



Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016

made under section 101 of the

Public Governance, Performance and Accountability Act 2013

Compilation No. 2

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About this compilation

This compilation

This is a compilation of the *Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016* that shows the text of the law as amended and in force on 18 December 2019 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This is the *Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016*.

3 Authority

This instrument is made under the *Public Governance, Performance and Accountability Act 2013*.

5 Purpose

This instrument prescribes matters relating to Old Parliament House particularly for section 87 of the Act.

6 Definitions

In this instrument:

Act means the *Public Governance, Performance and Accountability Act 2013*.

Board means the Board established by section 13.

Board Chair means the Chair of the Board.

Board member means a member of the Board (and includes the Board Chair and the Director).

Department means the Department administered by the Minister.

Deputy Board Chair means the Deputy Chair of the Board.

Director means the Director appointed under section 39.

Minister means the responsible Minister for OPH.

OPH (short for Old Parliament House) means Old Parliament House established by section 8.

Part 2—Old Parliament House

8 Establishment of Old Parliament House

- (1) Old Parliament House (*OPH*) is established by this section.
- (2) OPH may also be known by a name specified in a written instrument made by the Minister.
- (3) OPH:
 - (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may sue and be sued.
- (4) OPH's seal is to be kept in such custody as the Board directs and must not be used except as authorised by the Board.

9 OPH's functions

OPH has the following functions:

- (a) to conserve, develop and present the Old Parliament House building and collections;
- (b) to provide public programs and research activities related to Australia's social and parliamentary history;
- (c) to provide a range of other services for visitors to Old Parliament House;
- (d) to undertake other relevant tasks as the Minister may require from time to time;
- (e) such other functions as are conferred on OPH by this instrument or by any other law of the Commonwealth;
- (f) to do anything incidental to or conducive to the performance of any of the above functions.

10 OPH's powers

- (1) OPH has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) OPH's powers include the following powers:
 - (a) the power to enter into contracts;
 - (b) the power to purchase or take on hire, to commission or produce, or to accept (as a gift or on deposit or loan) objects or related material;
 - (c) the power to make available (whether by hire, loan or otherwise) objects or related material;

- (d) the power to provide financial assistance to persons (whether by way of loan, grant, award or otherwise and whether on commercial terms or otherwise);
- (e) the power to accept gifts, devises, bequests and assignments (whether on trust or otherwise);
- (f) the power to act as trustee of money or other property vested in OPH on trust;
- (g) the power to do anything incidental to any of its functions.

11 Minister may give directions to OPH

- (1) The Minister may give written directions to OPH:
 - (a) relating to the performance of its functions or the exercise of its powers; or
 - (b) requiring the provision of a report or advice on a matter that relates to any of OPH's functions or powers.
- (2) A direction given under subsection (1):
 - (a) must not relate to a particular individual; and
 - (b) must not be inconsistent with:
 - (i) the Act; or
 - (ii) this instrument; or
 - (iii) any other instrument made under the Act.
- (3) OPH must comply with a direction given under subsection (1).
- (4) This section does not affect the application of section 22 of the Act (which deals with the application of government policy to corporate Commonwealth entities) in relation to OPH.

12 OPH does not have privileges and immunities of the Crown

OPH does not have the privileges and immunities of the Crown in right of the Commonwealth.

Part 3 The Board

Division 1 Establishment, functions and powers etc.

Section 13

Part 3—The Board

Division 1—Establishment, functions and powers etc.

13 Establishment of the Board

The Board of OPH is established by this section.

Note: The Board is the accountable authority of OPH; see subsection 12(2) of the Act.

14 Functions of the Board

The functions of the Board are:

- (a) to decide the objectives, strategies and policies to be followed by OPH; and
- (b) to ensure the proper and efficient performance of OPH's functions.

15 Minister may give the Board a statement setting out strategic guidance for OPH

- (1) The Minister may give the Board a written statement setting out strategic guidance for OPH.
- (2) A statement given under subsection (1):
 - (a) must be of a general nature only; and
 - (b) must not relate to a particular individual; and
 - (c) must not be inconsistent with:
 - (i) the Act; or
 - (ii) this instrument; or
 - (iii) any other instrument made under the Act.
- (3) In performing its functions or exercising its powers, the Board must have regard to a statement given under subsection (1).

16 Powers of the Board

- (1) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Anything done in the name of, or on behalf of, OPH by the Board, or with the authority of the Board, is taken to have been done by OPH.

17 Delegation by the Board

- (1) The Board may, in writing, delegate any or all of its powers or functions under this instrument to a member of the Board.

Note: The Director is a member of the Board.

- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the Board.

Division 2—Board members

18 Membership

The Board consists of the following members:

- (a) the Board Chair;
- (b) the Deputy Board Chair;
- (c) the Director;
- (d) not more than 5 other members.

19 Appointment of Board members

- (1) The Minister may, by written instrument, appoint a person as a Board member (other than the Director) on a part-time basis.

Note: For the appointment of the Director, see section 39.

- (2) However, a person must not be appointed as a Board member unless the Minister is satisfied that the person has knowledge or experience relevant to OPH's affairs.
- (3) A person must not be appointed as a Board member for a period if the sum of the following exceeds 9 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as a Board member.
- (4) The Minister must appoint one of the Board members to be the Board Chair and another Board member to be the Deputy Board Chair.

20 Term of appointment

A Board member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901* (as that section applies because of paragraph 13(1)(a) of the *Legislation Act 2003*).

21 Acting Board Chair

- (1) The Minister may, by written instrument, appoint a Board member to act as the Board Chair:
 - (a) during a vacancy in the office of Board Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period when the Board Chair:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901* (as those sections apply because of paragraph 13(1)(a) of the *Legislation Act 2003*).

- (2) A person must not be appointed to act as the Board Chair for more than 6 months.

22 Acting Board members

- (1) The Minister may, by written instrument, appoint a person to act as a Board member other than the Board Chair:
- (a) during a vacancy in the office of a Board member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a Board member:
 - (i) is acting as the Board Chair; or
 - (ii) is absent from duty; or
 - (iii) is, for any reason, unable to perform the duties of the office of Board member.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901* (as those sections apply because of paragraph 13(1)(a) of the *Legislation Act 2003*).

- (2) A person must not be appointed to act as a Board member other than the Board Chair for more than 6 months.
- (3) A person is not eligible for appointment to act as a Board member unless the person is eligible for appointment as a Board member under subsection 19(2).

23 Remuneration of Board members

- (1) A Board member (other than the Director) is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed under subsection (4).

Note: For the Director's remuneration, see section 43.

- (2) A Board member (other than the Director) is to be paid the allowances that are prescribed under subsection (4).

Note: For allowances payable to the Director, see section 43.

- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) The Minister may, by legislative instrument, prescribe:
- (a) remuneration for the purposes of subsection (1); and
 - (b) allowances for the purposes of subsection (2).

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24 Leave for Board members

Board Chair

- (1) The Minister may grant leave of absence to the Board Chair on the terms and conditions that the Minister determines.

Other Board members

- (2) The Board Chair may grant leave of absence to another Board member (other than the Director) on the terms and conditions that the Board Chair determines.
- (3) The Board Chair must notify the Minister if the Board Chair grants another Board member leave of absence for a period that exceeds 3 months.

25 Restrictions on outside employment

Board Chair

- (1) The Board Chair must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of his or her duties.

Other Board members

- (2) A Board member (other than the Board Chair and the Director) must not engage in any paid employment that, in the Board Chair's opinion, conflicts or may conflict with the proper performance of his or her duties.

26 Resignation of Board members

- (1) A Board member (other than the Director) may resign his or her appointment by giving the Minister a written resignation.

Note: For the resignation of the Director, see section 45.

- (2) The Board Chair may resign his or her appointment as the Board Chair without resigning his or her appointment as a Board member.
- (3) The Deputy Board Chair may resign his or her appointment as the Deputy Board Chair without resigning his or her appointment as a Board member.
- (4) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

27 Termination of appointments of Board members

- (1) The Minister may terminate the appointment of a Board member (other than the Director):
 - (a) for misbehaviour; or

- (b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity; or
- (c) if the member fails, without reasonable excuse, to comply with section 29 of the Act or Subdivision B of Division 2 of Part 2-2 of the *Public Governance, Performance and Accountability Rule 2014* (which both deal with disclosure of material personal interests); or
- (d) if, in the case of the Board Chair, he or she engages in paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the duties of his or her office (see subsection 25(1)); or
- (e) if, in the case of a Board member other than the Board Chair, he or she engages in paid employment that, in the Board Chair's opinion, conflicts or may conflict with the proper performance of the duties of his or her office (see subsection 25(2)); or
- (f) if the Minister is satisfied that the performance of the member has been unsatisfactory for a significant period.

Note: For termination of the Director's appointment, see section 46.

- (2) The Minister must terminate the appointment of a Board member (other than the Director) if:
 - (a) the member:
 - (i) becomes bankrupt; or
 - (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with one or more of his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of one of more of his or her creditors; or
 - (b) he or she is absent, except on leave of absence, from 3 consecutive meetings of the Board.

28 Other terms and conditions of Board members

A Board member holds office on the terms and conditions (if any) in relation to matters not covered by this instrument that are determined by the Minister.

Division 3—Procedures of the Board

29 Convening of meetings

- (1) The Board Chair must convene such meetings of the Board as are, in his or her opinion, necessary for the efficient conduct of its affairs.
- (2) The Board Chair must convene at least 2 meetings of the Board each calendar year.
- (3) The Board Chair must convene a meeting of the Board if directed to do so by the Minister.
- (4) On receipt of a written request signed by a majority of the Board members, the Board Chair must convene a meeting of the Board.

30 Quorum

- (1) At a meeting of the Board, a quorum is constituted by a majority of the Board members for the time being holding office.
- (2) However, if:
 - (a) a Board member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Board with respect to a particular matter; and
 - (b) when the Board member leaves the meeting concerned there is no longer a quorum present;the Board members remaining at the meeting constitute a quorum for the purposes of any consideration of, or vote on, the matter at the meeting.

31 Presiding at meetings

- (1) The Board Chair must preside at all meetings of the Board at which he or she is present.
- (2) If the Chair is not present at a meeting of the Board, the Deputy Chair, if present, must preside at the meeting.
- (3) If neither the Chair nor the Deputy Chair is present at a meeting of the Board, the Board members present must elect one of their number to preside at the meeting.

32 Voting at meetings

- (1) At a meeting of the Board, a question is decided by a majority of the votes of Board members present and voting.
- (2) The Board member presiding at the meeting has:

- (a) a deliberative vote; and
- (b) in the event of an equality of votes, a casting vote.

33 Minutes

The Board must keep minutes of its meetings.

34 Conduct of meetings

Subject to the Act, the Board may regulate the conduct of its meetings as it thinks fit.

Note: Section 33B of the *Acts Interpretation Act 1901* (as that section applies because of paragraph 13(1)(a) of the *Legislation Act 2003*) contains further provisions about the ways in which Board members may participate in meetings.

35 Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the Board members entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
 - (c) all the Board members were informed of the proposed decision, or reasonable efforts were made to inform all the Board members of the proposed decision.
- (2) Subsection (1) does not apply unless the Board:
 - (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which Board members are to indicate agreement with proposed decisions.
- (3) For paragraph (1)(a), a Board member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the proposal had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

Part 4—The Director

36 Director

There is to be a Director of OPH.

37 Role

- (1) The Director is responsible for the day-to-day administration of OPH.
- (2) The Director has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.

38 Director to act in accordance with Board policies and directions

- (1) The Board may give written directions to the Director about the performance of the Director's role.
- (2) The Director is to act in accordance with any policies determined, and any directions given, by the Board.
- (3) Subsection (2) does not apply to the extent that a direction relates to the Director's performance of functions or exercise of powers under the *Public Service Act 1999*.

39 Appointment of the Director

- (1) The Director is to be appointed:
 - (a) in the case of the first appointment of the Director—by the Minister; or
 - (b) otherwise—by the Board.
- (2) However, the Board must not appoint a person as the Director unless the Minister agrees in writing to the appointment.
- (3) An appointment is to be made by written instrument.
- (4) The Director may be appointed on a full-time basis or part-time basis.
- (5) The Director holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901* (as that section applies because of paragraph 13(1)(a) of the *Legislation Act 2003*).

40 Acting Director

The Board may, by written instrument, appoint a person to act as the Director:

- (a) during a vacancy in the office of the Director (whether or not an appointment has previously been made to the office); or

- (b) during any period, or during all periods, when the Director:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901* (as those sections apply because of paragraph 13(1)(a) of the *Legislation Act 2003*).

41 Outside employment

Full-time Director

- (1) If the Director is appointed on a full-time basis, the Director must not engage in paid employment outside the duties of the Director's office without the Board Chair's approval.
- (2) The Board Chair must notify the Minister of any approval given under subsection (1).

Part-time Director

- (3) If the Director is appointed on a part-time basis, the Director must not engage in any paid employment that, in the Board Chair's opinion, conflicts or may conflict with the proper performance of his or her duties.

42 Disclosure of interests

- (1) A disclosure by the Director under section 29 of the Act (which deals with the duty to disclose interests) must be made to the Minister and the Board.
- (2) Subsection (1) applies in addition to any rules made for the purposes of that section.
- (3) For the purposes of the Act, the Director is taken not to have complied with section 29 of the Act if the Director does not comply with subsection (1) of this section.

43 Remuneration

- (1) The Director is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Director is to be paid the remuneration that is prescribed under subsection (4).
- (2) The Director is to be paid the allowances that are prescribed under subsection (4).
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) The Minister may, by legislative instrument, prescribe:
 - (a) remuneration for the purposes of subsection (1); and

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- (b) allowances for the purposes of subsection (2).

44 Leave

- (1) The Director has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Board Chair may grant the Director leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Board Chair determines.

45 Resignation

- (1) The Director may resign his or her appointment by giving the Board Chair a written resignation.
- (2) If the Director resigns:
 - (a) he or she is also taken to resign his or her position as a Board member; and
 - (b) the Board Chair must notify the Minister of the resignation.
- (3) The resignation takes effect on the day it is received by the Board Chair or, if a later day is specified in the resignation, on that later day.

46 Termination of appointment of the Director

- (1) The Board may terminate the appointment of the Director:
 - (a) for misbehaviour; or
 - (b) if the Director is unable to perform the duties of his or her office because of physical or mental incapacity; or
 - (c) if the Director fails, without reasonable excuse, to comply with section 29 of the Act or section 16 of the *Public Governance, Performance and Accountability Rule 2014* (which both deal with disclosure of material personal interests); or
 - (d) if the Director is appointed on a full-time basis—if the Director engages, except with the Board Chair’s approval, in paid employment outside the duties of his or her office (see subsection 41(1)); or
 - (e) if the Director is appointed on a part-time basis—if the Director engages in paid employment that, in the Board Chair’s opinion, conflicts or may conflict with the proper performance of the duties of his or her office (see subsection 41(3)); or
 - (f) if the Board is satisfied that the performance of the Director has been unsatisfactory for a significant period.
 - (2) The Board must terminate the appointment of the Director if:
 - (a) the Director:
 - (i) becomes bankrupt; or
 - (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
-

- (iii) compounds with one or more of his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
 - (b) if the Director is appointed on a full-time basis—the Director is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the Director is absent, except on leave of absence, from 3 consecutive meetings of the Board.
- (3) However, the Board must not terminate the appointment of the Director under this section unless the Minister agrees in writing to the termination.

47 Other terms and conditions of the Director

The Director holds office on the terms and conditions (if any) in relation to matters not covered by this instrument that are determined by the Board.

Part 5—Staff and consultants

48 Staff of OPH etc.

Staff of OPH

- (1) The staff of OPH must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Director and the staff of OPH constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

49 Consultants

- (1) OPH may engage consultants to assist in the performance of its functions and the exercise of its powers.
- (2) A consultant is to be engaged on the terms and conditions that the Director determines in writing.

Part 6—Finance

50 Taxation

OPH is not subject to taxation under a law of the Commonwealth or of a State or Territory.

Note: However, OPH may be subject to taxation under certain laws (see, for example, section 177-5 of the *A New Tax System (Goods and Services Tax) Act 1999* and section 66 of the *Fringe Benefits Tax Assessment Act 1986*).

Part 7—Initial transitional matters

Division 1—Preliminary

51 Definitions

Note: For other relevant definitions, see section 6.

In this Part:

APS employee has the same meaning as in the *Public Service Act 1999*.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; or
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

assets official, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

exempt matter: see section 62.

instrument includes:

- (a) an agreement or undertaking; and
- (b) a notice, authority, order or instruction; and
- (c) an instrument made under an Act or regulations;

but does not include this instrument or any certificate or other instrument made under this instrument.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

Old Parliament House means the entity referred to in clause 19 of Schedule 1 to the *Public Governance, Performance and Accountability Rule 2014*, immediately before the transfer day.

Note: Before the transfer day, Old Parliament House was a listed non-corporate Commonwealth entity under that clause.

transfer day means 1 July 2016.

Division 2—Transfer of assets and liabilities of Old Parliament House

52 Old Parliament House assets and liabilities

- (1) On the transfer day, the assets and liabilities of Old Parliament House cease to be assets and liabilities of Old Parliament House and become assets and liabilities of OPH, without any conveyance, transfer or assignment. OPH becomes the successor in law in relation to those assets and liabilities.

Note: Any liability, such as any actual, contingent or prospective liability to pay a Commonwealth tax, that arises contemporaneously with the transfer of assets and liabilities on the transfer day would (in addition to liabilities that have already arisen before transfer day) be transferred to OPH under this section.

- (2) On the transfer day, the assets and liabilities that Old Parliament House held on behalf of the Commonwealth cease to be assets and liabilities of the Commonwealth and become assets and liabilities of OPH, without any conveyance, transfer or assignment. OPH becomes the successor in law in relation to those assets and liabilities.

53 Transfer of custody of records or documents of Old Parliament House

- (1) This section applies to a record or document that, immediately before the transfer day, was in the custody of Old Parliament House.
- (2) If the record or document relates to an asset or liability that, because of section 52, becomes an asset or liability of OPH, then the record or document is to be transferred into the custody of OPH on or after the transfer day.

54 Certificates relating to vesting of land

- (1) This section applies if:
 - (a) any land vests in OPH under this Part; and
 - (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the land has become vested in OPH under this Part.
- (2) The land registration official may:
 - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
 - (b) deal with, and give effect to, the certificate.

55 Certificates for vesting of assets other than land

- (1) This section applies if:
 - (a) an asset other than land vests in OPH under this Part; and
 - (b) there is lodged with an assets official a certificate that:

Part 7 Initial transitional matters

Division 2 Transfer of assets and liabilities of Old Parliament House

Section 55

- (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in OPH under this Part.
- (2) The assets official may:
- (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register in relation to assets of that kind as are necessary, having regard to the effect of this Part.

Division 3—Transfer of other matters relating to Old Parliament House

56 Acts of Old Parliament House to be attributed to OPH

Anything done by, or in relation to, Old Parliament House before the transfer day has effect, on and after that day, as if it had been done by, or in relation to, OPH.

57 Legal proceedings of Old Parliament House

- (1) This section applies to any proceedings:
 - (a) that were pending in any court or tribunal immediately before the transfer day; and
 - (b) to which Old Parliament House was a party.
- (2) On and after the transfer day, OPH is substituted for Old Parliament House as a party to the proceedings.
- (3) Without limiting subsections (1) and (2) and despite regulation 5.15 of the *Patents Regulations 1991*, OPH is substituted for Old Parliament House as an opponent in opposition proceedings before the Commissioner of Patents.

58 References in instruments to Old Parliament House

- (1) This section applies to an instrument that:
 - (a) is in force immediately before the transfer day; and
 - (b) contains a reference to Old Parliament House.
- (2) If the instrument relates to an asset or liability that, because of section 52, becomes an asset or liability of OPH, then the reference to Old Parliament House has effect, at and after the transfer day, as if it were a reference to OPH.
- (3) This section does not, by implication, prevent the instrument from being varied or terminated on or after the transfer day.

Division 4—Staffing matters

59 Director of Old Parliament House

The Director of Old Parliament House immediately before the transfer day is taken to have been appointed as the Director of OPH under section 39 for the period:

- (a) beginning on 1 July 2016; and
- (b) ending on the earlier of:
 - (i) the day that a person is appointed as the Director under section 39 in accordance with an appointment process carried out after the transfer day; or
 - (ii) 1 April 2018.

60 Advisory Council members of Old Parliament House

- (1) A person who was appointed as an Advisory Council member of Old Parliament House immediately before the transfer day is taken to have been appointed as a Board member of OPH under section 19 for the period:
 - (a) beginning on 1 July 2016; and
 - (b) ending on the earliest of the following:
 - (i) the day that the person is appointed as a Board member under section 19 after the transfer day;
 - (ii) the day that another person is appointed as a Board member under section 19 in replacement of the person after the transfer day;
 - (iii) 31 December 2016.
- (2) The person who held the position of Chair of the Advisory Council immediately before the transfer day is taken to have been appointed as the Board Chair for the period that applies in respect of the person under subsection (1).
- (3) The person who held the position of Deputy Chair of the Advisory Council immediately before the transfer day is taken to have been appointed as the Deputy Chair of the Board for the period that applies in respect of the person under subsection (1).

61 Staff of Old Parliament House

A person who was engaged by Old Parliament House as an APS employee immediately before the transfer day, continues to be an APS employee engaged by OPH on and after the transfer day.

Note: See also section 48.

Division 5—Other matters**62 Exemption from stamp duty and other State or Territory taxes**

- (1) No stamp duty or other tax is payable under a law of a State or a Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) An *exempt matter* is:
 - (a) the vesting of an asset or liability under this Part; or
 - (b) the operation of this instrument in any other respect.
- (3) The Minister may certify in writing:
 - (a) that a specified matter is an exempt matter; or
 - (b) that a specified thing was connected with a specified exempt matter.

63 Certificates taken to be authentic

A document that appears to be a certificate made or issued under section 54, 55 or 62:

- (a) is taken to be such a certificate; and
 - (b) is taken to have been properly given;
- unless the contrary is established.

64 Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

Part 8—Later transitional matters

65 Matters relating to the *Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment Rules 2019*

- (1) Anything done by, or in relation to, the Arts Minister before 1 September 2019 has effect, on and after that day, as if it had been done by, or in relation to, the Minister.
- (2) In this section:

Arts Minister means the Minister administering the National Portrait Gallery of Australia Act 2012.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Public Governance, Performance and Accountability (Establishing Old Parliament House) Rule 2016	9 May 2016 (F2016L00739)	1 July 2016 (s 2(1) item 1)	
Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment Rules 2019	16 Aug 2019 (F2019L01074)	1 Sept 2019 (s 2(1) item 1)	—
Public Governance, Performance and Accountability (Establishing Old Parliament House) Amendment (Board Members) Rules 2019	17 Dec 2019 (F2019L01650)	18 Dec 2019 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
s 4.....	rep LA s 48C
s 6.....	am F2019L01074
s 7.....	rep F2019L01074
Part 2	
s 8.....	am F2019L01074
s 9.....	am F2019L01074
s 11.....	am F2019L01074
Part 3	
Division 2	
s 18.....	am F2019L01650
s 19.....	am F2019L01074
s 21.....	am F2019L01074
s 22.....	am F2019L01074
s 23.....	am F2019L01074
s 24.....	am F2019L01074
s 25.....	am F2019L01074
s 26.....	am F2019L01074
s 27.....	am F2019L01074
s 28.....	am F2019L01074
Division 3	
s 29.....	am F2019L01074
Part 4	
s 39.....	am F2019L01074
s 41.....	am F2019L01074
s 42.....	am F2019L01074
s 43.....	am F2019L01074
s 45.....	am F2019L01074
s 46.....	am F2019L01074
Part 7	
Part 7 (heading).....	am F2019L01074
Division 2	
s 54.....	am F2019L01074
s 55.....	am F2019L01074
Division 5	
s 62.....	am F2019L01074

Endnote 4—Amendment history

Provision affected	How affected
Part 8	
Part 8	ad F2019L01074
s 65	ad F2019L01074
Schedule 1	rep LA s 48C
