

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Administration

Financial Management and Accountability Act 1997

Determination 2007/13 to establish a Special Account

Purposes of Determination 2007/13

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 *Services for Other Entities and Trust Moneys – Private Health Insurance Ombudsman 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 *Services for Other Entities and Trust Moneys – Private Health Insurance Ombudsman Special Account*.

Special Accounts Generally

In accordance with the Constitution, all revenues or moneys raised or received by the Government of the Commonwealth form one Consolidated Revenue Fund (CRF) and may not be spent unless under an appropriation by the Parliament for the purposes of the Commonwealth. A Special Account is established by a Determination that sets out the amounts that may be credited 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 amounts from the CRF to be spent on a purpose specified in the Special Account.

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. The Determination may prescribe a later date upon which the Special Account can be relied upon.

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*.

The notes to the Determination identify legislation and other laws that allow or require amounts to be credited to, or debited from, the Special Account.

Operation of the Determination 2007/13

Purpose of the Services for Other Entities and Trust Moneys – Private Health Insurance Ombudsman Special Account

Many agencies under the FMA Act have a Determination creating an Other Trust Moneys Special Account (OTM) and a Services for other Government and Non-agency Bodies Special Account (SOG). This Determination combines those two

separate Special Accounts as part of the simplification of the financial framework and will cover the Private Health Insurance Ombudsman from the time it is prescribed in Part 1 of Schedule 1 of the *Financial Management and Accountability Regulations 1997*.

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

- Paragraph 5 (a) and (b) describe the primary purposes for expenditure of amounts from the Special Account.
- Paragraph 5 (c) 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.

The agency affected by this determination is being established under the FMA Act to implement recommendations arising from a Uhrig assessment of the agency. The Private Health Insurance Ombudsman has identified amounts that will be required to be held in a Services for Other Entities and Trust Moneys Special Account.

The Services for Other Entities and Trust Moneys Special Account provides the agency with an ability to hold amounts on behalf of others and the appropriation to expend these amounts. Typically the Services for Other Entities and Trust Moneys Special Account will be used to accommodate small amounts of miscellaneous moneys. For example, the Services for Other Entities and 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.

Additionally the Services for Other Entities and Trust Moneys Special Account provides the agency with an ability to hold amounts received in relation to services performed for any persons that are not agencies as prescribed under the FMA Act. Typically the Services for Other Entities and Trust Moneys Special Accounts will be used when an agency receives amounts from another legal entity to perform a service that they offer. Often the services are for foreign or state governments.

Consultation

The agency affected by this instrument is the Private Health Insurance Ombudsman. No community consultation was carried out as the instrument is for machinery of government purposes only (see sections 17 and 18 of the *Legislative Instruments Act 2003*).

Estimates of transactions on the *Services for Other Entities and Trust Moneys – Private Health Insurance Ombudsman Special Account*

	Opening Balance 2008-09 2007-08 \$'000	Credits 2008-09 2007-08 \$'000	Debits 2008-09 2007-08 \$'000	Closing Balance 2008-09 2007-08 \$'000
<i>Services for Other Entities and Trust Moneys – Private Health Insurance Ombudsman Special Account</i>	*	*	*	*
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* Due to the agency becoming newly prescribed under the FMA Act the receipts and expenditure of miscellaneous moneys is not able to be estimated at this time.