# EXPLANATORY STATEMENT

**Issued by the Authority of the Minister for Finance**

*Public Governance, Performance and Accountability Act 2013*

*Public Governance, Performance and Accountability Amendment*

*(Miscellaneous Measures No. 1) Rule 2016*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the 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 Amendment (Miscellaneous Measures No. 1) Rule 2016* (PGPAA Rule)would amend the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) relating to:

* transferring special account balances on sunsetting;
* removing CrimTrac as a listed entity; and
* amendments to correct inconsistencies.

**Receipts of amounts by non‑corporate Commonwealth entities, section 27**

This section specifies the types of amounts that are received by non-corporate Commonwealth entities that may be credited to the most recent departmental item for the entity in an Appropriation Act.

This amendment will allow the Finance Minister to determine that the balance of a sunsetting special account, established under section 78 of the PGPA Act, be credited to the most recent departmental item, in an appropriation Act, of the relevant non-corporate Commonwealth entity just prior to sunsetting. The amendment will assist to reduce the number of special accounts used for departmental activities and increase flexibility in managing departmental appropriations.

**Listed entities, to remove the Crimtrac Agency from the list of entities, Schedule 1**

This Schedule prescribes certain bodies, persons, groups of persons or organisations to be listed entities under the PGPA Act.

This amendment will remove CrimTrac as a listed entity under the PGPA Rule following the merger with the Australian Crime Commission on 1 July 2016 as a result of the *Australian Crime Commission Amendment (National Policing Information) Act 2016.*

**Officials appointed under a law to a body are required to disclose material personal interests, section 16B**

This section restricts certain officials that have been appointed under a law of the Commonwealth and have a material personal interest from being present, or voting, at a meeting on the matter.

This amends the term ‘interest’ to ‘interests’ to make the heading of section 16B consistent with other headings in Subdivision D of the PGPA Rule.

**Other mandatory annual reporting information, section 17AH**

This section provides direction to non-corporate Commonwealth entities on other information that must be included in the annual report for the entity for the period.

This amendment will provide a correction in the wording at paragraph 17AH (1)(b) of the PGPA Rule. The amendment has the effect of changing the words “Information on grants awarded to [name of entity] …” with “Information on grants awarded by [name of entity] …”.

**List of annual reporting requirements, Schedule 2 - row 17AG(4)(c)(i)**

This Schedule lists, in a table, the requirements that must be included in the annual report of a   
non-corporate Commonwealth entity and the location of these requirements in the annual report.

The amendment rectifies an inconsistent cross reference in row 17AG(4)(c)(i) of Schedule 2, from 17AD(4)(c) to 17AG(4)(c).

**List of annual reporting requirements, Schedule 2 - row 17AH(1)(b)**

This Schedule lists, in a table, the requirements that must be included in the annual report of a non-corporate Commonwealth entity and the location of these requirements in the annual report.

This amendment corrects the same typographical error reflected in section 17AH above.

Details of the PGPAA Rule are set out at Attachment A. A statement of compatibility with human rights is at Attachment B.

The PGPAA Rule is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and is a disallowable instrument*.*

**Consultation**

The amendments relating to section 27 of the PGPA Rule were developed in consultation with the Department of the Treasury.

The amendment relating to removing CrimTrac as a listed entity was developed in response to the *Australian Crime Commission Amendment (National Policing Information) Act 2016* at the request of the Minister for Justice.

The PGPAA Rule was drafted by the Office of Parliamentary Counsel.

**Attachment A**

**Details of the *Public Governance, Performance and Accountability Amendment (Miscellaneous Measures No. 1) Rule 2016***

**Section 1—Name of rule**

This section provides that the title of the rule is the *Public Governance, Performance and Accountability Amendment (Miscellaneous Measures No. 1) Rule 2016 (PGPAA Rule)*

**Section 2—Commencement**

This section provides that each provision of the instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table.

Specifically, the whole of the Amendment Rule will commence 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 Act 2013* (PGPA 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**

**Part 1 – Amendments commencing the day after the instrument is registered.**

***Public Governance, Performance and Accountability Rule 2014***

**Item 1-Section 16B**

This item would amend the term ‘interest’ to ‘interests’ to make the heading of section 16B consistent with other headings in Subdivision D of the PGPA Rule.

The PGPA Rule requires officials to disclose material personal interests that relate to the affairs of the entity.

**Item 2- Section 17AH(1)(b)**

This item would provide a correction in the wording at paragraph 17AH (1)(b) of the PGPA Rule. The amendment has the effect of changing the words “Information on grants awarded to [name of entity] …” with “Information on grants awarded by [name of entity] …”.

This amendment would accurately reflect the Joint Committee of Public Accounts and Audit request that the annual reporting provisions in the rule align directly with the annual reporting guidance relating to mandatory reporting on grants.

**Item 3 – Section 27**

This item would insert an Item 9 to the table at Subsection 27(2) to allow the Finance Minister to determine that the balance of a sunsetting special account, established under section 78 of the PGPA Act, to be credited to the most recent departmental item, in an appropriation Act, of the relevant non-corporate Commonwealth entity just prior to sunsetting.

**Item 4 – Clause 9 of Schedule 1**

This item would remove CrimTrac as a listed entity under the PGPA Rule following the merger with the Australian Crime Commission on 1 July 2016 as a result of the *Australian Crime Commission Amendment (National Policing Information) Act 2016.*

**Item 5 – Schedule 2, row 17AG(4)(c)(i)**

The amendment rectifies an inconsistent cross reference in row 17AG(4)(c)(i) of Schedule 2, from 17AD(4)(c) to 17AG(4)(c).

**Item 6 – Schedule 2, row 17AH(1)(b)**

This item would amend the schedule to align it with the reporting requirements amended at Item 2- Section 17AH(1)(b).

**Attachment B**

**Statement of Compatibility with Human Rights**

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

The *Public Governance, Performance and Accountability Amendment (Miscellaneous Measures No. 1) Rule 2016* 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) establishes a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The *Public Governance, Performance and Accountability Amendment (Miscellaneous Measures No. 1) Rule 2016* would amend the andthe *Public Governance, Performance and Accountability Rule 2014* made under the *Public Governance, Performance and Accountability Act 2013*.

The PGPA Rule would make amendments relating to:

* transferring special account balances on sunsetting;
* removing CrimTrac as a listed entity; and
* amendments which will correct inconsistencies.

**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**