

EXPLANATORY STATEMENT

Financial Management and Accountability Act 1997

FMA Act Determination 2014/01 — Section 32 (Transfer of Functions from Industry to Environment and Foreign Affairs) (the Determination)

Purpose of the Determination

The Determination is made under section 32 of the *Financial Management and Accountability Act 1997* (FMA Act), to adjust amounts appropriated to particular agencies in response to the Administrative Arrangements Order (AAO) made on 18 September 2013.

The Determination adjusts amounts appropriated to the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (Industry), the Department of the Environment (Environment) and the Department of Foreign Affairs and Trade (Foreign Affairs).

The *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)* altered specific references to Departments in Schedule 1 of *Appropriation Act (No. 1) 2013-2014* to reflect the AAO of 18 September 2013. This included references to the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education being deemed as references to the Department of Industry, and references to the Department of Sustainability, Environment, Water, Population and Communities being deemed as references to the Department of the Environment.

The Determination is an interim measure to support domestic climate change functions transferred from Industry to Environment and international climate change functions transferred from Industry to Foreign Affairs. The further transfer of appropriations will occur in due course, which may occur through Additional Estimates or other Appropriation Acts.

The increase to the administered appropriation for Outcome 1 for Foreign Affairs is an increase to the unspent amount of administered appropriation that had been provided to Outcome 1 of Foreign Affairs.

New Outcome in Table 29

Table 29 to the Determination contains a new Outcome 7 for Environment. The new Outcome 7 text for Environment substantially corresponds to the text for Outcome 4 of Industry.

The new Outcome should be read alongside the text in note 17 at the end of *Appropriation Act (No. 1) 2013-2014*. This text explains that where a new outcome is inserted, which substantially corresponds to a significant extent to the text of an existing outcome for an Agency, the new outcome is to be read as including activities indicated in the relevant Portfolio Budget Statements in respect of the existing outcome to the extent that the text of the new outcome corresponds to that of the existing outcome. Accordingly, for the purposes of Outcome 7, Environment can perform the climate change activities indicated in the Portfolio Budget Statements 2013-2014 for Outcome 4 of Industry except those activities relating to bilateral, regional and multilateral engagement internationally.

Transfer of Functions generally

Section 32 of the FMA Act enables the Finance Minister to determine that one or more Schedules to one or more Appropriation Acts under section 32 are amended in a specified way 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 the power to make determinations under section 32 to the Secretary of the Department of Finance. Under section 53 of the FMA Act, the Secretary has, in turn, sub-delegated this power to certain Senior Executive Service officials within the Department of Finance, including the official who made the Determination.

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 section 32 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*, Industry, Environment and Foreign Affairs were consulted in the preparation of the Determination.

Summary of Changes

The Determination affects Schedule 1 to the *Appropriation Act (No. 1) 2013-2014* in the following way, which results in no change to the total amount appropriated by Parliament:

Agency affected	Item affected	Appropriation Act	Transfer to \$ '000	Transfer from \$ '000
Department of the Environment	Administered item, Outcome 7	<i>Appropriation Act (No. 1) 2013-2014</i>	+14,775	
Department of Foreign Affairs and Trade	Administered item, Outcome 1	<i>Appropriation Act (No. 1) 2013-2014</i>	+2,588	
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education	Administered item, Outcome 4	<i>Appropriation Act (No. 1) 2013-2014</i>		-17,363
Department of the Environment	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>	+30,676	
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>		-30,676
Total			+48,039	-48,039