

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (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 commencement on 1 January 2019 of the Aged Care Quality and Safety Commission (ACQSC) on commencement of the *Aged Care Quality and Safety Commission Act 2018*.

The amendment determination modifies the Appropriation Acts to support functions transferred to the ACQSC from:

- the Australian Aged Care Quality Agency (AACQA) in relation to all functions formerly undertaken by the AACQA which will be abolished on 1 January 2019 following the commencement of the ACQSC; and
- the Department of Health in relation to aged care complaints.

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

Commencement

The amendment determination commences on 1 January 2019.

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 2018-2019* (the Determination), 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

1. Item 1 of the amendment determination repeals and substitutes section 6 of the Determination with a new section 6. The purpose of this is to insert subsection 6(2) and subsection 6(3) to section 6, and add items 4, 5 and 6 to the table in the now subsection 6(4). The remainder of the substituted section 6 was established by the Determination and remains unchanged.

2. Paragraph 6(2)(a) has effect as if a departmental item for the ACQSC were included in Schedule 1 to the *Appropriation Act (No. 1) 2018-2019* within the Health Portfolio. Due to a transfer of functions from the AACQA and Health to the newly established ACQSC, this amendment determination has effect as if the ACQSC were included in the *Appropriation Act (No. 1) 2018-2019*.

3. Paragraph 6(4)(b) of the amendment determination then establishes that this departmental item for the ACQSC which has effect because of this amendment determination, commences as a nil amount.

4. Paragraph 6(3)(a) has effect as if the following Outcome was included in Schedule 1 to the *Appropriation Act (No. 1) 2018-2019* for the ACQSC:

Outcome 1

Protect and enhance the safety, health, wellbeing and quality of life of aged care consumers, including through effective engagement with them, regulation and education of Commonwealth-funded aged care service providers and resolution of aged care complaints

5. Items have been added to the table in subsection 6(4) of the Determination. The items affect relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2018-2019* 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 (\$)
4	Aged Care Quality and Safety Commission	Departmental item	0.00	+24,054,000.00	+24,054,000.00
5	Australian Aged Care Quality Agency	Departmental item	0.00	-12,600,000.00	-12,600,000.00
6	Department of Health	Departmental item	0.00	-11,454,000.00	-11,454,000.00

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