

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2019-2020 (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 adjust amounts appropriated to non-corporate Commonwealth entities, in response to Machinery of Government changes.

On 29 May 2019, the Governor-General made a new Administrative Arrangements Order (AAO) to replace the AAO made on 4 April 2019. The amendment determination modifies the Appropriation Acts to reflect the following change as a result of the 29 May 2019 AAO:

- the transfer of settlement services for refugees and humanitarian migrants from the Social Services portfolio to the Home Affairs portfolio.

On 29 May 2019, the Governor-General made an order to establish the National Indigenous Australians Agency as an Executive Agency. The amendment determination modifies the Appropriation Acts to reflect the transfer of responsibility for indigenous affairs from the Department of the Prime Minister and Cabinet to the National Indigenous Australians Agency.

On 5 December 2019, the Governor-General made a new AAO to replace the AAO made on 29 May 2019. The new AAO commenced on 1 February 2020. The amendment determination modifies the Appropriation Acts to reflect the following changes as a result of the new AAO:

- the transfer of responsibility for agriculture from the abolished Agriculture portfolio to the renamed Agriculture, Water and the Environment portfolio;
- the transfer of responsibility for communications and arts from the abolished Communications and the Arts portfolio to the renamed Infrastructure, Transport, Regional Development and Communications portfolio;
- the transfer of responsibility for employment and skills from the abolished Employment, Skills, Small and Family Business portfolio to the renamed Education, Skills and Employment portfolio;
- the transfer of responsibility for small business from the abolished Employment, Skills, Small and Family Business portfolio to the renamed Industry, Science, Energy and Resources portfolio; and
- the transfer of responsibility for energy from the renamed Agriculture, Water and the Environment portfolio to the renamed Industry, Science, Energy and Resources portfolio.

On 5 December 2019, the Governor-General made an order to establish Services Australia as an Executive Agency. The amendment determination modifies the Appropriation Acts to reflect the transfer of responsibility for the delivery of services and payments to the community from the abolished Services Australia (Department of State) to Services Australia (Executive Agency).

In December 2019, the Government agreed to consolidate all deregulation functions in the Department of the Prime Minister and Cabinet. The amendment determination modifies the Appropriation Acts to reflect the transfer of responsibility for the deregulation agenda from

the Department of Employment, Skills, Small and Family Business to the Department of the Prime Minister and Cabinet.

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

Commencement

The amendment determination commences on the day after 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 2019-20* (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

- Item 1 of the amendment determination adds paragraphs 6(3)(l) to 6(3)(n) to subsection 6(3) of the Determination.
- Paragraph 6(3)(l) has effect as if an administered item for the Department of Education, Skills and Employment were included in Schedule 1 to the *Supply Act (No. 1) 2019-2020*, for a new Outcome 3, due to the transfer of employment and skills functions from the abolished Department of Employment, Skills, Small and Family Business. The text of Outcome 3 is the same as the text of Outcome 2 of the abolished Department of Employment, Skills, Small and Family Business.
- Paragraph 6(3)(m) has effect as if an administered item for the Department of Industry, Science, Energy and Resources were included in Schedule 1 to the *Supply Act (No. 1) 2019-2020*, for a new Outcome 3, due to the transfer of energy functions from the former Department of the Environment and Energy. The text of Outcome 3 is similar to the text of Outcome 4 of the former Department of the Environment and Energy but has been amended.
- Paragraph 6(3)(n) has effect as if an administered item for the Department of Infrastructure, Transport, Regional Development and Communications were included in Schedule 1 to the *Supply Act (No. 1) 2019-2020*, for a new Outcome 5, due to the transfer of communications functions from the abolished Department of Communications and the Arts. The text of Outcome 5 is the same as the text of Outcome 1 of the abolished Department of Communications and the Arts.
- Item 2 of the amendment determination repeals and substitutes several items in the table in subsection 6(4) of the Determination. The items affect the relevant appropriation items in Schedule 1 to the *Supply Act (No. 1) 2019-2020* 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 (\$)
3	Department of Home Affairs	Departmental item	+10,349,809.50	+373,705.20	+10,723,514.70
4	Department of Education, Skills and Employment	Departmental item	-42,060,034.00	+387,886.06	-41,672,147.94
5	Department of Employment, Skills, Small and Family Business	Departmental item	+16,087,068.00	-387,886.06	+15,699,181.94
7	Department of Social Services	Departmental item	-7,287,809.50	-373,705.20	-7,661,514.70
10	Department of Home Affairs	Administered item, Outcome 2	+199,546,000.00	+2,550,000.00	+202,096,000.00
14	Department of Employment, Skills, Small and Family Business	Administered item, Outcome 2	+321,226,333.00	-911,613.72	+320,314,719.28
16	Department of Social Services	Administered item, Outcome 2	-83,851,000.00	-2,550,000.00	-86,401,000.00
19	Department of Agriculture	Administered item, Outcome 1	-5,503,471.10	-1,128,000.00	-6,631,471.10
20	Department of Agriculture, Water and the Environment	Administered item, Outcome 3	+5,503,471.10	+1,128,000.00	+6,631,471.10
21	Department of Agriculture	Administered item, Outcome 2	-8,677,049.33	-1,845,936.55	-10,522,985.88

22	Department of Agriculture, Water and the Environment	Administered item, Outcome 4	+8,677,049.33	+1,845,936.55	+10,522,985.88
23	Department of Agriculture	Administered item, Outcome 3	-45,910,193.85	-2,921,430.46	-48,831,624.31
24	Department of Agriculture, Water and the Environment	Administered item, Outcome 5	+45,910,193.85	+2,921,430.46	+48,831,624.31
26	Department of Industry, Science, Energy and Resources	Administered item, Outcome 2	+236,726.36	-136,726.36	+100,000.00
27	Services Australia (Department of State)	Departmental item	-120,116,049.66	-11,988,932.24	-132,104,981.90
28	Services Australia (Executive Agency)	Departmental item	+120,116,049.66	+11,988,932.24	+132,104,981.90

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

6. Item 3 of the amendment determination adds items 31 to 39 to the table in subsection 6(4) of the Determination. The items affect the relevant appropriation items in Schedule 1 to the *Supply Act (No. 1) 2019-2020* 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 (\$)
31	Department of Agriculture	Departmental item	0.00	-12,238,926.00	-12,238,926.00
32	Department of Agriculture, Water and the Environment	Departmental item	0.00	+12,238,926.00	+12,238,926.00
33	Department of Industry, Science, Energy and Resources	Administered item, Outcome 3	0.00	+236,726.36	+236,726.36
34	Department of Communications and the Arts	Administered item, Outcome 1	0.00	-2,091,699.53	-2,091,699.53
35	Department of Infrastructure, Transport, Regional Development and Communications	Administered item, Outcome 5	0.00	+2,091,699.53	+2,091,699.53
36	Department of Communications and the Arts	Departmental item	0.00	-5,863,149.80	-5,863,149.80
37	Department of Infrastructure, Transport, Regional Development and Communications	Departmental item	0.00	+5,863,149.80	+5,863,149.80
38	Department of Education, Skills and Employment	Administered item, Outcome 3	0.00	+911,613.72	+911,613.72
39	Department of Agriculture, Water and the Environment	Administered item, Outcome 1	0.00	-100,000.00	-100,000.00

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

7. Item 4 of the amendment determination repeals and substitutes items 5 and 6 in the table in subsection 7(4) of the Determination. The items affect the relevant appropriation items in Schedule 2 to the *Supply Act (No. 2) 2019-2020* 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 (\$)
5	Department of Agriculture	Other departmental item (Equity Injections)	-377,066.00	-40,934.00	-418,000.00
6	Department of Agriculture, Water and the Environment	Other departmental item (Equity Injections)	+377,066.00	+40,934.00	+418,000.00

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

8. Item 5 of the amendment determination repeals and substitutes several items in the table in subsection 8(4) of the Determination. The items affect the relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2019-2020* 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 (\$)
3	Department of Agriculture	Departmental item	-157,003,913.94	-50,537,321.06	-207,541,235.00
4	Department of Agriculture, Water and the Environment	Departmental item	+98,652,596.13	+30,941,397.03	+129,593,993.16
5	Department of Agriculture	Administered item, Outcome 1	-32,456,236.13	-10,300,161.10	-42,756,397.23
6	Department of Agriculture, Water and the Environment	Administered item, Outcome 3	+32,456,236.13	+10,300,161.10	+42,756,397.23
7	Department of Agriculture	Administered item, Outcome 2	-16,242,159.73	-37,399.17	-16,279,558.90
8	Department of Agriculture, Water and the Environment	Administered item, Outcome 4	+16,242,159.73	+37,399.17	+16,279,558.90
11	Department of Communications and the Arts	Departmental item	-52,181,950.63	-9,142,834.33	-61,324,784.96
12	Department of Infrastructure, Transport, Regional Development and Communications	Departmental item	+52,181,950.63	+9,142,834.33	+61,324,784.96
13	Department of Communications and the Arts	Administered item, Outcome 1	-30,594,426.35	-53,257,558.00	-83,851,984.35
14	Department of Infrastructure, Transport, Regional Development and Communications	Administered item, Outcome 5	+30,594,426.35	+53,257,558.00	+83,851,984.35
15	Department of Communications and the Arts	Administered item, Outcome 2	-70,000,000.00	-17,042,142.21	-87,042,142.21

16	Department of Infrastructure, Transport, Regional Development and Communications	Administered item, Outcome 6	+70,000,000.00	+17,042,142.21	+87,042,142.21
17	Department of Employment, Skills, Small and Family Business	Departmental item	-192,916,339.00	-44,282,678.82	-237,199,017.82
18	Department of Education, Skills and Employment	Departmental item	+186,264,661.00	+42,684,429.01	+228,949,090.01
19	Department of Employment, Skills, Small and Family Business	Administered item, Outcome 1	-486,975,734.28	-72,496,896.29	-559,472,630.57
20	Department of Education, Skills and Employment	Administered item, Outcome 4	+483,790,000.00	+72,416,337.08	+556,206,337.08
21	Department of Employment, Skills, Small and Family Business	Administered item, Outcome 2	-371,648,000.00	-48,694,122.29	-420,342,122.29
22	Department of Education, Skills and Employment	Administered item, Outcome 3	+371,648,000.00	+48,694,122.29	+420,342,122.29
23	Department of Industry, Science, Energy and Resources	Departmental item	+65,002,995.81	+20,914,924.03	+85,917,919.84
24	Department of Industry, Science, Energy and Resources	Administered item, Outcome 4	+3,185,734.28	+80,559.21	+3,266,293.49
26	Department of Industry, Science, Energy and Resources	Administered item, Outcome 2	+1,137,000.00	-1,137,000.00	0.00
27	Department of Agriculture, Water and the Environment	Administered item, Outcome 4	-27,000,000.00	-5,225,857.21	-32,225,857.21
28	Department of Industry, Science, Energy and Resources	Administered item, Outcome 3	+27,000,000.00	+6,362,857.21	+33,362,857.21
29	Services Australia (Department of State)	Departmental item	-2,185,529,458.98	-299,852,592.43	-2,485,382,051.41
30	Services Australia (Executive Agency)	Departmental item	+2,185,529,458.98	+299,852,592.43	+2,485,382,051.41
33	Department of Agriculture	Corporate entity item, Australian Pesticides and Veterinary Medicines Authority	-2,253,000.00	-178,000.00	-2,431,000.00
34	Department of Agriculture, Water and the Environment	Corporate entity item, Australian Pesticides and Veterinary Medicines Authority	+2,253,000.00	+178,000.00	+2,431,000.00
35	Department of Agriculture	Corporate entity item, Murray-Darling Basin Authority	-24,907,000.00	-2,017,000.00	-26,924,000.00
36	Department of Agriculture, Water and	Corporate entity item, Murray-Darling Basin	+24,907,000.00	+2,017,000.00	+26,924,000.00

	the Environment	Authority			
37	Department of Agriculture	Corporate entity item, Regional Investment Corporation	-5,127,500.00	-10,500.00	-5,138,000.00
38	Department of Agriculture, Water and the Environment	Corporate entity item, Regional Investment Corporation	+5,127,500.00	+10,500.00	+5,138,000.00
39	Department of Communications and the Arts	Corporate entity item, Australian Broadcasting Corporation	-326,061,000.00	-48,812,000.00	-374,873,000.00
40	Department of Infrastructure, Transport, Regional Development and Communications	Corporate entity item, Australian Broadcasting Corporation	+326,061,000.00	+48,812,000.00	+374,873,000.00

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

9. Item 6 of the amendment determination adds item 49 to the table in subsection 8(4) of the Determination. The item affect the relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2019-2020* 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 (\$)
49	Department of the Prime Minister and Cabinet	Departmental item	0.00	+279,249.81	+279,249.81

10. Item 7 of the amendment determination repeals and substitutes several items in the table in subsection 9(4) of the Determination. The items affect the relevant appropriation items in Schedule 2 to the *Appropriation Act (No. 2) 2019-2020* 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 (\$)
3	Department of Agriculture	Administered assets and liabilities item	-281,666,000.00	-7,854,807.87	-289,520,807.87
4	Department of Agriculture, Water and the Environment	Administered assets and liabilities item	+143,666,000.00	+7,854,807.87	+151,520,807.87
7	Department of Employment, Skills, Small and Family Business	Other departmental item (Equity Injections)	-15,633,747.00	-8,875,568.81	-24,509,315.81
8	Department of Education, Skills and Employment	Other departmental item (Equity Injections)	+15,633,747.00	+8,875,568.81	+24,509,315.81
10	Services Australia (Department of State)	Other departmental item (Equity Injections)	-42,055,440.73	-36,908,347.34	-78,963,788.07
11	Services Australia (Executive Agency)	Other departmental item (Equity Injections)	+42,055,440.73	+36,908,347.34	+78,963,788.07

		Injections)			
12	Department of Agriculture	Corporate entity item, Murray-Darling Basin Authority	-2,784,750.00	-186,250.00	-2,971,000.00
13	Department of Agriculture, Water and the Environment	Corporate entity item, Murray-Darling Basin Authority	+2,784,750.00	+186,250.00	+2,971,000.00

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