

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability Rule 2014

Public Governance, Performance and Accountability Amendment (National Recovery and Resilience Agency) Rules 2021

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 Commonwealth entities and companies. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters necessary or convenient to be prescribed for carrying out or 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 (National Recovery and Resilience Agency) Rules 2021* (Amendment Rules) amend Schedule 1 to the PGPA Rule to:

- rename the National Drought and North Queensland Flood Response and Recovery Agency (NDNQFRA); and
- amend and expand the purposes of the listed entity in relation to disaster relief and recovery co-ordination; disaster relief, recovery, risk reduction and preparedness policy and funding; rural financial counselling; and drought recovery and resilience.

The North Queensland Livestock Industry Recovery Agency (NQLIRA) was first established as an Executive Agency for the purposes of the *Public Service Act 1999* by an Order In Council on 21 February 2019. The Order took effect from 1 March 2019. The listing of the NQLIRA in Schedule 1 to the PGPA Rule, which made it a non-corporate Commonwealth entity for the purposes of the PGPA Act, commenced on 2 March 2019.

That Order was amended again on 5 December 2019 to rename the Executive Agency to the NDNQFRA, to name the Chief Executive Officer of the Agency as the Coordinator-General and to broaden the specified functions of the listed entity. The listing in Schedule 1 of the PGPA Rule was also amended to reflect these changes and commenced on 19 December 2019.

For the purposes of the PGPA Act, the position of Coordinator-General continues to be the accountable authority of the listed entity.

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 are made of two parts, each of which commence on separate dates.

Part 1 of Schedule 1 commences on the day after the instrument is registered. This Part comprises of provisions relating to the:

- renaming of the listed entity for the purposes of the PGPA Act;
- amendment of certain functions that are remaining with the NRRA;
- transfer of functions from the National Bushfire Recovery Agency in the Department of the Prime Minister and Cabinet; and
- continuation of existing drought related functions of the listed entity.

Part 2 of Schedule 1 commences on 1 July 2021. This Part comprises of provisions relating to the:

- transfer of disaster risk reduction, recovery and some preparedness functions from the Department of Home Affairs;
- transfer of drought policy, co-ordination, drought data and strategic communications and the National Drought Map to the Department of Agriculture, Water and the Environment (DAWE);
- transfer of the Rural Financial Counselling Service program from the DAWE; and
- delivery of local outreach and engagement functions, including on drought.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of the Prime Minister and Cabinet and the Office of Parliamentary Counsel.

Details of the *Public Governance, Performance and Accountability Amendment (National Recovery and Resilience Agency) Rules 2021*

Section 1 – Name

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability Amendment (National Recovery and Resilience Agency) Rules 2021*.

Section 2 – Commencement

This section provides that each provision of the instrument specified in column 1 of the table commences in accordance with column 2 of the table.

Sections 1 to 4 and anything in the instrument not elsewhere covered by the table commence the day after the instrument is registered.

Part 1 of Schedule 1 commences on the day after the instrument is registered.

Part 2 of Schedule 1 commences on 1 July 2021.

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 Rule 2014* (PGPA Rule) is amended as set out in Schedule 1 to this instrument.

Schedule 1 – Amendments

Part 1—Amendments commencing day after registration

Public Governance, Performance and Accountability Rule 2014

Item 1 – Clause 15A of Schedule 1 (heading)

This item repeals the heading of clause 15A “National Drought and North Queensland Flood Response and Recovery Agency” and substitutes it with the new heading “National Recovery and Resilience Agency”.

Item 2 – Subparagraph 15A(a)(i) of Schedule 1

This item omits “National Drought and North Queensland Flood Response and Recovery Agency” in paragraph 15A(a)(i) which relates to the Coordinator-General and substitutes with “National Recovery and Resilience Agency” to reflect the change in name of the listed entity for the purposes of the PGPA Act.

Item 3 – Paragraph 15A(b) of Schedule 1

This item omits “National Drought and North Queensland Flood Response and Recovery Agency” in paragraph 15A(b) and substitutes with “National Recovery and Resilience Agency” to rename the listed entity for the purposes of the PGPA Act.

The National Drought and North Queensland Flood Response and Recovery Agency (NDNQFRRRA) is to be known as the National Recovery and Resilience Agency (NRRA) to reflect its expanded role and functions in matters of disaster resilience, relief and recovery.

Item 4 – Paragraph 15A(e) of Schedule 1

This item repeals paragraph 15A(e) and substitutes with new subparagraphs 15A(e)(i) to (e)(viii) which set out the NRRA’s purposes for finance law.

The purposes of the listed entity, the NRRA, reflect the functions set out in the *Order to rename the National Drought and North Queensland Flood Response and Recovery Agency, identify the Minister responsible, and specify functions for the renamed National Recovery and Resilience Agency* made under section 65 of the *Public Service Act 1999*. The Order continues, amends and expands the functions of the Executive Agency, the NDNQFRRRA, which is renamed the NRRA.

The purposes of the listed entity specified in this item include functions relating to disaster relief and recovery coordination; working with all levels of government to continually improve national recovery and resilience co-ordination; continuing existing drought related functions; and advising the responsible Minister on matters relevant to the listed entity.

References to “responsible Minister” in paragraph 15A(e) are consistent with the definition of “responsible Minister” in section 8 of the PGPA Act.

Part 2—Amendments commencing 1 July 2021

Public Governance, Performance and Accountability Rule 2014

Item 5 - Subparagraphs 15A(e)(vi) and (viii) of Schedule 1

This item repeals subparagraph 15A(e)(vi) and (viii) and substitutes with new subparagraphs 15A(e)(vi) to (e)(xvi) which set out both new and amended purposes of the NRRA to commence from 1 July 2021.

The new and amended purposes of the listed entity, the NRRA, reflect those functions specified in the *Order to rename the National Drought and North Queensland Flood Response and Recovery Agency, identify the Minister responsible and specify functions for the renamed National Recovery and Resilience Agency* to commence from 1 July 2021. These relate to disaster relief, recovery, risk reduction and preparedness policy and funding; rural financial counselling; and drought recovery and resilience.

The new purposes for the listed entity include the transfer of disaster risk reduction, recovery and some preparedness functions from the Department of Home Affairs; the transfer of the Rural Financial Counselling Service program from the Department of Agriculture, Water and

the Environment (DAWE); and the continuation of local outreach and engagement functions, including on drought. Responsibility for drought policy, co-ordination, drought data and strategic communications and the National Drought Map functions are transferred from the NRRRA to the DAWE.

Subparagraph 15A(e)(vii) prescribes the role that the NRRRA has in leading the national implementation of the National Disaster Risk Reduction Framework (the Framework) and relevant action plans to implement the Framework's priorities.

Subparagraph 15A(e)(x) prescribes that the NRRRA administers the Disaster Recovery Funding Arrangements 2018 and holds policy authority for the following emergency payments administered by Services Australia: Australian Government Disaster Recovery Payment, the Disaster Recovery Allowance and the Pandemic Leave Disaster Payment, in addition to policy responsibility for equivalent ex-gratia payments for New Zealand citizens.

Subparagraph 15A(e)(xi) prescribes that the NRRRA provides strategic oversight of the Australian Institute for Disaster Resilience (AIDR) and other relevant national research centres. The Department of Home Affairs has been a supporting partner of the AIDR. This partnership transfers to the NRRRA as part of the disaster risk reduction, recovery and preparedness functions.

The NRRRA continues to have the responsibility of working with all levels of government to continually improve national recovery and resilience co-ordination and advise the responsible Minister on matters relevant to the listed entity.

References to "responsible Minister" in paragraph 15A(e) are consistent with the definition of "responsible Minister" in section 8 of the PGPA Act.

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 (National Recovery and Resilience Agency) Rules 2021

The *Public Governance, Performance and Accountability Amendment (National Recovery and Resilience Agency) Rules 2021* (Amendment Rules) 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 Commonwealth entities and companies. 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 Amendment Rules amend the *Public Governance, Performance and Accountability Rule 2014* made under the PGPA Act by:

- renaming the National Drought and North Queensland Flood Response and Recovery Agency; and
- amending and expanding the purposes of the listed entity in relation to disaster relief and recovery co-ordination; disaster relief, recovery, risk reduction and preparedness policy and funding; rural financial counselling; and drought recovery and resilience.

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 Simon Birmingham
Minister for Finance**