

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 8) (the amendment determination)

Purpose of the determination

The amendment determination is made under section 75 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), to further adjust amounts appropriated to non-corporate Commonwealth entities, in response to the establishment of the NDIS Quality and Safeguards Commission (NDISQSC). NDISQSC commenced on 1 July 2018 by the *National Disability Insurance Scheme Act 2013* as amended by the *National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Act 2017*.

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 6) modified the *Appropriation Act (No. 1) 2018-2019* to transfer amounts from the Department of Social Services (DSS) to the NDISQSC. DSS has determined the *Appropriation Act (No. 1) 2017-2018* should have been modified instead of the *Appropriation Act (No. 1) 2018-2019* for the amounts to be transferred under section 75 of the PGPA Act to support functions transferred to NDISQSC from DSS in relation to the implementation of the NDIS Quality and Safeguarding Framework. The amendment determination reverses the transfers made under *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 6)*.

The amendment determination results in no change to the total amount appropriated by Parliament.

Commencement

The amendment determination commences on 30 June 2019.

Authority for the determination

Section 75 of the PGPA Act enables the Finance Minister to determine that one or more Schedules to one or more Appropriation Acts are modified in a specified way in relation to the transfer of a function from one non-corporate Commonwealth entity to another.

Under section 107 of the PGPA Act, the Finance Minister has delegated the power to make determinations under section 75 to the Secretary of the Department of Finance. Under section 109 of the PGPA Act, the Secretary has, in turn, sub-delegated this power to certain officials within the Department of Finance, including the official who made the determination.

The amendment determination amends the *Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2018-2019* (the Determination), which is a legislative instrument for the purposes of section 8 of the *Legislation Act 2003*.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is not required for the amendment 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*. A determination, including an amendment determination, under section 75 of the PGPA Act is exempt from disallowance under subsection 75(7) of the PGPA Act. As such, a Statement of Compatibility with Human Rights is not required.

Consultation

Consistent with Chapter 3, Part 1 of the *Legislation Act 2003*, the affected entities were consulted in the preparation of the amendment determination.

Summary of Modifications

1. Item 1 of the amendment determination repeals and substitutes item 7 in the table in subsection 6(4) of the Determination. The reversal of the transfer made under *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 6)* affects the relevant appropriation item in Schedule 1 to the *Appropriation Act (No. 1) 2018-2019* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
7	Department of Social Services	Departmental item	+36,644,538.20	+2,510,416.80	+39,155,000.00

2. Item 2 of the amendment determination repeals item 11 in the table in subsection 6(4) of the Determination. The reversal of the transfer made under *Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2018-2019 (No. 6)* affects the relevant appropriation item in Schedule 1 to the *Appropriation Act (No. 1) 2018-2019* in the following way:

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
11	NDIS Quality and Safeguards Commission	Departmental item	+2,510,461.80	-2,510,461.80	+0.00

3. As the amount transferred by the Determination for item 11 in the table in subsection 6(4) is now nil, the repeal of item 11 removes it from the table.

4. Following the repeal of item 11, item 3 of the amendment determination repeals and substitutes item 12 in the table in subsection 6(4) in order to renumber table item 12 to 11. There is no change to the amount transferred by the Determination for the renumbered table item 11.

Item	Entity	Appropriation item	Amount previously transferred by the Determination (\$)	Amount transferred by the amendment determination (\$)	Amended amount transferred by the Determination (\$)
11	Department of Employment, Skills, Small and Family Business	Departmental item	+14,749,159.03	0.00	+14,749,159.03

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.