

## EXPLANATORY STATEMENT

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

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

#### *Public Governance, Performance and Accountability Amendment (2018 Measures No. 2) Rules 2018*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) set out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Minister for Finance 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 (2018 Measures No. 2) Rules 2018* (Amending Rules) amend the PGPA Rule to prescribe Snowy Hydro Limited as a government business enterprise and amend the first reporting period.

Details of the Amending Rules are set out at [Attachment A](#). A statement of compatibility with human rights is at [Attachment B](#).

The Amending Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and are a disallowable instrument.

### **Consultation**

The Amending Rules were developed in consultation with the Government Businesses and Budget Estimates and Accounting Branches in the Department of Finance, and the approach was discussed with Snowy Hydro Limited.

**Details of the *Public Governance, Performance and Accountability Amendment (2018 Measures No. 2) Rules 2018*****Section 1—Name of rule**

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability Amendment (2018 Measures No. 2) Rules 2018* (Amending Rules).

**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.

Sections 1 to 4 of the Amending Rules commence on the day after the Amending Rules are registered. Schedule 1 item 1 of the Amending Rules commences on 1 July 2018. Schedule 1 item 2 of the Amending Rules commences at the time Snowy Hydro Limited becomes a Commonwealth company. The Minister must announce, by notifiable instrument, the day this occurs.

**Section 3—Authority**

This section states that the Amending Rules are 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 the Amending Rules 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*****Public Governance, Performance and Accountability Rule 2014*****Item 1 – After paragraph 5(2)(g)**

This item adds Snowy Hydro Limited (SHL) to the list of Commonwealth entities and companies that are prescribed as a ***government business enterprise*** (GBE) for the purposes of the definition in section 8 of the PGPA Act.

A GBE is a special type of entity or company that is established and owned by the Commonwealth in order to fulfil a public purpose in the delivery of services or operation of infrastructure.

**Item 2 – After section 7**

This item adds a new section 7AA to prescribe the first reporting period for Snowy Hydro Limited for purposes of the definition in section 8 of the PGPA Act. The first reporting period for SHL will begin on 29 June 2018 and end on 30 June 2019. After the first reporting period, the dates will follow the standard financial year.

Amending the reporting period will provide transitional arrangements for SHL to implement the reporting requirements under the PGPA Act by incorporating the last two days from the 2017-18 financial year into the 2018-19 reporting period.

**Statement of Compatibility with Human Rights**

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

**Public Governance, Performance and Accountability Amendment (2018 Measures No. 2) Rules 2018**

The *Public Governance, Performance and Accountability Amendment (2018 Measures No. 2) Rules 2018* 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 Minister for Finance may make rules by legislative instrument to prescribe matters giving effect to the Act.

The legislative instrument amends the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) made under the PGPA Act by:

- amending section 5 of the PGPA Rule to prescribe Snowy Hydro Limited as a government business enterprise; and
- adding a new section 7AA to the PGPA Rule to prescribe the first reporting period for Snowy Hydro Limited.

**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**