

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability Rule 2014

Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019* (Amendment Rules) amend Schedule 1 to the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) to:

- rename the North Queensland Livestock Industry Recovery Agency (NQLIRA) to the National Drought and North Queensland Flood Response and Recovery Agency (the Agency);
- change the title of the accountable authority of the Agency from the Chief Executive Officer to the Coordinator-General;
- replace references to ‘Prime Minister’ with ‘responsible Minister’; and
- expand the purposes of the Agency to provide whole-of-government leadership, strategic policy advice and coordination of the Commonwealth’s drought response, recovery and preparation activities, and undertake other drought related functions including community and stakeholder engagement.

The NQLIRA was established as an Executive Agency for the purposes of the *Public Service Act 1999* by an Order In Council on 21 February 2019. The Order took effect from 1 March 2019. The listing of NQLIRA in Schedule 1 to the PGPA Rule, which made it a non-corporate Commonwealth entity for the purposes of the PGPA Act, commenced on 2 March 2019.

The NQLIRA’s functions were subsequently amended in the Order and the PGPA Rule to enable it to assist areas of North, Far North and Western Queensland that were not flooded but affected by the North and Far North Queensland Monsoon Trough, and to administer the Commonwealth loan scheme to assist eligible primary producers.

Details of the Amendment Rules are set out at Attachment A. A Statement of Compatibility with Human Rights is at Attachment B.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Rules commence on the day after they are registered on the Federal Register of Legislation.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of the Prime Minister and Cabinet and the Agency.

Details of the *Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019*

Section 1 – Name

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019*.

Section 2 – Commencement

This section provides that this instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that this instrument is made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Section 4 – Schedules

This section provides that the *Public Governance, Performance and Accountability Rule 2014* is amended as set out in the Schedule to this instrument.

Schedule 1 – Amendments

Public Governance, Performance and Accountability Rule 2014

Item 1 – Clause 15A of Schedule 1 (heading)

This item repeals the heading of clause 15A ‘North Queensland Livestock Industry Recovery Agency’ and substitutes it with the new heading ‘National Drought and North Queensland Flood Response and Recovery Agency’.

The North Queensland Livestock Industry Recovery Agency has been renamed to the National Drought and North Queensland Flood Response and Recovery Agency (the Agency) to reflect its expanded role and functions in relation to the Commonwealth’s drought response, recovery and preparation activities.

Item 2 – Subparagraph 15A(a)(i) of Schedule 1

This item omits the reference to ‘Chief Executive Officer of the North Queensland Livestock Industry Recovery Agency’ from subparagraph 15A(a)(i) and substitutes it with ‘Coordinator-General of the National Drought and North Queensland Flood Response and Recovery Agency’. The title of the Chief Executive Officer, who is the accountable authority of the Agency, has been changed to the Coordinator-General.

Item 3 – Subparagraph 15A(a)(ii) of Schedule 1

This item omits the reference to ‘Chief Executive Officer’ from subparagraph 15A(a)(ii) and substitutes it with ‘Coordinator-General’ to reflect the change in title of the Chief Executive Officer.

Item 4 – Paragraph 15A(b) of Schedule 1

This item omits the name ‘North Queensland Livestock Industry Recovery Agency’ from paragraph 15A(b) and substitutes it with ‘National Drought and North Queensland Flood Response and Recovery Agency’ to reflect the renaming of the Agency.

Item 5 – Paragraph 15A(c) of Schedule 1

This item omits the reference to ‘Chief Executive Officer’ from paragraph 15A(c) and substitutes it with ‘Coordinator-General’ to reflect the change in title of the Chief Executive Officer.

Item 6 – Subparagraphs 15A(e)(i) to (vii) of Schedule 1

This item repeals subparagraphs 15A(e)(i) to (vii) of Schedule 1 and substitutes them with new subparagraphs 15A(e)(i) to (xvii) which set out both new and existing purposes of the Agency.

The Order to Rename the North Queensland Livestock Industry Recovery Agency and Head of Agency, Identify the Minister Responsible and Specify Functions for the Renamed National Drought and North Queensland Flood Response and Recovery Agency specified new functions of the Agency in relation to drought and existing functions in relation to the North Queensland flood recovery and response. Among other new functions, the Agency will have responsibility for providing whole-of-government leadership, strategic policy advice and coordination of the Commonwealth’s drought response, recovery and preparation activities. It will also have oversight of the implementation of the Australian Government’s Drought Response, Resilience and Preparedness Plan. The Agency will represent the responsible Minister and the Australian Government in drought-affected communities, and advise the responsible Minister of the ‘on-the-ground’ conditions in drought-affected communities across Australia.

References to ‘responsible Minister’ are consistent with the definition of ‘responsible Minister’ in section 8 of the PGPA Act.

Statement of Compatibility with Human Rights

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

Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019

The *Public Governance, Performance and Accountability Amendment (National Drought and North Queensland Flood Response and Recovery Agency) Rules 2019* (Amendment Rules) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) establishes a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The Amendment Rules amend Schedule 1 to the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) to:

- rename the North Queensland Livestock Industry Recovery Agency (NQLIRA) to the National Drought and North Queensland Flood Response and Recovery Agency (the Agency);
- change the title of the accountable authority of the Agency from the Chief Executive Officer to the Coordinator-General;
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- expand the purposes of the Agency to provide whole-of-government leadership, strategic policy advice and coordination of the Commonwealth’s drought response, recovery and preparation activities, and undertake other drought related functions including community and stakeholder engagement.

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Human rights implications

The Amendment Rules do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Rules are compatible with human rights as they do not raise any human rights issues.

**Senator the Hon Mathias Cormann
Minister for Finance**