

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 159

Subject - *Financial Management and Accountability Act 1997*

*Financial Management and Accountability Amendment Regulations 2007
(No. 4)*

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 proposed Regulations would prescribe the Australian Centre for International Agricultural Research (ACIAR), the Australian Pesticides and Veterinary Medicines Authority (APVMA) and the Great Barrier Reef Marine Park Authority (GBRMPA) in Schedule 1 to the Principal Regulations.

The ACIAR is currently prescribed in Schedule 1 to the Principal Regulations. However, upon commencement of the *Australian Centre for International Agricultural Research Amendment Act 2007* (ACIAR Amendment Act), the governance arrangements of ACIAR will be amended so that its Chief Executive will be the Chief Executive Officer rather than the Director. These changes to the governance arrangements of ACIAR result from an assessment of ACIAR against the governance principles and templates contained in the *Review of the Corporate Governance of Statutory Authorities and Office Holders* by Mr John Uhrig AC (Uhrig Review).

In addition, the APVMA and the GBRMPA are currently Commonwealth authorities under the *Commonwealth Authorities and Companies Act 1997*. Upon commencement of Schedules 1 and 2 of the *Agricultural and Veterinary Chemicals (Administration) Amendment Act 2007* (APVMA Amendment Act) and the commencement of the *Great Barrier Reef Marine Park Amendment Act 2007* (GBRMPA Amendment Act), APVMA and GBRMPA, respectively will become agencies subject to the FMA Act.

This also follows individual assessments of the governance of APVMA and GBRMPA against the principles contained in the Uhrig Review, which recommended that the governance of APVMA and GBRMPA be moved into alignment with executive management arrangements, consistent with the FMA Act. As prescribed agencies, they would be financially autonomous from their respective departments

and responsible, under the FMA Act, for the proper management of public money and public property within their control or custody.

Accordingly, the proposed Regulations would amend the Principal Regulations to update the prescription of ACIAR and prescribe APVMA and GBRMPA in Schedule 1.

The proposed Regulations are one of two sets of regulations which would amend the Principal Regulations on or around 1 July 2007. The amendments have been split based upon the progression of the respective bills. As at 31 May 2007, the Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2007, Great Barrier Reef Marine Park Amendment Bill 2007 and the Australian Centre for International Agricultural Research Amendment Bill 2007 had all passed the House of Representatives but were yet to pass the Senate. The proposed Regulations have been drafted in a manner which accommodates the possibility that one or more of the Bills may not pass Parliament.

Further details of the proposed Regulations are in the Attachment.

The FMA Act specifies no conditions that need to be met before the power to make the proposed Regulations may be exercised.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Regulations 1, 2 and 3 would commence the day after the proposed Regulations are registered. The amendments in Schedule 1 relating to the ACIAR would commence on the later of 1 July 2007 and the commencement of the ACIAR Amendment Act. The amendments in Schedule 2 to prescribe the APVMA would commence on the later of 1 July 2007 and the commencement of Schedules 1 and 2 to the APVMA Amendment Act. The amendments in Schedule 3 to prescribe the GBRMPA would commence on the later of 1 July 2007 and the commencement of the GBRMPA Amendment Act.

The Minute recommends that Regulations be made in the form proposed.

Authority: Subsection 65(1) of the *Financial Management and Accountability Act 1997*.

ATTACHMENT

Details of the proposed *Financial Management and Accountability Amendment Regulations 2007 (No. 4)*

Regulation 1 - Name of Regulations

This regulation provides that the title of the proposed Regulations is the *Financial Management and Accountability Amendment Regulations 2007 (No. 4)*.

Regulation 2 – Commencement

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

- Regulations 1, 2 and 3 to commence the day after the Regulations are registered;
- Schedule 1 to commence on the later of 1 July 2007 and the commencement of the *Australian Centre for International Agricultural Research Amendment Act 2007* (ACIAR Amendment Act);
- Schedule 2 to commence on the later of 1 July 2007 and the commencement of Schedules 1 and 2 to the *Agricultural and Veterinary Chemicals (Administration) Amendment Act 2007* (APVMA Amendment Act); and
- Schedule 3 to commence on the later of 1 July 2007 and the commencement of the *Great Barrier Reef Marine Park Amendment Act 2007* (GBRMPA Amendment Act).

Regulation 3 - Amendment of the *Financial Management and Accountability Regulations 1997*

This regulation provides that the *Financial Management and Accountability Regulations 1997* (Principal Regulations) would be amended as set out in Schedules 1, 2 and 3.

Schedule 1

Item [1] – Schedule 1

This amendment would amend the prescription details for the Australian Centre for International Agricultural Research (ACIAR) in item 107 of Schedule 1 to the Principal Regulations. As a result the ACIAR would become a prescribed agency that does not handle money other than public money under the *Financial Management and Accountability Act 1997* (FMA Act).

Schedule 2

Item [1] – Schedule 2

This amendment would prescribe the Australian Pesticides and Veterinary Medicines Authority (APVMA) in Schedule 1 to the Principal Regulations, after item 114AA. As a result the APVMA would become a prescribed agency that does not handle money other than public money under the FMA Act.

Schedule 3

Item [1] – Schedule 3

This amendment would prescribe the Great Barrier Reef Marine Park Authority (GBRMPA) in Schedule 1 to the Principal Regulations, after item 124B. As a result the GBRMPA would become a prescribed agency that does not handle money other than public money under the FMA Act.