# EXPLANATORY STATEMENT

**Issued by the Authority of the Minister for Finance**

*Public Governance, Performance and Accountability Rule 2014*

*Public Governance, Performance and Accountability Amendment*

*(Corporate Commonwealth Entity Grants) Rules 2025*

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

Division 6A of Part 2-4 of the PGPA Rule establishes requirements for Ministers and accountable authorities of corporate Commonwealth entities (CCEs) where a Minister is involved in approving the making of grants of relevant money by or on behalf of a CCE (CCE grants).

The *Public Governance, Performance and Accountability Amendment (Corporate Commonwealth Entity Grants) Rules 2025* (the Amendment Rules)amend Division 6A to align the requirements for CCE grants with the requirements that apply where a Minister is a decision maker for grants made by or on behalf of non‑corporate Commonwealth entities (NCEs).

The requirements for NCE grants are set out in the *Commonwealth Grants Rules and Principles 2024* (CGRPs). The CGRPs came into effect on 1 October 2024, replacing the *Commonwealth Grants Rules and Guidelines 2017*, and include several changes to improve integrity, accountability and transparency in Commonwealth grants administration. Consistent with those changes, the Amendment Rules impose:

* strengthened requirements for briefing a Minister who is the approver of a CCE grant
* additional requirements for Ministers to record the basis for their decisions and other matters
* more timely reporting timeframes and increased transparency of certain ministerial decisions
* additional public reporting requirements for CCEs.

These amendments are made under sections 101 and 102 of the PGPA Act, for the purposes of paragraph 71(2)(b) of the PGPA Act. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters required or permitted by the PGPA Act or necessary or convenient for carrying out or giving effect to the PGPA Act. Among other things, subsection 102(1) provides that the rules may make provision for the following in relation to the Commonwealth and Commonwealth entities:

* ensuring or promoting the proper use and management of public resources;
* ensuring or promoting proper accountability for the use and management of public resources.

Paragraph 71(2)(b) of the PGPA Act provides that if a Minister approves a proposed expenditure of relevant money, the Minister must comply with requirements prescribed by the rules in relation to approvals of proposed expenditure.

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 Amendment Rules are subject to section 48A of the *Legislation Act 2003*, which has the effect of automatically repealing legislative instruments whose only effect is to amend or repeal one or more other legislative instruments.

The PGPA Rule is exempt from sunsetting pursuant to paragraph 54(2)(b) of the *Legislation Act 2023*, which provides that instruments prescribed are not subject to sunsetting. Further details on the basis for the exemption from sunsetting can be found in the Explanatory Statement to the *Legislation (Exemptions and Other Matters) Amendment (2023 Measures No. 1) Regulations 2023* which amended the *Legislation (Exemptions and Other Matters) Regulations 2015* and provided for the exemption.

The Amendment Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and are a disallowable instrument*.*

Details of the Amendment Rules are set out at Attachment A. A statement of compatibility with human rights is at Attachment B.

**Consultation**

The Amendment Rules were developed by the Office of Parliamentary Counsel, in consultation with the Department of Finance, in accordance with section 17 of the *Legislation Act 2003*.

The Department of Finance consulted with all CCEs on the Amendment Rules before the Rules were made.

The Office of Impact Assessment advised that a detailed impact analysis is not required (reference OIA24-086435).

**Attachment A**

**Details of the *Public Governance, Performance and Accountability Amendment***

***(Corporate Commonwealth Entity Grants) Rules 2025***

**Section 1—Name**

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability Amendment (Corporate Commonwealth Entity Grants) Rules 2025* (the Amendment Rules).

**Section 2—Commencement**

This section provides that the whole of the instrument commences on the later of:

1. the day after this instrument is registered, and
2. 1 July 2025.

**Section 3—Authority**

This section states that the Amendment Rules are 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 or repealed as set out in Schedule 1 to the instrument.

**Schedule 1—Amendments**

***Public Governance, Performance and Accountability Rule 2014***

**Item 1 - Section 4 Definitions**

This item inserts a definition of ‘*CCE grant opportunity*’ in section 4 of the PGPA Rule. A ‘*CCE grant opportunity*’ is defined to mean one or more CCE grants of a particular kind to be made by or on behalf of a corporate Commonwealth entity. A ‘*CCE grant’* is defined in section 4 of the PGPA Rule to mean an arrangement for the provision of financial assistance by or on behalf of a CCE under which relevant money is to be paid to a person, or body, that is not a Commonwealth entity but does not include a number of specified arrangements that are established through specific legislation or arrangements made pursuant to the *Commonwealth Procurement Rules.*

This item also inserts a definition for *‘quarter’*, meaning a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

**Items 2-14 - Section 25B Requirements for making CCE grants where Minister involved**

Items 2 to 13 amend section 25B, which sets out the requirements that apply to making CCE grants where a minister is involved.

Item 2 repeals subsection 25B(1) (not including the heading). Subsection 25B(1) currently provides that section 25B applies in relation to one or more CCE grants of a particular kind to be made by or on behalf of a CCE if a Minister is to approve the making of the CCE grants. Item 1 substitutes a new subsection 25B(1) that incorporates the new definition of ‘CCE grant opportunity’, providing that section 25B applies to a CCE grant opportunity if a Minister is to approve the making of the CCE grants.

Items 3, 6, 7, 8, 11 and 12 make minor amendments to section 25B to reflect the introduction of the new definition of ‘CCE grant opportunity’.

Item 4 amends paragraph 25B(2)(b). Paragraph 25B(2)(b) currently requires the accountable authority of the entity to publish written guidelines for a CCE grant opportunity on GrantConnect, unless:

* the accountable authority or the Minister decides that there is a specific policy reason to not publicise the guidelines (subparagraph 25B(2)(b)(I)); or
* that kind of CCE grant is provided on a one-off or ad hoc basis (subparagraph 25B(2)(b)(ii)).

Item 4 amends subparagraph 25B(2)(b)(i) and repeal subparagraph 25(2)(b)(ii) to provide that guidelines must be published on GrantConnect for all CCE grants (including for grants made on a one-off or ad hoc basis) unless the Finance Minister decides that there is a specific policy reason to not publicise the guidelines.

Item 5 repeals subsection 25B(3). Subsection 25B(3) currently defines for the purposes of subparagraph 25B(2)(b)(ii) circumstances in which a CCE grant is provided on a one-off or ad hoc basis. As subparagraph 25B(2)(b)(ii) is repealed by Item 4, subsection 25B(3) is no longer required.

Item 9 inserts a new subsection 25B(4A) that provides for an additional requirement that if an accountable authority makes information about the CCE grant opportunity publicly available other than through GrantConnect, that information must ensure that the information is the same or a subset of the information published on GrantConnect. This ensures that GrantConnect remains the centralised location for information about Australian Government grants.

Item 10 repeals subsection 25B(5) (not including the heading) and substitutes a new subsection 25B(5). Subsection 25B(5) currently provides for the circumstances in which the accountable authority must give the Minister a written notice that complies with section 25C. The new subsection 25B(5) broadens the circumstances in which a notice must be given, providing that the accountable authority must, before the Minister approves the making of any of the CCE grants, give the Minister a written notice that complies with section 25C for the CCE grant opportunity.

Item 13 operates in conjunction with Item 14. Item 13 repeals paragraph 25B(6)(c) and substitutes a new paragraph 25B(6)(c). Paragraph 25B(6) deals with several pre-conditions that must have been satisfied before the Minister may approve the making of a CCE grant. Currently, paragraph 25B(6)(c) requires the Minister to make a record of their assessment of the CCE grant. Item 14 will insert a new subsection 25B(7) which requires that a Minister must create a written record of:

* if the Minister approves the making of a CCE grant – the Minister’s reasons for giving the approval; and
* if the Minister does not approve the making of a CCE grant that the CCE recommended be made – the Minister’s reasons for not approving the making of that CCE grant.

The new paragraph 25B(6)(c) inserted by Item 13 will require the Minister, if the Minister has a conflict of interest relating to the decision to approve the making of the CCE grant, to declare and create a written record of the conflict of interest.

**Items 15-23 – Section 25C Requirements for advising Ministers involved in making CCE grants**

Section 25C establishes the minimum requirements for the written notice that accountable authorities are required to give a Minister involved in making CCE grants under the new subsection 25B(5).

Items 15, 16, 19-22 make minor amendments to reflect the introduction of the new definition of ‘CCE grant opportunity’.

Items 17 and 18 repeal the existing subsections 25C(b) and 25C(d) and substitute new subsections 25C(b) and 25C(d). The new subsections clarify the information accountable authorities are required to include in the written notice to the Minister about:

* the legal authority for the Minister to approve the making of the CCE grant (subsection 25C(b)), and
* the process and criteria the entity used to assess applications for the CCE grant opportunity (subsection 25C(d)).

Item 23 repeals subsection 25C(i) and substitutes new subsection 25C(i), (j) and (k). These new subsections require accountable authorities to include additional information and recommendations in the written notice to the Minister. Specifically, the written notice must include:

* an indication of which of the applications for the CCE grant opportunity satisfy all or some of the selection criteria (subsection 25C(i));
* a recommendation that applications that do not satisfy any of the selection criteria for the CCE grant opportunity not be approved (subsection 25C(j)); and
* any other recommendations of the entity regarding the applications, including any recommendations relating to factors that may be considered in accordance with the guidelines for the CCE grant (subsection 25C(k)).

**Items 24-26 - Section 25D Reporting requirements for Minister where Minister approves CCE grant in Minister’s electorate**

Section 25D provides for reporting requirements for a Minister, who is a member of the House of Representatives, where the Minister approves or requests the making of a CCE grant that relates to matters inside that Minister’s electorate. This type of reporting is commonly known as “own electorate reporting”. Items 24 to 26 change the requirements for own-electorate reporting to align with the requirements for own-electorate reporting that apply to Ministers who approve the making of grants under the CGRPs.

Item 24 repeals paragraph 25D(1)(a), which provides that the time at which own-electorate reporting must be provided is when a CCE grant is made after being approved by the Minister. The new paragraph 25D(1)(a) provides that the requirement for reporting arises at the point the Minister approves the making of a CCE grant.

Item 25 repeals subsection 25D(2) and substitutes a new subsection 25D(2). Subsection 25D(2) currently requires the Minister to give a written notice to the Finance Minister or, if the Minister is the Finance Minister, the Prime Minister. The new subsection 25D(2) reflects the change made by Item 24 relating to the time at which the reporting requirement arises – requiring reporting to the Finance Minister (or Prime Minister as appropriate) as soon as practicable after the Minister approves the grant – and requires a copy of the written notice to be provided to the accountable authority of the CCE. This is necessary to ensure that the accountable authority can publish a copy of the notice on GrantConnect as required by new section 25EA, discussed below.

Item 26 repeals subsection 25D(3) and substitutes new subsections 25D(3), (4) and (5). The new subsection 25D(3) requires that the Minister’s notice that must include:

* details of the CCE grant or a copy of any correspondence between the Minister and the recipient of the CCE grant;
* the Minister’s reasons for approving the making of the CCE grant.

The new subsection 25D(4) provides that the Minister may prepare a copy of the notice with particular information deleted if the Minister decides that publishing that particular information would contravene:

* the *Privacy Act 1988* or another law of the Commonwealth, or of a State or Territory; or
* any terms or conditions relating to the CCE grant.

The new subsection 25D(5) provides that the Finance Minister must, as soon as practicable after the end of the quarter in which the notice is given, table a copy of the notice in each House of the Parliament. Where the Minister has prepared a copy of the notice under the new subsection 25D (4), that copy of the notice must be tabled.

**Items 27-32 - Section 25E Reporting requirements where Minister approves CCE grant that was recommended not be made by officials of the corporate Commonwealth entity**

Section 25E requires that a Minister must give a written notice to the Finance Minister, or if it is the Finance Minister who has given the approval—to the Prime Minister, where the Minister approves a CCE grant to be made by or on behalf of the corporate Commonwealth entity that was recommended not be made. This section applies to all Ministers, including Senators. The written notice must include details of the CCE grant and the Minister’s reasons for approving the making of the CCE grant.

Items 27 to 32 change the requirements for reporting of CCE grants approved by Ministers that the CCE recommended not be made to align with the requirements for the reporting requirements that apply to Ministers who approve the making of grants under the CGRPs.

Item 27 amends the wording in paragraph 25E(1)(b) to reflect that due to Item 28 paragraph 25E(1)(b) would be the final paragraph in subsection 25E(1).

Item 28 repeals paragraphs 25E(1)(c), which provides that the time at which a notice must be provided under this section is when a CCE grant is made after being approved by the Minister. As amended, subsection 25E(1) provides that the time for the notice to be provided is when the Minister approves the making of a grant that the CCE recommended not be made.

Item 29 repeals subsection 25E(2) and substitutes a new subsection 25E(2). Subsection 25E(2) currently requires the Minister to give a written notice under this section to the Finance Minister or, if the Minister is the Finance Minister, the Prime Minister, before the end of March of the year following the year in which the approval is given. The new subsection 25E(2) requires the Minister to give the notice to the Finance Minister (or Prime Minister, as appropriate), as soon as practicable after the approval is given. It also requires a copy of the notice to be given to the accountable authority of the CCE. This is necessary to ensure that the accountable authority can publish a copy of the notice on GrantConnect as required by new section 25EA, discussed below.

Item 30 inserts a new paragraph 25E(3)(aa) that provides that the written notice must include a statement to the effect that the approval was given despite the recommendation of the CCE, in addition to the other matters prescribed in subsection 25E(3).

Item 31 inserts new subsections 25E(4) and (5). Subsection 25E(4) provides that the Minister may prepare a copy of the notice with particular information deleted if the Minister decides that publishing that particular information would contravene:

* the *Privacy Act 1988* (Privacy Act) or another law of the Commonwealth, or of a State or Territory; or
* any terms or conditions relating to the CCE grant.

The new subsection 25E(5) provides that the Finance Minister must, as soon as practicable after the end of the quarter in which the notice is given, table a copy of the notice in each House of the Parliament. Where the Minister has prepared a copy of the notice under the new subsection 25E(4), that copy of the notice must be tabled.

Item 32 inserts a new subsection 25EA, which establishes a new requirement for the accountable authority of a CCE to publish on GrantConnect a copy of a notice given by the Minister under subsections 25D(2) or 25E(2), or, if the Minister has prepared a copy of the notice under subsections 25D(4) or 25E(4) – that copy of the notice. The notice must be published on GrantConnect as soon as practicable after the notice is given.

**Items 33-36 - Section 25F Publication requirements for CCE grants made with Minister’s approval**

Item 33 makes a minor amendment to paragraph 25F(2)(a). Currently paragraph 25F(2)(a) sets out a list of information that the accountable authority of a CCE must publish on GrantConnect if a Minister approves the making of a CCE grant. Item 33 amends paragraph 25F(2)(a) to clarify that the accountable authority must publish information about the CCE grant, and that this must include the matters listed. This change clarifies that accountable authorities may choose to provide other information about CCE grants on GrantConnect.

Item 34 inserts a new sub-paragraph 25F(2)(a)(iv). The new sub-paragraph requires that the accountable authority of the CCE must publish on GrantConnect a link to guidelines for the CCE grant opportunity if they were previously published on GrantConnect.

Item 35 inserts a new subsection 25F(2A) that requires that the accountable authority of the CCE must publish details of any material variation to the CCE grant on GrantConnect within 21 days after the day on which the variation takes effect.

Item 36 repeals subsection 25F(3) and substitutes a new subsection 25F(3). Subsection 25F(3) currently provides that nothing in section 25F requires the accountable authority to publish particular information about a CCE grant if the accountable authority decides that publishing the particular information would contravene the Privacy Act, another law of the Commonwealth or a State or Territory, or the terms of the CCE grant, or could reasonably be expected to adversely affect the achievement of a government policy outcome. The new subsection 25F(3) provides that particular information is not required to be published if:

* the accountable authority or Minister decides publishing would contravene the Privacy Act or another law, or any terms or conditions relating to the CCE grant, or
* the Finance Minister decides that there is a specific policy reason to not publish that particular information.

Item 37 amends the note to subsection 25F(3) about the requirement to publish information that is not covered by the exception in subsection 23F(3) to include a reference to the new subsection 25F(2A), in addition to subsection 25F(2).

**Item 38 - Section 25G Additional record-keeping requirement where information not published**

Item 38 repeals section 25G and substitutes a new section 25G to reflect the new decision making arrangements under subsections 25D(4), 25E(4) and 25F(3). The new section 25G requires the Minister or accountable authority (as applicable) to record the reasons for their decisions under those subsections in writing.

**Item 39 – Application of amendments**

Item 39 inserts a new Part 12 in Chapter 5 of the Rule. Chapter 5 deals with transitional and application provisions. The new part 12 provides that the amendments made by the Amendment Rule apply in relation to a CCE grant opportunity if the CCE grants are to be made on or after the commencement of the Amendment Rule.

**Attachment B**

**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 (Corporate Commonwealth Entity Grants) Rules 2025***

The *Public Governance, Performance and Accountability Amendment (Corporate Commonwealth Entity Grants) Rules 2025*(the 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 Amendment Rule**

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) set out a frameworkfor 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 required or permitted by the PGPA Act or necessary or convenient for carrying out or giving effect to the PGPA Act. Among other things, subsection 102(1) provides that the rules may make provision for the following in relation to the Commonwealth and Commonwealth entities:

* ensuring or promoting the proper use and management of public resources;
* ensuring or promoting proper accountability for the use and management of public resources.

Paragraph 71(2)(b) of the PGPA Act provides that if a Minister approves a proposed expenditure of relevant money, the Minister must comply with requirements prescribed by the rules in relation to approvals of proposed expenditure.

The *Public Governance, Performance and Accountability Amendment (Corporate Commonwealth Entity Grants) Rules 2025* (the Amendment Rules)amend Division 6A of Part 2-4 of the PGPA Rule, which sets out requirements relating to certain grants of relevant money made by or on behalf of corporate Commonwealth entities (CCEs) in circumstances where a minister is involved in making grants. The changes will align the requirements that apply to officials and accountable authorities of CCEs and ministers who are the decision makers for CCE grants with requirements that apply where a minister is a decision maker for non‑corporate Commonwealth entities (NCEs) under the *Commonwealth Grants Rules and Principles 2024* (CGRPs). The CGRPs came into effect on 1 October 2024, replacing the *Commonwealth Grants Rules and Guidelines 2017*, and include several changes to improve integrity, accountability and transparency in Commonwealth grants administration.

Consistent with the changes implemented for NCE grants through the CGRPs, the Amendment Rules impose:

* strengthened requirements for officials when briefing ministers who are the approver of a grant
* additional requirements for ministers to record the basis for their decisions and other matters
* requirements for more timely reporting and increased public transparency about CCE grants where a minister is the approver of the grant
* additional public reporting requirements for entities.

**Human rights implications**

The Amendment Rules contain several measures that promote the right to the protection of the law against unlawful or arbitrary interferences with a person’s privacy, consistent with the prohibition on the interference with privacy contained in article 17 of the International Covenant on Civil and Political Rights (ICCPR). In particular, Item 26 (which inserts new subsections 25D(4) and (5)), Item 31 (which inserts new subsections 25E(4) and (5)) and Item 32 (which inserts new section 25EA) ensure that information protected by the *Privacy* *Act 1988* (Privacy Act) will be excluded from public reporting about relevant CCE grants and Ministerial decisions.

The Privacy Act provides for the protection of personal information collected and held by Australian Government agencies and certain private sector organisations. The Privacy Act sets out Australian Privacy Principles (APPs) that deal with all stages of the information lifecycle setting out standards for the collection, storage, security, use, disclosure and quality of personal information.

A number of Items in the Amendment Rules establish or modify requirements relating to reporting and publication of information about CCE grants for which a Minister is the approver.

* Items 26 and 31 modify or establish requirements for Ministers to notify the Finance Minister about certain decisions to approve CCE grants and require the Finance Minister to table copies of these notices in both Houses of Parliament on a quarterly basis. New subsections 25D(4) and 25E(4) enable Ministers to prepare and provide a copy of relevant notices in a form that excludes information protected by the Privacy Act and other sensitive information. If such a copy is prepared, new subsections 25D(5) and 25E(5) require the Finance Minister to table that copy.
* Item 32 inserts new section 25EA, which requires accountable authorities of CCEs to publish on GrantConnect copies of Ministerial notices. Paragraph 25EA(2)(b) provides that the accountable authority must publish the copy of the notice prepared under subsections 25D(4) or 25E(4), if one was produced. This is in addition to the existing protection for personal information provided in subsection 25F(3) of the PGPA Rule, which provides that the accountable authority is not required to publish information about a CCE grant if the accountable authority, or Minister, decides publishing the information would (relevantly) contravene the Privacy Act.

These reporting and publication requirements provide the Parliament and the public with information about Ministerial decisions in relation to CCE grants. This transparency is an important accountability mechanism, consistent with the objectives of the PGPA Act.

The amendments set out in Items 26, 31 and 32 of the Amendment Rules recognise that some information about CCE grants that would otherwise be required to be tabled in Parliament by the Finance Minister or published on GrantConnect by the accountable authority of the CCE may include personal information, within the meaning provided by the Privacy Act. These provisions appropriately balance the key objective of the Amendment Rules to provide enhanced public transparency about CCE grants with the protection of the privacy of individuals recipients or beneficiaries of CCE grants that are approved by Ministers.

**Conclusion**

The Amendment Rules promote the right to privacy and are otherwise compatible with human rights.

**Senator the Hon Katy Gallagher**

**Minister for Finance**