

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

PGPA Act Determination (Australian Federal Police SOETM Special Account 2021)

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 *Australian Federal Police SOETM Special Account 2021 (the special account)* for the Australian Federal Police. The Australian Federal Police is established by the *Australian Federal Police Act 1979*. The Australian Federal Police is prescribed as a listed entity for the purposes of the PGPA Act by paragraph 6(2)(a) of the *Australian Federal Police Act 1979*.

The special account is being established to enable the Australian Federal Police to hold and expend amounts for a range of purposes including for, on behalf of, or jointly with, other persons or entities, such as amounts held for joint activities with other governments, other Commonwealth entities, Commonwealth companies and other entities. The special account also enables the Australian Federal Police to hold and expend amounts held on trust, or for the benefit of another person, amounts in relation to agreements with other governments and amounts received that are permitted or required to be repaid. The balance of the special account may be reduced without making a real or notional payment, which would have the effect of reducing the available appropriation for the purposes of the special account. ‘SOETM’ is an abbreviation of the term ‘Services for Other Entities and Trust Moneys’.

This special account will effectively replace the *Services for Other Entities and Trust Moneys – Australian Federal Police Special Account (SOETM special account)*, established by the *Financial Management and Accountability (Establishment of Special Account for Australian Federal Police) Determination) 2011/03* which is due to sunset on 1 October 2021 under section 50 of the *Legislation Act 2003*.

Once the special account is established, the determination establishing the SOETM special account will be repealed and an amount equivalent to the amount standing to the credit of the SOETM special account immediately before its repeal will be credited to the special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 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 specifies that it will commence on the later of the day immediately after the last day on which it could have been disallowed, or 1 July 2021. The Commissioner of Police is the accountable authority of the Australian Federal Police under paragraph 6(2)(b) of the *Australian Federal Police Act 1979*. The Commissioner of Police 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

The Australian Federal Police was consulted in the preparation of this determination.