

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

*Public Governance, Performance and Accountability
(Section 75 Transfers) Amendment Determination 2024-2025 (No. 5)*

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) Amendment Determination 2024-2025 (No. 5) (the amendment determination) amends the Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2024-2025 (the principal determination) to modify the 2024-25 Appropriation Acts to reflect:

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

The 2024-25 Appropriation Acts include:

- the *Appropriation Act (No. 1) 2024-2025*;
- the *Appropriation Act (No. 2) 2024-2025*;
- the *Appropriation Act (No. 3) 2024-2025*; and
- the *Appropriation Act (No. 4) 2024-2025*.

In addition, the 2024-25 amendment determination enables the final transfer of appropriations (relating to employee leave liabilities) due to the 2023 MoG change to move responsibility for business registers from the Australian Taxation Office back to the Australian Securities and Investments Commission following the Government's decision to cease the Modernising Business Registers program.

The amendment 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 amendment determination commences on 1 July 2025.

Statement of compatibility with human rights

A statement of compatibility with human rights is not required for the amendment 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 amendment determination.

Summary of amendments

- Item 1 of Schedule 1 to the amendment determination amends the definition of ***Appropriation Act*** in section 4 of the principal determination by adding the following Acts:
 - the *Appropriation Act (No. 3) 2024-2025*; and
 - the *Appropriation Act (No. 4) 2024-2025*.
- Item 2 of Schedule 1 to the amendment determination adds new section 4A to the principal determination which modifies all 2024-25 Appropriation Acts listed in section 4. Subsection 4A(1) has the effect of amending references to portfolios and departments in the 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

Subsection 4A(2) has the effect of moving appropriation items and outcomes for the following non-corporate and corporate Commonwealth entities between portfolios in the 2024-25 Appropriation 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. Item 3 of Schedule 1 to the amendment determination inserts subsection 5(1E) in the principal determination which has the effect of adding a new Outcome 7 (dealing with sport and recreation) for the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts in Schedule 1 to the *Appropriation Act (No. 1) 2024-2025*.

This outcome statement amendment supports the transfer of 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.

4. Item 4 of Schedule 1 to the amendment determination updates the cumulative effect of the decrease in appropriation item for the Australian Taxation Office and the increase in appropriation item for the Australian Securities and Investments Commission as set out in replacement items 1 and 2 of the table in subsection 5(2) of the principal determination.

Subsection 5(2) of the principal determination has the effect as if appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2024-2025* 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.

Item	Entity	Appropriation item	Previous increase/ decrease by the principal determination (\$)	Current increase/ decrease by the amendment determination (\$)	Total increase/ decrease by the principal determination (\$)
1	Australian Taxation Office	Departmental item	-26,103,330.49	-5,027,922.34	-31,131,252.83
2	Australian Securities and Investments Commission	Departmental item	+26,103,330.49	+5,027,922.34	+31,131,252.83

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

5. Item 5 of Schedule 1 to the amendment determination replaces references to the Department of Health and Aged Care with references to the Department of Health, Disability and Ageing in table items 6 and 8 in subsection 5(2) of the principal determination.
6. Item 6 of Schedule 1 to the amendment determination adds items 24 to 27 at the end of the table in subsection 5(2) of the principal determination and has the effect as if appropriation items in Schedule 1 to the *Appropriation Act (No. 1) 2024-2025* 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.

Item	Entity	Appropriation item	Previous increase/ decrease by the principal determination (\$)	Current increase/ decrease by the amendment determination (\$)	Total increase/ decrease by the principal determination (\$)
24	Department of Social Services	Administered item, Outcome 4	0.00	-18,993,267.29	-18,993,267.29
25	Department of the Treasury	Administered item, Outcome 1	0.00	+18,993,267.29	+18,993,267.29
26	Department of Health, Disability and Ageing	Administered item, Outcome 4	0.00	-51,602,972.32	-51,602,972.32
27	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts	Administered item, Outcome 7	0.00	+51,602,972.32	+51,602,972.32

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.

7. Item 7 of Schedule 1 to the amendment determination adds new section 7 to the principal determination. Subsection 7(1) applies section 7 to the *Appropriation Act (No. 3) 2024-2025*.

Subsection 7(2) has the effect of adding a new Outcome 7 (dealing with sport and recreation) for the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts in Schedule 1 to the *Appropriation Act (No. 3) 2024-2025*.

This outcome statement amendment supports the transfer of 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 7(3) has the effect as if appropriation items in Schedule 1 to the *Appropriation Act (No. 3) 2024-2025* 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.

Item	Entity	Appropriation item	Previous increase/ decrease by the principal determination (\$)	Current increase/ decrease by the amendment determination (\$)	Total increase/ decrease by the principal determination (\$)
1	Department of Health, Disability and Ageing	Administered item, Outcome 4	0.00	-400,177.53	-400,177.53
2	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts	Administered item, Outcome 7	0.00	+400,177.53	+400,177.53

Note: A positive amount reflects an increase in an appropriation item and a negative amount reflects a decrease in an appropriation item.