

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Deregulation

*Financial Management and Accountability Act 1997*

Determination 2009/34 to establish a Special Account

### **Purposes of Determination 2009/34**

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 the *Joint Australian U.S. Geological and Geophysical Research Station Special Account* (JGGRS 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 JGGRS 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 the purposes 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 the 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, such a determination is not subject to parliamentary disallowance.

### **Operation of Determination 2009/34**

#### ***Purpose of the JGGRS Special Account***

This Determination will establish a Special Account for Geoscience Australia to manage funds used to pay the operating costs of the Joint Australian U.S. Geological and Geophysical Research Station (JGGRS) at Alice Springs. The JGGRS was established in 1978, under an intergovernmental agreement between the Australian and United States governments. The agreement requires the Australian Government to provide administrative support for the facility, in return for access to data generated by the facility. The operating and capital costs of the facility are met wholly by the United States Air Force, which decides how all funds are spent. Geoscience Australia has custody and access to the funds but only to arrange disbursement in its capacity of providing administrative support.

### ***Reasons for establishing a new Special Account***

The JGGRS Special Account will be established in order to give effect to changes that are required to the existing *Australian Geological Survey Organisation Account* (AGSO Account), but which are not practicable to make by variation to the AGSO Account, due to the way in which the Initial Determination was structured.

Upon commencement of the FMA Act on 1 January 1998, the AGSO Account was established as a component of the Reserved Money Fund (RMF) in the Initial Determination. The *Financial Management Legislation Amendment Act 1999*, which varied the FMA Act, converted the component of the RMF into a Special Account.

The current purpose of the AGSO Account is:

For expenditure on agreed research projects and other program activities performed in conjunction with, or for private or other entities.

### ***Changes required***

The changes required to the AGSO Account are set out below:

- the name of the Special Account required amendment, in order to remove reference to the previous name of the agency that is responsible for administering the Special Account; and
- a clarification of the expenditure purpose to provide that amounts debited from the Special Account are to meet the costs and expenses related to the functions of the JGGRS.

As part of a program to enhance the clarity of Special Account determinations and to remove any areas of doubt over the scope of the purposes of Special Accounts, the following changes are being incorporated within the determinations of all Special Accounts, where appropriate, and where the need for other variations arise:

- *a provision to debit amounts relating to incidental activities.* This allows administration 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. The existing purpose clause would often allow the debiting of the Special Account for these costs, depending on the degree of directness of connection of the costs with other purposes of the Special Account. The inclusion of the new incidental clause removes the need to obtain legal advice on the degree of directness of connection for individual transactions;
- *a capacity to return excess amounts to the Budget* (that is, reduce the balance of the Special Account without a real or notional payment). This provision does not allow amounts to be transferred to another Special Account, or to be allocated for any other purpose, that is not consistent with the purposes of the Special Account;
- *a clause to allow for amounts to be repaid when another Act or law allows it.* This has always been permitted by section 28 of the FMA Act, but is now included in determinations to simplify accounting for these transactions; and
- *notes that identify general credits and debits that can be made to Special Accounts,* for information purposes, in reliance on other laws.

### **Limitations in the structure of the Initial Determination**

It is not practicable to vary the Initial Determination signed by the delegate of the Minister for Finance and Administration on 31 December 1997 (establishing an Australian Geological Survey Organisation Reserve as a component of the Reserved Money Fund). This is because the format of the determination constrains the amount of information that can be included. Accordingly, a new Account is being established to provide for the continuation of the activities of the old Account, the incorporation of the necessary changes, and to ensure that the determination is as clear and informative as possible.

### **Consultation**

Geoscience Australia 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 JGGRS Special Account**

		(\$'000)			
		Opening Balance	Credits <sup>(1)</sup>	Debits	Closing Balance
<i>Joint Australian U.S. Geological and Geophysical Research Station Special Account</i>	2009-10	0	167	120	47
	2010-11	47	180	170	57

(1) Includes balance debited from the AGSO Account and credited to the new JGGRS Special Account.