

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Administration

Financial Management and Accountability Act 1997

Determination 2007/03 to vary and abolish a Special Account

Purposes of Determination 2007/03

The attached instrument makes a determination under section 20 of the *Financial Management and Accountability Act 1997* (FMA Act) to vary and subsequently abolish the *ComSuper Special Account*. This instrument varies the 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 on 14 June 2002.

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 determination.

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 be abolished by a determination of the Finance Minister. However, there is no requirement to table such a determination.

Operation of the Determination 2007/03

Purpose of the Commonwealth Superannuation Administration Special Account

A new Special Account, entitled the Commonwealth Superannuation Administration Special Account ('the new Account') is required in order to give effect to changes that are required to the ComSuper Special Account, but which are not practical to make by

variation to the ComSuper Special Account, due to the way in which the original determination was structured.

The current purposes of the ComSuper Special Account are:

- (a) providing administration, accounting and other support services to, or on behalf of:
 - (i) the Commonwealth Superannuation Scheme (CSS) Board; and
 - (ii) the Public Sector Superannuation Scheme (PSS) Board; and
 - (iii) the Military Superannuation and Benefits Board of Trustees No 1; and
- (b) the administration of any functions conferred on the Commissioner for Superannuation under any legislation, including:
 - (i) the *Superannuation Act 1922*; and
 - (ii) the *Defence Force Retirement and Death Benefits Act 1973*; and
 - (iii) the *Defence Forces Retirement Benefits Act 1948*; and
 - (iv) the *Papua New Guinea (Staffing Assistance) Act 1973*; and
 - (v) the *Superannuation Act 1976*; and
- (c) crediting the CSS Special Account with the CSS Board's share of revenue levied by Comsuper on employers participating in the CSS, as agreed between the Commissioner for Superannuation and the CSS Board; and
- (d) crediting the PSS Special Account with the PSS Board's share of revenue levied by Comsuper on employers participating in the PSS or the Public Sector Superannuation Scheme Accumulation Plan (PSSAP), as agreed between the Commissioner for Superannuation and the PSS Board; and
- (e) activities that are incidental to a purpose mentioned in paragraphs (a), (b), (c) or (d); and
- (f) to reduce the balance of the ComSuper Special Account (and, therefore, the available appropriation for the ComSuper Special Account) without making a real or notional payment; and
- (g) to repay amounts where an Act or other law requires or permits the repayment of an amount received.

Changes required

A clause has been inserted to allow amounts to be debited from the ComSuper Special Account and credited to the Commonwealth Superannuation Administration Special Account.

Limitations in the structure of the original determination

It is not practical to vary the original determination signed by the Minister for Finance and Administration on 14 June 2002 which established the ComSuper Special Account, as the format of the old determination is not consistent with the form and content of current Special Account determinations. Accordingly, a new Special Account is being established (Determination 2007/02) to provide for the continuation of the activities of the ComSuper Special Account to ensure that the determination is as clear and informative as possible.

Effect of this determination

The ComSuper Special Account is being varied by this determination (Determination 2007/03) to enable its balance to be credited to the new Account. Once the balance of the ComSuper Special Account reaches zero, clause 4 of the determination will abolish the ComSuper Special Account.

Consultation

ComSuper is the agency affected by this instrument, and was provided with drafts of the instrument and agrees with its form. 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 ComSuper Special Account

	Opening Balance 2006-07 \$'000	Credits 2006-07 \$'000	Debits 2006-07 \$'000	Closing Balance 2006-07 \$'000
ComSuper Special Account	9,113	65,204	71,716	2,601