

EXPLANATORY STATEMENT

Issued by 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 (Law Enforcement Agencies) Rules 2024

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.

Paragraph 101(1)(a) of the PGPA Act provides that the Finance Minister may make rules prescribing matters required or permitted to be prescribed by the rules.

The PGPA Act at section 8 provides that *listed law enforcement agency* means a law enforcement agency (within the meaning of section 85ZL of the *Crimes Act 1914*) that is prescribed by the rules.

The *Public Governance, Performance and Accountability Amendment (Law Enforcement Agencies) Rules 2024* (Amendment Rules) would amend the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) to:

- Repeal the Australian Commission for Law Enforcement Integrity (ACLEI) as a listed law enforcement agency following its abolishment; and
- Prescribe the National Anti-Corruption Commission (NACC) as a listed law enforcement agency.

The non-corporate Commonwealth entity (NCE) known as ACLEI was abolished on 1 July 2023, with the NACC established as a new NCE absorbing the functions of ACLEI in addition to new functions. Section 53 in part 10 of the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022* provides that references to instruments in force before the transition time to ACLEI are to be read as references to the NACC after the transition time.

For clarity, and reflecting amendments made to the *Crimes Act 1914* (by the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*) that inserted the NACC into the meaning of ‘law enforcement agency’ for the purposes of section 85ZL of the *Crimes Act 1914*, the Amendment Rules will provide for the NACC to be a listed law enforcement agency for the purposes of the PGPA Act and PGPA Rule.

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

Details of the Amendment Rules are set out at [Attachment A](#). A statement of compatibility with human rights is at [Attachment B](#).

The whole of the instrument commences the day after registration.

Consultation

The amendments relating to prescribing the NACC as a listed law enforcement agency for the purposes of the PGPA Act and PGPA Rule were developed in consultation with the NACC.

The Amendment Rules were drafted by the Office of Parliamentary Counsel.

Details of the *Public Governance, Performance and Accountability Amendment (Law Enforcement Agencies) Rules 2024*

Section 1 – Name of instrument

This section states that the name of this instrument is the *Public Governance, Performance and Accountability Amendment (Law Enforcement Agencies) Rules 2024* (the Amendment Rules).

Section 2 – Commencement

This section provides that the whole of the instrument commences the day after registration.

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 – Paragraph 7(b)

This item would amend section 7 to repeal the current paragraph 7(b), removing the Australian Commission for Law Enforcement Integrity (ACLEI), and substitute a new paragraph 7(b) prescribing the National Anti-Corruption Commission (NACC) as a listed law enforcement agency for the purposes of section 8 of the PGPA Act.

Section 8 of the PGPA Act provides that a listed law enforcement agency means a law enforcement agency (within the meaning of section 85ZL of the *Crimes Act 1914*) that is prescribed by the rules. Reflecting amendments made to the *Crimes Act 1914* (by the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*) that inserted the NACC into the meaning of ‘law enforcement agency’ for the purposes of section 85ZL of the *Crimes Act 1914*, the Amendment Rules will provide for the NACC to be a listed law enforcement agency for the purposes of the PGPA Act and PGPA Rule.

Listed law enforcement agencies may have modifications made to the operation of the PGPA Act, and instruments made under it, in relation to ‘designated activities’ under section 105D of the PGPA Act. Any modifications made for designated activities of the NACC are by written instruments made by the Attorney-General and the Finance Minister, under subsections 105D(2) and 105D(3) of the PGPA Act, respectively.

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 (Law Enforcement Agencies) Rules 2024

This 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 Legislative Instrument

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) establishes a framework for regulating resource management by the Commonwealth entities and companies. Paragraph 101(1)(a) of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The PGPA Act at section 8 provides that *listed law enforcement agency* means a law enforcement agency (within the meaning of section 85ZL of the *Crimes Act 1914*) that is prescribed by the rules.

The *Public Governance, Performance and Accountability Amendment (Law Enforcement Agencies) Rules 2024* (Amendment Rules) would amend the PGPA Rule to:

- Repeal the Australian Commission for Law Enforcement Integrity as a listed law enforcement agency following its abolishment; and
- Prescribe the National Anti-Corruption Commission (NACC) as a listed law enforcement agency in section 7 of the PGPA Rule.

The Amendment Rules will provide for the NACC to be prescribed as a listed law enforcement agency for the purposes of the PGPA Act and PGPA Rule to reflect amendments to section 85ZL of the *Crimes Act 1914* to insert the NACC into the meaning of ‘law enforcement agency’.

Human rights implications

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

Conclusion

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

**Senator the Hon Katy Gallagher
Minister for Finance**