

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance
Public Governance, Performance and Accountability Act 2013
PGPA Act Determination (IRSD Special Account 2020)

Purpose of this determination

This determination is made under subsections 78(1) and 78(3) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) to establish the *IRSD Special Account 2020* (the special account) for the National Indigenous Australians Agency (NIAA). The National Indigenous Australians Agency is prescribed as a listed entity for the purposes of the PGPA Act by the *Public Governance, Performance and Accountability Rule 2014*.

The special account is being established to enable the NIAA to administer a flexible funding pool to support the National Partnership Agreement on Remote Service Delivery, following the transfer of Indigenous functions to the NIAA from the Department of the Prime Minister and Cabinet (the Department) on 1 July 2019.

The purpose of the special account is to support payments for high priority projects in priority remote Indigenous communities, and payments to deliver immediate improvements to service delivery that are unable to be accommodated through existing programs in the short or medium term (for example, due to a mismatch in eligibility criteria or where existing program funding is fully committed). In particular, there will be a focus on improving the design, delivery and coordination of services and infrastructure in priority remote Indigenous communities, and addressing agreed community priorities identified through Local Implementation Plans under the National Partnership Agreement on Remote Service Delivery, or related processes.

The special account replaces the *Indigenous Remote Service Delivery Special Account*, established by *Financial Management and Accountability Determination 2010/06 — Indigenous Remote Service Delivery Special Account Establishment 2010*, which will be revoked, and its balance credited to the special account.

The operating context of special accounts

A special account may be established by a determination made by the Minister for Finance (under section 78 of the PGPA Act) or by an Act (see section 80 of the PGPA 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.
- Expenditure for the purposes of a special account is supported by an appropriation in the PGPA Act: subsection 78(4) for a special account established by a determination or subsection 80(1) for 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 of the House after the determination was tabled in that House.

If neither House passes a resolution to disallow a special account determination, under subsection 79(5) it 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. This determination does not specify a later day, and provides that it will commence on the day immediately after the last day on which it could have been disallowed, pursuant to 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

The Department and the NIAA were consulted in the preparation of this determination.