

Explanatory Statement

Financial Management and Accountability Act 1997, Section 32 - Adjustments of Appropriations on Change of Agency Functions

The instrument to which this explanatory statement relates

This explanatory statement relates to an instrument (the instrument) entitled “Direction under Section 32, Financial Management and Accountability Act 1997”, dated 15 February 2006 and numbered 13 of 2005-2006.

The legislative authority under which the instrument is made

Section 32 of the *Financial Management and Accountability Act 1997* (the FMA Act) applies if a function of an Agency (the old Agency) becomes a function of another Agency (the new Agency), either because the old Agency is abolished or for any other reason.

Subsection 32(2)(a) of the FMA Act enables the Finance Minister to, amongst other things, issue one or more directions to transfer from the old Agency to the new Agency some or all of an amount that has been appropriated for the performance of that function by the old Agency.

As noted in the FMA Act, the Finance Minister has delegated his power under section 32 to the Chief Executive of the Department of Finance and Administration. By way of an instrument dated 30 November 2004, the Chief Executive of the Department of Finance and Administration has, in turn, delegated the power to the General Manager, Financial Management Group, and the Division Manager, Financial Reporting and Cash Management Division.

Purpose of the instrument

The instrument directs that departmental outputs Outcome 2 from *Appropriation Act (No. 1) 2005-06* totalling \$9,724,782, provided to the Department of Employment and Workplace Relations, be transferred to departmental outputs Outcome 1 in *Appropriation Act (No.1) 2005-06* for the Office of the Australian Building and Construction Commissioner (ABCC).

Background

As part of its response to the Cole Royal Commission into the Building and Construction Industry, Cabinet agreed to establish the Office of the Australian Building and Construction Commissioner (JH/03/0145/CAB refers). The ABCC’s functions include monitoring and promoting compliance with the *Building and Construction Industry Improvement Act 2005*, the *Workplace Relations Act 1996* and the Building Code.

An appropriation adjustment, pursuant to section 32 of the FMA Act, is required to ensure that appropriation provided to the Department of Employment and Workplace Relations for these functions is transferred to the Office of the Australian Building and Construction Commissioner.

The amount to be transferred has been agreed between the Chief Financial Officers of the Department of Employment and Workplace Relations and the Office of the Australian Building and Construction Commissioner in line with established processes.

Notes on the instrument

The instrument provides that the moneys listed in column 4 of the schedule for the Department of Employment and Workplace Relations item be transferred to the Office of the Australian Building and Construction Commissioner item listed in column 1.