



Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020

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

Dated 22 May 2020

Mathias Cormann
Minister for Finance

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1 Name

This instrument is the *Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020*.

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 day after this instrument is registered.	30 May 2020

Note: This table relates only to the provisions of this instrument as originally made.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 the *Public Governance, Performance and Accountability Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Reporting requirements when Commonwealth entities have ceased to exist or functions have been transferred

Public Governance, Performance and Accountability Rule 2014

1 Section 4

Insert:

reporting entity: see subsection 17J(2).

2 Division 4 of Part 2-3

Repeal the Division, substitute:

Division 4—Special reporting requirements when Commonwealth entity has ceased to exist or functions have been transferred

Subdivision A—Commonwealth entity has ceased to exist

17A Guide to this Subdivision

The purpose of this Subdivision is to set out requirements relating to reporting that apply when a Commonwealth entity has ceased to exist.

This Subdivision deals only with reporting in relation to the functions of the entity that have not been transferred to other Commonwealth entities. For reporting in relation to transferred functions, see Subdivision C.

This Subdivision is made for the purposes of paragraph 102(1)(h) of the Act.

17B Commonwealth entity has ceased to exist—none of its functions has been transferred

- (1) If:
 - (a) a Commonwealth entity (the *old entity*) has ceased to exist; and
 - (b) none of its functions has been transferred to other Commonwealth entities; the Finance Minister may, in writing, nominate the accountable authority of a Commonwealth entity (the *nominated entity*) to report for the old entity.
- (2) If the Finance Minister does so, the accountable authority of the nominated entity must:
 - (a) prepare the annual performance statements, annual financial statements and annual report for the old entity that the accountable authority of the old entity would have been required to prepare had the old entity not ceased to exist; and
 - (b) include a copy of the annual performance statements in the annual report; and

- (c) give the annual financial statements to the Auditor-General as soon as practicable after they are prepared; and
- (d) give the annual report to the nominated entity's responsible Minister, for presentation to the Parliament.

17C Commonwealth entity has ceased to exist—some, but not all, of its functions have been transferred

- (1) If:
 - (a) a Commonwealth entity (the *old entity*) has ceased to exist; and
 - (b) some, but not all, of its functions have been transferred to one or more other Commonwealth entities;the Finance Minister may, in writing, nominate the accountable authority of a Commonwealth entity (the *nominated entity*) to report for the old entity in relation to the function or functions (the *non-transferred functions*) that have not been transferred.
- (2) If the Finance Minister does so, the accountable authority of the nominated entity must:
 - (a) prepare annual performance statements for the old entity as follows:
 - (i) subject to subparagraph (ii), the statements must be the annual performance statements that the accountable authority (the *old accountable authority*) of the old entity would have been required to prepare had the old entity not ceased to exist;
 - (ii) the statements must only include information about the old entity's performance of the non-transferred functions; and
 - (b) prepare the annual financial statements for the old entity that the old accountable authority would have been required to prepare had the old entity not ceased to exist, to the extent that the functions of the old entity have not been transferred to other Commonwealth entities; and
 - (c) prepare an annual report for the old entity as follows:
 - (i) subject to subparagraph (ii), the report must be the annual report that the old accountable authority would have been required to prepare had the old entity not ceased to exist;
 - (ii) the report must only include information relating to the non-transferred functions; and
 - (d) include a copy of the annual performance statements in the annual report; and
 - (e) give the annual financial statements to the Auditor-General as soon as practicable after they are prepared; and
 - (f) give the annual report to the nominated entity's responsible Minister, for presentation to the Parliament.

17D Commonwealth entity has ceased to exist—all of its functions have been transferred

- If:
- (a) a Commonwealth entity (the *old entity*) has ceased to exist; and

- (b) all of its functions have been transferred to one or more other Commonwealth entities;

annual performance statements, annual financial statements and an annual report must not be prepared for the old entity.

Note: The information that would have been included in the annual performance statements, annual financial statements and annual report for the old entity must be included in the statements and reports for the Commonwealth entity or entities to which the functions have been transferred: see Subdivision C.

Subdivision B—Commonwealth entity has not ceased to exist, but some or all of its functions have been transferred

17E Guide to this Subdivision

The purpose of this Subdivision is to set out requirements relating to reporting that apply when:

- (a) some or all of the functions of a Commonwealth entity (the *old entity*) have been transferred to one or more other Commonwealth entities; but
- (b) the old entity has not ceased to exist.

This Subdivision generally deals only with reporting in relation to the functions of the old entity that have not been transferred. For reporting in relation to the transferred functions, see Subdivision C.

This Subdivision is made for the purposes of paragraph 102(1)(h) of the Act.

17F Commonwealth entity has not ceased to exist—some, but not all, of its functions have been transferred and it is not practicable for it to report

- (1) If:
- (a) some, but not all, of the functions of a Commonwealth entity (the *old entity*) have been transferred to one or more other Commonwealth entities; and
- (b) the old entity has not ceased to exist; and
- (c) the Finance Minister is reasonably satisfied that it is not practicable for the accountable authority of the old entity to report in relation to the function or functions (the *non-transferred functions*) that have not been transferred; the Finance Minister may, in writing, nominate the accountable authority of a Commonwealth entity (the *nominated entity*) to report in relation to the non-transferred functions.
- (2) If the Finance Minister does so, the accountable authority (the *old accountable authority*) of the old entity must not prepare annual performance statements, annual financial statements and an annual report for the old entity.
- (3) Instead, the accountable authority of the nominated entity must:
- (a) prepare annual performance statements for the old entity as follows:

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- (i) subject to subparagraph (ii), the statements must be the annual performance statements that the old accountable authority would have been required to prepare apart from subsection (2);
 - (ii) the statements must only include information about the old entity's performance of the non-transferred functions; and
 - (b) prepare the annual financial statements for the old entity that the old accountable authority would have been required to prepare apart from subsection (2); and
 - (c) prepare an annual report for the old entity as follows:
 - (i) subject to subparagraph (ii), the report must be the annual report that the old accountable authority would have been required to prepare apart from subsection (2);
 - (ii) the report must only include information relating to the non-transferred functions; and
 - (d) include a copy of the annual performance statements in the annual report; and
 - (e) give the annual financial statements to the Auditor-General as soon as practicable after they are prepared; and
 - (f) give the annual report to the nominated entity's responsible Minister, for presentation to the Parliament.

17G Commonwealth entity has not ceased to exist—all of its functions have been transferred

If:

- (a) all of the functions of a Commonwealth entity (the *old entity*) have been transferred to one or more other Commonwealth entities; and
- (b) the old entity has not ceased to exist;

annual performance statements, annual financial statements and an annual report must not be prepared for the old entity.

Note: The information that would have been included in the annual performance statements, annual financial statements and annual report for the old entity must be included in the statements and reports for the Commonwealth entity or entities to which the functions have been transferred: see Subdivision C.

Subdivision C—Reporting in relation to transferred functions

17H Guide to this Subdivision

The purpose of this Subdivision is to set out requirements relating to reporting in relation to a function or functions that have been transferred from one Commonwealth entity (the *old entity*) to another.

For reporting in relation to functions of the old entity that have not been transferred (if any), see section 17C or 17F.

This Subdivision is made for the purposes of paragraph 102(1)(h) of the Act.

17J Reporting in relation to transferred functions

Application of section

- (1) This section applies if a function or functions of a Commonwealth entity (the **old entity**) have been transferred to another Commonwealth entity (the **new entity**) (whether or not the old entity has ceased to exist).

Meaning of reporting entity

- (2) The **reporting entity** is:
 - (a) the Commonwealth entity nominated under subsection (3); or
 - (b) if no Commonwealth entity is nominated under subsection (3)—the new entity.
- (3) The Finance Minister may, in writing, nominate the accountable authority of a Commonwealth entity to report in relation to the transferred functions.

Annual performance statements

- (4) The information about the old entity's performance of the transferred function or functions that would, apart from this Division, have been required to have been included in the annual performance statements for the old entity must instead be included in the annual performance statements for the reporting entity.

Annual financial statements

- (5) If:
 - (a) the old entity has ceased to exist; or
 - (b) all of the functions of the old entity have been transferred to one or more other Commonwealth entities;then, for the purposes of preparing the annual financial statements for the reporting entity, the old entity is taken to have been part of the reporting entity at all times during the relevant reporting period, to the extent that the functions of the old entity have been transferred to the new entity.

Note If subsection (5) does not apply, the ordinary requirements in relation to the preparation of annual financial statements apply in relation to the annual financial statements for the old entity and the reporting entity, subject to Subdivision B.

Annual report

- (6) The information relating to the transferred function or functions that would, apart from this Division, have been required to have been included in the annual report for the old entity must instead be included in the annual report for the reporting entity.

Subdivision D—Miscellaneous

17K Determinations by Finance Minister

Guide to this section

The purpose of this section is to allow the Finance Minister to determine that, for the purposes of preparing etc. annual performance statements, annual financial statements and annual reports, a transfer of functions between Commonwealth entities is to be taken not to have occurred.

This section is made for the purposes of paragraph 102(1)(h) of the Act.

- (1) This section applies if a function of a Commonwealth entity (the *old entity*) has been transferred to another Commonwealth entity (the *new entity*) (whether or not the old entity has ceased to exist).
- (2) The Finance Minister may determine that, for the purposes of:
 - (a) the preparation, auditing and giving of financial statements and performance statements for Commonwealth entities for the reporting period in which the transfer occurred; and
 - (b) the preparation and giving of annual reports for Commonwealth entities for that reporting period;the transfer is to be taken not to have occurred and anything done by the new entity in the performance of the function during the reporting period is taken to have been done by the old entity.
- (3) To avoid doubt, and without limiting the effect of a determination made under subsection (2), a determination made under that subsection has effect for the purposes of Subdivisions A to C.

3 In the appropriate position in Chapter 5

Insert:

Part 7—Amendments made by the Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020

37 Application of amendments made by the *Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020*

The amendments of Division 4 of Part 2-3 of this rule made by the *Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020* apply in relation to any reporting period that begins on or after 1 July 2019.

38 Transitional provision—nominations

- (1) A nomination:
 - (a) made under subsection 17A(1); and
 - (b) in force immediately before the commencement of this section;has effect, from that commencement, as if it had been made under subsection 17B(1) or 17C(1) (whichever is most relevant) of this rule, as

Schedule 1 Reporting requirements when Commonwealth entities have ceased to exist or functions have been transferred

amended by the *Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020*.

- (2) A nomination:
- (a) made under subsection 17A(4); and
 - (b) in force immediately before the commencement of this section;
- has effect, from that commencement, as if it were a nomination made under subsection 17J(3) of this rule, as amended by the *Public Governance, Performance and Accountability Amendment (2020 Measures No. 2) Rules 2020*.