

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022

Section 101 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to this Act.

The *Public Governance, Performance and Accountability (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022* (the Amending Rule) amends the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR), which prescribes the financial reporting requirements for Commonwealth entities. Both rules are legislative instruments for the purpose of the *Legislation Act 2003*.

Other Legislative Provisions

The FRR sets out the requirements for preparation of financial statements in accordance with the following legislative provisions:

- subsection 42(2) of the PGPA Act prescribes that annual financial statements must:
 - comply with accounting standards issued by the Australian Accounting Standards Board (AASB) and any other requirements prescribed by the rules
 - present fairly the entity's financial position, financial performance and cash flows
- subsection 47(1) of the *High Court of Australia Act 1979* prescribes the financial statements reporting requirements of the High Court of Australia
- subsections 50B(2) and (4) of the *Defence Service Homes Act 1918* prescribe the financial statements reporting requirements of the Defence Service Homes Corporation
- subsections 43(1) and (3) of the *Natural Heritage Trust of Australia Act 1997* prescribe the financial statements reporting requirements of the Natural Heritage Trust of Australia Account
- Division 4 of Part 2-3 of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) prescribes how financial statements must be prepared for Commonwealth entities that have ceased to exist or whose functions have been transferred.

A number of FRR provisions are made for the purpose of subsection 102(1)(b) of the PGPA Act, which prescribes that provisions may be made for the Commonwealth and

Commonwealth entities to ensure or promote proper accountability for the use and management of public resources.

2022-23 Amendments

For the 2022-23 financial reporting period, the following changes to the FRR have been made:

- updating the names of three entities and inclusion of two new entities subject to Tier 1 reporting requirements under accounting standard AASB 1053 *Application of Tiers of Australian Accounting Standards*, as a result of the machinery of government changes announced in June 2022 (subsection 18(4) of the FRR)
- removal of the reference to the *Commonwealth Entities Financial Statements Guide* in the context of Commonwealth entities estimating their long service leave (LSL) liability using the shorthand method (subsection 24(1)(b) of the FRR).

The shorthand method referenced in subsection 24(1)(b) of the FRR is an actuarial methodology which can be used by Commonwealth entities with 1,000 or less employees to calculate the entity's LSL liability. This methodology complies with accounting standards AASB 119 *Employee Benefits* and AASB 101 *Presentation of Financial Statements*, and utilises assumptions in relation to LSL usage, retirement and discount rates that reflect the experience of Commonwealth entities with 1,000 or less employees.

The Department of Finance engages actuaries, such as the Australian Government Actuary, to periodically review and update the shorthand method, which is contained in a spreadsheet model. Information on how to access the spreadsheet model is contained in the Commonwealth Entities Financial Statements Guide, a guidance document published annually by the Department of Finance on its website. The guidance is intended to assist Commonwealth entities with the preparation of their financial statements in accordance with the FRR.

Retrospectivity and Timing

The retrospective commencement date of the Amending Rule does not adversely affect the rights of persons or otherwise impose liabilities, other than onto the Commonwealth or Commonwealth entities, and as such, does not contravene subsection 12(2) of the *Legislation Act 2003*.

A retrospective commencement date has historically been used for financial reporting purposes as this ensures that changes are applicable in the same reporting period in which the amendments are made.

For reporting periods commencing before 1 July 2022, these amendments to the FRR are not applicable.

Consultation

The Department of Finance worked with the Office of Parliamentary Counsel in drafting the Amending Rule.

The Amending Rule was developed in consultation with the Australian National Audit Office and all Commonwealth reporting entities.

Attachments

Details of the Amending Rule for reporting periods commencing on or after 1 July 2022 are set out at Attachment A.

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

Details of the Public Governance, Performance and Accountability (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022

Section 1 – Name of rule

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022* (the Amending Rule).

Section 2 – Commencement

This section provides that each provision of the instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table.

The entire instrument commences on the day after the Amending Rule is registered.

Section 3 – Authority

This section states that the Amending Rule is made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Section 4 – Schedules

This section provides that each legislative instrument that is specified in a Schedule to the Amending Rule is amended or repealed as set out, and that any item in a Schedule to this instrument operates or is applied as specified in the Schedule.

Schedule 1 – Amendments

Public Governance, Performance and Accountability (Financial Reporting) Rule 2015

Item 1 – Subsection 3(2)

Item 1 amends the reporting period to commence on or after 1 July 2022.

Item 2 – Subsection 18(4) note

Item 2 amends the number of the subsection to reflect the amendments made in 2021.

Item 3 – Subsection 18(4) (after table item 2)

Item 3 adds Department of Climate Change, Energy, the Environment and Water in the table. This is a new Commonwealth entity created as a result of machinery of government changes announced in June 2022.

Item 4 – Subsection 18(4) (table item 4, column headed “Reporting entity”)

Item 4 amends the name of the entity in the table. This entity’s name was amended as a result of machinery of government changes announced in June 2022.

Item 5 – Subsection 18(4) (after table item 4)

Item 5 adds Department of Employment and Workplace Relations in the table. This is a new Commonwealth entity created as a result of machinery of government changes announced in June 2022.

Item 6 – Subsection 18(4) (table item 7, column headed “Reporting entity”)

Item 6 amends the name of the entity in the table. This entity’s name was amended as a result of machinery of government changes announced in June 2022.

Item 7 – Subsection 18(4) (table item 7A, column headed “Reporting entity”)

Item 7 amends the name of the entity in the table. This entity’s name was amended as a result of machinery of government changes announced in June 2022.

Item 8 – Paragraph 24(1)(b)

Item 8 amends this paragraph to remove the reference to the Commonwealth Entities Financial Statement Guide in relation to the shorthand method for calculating long service leave liabilities. The Commonwealth Entities Financial Statements Guide is a guidance document published by the Department of Finance to assist Commonwealth entities in the preparation of their financial statements in accordance with the FRR.

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 (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022

This Disallowable Legislative Instrument is 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 Disallowable Legislative Instrument

Section 101 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to this Act.

The *Public Governance, Performance and Accountability (Financial Reporting) Amendment (2022 Measures No. 1) Rules 2022* amends the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR). Both rules are legislative instruments for the purpose of the *Legislation Act 2003*.

Other legislative provisions

The FRR sets out the requirements for preparation of financial statements under the following legislative provisions:

- subsection 42(2) of the PGPA Act prescribes that annual financial statements must:
 - comply with accounting standards and any other requirements prescribed by the rules
 - present fairly the entity's financial position, financial performance and cash flows
- subsection 47(1) of the *High Court of Australia Act 1979* prescribes the financial statements reporting requirements of the High Court of Australia
- subsections 50B(2) and (4) of the *Defence Service Homes Act 1918* prescribe the financial statements reporting requirements of the Defence Service Homes Corporation
- subsections 43(1) and (3) of the *Natural Heritage Trust of Australia Act 1997* prescribe the financial statements reporting requirements of the Natural Heritage Trust of Australia Account
- Division 4 of Part 2-3 of the PGPA Rule prescribes how financial statements must be prepared for Commonwealth entities that have ceased to exist or whose functions have been transferred.

Some provisions of the FRR are made for the purpose of subsection 102(1)(b) of the PGPA Act, which prescribes that provisions may be made for the Commonwealth and Commonwealth entities to ensure or promote proper accountability for the use and management of public resources.

Human rights implications

1. The 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 disallowable 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*.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Honourable Katy Gallagher
Minister for Finance