

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

PGPA Act Determination (Austrade SOETM Special Account 2018)

Purpose of this determination

This determination is made under subsection 78(1) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) to establish the *Austrade SOETM Special Account 2018* (the special account) to replace the *Services for Other Entities and Trust Moneys – Department of Resources, Energy and Tourism Special Account* (the SOETM account) which will sunset on 1 October 2018.

The special account is being established to continue to enable the Australian Trade and Investment Commission (Austrade) to hold and expend amounts on behalf of persons or entities other than the Commonwealth, such as contributions from state and territory governments towards joint tourism projects and activities.

Once the special account is established, the SOETM account will be repealed and an amount equivalent to the amount standing to the credit of that account immediately before its repeal will be credited to the special account.

This determination will enable Austrade to continue to use a special account to credit and debit amounts after the SOETM account is repealed.

The operating context of special accounts

A special account may be established, varied or revoked by a determination made by the Minister for Finance under s 78 of the PGPA Act, or by an Act.

A special account is an appropriation mechanism that sets aside amounts within the Consolidated Revenue Fund (CRF) for spending on specified purposes. The purposes of a special account are set out in the establishing determination or Act.

In accordance with section 81 of the Constitution, all revenues or moneys raised or received by the Commonwealth Executive Government form one CRF. Section 83 of the Constitution provides that such money may not be drawn from the Treasury except under an appropriation made by law.

- A special account enables revenues or moneys raised or received to be set aside for the purposes of that special account.
- Payments made for the purposes of a special account are supported by an appropriation in the PGPA Act; subsection 78(4) appropriates the CRF for the purposes of a special account established by a determination, and subsection 80(1) appropriates the CRF for the purposes of a special account established by an Act.

Special account determinations

Special account determinations are legislative instruments for the purposes of the *Legislation Act 2003*. Special account determinations may be varied or revoked by a subsequent determination being made in accordance with subsection 78(3) of the PGPA Act.

In accordance with subsection 79(3) of the PGPA Act, the Finance Minister must table a copy of such determinations in each House of the Parliament. Subsection 79(4) of the PGPA Act

provides that special account determinations are subject to disallowance by either House of the Parliament. The disallowance period starts on the day a special account determination is tabled in the House and ends on the fifth sitting day after the determination was tabled in that House.

Subsection 79(5) provides that, if neither House passes a resolution to disallow a special account determination, the determination commences on the day immediately after the last day on which it could have been disallowed, or on a later day if specified in the determination. The determination does not specify a later day, so commences on the day mentioned in paragraph 79(5)(a) of the PGPA Act.

Human Rights

A Statement of Compatibility with Human Rights is not required for this 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 *Legislation Act 2003*. While determinations made or varied under subsections 78(1) or 78(3) of the PGPA Act are subject to disallowance under section 79 of the PGPA Act, subsection 79(2) provides that they are not subject to disallowance under section 42 of the *Legislation Act 2003*. As such, a Statement of Compatibility with Human Rights is not required.

Consultation

Austrade was consulted in the preparation of this determination.