

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

Determination 2010/03 to abolish a Special Account

Purposes of Determination 2010/03

The attached instrument makes a determination under subsection 20 (3) of the *Financial Management and Accountability Act 1997* (FMA Act) to abolish the *Other Trust Moneys Account* (OTM Account), administered by the Australian Bureau of Statistics.

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 the purposes 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 the 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, such a determination is not subject to parliamentary disallowance.

Operation of Determination 2010/03

Reasons for abolishing the Special Account

A new Special Account, entitled the *Services for Other Entities and Trust Moneys – Australian Bureau of Statistics Special Account* (SOETM Special Account), will be established in order to give effect to changes that are required to the OTM Account, but which are not practicable to be made by variation to the OTM Account due to the way in which its establishing determination was structured.

It is expected that the balance of the OTM Account will be transferred to the SOETM Special Account upon its creation, thereby making the OTM Account redundant.

Limitations in the structure of the Initial Determination

It is not practicable to vary the Initial Determination signed by the delegate of the Minister for Finance and Administration on 31 December 1997, which established the OTM Account. This is because the format of the determination constrains the amount of information that can be included. Accordingly, a new Special Account is being established (Determination 2010/04) to provide for the continuation of the activities of the OTM Account, and to bring it in line with the structure of similar Special Accounts managed by a number of other agencies.

Effect of this Determination

The OTM Account, administered by the Australian Bureau of Statistics, is abolished by this Determination with effect from the time at which the balance of the Special Account reaches zero.

Consultation

The Australian Bureau of Statistics 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 *Other Trust Moneys Account*

	2009-10 (\$'000)			
	Opening Balance	Credits	Debits⁽¹⁾	Closing Balance
<i>Other Trust Moneys Account</i>	138	3	141	0

(1) Includes the balance debited from the OTM Account and credited to the new SOETM Special Account.