Amendments to be Moved on Behalf of the Government

(Circulated with the authority of the Minister for Employment, Senator the Hon. Eric Abetz)
AMENDMENTS TO THE BUILDING AND CONSTRUCTION INDUSTRY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2013

OUTLINE
The Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the Bill) deals with consequential and transitional matters relating to the re-establishment of the Australian Building and Construction Commission and other matters set out in the Building and Construction Industry (Improving Productivity) Bill 2013 (the BCI (IP) Bill). The Bill will ensure a smooth transition from the institutions, functions and powers created by the Fair Work (Building Industry) Act 2012 to the new regime established by the BCI (IP) Bill. The Bill also deals with residual operation of the Building and Construction Industry Improvement Act 2005 where necessary.

The Bill was referred to both the Senate Standing Committee on Education and Employment’s Legislation Committee and References Committee. The Legislation Committee’s report was tabled on 2 December 2013. The Reference Committee’s report was tabled on 27 March 2014.

The amendments to the Bill that the Government will move will implement the transition from the former Financial Management and Accountability Act 1997 to the Public Governance, Performance and Accountability Act 2013.

FINANCIAL IMPACT STATEMENT
The financial impact of the Bill is budget neutral.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS
See Statement of Compatibility with Human Rights at the end of this explanatory memorandum.
NOTES ON AMENDMENTS

In these notes on amendments, the following abbreviations are used:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>BCI (IP) Bill</td>
<td>Building and Construction Industry (Improving Productivity) Bill 2013</td>
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<td>the Bill</td>
<td>Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013</td>
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<td>FWBI Act</td>
<td>Fair Work (Building Industry) Act 2012</td>
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<tr>
<td>PGPA Act</td>
<td>Public Governance, Performance and Accountability Act 2013</td>
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Item 1 – Schedule 2, item 3, page 8 (line 17)

Item 2 – Schedule 2, item 3, page 8 (lines 20 and 21)

Item 3 – Schedule 2, item 3, page 8 (line 24)

1. Item 3 of Schedule 2 to the Bill deals with the preparation and giving to the Minister, by the Director of the Fair Work Building Industry Inspectorate, of an annual report on the Director’s functions and powers. It ensures that the report will be provided at the time required (which is as soon as practicable after the end of each financial year) regardless of when the new BCI (IP) Bill commences. The report will deal with relevant matters under both the FWBI Act and the new Act if the first financial year under the new Act spans the commencement date.

2. Items 1 and 3 of the further Government amendments omit the words ‘report under’ and replace them with the words ‘report referred to in’. Item 2 replaces the words ‘to the Minister a report in accordance with that section’ with the words ‘such a report to the Minister’. These items reflect that under the new financial framework, annual reporting requirements are now located in the PGPA Act rather than enabling legislation such as the FWBI Act.

3. The operation of section 14 of the FWBI Act is modified by item 1 of Schedule 2 of the Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014 to recognise that annual reporting requirements are now contained in the PGPA Act.

Item 4 – Schedule 2, item 11, page 12 (table item 4)

4. Item 11 of Schedule 2 to the Bill preserves the accreditation scheme for Commonwealth building work that is established by the FWBI Act and continued by the BCI (IP) Bill. The table in subitem 11(2) translates certain terms to ensure that the scheme is adapted to be consistent with the new Act.

5. This item replaces the reference to ‘Commonwealth authority’ in table item 4 with ‘corporate Commonwealth entity’ for consistency of terminology with the PGPA Act.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011


These amendments to the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the Bill) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of amendments to the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013

The Bill deals with consequential and transitional matters relating to the re-establishment of the Australian Building and Construction Commission and other matters set out in the Building and Construction Industry (Improving Productivity) Bill 2013 (the BCI (IP) Bill). The Bill will ensure a smooth transition from the institutions, functions and powers created by the Fair Work (Building Industry) Act 2012 to the new regime established by the BCI (IP) Bill. The Bill also deals with residual operation of the Building and Construction Industry Improvement Act 2005 where necessary.

The further amendments to the Bill that the Government will move will implement the transition from the Financial Management and Accountability Act 1997 to the Public Governance, Performance and Accountability Act 2013.

Human Rights Implications

The amendments to the Bill are technical in nature and do not engage human rights.

Conclusion

The amendments to the Bill do not engage human rights.

Eric Abetz, Minister for Employment