



Public Governance and Resources Legislation Amendment Act (No. 1) 2015

No. 36, 2015

An Act to amend the law relating to the governance, performance and accountability of, and the use and management of resources by, the Commonwealth, Commonwealth entities and Commonwealth companies, and to deal with consequential and transitional matters in connection with the *Public Governance, Performance and Accountability Act 2013*, and for other purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to amend the law relating to the
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and the use and management of resources by, the
Commonwealth, Commonwealth entities and
Commonwealth companies, and to deal with
consequential and transitional matters in
connection with the *Public Governance,
Performance and Accountability Act 2013*, and for
other purposes**

[Assented to 13 April 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Public Governance and Resources Legislation Amendment Act (No. 1) 2015*.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Definitions

In this Act:

reporting period has the meaning given by the *Public Governance, Performance and Accountability Act 2013*.

Schedule 1—Public Governance, Performance and Accountability Act 2013

Part 1—Amendments

1 Section 8

Insert:

GST has the same meaning as in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*, as it applies because of Division 177 of that Act.

Note: Under Division 177 of the GST Act, that Act applies notionally to the Commonwealth and Commonwealth entities. They are therefore notionally liable to pay GST, are notionally entitled to input tax credits and notionally have adjustments.

GST qualifying amount: see subsection 74A(3).

2 Section 8 (paragraph (b) of the definition of *reporting period*)

After “prescribed by”, insert “an Act or”.

3 Paragraph 35(1)(a)

After “corporate plan”, insert “(however described)”.

4 Section 73 (paragraph relating to Division 2)

After “certain amounts”, insert “or make payments relating to GST”.

5 After section 74

Insert:

74A Recoverable GST for non-corporate Commonwealth entities

Recoverable GST on acquisitions

(1) If:

- (a) a non-corporate Commonwealth entity makes a payment in relation to an acquisition; and

- (b) the payment is made in reliance on an appropriation that is limited as to amount; and
 - (c) a GST qualifying amount (see subsection (3)) arises for that acquisition;
- then the amount of the GST qualifying amount may be credited to the appropriation.

Recoverable GST on importations

- (2) If:
- (a) a non-corporate Commonwealth entity makes a payment of GST on an importation; and
 - (b) the payment is made in reliance on an appropriation that is limited as to amount; and
 - (c) a GST qualifying amount (see subsection (3)) arises for that importation;
- then the amount of the GST qualifying amount may be credited to the appropriation.

Meaning of GST qualifying amount

- (3) A ***GST qualifying amount*** is:
- (a) an input tax credit (within the meaning of the GST Act); or
 - (b) a decreasing adjustment (within the meaning of the GST Act).

When crediting of appropriation takes effect

- (4) The crediting of an amount in accordance with subsection (1) or (2) takes effect at the time an entry recording the GST qualifying amount is made in the accounts and records of the non-corporate Commonwealth entity.

Rules about GST arrangements

- (5) The rules may prescribe matters relating to GST arrangements for non-corporate Commonwealth entities.

6 Subsection 75(2)

Repeal the subsection (not including the heading), substitute:

- (2) The Finance Minister may determine that the operation of one or more Schedules to one or more Appropriation Acts is modified in a specified way. The modification must be related to the transfer of function.

7 Subsection 75(3)

Omit “the Schedule concerned were amended”, substitute “the operation of the Schedule concerned were modified”.

8 Paragraph 95(1)(a)

After “corporate plan”, insert “(however described)”.

Part 2—Application of amendments

9 Application of amendments

- (1) The amendments made by items 1, 4 and 5 of this Schedule apply in relation to payments that are made on or after 1 July 2015.
- (2) The amendments made by items 6 and 7 of this Schedule apply to determinations made after the commencement of this Schedule in relation to transfers of functions occurring before or after that time.

Schedule 2—Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014

1 Items 2, 4, 5 and 6 of Schedule 1

Omit “after the commencement time”, substitute “on or after 1 July 2014”.

2 Item 21 of Schedule 1

After “Commonwealth” (second occurring), insert “before or”.

3 Application of amendment

The amendment of item 21 of Schedule 1 to the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* made by this Schedule applies in relation to any amounts received by the Commonwealth, whether before or after this item commences.

4 Item 38 of Schedule 2

Repeal the item.

5 Subitem 2(1) of Schedule 3

Repeal the subitem, substitute:

- (1) Despite the repeal of the provisions of the CAC Act referred to in subitem (1A), those provisions continue to apply after the commencement time in relation to reporting periods that:
 - (a) commenced before 1 July 2014; and
 - (b) either:
 - (i) ended on 30 June 2014; or
 - (ii) had not ended on 30 June 2014.
- (1A) For subitem (1), the provisions of the CAC Act are as follows:
 - (a) section 9 (which deals with directors preparing annual reports);
 - (b) section 10 (which deals with modified requirements for a Commonwealth authority’s first year of existence);

- (c) section 12 (which deals with auditing a relevant subsidiary's financial statements);
- (d) section 14 (which deals with estimates);
- (e) section 36 (which deals with annual reports for Commonwealth companies);
- (f) section 37 (which deals with auditing relevant subsidiary's financial statements);
- (g) section 39 (which deals with estimates);
- (h) Schedule 1 (which deals with annual report for Commonwealth authorities).

6 Item 16 of Schedule 3

Repeal the item.

7 Item 2 of Schedule 14

Omit "at or after the commencement time", substitute "on or after 1 July 2014".

8 Item 5 of Schedule 14

Omit "under the enabling Act" (last occurring), substitute "under the *Legislative Instruments Act 2003*".

9 Subitem 6(3) of Schedule 14

Omit "at or after the commencement time", substitute "on or after 1 July 2014".

Schedule 3—Bodies ceasing to be bodies corporate

Part 1—Amendments

Clean Energy Regulator Act 2011

1 Section 11 (note)

Repeal the note, substitute:

Note 1: The Regulator does not have a legal identity separate from the Commonwealth.

Note 2: In this Act, *Regulator* means the Clean Energy Regulator—see section 4.

2 Sections 13 and 14

Repeal the sections, substitute:

13 Powers of the Regulator

The Regulator has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

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

3 Division 2 of Part 2 (heading)

Repeal the heading, substitute:

Division 2—Membership of the Regulator

4 Section 16

Repeal the section.

5 Before section 57

Insert:

57A Proceedings in the name of the Regulator

- (1) Proceedings brought by the Commonwealth in relation to the functions or powers of the Regulator may be brought in the name of the Regulator.
- (2) Proceedings brought against the Commonwealth in relation to the functions or powers of the Regulator may be brought against the Commonwealth in the name of the Regulator.

Climate Change Authority Act 2011

6 Section 10 (note)

Repeal the note, substitute:

- Note 1: The Authority does not have a legal identity separate from the Commonwealth.
- Note 2: In this Act, *Authority* means the Climate Change Authority—see section 4.

7 Sections 13 and 14

Repeal the sections, substitute:

13 Powers of the Authority

The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

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

8 Division 2 of Part 2 (heading)

Repeal the heading, substitute:

Division 2—Membership of the Authority etc.

9 Subdivision A of Division 2 of Part 2

Repeal the Subdivision.

Part 2—Transitional provisions

10 Transitional provisions

Part 2 of Schedule 5 to the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* applies for the purposes of this Schedule as if:

- (a) a reference in that Part to the commencement day were a reference to the day this Schedule commences; and
- (b) a reference in that Part to a decorporatised body were a reference to:
 - (i) the Clean Energy Regulator; or
 - (ii) the Climate Change Authority.

Schedule 4—Listed entities

Clean Energy Regulator Act 2011

1 Section 11

Before “The”, insert “(1)”.

2 At the end of section 11

Add:

- (2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
- (a) the Regulator is a listed entity; and
 - (b) the Chair of the Regulator is the accountable authority of the Regulator; and
 - (c) 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
 - (d) the purposes of the Regulator include the functions of the Regulator referred to in section 12.

Climate Change Authority Act 2011

3 Section 10

Before “The”, insert “(1)”.

4 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 a listed entity; and

- (b) the CEO is the accountable authority of the Authority; and
- (c) 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
- (d) the purposes of the Authority include the functions of the Authority referred to in section 11.

Schedule 5—Consequential amendments relating to the Public Governance, Performance and Accountability Act 2013

Part 1—Amendments

Agricultural and Veterinary Chemicals (Administration) Act 1992

1 At the end of Division 3 of Part 3

Add:

25A Board members are officials of the APVMA

For the purposes of the *Public Governance, Performance and Accountability Act 2013*, a Board member is an official (within the meaning of that Act) of the APVMA.

A New Tax System (Goods and Services Tax) Act 1999

2 Subsection 177-1(5)

Repeal the subsection, substitute:

- (5) ***Untaxable Commonwealth entity*** means a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) that cannot be made liable to taxation by a law of the Commonwealth.

3 Section 195-1 (definition of *Finance Minister*)

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

Australian National Registry of Emissions Units Act 2011

4 Subsection 93(2)

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

Australian Securities and Investments Commission Act 2001

5 Paragraph 10A(a)

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

6 Paragraph 111(1)(e)

Repeal the paragraph, substitute:

- (e) without reasonable excuse, contravenes section 123 or 125;
or
- (f) without reasonable excuse, contravenes 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.

7 Section 124

Repeal the section.

8 Subsections 136(1) and (2)

Repeal the subsections, substitute:

Content of annual report

- (1) The report prepared by the Chairperson and given to the Minister
under section 46 of the *Public Governance, Performance and
Accountability Act 2013* for a period must include the following:
 - (a) information about the exercise during the period of ASIC’s
powers under Part 15 of the *Retirement Savings Accounts Act
1997* and under Part 29 of the *Superannuation Industry
(Supervision) Act 1993*;
 - (b) information about ASIC’s monitoring and promotion of
market integrity and consumer protection in relation to:

- (i) the Australian financial system; and
- (ii) the provision of financial services;
- (c) in relation to ASIC's functions under subsection 11(14), in relation to each agreement or arrangement entered into by ASIC under that subsection, information about the activities that ASIC has undertaken during the period in accordance with that agreement or arrangement;
- (d) information about the operation of the *Business Names Registration Act 2011* including:
 - (i) details of the level of access to the Business Names Register using the internet and other facilities; and
 - (ii) the timeliness with which ASIC carries out its duties, functions and powers under the Act; and
 - (iii) the cost of registration of a business name under the Act;
- (e) information required to be included in the report by regulations under subsection (2A).

Note: Section 34C of the *Acts Interpretation Act 1901* contains provisions relating to annual reports.

9 Subsection 136(3)

Repeal the subsection.

10 Paragraph 235D(3)(c)

Repeal the paragraph, substitute:

- (c) include a copy of the advice and of his or her reasons in the annual report given by the Chair under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the period during which the action is taken.

11 Paragraph 235F(3)(c)

Omit "*Commonwealth Authorities and Companies Act 1997*", substitute "*Public Governance, Performance and Accountability Act 2013*".

12 Section 235H

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

13 Section 235J

Repeal the section.

14 Paragraph 236DB(3)(c)

Repeal the paragraph, substitute:

- (c) include a copy of the advice and of his or her reasons in the annual report given by the Chair under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the period during which the action is taken.

15 Paragraph 236DD(3)(c)

Omit “*Commonwealth Authorities and Companies Act 1997*”, substitute “*Public Governance, Performance and Accountability Act 2013*”.

16 Section 236DF

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

17 Section 236DG

Repeal the section.

Carbon Credits (Carbon Farming Initiative) Act 2011

18 Subsection 183(1) (note)

Repeal the note, substitute:

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

19 Subsection 299(2)

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

Clean Energy Regulator Act 2011

20 Section 22

Repeal the section, substitute:

22 Disclosure of interests

- (1) A disclosure by a member of the Regulator 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 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*, a member of the Regulator is taken not to have complied with section 29 of that Act if the member does not comply with subsection (1) of this section.

21 Section 23

Repeal the section.

22 Paragraph 27(2)(d)

Omit “22 or 23”, substitute “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”.

23 Division 7 of Part 2

Repeal the Division, substitute:

Division 7—Planning and reporting obligations

39 Corporate plan

- (1) A corporate plan prepared by the Chair of the Regulator 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 Chair written guidelines that are to be used by the Chair in deciding whether a matter is covered by subsection (1).
 - (3) A guideline given under subsection (2) is not a legislative instrument.
-

40 Annual report

- (1) An annual report prepared by the Chair of the Regulator and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* is in addition to a report under section 105 of the *Renewable Energy (Electricity) Act 2000* (the *REE Act*).
- (2) If a report (the *REE report*) under section 105 of the REE Act relating to a calendar year has been presented to the Parliament, the report prepared by the Chair and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period that ends after the end of the calendar year:
 - (a) need not deal comprehensively with the working of the REE Act during any part of that period that overlaps with the calendar year; and
 - (b) must include a summary of the REE report, to the extent that the REE report deals with the working of the REE Act during any part of that period that overlaps with the calendar year.

24 Paragraph 42(a)

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

Climate Change Authority Act 2011

25 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.

26 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 purpose of that section; or

27 Subsection 36(2)

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

28 Section 48

Repeal the section, substitute:

48 Disclosure of interests to the Authority

- (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.

29 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

30 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) A guideline given under subsection (2) is not a legislative instrument.

31 Paragraph 58(a)

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

Corporations Act 2001

32 Paragraph 45B(1)(d)

Repeal the paragraph, substitute:

- (d) it is not one of the following:
- (i) a Commonwealth company for the purposes of the *Public Governance, Performance and Accountability Act 2013*;
 - (ii) a subsidiary of a Commonwealth company for the purposes of that Act;

- (iii) a subsidiary of a corporate Commonwealth entity for the purposes of that Act; and

33 Paragraph 111K(b)

Repeal the paragraph, substitute:

- (b) is none of the following:
 - (i) a Commonwealth company for the purposes of the *Public Governance, Performance and Accountability Act 2013*;
 - (ii) a subsidiary of a Commonwealth company for the purposes of that Act;
 - (iii) a subsidiary of a corporate Commonwealth entity for the purposes of that Act.

34 Paragraph 301(3)(a)

Repeal the paragraph, substitute:

- (a) the company is not one of the following:
 - (i) a Commonwealth company for the purposes of the *Public Governance, Performance and Accountability Act 2013*;
 - (ii) a subsidiary of a Commonwealth company for the purposes of that Act;
 - (iii) a subsidiary of a corporate Commonwealth entity for the purposes of that Act; and

35 Paragraph 601AE(1A)(a)

Omit “Special Account (within the meaning of section 5 of the *Financial Management and Accountability Act 1997*”, substitute “special account (within the meaning of the *Public Governance, Performance and Accountability Act 2013*”.

36 Subparagraph 601AE(1A)(b)(ii)

Omit “Special Account (within the meaning of section 5 of the *Financial Management and Accountability Act 1997*”, substitute “special account (within the meaning of the *Public Governance, Performance and Accountability Act 2013*”.

Financial Framework (Supplementary Powers) Act 1997

37 Section 5 (definition of *Finance Minister*)

Omit “this Act”, substitute “*the Public Governance, Performance and Accountability Act 2013*”.

Income Tax Assessment Act 1936

38 Subsection 159ZR(1) (definition of *eligible income*)

Omit “section 33 of the *Financial Management and Accountability Act 1997*”, substitute “section 65 of the *Public Governance, Performance and Accountability Act 2013* (which deals with act of grace payments by the Commonwealth)”.

39 Subsection 160AAA(1) (paragraph (f) of the definition of *rebatable benefit*)

Omit “section 33 of the *Financial Management and Accountability Act 1997*”, substitute “section 65 of the *Public Governance, Performance and Accountability Act 2013* (which deals with act of grace payments by the Commonwealth)”.

Income Tax Assessment Act 1997

40 Subsection 995-1(1) (definition of *Finance Minister*)

Omit “section 1 of the *Financial Management and Accountability Act 1997*”, substitute “the *Public Governance, Performance and Accountability Act 2013*”.

Infrastructure Australia Act 2008

41 Section 3 (definition of *Finance Minister*)

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

42 Subsection 4(2) (note)

Repeal the note, substitute:

Note: The *Public Governance, Performance and Accountability Act 2013* applies to Infrastructure Australia. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

43 Subsection 18(2)

Repeal the subsection, substitute:

- (2) The Minister may terminate the appointment of a member if the member:
- (a) becomes bankrupt; or
 - (b) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with one or more of his or her creditors; or
 - (d) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors.

Note: The appointment of a member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

44 Paragraph 21(2)(a)

Omit “section 27J of the *Commonwealth Authorities and Companies Act 1997*”, substitute “rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*”.

45 Section 34

Repeal the section, substitute:

34 Disclosure of interests

- (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 Board.
- (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.

46 Sections 39B and 39C

Repeal the sections, substitute:

39B Corporate plan

In preparing or varying a corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013*, the Board must consult with:

- (a) the Minister; and
- (b) such of the following as it considers appropriate:
 - (i) government, commercial, industrial, consumer and other relevant bodies and organisations;
 - (ii) investors in infrastructure and owners of infrastructure.

39C Annual report

The annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must also include details of any directions given to Infrastructure Australia by the Minister under subsection 6(1) of this Act during the period.

47 Subsection 39DA(2)

Repeal the subsection, substitute:

- (2) Subsection (1) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of Infrastructure Australia.

48 Subsections 39DB(2), (3) and (4)

Repeal the subsections.

National Land Transport Act 2014

49 Subsection 4(1) (definition of *non-corporate Commonwealth entity*)

Repeal the definition, substitute:

non-corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Note: Section 51A deals with funding arrangements with non-corporate Commonwealth entities.

Ozone Protection and Synthetic Greenhouse Gas (Import Levy) (Transitional Provisions) Act 2014

50 Section 6 (note)

Repeal the note, substitute:

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

51 Subsection 65B(2)

Repeal the subsection, substitute:

(2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

52 Subsections 65C(2) and (3)

Repeal the subsections, substitute:

Notional payments and receipts by non-corporate Commonwealth entities

(2) If:

(a) either:

- (i) a non-corporate Commonwealth entity makes a notional payment to another non-corporate Commonwealth entity; or
 - (ii) one part of a non-corporate Commonwealth entity makes a notional payment to another part of that entity; and
- (b) the transaction would involve the debiting of an appropriation if the notional payment were a real payment;
- then:
- (c) this section applies in relation to the notional payment as if it were a real payment; and
 - (d) this section applies in relation to the notional receipt of the notional payment as if it were a real receipt.

Note: This subsection applies to transactions that do not actually involve payments or receipts, because the parties to the transaction (non-corporate Commonwealth entities) are merely parts of the Commonwealth.

(3) In subsection (2):

non-corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Renewable Energy (Electricity) Act 2000

53 Subsection 5(1)

Insert:

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

54 Subsection 5(1) (definition of *Minister for Finance*)

Repeal the definition.

55 Subsection 30R(2)

Omit “Special Account for the purposes of the *Financial Management and Accountability Act 1997*”, substitute “special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*”.

56 Section 30S (note)

Omit “Special Account” (wherever occurring), substitute “special account”.

57 Section 30T (note)

Repeal the note, substitute:

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

58 Subsection 42(2)

Omit “Minister for Finance”, substitute “Finance Minister”.

59 Subsection 42(4) (definition of *Commonwealth*)

Repeal the definition, substitute:

Commonwealth includes a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) that cannot be made liable to taxation by a Commonwealth law.

Social Security Act 1991

60 Subsections 1061PAAA(2) and 1061PAAB(3) (note)

Repeal the note.

61 Section 1061PAAE

Repeal the section, substitute:

1061PAAE Department official

For the purposes of this Division, *Department official* means a person:

(a) who:

- (i) is an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of the Department; or
- (ii) is a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*); and

- (b) whose duties consist of, or include, matters relating to Australian Government Disaster Recovery Payments.

Social Security (Administration) Act 1999

62 Subsection 123ZM(4) (note)

Repeal the note, substitute:

Note: Subsection 56(1) of the *Public Governance, Performance and Accountability Act 2013* provides that an agreement for the borrowing of money by the Commonwealth is of no effect unless the borrowing is expressly authorised by or under an Act.

Student Identifiers Act 2014

63 Subsection 48(2)

Omit “Special Account for the purposes of the *Financial Management and Accountability Act 1997*”, substitute “special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*”.

64 Section 49 (note 1)

Omit “Special Account” (wherever occurring), substitute “special account”.

65 Section 49 (note 2)

Omit “section 39 of the *Financial Management and Accountability Act 1997*, but such investments may only be made by the Finance Minister, the Treasurer, or a delegate under section 62 or 62A of that Act”, substitute “section 58 of the *Public Governance, Performance and Accountability Act 2013*”.

66 Section 50 (note)

Repeal the note, substitute:

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

Superannuation Guarantee (Administration) Act 1992

67 Subsection 5(5) (definition of *Commonwealth entity*)

Repeal the definition, substitute:

Commonwealth entity means a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) that cannot be made liable to taxation by a Commonwealth law.

68 Subsection 5(5) (definition of *Finance Minister*)

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

Taxation Administration Act 1953

69 Subsection 15B(4) (note)

Repeal the note.

70 Subsection 15B(9)

Omit “section 47 of the *Financial Management and Accountability Act 1997*”, substitute “any rules made for the purposes of paragraph 103(c) of the *Public Governance, Performance and Accountability Act 2013*”.

71 Subsections 15C(2) and (3) (note)

Repeal the note.

72 Subsection 15D(8)

Omit “*Financial Management and Accountability Act 1997*) who is in the Australian Taxation Office or is part of the Australian Taxation Office”, substitute “*Public Governance, Performance and Accountability Act 2013*) of the Australian Taxation Office”.

Water Act 2007

73 At the end of Division 4 of Part 9

Add:

208A Chief Executive is accountable authority

Despite subsection 12(2) of the *Public Governance, Performance and Accountability Act 2013*, the Chief Executive is the accountable authority of the Authority for the purposes of that Act.

Part 2—Transitional and application provisions

74 Corporate and strategic plans

An amendment made by an item of this Schedule that relates to a corporate plan or a strategic plan (however described) applies in relation to reporting periods that commence on or after 1 July 2015.

75 Annual reports

An amendment made by an item of the Schedule that relates to an annual report applies in relation to reporting periods that commence on or after 1 July 2014.

76 Disclosing interests

- (1) This item applies if:
 - (a) before this item commences, a person discloses an interest in accordance with a provision in an Act; and
 - (b) the provision is:
 - (i) amended; or
 - (ii) repealed; or
 - (iii) repealed and substituted;by an item of this Schedule.
- (2) The person is taken to have disclosed the interest in accordance with section 29 of the *Public Governance, Performance and Accountability Act 2013* and rules made for the purposes of that section.

77 Saving instruments in force at commencement

- (1) This item applies if:
 - (a) a provision of an Act provides that an instrument (whether or not a legislative instrument) may be made under, or for the purposes of, the provision; and
 - (b) an instrument made under, or for the purposes of, the provision is in force immediately before the commencement of this Schedule; and
 - (c) the provision is:
 - (i) amended; or
-

- (ii) repealed and substituted;
by an item of this Schedule; and
 - (d) after the provision has been amended or repealed and substituted, the provision still provides in the same or similar terms that an instrument may be made under, or for the purposes of, the provision.
- (2) If the provision is amended, the amendment referred to in subparagraph (1)(c)(i) does not affect the continuity of the instrument.
- (3) If the provision is repealed and substituted, the instrument is taken, after the commencement of this Schedule, to have been made under, or for the purposes of, the provision as substituted.

Schedule 6—Other amendments

Air Services Act 1995

1 Paragraph 50(1)(c)

Repeal the paragraph, substitute:

- (c) acquisition by AA of goods or services;

2 Subsection 50(4) (definition of *hedging purposes*)

Repeal the definition, substitute:

hedging purposes means reducing or eliminating risks of adverse financial consequences to AA, and includes the following:

- (a) reducing or eliminating the risk of adverse variations in:
 - (i) the costs in relation to money raising by AA; or
 - (ii) the revenue obtainable by AA; or
 - (iii) the costs in relation to acquiring goods or services by AA;
- (b) maintaining the value of:
 - (i) investments made by AA; or
 - (ii) property used as security for money raising, or proposed money raising, by AA.

Auditor-General Act 1997

3 Subsection 36(3)

Repeal the subsection, substitute:

- (3) A person commits an offence if:
 - (a) the person receives any of the following:
 - (i) a proposed report (including a draft) under section 19;
 - (ii) any other report (including a draft) created for the purposes of preparing a proposed report under section 19;
 - (iii) an extract from a report referred to in this paragraph;
 - and

(b) the person discloses any information in the report or extract.

Penalty: Imprisonment for 2 years.

(4) Subsection (3) does not apply if the Auditor-General has consented to the disclosure.

Note: A defendant bears an evidential burden in relation to a matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

4 Application of amendment

The amendment of the *Auditor-General Act 1997* made by this Schedule applies in relation to any disclosure of information, in a report or extract, that occurs after this item commences, whether the report or extract was received before or after this item commences.

Australian Trade Commission Act 1985

5 Section 8

Before “The functions”, insert “(1)”.

6 At the end of subparagraphs 8(a)(i) to (viii)

Add “and”.

7 At the end of section 8

Add:

- (2) Without limiting subsection (1), the functions of the CEO include developing and administering policies relating to tourism (including domestic tourism).
- (3) The CEO may perform his or her functions under subsection (2) to the extent only that they are not in excess of the functions that may be conferred on the CEO by virtue of any of the legislative powers of the Parliament, and, in particular, may perform his or her functions under that subsection:
 - (a) for purposes related to external affairs; and
 - (b) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; and
 - (c) for purposes related to a Territory; and

- (d) by means of a communication using a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; and
- (e) for purposes related to the collection, compilation, analysis, use and dissemination of statistics; and
- (f) for purposes related to a corporation to which paragraph 51(xx) of the Constitution applies; and
- (g) for purposes related to lighthouses, lightships, beacons and buoys; and
- (h) for purposes related to matters incidental to the execution of the legislative powers of the Parliament or the executive power of the Commonwealth; and
- (i) for purposes related to a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*; and
- (j) for purposes related to the executive power of the Commonwealth; and
- (k) for purposes related to the granting of financial assistance to a State on such terms and conditions as the Parliament thinks fit; and
- (l) for purposes related to matters that are peculiarly adapted to the government of a nation and that cannot otherwise be carried on for the benefit of the nation; and
- (m) by way of providing a service, if the provision of the service utilises the CEO's spare capacity and does not impede the CEO's capacity to perform his or her other functions.

8 Subsection 9(1)

After "functions", insert "under subsection 8(1)".

9 Paragraph 9(2)(b)

Repeal the paragraph, substitute:

- (b) have regard to the need to provide services as efficiently and economically as possible; and
- (c) in relation to his or her functions under subsection 8(1), have regard to:
 - (i) the desirability of improving and extending the range and accessibility of advice, assistance and financial

support available (whether through the Commission and the CEO or otherwise) to persons involved, or likely to be involved, either directly or indirectly, in trade between Australia and foreign countries; and

- (ii) Australia's obligations under international agreements.

Future Fund Act 2006

10 Section 5

Insert:

civil penalty provision has the meaning given by the *Regulatory Powers (Standard Provisions) Act 2014*.

11 Section 5 (definition of *Commonwealth authority*)

Repeal the definition.

12 Section 5

Insert:

corporate Commonwealth entity has the meaning given by the *Public Governance, Performance and Accountability Act 2013*.

disqualifiable position means a position as:

- (a) a Board member; or
- (b) an accountable authority or a member of an accountable authority of a corporate Commonwealth entity.

13 Section 5 (definition of *involved*)

Repeal the definition.

14 Section 5

Insert:

relevant court means:

- (a) the Federal Court of Australia; or
- (b) a Supreme Court of a State or Territory.

15 Before section 56

Insert:

Subdivision A—Civil obligations and criminal offences

16 Subsection 56(1) (note)

Repeal the note, substitute:

Note: This is a civil penalty provision which is enforced under the *Regulatory Powers (Standard Provisions) Act 2014* (see Subdivision C of this Division).

Civil penalty: 2,000 penalty units.

17 Sections 57 to 59

Repeal the sections, substitute:

57 Good faith—civil obligation

A Board member must exercise his or her powers and discharge his or her duties:

- (a) in good faith in the best interests of performing the functions of the Board; and
- (b) for a proper purpose.

Note: This is a civil penalty provision which is enforced under the *Regulatory Powers (Standard Provisions) Act 2014* (see Subdivision C of this Division).

Civil penalty: 2,000 penalty units.

58 Use of position—civil obligation

A Board member or a member of the staff of the Agency must not improperly use his or her position to:

- (a) gain an advantage for himself or herself or someone else; or
- (b) cause detriment to the Board's ability to perform its functions; or
- (c) cause detriment to another person.

Note: This is a civil penalty provision which is enforced under the *Regulatory Powers (Standard Provisions) Act 2014* (see Subdivision C of this Division).

Civil penalty: 2,000 penalty units.

59 Use of information—civil obligation

A person who obtains information because he or she is, or has been, a Board member or a member of the staff of the Agency must not improperly use the information to:

- (a) gain an advantage for himself or herself or someone else; or
- (b) cause detriment to the Board's ability to perform its functions; or
- (c) cause detriment to another person.

Note 1: This duty continues after the person stops being a Board member or a member of the staff of the Agency.

Note 2: This is a civil penalty provision which is enforced under the *Regulatory Powers (Standard Provisions) Act 2014* (see Subdivision C of this Division).

Civil penalty: 2,000 penalty units.

18 Before section 63

Insert:

Subdivision B—Other provisions relating to civil penalty provisions and criminal offences

19 Section 66

Repeal the section, substitute:

66 Finance Minister requiring person to assist

- (1) The Finance Minister may require a person to give all reasonable assistance in connection with an application (the ***civil penalty application***) under the *Regulatory Powers (Standard Provisions) Act 2014* for a civil penalty order (within the meaning of that Act) in relation to a contravention of a civil penalty provision in this Act.
- (2) A person commits an offence if:
 - (a) the person is required to give assistance under subsection (1); and

(b) the person does not comply with the requirement.

Penalty: 5 penalty units.

- (3) The Finance Minister may require the person to assist in connection with a civil penalty application in relation to a civil penalty provision if, and only if:
- (a) it appears to the Finance Minister that someone other than the person required to assist may have contravened the civil penalty provision; and
 - (b) the Finance Minister suspects or believes that the person required to assist can give information relevant to the application.
- (4) The Finance Minister may require the person to assist regardless of whether a civil penalty application has actually been made.
- (5) The person may not be required to assist if he or she is or has been a lawyer for the person suspected of the contravention.
- (6) The requirement to assist must be given in writing.
- (7) A relevant court may order the person to comply with the requirement in a specified way. Only the Finance Minister may apply to the court for an order under this subsection.

20 At the end of Division 7 of Part 4

Add:

Subdivision C—Consequences of breach of duty

67A Consequences of breach of duty—civil penalty provisions

- (1) The following provisions of this Act are enforceable under Part 4 of the *Regulatory Powers (Standard Provisions) Act 2014* (the ***Regulatory Powers Act***):
- (a) subsection 56(1) (care and diligence);
 - (b) section 57 (good faith);
 - (c) section 58 (use of position);
 - (d) section 59 (use of information).

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

- (2) For the purposes of Part 4 of the Regulatory Powers Act, as it applies in relation to the civil penalty provisions mentioned in subsection (1):
 - (a) the Finance Minister is an authorised applicant; and
 - (b) the Federal Court of Australia and each Supreme Court of a State or Territory is a relevant court.
- (3) Despite subsection 82(3) of the Regulatory Powers Act, a relevant court may order a person to pay to the Commonwealth a pecuniary penalty only if:
 - (a) the court is satisfied that the person has contravened the civil penalty provision; and
 - (b) the contravention:
 - (i) materially prejudices the interests of the Board; or
 - (ii) materially prejudices the ability of the Board to pay its creditors; or
 - (iii) is serious.
- (4) Subsection (3) of this section does not limit subsection 82(6) of the Regulatory Powers Act.
- (5) The following provisions of the Regulatory Powers Act do not apply in relation to sections 56 to 59 of this Act:
 - (a) paragraph 92(1)(a) and subsection 92(2) to the extent that it relates to that paragraph (which deal with ancillary contraventions of civil penalty provisions);
 - (b) section 94 (which deals with state of mind);
 - (c) section 96 (which deals with exceptions etc. to civil penalty provisions—burden of proof).
- (6) Paragraph (5)(c) of this section does not affect the operation of sections 56 to 59 of this Act as those sections would have operated if section 96 of the Regulatory Powers Act had not been enacted.
- (7) The Board may intervene in an application under section 82 of the Regulatory Powers Act in relation to this Act. The Board is entitled

to be heard on all matters other than whether the application should be granted.

67B Compensation orders

Compensation for damage suffered

- (1) A relevant court may order a person to compensate the Board for damage suffered by the Board if:
 - (a) the person has contravened a civil penalty provision in this Act; and
 - (b) the damage resulted from the contravention.The order must specify the amount of the compensation.

Damage includes profits

- (2) In determining the damage suffered by the Board for the purposes of making a compensation order, include profits made by any person resulting from the contravention.

Recovery of damage

- (3) A compensation order may be enforced as if it were a judgment of the court.

Who may apply for a compensation order

- (4) An application for a compensation order may only be made by the following persons:
 - (a) the Finance Minister;
 - (b) some other person authorised in writing by the Finance Minister under this paragraph to make the application;
 - (c) the Board.

67C Disqualification order for contravention of civil penalty provision by Board members

- (1) A relevant court may disqualify a Board member from holding a disqualifiable position for a period that the court considers appropriate if:
 - (a) any of the following apply:
-

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- (i) a court orders the Board member to pay a pecuniary penalty under section 82 of the *Regulatory Powers (Standard Provisions) Act 2014* for contravening a civil penalty provision in this Act;
 - (ii) a court orders the Board member to compensate the Board under section 67B of this Act;
 - (iii) the relevant court is otherwise satisfied that a Board member has contravened a civil penalty provision in this Act; and
- (b) the court is satisfied that the disqualification is justified.
- (2) An application for a disqualification order under subsection (1) may only be made by the following persons:
- (a) the Finance Minister;
 - (b) some other person authorised in writing by the Finance Minister, under this paragraph, to make the application.
- An authorisation for the purposes of paragraph (b) may relate to applications in relation to specified contraventions, or to all contraventions, of civil penalty provisions.
- (3) In determining whether the disqualification is justified, the court may have regard to:
- (a) the person's conduct as a Board member; and
 - (b) any other matters that the court considers appropriate.

Offence for contravening disqualification order

- (4) A person commits an offence if:
- (a) such a disqualification is in force against the person; and
 - (b) the person holds a disqualifiable position.

Note: A person might not commit an offence if the person holds, with leave of the court, a disqualifiable position (see section 67D).

Penalty: Imprisonment for 1 year.

67D Exception to disqualification order

- (1) Subsection 67C(4) does not apply if the person holds a disqualifiable position with the leave of a relevant court.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1) (see subsection 13.3(3) of the *Criminal Code*).

- (2) When granting leave under subsection (1), the court may impose conditions or restrictions that the court considers appropriate.
 - (3) A person commits an offence if:
 - (a) a condition or restriction is imposed under subsection (2) in relation to a person; and
 - (b) the person contravenes the condition or restriction.
- Penalty: Imprisonment for 1 year.
- (4) A person may apply for leave under subsection (1) only if he or she has given the Finance Minister at least 21 days' notice of the application.
 - (5) On the application of the Finance Minister, the court may revoke leave granted under subsection (1).

67E Relief from liability for contravention of civil penalty provision etc.

- (1) A relevant court may relieve a person (either wholly or partly) from a liability to which the person would otherwise be subject, or that might otherwise be imposed on the person, if:
 - (a) proceedings referred to in subsection (5) are brought against the person; and
 - (b) in the proceedings it appears to the court that:
 - (i) the person has or may have contravened a civil penalty provision, or the person is or may be liable in relation to the negligence, default or breach, but the person has acted honestly; and
 - (ii) having regard to all the circumstances of the case, the person ought fairly to be excused for the contravention, negligence, default or breach.
- (2) A person who thinks that proceedings referred to in subsection (5) will or may be commenced against him or her may apply to a relevant court for relief.

-
- (3) On an application under subsection (2), the court may grant relief under subsection (1) as if proceedings referred to in subsection (5) had been commenced in the court.
- (4) For the purposes of subsection (1) as it applies for the purposes of a case tried by a judge with a jury:
- (a) a reference in that subsection to the court is a reference to the judge; and
 - (b) the relief that may be granted includes withdrawing the case in whole or in part from the jury and directing judgment to be entered for the defendant on such terms as to costs as the judge thinks appropriate.
- (5) The proceedings referred to in this subsection:
- (a) are:
 - (i) proceedings in relation to a contravention of a civil penalty provision in this Act (including proceedings for a compensation order under section 67B); or
 - (ii) civil proceedings for negligence, default, breach of trust or breach of duty in a person's capacity as a Board member or a member of staff of the Agency; and
 - (b) do not include proceedings for an offence against this Act (except to the extent that the proceedings relate to the question of whether the court should make an order under section 67B).

21 Application of amendments

The amendments of the *Future Fund Act 2006* made by this Schedule apply in relation to any conduct that occurs after this item commences.

Health Insurance Act 1973

22 Paragraph 106ZPLA(b)

Omit "Scheme".

23 After section 106ZPR

Insert:

106ZQ Annual report

The annual report prepared by the Director and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include a report on the operation of this Part during the period.

24 Application of amendments

The amendments of the *Health Insurance Act 1973* made by this Schedule apply in relation to the reporting period commencing on 1 July 2014 and later reporting periods.

Industrial Chemicals (Notification and Assessment) Act 1989

25 Section 108

Repeal the section, substitute:

108 Annual report

The annual report prepared by the Secretary of the Department and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include a report on the operation of this Act during the period.

26 Application of amendment

Section 108 of the *Industrial Chemicals (Notification and Assessment) Act 1989*, as inserted by this Schedule, applies in relation to the reporting period commencing on 1 July 2014 and later reporting periods.

International Organisations (Privileges and Immunities) Act 1963

27 After section 12B

Insert:

12C Organisations that are bodies corporate are not Commonwealth entities

If the regulations provide that an organisation is a body corporate, then, despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013*, the organisation is not a Commonwealth entity for the purposes of that Act.

Parliamentary Superannuation Act 2004

27A Paragraph 11(2)(a)

Omit “, other than a self managed superannuation fund”.

27B Paragraph 13(e)

Omit “RSA; or”, substitute “RSA.”.

27C Paragraph 13(f)

Repeal the paragraph.

27D Subparagraph 14(2)(a)(i)

Omit “, other than a self managed superannuation fund”.

27E Paragraph 16(1)(a)

Omit “(other than a self managed superannuation fund)”.

Remuneration and Allowances Act 1990

27F Clause 1A of Schedule 3 (definition of *self-managed superannuation fund*)

Repeal the definition.

27G Paragraph 1D(2)(a) of Schedule 3

Omit “that is not a self managed superannuation fund”.

27H Subparagraph 1G(5)(a)(iv) of Schedule 3

Repeal the subparagraph.

27J Subparagraph 1H(2)(a)(i) of Schedule 3

Omit “that is not a self managed superannuation fund”.

Reserve Bank Act 1959

28 Subsections 7A(5) and (6)

Repeal the subsections, substitute:

Provisions about general duties of officials

- (5) Subdivision A of Division 3 of Part 2-2 of that Act (which deals with general duties of officials) applies in relation to a member of the Reserve Bank Board or the Payments System Board who is not referred to in subsection (4) of this section as if the member were an official (within the meaning of that Act) of the Bank.

Note: Section 29 of that Act (which is in Subdivision A of Division 3 of Part 2-2 of that Act, and deals with the duty to disclose interests) is affected by sections 7B and 7C.

29 After section 7A

Insert:

7B Disclosure of interests by 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.

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- (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 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) for a member of the Reserve Bank Board—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) for a member of the Payments System Board—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 relevant Board were the accountable authority of the Bank and 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 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.

Terrorism Insurance Act 2003

30 Section 31

Omit “Minister”, substitute “Corporation”.

Schedule 7—Other transitional provisions

1 Amendments to legislative instruments

Despite subsections 12(2) and (3) of the *Legislative Instruments Act 2003*, if:

- (a) a legislative instrument (the **amending instrument**) is made under an Act (the **enabling Act**); and
- (b) the amending instrument amends another legislative instrument made under the enabling Act; and
- (c) the amendment is consequential on:
 - (i) the amendments or repeals made by this Act; or
 - (ii) the enactment of this Act;

the amending instrument may be expressed to take effect from a date before the amending instrument is registered under the *Legislative Instruments Act 2003*.

2 Transitional rules

- (1) The Finance Minister may, by legislative instrument (and subject to subitem (3)), make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Rules may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Act; or
 - (b) the enactment of this Act.
- (3) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;

Schedule 7 Other transitional provisions

- (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) amend this Act.
- (4) This Act does not limit the rules that may be made under this item.
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*[Minister's second reading speech made in—
House of Representatives on 12 February 2015
Senate on 25 March 2015]*

(270/14)
