

EXPLANATORY STATEMENT

Appropriation Act (No. 1) 2015-2016

AFM Determination (No. 1 of 2015-16)

Purpose of this Determination

The Advance to the Finance Minister (AFM) is provided under subsection 10(2) of *Appropriation Act (No. 1) 2015-2016* (the Act). Section 10 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 reasons specified in paragraphs 10(1).

The Finance Minister is satisfied, based on information provided by the Australian Electoral Commission (AEC), that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the latest appropriation Bill relevant, the *Appropriation Bill (No. 3) 2015-2016* (the Bill), before it was introduced into Parliament: paragraph 10(1)(b) of the Act. The Bill was introduced into the House of Representatives on Thursday, 4 February 2016. An explanation of the additional expenditure is provided in this statement under the heading 'Consultation and Impact' below.

The effect of the determination is that Schedule 1 of *Appropriation Act (No. 1) 2015-2016* 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.

A determination made under subsection 10(2) of *Appropriation Act (No. 1) 2015-2016* is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation 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 identified 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 1 of the *Legislation Act 2003*, AEC was consulted in the preparation of this Determination.

The instrument determines that, in *Appropriation Act (No. 1) 2015-2016*, the departmental item for AEC is increased by \$101,237,000.

The additional amount is specifically provided to enable AEC to implement the electoral reforms recently agreed to by Parliament in the *Commonwealth Electoral Amendment Act 2016*, as well as to bring forward election preparations for the 2016 Federal Election. The Commonwealth Electoral Amendment Bill 2016 was introduced into Parliament on 22 February 2016.