reports in annual reports

- (1) Where, under any other statutory provision, the appropriate Minister or a statutory body is required to prepare an annual report relating to any function of the statutory body, it shall be sufficient compliance with that provision if the report is included in the annual report of the statutory body prepared in accordance with this Act and the regulations.
- (2) A reference in subsection (1) to a statutory body includes, in relation to any function conferred or imposed by the *Freedom of Information Act 1989*, a reference to any body or office that is, pursuant to that Act, to be taken to be included in the statutory body for the purposes of that Act.

5B Inclusion of report of Statutory Trustee of Trust Funds in annual report

- (1) A statutory body that is required to prepare an annual report relating to its function as the Statutory Trustee of a Fund within the meaning of the *Technical Education Trust Funds Act 1967* may include the report in the annual report relating to the statutory body itself.
- (2) An annual report that is required to be prepared by a University relating to its function

as the Statutory Trustee of a Fund within the meaning of the *Technical Education Trust Funds Act 1967* may be included in the annual report of the governing authority of the University.

6 Act binds Crown

This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

6A Application of Act to Auditor-General's Office

Sections 10, 11, 12 and 13 do not apply to or in respect of the Auditor-General's Office.

Part 2 Annual reports

7 Annual reports

(1) The annual report of a statutory body shall comprise:

(a) in the case of a statutory body to which paragraph (a) of the definition of **statutory body** in section 3 (1) applies:

(i) financial statements prepared in accordance with Division 3 of Part 3 of the *Public Finance and Audit Act 1983* and the regulations under that Act,

(ia) the financial statements so prepared of each entity referred to in section 39 (1A) of the *Public Finance and Audit Act 1983* which is controlled by the statutory body,

(ii) the opinions of the auditor given in accordance with Division 3 of Part 3 of that Act as to the statements referred to in paragraphs (i) and (ia),

(iia) a response from the statutory body to any issue which the Auditor-General or an authorised person raises in a report under section 43 (2) of the *Public Finance and Audit Act 1983* as being a significant issue,

(iii) except as provided by subsection (2), a detailed budget for the financial year to which those statements relate and an outline budget for the next following financial year,

(iv) a report of the operations of the statutory body prepared in accordance with this Act and the regulations, and

(v) such other matters as may be prescribed, or

(b) in the case of a statutory body to which paragraph (b) of the definition of **statutory body** in section 3 (1) applies—such financial statements, opinions, budgets, reports and other matters as may be prescribed.

- (2) A statutory body may, with the approval of the Treasurer, dispense with the inclusion in the annual report of the statutory body of the detailed budget, or the outline budget, referred to in subsection (1) (a) (iii), or both.

8 Preparation of report of operations

A statutory body shall, within the period of 4 months after the end of each financial year of the statutory body, prepare a report of its operations for the financial year then ended and, in the case of a statutory body being the Senate or Council of a university, a report of the operations of the university for the financial year then ended.

9 Nature of report of operations

- (1) The report of the operations referred to in section 8 of a statutory body 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 8 of a statutory body shall, in addition to the 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 8 of a statutory body shall be prepared in such manner, if any, and such form, if any, as may be prescribed.

9A Letter of submission

The report of the operations referred to in section 8 of a statutory body is to include a letter of submission to the appropriate Minister:

- (a) stating that the report is being submitted to the Minister for presentation to Parliament, and
- (b) specifying the provisions under which the report has been prepared, and
- (c) if the report is being submitted late—stating the length of and reasons for any extension of time under section 13, and
- (d) if the report is being submitted late and no application has been made under section

13 to cover that lateness—stating the reasons for the lateness and for the failure to make the application, and

- (e) signed by 2 members of the statutory body which prepared the report (or, if the statutory body is a corporation sole, by the person who constitutes it, or, if it is a statutory body without members, by its chief executive officer).

10 Submission of annual report to appropriate Minister

- (1) A statutory body shall, not later than 4 months after the end of the financial year of the statutory body, submit its annual report in relation to that financial year to the appropriate Minister.
- (2) A statutory body shall, at the time it submits its annual report to the appropriate Minister, where the appropriate Minister is not the Treasurer, submit a copy of its annual report to the Treasurer.

11 Presentation of annual report to Parliament

- (1) The appropriate Minister shall, within the period of 1 month after the receipt by that Minister of the annual report of a statutory body, lay the report or cause it to be laid before both Houses of Parliament.
- (1A) If a report is late in being laid before a House of Parliament, the appropriate Minister is to make or table a statement (or to cause a statement to be tabled) in that House as to the extent of, and the reasons for, that lateness.
- (2) If a House of Parliament is not sitting when the appropriate Minister seeks to comply with subsection (1) or (1A), the appropriate Minister shall present copies of the annual report or statement to the Clerk of the House of Parliament.
- (3) An annual report or statement presented to the Clerk of a House of Parliament shall:
 - (a) on presentation and for all purposes, be deemed to have been laid before the House of Parliament,
 - (b) be printed by authority of the Clerk of the House,
 - (c) for all purposes be deemed to be a document published by order or under the authority of the House, and
 - (d) be recorded:
 - (i) in the case of the Legislative Council—in the Minutes of the Proceedings of the Legislative Council, or
 - (ii) in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly,

on the first sitting day of the House after receipt of the annual report or statement by the Clerk.

12 Public availability of annual reports

A statutory body shall, as soon as practicable after its annual report has been laid, or is deemed to have been laid, before both Houses of Parliament in accordance with section 11, make copies of the report available for public sale or distribution in such manner or at such place or places as may be prescribed.

12A Annual report of Auditor-General's Office

- (1) The Auditor-General is to present the annual report of the Auditor-General's Office to the Legislative Assembly not later than 4 months after the end of the financial year of the Office to which the annual report relates.
- (2) If, at the time at which the Auditor-General seeks to present the annual report to the Legislative Assembly the Legislative Assembly is not sitting, the Auditor-General is to present the annual report to the Clerk of the Legislative Assembly.
- (3) If the Auditor-General has, in accordance with subsection (2), presented the annual report to the Clerk of the Legislative Assembly, the annual report:
 - (a) is, on presentation and for all purposes, taken to have been laid before the Legislative Assembly, and
 - (b) is to be printed by authority of the Clerk of the Legislative Assembly, and
 - (c) is, for all purposes, taken to be a document published by order or under the authority of the Legislative Assembly, and
 - (d) is to be recorded in the Votes and Proceedings of the Legislative Assembly on the first sitting day of the Legislative Assembly after receipt of the report by the Clerk of the Legislative Assembly.

13 Application for extension of time

- (1) A statutory body may, at any time within the period of 3 months after the end of the financial year of the statutory body, apply to the Treasurer for an extension of the period within which it is required to comply with section 8 or 10.
- (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 statutory body is required to comply with section 8 or 10 or any requirement of those sections.
- (4) Where, in relation to a statutory body, the Treasurer extends a period within which a

statutory body is required to comply with section 8 or 10 or any requirement of those sections, the statutory body shall comply with section 8 or 10 or the requirement, as the case may require, within the extended period.

- (5) Where, in relation to a statutory body, the Treasurer:
- (a) under section 42 of the *Public Finance and Audit Act 1983*, extends a period within which a statutory body is required to comply with section 41A or 41C of that Act or any requirement of those sections, as the case may be, or
 - (b) under this section, extends a period within which a statutory body is required to comply with section 8 or 10 or any requirement of those sections, as the case may be,

the statutory body shall include in the annual report in respect of which the extension is granted particulars of the extension.

Part 3 Miscellaneous

14 Land register

- (1) A statutory body shall, within such time or times as may be specified by the Director-General of the Department of Lands and in accordance with such directions as may be given by the Director-General, furnish to the Director-General details of:
- (a) all land owned or occupied by the statutory body,
 - (b) the current use of that land,
 - (c) all land which is, at the time at which the details are furnished, considered by the statutory body to be essential to its operations,
 - (d) all land which is, at the time at which the details are furnished, considered by the statutory body not to be essential to its operations,
 - (e) in relation to land to which paragraph (d) applies:
 - (i) a valuation of the current market value of that land, and
 - (ii) the date and source of that valuation, and
 - (f) such other matters relating to the land owned or occupied by the statutory body as the Director-General may determine.
- (2) Without limiting the generality of subsection (1) (f), the Director-General of the Department of Lands may require a statutory body to give detailed reasons and other relevant information to indicate why land to which subsection (1) (c) applies is considered by the statutory body to be essential to its operations.

- (3) A statutory body shall, at intervals of not more than 3 years, review a valuation of the current market value of land to which subsection (1) (d) applies.
- (4) The Director-General of the Department of Lands shall cause to be kept a register which includes the details furnished to the Director-General under this section.
- (5) Where the Valuer-General is of the opinion that:
 - (a) any matter furnished to the Director-General of the Department of Lands under this section, or
 - (b) any matter included in the register kept under subsection (4),is incorrect, inadequate or inappropriate, the Valuer-General shall make a report to the Director-General accordingly.

15 Additional information

- (1) The Treasurer or the appropriate Minister may, at any time, direct a statutory body to provide, within such time, if any, as is specified in the direction, as part of its annual report or by means of a separate report, such information relating to the accounts or operations, or both, of the statutory body as is so specified.
- (2) A statutory body shall comply with a direction given to it under subsection (1).
- (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 statutory body in accordance with this section,
 - (b) the effect of the dissemination of that information on the business or commercial operations of the statutory body, or
 - (c) the circumstances of the case and the public interest,section 11 applies to and in respect of a separate report, provided under subsection (1), of a statutory body in the same way as it applies to and in respect of the annual report of a statutory body.

16 Reference of matters to Public Accounts Committee

- (1) The Treasurer may refer any matter relating to the annual reports of statutory bodies 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.

16A Delegation of Treasurer's functions

- (1) The Treasurer may delegate to an authorised person any of the functions of the Treasurer under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Treasurer under this section if the delegate is authorised in writing to do so by the Treasurer.
- (3) In this section, **authorised person** means a member of the staff of the Treasury, or a person of a class prescribed by the regulations or approved by the Treasurer.

17 Making of regulations

- (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 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 statutory body,
 - (b) the form of the report of the operations of a statutory body,
 - (c) the manner of preparation of the report of the operations of a statutory body,
 - (d) the distribution to the public of the annual report of a statutory body,
 - (e) the cost of distribution to the public of the annual report of a statutory body, 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.