

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) Amendment
Rule 2016*

*Public Governance, Performance and Accountability (Relevant Company) Amendment (2017
Measures No. 2) Rules 2017*

Section 85(1)(a) 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. A relevant company is a company of a kind prescribed, including 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. 2) Rules 2017* (the Amendment Rules) amend the Relevant Company Rule. This amendment provides the legislative authority for the Commonwealth to participate in forming relevant companies whose objects or proposed activities are to undertake research on, and develop, technologies relevant to Australia's defence and national security sectors.

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 will 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 Defence.

Details of the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No. 2) Rules 2017*

Section 1 – Name

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2017 Measures No. 2) Rules 2017* (the Amendment Rules).

Section 2 – Commencement

This section provides that the Amendment Rules 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 Schedule 1 to the Amendment Rules is amended or repealed as set out in the applicable items in the Schedule, 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 (the Relevant Company Rule)

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

This item amends the table of relevant companies in section 5 of the Relevant Company Rule. It prescribes a kind of company that is limited by guarantee, and with the objects or proposed activities to undertake research on, and develop, technologies relevant to Australia's defence and national security sectors.

This item provides legislative authority for the Commonwealth to participate in forming companies as part of the Defence Cooperative Research Centres (DCRC) Program. The purpose of the DCRC Program is to develop next generation technologies to deliver capabilities critical to defence and national security.

Each DCRC company formed must have at least one industry participant and one research participant as members. The Commonwealth will also be a founding member. Each member will have equal voting rights in the DCRC. The Commonwealth will not control any DCRC companies formed. Any DCRC companies formed will not be Commonwealth companies. Any DCRC companies formed will enter into funding agreements with the Commonwealth, similar to the long-standing Cooperative Research Centre program that Industry has facilitated.

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. 2) 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) Amendment Rules 2016* to provide the Commonwealth with the legislative authority to form, or participate in forming, relevant companies of the kind:

- that is limited by guarantee; and
- with the objects or proposed activities to undertake research on, and develop, technologies relevant to Australia's defence and national security sectors.

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**