



FMA Act (Anzac Centenary Public Fund Special Account) Determination 2013/02

Financial Management and Accountability Act 1997

I, PENELOPE YING YEN WONG, Minister for Finance and Deregulation, make this Determination under subsection 20(1) of the *Financial Management and Accountability Act 1997*.

Dated 5th June 2013

PENELOPE YING YEN WONG
Minister for Finance and Deregulation

1 Name of Determination

This Determination is the *FMA Act (Anzac Centenary Public Fund Special Account) Determination 2013/02* (the Determination).

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.comlaw.gov.au>.

2 Definitions

In the Determination:

Act means the *Financial Management and Accountability Act 1997*.

Special Account has the meaning given by section 5 of the Act.

Fund means the Anzac Centenary Public Fund referred to in subsection 30-50(2) of the ITAA 1997.

ITAA 1997 means the *Income Tax Assessment Act 1997*.

Note Subsection 30-50 (2) of the ITAA 1997 provides that the Fund is a deductible gift recipient for income tax purposes.

3 **Commencement**

The Determination commences at the time at which it takes effect in accordance with subsection 22 (4) of the Act.

4 **Establishment**

For paragraph 20 (1) (a) of the Act, a Special Account is established with the name *Anzac Centenary Public Fund Special Account* (this Special Account).

5 **Amounts to be credited**

For paragraph 20 (1) (b) of the Act, the amounts to be credited to this Special Account are:

- (a) gifts or contributions of money for the purposes of the Fund; and
- (b) amounts equal to interest received by the Commonwealth from the investment of amounts standing to the credit of this Special Account

Note 1: The Appropriation Acts provide that if any of the purposes of a Special Account are covered by an item in those Acts (whether or not 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.

6 **Purposes for which amounts are allowed be debited**

For paragraph 20 (1) (c) of the Act, the purposes for which amounts are allowed to be debited from this Special Account are:

- (a) to provide funding for events, projects, initiatives and activities relating to the Anzac Centenary including, but not limited to:
 - (i) travelling exhibitions, other art exhibitions and commemorative displays;
 - (ii) commemorative events, re-enactments and services;
 - (iii) redevelopment and refurbishment of existing memorials;
 - (iv) digitisation of repatriation records;
 - (v) education grants and scholarship programs;
 - (vi) conferences;
 - (vii) concerts and festivals;
 - (viii) multimedia and interactive websites and web platforms;
 - (ix) documentaries; and
- (b) to repay amounts where an Act or other law requires or permits the repayment of an amount received.

Note 1: Subsection 20 (4) of the Act appropriates the Consolidated Revenue Fund (CRF) for expenditure for the purposes of this Special Account up to the balance for the time being of this Special Account. Subsection 20 (5) of the Act provides that whenever an amount is debited against the appropriation, the amount is taken to be also debited from this Special Account.

Note 2 In addition to the purposes specified in this Determination, other provisions of the Act provide authority for amounts to be debited from this Special Account.

Subsection 39 (1) of the Act provides the Finance Minister with the power to invest public money in any authorised investment. Where such an investment is made of an amount standing to the credit of a Special Account, section 39 of the Act has the effect that the Special Account must be debited.

Subsection 39 (4) of the Act provides that if an amount has been invested by debiting a Special Account, then the expenses of the investment may be debited from the Account.

Subsection 39 (9) of the Act appropriates the CRF for this investment activity.

Not all chief executives have been delegated powers to invest under section 39 of the Act.

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Financial Management and Accountability Act 1997

FMA Act (Anzac Centenary Public Fund Special Account)

Determination 2013/02 (the Determination)

Purpose of the Determination

The Determination is made under subsection 20(1) of the *Financial Management and Accountability Act 1997* (FMA Act) and establishes a new Special Account, the *Anzac Centenary Public Fund Special Account*.

Special Accounts generally

In accordance with the Constitution, all revenues or moneys raised or received by the Government of the Commonwealth form one Consolidated Revenue Fund (CRF) and may not be spent unless under an appropriation by the Parliament for the purposes of the Commonwealth. A Special Account may be established by a determination that sets out the amounts that may be credited to the Special Account and the purposes for which the Special Account may be debited. Special Accounts established by determination are supported by an appropriation under section 20 of the FMA Act. In effect, Special Accounts allow amounts from the CRF to be spent on the purposes specified in the determination.

Determinations that establish Special Accounts under subsection 20(1) of the FMA Act or vary Special Accounts under subsection 20(2) of the FMA Act are subject to the tabling and disallowance procedures in section 22 of the FMA Act. Section 22 of the FMA Act requires the Finance Minister to table a copy of the determination in each House of the Parliament. Either House may pass a resolution disallowing a determination within five sitting days of tabling. If the determination is not disallowed, it comes into effect on the day immediately after the last day on which it could have been disallowed.

Subsection 20(6) of the FMA Act exempts determinations that establish Special Accounts under subsection 20(1) of the FMA Act or vary Special Accounts under subsection 20(2) of the FMA Act from the operation of Part 6 (sunsetting) of the *Legislative Instruments Act 2003*.

Subsection 20(7) of the FMA Act exempts determinations that abolish Special Accounts under subsection 20(3) of the FMA Act from the operation of section 42 (disallowance) and Part 6 (sunsetting) of the *Legislative Instruments Act 2003*.

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 *Legislative Instruments Act 2003*. While determinations made or varied under subsections 20(1) or 20(2) of the FMA Act are subject to disallowance under section 22 of the FMA Act they are not subject to disallowance under section 42 of the *Legislative Instruments Act 2003*. Determinations made under subsection 20(3) of the FMA Act are exempt from disallowance under subsection 20(7) of the FMA Act, as such a Statement of Compatibility with Human Rights is not required.

Operation of the Determination

The Determination establishes a Special Account to manage amounts in relation to the Anzac Centenary Public Fund (the Public Fund), held in the Veterans' Affairs portfolio. The Public Fund was set up to collect donations from the private sector (including individuals) to contribute to the commemoration of the centenary of the First World War and the contribution of service men and women in serving their country in the last 100 years.

The *Tax and Superannuation Laws Amendment (2013 Measures No. 2) Bill 2013*, which is before the Parliament, would if enacted provide for tax deductibility gift recipient (DGR) status of the Public Fund. This status would sunset automatically on 1 July 2023. At that time, it can be expected that consideration would be given to abolishing the Special Account.

All moneys received by the Commonwealth that relate to the purposes of the Public Fund must be credited to the Special Account, to provide an additional level of transparency over the Public Fund.

The Special Account also allows the Department of Veterans' Affairs (DVA) to make payments from the Public Fund for commemoration-related projects and initiatives that are approved by Government.

Consultation

The DVA was consulted in the preparation of this determination. As the determination is for internal machinery of government purposes only, no consultation was necessary with other persons (see sections 17 and 18 of the *Legislative Instruments Act 2003*).

Table of Balances and Transactions

The table below outlines the estimated financial implications of the determination on the balance of the Special Account. There is no net impact on the Budget bottom line.

Special Account	2013-2014 (\$m)			
	Opening Balance	Credits	Debits	Closing Balance
<i>Anzac Centenary Special Account</i>	0	24	-24	0

Note: these figures are indicative only and may vary from the Agency's actuals published in the Portfolio Budget Statements and Annual Reports.