

## **EXPLANATORY STATEMENT**

### *Public Governance, Performance and Accountability Act 2013*

#### *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 3) (the amendment determination)*

#### **Purpose of the determination**

The amendment determination is made under section 75 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) to further amend *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2014-2015* (the primary determination), dated 30 January 2015, and amended by *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 1)*, dated 27 March 2015, and *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 2)*, dated 30 October 2015, to adjust amounts appropriated to non-corporate Commonwealth entities, in response to the Administrative Arrangements Order (AAO) made on 30 September 2015 and the smaller government agenda.

The amendment determination modifies the 2014-2015 Appropriation Acts to support functions transferring from the Attorney-General's Department to the Department of Communications and the Arts in relation to censorship and copyright and from the Private Health Insurance Ombudsman to the Office of the Commonwealth Ombudsman in relation to the smaller government agenda.

The determination results in no change to the total amount appropriated by Parliament.

#### **Commencement**

The amendment determination commences on 5 November 2015.

#### **Authority for the determination**

Section 75 of the PGPA Act enables the Finance Minister to determine that one or more Schedules to one or more Appropriation Acts are modified in a specified way in relation to the transfer of a function from one non-corporate Commonwealth entity to another.

Under section 107 of the PGPA Act, the Finance Minister has delegated the power to make determinations under section 75 to the Secretary of the Department of Finance. Under section 109 of the PGPA Act, the Secretary has, in turn, sub-delegated this power to certain officials within the Department of Finance, including the official who made the determination.

The amendment determination is a legislative instrument for the purposes of section 5 of the *Legislative Instruments Act 2003*. The amendment determination amends *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2014-2015*, which 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 amendment 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, including an amendment determination, under section 75 of the PGPA Act is exempt from disallowance under subsection 75(7) of the PGPA Act. As such, a Statement of Compatibility with Human Rights is not required.

#### **Consultation**

Consistent with Part 3 of the *Legislative Instruments Act 2003*, the affected entities were consulted in the preparation of the amendment determination.

#### **Summary of Modifications**

1. Item 1 amends the definition of *Appropriation Act*, in section 4 of the primary determination, to include all 2014-2015 Appropriation Acts.

2. Item 2 of the amendment determination inserts section 4A to state that references to Portfolio and Department names in the 2014-2015 Appropriation Acts have effect as if:

- (a) references in the Acts to Education were references to Education and Training; and
- (b) references in the Acts to the Industry or Industry and Science were references to Industry, Innovation and Science; and
- (c) references in the Acts to Agriculture were references to Agriculture and Water Resources; and
- (d) references in the Acts to the Communications were references to Communications and the Arts.

3. Items 3 and 5 of the amendment determination repeal subsections 5(2) and 6(2) respectively in the primary determination as the provision for references to Portfolio and Department names in all the 2014-2015 Appropriation Acts will now be found in section 4A.

4. Item 4 adds items to the table at subsection 5(4) in the primary determination. The new items affect relevant appropriation items in Schedule 1 to *Appropriation Act (No. 1) 2014-2015* in the following way, which results in no change to the total amount appropriated by Parliament. A positive amount reflects an increase in an appropriation item, and a negative amount reflects a decrease in an appropriation item.

<b>Entity affected</b>	<b>Item affected</b>	<b>Transfer to (\$'000)</b>	<b>Transfer from (\$'000)</b>
Office of the Commonwealth Ombudsman	Departmental item	+614	
Private Health Insurance Ombudsman	Departmental item		-614
Department of Communications and the Arts	Departmental item	+756	
Attorney-General's Department	Departmental item		-756
		<b>+1,370</b>	<b>-1,370</b>

5. Item 6 of the amendment determination adds a table as section 7 of the primary determination. The items in the table affect relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2014-2015* in the following way, which results in no change to the total amount appropriated by Parliament. A positive amount reflects an increase in an appropriation item, and a negative amount reflects a decrease in an appropriation item.

<b>Entity affected</b>	<b>Item affected</b>	<b>Transfer to (\$,000)</b>	<b>Transfer from (\$,000)</b>
Office of the Commonwealth Ombudsman	Departmental item	+97	
Private Health Insurance Ombudsman	Departmental item		-97
		<b>+97</b>	<b>-97</b>