

EXPLANATORY STATEMENT

Public Governance, Performance and Accountability Act 2013

*Public Governance, Performance and Accountability
(Section 75 Transfers) Amendment Determination 2025-2026 (No. 1)*

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 was further amended on 26 June 2025, with amendments commencing on 1 July 2025. The new AAO has resulted in a number of machinery of government changes.

To support the implementation of these changes, the Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2025-2026 (No. 1) (the amendment determination) amends the Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2025-2026 (the principal determination) to modify the 2025-26 Appropriation Acts to reflect the increase or decrease of appropriations for affected departments.

The 2025-26 Appropriation Acts include:

- the *Supply Act (No. 1) 2025-2026*; and
- the *Supply Act (No. 2) 2025-2026*.

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 12 August 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

1. Item 1 of Schedule 1 to the amendment determination updates the cumulative effect of the decreases in appropriation items for transferring entities and the increases in appropriation items for receiving entities, as set out in replacement items 2, 4, 5, 6, 9 and 13 of the table in subsection 6(3) of the principal determination.

Subsection 6(3) of the principal determination has effect as if appropriation items in Schedule 1 to the *Supply Act (No. 1) 2025-2026* 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 (\$)
2	Department of Health, Disability and Ageing	Departmental item	-1,109,000.00	-6,006,000.00	-7,115,000.00
4	Department of Industry, Science and Resources	Departmental item	-648,638.94	-391,829.20	-1,040,468.14
5	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts	Departmental item	-165,844.78	+6,006,000.00	+5,840,155.22
6	Department of the Treasury	Departmental item	+2,630,267.77	+6,728,829.20	+9,359,096.97
9	Department of Health, Disability and Ageing	Administered item, Outcome 4 (National Disability Insurance Scheme)	+27,908,788,465.25	+115,677,000.00	+28,024,465,465.25
13	Department of Social Services	Administered item, Outcome 3	-27,908,788,465.25	-115,677,000.00	-28,024,465,465.25

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

2. Item 2 of Schedule 1 to the amendment determination adds item 20 at the end of the table in subsection 6(3) of the principal determination and has effect as if the appropriation item in Schedule 1 to the *Supply Act (No. 1) 2025-2026* were decreased in accordance with the table included in the subsection.

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 (\$)
20	Department of Social Services	Departmental item	0.00	-6,337,000.00	-6,337,000.00

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