

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

FMA Act Determination 2013/01 – Section 32 (Transfer of Functions from DCCEE to DIICCSRTE and DRET) (the determination)

Purpose of the determination

The determination is made under section 32 of the *Financial Management and Accountability Act 1997* (FMA Act), to transfer appropriations due to a change in the *Administrative Arrangements Order* made on 25 March 2013.

The determination transfers amounts for functions related to climate change from the abolished Department of Climate Change and Energy Efficiency (DCCEE) to the renamed Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE).

The determination also transfers amounts for functions related to energy efficiency from the abolished DCCEE to the Department of Resources, Energy and Tourism (DRET).

Transfer of Functions generally

Subsection 32(2) of the FMA Act enables the Minister for Finance and Deregulation (Finance Minister) to determine that one or more Schedules to one or more Appropriation Acts are amended in relation to the transfer of a function from one agency to another.

Under section 62 of the FMA Act the Finance Minister has delegated this power to the Secretary of the Department of Finance and Deregulation (Finance). Under section 53 of the FMA Act, the Secretary of Finance has sub-delegated this power to certain officials within Finance.

The determination is a legislative instrument for the purposes of section 5 of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is not required for the determination. Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the *Legislative Instruments Act 2003*. A determination under subsection 32(2) of the FMA Act is exempt from disallowance under subsection 32(7) of the FMA Act; as such, a Statement of Compatibility with Human Rights is not required.

Consultation and Impact

Consistent with Part 3 of the *Legislative Instruments Act 2003*, DIICCSRTE and DRET were consulted in the preparation of this determination. DCCEE was not consulted as the agency was abolished on 25 March 2013.

Operation of the determination

Chapter 1 of the determination amends *Appropriation Act (No. 1) 2012-2013* to:

- reduce the Outcome 1 administered item for DCCEE by \$65,744,759.78;
- create a new outcome for DIICCSRTE (Outcome 4) and an administered item for that outcome in the amount of \$13,321,839.15; and
- increase the Outcome 1 administered item for DRET by \$52,422,920.63.

Chapter 2 of the determination amends *Appropriation Act (No. 2) 2012-2013* to:

- reduce the Outcome 1 State, ACT, NT and local government item for DCCEE by \$49,762.68; and
- create a new Outcome 1 State, ACT, NT and local government item for DRET in the amount of \$49,762.68.

The effect of these Chapters is to transfer appropriations consistently with a change in the *Administrative Arrangements Order*, with effect from 25 March 2013, transferring functions related to climate change from the former DCCEE to DIICCSRTE, and transferring functions related to energy efficiency from the former DCCEE to DRET.

Amendments have been limited to those required to implement the changes in the *Administrative Arrangements Order*. Accordingly, references to the Industry, Innovation, Science, Research and Tertiary Education portfolio were not amended to reflect the new name, to maintain coherence with the existing structure of *Appropriation Act (No. 1) 2012-2013*, including the table of contents. Orders made under section 19B of the *Acts Interpretation Act 1901* adjust statutory references to a particular Department that has had its name changed.

The determination maintains the Outcome 1 text from the former DCCEE for the new Outcome 4 of DIICCSRTE. This enables the relevant parts of the Portfolio Budget Statements tabled in relation to the former DCCEE at Budget 2012-2013 to be used for interpreting the relevant activities of DIICCSRTE.

The Outcome 1 text for DRET maintains DRET's existing wording, plus extra text to enable DRET to have regard to the PBS that had been tabled for DCCEE at the 2012-2013 Budget, as follows:

The improved strength, competitiveness and sustainability of the Resources, Energy and Tourism industries to enhance Australia's prosperity through implementation of government policy and programs (including to perform the activities indicated in the Portfolio Budget Statements for 2012-2013 of the Department of Climate Change and Energy Efficiency as being activities in respect of Outcome 1 for that Department)

The amounts transferred from the former DCCEE to DIICCSRTE and DRET are exclusive of any amounts in relation to the Goods and Service Tax and section 30A of the FMA Act.