



Public Governance, Performance and Accountability Amendment (Grant Rules for Corporate Commonwealth Entities) Rules 2020

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

Dated 17 July 2020

Mathias Cormann
Minister for Finance

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1 Name

This instrument is the *Public Governance, Performance and Accountability Amendment (Grant Rules for Corporate Commonwealth Entities) 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 first day this instrument is no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 (disallowance) of the <i>Legislation Act 2003</i> .	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Amendments

Public Governance, Performance and Accountability Rule 2014

1 Section 4

Insert:

CCE grant means an arrangement for the provision of financial assistance by or on behalf of a corporate Commonwealth entity under which relevant money is to be paid to a person, or body, that is not a Commonwealth entity but does not include an arrangement for any of the following:

- (a) a payment for the acquisition of goods or services by the corporate Commonwealth entity for its own use or the use of another entity or third party;
- (b) a payment of compensation:
 - (i) relating to defective administration; or
 - (ii) relating to employment conditions; or
 - (iii) established by a law of the Commonwealth or of a State or Territory;
- (c) a payment of a benefit or entitlement under a law of the Commonwealth;
- (d) a payment of a charitable donation by the entity from money received from individuals for that purpose;
- (e) an investment or loan.

2 After Division 6 of Part 2-4

Insert:

Division 6A—CCE grants made by or on behalf of corporate Commonwealth entities

25A Guide to this Division

This Division sets out requirements relating to certain grants of relevant money made by or on behalf of corporate Commonwealth entities in circumstances where a Minister is involved in making the grants.

The requirements apply to the accountable authorities of the entities making the grants as well as to the Ministers involved. They relate to matters arising before and after the grants are made, including the making and publishing of grant guidelines, giving advice to Ministers and publishing information about the grants.

There are reporting requirements that apply to Ministers who approve the making of grants in their own electorates or against the recommendation of a corporate Commonwealth entity.

This Division is made for paragraphs 71(2)(b) and 102(1)(a) and (b) of the Act.

25B Requirements for making CCE grants where Minister involved

Scope

- (1) This section applies in relation to one or more CCE grants of a particular kind to be made by or on behalf of a corporate Commonwealth entity if a Minister is to approve the making of the CCE grants.

Preparation and publication of grant guidelines

- (2) The accountable authority of the entity must:
- (a) prepare written guidelines for that kind of CCE grant; and
 - (b) publish those guidelines on GrantConnect, unless:
 - (i) the accountable authority or the Minister decides that there is a specific policy reason to not publicise the guidelines; or
 - (ii) that kind of CCE grant is provided on a one-off or ad hoc basis.

Note: GrantConnect could in 2020 be viewed on the GrantConnect website (see <https://www.grants.gov.au>).

- (3) For the purposes of subparagraph (2)(b)(ii), circumstances in which a CCE grant is provided on a one-off or ad hoc basis include the circumstance where:
- (a) there is an urgent need for payment to a person or body to address an unexpected or unforeseen need; and
 - (b) there is not a planned process to be used to select potential recipients of that kind of CCE grant; and
 - (c) the CCE grant is to be made for a particular purpose and it is not expected that the grant will be repeated; and
 - (d) the CCE grant is to be made available only to one, or to a small number of, persons or bodies; and
 - (e) the CCE grant is not to be made available on an ongoing basis.
- (4) The guidelines must include the following:
- (a) an explanation of the purposes, expected outcomes and objectives of that kind of CCE grant;
 - (b) an outline of the following:
 - (i) the process for applying for that kind of CCE grant;
 - (ii) the process used to assess such applications;
 - (iii) the governance arrangements of the entity in relation to making that kind of CCE grant;
 - (iv) the operation of that kind of CCE grant.

Information to be given to Minister

- (5) The accountable authority must give the Minister a written notice that complies with section 25C for a CCE grant of that kind if:
- (a) the corporate Commonwealth entity:
 - (i) recommends to the Minister that the CCE grant be made; and
 - (ii) seeks the approval of the Minister for the making of the CCE grant; or
 - (b) both of the following apply:
 - (i) the corporate Commonwealth entity recommends to the Minister that the CCE grant not be made;

- (ii) despite that recommendation, the Minister informs the entity that the Minister is considering approving the making of the CCE grant (and requesting that the CCE grant be made by the entity or on its behalf).

Minister to assess information

- (6) The Minister must not approve the making of a CCE grant of that kind without first:
 - (a) receiving a notice referred to in subsection (5) for the CCE grant; and
 - (b) assessing the CCE grant by having regard to the matters included in that notice; and
 - (c) creating a record of that assessment.

Note: Subsection 71(1) of the Act provides that a Minister must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper use of relevant money.

25C Requirements for advising Ministers involved in making CCE grants

A written notice given to a Minister by the accountable authority of a corporate Commonwealth entity complies with this section for a CCE grant if the notice includes the following:

- (a) a statement to the effect that the CCE grant is an arrangement for the provision of financial assistance by or on behalf of the corporate Commonwealth entity that is subject to this Division;
- (b) advice on the legal or administrative basis for the Minister to approve the making of the CCE grant;
- (c) an outline of the Minister's reporting obligations under sections 25D and 25E in relation to CCE grants;
- (d) an outline of the process used by the entity to select potential recipients of that kind of CCE grant, including an outline of the application process and the criteria used to select potential recipients;
- (e) a copy of the guidelines for that kind of CCE grant;
- (f) an assessment of the CCE grant against those guidelines;
- (g) an assessment of whether the CCE grant achieves value with relevant money;
- (h) a list of the following:
 - (i) any applications for that kind of CCE grant that satisfy all of the selection criteria included in the guidelines for that kind of CCE grant;
 - (ii) any applications for that kind of CCE grant that satisfy some but not all of those criteria;
 - (iii) any applications for that kind of CCE grant that do not satisfy any of those criteria;
- (i) any recommendations of the entity in relation to the CCE grant.

25D Reporting requirements for Minister where Minister approves CCE grant in Minister's electorate

- (1) This section applies if:
 - (a) a CCE grant is made after being approved by a Minister; and
 - (b) the Minister is a member of the House of Representatives; and

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- (c) the CCE grant relates to matters inside the Minister's electorate; and
 - (d) the CCE grant is not of a kind that is made across a region by applying a formula.
- (2) The Minister must, as soon as practicable after the CCE grant is made, give a written notice to:
- (a) if the Minister is the Finance Minister—the Prime Minister; or
 - (b) otherwise—the Finance Minister.
- (3) The notice must include the following:
- (a) details of the CCE grant;
 - (b) if the CCE grant was made despite the recommendation of a corporate Commonwealth entity—a statement to that effect;
 - (c) the Minister's reasons for approving the making of the CCE grant;
 - (d) a copy of any correspondence between the Minister and the recipient of the CCE grant.

25E Reporting requirements for Minister where Minister approves CCE grant despite recommendation of corporate Commonwealth entity

- (1) This section applies if:
- (a) a corporate Commonwealth entity recommends to a Minister that a CCE grant not be made; and
 - (b) the Minister approves the making of the CCE grant; and
 - (c) the CCE grant is made by or on behalf of the corporate Commonwealth entity.
- (2) The Minister must:
- (a) give a written notice to:
 - (i) if the Minister is the Finance Minister—the Prime Minister; or
 - (ii) otherwise—the Finance Minister; and
 - (b) do so by the first 31 March after the end of the calendar year in which the approval is given.
- (3) The notice must include:
- (a) details of the CCE grant; and
 - (b) the Minister's reasons for approving the making of the CCE grant.

25F Publication requirements for CCE grants made with Minister's approval

- (1) This section applies if a CCE grant is made by or on behalf of a corporate Commonwealth entity after being approved by a Minister.
- (2) The accountable authority of the corporate Commonwealth entity must:
- (a) publish the following information about the CCE grant on GrantConnect:
 - (i) the name of the recipient of the CCE grant;
 - (ii) the value of the CCE grant;
 - (iii) the purpose of the CCE grant;
 - (iv) whether there are confidentiality provisions relating to the CCE grant;
 - (v) any other matters relating to the CCE grant that the accountable authority considers relevant; and

(b) do so within 21 days after the day on which the CCE grant commences.

Note: GrantConnect could in 2020 be viewed on the GrantConnect website (see <https://www.grants.gov.au>).

(3) However, nothing in this section requires the accountable authority to publish particular information about the CCE grant if the accountable authority or the Minister decides that publishing that particular information:

(a) would contravene:

(i) the *Privacy Act 1988* or another law of the Commonwealth, or of a State or Territory; or

(ii) any terms or conditions relating to the CCE grant; or

(b) could reasonably be expected to adversely affect the achievement of a government policy outcome.

Note: This exception applies in relation to particular information about a CCE grant and does not affect the requirement under subsection (2) for the accountable authority to publish other information about the CCE grant. For example, if the accountable authority decides that publishing certain personal information would contravene the *Privacy Act 1988*, that information may not be published, but the accountable authority must publish so much of the other information required under subsection (2) as is not personal information or otherwise covered by this subsection.

25G Additional record-keeping requirement where information not published

If an accountable authority of a corporate Commonwealth entity, or a Minister, makes a decision under paragraph 25B(2)(b) or subsection 25F(3), the accountable authority or the Minister, as the case may be, must record the reasons for that decision in writing.

25H Other matters

Nothing in this Division confers power on a Minister to approve the making of a CCE grant.