

## **EXPLANATORY STATEMENT**

### *Financial Management and Accountability Act 1997*

#### *FMA Act Determination 2014/10 — Section 32 (Transfer of Functions from Social Services to PM&C) (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 made on 18 September 2013.

Under the Administrative Arrangements Order, functions relating to indigenous affairs were transferred from the former Department of Families, Housing, Community Services and Indigenous Affairs to the Department of the Prime Minister and Cabinet.

The *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)* altered specific references to Departments in *Appropriation Act (No. 1) 2013-2014* and *Appropriation Act (No. 2) 2013-2014* to reflect the Administrative Arrangements Order made on 18 September 2013. This included references to the Department of Families, Housing, Community Services and Indigenous Affairs being deemed as references to the Department of Social Services.

This Determination is the fourth transfer of appropriations in relation to the transfer of indigenous functions. An initial transfer of appropriations occurred on 1 November 2013, under FMA Act Determination 2013/13 — Section 32 (Transfer of Functions from Social Services to PM&C). A second transfer of appropriations occurred on 1 December 2013, under *FMA Act Determination 2013/15— Section 32 (Transfer of Functions from DRALGAS to Health and PM&C)*. A third transfer of appropriations occurred on 1 December 2013, under *FMA Act Determination 2013/19— Section 32 (Transfer of Functions from DEEWR to PM&C)*.

##### **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 are amended in a specified way in relation to the transfer of a function from one Agency to another.

The Finance Minister has delegated the power to make determinations under section 32 to the Secretary of the Department of Finance (in accordance with section 62 of the FMA Act). The Secretary has, in turn, sub-delegated this power to certain Senior Executive Service officials within the Department of Finance (in accordance with section 53 of the FMA Act), 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*, the Department of Social Services and the Department of the Prime Minister and Cabinet 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:

<b>Agency affected</b>	<b>Item affected</b>	<b>Appropriation Act</b>	<b>Transfer to (\$ '000)</b>	<b>Transfer from (\$ '000)</b>
Department of the Prime Minister and Cabinet	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>	+17,500	
Department of Social Services	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>		-17,500
<b>Total</b>			<b>+17,500</b>	<b>-17,500</b>