

## **EXPLANATORY STATEMENT**

### ***Financial Management and Accountability Act 1997, Section 31* Agreements for “Net Appropriations”**

#### **The instrument to which this explanatory statement relates**

This explanatory statement relates to an instrument (the instrument) made under section 31 of the *Financial Management and Accountability Act 1997* (FMA Act), which is entitled Net Appropriation Agreement for the Australian-Japan Foundation, commencing 7 February 2005.

#### **The legislative authority under which the instrument is made**

Section 31 of the FMA Act enables the Minister for Finance and Administration (the Finance Minister) to enter into agreements with other Ministers for the purposes of items in Appropriation Acts that are marked “net appropriation”.

Section 31 of the FMA Act, together with certain standard provisions of the annual Appropriation Acts, (for example, section 10 of *Appropriation Act (No.1) 2004-2005*), allows departmental (and in select cases, administered) appropriation items to be increased by amounts received by an agency as specified in the agreement.

Subsection 31(3) of the FMA Act provides that an agreement may be for any period (that is, it need not relate to a particular Appropriation Act or Acts), including a period longer than a financial year. Generally agreements continue until circumstances require their renewal.

Subsection 31(4) of the FMA Act enables the Finance Minister to cancel or vary an agreement at any time without the consent of the other party.

#### **Purpose and operation of the instrument**

The instrument identifies the types of receipts which increase an existing appropriation for the Australia-Japan Foundation. The instrument is given effect by the annual appropriation Acts, which provide that the relevant departmental or administered appropriation item is increased in accordance with the agreement. This enables the receipts to be spent by the agency.

For example, where an agency sells minor assets, such as its surplus office furniture and fittings, the amounts received from the sale will be available for expenditure by that agency. Without the agreement, any amounts received by the agency would not be available to be spent by the agency, without further appropriation by Parliament.

#### **Notes on the instrument**

Specific provisions within the annual Appropriation Acts give effect to the instrument. Therefore, the instrument only has effect while the relevant specific provisions exist in the annual Appropriation Acts.

Eligible receipts covered by the instrument are set out in clause 5.1 of the instrument.

## **Consultation**

The Australia-Japan Foundation is the agency affected by this instrument. The agency was provided with drafts of the instrument before the instrument was finalised and agrees with the form of the instrument. As the instrument is for internal machinery of government purposes only, no consultation was considered necessary with other persons (see sections 17 and 18 of the *Legislative Instruments Act 2003*).

## **Additional Information**

Agreements made under section 31 of the FMA Act are not subject to the parliamentary disallowance and sunset provisions of the *Legislative Instruments Act 2003*: see item 19 in subsection 44(2) and item 17 in subsection 54(2) of the *Legislative Instruments Act 2003*.