

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Administration

Financial Management and Accountability Act 1997

Determination 2006/03 to establish a Special Account

Purposes of Determination 2006/03

The attached instrument makes a determination under subsection 20 (1) of the *Financial Management and Accountability Act 1997* (FMA Act) to establish a Special Account entitled *Other Trust Moneys - Federal Magistrates Court Special Account*. It also specifies the nature of amounts that may be credited to, and the purposes for which amounts may be debited from, the Other Trust Moneys - Federal Magistrates Court Special Account.

Special Accounts Generally

In accordance with the Constitution, all revenues or moneys raised or received by the Executive Government of the Commonwealth form one Consolidated Revenue Fund (CRF) and may not be used unless in accordance with an appropriation by the Parliament for the purposes of the Commonwealth. This determination establishes a Special Account, and sets out the amounts that may be credited to the Account and the purposes for which it may be debited. Special Accounts established by determination are supported by an appropriation under section 20 of the FMA Act. In effect, Special Accounts allow specified amounts from the CRF to be expended for a particular specified purpose.

Determinations that establish Special Accounts, or vary determinations that establish Special Accounts, are subject to section 22 of the FMA Act. Section 22 of the FMA Act requires the Finance Minister to table a copy of the establishing or varying determination in each House of Parliament. Either House may disallow a determination within five sitting days of tabling. If the determination is not disallowed, it comes into effect on the calendar day after the last day on which it could have been disallowed.

Regulation 10 of the *Legislative Instruments Regulations 2004* preserves the disallowance provisions under section 22 of the FMA Act by exempting Special Account determinations from subsections 57(2) and 57(5) of the *Legislative Instruments Act 2003*.

Special Accounts can also be abolished by a determination of the Finance Minister. However, there is no requirement to table the determination to abolish a Special Account.

Operation of the Determination 2006/03

Purpose of the Other Trust Moneys - Federal Magistrates Court Special Account

The determination is required in order to establish a Special Account, to enable the Federal Magistrates Court to temporarily hold amounts on behalf of persons or entities other than the Commonwealth.

Other Trust Moneys Special Accounts provide agencies with an ability to hold amounts on behalf of others and the appropriation to expend these amounts. Typically Other Trust Moneys Special Accounts are used to accommodate small amounts of miscellaneous moneys. For example, the Other Trust Moneys Special Account may be used to provide an appropriation to allow moneys found by Commonwealth officials to be paid to their rightful owner once the owner has been identified. It may also be used to hold amounts received from Comcare in relation to employees entitled to receive workers' compensation payments.

At the commencement of the FMA Act on 1 January 1998 a determination of the Finance Minister created Other Trust Moneys Special Accounts for all agencies that existed at that time. The Federal Magistrates Court was created on 23 December 1999 and the agency has recently identified amounts that will be required to be held in an Other Trust Moneys Special Account.

Should the Federal Magistrates Court change its name, due to a change in legislation or for some other reason, it is intended that the Special Account be retained by the successor agency. This will enable the amounts in the Special Account at that time to remain with the relevant agency.

Clause 5 specifies the purposes for which a Special Account can be debited.

- Paragraph 5(a) describes the primary purpose for expenditure of amounts from the Special Account.
- Paragraph 5(b) allows the Special Account to be debited, in a manner that would otherwise be permitted by section 28 of the FMA Act. It is included to simplify accounting for these transactions.

Consultation

The Federal Magistrates Court is the agency affected by this instrument. The agency was provided with drafts of the instrument 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*).

Estimates of transactions on the Other Trust Moneys - Federal Magistrates Court Special Account

	Opening Balance 2006-07 <i>2005-06</i> \$'000	Credits 2006-07 <i>2005-06</i> \$'000	Debits 2006-07 <i>2005-06</i> \$'000	Closing Balance 2006-07 <i>2005-06</i> \$'000
Other Trust Moneys - Federal Magistrates Court Special Account	0 <i>0</i>	10 <i>10</i>	10 <i>10</i>	0 <i>0</i>