

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Relevant Company) Rule 2016

Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No.1) Rules 2017

Section 85 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) provides the Finance Minister with the authority to form, or participate in forming a relevant company on behalf of the Commonwealth or to acquire shares or become a member of a relevant company in circumstances that would result in the relevant company becoming a Commonwealth company.

Subsection 85(2) of the PGPA Act provides that a relevant company is prescribed, by kind and its objects or proposed activities, by a rule. 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. Relevant companies are prescribed in the *Public Governance, Performance and Accountability (Relevant Company) Rule 2016* (the Relevant Company Rule).

The *Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No.1) Rules 2017* (the Amendment Rules) amends the Relevant Company Rules to add two relevant companies: the first to assist with increasing the professional standards of financial advisers; the second to manage infrastructure to support shipbuilding and submarine programs.

Details of the Amendment Rules are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Rules commence on the day after registration on the Federal Register of Legislation.

Consultation

The Amendment Rules have been prepared in consultation with the Department of the Treasury and relevant areas within the Department of Finance.

Details of the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No.1) Rules 2017*

Section 1—Name

This section provides that the title of the Rules is the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No. 1) Rules 2017* (the Amendment Rules).

Section 2—Commencement

This section provides that the Amendment Rules will commence on the day after they are registered on the Federal Register of Legislation.

Section 3—Authority

This section provides that the Amendment Rules are made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Section 4—Schedules

This section provides that each instrument that is specified in a Schedule to the Amendment Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Public Governance, Performance and Accountability (Relevant Company) Rule 2016

Item 1—Section 5 (at the end of the table)

This item prescribes two kinds of relevant companies to the table of relevant companies in section 5 of the Relevant Company Rule.

The first relevant company prescribed will assist with increasing the professional standards of financial advisers, including by assisting with the setting of education and training standards and ethical standards. Prescribing this relevant company provides the Finance Minister with authority under paragraph 85(1)(a) of the PGPA Act to form or participate in forming a relevant company for the prescribed purposes. Prescribing this relevant company also supports a new power in the *Corporations Act 2001* (added by *Corporations Legislation Amendment (Professional Standards of Financial Advisers) Act 2017*), which provides the Minister for Revenue and Financial Services with the power to declare any such relevant company that is formed, to be a financial services standards body.

The second relevant company prescribed will assist with managing infrastructure assets to support current and future shipbuilding and submarine programs. Prescribing this relevant company will provide the Finance Minister with authority under paragraph 85(1)(b) of the PGPA Act to acquire shares or become a member of an existing company. In particular prescribing this relevant company enables the Finance Minister to acquire shares in subsidiary of the ASC Pty Ltd to perform the prescribed purposes. The acquired company will become a Commonwealth company, and will be renamed Australian Naval Infrastructure Pty Ltd.

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 (Relevant Company) Amendment (2017 Measures No.1) Rules 2017* (the Amendment Rules) are 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 Amendment Rules amend the *Public Governance, Performance and Accountability (Relevant Company) Rule 2016* to provide the Commonwealth with the legislative authority to form, or participate in forming in a new company to support increasing professional standards of financial advisers.

Human rights implications

The Amendment Rules do not impinge on any applicable rights or freedoms.

Conclusion

The Amendment Rules are compatible with human rights as they do not raise any human rights issues.

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