

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Administration

*Financial Management and Accountability Act 1997*

Determination 2005/13 to establish a Special Account

### **Purposes of Determination 2005/13**

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 *Other Trust Moneys - National Water Commission 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 - National Water Commission 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.

The Finance Minister must table a copy of a determination relating to a Special Account 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*.

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 2005/13**

#### ***Purpose of the Other Trust Moneys - National Water Commission Special Account***

The determination is required in order to establish a Special Account, to enable the National Water Commission to temporarily hold amounts on behalf of persons or entities that are not subject to the FMA Act.

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 National Water Commission was created after 1 January 1998 and therefore requires its own Other Trust Moneys Special Account.

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 these amounts are used to accommodate small amounts of miscellaneous moneys that the agency is holding on behalf others. For example the Other Trust Moneys 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.

Up until this time the National Water Commission has not identified amounts that it required to hold in an Other Trust Moneys Special Account.

Should the National Water Commission 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 6 specifies the purposes for which a Special Account can be debited.

- Paragraph 6(a) describes the primary purpose for expenditure of amounts from the Special Account.
- Paragraph 6(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 National Water Commission is the agency affected by this instrument. The agency was provided with drafts of the instrument before it was finalised and agree with the form of the instrument. 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 Other Trust Moneys - National Water Commission Special Account

	Opening Balance <b>2005-06</b> <i>2004-05</i> \$'000	Credits <b>2005-06</b> <i>2004-05</i> \$'000	Debits <b>2005-06</b> <i>2004-05</i> \$'000	Closing Balance <b>2005-06</b> <i>2004-05</i> \$'000
Other Trust Moneys - National Water Commission Special Account	<b>0</b> <i>0</i>	<b>20</b> <i>0</i>	<b>20</b> <i>0</i>	<b>0</b> <i>0</i>