

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Fuel Indexation (Road Funding) Special Account Act 2015

Fuel Indexation (Road Funding) Special Account Determination 2025

Subsection 8(1) of the *Fuel Indexation (Road Funding) Special Account Act 2015* (the Act) provides that the Minister may, by writing, determine that a specified amount is to be credited to the Fuel Indexation (Road Funding) special account (the Special Account) on a specified day.

The Act establishes and provides rules for the operation of the Special Account to ensure that the additional net revenue from the introduction of fuel indexation (that is, the indexation of excise and excise equivalent customs duty applying to fuels, other than aviation fuels) is used for road infrastructure funding.

Under the rules set out in section 8 of the Act, the Minister may, by legislative instrument, determine that an amount is to be credited to the Special Account. In determining this amount, the Minister must have regard to the purpose of the Special Account. Section 9 of the Act specifies that the purpose of the Special Account is to ensure that amounts equal to the fuel indexation amount for a financial year are transferred into the Federation Reform Fund, to fund State and Territory expenditure in relation to investment in Australian road infrastructure.

The fuel indexation amount for a financial year is defined by subsection 9(2) of the Act as, broadly, the net increase in revenue in that financial year resulting from the re-introduction of fuel indexation in 2014, after deducting any offsetting increases in tax credits, rebates and grants that also resulted from the indexation.

The Determination provides for \$2,688,000,000.00 to be credited to the Special Account on the day the Determination commences. This amount is the fuel indexation amount for the 2023-24 financial year. Any policy changes that occur outside of indexation are effectively excluded from calculating the amount to be determined, ensuring that indexation on fuel is the only factor in determining the value credited to the Special Account.

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

Subsection 8(3) of the Act provides that the Determination is a legislative instrument but that the Determination is not subject to disallowance under section 42 of the *Legislation Act 2003*, as the instrument is largely mechanical in nature where the amount being determined is simply a statement of fact to be derived from data held by the Australian Government. The Minister does not have a broad discretion to determine the amount to credit to the Special Account as the Minister must have regard to its purpose.

Treating the Determination as non-disallowable minimises uncertainty. The risk of disallowance would delay decisions to apply the amounts in the Special Account for road

infrastructure funding until after the disallowance period had expired. Delays would also occur if the instrument was disallowed and arrangements needed to be put in place for remaking a revised instrument or legislation needed to be passed to give effect to the intended operation of the Determination.

The instrument will sunset in accordance with section 50 of the *Legislation Act 2003*.

No consultation was undertaken on this Determination as it is minor and mechanical in nature, only involving the determination of an amount from available data, consistent with the rules set out in sections 8 and 9 of the Act.