

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Administration

*Financial Management and Accountability Act 1997*

Determination 2005/41 to vary a Special Account

### **Purposes of Determination 2005/41**

The attached instrument makes a determination under subsection 20 (2) of the Financial Management and Accountability Act 1997 (FMA Act) to vary a previous Special Account Determination. This variation is in relation to the Determination titled *Determination by the Minister for Finance and Administration* under section 5(7) of the *Financial Management Legislation Amendment Act 1999* and section 20 of the *Financial Management and Accountability Act 1997*, made on 14 June 2002, that established the ComSuper 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 varies a Special Account. Special Accounts varied 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 2005/41**

#### ***Reasons for varying the Special Account***

This determination varies a Determination by the Minister for Finance and Administration under section 20 of the Financial Management and Accountability Act 1997, which established the PSS Special Account.

The variation is required to effect changes required by the introduction of the Public Sector Superannuation Accumulation Plan (PSSAP), which was established on 1 July 2005 in accordance with the *Superannuation Act 2005*. Section 30 of that Act provides that the Commissioner for Superannuation is responsible for the provision of administrative services to the PSS Board in the performance of the Board's functions in relation to the PSSAP.

Various other legislation confers on the Commissioner responsibility for administration of several other superannuation arrangements. These responsibilities include the provision of administrative services to the PSS Board in the performance of the Board's functions in relation to the Public Sector Superannuation Scheme (PSS Scheme) pursuant to section 29 of the *Superannuation Act 1990*.

The current purposes of the Special Account are:

- a) the provision of administration, accounting and other support services to or on behalf of the CSS Board;
- b) the provision of administration, accounting and other support services to or on behalf of the PSS Board;
- c) the provision of administration, accounting and other support services to or on behalf of the Military Superannuation and Benefits Board of Trustees No.1;
- d) the administration of any functions conferred on the Commissioner for Superannuation under any legislation, including the *Superannuation Act 1922*, the *Defence Force Retirement and Death Benefits Act 1973*, the *Defence Forces Retirement Benefits Act 1948*, the *Papua New Guinea (Staffing Assistance) Act 1973* and the *Superannuation Act 1976*;
- e) the transfer of the CSS Board's share of revenue, as agreed between the Commissioner for Superannuation and the CSS Board; and
- f) the transfer of the PSS Board's share of revenue, as agreed between the Commissioner for Superannuation and the PSS Board.

As noted in paragraph (b) above, the account currently provides that the Commissioner for Superannuation may receive amounts from employers of PSS members in respect of the cost of administering the PSS. As identified in paragraph (f) above, a share of this revenue, as agreed between the Commissioner for Superannuation and the PSS Board, may be transferred to the PSS Special Account for which the PSS Board is responsible in respect of any cost of administering the PSS incurred by the PSS Board.

### ***Changes required***

The amended account will provide that the Commissioner for Superannuation may receive amounts in respect of the cost of administering the PSSAP. Like the PSS, the account will provide that a share of this revenue, as agreed between the Commissioner for Superannuation and the PSS Board, may be transferred to the PSS Special Account in respect of any cost of administering the PSSAP incurred by the PSS Board. As a result, the purpose clauses in the old account have been changed to include reference to the PSSAP.

They have also been redrafted to more accurately describe for what purposes the account may be debited.

As part of a programme to enhance the clarity of Special Account determinations and to remove any areas of doubt over the scope of the purposes of Special Accounts, the following changes are being incorporated within the determinations of all Special Accounts, where appropriate, and where the need for other variations arise:

- *a provision to debit amounts relating to incidental activities.* This allows administration costs, including such items as auditing, reporting, budgeting,

accounting and information technology services incurred in the course of operating the Special Account, to be debited from the Special Account. The existing purpose clause would often allow the debiting of the Special Account for these costs, depending on the degree of directness of connection of the costs with other purposes of the Special Account. The inclusion of the new incidental clause removes the need to obtain legal advice on the degree of directness of connection for individual transactions;

- *a capacity to return excess amounts to the Budget* (that is, reduce the balance of the Special Account without a real or notional payment). This provision does not allow amounts to be transferred to another Special Account, or to be allocated for any other purpose, that is not consistent with the purposes of the Special Account;
- *a clause to allow for amounts to be repaid when another Act or law allows it.* This has always been permitted by section 28 of the FMA Act, but is now included in determinations to simplify accounting for these transactions; and
- *notes that identify general credits and debits that can be made to Special Accounts,* for information purposes, in reliance on other laws.

### Effect of this determination

This determination varies a *Determination by the Minister for Finance and Administration under section 5(7) of the Financial Management Legislation Amendment Act 1999 and section 20 of the Financial Management and Accountability Act 1997*, that established the ComSuper Special Account, to make its purposes and appearance consistent with a new template for all Special Account determinations. The compiled determination will be in format that makes the determination as clear and informative as possible.

### Consultation

ComSuper and the PSS Board are the agencies affected by this instrument. The agencies were 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 ComSuper Special Account

	Opening Balance <b>2006-07</b> 2005-06 \$'000	Credits <b>2006-07</b> 2005-06 <sup>(1)</sup> \$'000	Debits <b>2006-07</b> 2005-06 \$'000	Closing Balance <b>2006-07</b> 2005-06 \$'000
ComSuper Special Account	<b>2,704</b> 5,027	<b>55,520</b> 50,735	<b>54,551</b> 53,058	<b>3,673</b> 2,704