

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 4) (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, *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 2)*, dated 30 October 2015, and *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 3)*, dated 5 November 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 Department of Human Services to the Department of Health in relation to Medicare provider compliance;
- from the Department of Infrastructure and Regional Development to the Department of Industry, Innovation and Science in relation to Northern Australia policy and coordination; and
- from the Migration Review Tribunal and Refugee Review Tribunal (MRT-RRT) to the Administrative Appeals Tribunal (AAT) following the amalgamation of the MRT-RRT with the AAT on 1 July 2015.

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

Commencement

The amendment determination commences on 11 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. Items 1 and 2 of the amendment determination modify and add specified items to the table in subsection 5(4) of the primary determination. The items in the table affects 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.

2. The table in the amendment determination provides an aggregate of appropriation items for each affected entity, rather than the individual items. While the table in the amendment determination is stated in the \$thousands (\$'000), the table below sets out the individual transfer amounts in dollars for each appropriation item listed.

Item	Entity	Appropriation item	Primary Determination (\$)	Transfer Increase (+) / decrease (-)	Amendment Determination (\$)
10	Department of Industry, Innovation and Science	Departmental item	-34,359,000	+296,000	-34,063,000
19	Administrative Appeals Tribunal	Departmental item	0	+20,855,446	+20,855,446
20	Migration Review Tribunal and Refugee Review Tribunal	Departmental item	0	-20,855,446	-20,855,446
21	Department of Health	Departmental item	0	+8,814,000	+8,814,000
22	Department of Human Services	Departmental item	0	-8,814,000	-8,814,000
23	Department of Infrastructure and Regional Development	Departmental item	0	-296,000	-296,000

3. Item 3 of the amendment determination adds items to the end of the table at subsection 7(2) 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.

Item	Entity	Appropriation item	Transfer to (\$'000)	Transfer from (\$'000)	Amendment Determination (\$'000)
3	Administrative Appeals Tribunal	Departmental item	+23,429	0	+23,429
4	Migration Review Tribunal and Refugee Review Tribunal	Departmental item	0	-23,429	-23,429