

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

*Public Governance, Performance and Accountability
Amendment (Corporate Plans and Annual Performance Statements) Rule 2015*

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

The *Public Governance, Performance and Accountability Amendment (Corporate Plans and Annual Performance Statements) Rule 2015* (Corporate Plans and Annual Performance Statements Rule) is being made to amend the rule made under the PGPA Act. The rule instrument is the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule).

The Corporate Plans and Annual Performance Statements Rule contains provisions that:

- provide minimum requirements for the preparation of corporate plans for Commonwealth entities and Commonwealth companies under the PGPA Act;
- provide minimum requirements for the preparation of annual performance statements for Commonwealth entities under the PGPA Act.

Details of the Corporate Plans and Annual Performance Statements Rule are set out at [Attachment A](#). A statement of compatibility with human rights is at [Attachment B](#).

The Corporate Plans and Annual Performance Statements Rule is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

The Department of Finance (Finance) has worked with the Office of Parliamentary Counsel in developing the Corporate Plan and Annual Performance Statement Rule.

Finance consulted stakeholders from both within and outside of the Commonwealth in the development of the draft rule, including key stakeholders in regional communities and in Sydney and Melbourne.

The consultation on the draft rule was undertaken by Finance at progressive stages of the development process. Exposure drafts of the Corporate Plan and Annual Performance Statement Rule were released via email and website on several occasions for review by Commonwealth entities and Commonwealth companies who were able to provide feedback to Finance. The feedback provided by Commonwealth entities, Commonwealth companies and external stakeholders informed the development of the subsequent draft.

Once drafted the Corporate Plans and Annual Performance Statements Rule was posted on the Department of Finance website and was open for public comment for at least 30 days.

Finance also submitted drafts of the Corporate Plan and Annual Performance Statement Rule to the Joint Committee of Public Accounts and Audit (JCPAA).

Details of the *Public Governance, Performance and Accountability Amendment (Corporate Plans and Annual Performance Statements) Rule 2015*

Section 1—Name of instrument

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability Amendment (Corporate Plans and Annual Performance Statements) Rule 2015*.

Section 2—Commencement

This section provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3—Authority

This section states that the instrument is made under the PGPA Act.

Section 4—Schedules

This section ensures that if anything in Schedule 1 of the instrument makes an amendment to another instrument, then those amendments will apply after commencement of this instrument.

Schedule 1—Amendments

Public Government, Performance and Accountability Rule 2014

Item 1 – Division 1 of Part 2-3 (heading)

Item 1 repeals the existing heading “Audit Committee for Commonwealth entities” and substitutes a new heading, “Planning and budgeting” to reflect the amendments to the PGPA Rule and ensure the PGPA Rule sequencing aligns with the PGPA Act.

Section 16E

Section 16E is made for subsections 35(1) and (2) of the PGPA Act and sets out matters that the accountable authority of a Commonwealth entity must include in the entity’s corporate plan. It applies to both non-corporate and corporate Commonwealth entities.

Subsection 16E(1) specifies the period a corporate plan must cover. Each corporate plan, unless otherwise prescribed by the entity’s enabling legislation, is required to cover a minimum of four reporting periods. The first of these four reporting periods is defined as “the reporting period for which the plan is prepared under paragraph 35(1)(a) of the Act”. It is expected that a reporting period will be taken to mean a financial year, unless a different reporting period is specified in entity enabling legislation. Four years is a minimum

requirement for each corporate plan, the accountable authority of a Commonwealth entity may choose to produce a corporate plan longer than four reporting periods.

The four year horizon for a corporate plan is consistent with the forward estimates period of the Commonwealth government's budgeting and planning cycle.

Subsection 16E(2), including the table, sets out the requirements that are intended to be the minimum requirements for inclusion in all corporate plans. There are six minimum requirements for corporate plans detailed in the table.

1. *Introduction (statement of preparation and period of coverage)*
2. *Purposes*
3. *Environment*
4. *Performance*
5. *Capability*
6. *Risk oversight and management*

The six requirements are set to ensure that essential information is included in an entity's corporate plan. The inclusion of a set of minimum requirements ensures consistency of content. Corporate plans are required to include information on each of these items. An accountable authority of a Commonwealth entity may produce additional information in the entity's corporate plan, provided these minimum requirements are met.

Item 1 in the table is an introduction statement by the accountable authority containing three elements. The introduction requires accountable authorities to state that the corporate plan has been prepared for subsection 35(1) of the PGPA Act; specify the reporting period for which the corporate plan has been prepared (usually the first financial year of the minimum four financial year period covered by the plan); and specify the number of reporting periods covered by the plan.

Item 2 in the table is a statement that explains the purposes that the entity will pursue over the period covered by the corporate plan. The purposes statement is intended to be a strategic, relevant and concise statement that reflects the many factors accountable authorities are subject to in determining the entity's purposes. Examples of some of the factors that can contribute to the purposes of an entity include: key government priorities and objectives (statements made under section 34 of the PGPA Act), enabling legislation of the entity, Administrative Arrangement Orders and Portfolio Budget Statements.

Item 3 in the table is a statement where the corporate plan for an entity will address the context and environment in which it operates (currently and over the period of the plan). This item requires entities to address the main external and internal factors that it expects may affect or influence its performance and capacity to achieve its purpose(s).

Item 4 in the table requires the corporate plan for an entity to outline and describe the entity's performance over the reporting periods covered by the plan. This includes how the entity plans to achieve the purposes, as described in Item 2, that it will pursue over the period of the corporate plan. Item 4 requires corporate plans to include a summary of any performance measures, targets and assessments an entity will use to measure its performance of the significant activities undertaken over the period of the corporate plan to deliver on the purposes of the entity.

Entities will be responsible for developing their performance information to give the most appropriate insight into how their activities, and the results measured for these activities, deliver upon the purposes of the entity.

The PGPA Act (subsection 35(5)) requires a corporate plan to cover both the entity and any subsidiaries it may have. Item 4(b) of the table at 16E(2) of this rule provides that where an entity has a subsidiary, as defined by the PGPA Act, then the corporate plan for the entity should explain how that subsidiary contributes to achieving the entity's purpose(s). Accountable authorities should determine the significance of their subsidiary's activities and the effect they have on the fulfilment of their purposes.

Under item 4(c) the corporate plan prepared for an entity must provide a summary of how the entity intends to measure and assess its ongoing performance in achieving its purposes. The information provided in the corporate plan for this item must include any measures, targets and assessments that will be used in the entity's annual performance statement, prepared under section 16F, to report on the entity's performance.

Item 5 in the table relates to capability. It requires the corporate plan for entities to identify the key strategies and plans the entity will implement to achieve their purposes in each reporting period. The corporate plan may also identify how the entity's capability needs will change over the term of the corporate plan. For example, the corporate plan may set out what strategies and plans the entity will put in place to build the capacity it needs in areas such as workforce planning, capital investment or information and communication technology.

Item 6 of the table requires the corporate plan for a Commonwealth entity to provide a summary of the entity's risk oversight and management systems over the term of the corporate plan. This is consistent with section 16 of the PGPA Act which provides that accountable authorities of all Commonwealth entities must establish and maintain appropriate systems of risk oversight, management and internal control for the entity.

Subsection 16E(3) provides that the corporate plan for a Commonwealth entity must be published on the entity's website. The publication of the corporate plan on the website should be no later than the last day of the second month of the reporting period for which the corporate plan is prepared. For example, if the corporate plan has been prepared on a financial year basis the corporate plan will need to be published by 31 August of that financial year unless otherwise stated in the enabling legislation of an entity.

Subsection 16E(4) provides that in fulfilling the publication requirements of subsection 16E(3), any information considered by the entity's accountable authority to be confidential, commercially sensitive or that could prejudice national security, does not need to be reported in the published version of the corporate plan.

Subsection 16E(5) is made for subsection 35(1)(b) of the PGPA Act which requires the accountable authority of a Commonwealth entity to give the corporate plan to the responsible Minister and the Finance Minister. The responsible Minister and the Finance Minister must be given the corporate plan for an entity before it is published on the entity's website, as required under subsection 16E(3) of this rule, and as soon as practicable after it is prepared. If the corporate plan contains information as defined in paragraphs 16E(4)(a) and 16E(4)(b) then the accountable authority may omit this information from the corporate plan to be

published on the entity's website. Both the published and unpublished versions of the corporate plan must nevertheless be provided to both the Finance Minister and responsible Minister(s).

Subsection 16E(6) is made for subsection 35(6) of the PGPA Act and specifies the timing for publication of a corporate plan for a Commonwealth entity that has been varied during the reporting period for which it is prepared. Accountable authorities are required to publish corporate plans that have been varied as soon as practicable where the accountable authority of the entity considers the variation of the corporate plan to be significant.

Subsection 16E(7) specifies the timing for publication of a corporate plan prepared by the accountable authority of an entity that has been established at the start of, or during the reporting period for which the corporate plan is prepared. The accountable authorities of such entities are required to publish the entity's corporate plan on the entity's website as soon as practicable after the plan is prepared.

Division 2—Performance of Commonwealth entities

Section 16F Annual performance statements for Commonwealth entities

Section 16F is made for subsection 38(2) and paragraph 39(2)(b) of the PGPA Act and sets out the matters that an accountable authority of a Commonwealth entity must include in the entity's annual performance statements.

The preparation of annual performance statements for all Commonwealth entities is required by section 39 of the PGPA Act and requires the accountable authority of a Commonwealth entity to prepare annual performance statements for the entity as soon as practicable after the end of each reporting period for the entity.

As set out in subsection 16F(1), the preparation of the annual performance statements by the accountable authority must include the measurement and assessment of the entity's performance in achieving the entity's purposes in the reporting period. Subsection 16F(1) provides that the method of measuring and assessing the entity's performance in the reporting period must be in accordance with the method set out in the corporate plan for the entity for that reporting period. The annual performance statements are intended to complete the cycle of performance reporting that commenced at the start of the reporting period and an entity's annual performance statements should therefore report against the performance measures and targets set for the entity at that time in its corporate plan. The measurement and assessment relate only to that particular reporting period, even though the corporate plan sets out how the entity's performance will be measured and assessed for at least 4 reporting periods.

Subsection 16F(2), including the table, sets out the requirements that are intended to be the minimum requirements for the annual performance statements for all Commonwealth entities. There are three minimum requirements for annual performance statements.

1. *Statements*
2. *Results*
3. *Analysis*

Item 1 of the table is an introduction statement by the accountable authority containing three elements. The introduction must state that the annual performance statements have been prepared for paragraph 39(1)(a) of the PGPA Act; specify the reporting period for which the annual performance statements have been prepared; and a statement by the accountable authority that gives assurance that the annual performance statements, as published, accurately present the performance of the entity within the reporting period and comply with subsection 39(2) of the PGPA Act.

Item 2 of the table requires the results of the measurement and assessment of the entity's performance in achieving its purposes for that reporting period, as set out in the entity's corporate plan, to be included in the entity's annual performance statements. This item is to report the results achieved by the entity at the end of the reporting period against the planned performance defined at the beginning of the reporting period in the corporate plan for the entity for the relevant period.

Item 3 of the table requires the annual performance statements prepared for an entity to include an analysis of the factors that may have contributed to the entity's performance in achieving its purposes in the reporting period. This analysis is to include any changes to the entity's purposes, activities or capability, as well as any changes in the entity's operational environment.

Division 3—Audit Committee for Commonwealth entities

Item 2 – Division 2 of Part 2-3 (heading)

Item 3 repeals the existing heading, "Division 2-Special reporting requirements" and substitutes a new heading, "Division 4-Special reporting requirements" to reflect the amendments to the PGPA Rule and ensure the PGPA Rule sequencing aligns with the PGPA Act.

Item 3 – Before section 28

This inserts section 27A before section 28 of the PGPA Rule.

Section 27A Corporate plan for Commonwealth companies

Section 27A is made for section 95 of the PGPA Act. The purpose of this section is to provide the requirements for preparing corporate plans for Commonwealth companies under the PGPA Act.

Subsection 27A(1) provides that section 16E of the PGPA Rule applies to a Commonwealth company in the same way as it applies to a Commonwealth entity. This ensures the requirements for matters to be included, period of cover, publication requirements, provision to ministers, and variation of corporate plans prepared for Commonwealth companies under section 95 of the PGPA Act, are consistent with requirements for the corporate plans for Commonwealth entities.

Subsection 27A(2) sets out how section 16E applies to a Commonwealth company.

Paragraph 27A(2)(a) provides that section 16E applies to a governing body of a Commonwealth company in the same way it applies to an accountable authority of a

Commonwealth entity. This paragraph is intended to ensure that the person, or group of persons in a Commonwealth company with equivalent responsibility as the accountable authority for a Commonwealth entity, is responsible for the preparation of the company's corporate plan.

Paragraph 27A(2)(b) provides that, for the purposes of subsection 27A(1), a reference in paragraph (c) of item 4 of the table in subsection 16E(2) to the entity's annual performance statements, for each reporting period covered by the plan, is taken to be a reference to the company's annual report for each reporting period covered by the corporate plan.

Commonwealth companies are not subject to the requirement under section 39 of the PGPA Act to publish an annual performance statement after the end of the reporting period. Therefore the purpose of paragraph 27A(2)(b) is to ensure that the results of the measurement and assessment of the company's performance in achieving its purposes, as set out by the company, to fulfill paragraph (c) of item 4 of the table in subsection 16E(2), are published in the annual report produced by the Commonwealth company, for that reporting period.

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 (Corporate Plans and Annual Performance Statements) Rule 2015

The *Public Governance, Performance and Accountability Amendment (Corporate Plans and Annual Performance Statements) Rule 2015* (Corporate Plans and Annual Performance Statements Rule) is compatible with the human rights and freedoms recognized 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) sets out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The *Public Governance, Performance and Accountability Amendment (Corporate Plans and Annual Performance Statements) Rule 2015* is being made to amend the rule instrument made under the PGPA Act, the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule). The PGPA Rule is to support the implementation of the PGPA Act.

The Corporate Plans and Annual Performance Statements Rule contains provisions that:

- provide minimum requirements for the preparation of corporate plans by Commonwealth entities and Commonwealth companies under the PGPA Act and
- provide minimum requirements for the preparation of annual performance statements by Commonwealth entities under the PGPA Act.

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 Mathias Cormann
Minister for Finance**