

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 (Domestic, Family and Sexual Violence Commission) Rules 2022

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 Minister for Finance may make rules by legislative instrument to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the Act. Paragraph 103(e) of the PGPA Act provides that the rules may make provision for the name or purposes of a non-corporate Commonwealth entity that is prescribed by the rules to be a listed entity.

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 (Domestic, Family and Sexual Violence Commission) Rules 2022* (Amendment Rules) amend Schedule 1 to the PGPA Rule by inserting a new clause 10AA to prescribe the Domestic, Family and Sexual Violence Commission (DFSV Commission) as a listed entity, a type of non-corporate Commonwealth entity, for the purposes of the finance law as defined by the PGPA Act.

The Amendment Rules reflect the Government's decision to establish the DFSV Commission as a non-corporate Commonwealth entity, separate from the Department of Social Services for the purposes of the PGPA Act. The DFSV Commission will provide strategic advice to the responsible Minister, develop and maintain a supportive approach to engagement with victim-survivors, enhance the coordination between public, private and not-for-profit sectors, and promote consistent approaches to monitoring and evaluation of, the National Plan to End Violence against Women and Children 2022-32.

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 commence on 1 November 2022.

Consultation

The Amendment Rules were developed by the Office of Parliamentary Counsel in consultation with the Department of Social Services and the Department of the Prime Minister and Cabinet, in accordance with section 17 of the *Legislation Act 2003*.

Attachment A

Details of the *Public Governance, Performance and Accountability Amendment (Domestic, Family and Sexual Violence Commission) Rules 2022*

Section 1 – Name

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability Amendment (Domestic, Family and Sexual Violence Commission) Rules 2022*.

Section 2 – Commencement

This section provides that this instrument commences on 1 November 2022.

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

Public Governance, Performance and Accountability Rule 2014

Item 1 – After clause 10 of Schedule 1

This item inserts a new clause 10AA in Schedule 1.

The new clause 10AA makes the Domestic, Family and Sexual Violence Commission (DFSV Commission) a non-corporate Commonwealth entity for the purposes of the finance law by prescribing it as a listed entity in Schedule 1. It also sets out the accountable authority, officials and purposes of the DFSV Commission for the purposes of the finance law. The DFSV Commission will comprise the Commissioner of the DFSV Commission as the accountable authority, and persons engaged under the *Public Service Act 1999* (PS Act) to assist in the performance of the functions of the DFSV Commission.

Among the prescribed purposes of the listed entity, the DFSV Commission will be responsible for:

- providing strategic policy advice to the responsible Minister;
- promoting and enhancing coordination of policy and service systems relating to family, domestic and sexual violence across Commonwealth, state and territory governments, and the not-for-profit and private sectors;
- promoting consistent evaluation frameworks by all governments for the National Plan to End Violence against Women and Children 2022-32; and
- developing and maintaining a structured approach to victim-survivor engagement at the national level.

The National Plan to End Violence against Women and Children 2022-32 was launched by Commonwealth, state and territory ministers for women's safety on 17 October 2022. It was developed in close consultation with key stakeholders, including victim-survivors, and represents a shared commitment to coordinate efforts across Commonwealth, state and territory governments and numerous sectors to address gender-based violence in Australia. The National Plan to End Violence against Women and Children 2022-32 outlines a shared understanding of violence against women and children and highlights objectives and key areas of focus over the 10 years from 2022 to 2032.

The National Plan to End Violence against Women and Children 2022-32 is available free of charge on the Department of Social Services website at <https://www.dss.gov.au/ending-violence>.

The DFSV Commission was established as an Executive Agency under section 65 of the PS Act by the *Order to Establish the Domestic, Family and Sexual Violence Commission as an Executive Agency* (Order), made on 17 March 2022 and commencing on 1 July 2022. From 1 July 2022 to 31 October 2022 the DFSV Commission, as an Executive Agency, was part of the Department of Social Services for the purposes of the finance law. It was not a Commonwealth entity for the purposes of the finance law. From 1 November 2022, the DFSV Commission will continue as an Executive Agency and will commence as a non-corporate Commonwealth entity, for the purposes of the finance law, separate from the Department of Social Services. The Order specifies the functions for the DFSV Commission, which are reflected in the purposes of the DFSV Commission by the new clause 10AA.

At the time of commencement as a non-corporate Commonwealth entity, the responsible Minister for the DFSV Commission is the Assistant Minister for the Prevention of Family Violence.

Attachment B

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 (Domestic, Family and Sexual Violence Commission) Rules 2022

The *Public Governance, Performance and Accountability Amendment (Domestic, Family and Sexual Violence Commission) Rules 2022* (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 necessary or convenient to be prescribed for carrying out or giving effect to the Act. Paragraph 103(e) of the PGPA Act provides that the rules may make provision for the name or purposes of a non-corporate Commonwealth entity that is prescribed by the rules to be a listed entity.

The Amendment Rules amend Schedule 1 to the *Public Governance, Performance and Accountability Rule 2014* made under the PGPA Act by inserting a new clause 10AA to prescribe the Domestic, Family and Sexual Violence Commission as a listed entity, a type of non-corporate Commonwealth entity, for the purposes of the finance law as defined by the PGPA Act.

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 Katy Gallagher
Minister for Finance**