

PGPA Act – section 105D

Instruments relating to intelligence or security agencies or listed law enforcement agencies

(1) This section applies in relation to an activity (the *designated activity*) determined under subsection (2) of the following entities:

- (a) an intelligence or security agency that is a Commonwealth entity;
- (b) a listed law enforcement agency that is a Commonwealth entity;
- (c) a Commonwealth entity of which a part is an intelligence or security agency.

Determination of designated activities

(2) The responsible Minister for a Commonwealth entity referred to in subsection (1) may, by written instrument, determine that an activity of the entity is a designated activity if the Minister is satisfied that the activity is engaged in for the purposes of:

- (a) for paragraph (1)(a) or (b)—the entity; or
- (b) for paragraph (1)(c)—the part of the entity.

Determination modifying this Act and other instruments

(3) The Finance Minister may determine, by written instrument, modifications of the following in relation to a designated activity of a Commonwealth entity:

- (a) Part 2-3 (which deals with planning, performance and accountability);
- (b) Part 2-4 (which deals with the management of public resources);
- (c) Part 2-7 (which deals with companies, subsidiaries and new corporate Commonwealth entities);
- (d) Chapter 3 (which deals with Commonwealth companies);
- (e) any other provision of this Act prescribed by the rules;
- (f) the rules;
- (g) an instrument made under section 105B or 105C (which deal with procurement and grants).

Note: **Modifications** is defined in section 2B of the *Acts Interpretation Act 1901*.

(4) A determination under subsection (3) that relates to a Commonwealth entity may also include:

- (a) a delegation of a power, function or duty under section 107 to an official of the entity; and
- (b) any direction to the official under that section.

Review of determinations

(5) A determination under subsection (2) or (3) must be reviewed:

- (a) at least once every 3 years; or

(b) if the activities of the entity change significantly.

Determinations not legislative instruments

(6) A determination under subsection (2) or (3) is not a legislative instrument.