

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2020-2021 (No. 2) (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 recent Machinery of Government changes.

Following the commencement of Schedule 2 of Part 2 of the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020* on 28 February 2021, the Consumer Data Right rules and sectors assessment function transferred from the Australian Competition and Consumer Commission to the Department of the Treasury.

On 15 April 2021, the Governor-General made amendments to the Administrative Arrangements Order made on 18 March 2021 including the transfer of responsibility for small business functions from the Industry, Science, Energy and Resources portfolio to the Treasury portfolio.

On 15 April 2021, the Governor-General made an order to abolish the Infrastructure and Project Financing Agency (IPFA) as an executive agency commencing from the end of 30 April 2021. IPFA will continue as a separately branded activity within the Department of the Treasury.

The amendment determination modifies the Appropriation Acts to reflect these transfers.

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 this determination.

The amendment determination amends the *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2020-2021* (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 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 four most recent 2020-2021 Appropriation Acts.
- Item 2 of the amendment determination adds items 6 and 7 to the table in subsection 5(3) of the Determination. The items affect the relevant appropriation items in Schedule 1 to the *Supply Act (No. 1) 2020-2021* 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 (\$)
6	Department of Industry, Science, Energy and Resources	Departmental item	0.00	-1,771,000.00	-1,771,000.00
7	Department of the Treasury	Departmental item	0.00	+1,771,000.00	+1,771,000.00

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

- Item 3 of the amendment determination adds sections 6 and 7 to the Determination which apply to appropriation items in Schedule 2 to the *Supply Act (No. 2) 2020-2021* and to appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2020-2021*, respectively.
- The table at subsection 6(2) affects relevant appropriation items in Schedule 2 to the *Supply Act (No. 2) 2020-2021* 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 Industry, Science, Energy and Resources	Other departmental item (Equity Injections)	0.00	-237,000.00	-237,000.00
2	Department of the Treasury	Other departmental item (Equity Injections)	0.00	+237,000.00	+237,000.00

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

- The table at subsection 7(2) affects relevant appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2020-2021* 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 Industry, Science, Energy and Resources	Administered item, Outcome 4	0.00	-4,762,000.00	-4,762,000.00
2	Department of the Treasury	Administered item, Outcome 1	0.00	+4,762,000.00	+4,762,000.00
3	Australian Competition and Consumer Commission	Departmental item	0.00	-3,438,378.20	-3,438,378.20
4	Infrastructure and Project Financing Agency	Departmental item	0.00	-1,578,665.87	-1,578,665.87
5	Department of the Treasury	Departmental item	0.00	+5,017,044.07	+5,017,044.07

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