

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance and the Public Service

Public Governance, Performance and Accountability Act 2013

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

*Public Governance, Performance and Accountability (Relevant Company) Amendment
(2019 Measures No. 1) Rules 2019*

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 PGPA Relevant Company Rule).

The *Public Governance, Performance and Accountability (Relevant Company) Amendment (2019 Measures No. 1) Rules 2019* (the Amendment Rules) amend the PGPA Relevant Company Rule. This amendment provides the legislative authority for the Finance Minister, on behalf of the Commonwealth, to participate in forming a relevant company that is limited by shares whose objects or proposed activities are to own, operate and maintain a fibre optic cable system between Sydney, Australia; Port Moresby, Papua New Guinea; and Honiara, Solomon Islands; and to make the fibre optic cable system available in the telecommunications markets in Papua New Guinea and Solomon Islands.

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

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of Foreign Affairs and Trade.

Details of the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2019 Measures No. 1) Rules 2019*

Section 1 – Name

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability (Relevant Company) Amendment (2019 Measures No. 1) Rules 2019* (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 the *Public Governance, Performance and Accountability (Relevant Company) Rule 2016* is amended as set out in the Schedule to the Amendment Rules.

Schedule 1 – Amendments

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

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

This item amends the table of relevant companies in section 5 of the *Public Governance, Performance and Accountability (Relevant Company) Rule 2016* by adding a company that is limited by shares whose objects or proposed activities are to own, operate and maintain a fibre optic cable system between Sydney, Australia; Port Moresby, Papua New Guinea; and Honiara, Solomon Islands; and to make the fibre optic cable system available in the telecommunications markets in Papua New Guinea and Solomon Islands.

This item provides the Finance Minister, on behalf of the Commonwealth, with authority under section 85(1)(a) of the PGPA Act to participate in forming a relevant company with Papua New Guinea and Solomon Islands. The Commonwealth's involvement in the kind of company prescribed by the Amendment Rules would improve internet connectivity in Papua New Guinea and Solomon Islands, supporting economic growth and positive development outcomes in both countries.

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 (2019 Measures No. 1) Rules 2019* (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 the use and management of public resources 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 Finance Minister, on behalf of the Commonwealth, with the legislative authority to participate in forming a relevant company:

- that is limited by shares; and
- whose objects or proposed activities are to own, operate and maintain a fibre optic cable system between Sydney, Australia; Port Moresby, Papua New Guinea; and Honiara, Solomon Islands; and to make the fibre optic cable system available in the telecommunications markets in Papua New Guinea and Solomon Islands.

Human rights implications

The Amendment Rules do not engage any of the 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 and the Public Service**