

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

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 2013)

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 FMOs. 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 FMOs are also made under the relevant provisions 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;
- subsections 50B(2) and (4) of the *Defence Service Homes Act 1918* in relation to how financial statements must be prepared by the Secretary of the Department of Veterans' Affairs; and
- subsection 43(1) and (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 Amendment Orders (Amendment Orders) amend existing FMOs for reporting periods ending on or after 1 July 2013.

Specifics in relation to the Amendment Orders are as follows:

Finance Minister's Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2013)

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

Clause 2 of the Amendment Orders deals with commencement of the Amendment 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 2013, and specifies the legislation to which it applies.

2013-14 Amendments

The proposed amendments do not represent new or substantial changes to existing financial reporting policy.

Retrospectivity and Timing

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 or Australian Government entities, and as such, does not contravene subsection 12 (2) of the *Legislative Instruments Act 2003*.

A retrospective commencement date has always been used as this ensures that changes are applicable in the same period in which the amendments are made.

For reporting periods ending on or after 1 July 2011 and ending before 1 July 2013, these amendments to Schedule 1 of the FMOs are not applicable.

Consultation

In accordance with section 17 of the *Legislative Instruments Act 2003*, all Australian Government entities required to apply the Amendment Orders, including the Australian National Audit Office, have been consulted on the exposure draft and provided with the opportunity to submit comments.

Attachments

Details of the amendments to reporting requirements for the reporting periods ending on or after 1 July 2013 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.

Explanatory Statement – Attachment A

This attachment summarises the amendments to Schedule 1 of the FMOs required in the preparation of financial statements for reporting periods ending on or after 1 July 2013 for Australian Government entities.

1. *Division 4 Definitions, Division 5 Abbreviations and Division 17 Approved Exemptions*
Amendments have been made to reflect name changes following Machinery of Government changes (item no. 3, 4, 6 and 13).
2. *Division 4 Definitions, Division 8 Authoritative Requirements, Division 17 Approved Exemptions and Division 23 Director/Senior Executive Remuneration*
The notes to these Divisions have been removed as they were only applicable for 2012-13 (item no. 1, 7, 11 and 14).
3. *Division 4 Definitions, Division 9 Financial Reporting Structure and Form, PART E BALANCE SHEET (renamed STATEMENT OF FINANCIAL POSITION), Division 35 Analysis of Non-Financial Assets, Division 121 Reporting of Outcomes*
References to the term 'Balance Sheet' have been replaced with 'Statement of Financial Position' (item no. 5, 8, 16, 17 and 21).
4. *Division 4 Definitions, Division 104 Disclosure of Appropriations, Division 120 Special Accounts and FMA Act Section 39 Investments*
Minor editorial amendments have been made to these Divisions (item no. 2, 18, 19 and 20).
5. *Division 4 Definitions and Division 123 Competitive Neutrality and Cost Recovery*
A description of cost recovery note disclosure has been replaced with a requirement to comply with the cost recovery disclosures in Primary Reporting and Information Management Aid (PRIMA) template financial statements issued by Finance. The definition of cost recovery in Division 4 has also been amended (item no. 22).
6. *Division 11 Early Adoption of Accounting Pronouncements (renamed Division 11 Early Adoption of Accounting Pronouncements and Application of Tiers of Australian Accounting Standards)*
Division 11 has been amended so that entities are only permitted to apply Tier 1 reporting requirements under AASB 1053 *Application of Tiers of Australian Accounting Standards* (applicable this reporting period). This is necessary to ensure that Australian Government entities prepare their financial statements on a consistent basis that supports the preparation of whole-of-government financial statements (item no. 9 and 10).
7. *Division 17 Approved Exemptions*
The exemption restricting certain entities to one of three options available under AASB 119 *Employee Benefits* for recognising actuarial gains and losses has been removed as the reissued AASB 119 no longer provides options (item no. 12).

8. *Division 23 Director/Senior Executive Remuneration*

The 'reportable salary' definition has been amended to clarify the existing policy intent in that it only includes specified items listed on an individual's Pay As You Go payment summary (item no.15.)

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011, section 9

Finance Minister's Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2013)

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*.

Senator the Honourable Mathias Cormann, Minister for Finance