

Finance Legislation Amendment (National Intermodal Corporation Limited and other Matters) Regulations 2022

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Lands Acquisition Act 1989

Public Works Committee Act 1969

Authority

The *Lands Acquisition Act 1989* (the LAA) is a key legislation used by the Commonwealth to acquire and dispose of interests in land to support the delivery of Government priorities, services and outcomes.

Section 6 of the LAA defines a ‘Commonwealth authority’ to mean an authority that is incorporated by or under a law of the Commonwealth or by or under a law of a Territory that is not declared by the regulations to be an exempt authority. Section 140 of the LAA provides that the Governor-General may make regulations prescribing matters required or permitted by the LAA to be prescribed. Section 6 of the *Lands Acquisition Regulations 2017* (the LA Regulations) lists authorities to be exempt from the LAA.

The *Public Works Committee Act 1969* (the PWC Act) provides for the establishment of the Parliamentary Standing Committee on Public Works (PWC) to inquire into and report on public works referred to the PWC by the Parliament. In general, a public work the estimated cost of which exceeds \$15 million must be referred to the PWC before it commences.

Subsection 6A(3) of the PWC Act provides that where the Governor-General is satisfied that an authority of the Commonwealth is engaging in trading or other activities, or is providing services, in competition with another body or other bodies, or with persons, the Governor-General may make regulations declaring that the PWC Act does not apply to that authority. Section 7 of the *Public Works Committee Regulation 2016* (PWC Regulation 2016) declares a number of entities where the PWC Act does not apply.

Purpose and operation of the Regulations

The proposed Regulations will update the PWC Regulation 2016 and the LA Regulations 2017 to reflect title changes of three Commonwealth entities as follows:

- (a) Australian Grape and Wine Authority is now Wine Australia, pursuant to section 6 of the *Wine Australia Act 2013*;
- (b) Indigenous Land Corporation is now Indigenous Land and Sea Corporation, pursuant to section 191A of the *Aboriginal and Torres Strait Islander Act 2005*; and
- (c) Moorebank Intermodal Company Limited is now National Intermodal Corporation Limited, pursuant to *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 6) Regulations 2021*.

The Regulations commence on the day after they are registered on the Federal Register of Legislation.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation

National Intermodal Corporation Limited on detail of its corporate restructuring. Parliamentary Standing Committee on Public Works Secretariat on changes to the PWC Regulation 2016. Office of Parliamentary Counsel in development of the *Finance Legislation Amendment (National Intermodal Corporation Limited and other Matters) Regulations 2022*.

The Office of Best Practice Regulation advised that a Regulatory Impact Statement was not required for the Regulation (Reference: OBPR22-01874).

ATTACHMENT A**Details of the Finance Legislation Amendment (National Intermodal Corporation Limited and other Matters) Regulations 2022****Section 1 - Name of Regulations**

This section provides that the title of the Regulations is the *Finance Legislation Amendment (National Intermodal Corporation Limited and other Matters) Regulations 2022*.

Section 2 - Commencement

This section provides for the Regulations to commence on the day after they are registered.

Subsection 2(2) confirms that column 3 in the commencement table under subsection 2(1) does not form part of the Regulations.

Section 3 - Authority

This section provides that the Regulations are made under the *Lands Acquisition Act 1989* and the *Public Works Committee Act 1969*.

Section 4 - Schedule(s)

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

Schedule 1 - Amendments***Amendments to Lands Acquisition Regulations 2017*****Item [1] – section 6 (table item 2)**

This item repeals item 2 from the table, “Australian Grape and Wine Authority” and instead include “Wine Australia” as item 11 of the table (refer to Item [3] below).

Following assent of the *Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017* on 6 November 2017, item 4 of Part 1 to Schedule 1 of that Act amended the *Wine Australia Act 2013* to rename the “Australian Grape and Wine Authority” to “Wine Australia”.

Item [2] – section 6 (table item 8)

This item would repeal item 8 (“Indigenous Land Corporation”) from the table in section 6 and insert “Indigenous Land and Sea Corporation”.

This item reflects the renaming of “Indigenous Land Corporation” to Indigenous Land and Sea Corporation”. The change of name occurred on commencement of the *Aboriginal and Torres Strait Islander Amendment (Indigenous Land Corporation) Act 2018* on 1 February 2019 which amended the *Aboriginal and Torres Strait Islander Act 2005*.

Item [3] – section 6 (at the end of the table)

This item insert “Wine Australia” as item 11 of the table.

Read with item [1], this item reflects the renaming of the “Australian Grape and Wine Authority” to “Wine Australia”. The change of name occurred on commencement of the *Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017* on 7 November 2017.

Amendments to *Public Works Committee Regulation 2016***Item [4] – section 7 (table item 9)**

This item would repeal item 9 (“Australian Grape and Wine Authority”) from the table in section 7, and insert “Wine Australia”.

This item reflects the renaming of the “Australian Grape and Wine Authority” to “Wine Australia”. The change of name occurred on commencement of the *Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017* on 7 November 2017.

Item [5] – section 7 (table item 13)

This item would repeal item 13 (“Moorebank Intermodal Company Limited”) from the table in section 7, and insert “National Intermodal Corporation Limited”.

This item reflects the renaming of the “Moorebank Intermodal Company Limited” to “National Intermodal Corporation Limited”. The change of name occurred on commencement of the *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development and Communications Measures No. 6) Regulations 2021* on 18 December 2021.

This item would insert into the table item 13A “A wholly owned subsidiary of National Intermodal Corporation Limited” and item 13B “A wholly owned subsidiary of a wholly owned subsidiary mentioned in item 13A”. This would be consistent with the structure of similar entities that are currently listed in the *Public Works Committee Regulation 2016* and that National Intermodal Corporation Limited is structured this way.

ATTACHMENT B**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Disallowable Legislative Instrument 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 Disallowable Legislative Instrument

Finance Legislation Amendment (National Intermodal Corporation Limited and other Matters) Regulations 2022 amend the *Public Works Committee Regulations 2016* and *Lands Acquisition Regulations 2017* to reflect title changes of three Commonwealth entities to which the respective legislation does not apply (for the purposes of subsection 6A(3) of the *Public Works Committee Act 1969* and section 6 of the *Lands Acquisition Regulations 2017* lists authorities to be exempt from the LAA.).

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

[Senator the Hon Katy Gallagher, Minister for Finance]