



PGPA Act (Recovery of Compensation for Health Care and Other Services Special Account 2015–Establishment) Determination 2015/06

Public Governance, Performance and Accountability Act 2013

I, MATHIAS HUBERT PAUL CORMANN, Minister for Finance, make this determination.

MATHIAS HUBERT PAUL CORMANN

Minister for Finance

Dated: 17 August 2015

Part 1 - Establishment

1 Name of determination

This determination is the *PGPA Act (Recovery of Compensation for Health Care and Other Services Special Account 2015–Establishment) Determination 2015/06*.

Note 1 All special account determinations and compilations are registered on the Federal Register of Legislative Instruments (FRLI) kept under the *Legislative Instruments Act 2003*. See <http://www.comlaw.gov.au>

Note 2 The Determination is subject to Part 6 (sunsetting) of the *Legislative Instruments Act 2003*. The sunsetting provisions mean that this special account will be repealed on the earlier of 1 April or 1 October falling on or after the tenth anniversary of registration.

2 Commencement and effect

This determination takes effect on the day specified in paragraph 79(5)(a) of the PGPA Act.

3 Legislative authority

This determination is made under subsection 78(1) of the PGPA Act.

4 Definitions

In this determination:

accountable authority has the meaning given by the PGPA Act.

Chief Executive Medicare has the meaning given by the HOSC Act.

claimant has the meaning given by the HOSC Act.

Commonwealth entity has the meaning given by the PGPA Act.

compensable person has the meaning given by the HOSC Act.

HOSC Act means the *Health and Other Services (Compensation) Act 1995*.

person has the meaning given by the *Acts Interpretation Act 1901* and also includes a compensable person.

PGPA Act means the *Public Governance, Performance and Accountability Act 2013*.

5 Establishment

For paragraph 78(1)(a) of the PGPA Act, a special account is established with the name ***Recovery of Compensation for Health Care and Other Services Special Account 2015*** (the special account).

6 Accountable authority

For paragraph 78(1)(d) of the PGPA Act, the accountable authority responsible for the special account is the Secretary of the Department of Human Services.

7 Amounts that are allowed to be credited

For paragraph 78(1)(b) of the PGPA Act, amounts equal to the following are allowed to be credited to the special account:

- (a) amounts received by the Commonwealth following a judgement or settlement made in relation to a claimant under the HOSC Act;
- (b) amounts received by the Commonwealth from any person for the purposes of the special account;
- (c) amounts debited from the *Financial Management and Accountability Determination 2005/24 — Recovery of Compensation for Health Care and Other Services Special Account Establishment 2005*.

Note 1 The Appropriation Acts may provide that if any of the purposes of a special account are covered by an item in those Acts (whether or not the item expressly refers to the special account), then amounts may be debited against that item and credited to that special account.

Note 2 Where an amount equal to an amount debited from the special account is repaid to the Commonwealth, the amount may be credited to the special account under paragraph 74(1)(b) of the PGPA Act and subsection 27(5) of the *Public Governance, Performance and Accountability Rule 2014*.

8 Purposes for which amounts are allowed to be debited

For paragraph 78(1)(c) of the PGPA Act, the purposes for which amounts are allowed to be debited from the special account are:

- (a) to pay a person an amount consistent with the HOSC Act;
- (b) to pay an amount to a Commonwealth entity that manages a benefit, subsidy or scheme related to the HOSC Act;
- (c) activities that are incidental to a purpose mentioned in paragraphs (a) or (b);
- (d) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment;

- (e) to repay amounts where an Act or other law requires or permits the repayment of an amount received.

Note 1 Subsection 78(4) of the PGPA Act appropriates the Consolidated Revenue Fund for payments made with amounts debited from the special account. Subsection 78(6) of the PGPA Act provides that whenever an amount is debited against the appropriation, the amount is taken to be also debited from the special account.

Note 2 An amount may be debited from the special account where:

- (a) it has been incorrectly credited by virtue of a clerical mistake; or
- (b) it has been credited through the exercise of a discretion by an official and the exercise of that discretion was actuated by a fundamental mistake of fact or law. Legal advice should be obtained before an amount is debited on this basis.

Note 3 The purpose of clause 8(c) above is to allow for the balance of the special account to be debited for the administration of the special account, and for the dealing with direct and indirect costs.

Note 4 The purpose of clause 8(d) is to allow for the balance of the special account to be reduced. When the special account is debited for this purpose, there is no payment or credit available to another party, account or appropriation.

Part 2 – Transitional Variation

Section 5 of the *Financial Management and Accountability Determination 2005/24 — Recovery of Compensation for Health Care and Other Services Special Account Establishment 2005* is varied by adding at the end:

; and (d) to credit amounts to the *Recovery of Compensation for Health Care and Other Services Special Account 2015*.