

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 7) (the amendment determination)

Purpose of the determination

The amendment determination is made under section 75 of the PGPA Act to amend the *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2018-2019* (the Determination).

The amendment determination modifies the 2018-19 Appropriation Acts to adjust amounts appropriated to non-corporate Commonwealth entities in response to the Administrative Arrangements Order (AAO) made on 29 May 2019, to reflect the transfer of responsibility for the vocational education and training, and apprenticeships from the Education Portfolio to the Employment, Skills, Small and Family Business Portfolio.

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

Commencement

The amendment determination commences on the day after it is registered.

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 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 adds *Appropriation Act (No. 3) 2018-2019* and *Appropriation Act (No. 4) 2018-2019* to the definition of Appropriation Acts in section 4 of the Determination.
2. Item 2 of the amendment determination repeals and substitutes section 5 of the Determination. The substituted section 5 of the Determination builds on the modifications to the 2018-19 Appropriation Acts made in the previous section 5 of the Determination, such that:
 - references to the Agriculture and Water Resources Portfolio and the Department of Agriculture and Water Resources have effect as if Agriculture and Water Resources is referred to as Agriculture; and
 - references to the Education and Training Portfolio and the Department of Education and Training have effect as if Education and Training is referred to as Education; and
 - references to the Department of Human Services has effect as if it is referred to as Services Australia; and
 - references to the Jobs and Small Business Portfolio and the Department of Jobs and Small Business have effect as if Jobs and Small Business is referred to as Employment, Skills, Small and Family Business; and
 - references to the Infrastructure, Regional Development and Cities Portfolio and the Department of Infrastructure, Regional Development and Cities have effect as if Infrastructure, Regional Development and Cities is referred to as Infrastructure, Transport, Cities and Regional Development; and
 - the Australian Skills Quality Authority were included in the Employment, Skills, Small and Family Business Portfolio; and
 - the Digital Transformation Agency were included in the Social Services Portfolio; and
 - the following entities were included in the Attorney-General's Portfolio:
 - Asbestos Safety and Eradication Agency;
 - Australian Building and Construction Commission;
 - Fair Work Commission;
 - Fair Work Ombudsman and Registered Organisations Commission Entity;
 - Safe Work Australia; and
 - Comcare.
3. Item 3 of the amendment determination clarifies that the amendments made in section 5 of the Determination are taken to have already occurred for the purposes of section 6 of the Determination.
4. Item 4 of the amendment determination repeals and substitutes item 10 in the table in subsection 6(4) of the Determination. Item 5 of the amendment determination adds item 12 to the table in subsection 6(4) of the Determination. Items 4 and 5 of the amendment determination 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 (\$) |
|-------------|-------------------------------------------------------------|---------------------------|----------------------------------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------|
| 10 | Department of Education | Departmental item | -37,000.00 | -14,749,159.03 | -14,786,159.03 |
| 12 | Department of Employment, Skills, Small and Family Business | Departmental item | 0.00 | +14,749,159.03 | +14,749,159.03 |

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item. The amounts in the amendment determination are presented in \$'000's, and are presented 'to the cent' in this explanatory statement.