

EXPLANATORY STATEMENT

Financial Management and Accountability Act 1997

FMA Act Determination 2014/06 — Section 32 (Transfer of Functions from Health to Social Services) (the Determination)

Purpose of the Determination

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

Under the Administrative Arrangements Order, functions relating to aged care were transferred from the former Department of Health and Ageing to the Department of Social Services (previously the Department of Families, Housing, Community Services and Indigenous Affairs).

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 Administrative Arrangements Order made on 18 September 2013. This included references to the Department of Families, Housing, Community Services and Indigenous Affairs being deemed as references to the Department of Social Services, and references to the Department of Health and Ageing being deemed as references to the Department of Health.

This Determination is the third transfer of appropriations in relation to aged care functions transferred from the former Department of Health and Ageing to the Department of Social Services. An initial transfer of appropriations occurred on 16 October 2013, under *FMA Act Determination 2013/09 — Section 32 (Transfer of Functions from Health to Social Services)*. A second transfer of appropriations occurred on 1 December 2013, under *FMA Act Determination 2013/17 — Section 32 (Transfer of Functions from Health to Social Services)*.

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.

The Finance Minister has delegated the power to make determinations under section 32 to the Secretary of the Department of Finance (in accordance with section 62 of the FMA Act). The Secretary has, in turn, sub-delegated this power to certain Senior Executive Service officials within the Department of Finance (in accordance with section 53 of the FMA Act), 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 the FMA 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 of Social Services was consulted in the preparation of the Determination.

Summary of Changes

The Determination affects 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 Health	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>		-72,163
Department of Social Services	Departmental item	<i>Appropriation Act (No. 1) 2013-2014</i>	+72,163	
Total			+72,163	-72,163

The Determination 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 Health	Other Departmental item (Equity Injections)	<i>Appropriation Act (No. 2) 2013-2014</i>		-13,782
Department of Social Services	Other Departmental item (Equity Injections)	<i>Appropriation Act (No. 2) 2013-2014</i>	+13,782	
Total			+13,782	-13,782