

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by the Commonwealth and relevant entities.

Item 6 of Schedule 14 of the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act) provides that the Finance Minister may, by legislative instrument, make rules prescribing matters required or permitted by the CTP Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the CTP Act and the PGPA Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015* (Annual Reports Rule) is being made to amend the rule instrument made under the CTP Act, the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014* (CTP Rule).

The Annual Reports Rule would insert new provisions into the CTP Rule that would apply to annual reports prepared by corporate Commonwealth entities and Commonwealth companies, in accordance with the rule making power in Schedule 14 of the CTP Act. The provisions would extend the application of the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011* for the purposes of 2014-15 annual reports.

Details of the Annual Reports Rule are set out at [Attachment A](#). A statement of compatibility with human rights is at [Attachment B](#).

The Annual Reports Rule is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Annual Reports Rule commences the day after the instrument is registered on the Federal Register of Legislative Instruments.

Consultation

The Annual Reports Rule was developed by reference to earlier consultation undertaken, including the extensive consultation in developing the CTP Act and CTP Rule. Consistent with section 17 of the *Legislative Instruments Act 2003* further consultation was not undertaken as the changes are administrative in nature. The Annual Reports Rule was drafted by the Office of Parliamentary Counsel.

Details of the *Public Governance, Performance and Accountability Amendment (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015*

Section 1—Name of rule

This section provides that the title of the rule is the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015*.

Section 2—Commencement

This section provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3—Authority

This section states that the instrument is made under the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act).

Section 4—Schedules

This section provides that each legislative instrument that is specified in a Schedule to this Rule is amended or repealed as set out, and that any item in a Schedule to this instrument operates or is applied as specified in the Schedule.

Schedule 1—Amendments

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014

Item 1 – New sections 7AB and 7AC

This item would add, at the end of Division 1 of Part 2 of the CTP Rule, the following new sections:

- 7AB Annual reports for corporate Commonwealth entities for 2014-2015
- 7AC Annual reports for wholly-owned Commonwealth companies for 2014-2015

7AB Annual reports for corporate Commonwealth entities for 2014-2015

Section 7AB provides for the transitional application of certain provisions, previously contained in the *Commonwealth Authorities (Annual Reporting) Orders 2011*. The *Commonwealth Authorities (Annual Reporting) Orders 2011* requirements applied to annual reports for the 2013-2014 financial year. The effect of the Annual Report Rule is to extend this application to annual reports relating to the 2014-2015 financial year.

Subsection 7AB(1) provides that the section 7AB applies to the annual reports of corporate Commonwealth entities that are prepared under section 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) for the reporting period commencing on or after 1 July 2014.

Subsection 7AB(2) provides that despite the repeal of the *Commonwealth Authorities (Annual Reporting) Orders 2011* made by the CTP Act, that instrument, as in force immediately before 1 July 2014, continues to apply to annual reports prepared for the 2014-15 reporting period.

Subsection 7AB(3) provides that the requirements of the *Commonwealth Authorities (Annual Reporting) Orders 2011* apply in the same way as they applied for the financial year ending on 30 June 2014.

Subsection 7AB(4) provides, for the purposes of subsection (3), that references to terminology under the *Commonwealth Authorities and Companies Act 1997* (CAC Act) are to be read as the equivalent terminology under the PGPA Act.

Section 7AC Annual reports for wholly-owned Commonwealth companies for 2014-2015

Section 7AC provides for the continuing application of certain provisions, previously contained in the *Commonwealth Companies (Annual Reporting) Orders 2011* (Orders). Despite the repeal of the *Commonwealth Companies (Annual Reporting) Orders 2011*, the CTP Act, the requirements around annual reports applied to the 2013-2014 financial year. The effect of the Annual Report Rule is to extend this application to the 2014-2015 financial year through a transitional rule.

Subsection 7AC(1) provides that the section 7AC applies to the annual reports of wholly-owned Commonwealth companies that are prepared under section 97 of the PGPA Act for the reporting period commencing on or after 1 July 2014.

Subsection 7AC(2) provides that despite the repeal of the *Commonwealth Companies (Annual Reporting) Orders 2011* made by the CTP Act, that instrument, as in force immediately before 1 July 2014, continues to apply to annual reports prepared for the 2014-15 reporting period.

Subsection 7AC(3) provides that the requirements of the *Commonwealth Companies (Annual Reporting) Orders 2011* apply in the same way as they applied for the financial year ending on 30 June 2014.

Subsection 7AC(4) provides, for the purposes of subsection (3), that references to terminology under the CAC Act are to be read as the equivalent terminology under the PGPA Act.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015

The *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Amendment (Annual Reports) Rule 2015* (Annual Reports Rule) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) consolidated into a single piece of legislation the governance, performance and accountability requirements of the Commonwealth, setting out a framework for regulating resource management by the Commonwealth and relevant entities.

Item 6 of Schedule 14 of the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act) provides that the Finance Minister may, by legislative instrument, make rules prescribing matters required or permitted by the CTP Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the CTP Act and the PGPA Act.

The Annual Reports Rule is intended to amend the rule instrument made under the CTP Act, to support the implementation of the legislative framework introduced through the PGPA Act.

The Annual Reports Rule would insert new provisions into the CTP Rule that would apply to annual reports prepared by corporate Commonwealth entities and Commonwealth companies, in accordance with the rule making power in Schedule 14 of the CTP Act. The provisions are transitional in nature and would extend the application of the *Commonwealth Authorities (Annual Reporting) Orders 2011* and the *Commonwealth Companies (Annual Reporting) Orders 2011* for the purposes of 2014-15 annual reports.

Human rights implications

The legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon Mathias Cormann
Minister for Finance**