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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**APPROPRIATION BILL (NO. 1) 2010-2011**

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Finance and Deregulation,  
the Honourable Lindsay Tanner MP)

## Table of Acronyms and Defined Terms

AFM	Advance to the Finance Minister
AI Act	<i>Acts Interpretation Act 1901</i>
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CRF	Consolidated Revenue Fund
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMA Regulations	<i>Financial Management and Accountability Regulations 1997</i>
GST	Goods and Services Tax
LI Act	<i>Legislative Instruments Act 2003</i>
PBS	Portfolio Budget Statements

# Appropriation Bill (No. 1) 2010-2011

## General Outline

1 This explanatory memorandum accompanies *Appropriation Bill (No. 1) 2010-2011* (the Bill).

2 The main purpose of the Bill is to propose appropriations from the Consolidated Revenue Fund (CRF) for the ordinary annual services of the Government.

3 Appropriations for the ordinary annual services of the Government must be contained in a separate bill from other appropriations in accordance with sections 53 and 54 of the *Australian Constitution*. Other annual appropriations that are not for the ordinary annual services of the Government are proposed in *Appropriation Bill (No. 2) 2010-2011* and *Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011*.

4 This Explanatory Memorandum should be read in conjunction with the 2010-2011 Portfolio Budget Statements (PBS) which contain details of the appropriations set out in Schedule 1 of the Bill. The PBS are published and tabled in the Parliament in relation to the Bill.

## Structure of appropriations in the Bill

5 The Bill provides for the appropriation of specified amounts for expenditure by Australian Government agencies (primarily being agencies under the *Financial Management and Accountability Act 1997* (FMA Act) plus payments to bodies under the *Commonwealth Authorities and Companies Act 1997* (CAC Act bodies).

6 Part 1 of the Bill deals with definitions, the interpretative role of the PBS and the concept of notional payments.

7 Part 2 of the Bill proposes appropriations to make payments of the amounts in Schedule 1 for departmental items (clause 7), administered items (clause 8) and CAC Act body payment items (clause 9).

8 Part 3 of the Bill specifies the ways in which the amounts in Schedule 1 may be adjusted.

9 Part 4 deals with credits to Special Accounts (clause 16) and provides for amounts to be appropriated as necessary (clause 17). In addition to the

adjustment provisions in Part 3, clause 17 of the Bill recognises that the appropriations in the Bill may also be varied by the FMA Act.

## **Financial Impact**

10 The Bill will appropriate the amounts specified in Schedule 1.

## **Notes on clauses**

### **Part 1—Preliminary**

#### **Clause 1—Short title**

1 This clause specifies that the short title of the Bill, once enacted, will be *Appropriation Act (No. 1) 2010-2011*.

#### **Clause 2—Commencement**

2 Clause 2 provides for the Bill to commence as an Act on the day of Royal Assent.

#### **Clause 3—Definitions**

3 Clause 3 defines the key terms used in the Bill, such as “administered item”, “agency”, “CAC Act body payment item”, “current year” and “departmental item”.

#### **Clause 4—Portfolio Statements**

4 Clause 4 declares that the PBS are extrinsic material under paragraph 15AB(2)(g) of the *Acts Interpretation Act 1901* (AI Act) that may be used to ascertain the meaning of certain provisions in accordance with subsection 15AB(1) of the AI Act. The purpose of the PBS is to provide information on the proposed allocation of resources to Government outcomes by agencies within each portfolio. The PBS provide information to enable Parliament to understand the purpose of appropriations proposed in the Bill. The term “PBS” is defined in the Bill, at clause 3, to mean the Portfolio Budget Statements.

#### **Clause 5—Notional payments, receipts etc.**

5 Clause 5 ensures that payments between agencies result in a debit from the appropriation for the paying agency. For example, the payments of the amounts in Schedule 1 from one FMA Act agency to another do not require, in a constitutional sense, an appropriation, because both agencies operate within the CRF. However, for reasons of financial discipline and transparency, the practice has arisen for these payments between agencies to be treated as though they required an appropriation, and to debit an appropriation when such notional payments are made.

6 Clause 5 provides that notional transactions between agencies are to be treated as if they were real transactions. Notional transactions, therefore, require the use of a drawing right and the debiting of an appropriation made by Parliament. When an FMA Act agency makes a payment, whether to another FMA Act agency or another part of the same agency (such as a different “business unit” within the agency), it is to be treated as a “real” payment. This means that the appropriation made by Parliament is extinguished by the amount of the notional payment, even though no payment is actually made from the CRF. Similarly, a notional receipt in such a situation is to be treated by the receiving agency (where relevant) as if it were a real receipt. This does not mean every internal transfer of public money involves a notional payment and receipt. As explained in Regulation 19 of the *Financial Management and Accountability Regulations 1997* (FMA Regulations), some transfers of public money from one official account to another do not involve a notional payment or debiting an appropriation.

## **Part 2—Appropriation items**

### ***Clause 6—Summary of appropriations***

7 Clause 6 sets out the total of the appropriations in Schedule 1 of the Bill. Importantly, the amounts in Schedule 1 may be adjusted under the provisions in Part 3 of the Bill. In particular:

- Departmental items may be reduced in accordance with clause 10;
- Administered items may be reduced in accordance with clause 11;
- CAC Act body payment items may be reduced in accordance with clause 12; and
- items may be increased by a determination under clause 13 (Advance to the Finance Minister).

8 The amounts in Schedule 1 of the Bill may be adjusted further in accordance with sections 30, 30A, 31 and 32 of the FMA Act. Specifically:

- Section 30 allows an agency to re-credit, to an appropriation that had been relied upon for an initial payment by the agency, an amount equivalent to the repayment. The re-crediting, or reinstatement, authorised by section 30, can result in the total amount paid from the CRF in gross terms, exceeding the amount specified in an item. Section 30 also applies to notional transactions between and within agencies.

- Appropriations may be adjusted by amounts recovered by an agency from the Australian Taxation Office for Goods and Services Tax (GST), in accordance with section 30A of the FMA Act. The amounts specified in Schedule 1 exclude recoverable GST. The appropriations shown represent the net amount that Parliament is asked to allocate to particular purposes. Section 30A has the effect of increasing an appropriation by the amount of the GST qualifying amount arising from payments in respect of the appropriation. As a result, there is sufficient appropriation for payments under an appropriation item, provided that the amount of those payments, less the amount of recoverable GST, can be met from the initial amount shown against the item in Schedule 1. Section 30A also applies to notional transactions between and within agencies.
- Departmental items may be increased to take into account certain other amounts received by an agency, if those receipts are prescribed by the FMA Regulations, in accordance with section 31 of the FMA Act.
- Items may be adjusted to take into account the transfer of functions between agencies, in accordance with section 32 of the FMA Act. It is possible that adjustments under section 32 may result in new items and/or outcomes being created in an Appropriation Act. It might also result in amounts being transferred between Appropriation Acts.

### ***Clause 7—Departmental items***

9 Clause 7 provides that the amount specified in a departmental item for an agency may be applied for the departmental expenditure of the agency. Clause 3 defines:

- “departmental item” to be the total amount set out in Schedule 1 in relation to an agency under the heading “Departmental”; and
- “expenditure” to be payments for expenses, acquiring assets, making loans or paying liabilities.

10 While the departmental items in Schedule 1 may be divided between outcomes, the different amounts against outcomes are notional. The total appropriation for departmental expenses represents the departmental item.

11 Departmental items involve costs over which an agency has control. Departmental appropriations can be used to make any payment related to the functions of the agency including on purposes covered by other items whether or not they are in the Act for an agency. Expenditure typically covered by

departmental items includes employee expenses, suppliers and other operational expenses (e.g. interest and finance expenses). There can also be occasions when an agency, such as a portfolio department, needs to cover matters in relation to other areas of the Government. Examples can include whole-of-Government activities or a portfolio department assisting with the formation and initial costs of a new portfolio body (for which the department might later be reimbursed). Another example would be where government has decided to implement shared services arrangements, and one agency is providing corporate services assistance to another agency.

12 From 2010-11, departmental items include amounts specifically to meet costs associated with the replacement and capitalised maintenance of existing departmental assets valued at \$10 million or less. Departmental items also include supplementation in circumstances when agencies were directed by government to undertake additional responsibilities in the previous financial year. This applies when the direction was given, or a decision to propose further appropriation Bills is made, in a timeframe within which it is not practicable to include the expected expenses in a further appropriation Bill for that financial year

13 Generally, agencies are expected to meet the cost of additionally directed activities from their existing appropriations, which may then be replenished by a departmental appropriation in the following financial year. Provision of such payments was previously covered by a class of appropriations known as “previous years’ outputs” within “other departmental items”, currently clause 10 of *Appropriation Bill (No. 2) 2010-2011*. The Appropriation Bills no longer recognise the term “Previous years’ outputs”, as the concept is now integrated within departmental items.

14 Departmental items are not expressed in terms of a particular financial year and do not automatically lapse. Because the cash to meet expenses such as employee entitlements can be required at times other than when the expenses are incurred, the departmental appropriations remain available until required. Departmental items are available until they are spent or reduced in accordance with clause 10.

15 The Finance Minister manages the payment from departmental items by agencies through the issuing of drawing rights in accordance with sections 26 and 27 of the FMA Act. Drawing rights control who may spend money from appropriations, and allow for conditions and limits to be set by the Finance Minister (or the Finance Minister’s delegate) in relation to those activities.



16 Amounts appropriated for departmental items can be subject to a reduction process in accordance with clause 10 of the Bill. Under clause 10, the Prime Minister or a Minister acting on behalf of the Prime Minister, the Minister responsible for an agency, or the Chief Executive of an agency, for which the Finance Minister is responsible, may make a written request asking the Finance Minister to make a determination to reduce the agency's departmental appropriation.

### **Clause 8—Administered items**

17 Subclause 8(1) provides for the appropriation of administered amounts to be applied by an agency for the purpose of contributing to the outcome for an agency. An administered item is defined in clause 3 to be the amounts set out in Schedule 1 opposite an outcome for an agency under the heading "Administered". Administered amounts are appropriated separately for outcomes (i.e. unlike departmental items, the split across outcomes is not notional), making it clear what the funding is intended to achieve. Schedule 1 specifies how much can be expended on each outcome.

18 The appropriations for administered items in Schedule 1 represent the amounts required to meet the total estimated additional expenses for the administered outcomes for 2010-2011.

19 The purposes for which each administered item can be spent are set out in subclause 8(2). Subclause 8(2) provides that where the PBS indicate a particular activity is in respect of a particular outcome, then expenditure on that activity is taken to be expenditure for the purpose of contributing to achieving that outcome. The outcomes are not, however, necessarily tied to the existence of a particular agency (e.g. abolishing a department will not affect the valid operation of an appropriation for an administered item for an outcome of that department, because the purpose of the appropriation does not depend on the existence of the department).

20 Administered items are those administered by an agency on behalf of the Government (e.g. certain grants, benefits and transfer payments). These payments are usually made pursuant to eligibility rules and conditions established by the Government or the Parliament. Specifically:

- administered items are tied to outcomes, departmental items are not;
- administered items must be spent in accordance with rules and conditions established by the Government or Parliament; and

- there is a process in clause 11 for dealing with administered items that are not fully expensed or spent during the financial year.

21 The Finance Minister manages payments from administered items by agencies through the issuing of drawing rights in accordance with sections 26 and 27 of the FMA Act. Drawing rights control who may spend money from appropriations, and allow for conditions and limits to be set by the Finance Minister (or the Finance Minister's delegate) in relation to those activities.

### ***Clause 9—CAC Act body payment items***

22 Clause 9 provides for direct appropriations of money for CAC Act bodies to be paid from the CRF by the relevant department. Clause 9 provides that payments for CAC Act bodies must be used for the purposes of those bodies.

23 A CAC Act body is defined in clause 3 to be a Commonwealth authority or a Commonwealth company within the meaning of the CAC Act. Many CAC Act bodies receive funding directly from appropriations. However, these bodies are legally separate from the Commonwealth, and as a result, do not debit appropriations or make payments from the CRF.

24 CAC Act body payments are initiated by requests to the relevant portfolio agencies from the CAC Act bodies. The Finance Minister manages appropriations for CAC Act bodies through the issuing of drawing rights in accordance with sections 26 and 27 of the FMA Act. Drawing rights control who may spend money from appropriations and allow for conditions and limits to be set by the Finance Minister (or the Finance Minister's delegate) in relation to those payments. CAC Act bodies hold the amounts paid to them on their own account.

25 Subclause 9(2) provides that if a CAC Act body is subject to another Act that requires amounts appropriated by Parliament for the purposes of that body to be paid to the body, then the full amount of the CAC Act body payment must be paid to the body. The purpose of subclause 9(2) is to clarify that subclause 9(1) is not intended to qualify any obligations in other legislation regulating a CAC Act body, where that other legislation requires the Commonwealth to pay the full amount appropriated for the purposes of the body.

26 The full amount of the CAC Act body payments specified in Schedule 1 may be reduced in accordance with clause 12. Subclause 12(5) provides that

subclause 9(2) does not prevent the CAC Act body payments in Schedule 1 being reduced.

27 In addition to the annual appropriations, some CAC Act bodies may also receive public money from related entities such as a portfolio department and from special appropriations managed by those departments. Many CAC Act bodies also receive funds from external sources.

### **Part 3—Adjusting appropriation items**

28 Part 3 of the Bill provides for reductions or increases to the amounts specified in Schedule 1. The reduction provisions are contained in clauses 10 through 12 inclusive. The provisions that can increase the amounts specified in Schedule 1 are contained in clauses 13 and 14.

29 Clauses 10, 11 and 12 have been amended since the previous year's Appropriation Bill, by introducing additional mechanisms for initiating the reduction of unspent items. This has the purpose of increasing the efficiency of the reduction process particularly when surplus appropriations result from government decisions.

#### ***Clause 10—Reducing departmental items***

30 Departmental items remain available until the appropriation is spent or reduced in accordance with clause 10. This clause enables surplus departmental item appropriation amounts to be reduced to promote the efficient, effective and ethical management of any surplus appropriations. Agencies should only spend all of a departmental item if there are government decisions to support that expenditure. Examples of where clause 10 may be appropriate to reduce a departmental item include:

- an excessive amount was originally appropriated in error;
- an amount is reclassified and appropriated again under another kind of appropriation (e.g. where an amount appropriated as departmental is to be reclassified as administered and a new administered appropriation is provided). The existing departmental appropriation remains legally available even though there is no government authority to spend the funds;
- efficiency savings result in a program costing less than expected; or

- a program is abolished under government policy before the appropriation is expended.

31 Paragraph 10(1)(a) enables the Prime Minister, or a Minister acting on behalf of the Prime Minister, to request that the Finance Minister reduce a departmental item for an agency. Paragraph 10(1)(b) enables the Minister who is responsible for the agency to request the Finance Minister to reduce a departmental item for an agency. Paragraph 10(1)(c) enables the Chief Executive of an agency for which the Finance Minister is responsible to request the Finance Minister to reduce a departmental item for that agency. Subclause 10(6) assists readers by noting that a request under subclause 10(1) is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003* (LI Act), on the basis that it is requesting a determination to be made, and it is the determination under subclause 10(2) that has substantive effect.

32 Subclause 10(2) enables the Finance Minister to make a written determination to reduce a departmental item. The Finance Minister is not obliged to act on a request to reduce excess departmental item appropriations. However, if the Finance Minister does:

- the determination must be for the amount specified in the request: subclause 10(2);
- the determination may not reduce the departmental item below nil: subclause 10(3); and
- the departmental item in Schedule 1 will be taken to be reduced in accordance with the determination of the Finance Minister: subclause 10(4).

33 Subclause 10(5) provides that once a determination is made under subclause 10(2), it must not be rescinded, revoked, amended or varied. Subclause 10(7) applies despite subsection 33(3) of the AI Act. This subclause intends to exclude the operation of subsection 33(3) of the AI Act from determinations made under subclause 10(2). The purpose of subclause 10(5) is to ensure that the departmental item appropriation, when reduced under subclause 10(2), cannot be restored by means of a later determination.

34 Subclause 10(7) provides that a determination made under subclause 10(2) is a legislative instrument.

35 Despite subsection 44(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to disallowance, subclause 10(7) provides that a determination reducing a departmental item is subject to disallowance in accordance with section 42 of the LI Act. Parliament retains the power to disallow a determination to reduce a departmental item, because any such determination will reduce the amount of an appropriation authorised by Parliament. Subclause 10(7) also confirms subsection 54(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to sunseting.

### ***Clause 11—Reducing administered items***

36 Clause 11 provides for amounts of administered items not required after the end of the current year to be extinguished. If the government then decides that amounts should be spent in a later financial year, the government must request Parliament to appropriate these amounts in future appropriation Bills.

37 Clause 11 limits the amount that may be applied for an administered item to the amount reported for that item in an agency's annual report. Subclause 11(1) provides that if the amount published in the annual report is less than the amount of the item, then the administered item is taken to be reduced to the amount specified in the annual report. The amount of the item specified in Schedule 1 of the Bill may be increased or reduced by the other clauses of Part 3 of the Bill, or in accordance with sections 30, 30A and 32 of the FMA Act. The amount in the annual report must therefore be compared with the amount for the item in Schedule 1, together with any other adjustments that have been made to that amount.

38 Subparagraph 11(2)(a)(i) retains a power for the Finance Minister to make a written determination specifying that subclause 11(1) does not apply in relation to the item. Subparagraph 11(2)(a)(ii) enables the Finance Minister to determine that an amount published in the financial statements of an agency, is taken to be the amount specified in his or her determination. The power in subparagraph 11(2)(a)(ii) is to ensure that the amount published for the administered item in an agency annual report can be corrected through the determination if, for example, the amount published is erroneous or rendered out-of date by later events. Additionally, the power in paragraph 11(2)(b) is to provide the Finance Minister with the capacity to make a written determination in those cases where an agency has failed to specify a required amount in its' annual report. In those cases the amount specified in the determination as the required amount will be taken to be the required amount for the purposes of subclause 11(1).

39 Subclause 11(3) provides that a determination made under subclause 11(2) is a legislative instrument.

40 Despite subsection 44(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to disallowance, subclause 11(3) provides that a determination regarding an administered item is subject to disallowance in accordance with section 42 of the LI Act. Parliament retains the power to disallow a determination to reduce an administered item because any such determination will reduce the amount of an appropriation authorised by Parliament. Subclause 11(3) also confirms subsection 54(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to sunset.

### ***Clause 12—Reducing CAC Act body payment items***

41 Clause 12 provides a process for reducing CAC Act body payment items, which is similar to that for reducing departmental items. Paragraph 12(1)(a) enables the Prime Minister, or a Minister acting on behalf of the Prime Minister, to request that the Finance Minister reduce a CAC Act body payment item. Paragraph 12(1)(b) enables a Minister responsible for a CAC Act body, to request that the Finance Minister reduce a CAC Act body payment item. Paragraph 12(1)(c) enables the Secretary of the Finance Department to request a reduction for a CAC Act body payment item for a body which the Finance Minister is responsible. Subclause 12(7) assists readers by noting that a request under subclause 12(1) is not a legislative instrument within the meaning of section 5 of the LI Act, on the basis that it is requesting a determination under subclause 12(2) to be made and it is the determination that has substantive effect.

42 Subclause 12(2) enables the Finance Minister to make a written determination to reduce a CAC Act body payment item. The Finance Minister is not obliged to act on a request to reduce a CAC Act body payment item. However, if the Finance Minister does:

- the determination must be for the amount specified in the request: subclause 12(2);
- the determination may not reduce the CAC Act body payment item below nil: subclause 12(3); and
- the CAC Act body payment item in Schedule 1 will be taken to be reduced in accordance with the determination of the Finance Minister: subclause 12(4).

43 Subclause 12(5) provides that a determination made under subclause 12(2) once made, must not be rescinded, revoked, amended or varied. Subclause 12(5) applies despite subsection 33(3) of the AI Act. This subclause intends to exclude the operation of subsection 33(3) of the AI Act from determinations made under subclause 12(2). The purpose of subclause 12(5) is to ensure that the CAC Act body payment item appropriation, when reduced under subclause 12(2), cannot be restored by means of a later determination.

44 Subclause 12(6) provides that the full amount that is required to be paid to a CAC Act body by subclause 9(2) of the Bill, may be reduced in accordance with this clause 12.

45 Subclause 12(8) provides that a determination made under subclause 12(2) is a legislative instrument.

46 Despite subsection 44(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to disallowance, subclause 12(8) provides that a determination reducing a CAC Act body payment item is subject to disallowance in accordance with section 42 of the LI Act. Parliament retains the power to disallow a determination to reduce a CAC Act body payment item because any such determination will reduce the amount of an appropriation authorised by Parliament. Subclause 12(8) also confirms subsection 54(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to sunseting.

### ***Clause 13—Advance to the Finance Minister***

47 Clause 13 enables the Finance Minister to provide additional appropriations for items when satisfied that there is an urgent need for expenditure and the existing appropriation is inadequate. This additional appropriation is referred to as the Advance to the Finance Minister (AFM). Clause 13 provides that the total amount that can be determined under the AFM provision is \$295 million.

48 Subclause 13(1) establishes the criteria about which the Finance Minister must be satisfied before determining to add an amount to an item of an agency. The Finance Minister will only consider issuing an amount under subclause 13(1) if satisfied there is an urgent need for expenditure that is not provided for, or is insufficiently provided for in Schedule 1, because of an omission or



understatement or because of unforeseen circumstances.<sup>1</sup> Generally, the other appropriation adjustment options in Part 3 of the Bill, or under sections 30, 30A and 32 of the FMA Act, must have been exhausted before the Finance Minister will make a determination under subclause 13(2).

49 Subclause 13(2) enables the Finance Minister to make a determination to add an amount from the AFM to an item in Schedule 1, to a new item not already in Schedule 1, or to a new outcome.

50 A further AFM provision will be requested in the additional estimates Bills for the current year if pressures at that time suggest the AFM in this Bill will be close to being exhausted before the end of the financial year.

51 Subclause 13(4) provides that a determination under subclause 13(2) is a legislative instrument, which must be tabled in Parliament but is not subject to disallowance or sunseting.

52 A subclause 13(2) determination is not subject to disallowance as this would frustrate the purpose of the provision, which is to provide additional appropriation for urgent expenditure. Further, an AFM is not subject to the sunseting provisions of the LI Act, because the amount allocated from the AFM would be extinguished when it is spent. Also, if the determination did expire after a period, then the recipient of money paid from the AFM would be liable to repay that money as if the amount had not been appropriated in the first place.

### ***Clause 14—Determinations under previous Acts***

53 Clause 14 provides that certain determinations previously made under previous appropriation Acts, shall not be rescinded, revoked amended or varied on or after 1 July 2010. The purpose of clause 14 is to ensure that any items, which have been reduced by instruments already made under the listed appropriation Acts, cannot be restored by means of a later determination.

### ***Clause 15—Reducing Items in previous Acts***

54 Clause 15 provides a process for reducing departmental items and CAC Act body payment items in a previous Act, which is substantially similar to the process for reducing departmental items (clause 10) and CAC Act body

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<sup>1</sup> Under the AFM guidelines, expenditure is urgent if required within two weeks. The guidelines are available at <http://www.finance.gov.au/budget/budget-process/appropriation-bills.html>.



payments (clause 12). Paragraph 15(1)(a) enables the Prime Minister, or a Minister acting on behalf of the Prime Minister, to request that the Finance Minister reduce a departmental item in a previous Act. Paragraph 15(1)(b) enables the Prime Minister, or a Minister acting on behalf of the Prime Minister, to request that the Finance Minister reduce a CAC Act body payment item in a previous Act. Subclause 15(6) assists readers by noting that a request under subclause 15(1) is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003* (LI Act), on the basis that it is requesting a determination to be made, and it is the determination under subclause 15(2) that has substantive effect.

55 Subclause 15(2) enables the Finance Minister to make a written determination to reduce a departmental item or a CAC Act body payment item. The Finance Minister is not obliged to act on a request to reduce a departmental item or a CAC Act body payment item. However, if the Finance Minister does:

- the determination may be for the amount specified in the request: subclause 15(2);
- if the item is a departmental item, the determination may not reduce the item below nil: paragraph 15(3)(a);
- if the item is a CAC Act body item, the determination may not reduce the item below nil: paragraph 15(3)(b); and
- the relevant item is taken to be reduced in accordance with the determination of the Finance Minister: subclause 15(4).

56 Subclause 15(5) provides that a determination made under subclause 15(2) once made, must not be rescinded, revoked, amended or varied. Subclause 15(5) applies despite subsection 33(3) of the AI Act. This subclause intends to exclude the operation of subsection 33(3) of the AI Act from determinations made under subclause 15(2). The purpose of subclause 15(5) is to ensure that the relevant appropriation item, when reduced under subclause 15(2), cannot be restored by means of a later determination.

57 Despite subsection 44(2) of the LI Act, which provides that instruments made under annual Appropriation Acts are not subject to disallowance, subclause 15(7) provides that a determination reducing a relevant item is subject to disallowance in accordance with section 42 of the LI Act. Parliament retains the power to disallow a determination to reduce an item because any such determination will reduce the amount of an appropriation authorised by Parliament. Subclause 15(7) also confirms subsection 54(2) of the LI Act,

which provides that instruments made under annual Appropriation Acts are not subject to sunseting.

58 Subclause 15(8) defines the terms, “CAC Act body payment item”, “departmental item” and “previous Act”, for the purposes of clause 15. Essentially, subclause 15(8) lists the previous Acts to which clause 15 applies.

## **Part 4—Miscellaneous**

### ***Clause 16—Crediting amounts to Special Accounts***

59 Clause 16 provides that if the purpose of an item in Schedule 1 is also the purpose of a Special Account (regardless of whether the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to the Special Account. Special Accounts may be established under the FMA Act by a determination of the Finance Minister (section 20) or by another Act (section 21). The determination or Act that establishes the Special Account will specify the purposes of the Special Account.

### ***Clause 17—Appropriation of the Consolidated Revenue Fund***

60 Clause 17 provides that the CRF is appropriated as necessary for the purposes of the Bill. Significantly, this clause notes that the amounts appropriated by the Bill may be affected by the FMA Act, in particular sections 30, 30A and 32 of the FMA Act (see clause 6).

## **Schedule 1—Services for which money is appropriated**

61 Schedule 1 specifies the appropriations proposed for the ordinary annual services of the Government. Schedule 1 contains a summary table which lists the total amounts for each portfolio. A separate summary table is included with further detail for each portfolio, with other tables detailing the appropriations for each agency.

62 Schedule 1 includes for information purposes, a figure for the previous financial year printed in italics under each appropriation amount, labelled the “Actual Available Appropriation”. That figure provides a comparison with the proposed appropriations. The Actual Available Appropriation does not affect the amounts available at law.

63 More details about the appropriations in Schedule 1 are contained in the PBS and the second reading speech.