**EXPLANATORY STATEMENT**

*Financial Management and Accountability Act 1997*

*FMA Act Determination 2014/02 — Section 32 (Transfer of Functions from Industry to Education)* (the Determination)

### Purpose of the Determination

### The Determination is made under section 32 of the *Financial Management and Accountability Act* *1997* (FMA Act), to further adjust amounts appropriated to particular Agencies in response to the Administrative Arrangements Order made on 18 September 2013 and 3 October 2013.

### Due to a change to the Administrative Arrangements Order (AAO) on 18 September 2013, functions in relation to international education and higher education transferred from the former Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education to the Department of Education.

The *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)* altered specific references to Departments in *Appropriation Act (No. 1) 2013-2014* and *Appropriation Act (No. 2) 2013-2014* to reflect the AAO of 18 September 2013. This included references to the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education being deemed as references to the Department of Industry.

### This Determination is also made due to a change to the AAO made on 3 October 2013, where functions in relation to research were transferred from the Department of Industry to the Department of Education.

### This Determination is the second transfer of appropriations in relation to the transfer of international education and research functions. An initial transfer of appropriations commenced on 1 December 2013, under *FMA Act Determination 2013/18 — Section 32 (Transfer of Functions from Industry to Education)*. The further transfer of appropriations will occur in due course, which may occur through Additional Estimates or other Appropriation Acts.

### Transfer of Functions generally

### Section 32 of the FMA Act enables the Finance Minister to determine that one or more Schedules to one or more Appropriation Acts are amended in a specified way in relation to the transfer of a function from one Agency to another.

### Under section 62 of the FMA Act, the Finance Minister has delegated the power to make determinations under section 32 to the Secretary of the Department of Finance. Under section 53 of the FMA Act, the Secretary has, in turn, sub‑delegated this power to certain Senior Executive Service officials within the Department of Finance, including the official who made the Determination.

The Determination is a legislative instrument for the purposes of section 5 of the *Legislative Instruments Act 2003*.

### Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is not required for the Determination.
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.*A determination under section 32 of the FMA Act is exempt from disallowance under subsection 32(7) of theFMA Act. As such, a Statement of Compatibility with Human Rights is not required.

### Consultation and Impact

Consistent with Part 3 of the *Legislative Instruments Act 2003*, the Department ofEducation and the Department of Industry were consulted in the preparation of the Determination.

### Summary of Changes

The Determinationaffects Schedule 1 to the *Appropriation Act (No. 1) 2013-2014* in the following way, which results in no change to the total amount appropriated by Parliament:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Agency affected** | **Item affected** | **Appropriation Act** | **Transfer to ($ ’000)** | **Transfer from****($ ’000)** |
| Department of Education  | Administered item, Outcome 3(science and research etc) | *Appropriation Act (No. 1) 2013-2014* | +39,544 |  |
| Department of Industry | Administered item, Outcome 2(science and research etc) | *Appropriation Act (No. 1) 2013-2014* |  | -39,544 |
| Department of Education | Administered item, Outcome 4(skills, qualifications and productivity etc) | *Appropriation Act (No. 1) 2013-2014* | +25,666 |  |
| Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education | Administered item, Outcome 3(skills qualifications and productivity etc) | *Appropriation Act (No. 1) 2013-2014* |  | -25,666 |
| Department of Education | Departmental item | *Appropriation Act (No. 1) 2013-2014* | +47,764 |  |
| Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education | Departmental item | *Appropriation Act (No. 1) 2013-2014* |  | -47,764 |
|  |  | **Total** | **+112,974** | **-112,974** |

The Determinationalso affects Schedule 2 to the *Appropriation Act (No. 2) 2013-2014* in the following way, which results in no change to the total amount appropriated by Parliament:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Agency affected** | **Item affected** | **Appropriation Act** | **Transfer to ($ ’000)** | **Transfer from****($ ’000)** |
| Department of Education | Other departmental item (Equity Injections) | *Appropriation Act (No. 2) 2013-2014* | +1,475 |  |
| Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education | Other departmental item (Equity Injections) | *Appropriation Act (No. 2) 2013-2014* |  | -1,475 |
|  |  | **Total** | **+1,475** | **-1,475** |