

Annual Reports (Departments) Act 1985 No 156

[1985-156]



New South Wales

Status Information

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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**
Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009 No 54 (not commenced — to commence on 1.7.2010)

Authorisation

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Annual Reports (Departments) Act 1985 No 156



New South Wales

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

Part 1 Preliminary

1 Name of Act

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

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 and notified by proclamation published in the Gazette.

3 Definitions

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—the financial year of the Department determined in accordance with section 4 of the *Public Finance and Audit Act 1983*, and
- (b) in relation to the Department of Education:
 - (i) for the purpose of preparing a financial report in accordance with Division 4A of

Part 3 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 the Department and the annual report of the 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 4 of the *Public Finance and Audit Act 1983*.

regulations means the regulations made under this Act.

3A Notes

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 Department is the Auditor-General.

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 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.
- (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.

6 Inclusion of other reports in annual reports

- (1) 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.
- (2) A reference in subsection (1) to a Department 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 Department for the purposes of that Act.

7 Inclusion of report of Statutory Trustee of Trust Funds in annual report

- (1) A Department that is required to prepare an annual report under the *Annual Reports (Statutory Bodies) Act 1984*, 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 Department itself.
- (2) A reference in subsection (1) to a Department includes a reference to any body or office that is taken to be included in the Department for the purposes of the *Public Finance and Audit Act 1983*.

8 Act binds Crown

This Act binds the Crown.

Part 2 Annual reports

9 Annual reports

- (1) The annual report of a Department shall comprise:
 - (a) except as provided by subsection (2), the Department's financial report prepared in accordance with Division 4A of Part 3 of the *Public Finance and Audit Act 1983* and the regulations under that Act,
 - (a1) the financial report so prepared of each entity referred to in section 45A (1A) of the *Public Finance and Audit Act 1983* that is controlled by the Department,
 - (b) the opinion of the auditor given in accordance with that Division as to any financial report referred to in paragraph (a) or (a1),
 - (b1) a response from the Department Head to any issue which the Auditor-General or an authorised person raises in a report under section 45I (2) of the *Public Finance and Audit Act 1983* as being a significant issue,
 - (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 a financial report 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 3 of the *Public Finance and Audit Act 1983*, and
 - (b) give other directions as to the content and form of the financial report for the purpose of enabling it to be consolidated with or otherwise related to the Department's financial report.
- (3) A Department Head shall comply with a direction given to the Department Head under subsection (2).

10 Preparation of report of operations

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.

11 Nature of report of operations

- (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.

11A Letter of submission

The report of the operations referred to in section 10 of a Department 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 16, and
- (d) if the report is being submitted late and no application has been made under section 16 to cover that lateness—stating the reasons for the lateness and for the failure to make the application, and
- (e) signed by the Department Head who prepared the report.

12 Submission of annual report to appropriate Minister

- (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.

13 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 Department, 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.

14 Public availability of annual reports

A Department Head shall, as soon as practicable after the Department's annual report has been laid, or is deemed to have been laid, before both Houses of Parliament in accordance

with section 13, make copies of the report available for public sale or distribution in such manner or at such place or places as may be prescribed.

15 (Repealed)

16 Application for extension of time

- (1) A Department Head may, at any time within the period of 3 months 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.
- (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 3 Miscellaneous

17 Land register

- (1) A Department Head 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 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, considered by the Department Head to be essential to the operations of the Department, and
 - (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 Director-General may determine.
- (2) Without limiting the generality of subsection (1) (e), the Director-General of the Department of Lands 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 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.
- (4) The Director-General of the Department of Lands 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 Director-General of the Department of Lands may specify in the exemption or in relation to such matters as may be so specified.
- (6) An exemption ceases to apply where the Director-General of the Department of Lands, by notice in writing, so informs the Department Head to whom the exemption was granted.

18 Additional information

- (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 financial report 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).
- (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.

19 Reference of matters to Public Accounts Committee

- (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.

19A 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.

20 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 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.