

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Deregulation

*Financial Management and Accountability Act 1997*

*Financial Management and Accountability (Establishment of SOETM Special Account – AEC)  
Determination 2012/04*

### **Purpose of the Determination**

The Determination is made under subsection 20(1) of the *Financial Management and Accountability Act 1997* (FMA Act) and establishes a Special Account entitled *Services for other Entities and Trust Moneys Special Account – Australian Electoral Commission*.

### **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 under subsection 20(1) of the FMA Act or vary Special Accounts under subsection 20(2) of the FMA Act are subject to the tabling and disallowance procedures in section 22 of the FMA Act. Section 22 of the FMA Act requires the Finance Minister to table a copy of the determination in each House of the Parliament. Either House may pass a resolution disallowing a determination within five sitting days of tabling. If the determination is not disallowed, it comes into effect on the day immediately after the last day on which it could have been disallowed.

Subsection 20(6) of the FMA Act exempts determinations that establish Special Accounts under subsection 20(1) of the FMA Act or vary Special Accounts under subsection 20(2) of the FMA Act from the operation of Part 6 (sunsetting) of the *Legislative Instruments Act 2003*.

Subsection 20(7) of the FMA Act exempts determinations that abolish Special Accounts under subsection 20(3) of the FMA Act from the operation of section 42 (disallowance) and Part 6 (sunsetting) of the *Legislative Instruments Act 2003*.

A Statement of Compatibility with Human Rights is not required for this legislative instrument. Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the *Legislative Instruments Act 2003*. While legislative instruments made or varied under subsections 20(1) or 20(2) of the FMA Act are subject to disallowance under section 22 of the FMA Act they are not subject to disallowance under section 42 of the *Legislative Instruments Act 2003*. Legislative instruments made under subsection 20(3) of the FMA Act are exempt from disallowance under subsection 20(7) of the FMA Act, as such a Statement of Compatibility with Human Rights is not required.

## **Operation of this Determination**

The *Services for Other Entities and Trust Moneys Special Account – Australian Electoral Commission* (SOETM) combines the purposes of the *Other Trust Moneys* and the *Services for other Governments and Non-agency Bodies* Special Accounts into a single standard purpose Special Account. The SOETM enables the Agency to continue to hold and expend amounts on behalf of persons or entities other than the Commonwealth. Typically the SOETM will be used to accommodate small amounts of miscellaneous moneys. For example, amounts received in connection with services performed for or on behalf of any persons or entities that are not Agencies as prescribed under the FMA Act, such as other governments.

## **Consultation**

The Agency affected by this determination was given an opportunity to comment on the instrument.

As the instrument is for internal machinery of government purposes only, no consultation was necessary with other persons (see sections 17 and 18 of the *Legislative Instruments Act 2003*).