

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014

made under the

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014

**Compilation No. 3**

**Compilation date:** 10 January 2015

**Includes amendments up to:** Public Governance, Performance and Accountability Legislation Amendment Rule 2014 (No. 2)

**Registered:** 15 January 2015

**About this compilation**

**This compilation**

This is a compilation of the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014* that shows the text of the law as amended and in force on 10 January 2015 (the ***compilation date***).

This compilation was prepared on 13 January 2015.

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 ComLaw (www.comlaw.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 ComLaw 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.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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

This rule is the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014*.

3 Authority

This rule is made under the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014*.

4 Definitions

(1) In this rule:

***commencement time*** has the meaning given by the CTP Act.

***CTP Act***means the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014*.

***deemed entity*** means a body corporate that is taken, for the purposes of the finance law, to be a non‑corporate Commonwealth entity.

***financial task*** means a task or procedure relating to the use or management of relevant money.

***PGPA rules*** means rules made under section 101 of the PGPA Act.

(2) An expression that is used in the PGPA Act has the same meaning, when used in this rule, as in that Act.

(3) A reference in this rule to:

(a) a non‑corporate Commonwealth entity is taken to include a reference to a deemed entity; and

(b) a corporate Commonwealth entity is taken not to include a reference to a deemed entity.

Part 2—Transitional rules

Division 1—Rules made for subitem 6(2) of Schedule 14 to the CTP Act

5 Purpose of this Division

This Division is made for subitem 6(2) of Schedule 14 to the CTP Act (which provides for the Finance Minister to make transitional rules).

6 Persons performing financial tasks

(1) A person is an official of a non‑corporate Commonwealth entity if the person:

(a) as a result of an agreement or arrangement entered into on or after 1 July 2014 and before 1 July 2015, performs a financial task for the entity; and

(b) is not otherwise an official of the entity.

(2) The person ceases to be an official under subsection (1) at the end of 30 June 2015.

7 Continuation of delegation powers

Despite the repeal of sections 53 and 62 of the FMA Act (which deal with the Chief Executive’s and Finance Minister’s delegation powers), those sections as in force immediately before the commencement time continue in force, after that time, in relation to any power or function under a provision of the FMA Act that, as a result of Part 2 of Schedule 2 to the CTP Act,continues to apply after that time.

Note: The effect of this section is that a power or function under a provision of the FMA Act that continues to apply after the commencement time may be delegated, after that time, under section 53 or 62 of the FMA Act.

7AA Repayments by the Commonwealth

(1) Section 77 of the PGPA Act (which deals with repayment of amounts received by the Commonwealth) applies to amounts received by the Commonwealth before the commencement time.

(2) This section applies in addition to:

(a) item 21 of Schedule 1 to the CTP Act; and

(b) item 38 of Schedule 2 to the CTP Act.

Note: The effect of this section is that the Commonwealth may rely on the appropriation in either section 28 of the FMA Act or in section 77 of the PGPA Act to make a repayment relating to an amount received by the Commonwealth before the commencement time.

Division 2—Rules made for subitem 6(3) of Schedule 14 to the CTP Act

7BA Purpose of this Division

This Division is made for subitem 6(3) of Schedule 14 to the CTP Act (which provides for the Finance Minister to make transitional rules modifying Acts).

7BB The Clean Energy Regulator

This section applies in the first reporting period, for the Clean Energy Regulator, that commences on or after 1 July 2014. The *Clean Energy Regulator Act 2011* has effect in that period as if the following section were added at the end of Division 1 of Part 2 of that Act:

15A Application of the finance law

For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):

(a) the Regulator is taken, despite subsection 16(1):

(i) to be a non‑corporate Commonwealth entity, and not to be a corporate Commonwealth entity; and

(ii) to be a part of the Commonwealth; and

(iii) not to be a body corporate; and

(b) the Regulator is a listed entity; and

(c) the Chair of the Regulator is the accountable authority of the Regulator; and

(d) the following persons are officials of the Regulator:

(i) the Chair of the Regulator;

(ii) the other members of the Regulator;

(iii) the staff of the Regulator referred to in section 36;

(iv) persons whose services are made available to the Regulator under section 37;

(v) consultants engaged under section 38; and

(e) the purposes of the Regulator include the functions of the Regulator referred to in section 12.

7BC The Murray‑Darling Basin Authority

This section applies in the first reporting period, for the Murray‑Darling Basin Authority, that commences on or after 1 July 2014. Section 12 of the PGPA Act has effect in that period as if the following subsection were added at the end of that section:

(3) Despite subsection (2), the Chief Executive of the Murray‑Darling Basin Authority is the accountable authority of the Authority.

7BD The Climate Change Authority

The *Climate Change Authority Act 2011* has effect, until the end of the first reporting period for the Climate Change Authority that commences on or after 1 July 2014, as if that Act were modified as set out in Schedule 1 to this rule.

8 Legal Services Directions

Section 55ZF of the *Judiciary Act 1903* has effect as if the following subsections were added:

Translation of references in Legal Services Directions

(4) Any directions that are in force immediately before the commencement time apply after that time as if:

(a) references to an FMA Agency, or an agency to which the *Financial Management and Accountability Act 1997* applies, were references to a non‑corporate Commonwealth entity; and

(b) references to a Chief Executive of an FMA agency were references to the accountable authority of a non‑corporate Commonwealth entity; and

(c) references to an official of an FMA agency (however described) were references to an official (within the meaning of the PGPA Act) of a non‑corporate Commonwealth entity; and

(d) references to:

(i) a non‑FMA body; or

(ii) a Commonwealth authority or company covered by the *Commonwealth Authorities and Companies Act 1997*; or

(iii) a Commonwealth authority, or Commonwealth company, within the meaning of the CAC Act;

were references to a corporate Commonwealth entity or a Commonwealth company; and

(e) references to a government business enterprise prescribed under the CAC Act were references to a government business enterprise prescribed by rules made under the PGPA Act; and

(f) references to subsection 34(1) of the CAC Act were references to subsection 89(1) of the PGPA Act; and

(g) references to section 5 of the CAC Act were references to section 8 of the PGPA Act.

(5) Subsection (4) ceases to apply at the earlier of the following times:

(a) the end of the first reporting period that commences on or after 1 July 2014;

(b) the time when the directions are repealed.

(6) An expression that is used in the *Public Governance, Performance and Accountability Act 2013* or the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* has the same meaning, when used in subsection (4), as in that Act.

9 Disclosure of interests for members of the Reserve Bank Board and the Payments System Board

The *Reserve Bank Act 1959* has effect, until the end of the first reporting period for the Bank that commences on or after 1 July 2014, as if the following sections were added to that Act:

7B Disclosure of interests for members of the Reserve Bank Board in relation to certain matters

(1) This section applies in relation to a member of the Reserve Bank Board if:

(a) a meeting of the Board is considering either or both of the following matters:

(i) the monetary policy of the Bank;

(ii) the role of the Bank in financial system stability; and

(b) the member has a material personal interest that relates to the matter; and

(c) within the previous 12 months the member has disclosed, in writing, the member’s interest to the Treasurer (whether the disclosure occurs before or after this section commences); and

(d) there has been no substantial change in the nature or composition of the interest since the disclosure.

(2) The member may do either or both of the following:

(a) be present during any consideration by the Board of the matter;

(b) vote on the matter.

(3) The member is taken to have complied with section 29 of the *Public Governance, Performance and Accountability Act 2013*, and any rules made for the purposes of that section.

(4) This section applies:

(a) despite subsections 7A(1), (4) and (5) of this Act; and

(b) instead of subsection 7A(6), and any rules made for the purposes of subsection 29(2) of the *Public Governance, Performance and Accountability Act 2013*.

7C Other disclosures of material personal interests by members of the Reserve Bank Board and the Payments System Board

(1) This section applies in relation to a matter if:

(a) the matter is being considered at a meeting of the Reserve Bank Board and:

(i) the matter is not a matter referred to in paragraph 7B(1)(a); or

(ii) the matter is a matter referred to in paragraph 7B(1)(a), but the condition in paragraph 7B(1)(c) or (d) is not met in relation to the matter; or

(b) the matter is being considered at a meeting of the Payments System Board.

(2) Sections 12, 14, 15 and 16D of the *Public Governance, Performance and Accountability Rule 2014* apply to each member of the Reserve Bank Board and the Payments System Board in relation to the matter as if:

(a) the member were a member of the accountable authority of the Bank; and

(b) instead of referring to a material personal interest that relates to the affairs of the Bank, section 29 of the *Public Governance, Performance and Accountability Act 2013*, and sections 14 and 15 of that Rule, referred to a material personal interest that relates to the affairs of:

(i) for a member of the Reserve Bank Board—the Reserve Bank Board; or

(ii) for a member of the Payments System Board—the Payments System Board.

(3) This section applies:

(a) despite subsections 7A(1), (4) and (5) of this Act; and

(b) instead of subsection 7A(6), and any rules made for the purposes of subsection 29(2) of the *Public Governance, Performance and Accountability Act 2013* (other than as referred to in subsection (2) of this section).

(4) This section does not otherwise affect subsection 7A(1) or (4) of this Act, or any rules made for the purposes of subsection 29(2) of the *Public Governance, Performance and Accountability Act 2013*, to the extent that a member of the Reserve Bank Board or the Payments System Board referred to in subsection 7A(4) of this Act has a material personal interest that relates to the affairs of the Bank in a matter that is not being considered at a meeting of:

(a) for a member of the Reserve Bank Board—the Reserve Bank Board; or

(b) for a member of the Payments System Board—the Payments System Board.

Note: The member is required to comply with the rules for officials of an entity relating to the disclosure of such interests.

10 Annual financial statements

(1) This section applies if section 17A of the *Public Governance, Performance and Accountability Rule 2014* requires annual financial statements to be prepared for a Commonwealth entity (the ***old entity***) for the first reporting period, for the old entity, that commences on or after 1 July 2014.

(2) Despite subsections 17A(1) and (3) of that rule, the annual financial statements for the old entity must:

(a) be prepared in the same way that the annual financial statements for the old entitywere required by the FMA Act or CAC Act to be prepared for the previous reporting period; and

(b) include the same matters that the annual financial statements for the old entity were required by the FMA Act or CAC Act to include for the previous reporting period.

Schedule 1—Modifications of the Climate Change Authority Act 2011

Note: See section 7BD.

Climate Change Authority Act 2011

1 Section 10

Before “The”, insert “(1)”.

2 At the end of section 10

Add:

(2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):

(a) the Authority is taken, despite subsection 16(1):

(i) to be a non‑corporate Commonwealth entity, and not to be a corporate Commonwealth entity; and

(ii) to be a part of the Commonwealth; and

(iii) not to be a body corporate; and

(b) the Authority is a listed entity; and

(c) the CEO is the accountable authority of the Authority; and

(d) the following persons are officials of the Authority:

(i) the CEO;

(ii) an Authority member;

(iii) an associate Authority member;

(iv) the staff of the Authority;

(v) persons whose services are made available to the Authority under section 53;

(vi) consultants engaged under section 54; and

(e) the purposes of the Authority include the functions of the Authority referred to in section 11.

3 Subsection 13(2) (note)

Repeal the note, substitute:

Note: The CEO may also enter into contracts on behalf of the Commonwealth. See section 23 of the *Public Governance, Performance and Accountability Act 2013*.

4 Sections 26 and 27

Repeal the sections, substitute:

26 Disclosure of interests to the Climate Change Minister

(1) A disclosure by an Authority member or an associate Authority member under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Climate Change Minister.

(2) Subsection (1) applies in addition to any rules made for the purposes of that section.

(3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, an Authority member or an associate Authority member is taken not to have complied with section 29 of that Act if the member does not comply with subsection (1) of this section.

5 Paragraph 31(2)(d)

Repeal the paragraph, substitute:

(d) the Authority member or associate Authority member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or

6 Subsection 36(2)

Omit “section 27”, substitute “any rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests)”.

7 Section 48

Repeal the section, substitute:

48 Disclosure of interest

(1) A disclosure by the CEO under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Authority.

(2) Subsection (1) applies in addition to any rules made for the purposes of that section.

(3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the CEO is taken not to have complied with section 29 of that Act if the CEO does not comply with subsection (1) of this section.

8 Paragraph 50(2)(c)

Repeal the paragraph, substitute:

(c) the CEO fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or

9 Division 8 of Part 2

Repeal the Division, substitute:

Division 8—Corporate plans

55 Corporate plan

(1) A corporate plan prepared by the CEO under section 35 of the *Public Governance, Performance and Accountability Act 2013* must include such matters (if any) as the Minister requires.

(2) The Minister may give the CEO written guidelines that are to be used by the CEO in deciding whether a matter is covered by subsection (1).

(3) Guidelines given under subsection (2) are not a legislative instrument.

10 Section 56

Repeal the section.

11 Paragraph 58(a)

Omit “*Financial Management and Accountability Act 1997*”, substitute “*Public Governance, Performance and Accountability Act 2013*”.

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

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

**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.

**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 amendment is set out in the endnotes.

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

| Name | FRLI registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014 | 30 June 2014 (F2014L00910) | 1 July 2014 (s 2) |  |
| Public Governance, Performance and Accountability Legislation Amendment Rule 2014 | 18 Sept 2014 (F2014L01244) | 19 Sept 2014 (s 2) | — |
| Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014 | 28 Nov 2014 (F2014L01598) | 29 Nov 2014 (s 2) | — |
| Public Governance, Performance and Accountability Legislation Amendment Rule 2014 (No. 2) | 9 Jan 2015 (F2015L00027) | Sch 1 (items 2, 3): 10 Jan 2015 (s 2 item 3) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part 1 heading** |  |
| s 2 | rep LIA  s 48D |
| s 4 | am F2014L01244 |
| **Part 2 heading** |  |
| **Division 1 heading** | ad F2014L01244 |
| s 5 | am F2014L01244 |
| s 7AA | ad F2014L01244 |
| **Division 2 heading** | ad F2014L01244 |
| s 7BA | ad F2014L01244 |
| s 7BB | ad F2014L01244 |
| s 7BC | ad F2014L01244 |
| s 7BD | ad F2015L00027 |
| s 8 | am F2014L01244 |
| s 9 | ad F2014L01598 |
| s 10 | ad F2014L01598 |
| **Schedule 1 heading** |  |
| Sch 1 | ad F2015L00027 |