

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Competition, Charities and Treasury

Federal Financial Relations Act 2009

Federal Financial Relations (General Purpose Financial Assistance—2022-23 Payment No. 9) Determination 2023

Subsection 9(1) of the *Federal Financial Relations Act 2009* (the FFR Act) provides that the Minister may determine amounts to be paid to the States, the Australian Capital Territory or the Northern Territory for the purpose of the Commonwealth making grants of general purpose financial assistance.

The purpose of the *Federal Financial Relations (General Purpose Financial Assistance—2022-23 Payment No. 9) Determination 2023* (the Determination) is to determine amounts of general purpose financial assistance to be paid to the States, the Australian Capital Territory or the Northern Territory.

The *Intergovernmental Agreement on Federal Financial Relations* (the IGA) provides a foundation for collaboration on policy development and service delivery between the Commonwealth and the States, the Australian Capital Territory and the Northern Territory. The IGA sets out the terms and conditions on which Commonwealth has agreed to make grants of general purpose financial assistance to the States, the Australian Capital Territory or the Northern Territory.

The Determination gives effect to the Commonwealth's ongoing obligations under the IGA to make grants of general purpose financial assistance.

By way of background, legislative authority is required for the Commonwealth to spend money from the Consolidated Revenue Fund. The *Public Governance, Performance and Accountability Act 2013* provides that, if another Act establishes a special account and identifies the purposes of the account, the Consolidated Revenue Fund is appropriated up to the balance of the account at any point in time for expenditure for the purposes of the account.

In this context, the *COAG Reform Fund Act 2008* establishes the COAG Reform Fund, a special account, which has the purpose of making grants and financial assistance to States and Territories. The FFR Act requires the Minister, following the making of a determination, to credit funds he or she has determined to the COAG Reform Fund for the purpose of providing general purpose financial assistance to the States, the Australian Capital Territory or the Northern Territory.

Under subsection 9(3) of the FFR Act, the total amount credited to the COAG Reform Fund for the purpose of making a grant of general purpose financial assistance in a financial year must not exceed the debit limit determined for that year. The debit limit

is set by the annual appropriation Acts. The Determination will not result in total determined amounts for the relevant financial year exceeding the debit limit.

The IGA was subject to extensive consultation with the States and Territories before it was agreed by the Council of Australian Governments on 29 November 2008. The IGA is publicly available on the Federal Financial Relations website. The Determination is minor and machinery in nature and was not subject to further consultation.

Details of the Determination are set out in Attachment A.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*. In accordance with the FFR Act, the Determination is not subject to disallowance or sunseting under the FFR Act and the *Legislation Act 2003* on the grounds that the instrument is part of an intergovernmental scheme and gives effect to agreements between the Commonwealth and each of the States, the Australian Capital Territory and the Northern Territory. The instrument's operation is effectively mechanical in that it simply details an instalment of financial assistance to be provided to a State or Territory based on that State or Territory having satisfied the necessary agreed criteria. The instrument can only authorise financial assistance being paid to a State or Territory where it has been supported by a valid appropriation enacted by the Parliament, further the annual appropriation Bills also include annual debit limits for amounts that may be spent under the delegated general purpose financial assistance or national partnership payments under the FFR Act. The debit limits provide an effective mechanism to limit the expenditure of public money under the Determination and ensures that there is alternative Parliamentary scrutiny of such arrangements.

The Determination commenced on the day it was registered on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Federal Financial Relations (General Purpose Financial Assistance—2022-23 Payment No. 9) Determination 2023

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument determines amounts of general purpose financial assistance to be paid to the States, the Australian Capital Territory or the Northern Territory.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

It is difficult to assess the human rights compatibility of the making of payments of general purpose financial assistance, as the amounts paid to each State or Territory can be used for any purpose. Generally, payments will promote multiple human rights by supporting service delivery in a range of policy areas, at the discretion of each State or Territory.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Details of the *Federal Financial Relations (General Purpose Financial Assistance—2022-23 Payment No. 9) Determination 2023*

Section 1 – Name of the Determination

This section provides that the name of the Determination is the *Federal Financial Relations (General Purpose Financial Assistance—2022-23 Payment No. 9) Determination 2023* (the Determination).

Section 2 – Commencement

The Determination commenced on the day the instrument was registered on the Federal Register of Legislation.

Section 3 – Authority

The Determination is made under the *Federal Financial Relations Act 2009* (the Act).

Section 4 – Definitions

This section provides definitions are that used in the Determination.

Section 5 – Determination of general purpose financial assistance

This section specifies amounts to be paid to each of the States, the Australian Capital Territory and the Northern Territory as grants of general purpose financial assistance.

In addition to the goods and services tax revenue grants provided to the States, the Australian Capital Territory and the Northern Territory as grants of general purpose financial assistance under Division 1 of Part 2 to the Act, the Commonwealth, by way of the Determination, also pays grants of general purpose financial assistance for the following:

- to compensate Western Australia for the loss of royalty revenue resulting from the removal in the 2008-09 Budget of the exemption of condensate from crude oil excise;
- to the Australian Capital Territory to:
 - assist in meeting the additional municipal costs which arise from Canberra's role as the national capital; and
 - compensate the Australian Capital Territory for additional costs resulting from the national capital planning influences on the provision of water and sewerage services;

- to Western Australia from royalties payable under the *Offshore Petroleum (Royalty) Act 2006* in respect of the North West Shelf oil and gas project off the coast of Western Australia. The Commonwealth collects these royalties because it has jurisdiction over offshore areas. These royalties are shared between the Commonwealth (approximately one third) and Western Australia (approximately two thirds). These payment arrangements are in accordance with section 75 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; and
- to the Northern Territory in lieu of royalties on uranium mining due to the Commonwealth's ownership of uranium in the Ranger Project Area.