

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance and Deregulation

FMA Act Determination 2008/16— Section 32 (Transfer of Functions from former DEST to DRET)

Subsection 32(2) of the *Financial Management and Accountability Act 1997* (FMA Act) provides that the Minister for Finance and Deregulation (Finance Minister) may, by determination, amend Schedules to annual Appropriation Acts to transfer appropriations in connection with the transfer of a function between agencies under the FMA Act. The determination has the effect of amending the Schedules concerned in accordance with the determination.

This power has been delegated from the Finance Minister to the Secretary of the Department of Finance and Deregulation under section 62 of the FMA Act.

Special Gazette No. S254 reflects the administrative arrangements order of 3 December 2007, made by the Governor-General in Council, which resulted in the abolition and establishment of Departments of State. As a result of these changes various annual Appropriation Acts require amendment in order to reflect the changes in departmental arrangements.

The purpose of this Determination is to allow a transfer of appropriations from the former Department of Education, Science and Training (DEST) to the Department of Resources, Energy and Tourism (DRET). The appropriation amounts transferred are as follows:

- From annual *Appropriation Act (No. 1) 2007-2008* an amount of \$500,000.00 of the departmental item for the former DEST to the departmental item for DRET.
- From annual *Appropriation Act (No. 1) 2007-2008* an amount of \$5,212,214.61 of the administered item for Outcome 5 for the former DEST to the administered item for Outcome 2 for DRET.

In accordance with the *Legislative Instruments Act 2003*, the former DEST and DRET were consulted in the preparation of this instrument.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Revocation of Previous Instrument

This Determination revokes and replaces the *FMA Act Determination 2007/04 – Section 32 (Transfer from the Department of Education, Science and Training to the Department of Resources, Energy and Tourism)* made on 7 December 2007.

On 7 December 2007, a delegate of the Minister for Finance and Deregulation made the *FMA Act Determination 2007/04 – Section 32 (Transfer from the Department of Education, Science and Training to the Department of Resources, Energy and*

Tourism). That determination provided for the amendment of Appropriation Acts, and was expressed to take effect from 3 December 2007, as permitted by s 32(8) of the FMA Act.

The 7 December instrument had the intended effect, of, altering the Appropriation Acts to provide that appropriation items were transferred between the relevant Agencies.

It has now become desirable to replace the 7 December instrument with instruments which can be properly incorporated into the consolidations of the Appropriation Acts. Some of the figures used in the 7 December instrument were incorrect, and these need to be altered.

Savings Provision

So as to preserve the validity of any actions taken under the 7 December instrument a savings provision has been included in the new instrument which preserves the validity of things done under the 7 December instrument.

The Australian Government Solicitor was consulted in the making of this instrument. The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.