

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 (2023 Measures No. 4)
Rules 2023*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) set out a framework for regulating resource management by Commonwealth entities and companies.

Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the Act. The definition of “reporting period” in section 8 of the PGPA Act provides, at paragraph (b), that the rules may prescribe the reporting period of a Commonwealth entity, company or subsidiary. Paragraph 103(e) of the PGPA Act provides that the rules may make provision for the name or purposes of a non-corporate Commonwealth entity that is prescribed by the rules to be a listed entity.

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 (2023 Measures No. 4) Rules 2023* (Amendment Rules) amends the PGPA Rule by:

- amending paragraph 7AC(a); and
- repealing clause 15B of Schedule 1.

Paragraph 7AC(a) of the PGPA Rule provides that the first reporting period for the High Speed Rail Authority (HSRA) began on 13 June 2023, this was inserted by the *Public Governance, Performance and Accountability Amendment (2023 Measures No. 2) Rules 2023*. The Amendment Rules amend the first reporting period to begin on 12 June 2023, in line with the commencement of the *High Speed Rail Authority Act 2022* which established the HSRA as a corporate Commonwealth entity.

Clause 15B of Schedule 1 to the PGPA Rule prescribes the North Queensland Water Infrastructure Authority (NQWIA) as a listed entity, a type of non-corporate Commonwealth entity, for the purposes of the finance law as defined by the PGPA Act. Repealing this clause reflects the government’s decision to abolish the NQWIA by 1 October 2023, to consolidate all water infrastructure planning and investment activities in the Department of Climate Change, Energy, the Environment and Water (the Department). The effect of this is that the functions of the NQWIA would be delivered by the Department from the end of 31 August 2023.

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 contain four provisions.

Sections 1 to 4 and Schedule 1, item 1 commence the day after this instrument is registered.

Schedule 1, item 2 commences on the later of the start of the day after this instrument is registered; and the end of 31 August 2023.

Consultation

The Amendment Rules were developed by the Office of Parliamentary Counsel in consultation with the Department of Climate Change, Energy, the Environment and Water and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, in accordance with section 17 of the *Legislation Act 2003*.

Details of the *Public Governance, Performance and Accountability Amendment (2023 Measures No. 4) Rules 2023*

Section 1 – Name

This section provides that the title of this instrument is the *Public Governance, Performance and Accountability Amendment (2023 Measures No. 4) Rules 2023*.

Section 2 – Commencement

This section provides that each provision of the instrument specified in column 1 of the table commences in accordance with column 2 of the table.

Sections 1 to 4 and Schedule 1, item 1 commence the day after this instrument is registered.

Schedule 1, item 2 commences on the later of the start of the day after this instrument is registered; and the end of 31 August 2023.

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* (PGPA Rule) is amended as set out in Schedule 1 to this instrument.

Schedule 1 – Amendments

Public Governance, Performance and Accountability Rule 2014

Item 1 – Paragraph 7AC(a)

This item amends paragraph 7AC(a) to omit “13 June 2023” and substitute “12 June 2023” to prescribe the first reporting period for the High Speed Rail Authority (HSRA) as beginning on 12 June 2023. Paragraph 7AC(a) of the PGPA Rule provides that the first reporting period for the HSRA began on 13 June 2023, this was inserted into the PGPA Rule by the *Public Governance, Performance and Accountability Amendment (2023 Measures No. 2) Rules 2023*. The Amendment Rules amend the first reporting period to begin on 12 June 2023, in line with the commencement of the *High Speed Rail Authority Act 2022* which established the HSRA as a corporate Commonwealth entity.

Item 2 – Clause 15B of Schedule 1

This item repeals clause 15B of Schedule 1 to the PGPA Rule which prescribes the North Queensland Water Infrastructure Authority (NQWIA) as a listed entity. The effect of this is that from the commencement of this item the NQWIA will cease as a non-corporate Commonwealth entity for the purposes of the PGPA Act. The NQWIA will be abolished as an Executive Agency for the purposes of the *Public Service Act 1999* (PS Act) pursuant to an Order made by the Governor-General under section 65 of the PS Act. That Order commences from the end of 31 August 2023.

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 (2023 Measures No. 4) Rules 2023

The *Public Governance, Performance and Accountability Amendment (2023 Measures No. 4) Rules 2023* (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 Commonwealth entities and companies. Section 101 of the PGPA Act provides that the Minister for Finance may make rules by legislative instrument to prescribe matters giving effect to the Act. The definition of “reporting period” in section 8 of the PGPA Act provides, at paragraph (b), that the PGPA Rule may prescribe the reporting period of a Commonwealth entity, company or subsidiary. Paragraph 103(e) of the PGPA Act provides that the rules may make provision for the name or purposes of a non-corporate Commonwealth entity that is prescribed by the rules to be a listed entity.

The Amendment Rules amend the *Public Governance, Performance and Accountability Rule 2014* made under the PGPA Act by:

- amending paragraph 7AC(a) to prescribe the first reporting period of the High Speed Rail Authority to begin on 12 June 2023 in line with the commencement of the *High Speed Rail Authority Act 2022*; and
- repealing clause 15B from Schedule 1 to the PGPA Rule, which prescribes the North Queensland Water Infrastructure Authority as a listed entity for the purposes of the finance law as defined by the PGPA Act.

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 Katy Gallagher
Minister for Finance**