

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

*Public Governance, Performance and Accountability
(Section 75 Transfers) Determination 2024-2025*

Purpose of the determination

Section 75 of the *Public Governance, Performance and Accountability Act 2013* (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. The power in section 75 recognises that the Executive Government will from time to time choose to reorganise the administration and delivery of its functions with commensurate transfers of resources, including appropriations, between entities.

Subsection 75(7) of the PGPA Act provides that a determination made under subsection (2) is a legislative instrument, but that section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination. The Explanatory Memorandum for the Public Governance, Performance and Accountability Bill 2013 provides (at paragraph 370) that determinations made under section 75 are exempt from disallowance as the changes effected by determinations made under section 75 are in the nature of administrative changes only, relating to the Executive Government's decisions about the allocation of functions to particular entities.

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, subdelegated this power to certain officials within the Department of Finance.

The Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2024-2025 (the principal determination) modifies the *Appropriation Act (No. 1) 2024-2025* to reflect the transfer of appropriations:

- from the Australian Taxation Office (ATO) to the Australian Securities and Investments Commission (ASIC); and
- from the Bureau of Meteorology (BOM) to the National Emergency Management Agency (NEMA).

As part of the *Mid-Year Economic and Fiscal Outlook 2023-24*, the Government announced that the responsibility for business registers will transfer from the ATO to ASIC, following the decision to cease the Modernising Business Registers program.

On 20 June 2024, the Government announced that emergency management support functions of the Australian Climate Service would transfer from BOM to NEMA. The transfer implements one of the recommendations made by the final report of the Independent Review of the Australian Climate Service.

The principal determination does not change the total amount appropriated by the Parliament. It is a legislative instrument for the purposes of section 8 of the *Legislation Act 2003*.

Commencement

The principal determination commences the day after it is registered on the Federal Register of Legislation.

Statement of compatibility with human rights

A statement of compatibility with human rights is not required for the principal 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 made under subsection 75(2) of the PGPA Act is exempt from disallowance under subsection (7). As such, a statement of compatibility with human rights is not required.

Consultation

Consistent with section 17 of the *Legislation Act 2003*, the affected entities were consulted in the preparation of the principal determination.

Summary of amendments

Section 5 of the principal determination applies to the *Appropriation Act (No. 1) 2024-2025* as if appropriation items in Schedule 1 to the Act were increased or decreased in accordance with the table included in subsection (2). If an appropriation item exists only because of the principal determination, the increase is from a nil amount.

Item	Entity	Appropriation item	Increase (+) / decrease (-) by the principal determination (\$)
1	Australian Taxation Office	Departmental item	-26,103,330.49
2	Australian Securities and Investments Commission	Departmental item	+26,103,330.49
3	Bureau of Meteorology	Departmental item	-12,370,000.00
4	National Emergency Management Agency	Departmental item	+12,370,000.00

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