

# Annual Reports (Statutory Bodies) Regulation 2010

[2010-469]



New South Wales

## Status Information

### Currency of version

Historical version for 27 August 2010 to 7 August 2014 (accessed 26 November 2024 at 14:57)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Authorisation

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File last modified 27 August 2010

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New South Wales

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# Annual Reports (Statutory Bodies) Regulation 2010



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Reports (Statutory Bodies) Act 1984*.

ERIC ROOZENDAAL, MLC Treasurer

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Annual Reports (Statutory Bodies) 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This Regulation repeals and replaces the *Annual Reports (Statutory Bodies) Regulation 2005* which would otherwise be repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.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) a person who holds an executive position, and includes a person acting in such a position for 6 months or more, or
- (b) a person who is concerned in, or takes part in, the management of a statutory State owned corporation or any of its subsidiaries (regardless of the person's designation and whether or not the person is a director of the corporation), or
- (c) a person who holds a position on the executive staff of a university, 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:

- (a) in relation to a person who holds or acts in an executive position, the level by which the remuneration of an executive officer is determined, being level 1, 2, 3, 4, 5, 6, 7 or 8, or
- (b) in relation to a person who is an executive officer of a statutory State owned corporation, that the amount of the remuneration package payable to the person is within the range of amounts of the remuneration packages payable to a person who holds an executive position of that level, or
- (c) in relation to a person who holds or acts in a position on the executive staff of a university, that the amount of the remuneration package payable to the person in respect of that position is within the range of amounts of the remuneration packages payable to a person who holds an executive position of that level.

**remuneration package** means:

- (a) when used in relation to a person who holds or acts in an executive position, in relation to a reporting year, the total amount of the monetary remuneration for the person, and the cost of employment benefits (within the meaning of section 73 of the *Public Sector Employment and Management Act 2002*) provided for the person, under the person's contract of employment for that year, but does not include any performance-related incentive payments, or
- (b) when used in relation to a person who is concerned in, or takes part in, the management of a statutory State owned corporation, in relation to a reporting year, the total amount of any money and the cost of any consideration or other benefit paid or payable (directly or indirectly) to the officer in connection with the management of the affairs of the corporation or any of its subsidiaries in respect of the year, whether as an executive officer or otherwise, but does not include:
  - (i) amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the corporation or any of its subsidiaries, or
  - (ii) performance-related incentive payments, or
- (c) when used in relation to a person who holds a position on the executive staff of a university, the total amount of any money and the cost of any consideration or other benefit paid or payable (directly or indirectly) to the person in connection

with the person's holding of that position, but does not include:

- (i) amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the university or any of its subsidiaries, or
- (ii) any performance-related incentive payments.

**report of the operations** of a statutory body means a report of its operations under section 8 of the Act.

**reporting year** means the financial year to which the annual report for that year relates.

**the Act** means the *Annual Reports (Statutory Bodies) Act 1984*.

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

#### **4 Prescription of certain statutory bodies**

The following persons, groups of persons or bodies are prescribed to be statutory bodies for the purposes of the Act under paragraph (b) of the definition of **statutory body** in section 3 (1) of the Act:

The Dumaresq-Barwon Border Rivers Commission

Heritage Council of New South Wales

## **Part 2 Annual reports generally**

#### **5 Identification of audited financial reports**

The start and finish of the audited financial report of a statutory body required under section 7 (1) (a) (i) of the Act is to be clearly indicated in the annual report of the statutory body.

#### **6 Inclusion of unaudited financial reports and information**

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

#### **7 Detailed budget**

If the detailed budget included, under section 7 (1) (a) (iii) of the Act, in the annual report of a statutory body for a reporting year:

- (a) is the first budget approved (after consideration by the Government, if that consideration is required) by the body for that reporting year, there must be included in the annual report, by means of appropriate notes to the detailed budget, particulars of any subsequent material adjustments to the detailed budget, or

- (b) is not the first budget so approved, there must be included in the annual report, by means of appropriate notes to the detailed budget, particulars of any material adjustments made to the first budget so approved to produce the detailed budget.

## **8 Place for inclusion of detailed budget**

The detailed budget included, under section 7 (1) (a) (iii) of the Act, in the annual report of a statutory body for a reporting year may be included with the audited financial report of the body required under section 7 (1) (a) (i) of the Act.

## **9 Annual reports of prescribed statutory bodies**

- (1) For the purposes of section 7 (1) (b) of the Act, the following matters are prescribed in relation to the Heritage Council of New South Wales:
  - (a) a report of the operations of the Heritage Council prepared in accordance with the Act and this Regulation,
  - (b) a copy of the audited financial report for the Heritage Conservation Fund for the year for which the annual report is prepared.
- (2) For the purposes of section 7 (1) (b) of the Act, the financial report of The Dumaresq-Barwon Border Rivers Commission, which has been audited by the Auditor-General of New South Wales or Queensland (as the case may be), is prescribed in relation to that Commission.

## **10 Additional matters for inclusion in annual reports**

- (1) For the purposes of section 7 (1) (a) (v) of the Act, if, after the end of the reporting year of a statutory body and before the annual report is submitted to the appropriate Minister under section 10 (1) of the Act, any matter arises which could have a significant effect in the succeeding reporting year on:
  - (a) the financial operations of the body, or
  - (b) the other operations of the body, or
  - (c) the clientele or section of the community served by the body,particulars of the matter must be included in the annual report.
- (2) For the purposes of section 7 (1) (a) (v) and (b) of the Act, the following matters are prescribed as matters that the annual report of a statutory body must comprise:
  - (a) a statement of the total external costs (such as fees for consultants and printing costs) incurred in producing the report,
  - (b) the Internet address at which the report may be accessed (disclosure of the statutory body's homepage address is sufficient compliance with this paragraph),

(c) a statement as to whether the report is available in any other non-printed format (such as on CD-ROM).

(3) For the purposes of section 7 (1) (a) (v) of the Act, the following matters are prescribed as matters that the annual report of a statutory body must comprise:

(a) a statement of the action taken by the body in complying with the requirements of the *Privacy and Personal Information Protection Act 1998*,

(b) statistical details of any review conducted by or on behalf of the body under Part 5 of the *Privacy and Personal Information Protection Act 1998*.

#### **11 Performance of executive officers—additional matter for inclusion in annual reports**

(1) For the purposes of section 7 (1) (a) (v) and (b) of the Act, there must be shown in the annual report of a statutory body a statement on the performance of each executive officer of the statutory body 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 statutory bodies by the Treasurer from time to time.

(3) The details of the performance-related incentive payments paid or payable in respect of the officer to be included are as follows:

(a) if 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 statutory body but does not hold an executive position and, in any such case, applies



as provided in guidelines issued to statutory bodies by the Treasurer from time to time.

### **Part 3 Report of operations**

#### **12 Report of operations to include comparison of investment performance**

- (1) The report of the operations of a statutory body is to include, in the form of a comparison, details of the investment performance of the body in respect of its surplus funds and of the investment performance of the appropriate Treasury Corporation investment facilities.
- (2) The appropriate Treasury Corporation investment facility is (in respect of any particular surplus funds) the one chosen by the statutory body from among the investment facilities made available under the description "Hour-Glass Investment Facilities" by the Treasury Corporation to public authorities for investment of their surplus funds.
- (3) The statutory body's choice of investment facility is to be made on the basis of the nature and term of the underlying liability to which the particular surplus funds relate, as determined in accordance with guidelines issued by the Treasurer.
- (4) The statutory body is to notify the Treasurer of its choice of investment facilities for the purposes of the comparison, giving reasons for its choice, within 1 month after the beginning of the reporting year.
- (5) The Treasurer can disallow a statutory body's choice of investment facility and substitute the Treasurer's own choice (advising the statutory body accordingly), in which case the comparison is to be based on the Treasurer's choice of investment facility.
- (6) The following provisions apply to a comparison required by this clause:
  - (a) investment performance is to be stated as an annual compound percentage rate of return,
  - (b) the investment performance of an investment facility made available by the Treasury Corporation is as advised to statutory bodies by the Treasurer from time to time,
  - (c) the comparison is to relate to investment performance during the reporting year.
- (7) For the purposes of the comparison, the following matters are to be as determined in accordance with guidelines issued to statutory bodies by the Treasurer from time to time:
  - (a) which cash assets of a statutory body are to be considered to be its surplus funds,

- (b) the method of calculating investment return, including the method of calculating an annual return from an actual period of investment of less than a year,
- (c) the method of calculating and comparing investment return if there is a difference between the period of actual investment of funds and the period over which the return of the relevant Treasury Corporation investment facility is measured.

### **13 Report of operations to include comparison of liability management performance**

- (1) This clause applies to a statutory body that has a level of debt of or above the level determined by the Treasurer from time to time and notified to statutory bodies.
- (2) The report of the operations of a statutory body to which this clause applies is to include, in the form of a comparison, details of the performance of the body's liability portfolio and the performance of the body's benchmark portfolio.
- (3) A statutory body's benchmark portfolio is a notional portfolio maintained by the body and constructed in accordance with guidelines issued by the Treasurer so as to be risk neutral.
- (4) The comparison required by this clause:
  - (a) is to be in terms of the measure or measures advised in guidelines issued by the Treasurer, and
  - (b) is to relate to liability portfolio performance during the reporting year.

### **14 Numbers of executive officers**

- (1) The report of the operations of a statutory body is to include the following particulars about the staff of the statutory body:
  - (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) in the case of a statutory State owned corporation, the number of executive officer positions of level 1 or above at the end of the reporting year, compared with the number at the end of the previous reporting year,
  - (c) 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,
  - (d) 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 statutory body but does not hold an executive position and, in any such case, applies as provided in guidelines issued to statutory bodies by the Treasurer from time to time.

- (3) The requirement in subclause (1) (d) to include in a report the level of each executive officer of or above level 5 does not extend to a statutory body that is a statutory State owned corporation.

#### **15 Information and particulars in report of operations**

For the purposes of section 9 (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.

### **Part 4 Miscellaneous**

#### **16 Form of annual reports—generally**

- (1) The annual report of a statutory body 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 statutory body 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.

#### **17 Form of annual reports—presentation to Parliament**

- (1) The copies of an annual report of a statutory body 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 under section 11 (2) of the Act, must transmit a sufficient number of copies for distribution to the members of Parliament.

#### **18 Public availability of annual reports**

- (1) A statutory body must keep, at the office of the body, sufficient copies of its annual report to meet normal public demand.
- (2) A statutory body must ensure that a copy of its annual report:
  - (a) is made publicly available on the body'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 statutory body 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.

## **19 Exemptions**

(1) The Treasurer may, on application by a statutory body 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 body 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 statutory body to which 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.

## **20 Exemption for small statutory bodies to report annually on certain matters**

(1) This clause applies in relation to any statutory body that the Secretary of the Treasury determines to be a small statutory body for the purposes of this clause.

(2) In making any such determination, the Secretary may take into consideration:

(a) the number of staff employed by the statutory body, or

(b) in the case of a statutory body that cannot employ staff—the number of staff employed in the Division of the Government Service comprising those persons who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the statutory body to exercise its functions.

(3) 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 statutory body's annual report on a triennial basis only (although a statutory body 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.
- (4) A reporting of particulars in relation to a matter set out in subclause (3) (a)–(e) in a statutory body’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 statutory body.
- (5) A reporting of particulars in relation to a matter set out in subclause (3) (a)–(e) in a statutory body’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 statutory body.

## 21 Repeal and savings

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

## Schedule 1 Report of operations

(Clause 15)

| Column 1                 | Column 2   |
|--------------------------|--|
| Charter                  | A statement of the manner in which and the purpose for which the statutory body was established and a statement of the legislation under which the body operates.  |
| Aims and objectives      | Information as to what the statutory body sets out to do, the range of services provided by the body and the clientele or section of the community served by the body.   |
| Access                   | The address and telephone number of the principal office or offices of the statutory body and the business and service hours of the body.  |
| Management and structure | The names of the members of the statutory body, particulars of any appropriate qualifications of those members, the method and term of appointment of those members, the frequency of meetings of the body, the attendance at those meetings, the titles of the senior offices within the staff establishment of the body, the names of the occupants of those offices and any appropriate qualifications of those occupants.<br>An organisation chart indicating functional responsibilities within the body. |

|   |   |
|---|---|
| Summary review of operations                            | <p>A narrative summary of the significant operations for the reporting year.</p> <p>Selected financial and other quantitative information associated with the administration of programs or the operations of the body.</p>   |
| Funds granted to non-government community organisations | <p>The name of the organisation receiving the grant of funds.</p> <p>The amount of funds granted.</p> <p>The program area, as defined in the relevant Budget paper for the reporting year.</p> <p>The program, as defined in the relevant Budget paper for the reporting year.</p> <p>Further details in accordance with guidelines issued to the statutory body by the Treasurer from time to time.</p>  |
| Social Programs   | <p>Such details as are determined by the Secretary of the Treasury from time to time relating to any Social Programs provided by the body.</p>  |
| Legal change  | <p>Changes in Acts and subordinate legislation and significant judicial decisions affecting the statutory body or the users of the services provided by the body.</p>   |
| Economic or other factors                               | <p>Factors that have affected the achievement of the operational objectives of the statutory body during the reporting year.</p>  |
| 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 statutory body 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                                | <p>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 statutory body, adversely affect the business or commercial operations of the body.</p>   |
| Human resources   | <p>The number of 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>   |

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| Consultants                  | <p>In respect of the engagement during the reporting year of a consultant by or on behalf of the statutory body (other than a statutory body being the NSW Trustee or the Senate, Board of Governors or Council of a university), 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"><li>(a) the name of the consultant,</li><li>(b) if the consultant has been engaged for a particular project, the title of the project,</li><li>(c) the actual cost of engaging the consultant.</li></ul>  |
|                              | <p>In respect of the engagement during the reporting year of consultants by or on behalf of the statutory body (other than a statutory body being the NSW Trustee or the Senate, Board of Governors or Council of a university) 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"><li>(a) the total number of engagements costing less than \$50,000,</li><li>(b) the total cost of all such engagements.</li></ul> <p>If no consultants were engaged by or on behalf of the statutory body 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 statutory body during the reporting year and the key equal employment opportunity strategies proposed by the statutory body (as detailed within the statutory body'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 statutory body's disability plan (if such a plan is required under the <a href="#">Disability Services Act 1993</a>).</p>  |
| 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 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 <a href="#">Government Information (Public Access) Act 2009</a>.</p> |

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| Promotion  | Overseas visits undertaken by officers and employees with the main purposes highlighted.   |
| Consumer response                                  | The extent and main features of consumer complaints, indicating any services improved or changed as a result of complaints or consumer suggestions made.   |
| Payment of accounts                                | 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.   |
| Time for payment of accounts                       | All instances where interest has become payable as a result of late payment by the statutory body for goods or services supplied to the statutory body, and the reason for the delay in making the payment that led to the payment of the interest.  |
| Risk management and insurance activities           | A report on the risk management and insurance arrangements and activities affecting the statutory body.  |
| Controlled entities                                | A detailed statement of the name, objectives, operations, activities, performance targets and actual performance measures of each entity controlled by the statutory body that is an entity of the kind referred to in section 39 (1A) of the <a href="#">Public Finance and Audit Act 1983</a> .  |
| Multicultural policies and services program        | A statement setting out the key multicultural strategies proposed by the statutory body for the following year and the progress in implementing the statutory body's multicultural policies and services plan and information as to the multicultural policies and services plans of any body reporting to the statutory body.   |
| Agreements with the Community Relations Commission | A statement describing any agreement entered into between the statutory body and the Community Relations Commission under the <a href="#">Community Relations Commission and Principles of Multiculturalism Act 2000</a> and a statement setting out the statutory body's progress in implementing any such agreement.   |
| Occupational health and safety                     | <p>A statement setting out the statutory body's occupational health and safety performance during the reporting year (including details of work-related injuries, work-related illnesses and prosecutions under the <a href="#">Occupational Health and Safety Act 2000</a>).</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"><li>(a) reducing the generation of waste,</li><li>(b) resource recovery,</li><li>(c) the use of recycled material.</li></ul>  |