

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016

Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment (Board Members) Rules 2019

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out 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.

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.

Section 87 of the PGPA Act provides a power to create statutory body corporates, which are not companies, by rules made under the PGPA Act. The *Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016* (PGPA OPH Rule) establishes Old Parliament House (OPH) as a corporate Commonwealth entity. The PGPA OPH Rule also provides for OPH's purpose, functions, powers, its Board, staffing and financial arrangements.

The *Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment (Board Members) Rules 2019* (Amendment Rules) amend the PGPA OPH Rule to amend the arrangements for membership of the Old Parliament House Board. The Amendment Rules will provide for a maximum of eight Board members by increasing the maximum number of other members from four to five. Following commencement of the Amendment Rules the OPH Board will consist of: the Board Chair, the Deputy Board Chair, the Director and up to five other members.

The Amendment Rules will commence on the day after the instrument is registered.

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*.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with Old Parliament House and the Department of the Prime Minister and Cabinet.

Details of the *Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment (Board Members) Rules 2019*

Section 1 – Name

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment (Board Members) Rules 2019* (Amendment Rules).

Section 2 – Commencement

This section provides that this instrument commences on the day after this instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that this instrument is 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 (Establishing Old Parliament House) Rule 2016* (PGPA OPH Rule) is amended as set out in the Schedule to this instrument.

Schedule 1 – Amendments

Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016

Item 1 – Paragraph 18(d)

This item omits “4” from paragraph 18(d) and substitutes “5”. This will amend the PGPA OPH Rule to provide for up to 5 other members to be appointed to the Board of Old Parliament House. The Board will continue to also consist of the Board Chair, the Deputy Board Chair and the Director.

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 (Establishing Old Parliament House) Amendment (Board Members) Rules 2019

The *Public Governance, Performance and Accountability Amendment (Establishing Old Parliament House) Amendment (Board Members) Rules 2019* (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 Minister for Finance may make rules by legislative instrument to prescribe matters giving effect to the Act.

Section 87 of the PGPA Act provides a power to create statutory body corporates, which are not companies, by rules made under the PGPA Act. The *Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016* (PGPA OPH Rule) establishes Old Parliament House (OPH) as a corporate Commonwealth entity. The PGPA OPH Rule also provides for OPH's purpose, functions, powers, its Board, staffing and financial arrangements.

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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**