



Financial Management and Accountability Determination 2009/09 — Northern Territory Flexible Funding Pool Special Account Variation and Abolition 2009

I, LINDSAY TANNER, Minister for Finance and Deregulation, make this determination under subsections 20 (2) and (3) of the *Financial Management and Accountability Act 1997*.

Dated 5th March 2009

Lindsay Tanner
Minister for Finance and Deregulation

1 Name of determination

This determination is the *Financial Management and Accountability Determination 2009/09 – Northern Territory Flexible Funding Pool Special Account Variation and Abolition 2009*.

2 Commencement

This determination commences on the later of:

- (a) the day on which subsection 22 (4) of the FMA Act is complied with;
or
- (b) 1 July 2009.

Note This determination takes effect in accordance with section 22 of the FMA Act. The Parliament must consider the determination before it can take effect, and either House may pass a resolution disallowing the determination. If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed.

3 Variation

Schedule 1 varies the determination entitled *Financial Management and Accountability Determination 2007/21 – Northern Territory Flexible Funding Pool Special Account Establishment 2007*, made on 11 September 2007 (as varied by *Financial Management and Accountability Determination 2009/03 – Northern Territory Flexible Funding Pool Account Variation 2009*, made on 28 January 2009), which established the *Northern Territory Flexible Funding Pool Special Account*.

4 Abolition

The *Northern Territory Flexible Funding Pool Special Account* is abolished with effect from the time at which:

- (a) Schedule 1 has commenced; and
- (b) the balance of the appropriation for the *Northern Territory Flexible Funding Pool Special Account* reaches zero.

5 Definitions

In this Determination:

FMA Act means the *Financial Management and Accountability Act 1997*.

Schedule 1 Variation

(section 3)

[1] Clause 5

omit

[2] After Clause 4

insert

5 Purposes

- (1) The purposes of the *Northern Territory Flexible Funding Pool Special Account*, in relation to which amounts may be debited from the Special Account, are to:
- (a) develop, promote, assist or implement initiatives that expand the employment opportunities for indigenous people;
 - (b) reduce the balance of the Special Account (and, therefore, the available appropriation for the Account) without making a real or notional payment;
 - (c) repay amounts where an Act or other law requires or permits the repayment of an amount received; and
 - (d) to credit amounts to the *Indigenous Employment Special Account*.

Note 1 Subsection 20 (4) of the FMA Act appropriates the Consolidated Revenue Fund (CRF) for expenditure for the purposes of the Special Account up to the balance for the time being of the Special Account. Subsection 20 (5) of the FMA Act provides that whenever an amount is debited against the appropriation, the amount is taken to be also debited from the Special Account.

Note 2 In addition to the purposes specified in this Determination, other provisions of the FMA Act provide authority for amounts to be debited from this Special Account. Subsection 39 (1) of the FMA Act provides the Finance Minister with the power to invest public money in any authorised investment. Where such an investment is made of an amount standing to the credit of a Special Account, section 39 of the FMA Act has the effect that the Special Account must be debited.

Subsection 39 (4) of the FMA Act provides that if an amount has been invested by debiting a Special Account, then the expenses of the investment may be debited from the Account.

Subsection 39 (9) of the FMA Act appropriates the CRF for this investment activity.

Not all chief executives have been delegated powers to invest under section 39 of the FMA Act.

Note 3 An amount may be debited from a Special Account where:

- (a) it has been incorrectly credited by virtue of a clerical mistake; or
- (b) it has been credited through the exercise of a discretion by an official and the exercise of that discretion was actuated by a fundamental mistake of fact or law.

Legal advice should be obtained before an amount is debited on the basis of paragraph (b).

Note 4 Section 6 of the FMA Act applies to a notional payment by an Agency (or part of an Agency) as if it were a real payment by the Commonwealth. Notional receipts and notional payments are transactions between different parts of the Commonwealth. Real receipts and real payments are transactions between the Commonwealth and other entities.

Note 5 The purpose set out above, 'to reduce the balance of the Special Account (and, therefore, the available appropriation for the Special Account) without making a real or notional payment', is solely for extinguishing all or part of the appropriation under section 20 of the FMA Act for the purposes of this Special Account. When this Special Account is debited for this purpose, there is no payment or credit available to another party, account or appropriation.