

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

Determination 2009/10 to vary and abolish a Special Account

Purposes of Determination 2009/10

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 *Defence Endowments Account*.

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 may be 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 2009/10

Reasons for varying the Special Account

The current purpose of the *Defence Endowments Account* is for expenditure in accordance with the conditions of each endowment.

A new Special Account, entitled the *Defence Endowments Special Account* (the new Account), is required in order to give effect to changes that are required to the *Defence Endowments Account*, but which are not practical to make by variation to the *Defence Endowments Account* due to the way in which the *Initial Determination to Establish Components of the Reserved Money Fund* (the Initial Determination) was structured.

Limitations in the structure of the Initial Determination

It is not practical to vary the Initial Determination signed by the delegate of the Minister for Finance and Administration on 31 December 1997 (establishing a *Defence Endowments Reserve* as a component of the Reserved Money Fund). This is because the format of the Determination constrains the amount of information that can be included. Accordingly, a new Account is being established (Determination 2009/11) to provide for the continuation of the activities of the *Defence Endowments Account*, the incorporation of the necessary changes, and to ensure that the Determination is as clear and informative as possible.

Effect of this Determination

The *Defence Endowments Account* is being varied by this Determination to enable its balance to be credited to the new Account. Once the balance of the *Defence Endowments Account* reaches zero, clause 4 of the Determination will abolish the *Defence Endowments Account*.

Consultation

The Department of Defence is the agency affected by this instrument. The agency was provided with drafts of the instrument and agrees with the form of the instrument. 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 *Defence Endowments Account*

	Opening Balance 2008-09 \$'000	Credits 2008-09 \$'000	Debits 2008-09 ⁽¹⁾ \$'000	Closing Balance 2008-09 \$'000
<i>Defence Endowments Account</i>	297	0	297	0

1. Includes balance to be debited from the *Defence Endowments Account* and credited to the new Account.