

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

Financial Management and Accountability (Abolition of 24 Special Accounts)

Determination 2012/02

Purpose of the Determinations

The determination is made under subsection 20(3) of the *Financial Management and Accountability Act 1997* (FMA Act) and abolishes 24 Special Accounts.

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 determination abolishes 24 Special Accounts which are no longer required. Twenty-one of these Special Accounts are standard purpose accounts named *Other Trust Moneys Accounts* (OTMs). The remaining three Special Accounts are a specific purpose accounts managed by the National Archives of Australia, the Office of Australian Accounting Standards Board and the Office of Auditing and Assurance Standards Board respectively.

The Special Accounts are abolished when the balance of the appropriation reaches zero or by 30 June 2012 as specified in Schedule 1 and 30 June 2013 as specified in Schedule 2. The Special Accounts are redundant to requirements.

Consultation

The Agencies affected by the determination were 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*).

There is no expected fiscal or underlying cash impact.