

Module	NON CORPORATE COMMONWEALTH ENTITIES
Jurisdictions	CTH, NSW, VIC, SA, TAS, WA, NT, QLD, ACT
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Module Scope

Employment

Does the NCE administer employment relationships in accordance with Fair Work legislation and does it provide employees with their entitlements?

Does the NCE comply with the employment provisions of public governance laws, workplace laws, where relevant, any employment provisions in the NCE's enabling legislation or governing provisions and public service laws that apply specifically to the NCE's upper management?

Does the NCE follow the procedure set out in the Fair Work laws for making, changing or terminating an enterprise agreement, bargaining representation and dealing with bargaining disputes?

Governance

Do the accountable authorities and officials of the NCE comply with various governance duties and obligations under the Public Governance, Performance and Accountability Act 2013 (Cth)?

Do the officials of the NCE ensure their actions and statements conform with their duty of care and diligence, and their duty to act in good faith and for a proper purpose?

Does the NCE have policies and procedures in place to ensure that accountable authorities comply with their duties to govern the Commonwealth entity and to keep the relevant Minister informed of significant decisions or issues?

Resource Management

Does the NCE use and manage all resources in accordance with the Commonwealth Resource Management Framework (CRMF)?

Does the NCE comply with all requirements and conditions under enabling and other legislation that attach to funding?

Is the NCE spending or committing money in accordance with enabling (or other relevant) legislation and the Public Governance, Performance and Accountability Act 2013 (Cth)?

Reporting, Record-keeping and Information Security

Does the NCE maintain appropriate records, submit required reports, release required information, and maintain the security of its data and any personal information in its custody in line with legislative requirements?

Has the NCE prepared and given an annual report to the NCE's responsible Minister after the end of each reporting period?

Does the accountable authority ensure that appropriate records are kept and mandatory reports are made of its non-financial performance?

Module Application

The Non Corporate Commonwealth Entities module has 4 sub modules:

- › Employment;
- › Governance;
- › Reporting, Record Keeping and Information Security; and
- › Resource Management.

Non-corporate commonwealth entities (NCCEs) are primarily departments of the commonwealth government sector. NCCEs are not legally separate entities from the commonwealth. They are created and organised to perform certain functions and purposes using commonwealth resources.

Employment

Non-Commonwealth Corporate Entities (NCCEs) collectively employ thousands of people, including Australian Public Sector (APS) employees, non-APS employees and contractors. The *EMPLOYMENT* sub module informs officials, accountable authorities and staff of the NCCE about their obligations in the administration of these employment relationships in accordance with Fair Work legislation. It outlines employment rules as they apply to NCCEs and provides practical assistance to the NCCE wanting to ensure compliance and regulatory accountability with regard to;

- › Dealing with employees fairly and reasonably;
- › Effective communication;
- › Discrimination;
- › Minimum entitlements;
- › Awards and enterprise agreements;

- › Keeping records;
- › Protecting employees' privacy;
- › Performing necessary notifications.

The *EMPLOYMENT* sub module covers all legislated obligations of Non-Commonwealth Corporate Entities (NCCEs) related to employment relationships from the recruitment process and career management through to potential penalties for breaches. The module provides the practical assistance and guidance to ensure that these obligations are complied with and best practice processes are implemented and maintained. The module also covers the role of employment regulators as well as exemptions to the obligations, if applicable, and how they may or may not apply to the NCCE. The specific topic areas comprehensively covered by the module are;

- › The **legislative and regulatory landscape** from which the obligations are derived;
- › Public Governance, Performance and Accountability Act 2013 (Cth) (PGPA) which requires the accountable authority to govern the entity in accordance with relevant government policies. This is a central difference between NCCEs and corporate government entities that are granted a degree of independence in how they manage their operations;
- › The Fair Work Act 2009 (Cth) (FWA);
- › The Fair Work Commission (FWC);
- › The Fair Work Ombudsman (FWO);
- › NCCE enabling legislation;
- › The Public Service Act 1999 (Cth) (PSA);
- › The Australian Public Service Commissioner;
- › The Australian Public Service Code of Conduct;
- › Australian Public Service Employment Principles;
- › National Employment Standards (NES);
- › The Long Service Leave (Commonwealth Employees) Act 1976 (Cth)
- › Federal, state and territory anti-discrimination legislation. An NCE must comply with discrimination legislation in each jurisdiction in which it employs staff;
- › The Safety, Rehabilitation and Compensation Act 1988 (Cth);
- › The Privacy Act 1988 (Cth);
- › The **Office of the Australian Information Privacy Commissioner**
- › **Comcare** acts as the insurer, regulator and manager of the Commonwealth workers compensation scheme;
- › The **Safety, Rehabilitation and Compensation Commission** regulates Comcare;
- › The NCCE must ensure that staff at the **upper management** level are aware of responsibilities and comply with their general duties as officials of the NCCE;
- › Appointees to an accountable authority;
- › Senior executive officers; and
- › Senior executive service employees.
- › **Enterprise agreements**;
- › Types of agreements, permitted matters and drafting;
- › Bargaining representation and disputes;
- › Applying for fair work commission approval. Once an enterprise agreement has been approved by the FWC, the NCCE must comply with its terms and conditions; and
- › Variation and termination.
- › **Recruitment**;
- › The work arrangement;
- › Australian Public Service (APS) employees;
- › Apprentices, trainees and interns;

- › Foreign workers;
- › Advertising;
- › Interview and selection process;
- › Independent selection advisory committees; and
- › Information provided to new employees.
- › **Employment and training contracts;**
- › Contract formation;
- › Employment contracts; and
- › Training contracts.
- › **Remuneration;**
- › Payment of salary and wages;
- › Minimum wages;
- › Equal remuneration;
- › Guarantee of annual earnings;
- › Maximum weekly hours; and
- › Stand down without pay.
- › Modern awards, enterprise agreements, NCCE enabling legislation and public service legislation may provide additional conditions and entitlements for employees. However an NCE must always provide employees with at least the minimum **leave and flexible work arrangement** entitlements that are prescribed by the NES.
- › Requests for flexible arrangements; and
- › All types of leave and public holidays.
- › **Public service career management.** The NCCE must recruit APS employees in accordance with public service legislation (including the APS Code of Conduct and APS Employment Principles);
- › Apprenticeship, cadetship and graduate programs;
- › Duties;
- › Transfers;
- › Promotions and demotions;
- › Disciplinary action;
- › Retirement;
- › Right of return for election candidates;
- › Non-ongoing employees; and
- › Review of actions.
- › **Fair treatment in the workplace;**
- › Bullying and discrimination;
- › Coercion and sham contracting;
- › Protection of whistleblowers;
- › Managing ill or injured employees;
- › Fair work inspectors;
- › **Terminating employment;**
- › Grounds and notice;
- › Redundancy and redundancy obligations;
- › Notification and consultation; and
- › Post termination entitlements.
- › The NCCE must only engage in protected **industrial action;**
- › The facilitation of protected action ballots;
- › Visits by permit holders;
- › Non-payment of employees during industrial action and provisions for partial bans;
- › Compliance with stop orders when required; and
- › Rights of entry.

- The NCCE must participate in the commonwealth **workers compensation** scheme by making required notifications and payments to Comcare and by engaging with injured workers during their rehabilitation;
- Information to be provided to Comcare;
- Review and funds;
- Retired employees; and
- Duty to provide suitable employment.
- The NCCE must **keep accurate records** of employee information;
- Maintenance of employment records;
- Accuracy of employment records;
- Inspection and transfer of employment records; and
- Privacy and provision of employment records.
- **Superannuation contributions;**
- Commonwealth Superannuation Scheme (CSS);
- Public Sector Superannuation Accumulation Plan (PSSap);
- Superannuation Productivity Benefit Scheme (PBS); and
- Contributions to other funds.

The module also covers the consequences of failure to meet the requirements of Fair Work legislation which can have very serious consequences. The NCCE may be ordered to reinstate dismissed employees, compensate employees for lost wages or unpaid entitlements and/or take action designed to prevent further breaches. Civil penalties may be imposed by the federal court.

APS officers who breach the APS Code of Conduct may face disciplinary sanctions, including dismissal, demotion and deductions from future payments. The accountable authority of an NCE is also subject to reprimands and ultimately dismissal if they fail to govern the NCE consistent with their duties under the public service legislation.

The *EMPLOYMENT* sub module covers employment obligations with specific reference to Non-Commonwealth Corporate Entities (NCCEs). There is significant overlap between employment obligations in the private and public sectors and within the public sector between NCCE employers and public service employers. The module covers many obligations that are generally applicable to government entities and private sector employers without that being the primary intention of the module.

The *EMPLOYMENT* sub module is focused specifically on the employment obligations of NCCEs. The module expands both on ways in which NCCE employment obligations are the same and ways in which NCCE employment obligations differ to general private and public sector employers.

The *EMPLOYMENT* sub module does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of employment obligations by a NCCE. The module does not cover the process that an individual would follow to report the breach or their loss.

The module does not comprehensively cover general employment obligations in either the private or public sector.

Governance

The *GOVERNANCE* sub module informs officials and accountable authorities of non-commonwealth corporate entities (NCCEs) about effective and compliant governance of the NCCE organisation. It outlines governance duties and obligations primarily contained within the Public Governance, Performance and Accountability Framework (PGPA) as they apply to NCCEs and provides practical advice and assistance to the NCCE wanting to ensure compliance and regulatory accountability within the organisation.

Non-corporate Commonwealth entities (NCCEs) are established to achieve particular functions and purposes under the direction and stewardship of an accountable authority. Accountable authorities are accountable for setting vision and direction, and then appropriately managing provided resources to ensure that vision, direction, function and purpose are realised in a sustainable and ethical way.

Proper governance is not only about making sound day-to-day management decisions, but also about the on-going implementation and development of a governance framework based on;

- Promoting accountability, transparency, integrity, effective leadership, and measurable performance;
- An extension of the authority of the accountable authority to all officials, by clearly defining roles, responsibilities and accountabilities for decision-making, risk management and delivery of purpose; and
- A system adaptive to changing needs and requirements of stakeholders.

The *GOVERNANCE* sub module covers all legislated obligations of non-commonwealth corporate entities (NCCEs) related to governance from the role of officials and accountable authorities through to planning and budgets and potential penalties for breaches. The module provides the practical assistance and guidance to ensure that these obligations are complied with and that best practice processes are implemented and maintained. The module also covers the role of the regulator with regard to governance as well as exemptions to the obligations, if applicable, and how they may or may not apply to the NCCE. The specific topic areas comprehensively covered by the module are;

- Consistent and coherent regulatory oversight over the whole of government is imposed by the various duties and obligations on accountable authorities and officials in relation to conduct as well as administration, review and maintenance of the governance framework. The **legislative and regulatory landscape** from which the primary obligations are derived include;
- Public Governance, Performance and Accountability Act 2013 (Cth);
- The Public Governance, Performance and Accountability Rule 2014 (Cth);
- Public Governance, Performance and Accountability Framework (PGPA) (Cth)
- The Commonwealth Resource Management Framework (CRMF);
- The Australian Public Service Act;
- The Australian Public Service Commission (APSC); and
- Various publications of The Australian National Audit Office (ANAO).
- Most employed staff and office holders of NCCEs are officials, including the accountable authority. The primary **duties of officials** are;
- To act with diligence, in good faith and with proper purpose;
- To not use their position or information they have as a result of their position improperly; and
- To disclose personal material interest(s).
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- The accountable authority of an NCCE is the secretary, or if the NCCE is “listed” then the accountable authority is a person or group prescribed by the relevant or enabling act. The general and specific **duties of accountable authorities** including;
- Accountable authority instructions;
- Reporting;
- To disclose personal material interest(s);
- To inform ministers; and
- Key personnel remuneration disclosure;
- **Risk management and assurance**;
- Establishing and maintaining risk management systems;
- Managing effective internal control systems; and
- Managing the risk of fraud.
- **Performance planning and budget**;
- Formulating corporate plans which are focused on setting and achieving purposes; and
- Formulating budget estimates which focus on the funding of activities and programs.
- **Financial reporting**;
- Accounts and annual financial statements.
- The membership, functions and charter of **the audit committee** which is a mandatory sub-committee of the accountable authority. The role of the audit committee is to support governance.
- **Performance reporting**;
- Discharging accountability obligations and assessing performance requires accurate and timely financial and non-financial information, which in turn assists stakeholders to make informed decisions about allocation and the use of resources and the capability of accountable authorities and officials.
- **Performance assessments and records**;
- The criteria for developing information and record keeping systems;
- **Insurance**;
- Comcover; and
- Comcare.

Particular breaches of obligations may have a significant economic impact on the NCCE entity, its internal culture, or the delivery of planned programs or outcomes, leading to an inefficient allocation of public resources and the erosion of public and parliamentary confidence in the NCCE. As the PGPA framework is part of the ‘finance law’ failure to comply with governance duties and obligations under the PGPA framework is a breach of a ‘finance law’ from which important consequences follow, depending on the nature and impact of the breach, including;

- Notification to the Minister/s and possibly parliament;
- Notification to the Auditor-General and the audit committee;
- Details of the breach may need to be disclosed in the financial statements or annual report; and/or
- The authority/office holder may be sanctioned, disqualified or terminated.

Enabling legislation as well as various other acts that also impose obligations on NCCEs also impose consequences for failure to comply with obligations. Such breaches can attract both criminal and civil penalties.

The *GOVERNANCE* sub module specifically covers the general governance obligations of accountable authorities and officials of non-corporate commonwealth entities (NCCEs), not the governance obligations of commonwealth companies or corporate commonwealth entities (CCEs). It incidentally covers many obligations that are generally applicable to other government entities due to considerable overlap in the sector, but that is not the primary intention of the module.

The module primarily examines general governance duties and obligations under the Public Governance, Performance and Accountability Framework (PGPA). There are additional duties and obligations under other frameworks and legislation that are not comprehensively covered by the module, namely;

- **Enabling legislation** which may impose specific duties and obligations on particular NCCEs which are in addition to those under the PGPA framework. The module therefore advises that accountable authorities and officials read and be wholly familiar with the relevant enabling legislation;
- Duties and obligations under certain **other legislation** are mentioned in this module only incidentally but may impose duties and obligations on NCCEs in relation to specific subject matter for example;
- Work health and safety (WHS) legislation which imposes statutory duties on officeholders about safety in the workplace; and
- Employment legislation which imposes a number of duties and obligations on NCCEs in their role as an employer.
- **General law** imposes parallel ‘fiduciary’ duties under general law on accountable authorities and officials. Most of these obligations and duties are also expressed in the PGPA framework and as such are covered by the module under that act and are not otherwise referred to further in the module; and
- **The Public Service Act (Cth)** imposes duties on employees and office holders via the Australian Public Service Code of Conduct. Most of these obligations and duties are also expressed in the PGPA framework and as such are covered by the module under that act and are not otherwise referred to further in the module.

Reporting, Record Keeping and Information Security

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module informs the non-corporate commonwealth entity or organisation of their legislated legal obligations. The module also demonstrates effective practical advice and assistance to the non-corporate commonwealth entity to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the organisation.

To fulfil its purpose the module focuses on providing practical assistance to the non-corporate commonwealth entity intending to establish and maintain a robust foundational framework that determines;

- How the organisation will function;
- Who is the responsible decision maker;
- What matters are relevant to the decision-making process; and
- Whether the desired outcome has been achieved.

The entity, their employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in. The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module should be subscribed by all non-corporate commonwealth entities, their employees and authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations and the skills they require to establish relevant systems and processes to ensure compliance throughout the organisation.

A non-corporate commonwealth entity (NCCE) is a Department of State, executive agency or statutory agency that is under the direct policy control of the Australian Government. As Commonwealth entities they share a responsibility to be accountable to the Australian parliament and through it to the Australian people. NCCEs must also ensure that they safeguard the privacy and safety of the Australian community by implementing appropriate security systems throughout the organisation.

The broad scope of the *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module is to provide the non-corporate commonwealth entity with answers to these questions;

- What are our legal obligations?
- From where are our legal obligations derived?
- How can we ensure that we are complying with our legal obligations? and
- What are the consequences if we are not complying with our legal obligations?

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers all legislated legal obligations of non-corporate commonwealth entities and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the implementation and maintenance of best practice processes throughout the organisation. The module also covers the role of the regulator as well as exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The module fulfils this objective by comprehensively covering three areas;

- Legislation;
- Obligations; and
- Consequences.

1. The legislative and regulatory landscape from which the primary legal obligations are derived;

- Acts Interpretation Act 1901 (Cth);
- Administrative Arrangements Orders;
- Archives Act 1983 & Regulations 2018 (Cth);
- Auditor-General Act 1997 (Cth);
- Australia Information Commissioner Act 2010 (Cth);
- Commonwealth Electoral Act 1918 (Cth);
- Crimes Act 1914 (Cth);
- Criminal Code Act 1995 (Cth);
- Electronic Transactions Act 1999 & Regulations 2000 (Cth);
- Evidence Act 1995 (Cth);

- Federal Court Rules 2011 (Cth);
- Freedom of Information Act 1982 (Cth);
- Modern Slavery Act 2018 (Cth);
- Privacy Act 1988 & Regulation 2013 (Cth);
- Public Governance, Performance and Accountability Act 2013 & Rules 2014 (Cth);
- Public Service Act 1999 & Regulations 1999 (Cth);
- Taxation Administration Act 1953 (Cth);
- Work Health and Safety Act 2011 (Cth);
- Commonwealth Procurement Rules 2019; and
- Resource Management Guides.

2. The specific areas where legal and regulatory obligations apply to non-corporate commonwealth entities in Australia;

- Annual reports, financial statements and performance statements.
- Non-financial reporting and record keeping;
- Performance records and statements;
- Corporate plans;
- Reports to the Minister;
- Sharing information with state jurisdictions;
- Data breaches of personal information;
- Disclosure log;
- Information publication scheme;
- Freedom of information;
- Publication of lists of relevant files;
- Employment records; and
- Modern slavery.
- Financial accounts reporting and record keeping;
- Preparation and submission of reports;
- Budget information;
- Appropriation;
- Commitment of money approvals;
- Procurement;
- Contracts over \$100 000.
- Management of records;
- Information management principles;
- Digital information; and
- Cloud computing.
- Collection and use of personal information;
- Development of policies and systems;
- Integrity of information;
- Access to, and correction of information; and
- Tax file numbers.
- Disposal and transfer of commonwealth records;
- General records authorities;
- Agency specific authorities;
- Freezes and retention notices; and
- Unauthorised disclosure and disposal.
- Disclosure and access to documents;
- Ministers;
- National archives;
- The public; and

- Legal proceedings.
- Information security;
- Policy and plan;
- Third party access to information;
- Classification and control of information assets;
- Management of operational security;
- Access controls;
- Implementing security measures; and
- Ensuring compliance with obligations.
- Data matching programs;
- Notifications to the public and to individuals;
- Destruction of information;
- New data sets; and
- Evaluation and review of programs.
- Managing privacy and freedom of information (FOI) complaints and investigations;
- Internal management;
- Review of decisions;
- Office of the Australian Information Commissioner (OAIC) investigations; and
- Enforceable privacy orders and directions.

3. Significant consequences can apply to non-corporate commonwealth entities, their employees and authorised individuals found to have breached or not complied with their legal obligations. These consequences vary considerably depending on the nature and extent of the breach or failure. The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers specific consequences in detail. They can include monetary penalties, disciplinary measures and even terms of imprisonment for individuals found to have committed serious offences.

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of obligations by non-corporate commonwealth entities. The module does not cover the process that an entity or an individual would follow to report or seek compensation for the breach or their loss.

Resource Management

The *RESOURCE MANAGEMENT* sub module informs accountable authorities, officials and non-corporate commonwealth entities (NCCEs) generally about effective administration and allocation of resources by NCCEs. It outlines rules and obligations primarily contained within the Commonwealth Resource Management Framework (CRMF) as they apply to NCCEs and provides practical advice and assistance to the NCCE wanting to ensure compliance and regulatory accountability in the use and management of resources.

Non-corporate commonwealth entities (NCCEs) are primarily departments of the commonwealth government sector. NCCEs are not legally separate entities from the commonwealth. They are created and organised to perform certain functions and purposes using commonwealth resources. It is the role of accountable authorities, officials and staff to appropriately plan and manage to ensure that objectives are met, financial sustainability is maintained and risk is contained.

The commonwealth has established the Commonwealth Resource Management Framework (CRMF) which is a core body of legislation, instruments, guides and policies that together set out requirements and expectations in relation to the use and management of public resources by NCCEs and provide a system of accountability and transparency for monitoring and assessing use and management of resources. The CRMF applies to all NCCEs, but some provisions require mandatory compliance and others are optional.

The *RESOURCE MANAGEMENT* sub module covers all legislated obligations of non-commonwealth corporate entities (NCCEs) related to resource management from sourcing funding and compiling reports through to different types of property and potential penalties for breaches. The module provides the practical assistance and guidance to ensure that mandatory obligations are complied with and that best practice processes are implemented and maintained. The module also covers exemptions to the obligations, where applicable, and how they may or may not apply to the specific circumstances of the NCCCE. The specific topic areas comprehensively covered by the module include;

- The **legislative and regulatory landscape** from which mandatory obligations are derived;
- The Commonwealth Resources Management Framework (CRMF);
- Public Governance, Performance and Accountability Act 2013 (Cth) (PGPA);
- Commonwealth Procurement Rules (CPRs);
- Procurement Connected Policies (PCPs);
- The Commonwealth Property Management Framework (CPMF);
- Lands Acquisition Act 1989 (Cth);
- Environment Protection and Biodiversity Conservation Act 1999 (Cth); and
- Work Health and Safety Act 2011 (Cth).
- **Sources of Funding;**
- The process and requirements for obtaining funds;
- Restrictions and conditions attached to the funds;
- Statements of intended outcome or purpose;
- The process for creating or varying stated outcomes;
- Periodic reviews and audits;
- The requirements of the Charging Framework;
- Retained receipts concessions; and
- Seeking assistance from the Finance Department.
- When **committing and entering into monetary arrangements** accountable authorities and officials must have policies and procedures in place to ensure that;
- Legislative authority supports the commitment;
- Resources are committed effectively, efficiently, economically and ethically;
- Decisions are made honestly, in good faith, with due care and diligence and for proper purposes;
- Contingent commitments such as indemnities are carefully considered and monitored diligently post-approval;
- Standing approvals requirements are met;
- Appropriate records are kept; and
- Accountable authority instructions (AAIs) provided to officials comply with requirements.
- **Procurement generally;**
- Accountable authorities demonstrate accountability, transparency, value for money, and the proper use of resources;
- Procurement coordinators and responsible officials should be appropriately trained;
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- Determination of whether the proposal is a procurement or a grant, loan or employment contract;
- Correct valuations;
- Major or minor procurement and whether applicable exemptions apply;
- Retaining the competitive nature of the procurement process;
- Listing contracts on the NCCE's website;
- Requirements and exemptions and where they apply; and
- Payment policy requirements.
- **Borrowing and credit;**
- NCCEs may not borrow or obtain credit unless authorised by legislation;
- An accountable authority should issue accountable authority instructions (AAIs) to officials setting out restrictions and authority levels on borrowing;
- Transactions by NCCEs borrowing funds or obtaining credit without legislative authority are void and of no effect; and
- Officials initiating unauthorised agreements may be in breach of obligations to act with due care and diligence, and accountable authorities may be in breach for failing to maintain adequate systems of risk management and internal control.
- **Cash management;**
- The accountable authority issues instructions to officials for the proper and secure handling, banking, investment, collection and management of money;
- Any investment needs to be authorised under enabling legislation; and
- Debt collection.
- **Managing property other than land;**
- The primary obligation is to ensure that relevant property is properly used, managed, recorded and safeguarded to promote the purposes of the NCCE;
- Risks are identified, engaged and controlled; and
- Asset management plans such as; Asset Management Strategy (AMS); Capital Management Plan (CMP); and Asset Management Policy (AMP).
- An accountable authority is obligated to ensure that **intellectual property** resources are identified, used, exploited and managed properly; that there is a framework implemented to achieve those objectives; and that risk is appropriately engaged.
- **Other spending;**
- Miscellaneous types of expenditure commonly incurred by NCCEs are subject to specific legislative provisions or Commonwealth policies.
- **Contractual arrangements;**
- NCCEs enter both certain and contingent obligations or arrangements;
- Contingent contracts are more complicated than certain contracts;
- They need to be recorded in a central register;
- Accountable authorities should issue guidance and binding instructions (AAIs) for officials to manage the exposure;
- Monitoring and assessment by officials; and
- Gate procedures for seeking indemnities, guarantees and warranties, or otherwise seeking the assistance of the Finance Minister.
- **Land and buildings;**
- Property must be used and managed efficiently, effectively, economically and ethically;
- Most property related activities, apart from disposal and day-to-day management, are procurements;
- The accountable authority must develop and maintain a Property Management Plan (PMP);
- Reporting and notification requirements;
- Compliance with applicable planning and environment state and commonwealth laws; and

- The health and safety of employees/regular workers must be considered when engaging in construction or repair work.

Particular breaches of obligations may have a significant economic impact on the NCCE entity, its internal culture, or the delivery of planned programs or outcomes, leading to an inefficient allocation of public resources and the erosion of public and parliamentary confidence in the NCCE. The PGPA framework is classified as 'finance law' so failure to comply with governance duties and obligations under the PGPA framework is a breach of 'finance law' from which important consequences follow, depending on the nature and impact of the breach, including;

- Notification to the Minister/s and possibly parliament;
- Notification to the Auditor-General and the audit committee;
- Details of the breach may need to be disclosed in the financial statements or annual report; and
- The authority/office holder may be sanctioned, disqualified or terminated.

Enabling legislation as well as various other acts including the Work Health and Safety Act 2011 (Cth) and Environment Protection and Biodiversity Conservation Act 1999 (Cth) may also impose obligations on NCCEs. Failures under such legislation can attract both criminal and civil penalties.

The *RESOURCE MANAGEMENT* sub module covers resource management obligations of Non-Commonwealth Corporate Entities (NCCEs). Due to considerable overlap in the sector it also covers many obligations that are generally applicable to all government entities without that being the primary purpose of the module.

The module provides an overview of retained receipts with regard to funding however allows that this can be a complicated matter and advises that assistance from the finance department should be sought if the NCCE requires further guidance or assistance.

The *RESOURCE MANAGEMENT* sub module also does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of obligations by the NCCE. The module does not cover the process that an individual would follow to report the breach or their loss.

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