

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 157

Issued by the Authority of the Minister for Finance and Administration

Commonwealth Authorities and Companies Act 1997

Commonwealth Authorities and Companies Amendment Regulations 2007 (No. 1)
(the Regulations)

The *Commonwealth Authorities and Companies Act 1997* (the Act) provides reporting, accountability and other rules for Commonwealth authorities and Commonwealth companies.

Subsection 49(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The (the Regulations) make several minor administrative changes to the *Commonwealth Authorities and Companies Regulations 1997* (the Principal Regulations). These changes are the result of one body corporate becoming a Commonwealth authority under the Act and three bodies corporate ceasing to be Commonwealth authorities under the Act.

Prescription of a new Commonwealth authority

Paragraph 7(1)(b) of the Act provides that a body corporate incorporated for a public purpose by regulations under an Act and prescribed in the Principal Regulations is a Commonwealth authority.

For the purposes of paragraph 7(1)(b), regulation 6 of the Principal Regulations prescribes bodies corporate, incorporated for a public purpose by regulations under an Act, as Commonwealth authorities.

The Royal Australian Navy Central Canteens Fund (RANCCF) is a body corporate incorporated for a public purpose by regulations under an Act. From 1 July 2007 the RANCCF becomes a body corporate covered by the Act. Accordingly, the Regulations amend the Principal Regulations to prescribe the RANCCF in regulation 6 as a Commonwealth authority.

Removing three Commonwealth authorities from the procurement regulation

Section 47A of the Act provides that the Finance Minister may, in writing, give directions to the directors of a Commonwealth authority or wholly-owned Commonwealth company specified in the Principal Regulations on matters related to the procurement of property or services.

Regulation 9 of the Principal Regulations provides that the Commonwealth authorities listed in Part 1 of Schedule 1 to the Principal Regulations and the wholly-owned

Commonwealth companies mentioned in Part 2 of Schedule 1, are specified for the purposes of section 47A of the Act.

The Australian Prudential Regulation Authority (APRA), Australian Securities and Investments Commission (ASIC) and the Corporations and Markets Advisory Committee (CAMAC) will cease to be Commonwealth authorities under the Act, and will instead become *Financial Management and Accountability Act 1997* agencies, upon commencement of Schedules 1 and 2 of the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007*. Accordingly, the Regulations amend the Principal Regulations to update the list in Part 1 of Schedule 1 by removing APRA, ASIC and CAMAC.

Further details of the Regulations are in the Attachment.

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

In accordance with section 17 of the *Legislative Instruments Act 2003* we have consulted with The Treasury and the Department of Defence. No further consultation was undertaken in relation to the Regulations as they are of a minor or machinery nature and do not substantially alter existing arrangements. We have also consulted with the Office of Best Practice Regulation and they have advised that a Regulation Impact Statement was not required.

The amendment to prescribe the RANCCF in the Principal Regulations commences on 1 July 2007. The amendments to remove APRA, ASIC and CAMAC commence on the commencement of Schedules 1 and 2 of the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007*, which will also be 1 July 2007.

ATTACHMENT

Details of the Commonwealth Authorities and Companies Amendment Regulations 2007 (No. 1)

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Commonwealth Authorities and Companies Amendment Regulations 2007 (No. 1)* (the Regulations).

Regulation 2 – Commencement

This regulation provides for the commencement of the Regulations as follows:

- Regulations 1, 2, 3 and Schedule 1 to commence on 1 July 2007;
- Schedule 2 to commence on the commencement of Schedules 1 and 2 to the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007*;

Regulation 3 – Amendment of Commonwealth Authorities and Companies Regulations 1997

This regulation provides that the Schedules 1 and 2 amend the *Commonwealth Authorities and Companies Regulations 1997* (the Principal Regulations).

Schedule 1

Item [1] – Schedule 1

This amendment replaces the current regulation 6 with a new regulation detailing a table of bodies corporate, incorporated for a public purpose by regulations under an Act that are Commonwealth authorities.

- On 1 July 2007 the *Navy (Canteens) Regulations 1954* will be amended to make those regulations consistent with the Royal Australian Navy Central Canteens Fund (RANCCF) becoming a Commonwealth authority under the *Commonwealth Authorities and Companies Act 1997* (Act). The Regulations amend the Principal Regulations to prescribe the RANCCF as a Commonwealth authority in regulation 6. There is currently only one entry in regulation 6 (the Army and Air Force Canteen Service) and the Regulations create a new table to list both entries.

Schedule 2

Item [1] – Schedule 2

This amendment updates Schedule 1 of the Principal Regulations, which contains a table of Commonwealth authorities which are subject to government procurement requirements under section 47A of the Act, by removing the Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC).

Upon the commencement of Schedules 1 and 2 of the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007* APRA and ASIC will cease to be Commonwealth authorities under the Act and will become *Financial Management and Accountability Act 1997* (FMA Act) agencies.

Item [2] – Schedule 2

This amendment updates Schedule 1 of the Principal Regulations, which contains a table of Commonwealth authorities which are subject to government procurement requirements under section 47A of the Act, by removing the Corporations and Markets Advisory Committee (CAMAC).

- Upon the commencement of Schedules 1 and 2 of the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007*, CAMAC will cease to be a Commonwealth authority under the Act and will become an FMA Act agency.