

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2017-2018 (No. 1) (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 adjust amounts appropriated to non-corporate Commonwealth entities, in response to: the Prime Minister's joint press conference regarding reform of Australia's national intelligence and domestic security arrangements of 18 July 2017; the Prime Minister's press conference regarding Ministerial arrangements of 19 December 2017; amendments to the Administrative Arrangements Order (AAO) made on 20 December 2017; AAOs made on 19 April 2018; and other Government decisions.

The amendment determination modifies the 2017-18 Appropriation Acts to support functions transferred as follows:

- to the Department of Home Affairs:
 - from the Attorney-General's Department in relation to national security and law enforcement policy and operations, Commonwealth emergency management, critical infrastructure protection co-ordination, protective services at Commonwealth establishments and diplomatic and consular premises in Australia and natural disaster relief, recovery and mitigation policy and financial assistance including payments to the States and Territories and the Australian Government Disaster Recovery Payment;
 - from the Department of Infrastructure, Regional Development and Cities in relation to transport security;
 - from the Department of the Prime Minister and Cabinet in relation counter-terrorism policy co-ordination and cyber policy co-ordination; and
- to the Department of Infrastructure, Regional Development and Cities from the Department of the Prime Minister and Cabinet, in relation to national policy on cities, population policy, and infrastructure and project financing; and
- to the Department of Jobs and Small Business:
 - from the Department of the Prime Minister and Cabinet, in relation to reducing the burden of government regulation;
 - from the Department of the Treasury, in relation to small business policy and programs; and
- to the Department of Infrastructure, Regional Development and Cities from the Department of Agriculture and Water Resources, in relation to the National Water Infrastructure Loan Facility and the National Water Infrastructure Development Fund; and
- to the Office of National Assessments from the Department of the Prime Minister and Cabinet for intelligence policy; and
- to the Department of Industry, Innovation and Science from the Department of the Prime Minister and Cabinet for spatial data policy.

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

Commencement

The amendment determination commences on the day of registration.

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 amends the *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2017-2018*, which is a legislative instrument for the purposes of section 8 of the *Legislation 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 *Legislation 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 Chapter 3, Part 1 of the *Legislation Act 2003*, the affected entities were consulted in the preparation of the amendment determination.

Summary of Modifications

- Item 1 of the amendment determination modifies the definition of the *Appropriation Act*, in section 4 of the Determination, to include the two most recent 2017-2018 Appropriation Acts.
- Item 2 of the amendment determination repeals and substitutes paragraph 5(b) to remove an incorrect 'the' in the name of the former Department of Immigration and Border Protection.
- Item 3 of the amendment determination adds paragraphs 5(j) and 5(k) to Section 5 of the Determination. Paragraphs 5(j) and 5(k) modify the Appropriation Acts such that the Workplace Gender Equality Agency and the Australian Institute of Aboriginal and Torres Strait Islander Studies were included in the Prime Minister and Cabinet Portfolio.
- Item 4 of the amendment determination repeals and substitutes items 1 to 4 in the table in subsection 6(3) of the Determination. The items affect relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2017-2018* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
1	Department of Home Affairs	Departmental item	+42,103,000.00	+18,039,035.00	+60,142,035.00
2	Attorney-General's Department	Departmental item	-22,428,000.00	-12,296,035.00	-34,724,035.00
3	Department of Infrastructure, Regional Development and Cities	Departmental item	-16,633,000.00	+155,000.00	-16,478,000.00
4	Department of the Prime Minister and Cabinet	Departmental item	-2,321,000.00	-8,751,000.00	-11,072,000.00

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

- Item 5 of the amendment determination repeals and substitutes items 8 to 11 in the table in subsection 6(3) of the Determination. The items affect relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2017-2018* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
8	Department of Home Affairs	Administered item, Outcome 1	+27,629,000.00	+7,228,611.10	+34,857,611.10
9	Attorney-General's Department	Administered item, Outcome 1	-27,214,000.00	-6,569,611.10	-33,783,611.10
10	Department of Infrastructure, Regional Development and Cities	Administered item, Outcome 2	-332,000.00	-659,000.00	-991,000.00
11	Department of the Prime Minister and Cabinet	Administered item, Outcome 1	-83,000.00	-18,954,000.00	-19,037,000.00

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

6. Item 6 of the amendment determination adds items 12 to 23 to the table in subsection 6(3) of the Determination. The items affect relevant appropriation items in Schedule 1 to the *Appropriation*

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
12	Department of Jobs and Small Business	Departmental item	0.00	+5,439,000.00	+5,439,000.00
13	Department of the Treasury	Departmental item	0.00	-5,174,000.00	-5,174,000.00
14	Department of Agriculture and Water Resources	Departmental item	0.00	-546,000.00	-546,000.00
15	Department of Infrastructure, Regional Development and Cities	Administered item, Outcome 3	0.00	+19,897,000.00	+19,897,000.00
16	Department of Agriculture and Water Resources	Administered item, Outcome 3	0.00	-3,000,000.00	-3,000,000.00
17	Department of Jobs and Small Business	Administered item, Outcome 2	0.00	+9,222,000.00	+9,222,000.00
18	Department of the Treasury	Administered item, Outcome 1	0.00	-9,222,000.00	-9,222,000.00
19	Department of Industry, Innovation and Science	Departmental item	0.00	+170,000.00	+170,000.00
20	Department of Industry, Innovation and Science	Administered item, Outcome 1	0.00	+2,057,000.00	+2,057,000.00
21	Office of National Assessments	Departmental item	0.00	+2,964,000.00	+2,964,000.00
22	Department of the Prime Minister and Cabinet	Corporate entity item, Australian Institute of Aboriginal and Torres Strait Islander Studies	0.00	+3,248,834.00	+3,248,834.00
23	Department of Education and Training	Corporate entity item, Australian Institute of Aboriginal and Torres Strait Islander Studies	0.00	-3,248,834.00	-3,248,834.00

Act (No. 1) 2017-2018 in the following way:

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

7. Item 7 of the amendment determination repeals and substitutes items 1 and 2 in the table in subsection 7(3) of the Determination. The items affect relevant appropriation items in Schedule 2 to the *Appropriation Act (No. 2) 2017-2018* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
1	Department of Home Affairs	State, ACT, NT and local government item, Outcome 1	+1,432,000.00	+537,290.00	+1,969,290.00
2	Attorney-General's Department	State, ACT, NT and local government item, Outcome 1	-1,432,000.00	-537,290.00	-1,969,290.00

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

8. Item 8 of the amendment determination adds items 3 to 6 to the table in subsection 7(3) of the Determination. The items affect relevant appropriation items in Schedule 2 to the *Appropriation Act*

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
3	Department of Home Affairs	Other departmental item (Equity Injections)	0.00	+1,123,756.00	+1,123,756.00
4	Attorney-General's Department	Other departmental item (Equity Injections)	0.00	-1,123,756.00	-1,123,756.00
5	Department of Infrastructure, Regional Development and Cities	Administered Assets and Liabilities item	0.00	+50,000,000.00	+50,000,000.00
6	Department of Agriculture and Water Resources	Administered Assets and Liabilities item	0.00	-50,000,000.00	-50,000,000.00

(No. 2) 2017-2018 in the following way:

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

9. Item 9 of the amendment determination adds section 8, which applies to appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2017-2018*.

10. The table at subsection 8(2) affects relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2017-2018* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
1	Department of Home Affairs	Administered item, Outcome 1	0.00	+2,507,000.00	+2,507,000.00
2	Attorney-General's Department	Administered item, Outcome 1	0.00	-2,507,000.00	-2,507,000.00