

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 4

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

*Financial Management and Accountability Amendment Regulations 2008
(No. 1)*

The *Financial Management and Accountability Act 1997* (FMA Act) provides a framework of rules for the proper management of public money and public property by Chief Executives and officials of FMA Act agencies.

Subsection 65(1) of the FMA Act provides that the Governor-General may make regulations prescribing matters required or permitted by the FMA Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the FMA Act.

Section 5 of the FMA Act provides that for the purposes of the FMA Act, a prescribed Agency means a body, organisation or group of persons prescribed by the regulations for the purposes of that definition. Agencies are prescribed in Schedule 1 to the *Financial Management and Accountability Regulations 1997* (the Principal Regulations).

The Regulations made several administrative amendments to the Principal Regulations consequential to the December 2007 changes to administrative arrangements, and prescribed the new Murray-Darling Basin Authority for the purposes of the FMA Act.

The Principal Regulations referred to the former Department of Finance and Administration. The Department of Finance and Administration was renamed the Department of Finance and Deregulation on 3 December 2007. Accordingly, the Regulations updated regulation 3 of the Principal Regulations to refer instead to the Department of Finance and Deregulation.

The Principal Regulations also used the expression "Secretary to the Department". The Regulations amended regulation 3 of the Principal Regulations to instead use "Secretary of the Department", consistent with the *Public Service Act 1999*.

The proposed Regulations also amended regulation 26 of the Principal Regulations to clarify the ability for the Chief Executives to subdelegate "powers or functions" delegated to them by the Finance Minister, rather than just "powers".

IP Australia was prescribed in Schedule 1 to the Principal Regulations and the Director-General of IP Australia was prescribed as a position within the Department of Industry, Tourism and Resources. However, the Department of Industry, Tourism and Resources was abolished on 3 December 2007. The Regulations therefore amended the Principal Regulations to remove the reference to the former Department

of Industry, Tourism and Resources. The Director-General of IP Australia continues to be the Chief Executive of IP Australia for the purposes of the FMA Act.

The Regulations also prescribed a new agency called the Murray-Darling Basin Authority to manage water resources in the Murray-Darling Basin.

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*, IP Australia and the Department of Environment, Water, Heritage and the Arts were consulted. 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.

Regulations 1, 2, 3 and Schedule 1 commenced the day after they were registered on the Federal Register of Legislative Instruments. Schedule 2 to the proposed Regulations, which relates to the Murray-Darling Basin Authority, commenced on the commencement of section 171 of the *Water Act 2007*.