EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

**Financial Management and Accountability Act 1997 and Commonwealth Authorities and Companies Act 1997**

*Finance Minister’s Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2011)*

Financial Management and Accountability Act 1997 (FMA Act)

Subsection 63(1) of the FMA Act provides that Orders may be made on any matter on which the *FMA Act* requires or permits Orders to be made and on any matter on which regulations under the *FMA Act* may be made. Section 49 of the *FMA Act* provides that the Chief Executive of an Australian Government Agency must prepare financial statements in accordance with Finance Minister’s Orders. These requirements are currently specified in Schedule 1 to the *Finance Minister’s Orders (Financial Statements for reporting periods ending on or after 1 July 2011)* (FMOs).

Commonwealth Authorities and Companies Act 1997 (CAC Act)

Subsection 48(1) of the *CAC Act* provides that Orders may be made on any matter on which the *CAC Act* requires or permits Orders to be made. Section 9 of the *CAC Act* requires the directors of a Commonwealth authority to prepare an annual report in accordance with Schedule 1 to the *CAC Act*. Part 1 of Schedule 1 to the *CAC Act* provides that the annual report must include financial statements prepared by the directors in accordance with the Finance Minister’s Orders. These requirements are currently specified in Schedule 1 to the *Finance Minister’s Orders (Financial Statements for reporting periods ending on or after 1 July 2011)*.

***Other legislative provisions***

The Finance Minister’s Orders are also made under the relevant provisions as set out below:

* + - subsection 47(1) of the *High Court of Australia Act 1979* in relation to how financial statements must be prepared by the High Court of Australia;
		- subsection 193H(1) of the *Aboriginal and Torres Strait Islander Act 2005* in relation to how the accounts and financial statements must be prepared for the Land Account;
		- subsection 50B(4) of the *Defence Service Homes Act 1918* in relation to how financial statements must be prepared by the Defence Service Homes Corporation; and
		- subsection 43(3) of the *Natural Heritage Trust of Australia Act 1997* in relation to how financial statements must be prepared for the Natural Heritage Trust of Australia Account.

The Finance Minister’s Orders set out the financial statement reporting requirements for Australian Government entities for reporting periods ending on or after 1 July 2011.

Specifics in relation to the Orders are as follows:

Finance Minister’s Orders (Financial Statements for reporting periods ending on or after 1 July 2011)

Clause 1 of the Orders deals with naming of the Orders.

Clause 2 of the Orders deals with commencement of the Orders.

Clause 3 inserts Schedule 1, which amends the requirements for the preparation of annual financial statements for reporting periods ending on or after 1 July 2011, and specifies the legislation to which it applies.

**Changes in 2011-12**

From 2011-12, the separate *Financial Management and Accountability Orders (Financial Statements)* and *Commonwealth Authorities and Companies Orders (Financial Statements)* prepared in previous years have been combined into a single legislative instrument. This has no impact for preparers of financial statements.

**Retrospectivity**

The retrospective commencement date of this legislative instrument does not adversely affect the rights of persons or otherwise impose liabilities, other than onto the Commonwealth, and as such, does not contravene subsection 12 (2) of the *Legislative Instruments Act 2003*.

Consultation

Department of Finance and Deregulation (Finance) collaborated with entities that are affected as a result this amendment along with the Australian National Audit Office prior to the finalisation of the content of the amendment.

**Attachments**

Details of the main amendments to reporting requirements for the reporting periods ending on or after 1 July 2011, as compared to the requirements that were previously in force, are provided in Attachment A.

The Statement of Compatibility with Human Rights as required by the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided in Attachment B.

# Attachment A to the Explanatory Statement

This attachment summarises the main amendments to the FMOs requiring the preparation of financial statements for reporting periods ending on or after 1 July 2011 for Australian Government entities.

# Amendments to existing policies

1. *Division 7 Applicable Entities:* Clarified the scope of the requirement to prepare financial statements by replacing the word ‘entity’ with ‘agency and authority’.
2. *Division 44 Measurement and Disclosure of Post Employment Plans:* Clarified the requirement to reference the market yield on Australian Government bonds when determining a discount rate.

# Attachment B to the Explanatory Statement

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Finance Minister’s Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2011)**

1. The proposed amendments do not engage any of the applicable rights or freedoms outlined in the *Human Rights (Parliamentary Scrutiny) Act 2011*, such as encompassed in the *International Covenant on Civil and Political Rights*.
2. The proposed amendments do not limit any human rights, nor propose any offences or penalties.
3. This legislative instrument is therefore compatible with the human rights and freedoms recognised or declared in the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011***.**

**Penelope Ying Yen Wong, Minister for Finance and Deregulation**