

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Deregulation

*Financial Management and Accountability Act 1997*

Determination 2010/02 to establish a Special Account

### **Purposes of Determination 2010/02**

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 for the Department of the Environment, Water, Heritage and the Arts, entitled the *Services for Other Entities and Trust Moneys – Department of the Environment, Water, Heritage and the Arts 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 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 2010/02**

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

Most agencies under the FMA Act administer either a Services for Other Entities and Trust Moneys (SOETM) Special Account or other Special Accounts that together encompass the purposes of a SOETM Special Account.

The SOETM Special Account will enable the Department of the Environment, Water, Heritage and the Arts to hold and expend amounts on behalf of persons or entities other than the Commonwealth.

Typically the SOETM Special Account will be used to accommodate small amounts of miscellaneous moneys. For example, the SOETM Special Account may be used to hold amounts (a) received in connection with services performed for or on behalf of any persons or entities that are not Agencies as prescribed under the FMA Act, such as other governments; and (b) received from Comcare in relation to employees entitled to receive workers' compensation payments.

Clause 5 of the Determination specifies the purposes for which the Special Account can be debited.

- Subclauses 5 (a) and (b) describe the primary purposes for expenditure of amounts from the Special Account.
- Subclause 5 (c) 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 (d) allows the balance of the Special Account to be reduced without a real or notional payment occurring. It is included to ensure that these amounts are not set aside indefinitely.

### Consultation

The Department of the Environment, Water, Heritage and the Arts 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 *Services for Other Entities and Trust Moneys – Department of the Environment, Water, Heritage and the Arts Special Account*

		(\$'000)			
		Opening Balance	Credits <sup>(1)</sup>	Debits	Closing Balance
<i>Services for Other Entities and Trust Moneys – Department of the Environment, Water, Heritage and the Arts Special Account</i>	2009-10	0	4,055	3,635	420
	2010-11	420	252	206	466

(1) Includes the balances debited from the *Other Trust Moneys Account* and the *Services for other Governments and Non-agency Bodies Account* and credited to the SOETM Special Account.