

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2025-2026

Purpose of the determination

Section 75 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) enables the Finance Minister to determine that one or more Schedules to one or more Appropriation Acts are modified in a specified way in relation to the transfer of a function from one non-corporate Commonwealth entity to another. The power in section 75 recognises that the Executive Government will from time to time choose to reorganise the administration and delivery of its functions with commensurate transfers of resources, including appropriations, between entities.

Subsection 75(7) of the PGPA Act provides that a determination made under subsection (2) is a legislative instrument, but that section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination. The Explanatory Memorandum for the Public Governance, Performance and Accountability Bill 2013 provides (at paragraph 370) that determinations made under section 75 are exempt from disallowance as the changes effected by determinations made under section 75 are in the nature of administrative changes only, relating to the Executive Government's decisions about the allocation of functions to particular entities.

Under section 107 of the PGPA Act, the Finance Minister has delegated the power to make determinations under section 75 to the Secretary of the Department of Finance. Under section 109 of the PGPA Act, the Secretary has, in turn, subdelegated this power to certain officials within the Department of Finance.

Following the 2025 federal election, the Governor-General, acting on advice of the Prime Minister, made a new Administrative Arrangements Order (AAO) on 13 May 2025. The AAO, which is available at <https://www.legislation.gov.au/C2025Q00003/latest/versions/2025-Federal-Register-of-Legislation>, has resulted in a number of machinery of government (MoG) changes. A subsequent amendment to the AAO that commenced with effect from 1 July 2025, has made several clarifications in relation to these changes.

To support the implementation of the post-election MoG changes, the Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2025-2026 (the principal determination) modifies the *Supply Act (No. 1) 2025-2026* and the *Supply Act (No. 2) 2025-2026* (the 2025-26 Supply Acts) to reflect:

- changes in the names of portfolios and departments;
- movements of Commonwealth entities between portfolios;
- changes to outcome statements for affected departments;
- transfer of appropriations for corporate Commonwealth entities which are moving portfolios; and
- increase or decrease of appropriations for affected departments.

The principal determination does not change the total amount appropriated by the Parliament. It is a legislative instrument for the purposes of section 8 of the *Legislation Act 2003*.

Commencement

The principal determination commences on 1 July 2025.

Statement of compatibility with human rights

A statement of compatibility with human rights is not required for the principal 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*. A determination made under subsection 75(2) of the PGPA Act is exempt from disallowance under subsection (7). As such, a statement of compatibility with human rights is not required.

Consultation

Consistent with section 17 of the *Legislation Act 2003*, the affected entities were consulted in the preparation of the principal determination.

Summary of modifications to the 2025-26 Supply Acts

1. Subsection 5(1) of the principal determination has the effect of amending references to portfolios and departments in the 2025-26 Supply Acts as follows:

Before amendments	After amendments
Health and Aged Care portfolio	Health, Disability and Ageing portfolio
Department of Health and Aged Care	Department of Health, Disability and Ageing
Infrastructure, Transport, Regional Development, Communications and the Arts portfolio	Infrastructure, Transport, Regional Development, Communications, Sport and the Arts portfolio
Department of Infrastructure, Transport, Regional Development, Communications and the Arts	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

2. Subsection 5(2) of the principal determination has the effect of moving appropriation items and outcomes for the following non-corporate and corporate Commonwealth entities between portfolios in the 2025-26 Supply Acts:

Commonwealth entity	Transferring portfolio	Receiving portfolio
Australian Criminal Intelligence Commission	Attorney-General's portfolio	Home Affairs portfolio
Australian Federal Police	Attorney-General's portfolio	Home Affairs portfolio
Australian Institute of Criminology	Attorney-General's portfolio	Home Affairs portfolio
Australian Security Intelligence Organisation	Attorney-General's portfolio	Home Affairs portfolio
Australian Transaction Reports and Analysis Centre	Attorney-General's portfolio	Home Affairs portfolio
Australian Financial Security Authority	Attorney-General's portfolio	Treasury portfolio
Australian Sports Commission	Health, Disability and Ageing portfolio	Infrastructure, Transport, Regional Development, Communications, Sport and the Arts portfolio
Sport Integrity Australia	Health, Disability and Ageing portfolio	Infrastructure, Transport, Regional Development, Communications, Sport and the Arts portfolio

Net Zero Economy Authority	Prime Minister and Cabinet portfolio	Industry, Science and Resources portfolio
National Disability Insurance Agency	Social Services portfolio	Health, Disability and Ageing portfolio
NDIS Quality and Safeguards Commission	Social Services portfolio	Health, Disability and Ageing portfolio
Services Australia	Social Services portfolio	Finance portfolio

3. Section 6 of the principal determination applies to the *Supply Act (No. 1) 2025-2026*.

Subsection 6(2) has the effect of amending outcome statements of selected departments as follows:

- omits Outcome 4 (dealing with sport and recreation) and substitutes it with Outcome 4 (dealing with the National Disability Insurance Scheme and Foundational Supports) for the Department of Health, Disability and Ageing; and
- adds a new Outcome 7 (dealing with sport and recreation) for the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts.

These outcome statement amendments support the transfer of:

- services and policy for the National Disability Insurance Scheme and Foundational Supports from the Social Services portfolio to the Health, Disability and Ageing portfolio; and
- sport and recreation policy and functions from the Health, Disability and Ageing portfolio to the Infrastructure, Transport, Regional Development, Communications, Sport and the Arts portfolio.

Subsection 6(3) of the principal determination has the effect as if appropriation items in Schedule 1 to the Act were increased or decreased in accordance with the table included in the subsection. If an appropriation item exists only because of the principal determination, the increase is from a nil amount.

4. Section 7 of the principal determination applies to the *Supply Act (No. 2) 2025-2026*.

Subsection 7(2) of the principal determination has the effect as if appropriation items in Schedule 2 to the Act were increased or decreased in accordance with the table included in the subsection. If an appropriation item exists only because of the principal determination, the increase is from a nil amount.