**EXPLANATORY STATEMENT**

*Appropriation Act (No. 1) 2012-2013*

*Advance to the Finance Minister Determination (No. 3 of* *2012-2013)*

### Purpose of this Determination

The Advance to the Finance Minister (AFM) is provided under subsection 13(2) of *Appropriation Act (No. 1) 2012-2013* (the Act). Section 13 provides that amounts can be issued from the AFM, up to a limit of $295 million. The Finance Minister must, however, be satisfied there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for, in Schedule 1 of the Act, for one of the reasons specified in paragraphs 13(1)(a) and (b).

The Finance Minister is satisfied, based on information provided by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill for the Act, before the Bill was introduced into the House of Representatives: paragraph 13(1)(b).

The effect of the determination is that Schedule 1 of *Appropriation Act (No. 1) 2012‑2013* will have effect as if it were amended as specified in the determination.

### Advances to the Finance Minister generally

The section providing for the AFM is contained in the annual Appropriation Acts. It enables the Finance Minister to facilitate urgent and unforeseen expenditure that was not within the contemplation of Parliament when the Appropriation Act was passed, and was therefore not provided for in Schedule 1 of the Appropriation Act.

The background to the instrument is provided in the attached application made by FaHCSIA for funding from the AFM.

A determination made under subsection 13(2) of *Appropriation Act (No. 1) 2012-2013* is a legislative instrument, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the determination.

### Statement of Compatibility with Human Rights

The annual Appropriation Acts perform an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes indentified in the annual Appropriation Acts.

However, as the High Court has emphasised, beyond this, the annual Appropriation Acts do not create rights and nor do they, importantly, impose any duties.

Given that the legal effect of annual Appropriation Acts is limited in this way, the increase of amounts in the annual Appropriation Acts through an AFM is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Consultation and Impact

Consistent with Part 3 of the *Legislative Instruments Act 2003*, FaHCSIA was consulted in the preparation of this Determination.

The instrument determines that the administered item for Outcome 1 for FaHCSIA in *Appropriation Act (No. 1) 2012‑2013* be increased by $91,017,000. The administered item for Outcome 1 can be applied for the purpose of contributing to achieving the Outcome, namely: Improved child development, safety and family functioning through support services for all Australians, payments for low and medium income families with children, and child support policy.

The additional amount is specifically provided to enable FaHCSIA to meet payment obligations under the Family Support Program before 30 June 2013. As part of the 2013-2014 Budget, the Government agreed to bring forward $91.857 million for services under the Family Support Program.

**APPLICATION FOR ADVANCE TO THE FINANCE MINISTER – 2012-2013**

**Agency:** Department of Families, Housing, Community Services and Indigenous Affairs

**Appropriation:** *Appropriation Act (No. 1) 2012-2013*

**Description:** Administered item

**Outcome:** Outcome 1 - Improved child development, safety and family functioning through support services for all Australians, payments for low and medium income families with children and child support policy.

| **Source of Available Appropriations** | **2012-2013** | **2011-2012** | **2010-2011** |
| --- | --- | --- | --- |
|  | **$** | **$** | **$** |
| Appropriation Act (No. 1) | **157,094,000** | **214,388,431** | **200,935,295** |
| Appropriation Act (No. 3) |  |  | **1,400,000** |
| Appropriation Act (No. 5) |  | **90,571,000** |  |
| **Retained Prior Year Appropriations** | **0** | **0** | **0** |
| TOTAL APPROPRIATIONS AVAILABLE | **157,094,000** | **304,959,431** | **202,335,295** |
|  |  |  |  |
| TOTAL AMOUNT SPENT  (as at 13 June 2013) | **153,980,574** | **304,692,961** | **202,335,295** |
| TOTAL UNSPENT APPROPRIATIONS | **3,113,426** | **266,470** | **0** |

Appropriation Required: $94,130,426

Appropriations Available: $3,113,426

**Amount required from AFM: $91,017,000**

**AFM Category:**

unforeseen – “*Appropriation Act (No. 1) 2012-2013*, Part 3, section 13 (1)(b)”

**Explanation of requirements from AFM:**

As part of the 2013-14 Budget tabled in parliament on 14 May 2013, the Government sought to ensure continuity of funding for services under the Family Support Program and agreed to pay   
$91.587 million in payments in 2012-13 bought forward from 2013-14. The Government’s decision to make funding available in June 2013 enables the mid-year payment to be executed to service providers in the last week of June 2013, instead of in July 2013. The intention of the early payment is to ensure that service providers have uninterrupted access to core operational funding, particularly in instances where 2012-13 funds will be fully expended by 30 June 2013, which is generally expected under Commonwealth funding agreements. The Department does not have any 2012-13 funds within the outcome to cover this amount. All 2012-13 funds within the outcome are committed and will be expended by 14 June 2013. Therefore, in the absence of additional 2012-13 Appropriation Bills, there is a requirement for an AFM of $91.017 million.

**Urgent:**

There is an urgent need for funds as FaHCSIA will exhaust all available 2012-13 funding under Outcome 1 by 14 June 2013. Funds are required to meet payment obligations under the Family Support Program (program 1.1) before 30 June 2013. The purpose of the Family Support Program is to support families, particularly those who are vulnerable or living in disadvantaged communities, improve children’s wellbeing, development and safety and enhance family functioning.

As the Department has insufficient 2012-13 appropriation available to make the payment, an AFM is required.

**Unforeseen**

This requirement was identified as part of the 2013-14 Budget, with the Government requiring payments to be made before 30 June 2013.

**Legislative Authority for Spending**

The Legislative Authority for spending for the proposed AFM is part 410.001 Family Support from Schedule 1AA of the *Financial Management and Accountability Regulations 1997*.

|  |  |
| --- | --- |
| **Signed By Chief Finance Officer** | |
| **NAME: (block capitals please)** | **STEVE JENNAWAY** |
| **SIGNATURE:** |  |
| **DATE:** |  |