

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

*PGPA Act Determination (Recovery of Compensation for Health Care and Other Services
Special Account 2025)*

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 *Recovery of Compensation for Health Care and Other Services Special Account 2025* (**the special account**) for Services Australia (**the Agency**).

The special account is being established to enable the Agency to continue to manage receipts and expenditure related to the Medicare Compensation Recovery program delivered under the *Health and Other Services (Compensation) Act 1995* (**HOSC Act**). The program aims to prevent ‘double dipping’ by compensable persons. The HOSC Act supports recovery by the Commonwealth of amounts, where the compensable person receives compensation from a third party as a result of an injury or illness for which the person has also received benefits from the Commonwealth. These amounts include Medicare benefits, nursing home benefits, residential care and home care subsidies.

The special account will enable the Agency to hold, collect and expend non-taxation revenue under the HOSC Act. This includes, but is not limited to, amounts received from compensation payers, insurers and compensable persons, payments and refunds to compensable persons, compensation payers, insurers, and other Commonwealth entities that manage related programs, as well as return recovered monies to the Commonwealth.

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.

The special account will effectively replace the *Recovery of Compensation for Health Care and Other Services Special Account 2015*, established by the *PGPA Act (Recovery of Compensation for Health Care and Other Services Special Account 2015 - Establishment) Determination 2015/06* which is due to sunset on 1 October 2025 under section 50 of the *Legislation Act 2003*.

Once the special account is established, the legislative instrument establishing the *Recovery of Compensation for Health Care and Other Services Special Account 2015* is also revoked and an amount equal to the amount standing to the credit of the *Recovery of Compensation for Health Care and Other Services Special Account 2015* immediately prior to the commencement of the determination establishing the special account is 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 for 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 being made 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 22 September 2025. The Chief Executive Officer of the Agency 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 Agency was consulted in the preparation of this determination.