

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2019-2020 (No. 5) (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.

On 5 December 2019, the Governor-General made a new Administrative Arrangements Order (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 finalise the transfer of responsibility for energy functions from the renamed Agriculture, Water and the Environment portfolio to the renamed Industry, Science, Energy and Resources portfolio.

Also on 5 December 2019, the Governor-General made an Executive Order that amended the name and functions of the National Drought and North Queensland Flood Response and Recovery Agency. The amendment determination modifies the Appropriation Acts to reflect the transfer of responsibility for the National Drought Map from the Department of Agriculture, Water and the Environment to the National Drought and North Queensland Flood Response and Recovery Agency.

On 1 January 2020, amendments to the *Aged Care Quality and Safety Commission Act 2018* commenced on commencement of the *Aged Care Legislation Amendment (New Commissioner Functions) Act 2019*. The amendment determination modifies the Appropriation Acts to support functions transferring from the Department of Health to the Aged Care Quality and Safety Commission in relation to the regulation of aged care providers.

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 modifies the definition of Appropriation Act in section 4 of the Determination, to include the six most recent 2019-2020 Appropriation Acts.
- Item 2 of the amendment determination adds paragraph 5(1)(n) to subsection 5(1) of the Determination.
- Paragraph 5(1)(n) modifies the Appropriation Acts such that references to the North Queensland Livestock Industry Recovery Agency have effect as if they were references to the National Drought and North Queensland Flood Response and Recovery Agency.
- Item 3 of the amendment determination repeals and substitutes two 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 (\$)
4	Department of Agriculture, Water and the Environment	Departmental item	+129,593,993.16	+225,005.00	+129,818,998.16
23	Department of Industry, Science, Energy and Resources	Departmental item	+85,917,919.84	-1,382,809.00	+84,535,110.84

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

- Item 4 of the amendment determination adds items 50 to 52 to 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 (\$)
50	National Drought and North Queensland Flood Response and Recovery Agency	Departmental item	0.00	+1,157,804.00	+1,157,804.00
51	Department of Health	Departmental item	0.00	-2,176,000.00	-2,176,000.00
52	Aged Care Quality and Safety Commission	Departmental item	0.00	+2,176,000.00	+2,176,000.00

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