

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

PGPA Act Determination (Services Australia SOETM 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 *Services Australia SOETM Special Account 2020* (**the special account**).

The special account is being established to enable Services Australia to hold and expend amounts on behalf of persons or entities other than the Commonwealth, such as amounts held for joint activities with other governments and entities. ‘SOETM’ is an abbreviation of the term ‘Services for Other Entities and Trust Moneys’.

There is currently a SOETM special account – the *Services for Other Entities and Trust Moneys – Department of Human Services Special Account* (**the DHS special account**) – for the Department of Human Services. However, that special account is no longer required given that, following recent machinery of government changes, that Department no longer exists. Many of that Department’s functions are now performed by Services Australia, which was established as an Executive Agency on 1 February 2020 by an order of the Governor-General under section 65 of the *Public Service Act 1999*. Services Australia is a non-corporate Commonwealth entity for the purposes of the PGPA Act within the Department of Social Services (**DSS**) Portfolio.

The purpose of this determination is to establish a new SOETM special account for Services Australia. The new account is intended to effectively replace the DHS SOETM, and allow Services Australia to carry out the same types of activities in connection with the special account that were formerly carried out by the Department of Human Services in connection with the DHS special account. The Chief Executive Officer of Services Australia will be the accountable authority responsible for the special account.

Once the special account is established, the determination that established the DHS special account will be revoked and an amount equivalent to the amount standing to the credit of the DHS SOETM special account immediately before its repeal will be credited to the special account as its opening balance.

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 made under 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 will commence on the day immediately after the last day on which it could have been disallowed or 30 June 2020, whichever is the later day. The Chief Executive Officer of Services Australia will be the accountable authority responsible for the special account on commencement of this determination.

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

Services Australia and the Department of Social Services were consulted in the preparation of this determination.