

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

Determination 2009/07 to establish a Special Account

Purposes of Determination 2009/07

The attached instrument makes a determination under subsection 20 (1) of the *Financial Management and Accountability Act 1997* (FMA Act) to establish a Special Account, entitled *Safe Work Australia Special Account*. It also specifies the nature of amounts that may be credited to, and the purposes for which amounts may be debited from, the *Safe Work Australia Special Account*.

Special Accounts Generally

In accordance with the Constitution, all revenues or moneys raised or received by the Government of the Commonwealth form one Consolidated Revenue Fund (CRF) and may not be spent unless under an appropriation by the Parliament for the purposes of the Commonwealth. A Special Account may be established by a determination that sets out the amounts that may be credited and the purposes for which it may be debited. Special Accounts established by determination are supported by an appropriation under section 20 of the FMA Act. In effect, Special Accounts allow amounts from the CRF to be spent on a purpose specified in the determination.

Determinations that establish Special Accounts, or vary determinations that establish Special Accounts, are subject to section 22 of the FMA Act. Section 22 of the FMA Act requires the Finance Minister to table a copy of the establishing or varying determination in each House of Parliament. Either House may disallow a determination within five sitting days of tabling. If the determination is not disallowed, it comes into effect on the calendar day after the last day on which it could have been disallowed.

Regulation 10 of the *Legislative Instruments Regulations 2004* preserves the disallowance provisions under section 22 of the FMA Act by exempting Special Account determinations from subsections 57(2) and 57(5) of the *Legislative Instruments Act 2003*.

Special Accounts can be abolished by a determination of the Finance Minister. However, there is no requirement to table such a determination.

Operation of Determination 2009/07

Purpose of the Safe Work Australia Special Account

The purpose of this Special Account is to receive financial contributions from the Commonwealth, States and Territories and meet costs and expenses related to the functions of Safe Work Australia in accordance with the agreement of the States and Territories. This agreement would primarily be identifiable from the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety between the Commonwealth, the States and the Territories, as amended from time to time (the Intergovernmental Agreement).

The functions of Safe Work Australia are to assist the Safe Work Australia Council whose functions include:

- (a) developing national policy relating to occupational health and safety (OHS) and workers' compensation;
- (b) preparing a model Act and model regulations relating to OHS;
- (c) preparing model codes of practice relating to OHS;
- (d) preparing other material relating to OHS;
- (e) developing a policy dealing with the compliance and enforcement of the Australian laws that adopt the approved model OHS legislation;
- (f) monitoring the adoption by the Commonwealth, States and Territories of the approved model OHS legislation, model OHS codes of practice and OHS compliance and enforcement policy in those jurisdictions;
- (g) collecting, analysing and publishing data or other information relating to OHS and workers' compensation;
- (h) conducting and publishing research relating to OHS and workers' compensation;
- (i) revising and further developing the National OHS Strategy 2002-2012;
- (j) developing and promoting national strategies to raise awareness of OHS and workers' compensation;
- (k) developing proposals relating to harmonising workers' compensation arrangements across the Commonwealth, States and Territories and workers' compensation arrangements for employers with workers in more than one of those jurisdictions;
- (l) advising the Workplace Relations Ministerial Council (WRMC) on matters relating to OHS or workers' compensation;
- (m) liaising with other countries or international organisations on matters relating to OHS or workers' compensation; and
- (n) performing such other functions that are conferred on it by WRMC.

Reasons for establishing a new Special Account

The *Safe Work Australia Special Account* is required to ensure that financial contributions of the Commonwealth, States and Territories are applied in accordance with the Intergovernmental Agreement.

Subclause 5(1) specifies the purposes for which amounts may be debited from the Special Account.

- Paragraph 5(1)(a) describes the primary purposes for which expenditure can be made from the Special Account.
- Paragraph 5(1)(b) allows costs for activities that are incidental to one or more of the purposes mentioned in paragraph 5 (1) (a) to be debited from the Special Account.
- Paragraph 5(1)(c) allows the residual of amounts credited to the Special Account after any necessary payments made for a purpose mentioned in paragraph (a) or (b) to be repaid to an original payer.
- Paragraph 5(1)(d) allows the balance of the Special Account to be reduced without a notional or real payment occurring.
- Paragraph 5(1)(e) allows the Special Account to be debited, in a manner that would otherwise be permitted by section 28 of the FMA Act. It is included to simplify accounting for these transactions.

Subclause 5(2) allows incidental costs, including such items as auditing, reporting, budgeting, accounting and information technology services incurred in the course of operating the Special Account, to be debited from the Special Account, except where these activities are Budget funded.

Consultation

The Department of Education, Employment and Workplace Relations is the agency affected by this instrument. The agency was provided with drafts of the instrument and agrees with the form of the instrument. As the instrument is for internal machinery of government purposes only, no consultation was considered necessary with other persons (see sections 17 and 18 of the *Legislative Instruments Act 2003*).

Estimates of transactions on the *Safe Work Australia Special Account*

	Opening Balance 2008-09 2009-10 \$'000	Credits 2008-09 2009-10 \$'000	Debits 2008-09 2009-10 \$'000	Closing Balance 2008-09 2009-10 \$'000
<i>Safe Work Australia Special Account</i>	0	4,250	4,250	0
	0	17,000	17,000	0