

## **EXPLANATORY STATEMENT**

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

#### *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (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 2013-2014*, dated 24 September 2014 (primary determination), and amended by *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (No. 1)*, dated 30 January 2014, and *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (No. 2)*, dated 27 March 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 2013-2014 Appropriation Acts to support functions transferring:

- from the Attorney-General's Department to the Department of Communications and the Arts, in relation to classification, copyright and cultural affairs, including movable cultural heritage and support for the arts;
- from the Department of Communications and the Arts (previously known as the Department of Communications) to the Department of Industry, Innovation and Science, in relation to national policy issues relating to the digital economy;
- from the Department of Industry, Innovation and Science to the Department of the Environment, in relation to renewable energy; and
- from the Private Health Insurance Ombudsman to the Office of the Commonwealth Ombudsman, as the functions of the Private Health Insurance Ombudsman were assumed by the Commonwealth Ombudsman under the *Ombudsman Act 1976* on 1 July 2015.

The determination results in no change to the total amount appropriated by the 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 2013-2014*, 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 Amendments

1. The amendment determination adds items to the table in section 5 of the primary determination. The new items affect relevant appropriation items in 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. A positive amount reflects an increase in an appropriation item, and a negative amount reflects a decrease in an appropriation item.

Entity affected	Item affected	Transfer to (\$'000)	Transfer from (\$'000)
Office of the Commonwealth Ombudsman	Departmental item	+30	
Private Health Insurance Ombudsman	Departmental item		-30
Department of Communications and the Arts	Departmental item	+1,315	
Attorney-General's Department	Departmental item		-1,315
<b>Total</b>		<b>+1,345</b>	<b>-1,345</b>

2. In accordance with the AAO made on 30 September 2015, item 2 of the amendment determination repeals and substitutes section 7 of the primary determination to state that references to Departments in each of the 2013-14 Appropriation Acts have effect as if it refers to:

- Department of Education and Training instead of Department of Education, Employment and Workplace Relations or the Department of Education; and
- Department of Industry, Innovation and Science instead of Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education or the Department of Industry, Innovation, Science, Research and Tertiary Education; and
- Department of Communications and the Arts instead of the Department of Broadband, Communications and the Digital Economy; and
- Department of the Environment instead of the Department of Sustainability, Environment, Water, Population and Communities.

3. Item 3 of the amendment determination modifies item 2 in the table and adds an item in section 8 of the primary determination. The items in the table affect relevant appropriation items in Schedule 2 to the *Appropriation Act (No. 4) 2013-2014* 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.

4. The table in the amendment determination provides an aggregate of the transfer amounts for each affected appropriation item, rather than the individual transfer amounts. The table below sets out the individual transfer amounts for each affected appropriation item arising from this AAO:

Entity affected	Item affected	Transfer to (\$'000)	Transfer from (\$'000)
Department of the Environment	Other departmental item (Equity Injections)	+1,453	
Department of Industry, Innovation and Science	Other departmental item (Equity Injections)		-1,453
<b>Total</b>		<b>+1,453</b>	<b>-1,453</b>

5. In item 3 in the amendment determination, the modification of section 8 table item 2 (Department of Industry, Innovation and Science) can be calculated as the offsetting amount for both items 1 (Department of Education and Training) and 3 (Department of the Environment) as follows:

<b>Entity affected</b>	<b>Item affected</b>	<b>Item 2 (\$'000)</b>	<b>Items 1 and 3 (\$'000)</b>
Department of Education and Training	Other departmental item (Equity Injections)		+14,255
Department of Industry and Science	Other departmental item (Equity Injections)	-14,255	
Department of Industry, Innovation and Science	Other departmental item (Equity Injections)	-1,453	
Department of the Environment	Other departmental item (Equity Injections)		+1,453
		<b>-15,708</b>	<b>+15,708</b>

6. The amendment determination adds a table as section 9 of the primary determination. The items in the table affect relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2013-2014* 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>
Department of Communications and the Arts	Departmental item	+153	
Attorney-General's Department	Departmental item		-153