

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Minister to the Treasurer, Parliamentary Secretary to the Treasurer**

*Productivity Commission Act 1998*

*Productivity Commission Regulations 2018*

Section 60 of the *Productivity Commission Act 1998* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Productivity Commission Regulations 2018* (the Regulations) is to remake and improve the *Productivity Commission Regulations 1998* and ensure their effect continues. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed after 10 years or in accordance with the progressive timetable set out in section 50. The *Productivity Commission Regulations 1998* were scheduled for automatic repeal on 1 April 2019.

The purpose of the *Productivity Commission Regulations 1998* was to prescribe the open tender threshold for engaging consultants, expertise or independent advice at \$80,000. This amount reflects the mandatory open tender threshold as set out in the Commonwealth Procurement Guidelines – January 2005. That purpose is achieved by the Regulations.

The Regulations will apply to tender processes occurring the day after they are registered on the Federal Register of Legislation.

The Regulations remake and improve the *Productivity Commission Regulations 1998* by adopting current drafting practices such as referring to ‘sections’ rather than ‘regulations’.

The changes do not affect the meaning or operation of the provisions.

These regulations were prepared in consultation with the Productivity Commission with no issues raised.

Further details of the Regulations are set out in the [Attachment](#).

The Regulations commence on the day after it is registered on the Federal Register of Legislation.

The Office of Best Practice Regulation considered the Regulations have minor impact on business, community organisations or individuals and has certified that the remaking of the Regulations do not require a Regulatory Impact Statement (OBPR ID 23546)

## **Statement of Compatibility with Human Rights**

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

*Productivity Commission Regulations 2018*

This Legislative Instrument 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 Regulations remake and improve the *Productivity Commission Regulations 1998* by adopting current drafting practices such as referring to ‘sections’ rather than ‘regulations’.

The changes do not affect the substantive meaning or operation of the provisions.

### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Details of the *Productivity Commission Regulations 2018***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulations is the Productivity Commission Regulations 2018.

**Section 2 – Commencement**

This section provides the Regulations commence the day after they are registered on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides the Regulations are made under the *Productivity Commission Act 1998*.

**Section 4 – Schedules**

This section provides that each instrument identified in a Schedule to the Regulations is amended or repealed in accordance with these Regulations.

**Section 5 - Definitions–**

This section defines Act as the Productivity Commission Act 1998.

**Section 6 – Estimated value of consultancy**

This section sets the open tender threshold at \$80,000.

**Schedule 1 – Repeals**

Schedule 1 to the Regulations repeals the *Productivity Commission Regulations 1998*. This ensures that the Regulations will be repealed and remade before they sunset on 1 April 2019.

**Finding table**

As a result of some of the changes described above, it became necessary to renumber provisions of the Regulations. This Explanatory Memorandum includes a finding table to assist in identifying which provision in the Regulations corresponds to a provision in the old law that has been rewritten or consolidated, and vice versa.

References to the old law are to the *Productivity Commission Regulations 1998*. References to the new law are to the *Productivity Commission Regulations 2018*. Also, in the finding table, ‘no equivalent’ means that this is a new provision that has no equivalent in the old law.

<i>Old law</i>	<i>New law</i>
<i>Productivity Commission Regulations 1998</i>	<i>Productivity Commission Regulations 2018</i>
1	1
2	2
No equivalent	3
No equivalent	4
3	5
4	6
No equivalent	Schedule 1