



Public Governance, Performance and Accountability (Charging for Regulatory Activities) Order 2017

I, Mathias Cormann, Minister for Finance, make the following order.

Dated 16 August 2017

Mathias Cormann
Minister for Finance

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1 Name

This instrument is the *Public Governance, Performance and Accountability (Charging for Regulatory Activities) Order 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) 1 July 2017; and (b) the day after this instrument is registered.	24 August 2017 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 22(1) of the *Public Governance, Performance and Accountability Act 2013*.

4 Application

The policy of the Australian Government specified in sections 7 and 8 is applied to each corporate Commonwealth entity listed in Schedule 1.

5 Simplified outline of this instrument

This instrument specifies the Australian Government policy relating to charging for regulatory activities that is to apply to certain corporate Commonwealth entities.

It is the policy of the Australian Government that such entities have Australian Government policy approval and statutory authority to charge for certain regulatory activities. For such an activity, such entities are to:

- (a) ensure that expenses and revenue relating to the activity balance out over a reasonable period; and
- (b) develop and maintain a cost recovery implementation statement relating to the activity; and

- (c) measure, assess and document performance for the activity.

Under the Act, accountable authorities of corporate Commonwealth entities are responsible for ensuring compliance with this instrument.

6 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) accountable authority;
- (b) corporate Commonwealth entity;
- (c) Finance Minister;
- (d) responsible Minister.

In this instrument:

Act means the *Public Governance, Performance and Accountability Act 2013*.

approved regulatory charging activity means an activity provided by a corporate Commonwealth entity:

- (a) that has Australian Government policy approval; and
- (b) for which there is statutory authority to charge.

Australian Government policy approval means Cabinet or Prime Ministerial approval for a corporate Commonwealth entity to:

- (a) provide an activity to the non-government sector; and
- (b) charge users of the activity on a full or partial cost-recovery basis.

Note 1: Activities mentioned in paragraph (a) are generally regulatory activities where the Government is seeking to control or influence behaviour, manage risk or protect the community.

Note 2: For a partially cost-recovered activity, the Australian Government decides, as part of the policy approval, the percentage or the portion of the costs that will be recovered.

charging risk rating, for an approved regulatory charging activity, means the risk rating given to the activity as part of the process of obtaining Australian Government policy approval for the activity.

costing model, for an approved regulatory charging activity, means a description of:

- (a) how the activity has been broken into outputs and processes; and
- (b) how the outputs and processes have been costed, including cost drivers and assumptions.

portfolio charging review means a review, conducted at least every 5 years by a Department of State, of existing and potential charging activities within its Minister's portfolio that involve providing goods, services, regulation or access to public resources to the non-government sector.

7 Approved regulatory charging activities

- (1) It is a policy of the Australian Government that a corporate Commonwealth entity is to only charge for an approved regulatory charging activity provided by the entity.

Note: Further information on the application of the Australian Government policy in relation to regulatory charging is provided in the Australian Government Charging Framework, which could in 2017 be viewed at <http://www.finance.gov.au>.

- (2) For each approved regulatory charging activity provided by the entity, the entity is to:
 - (a) if users are to be charged for the activity on a full cost-recovery basis—ensure that expenses and revenue relating to the activity balance out over a reasonable period, for example, the business cycle of the activity; and
 - (b) if users are to be charged for the activity on a partial cost-recovery basis—ensure that expenses and revenue relating to the percentage or the portion of the costs that will be recovered balance out over a reasonable period, for example, the business cycle of the activity; and
 - (c) develop and maintain an up-to-date and publicly available cost recovery implementation statement relating to the activity that meets the requirements set out in section 8; and
 - (d) measure, assess and document financial and non-financial performance of the activity.

8 Cost recovery implementation statements

- (1) It is a policy of the Australian Government that a cost recovery implementation statement relating to an approved regulatory charging activity provided by a corporate Commonwealth entity is to set out the following:
 - (a) background information on the activity, including its purpose and intended policy outcomes and outputs;
 - (b) a description of the activity and of the stakeholders who pay charges, or may be affected by the charges, for the activity;
 - (c) details of the Australian Government policy approval to charge for the activity, including the date and details of any relevant public announcements;
 - (d) the name and provision of the law that provides statutory authority to charge for the activity;
 - (e) an explanation of the costing model for the activity;
 - (f) the design of the charges, including which types of charges have been used and why, and their link to the outputs and processes of the activity;
 - (g) the charging risk rating for the activity, including the factors contributing to the rating;
 - (h) the stakeholder engagement strategy for the activity, including a summary of the latest engagement round setting out who was consulted and when, stakeholders' views on the activity, and how those views have been considered;
 - (i) financial estimates of expenses and revenue for the activity for the current financial year and 3 forward years;

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- (j) details of the financial and non-financial performance of the activity;
- (k) key forward dates and events relating to the activity, including the date of the next portfolio charging review.

Note 1: Paragraph (k)—for the definition of *portfolio charging review*, see section 6.

Note 2: Further information on the application of the Australian Government policy in relation to cost recovery for regulatory activities charging is provided in the Australian Government Charging Framework, which could in 2017 be viewed at <http://www.finance.gov.au>.

- (2) The cost recovery implementation statement is to:
 - (a) be certified by the accountable authority of the corporate Commonwealth entity, prior to consideration by the responsible Minister for the entity; and
 - (b) subject to subsection (3), be published on the entity's website before the entity starts charging for the approved regulatory charging activity.
- (3) If the charging risk rating for the approved regulatory charging activity is high, the cost recovery implementation statement is not to be published without the written agreement of the Finance Minister.

Schedule 1—Entities to which specified policy applies

Note: See section 4.

1 Corporate Commonwealth entities

The policy specified in sections 7 and 8 applies to the following corporate Commonwealth entities:

- (a) Australian Grape and Wine Authority;
- (b) Australian Maritime Safety Authority;
- (c) Australian Pesticides and Veterinary Medicines Authority;
- (d) Civil Aviation Safety Authority;
- (e) Comcare;
- (f) Director of National Parks;
- (g) Food Standards Australia New Zealand;
- (h) National Offshore Petroleum Safety and Environmental Management Authority;
- (i) Sydney Harbour Federation Trust.