

## **EXPLANATORY STATEMENT**

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

#### *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2012-2013 (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 2012-2013*, dated 24 September 2014 (primary determination), and amended by *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2012-2013 (No. 1)*, dated 27 March 2015, and *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2012-2013 (No. 2)*, 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.

The amendment determination modifies appropriations to support functions transferring from the Department of Communications and the Arts (previously known as the Department of Broadband, Communications and the Digital Economy) to the Department of the Prime Minister and Cabinet, in relation to whole of government service delivery policy.

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 2012-2013*, 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 of the amendment determination repeals and substitutes section 9 of the primary determination with a new section 9.
2. Subsection 9(2) has effect as if a departmental item for the Department of the Prime Minister and Cabinet were included in Schedule 1 to *Appropriation Act (No. 3) 2012-2013*. Due to a transfer of function from the Department of Communications and the Arts to the Department of the Prime Minister and Cabinet, this amendment determination has effect as if the Department of the Prime Minister and Cabinet were included in the *Appropriation Act (No. 3) 2012-2013*. Paragraph 9(3)(b) of the determination then establishes that this departmental item for the Department of the Prime Minister and Cabinet, which has effect because of this determination, commences as a nil amount.
3. The amendment determination modifies item 2 and adds item 3 to the table in section 9 of the primary determination. The items in the table affects relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2012-2013* in the following way, which results in no change to the total amount appropriated by Parliament.
4. The table in the amendment determination provides an aggregate of appropriation items for each affected entity, rather than the individual items. The table below sets out the individual transfer amounts and the resulting aggregate amount for each appropriation item listed. 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	Primary Determination (\$'000)	Transfer Increase (+) / decrease (-)	Amendment Determination (\$'000)
2	Department of Communications and the Arts	Departmental item	-540	-594	-1,134
3	Department of the Prime Minister and Cabinet	Departmental item	0	+594	+594