

s47C, s47D, s47E

s34(3)

s47C, s47D, s47E

s34(3)

s34(3)

s47C, s47D, s47E





## Advance to the Finance Minister Determination (No. 4 of 2019-2020)

I, Mathias Hubert Paul Cormann, Minister for Finance, being satisfied of the matters set out in subsection 12(1) of *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020* (the Act), make the following determination under subsection 12(2) of the Act:

That the Act have effect as if Schedule 2 of the Act were amended so that the item described in Column 1 of the Table, for the Entity listed in Column 2 of the Table, were increased by the amount listed in Column 3 of the Table.

**Table**

	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Appropriation Item</b>	<b>Entity</b>	<b>Amount</b>
1	Administered assets and liabilities item	Department of Health	\$400,000,000

Dated  April 2020

s22

 MATHIAS HUBERT PAUL CORMANN  
Minister for Finance



## Advance to the Finance Minister Determination (No. 5 of 2019-2020)

I, Mathias Hubert Paul Cormann, Minister for Finance, being satisfied of the matters set out in subsection 12(1) of *Appropriation Act (No. 2) 2019-2020* (the Act), make the following determination under subsection 12(2) of the Act:

That the Act have effect as if Schedule 2 of the Act were amended so that the item described in Column 1 of the Table, for the Entity listed in Column 2 of the Table, were increased by the amount listed in Column 3 of the Table.

**Table**

	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Appropriation Item</b>	<b>Entity</b>	<b>Amount</b>
1	Administered assets and liabilities item	Department of Health	\$380,000,000

Dated: April 2020

s22

MATHIAS HUBERT PAUL CORMANN  
Minister for Finance

## **EXPLANATORY STATEMENT**

### *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020*

#### *AFM Determination (No. 4 of 2019-2020)*

#### **Purpose of the Determination**

The Advance to the Finance Minister (AFM) is provided under subsection 12(2) of *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020* (the Act). Section 12 provides that amounts can be allocated from the AFM, up to a limit of \$1,200 million. The Finance Minister must, however, be satisfied there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for, in Schedule 2 of the Act, for one of the reasons specified in paragraphs 12(1)(a) and (b).

The Finance Minister is satisfied, based on information provided by the Department of Health (Health) that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020* (the Bill), before it was introduced into the House of Representatives. The Bill was introduced into the House of Representatives on Monday 23 March 2020. An explanation of the additional expenditure is provided in this determination under the heading 'Consultation and Impact' below.

The Commonwealth Government agreed that this appropriation is essential to the Australian Health Sector Emergency Response Plan for Novel Coronavirus. Consistent with paragraph 12(1)(b) of the Act funding is urgent because the timing for the expenditure was unforeseen when it was last possible to include funding in appropriation legislation before the end of the financial year.

The effect of the determination is that Schedule 2 of *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020* will have effect as if it were amended as specified in the determination.

#### **Advances to the Finance Minister generally**

The section providing for the AFM is contained in the annual Appropriation Acts. It enables the Finance Minister to facilitate urgent and unforeseen expenditure that was not within the contemplation of Parliament when the relevant Appropriation Act was passed, and was therefore not provided for in Schedule 2 of the Appropriation Act.

A determination made under subsection 12(2) of *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020* is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* applies to the determination.

#### **Statement of Compatibility with Human Rights**

Appropriation Acts perform an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the annual Appropriation Acts.

However, as the High Court has emphasised, beyond this, the annual Appropriation Acts do not create rights and nor do they, importantly, impose any duties.

Given that the legal effect of annual Appropriation Acts is limited in this way, the increase of amounts in the annual Appropriation Acts through an AFM is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Consultation and Impact**

Consistent with Part 1 of the *Legislation Act 2003*, Health was consulted in the preparation of this Determination.

The instrument determines that, in *Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020*, the Administered Assets and Liabilities for Health is increased by \$400,000,000.

This Advance is provided to enable Health to fund the further procurement of masks and other emergency medical or emergency health equipment to address the unforeseen scale of the COVID-19 spread across the globe and possible shortages due to global demand and domestic manufacturing capability.

## **EXPLANATORY STATEMENT**

*Appropriation Act (No. 2) 2019-2020*

*AFM Determination (No. 5 of 2019-2020)*

### **Purpose of the Determination**

The Advance to the Finance Minister (AFM) is provided under subsection 12(2) of *Appropriation Act (No. 2) 2019-2020* (the Act). Section 12 provides that amounts can be allocated from the AFM, up to a limit of \$380 million. The Finance Minister must, however, be satisfied there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for, in Schedule 2 of the Act, for one of the reasons specified in paragraphs 12(1)(a) and (b).

The Finance Minister is satisfied, based on information provided by the Department of Health (Health) that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in *Appropriation Act (No. 2) 2019-2020* (the Bill), before it was introduced into the House of Representatives. The Bill was introduced into the House of Representatives on 25 July 2019. An explanation of the additional expenditure is provided in this determination under the heading 'Consultation and Impact' below.

The Commonwealth Government agreed that this appropriation is essential to the Australian Health Sector Emergency Response Plan for Novel Coronavirus. Consistent with paragraph 12(1)(b) of the Act funding is urgent because the timing for the expenditure was unforeseen when it was last possible to include funding in appropriation legislation before the end of the financial year.

The effect of the determination is that Schedule 2 of *Appropriation Act (No. 2) 2019-2020* will have effect as if it were amended as specified in the determination.

### **Advances to the Finance Minister generally**

The section providing for the AFM is contained in the annual Appropriation Acts. It enables the Finance Minister to facilitate urgent and unforeseen expenditure that was not within the contemplation of Parliament when the relevant Appropriation Act was passed, and was therefore not provided for in Schedule 2 of the Appropriation Act.

Royal Assent to *Appropriation Act (No. 4) 2019-2020* on 26 March 2020 had the effect of resetting the AFM available through *Appropriation Act (No. 2) 2019-2020* to its original balance of \$380 million. Accordingly, the Determination reflects the AFM appropriated in *Appropriation Act (No. 2) 2019-2020*.

A determination made under subsection 12(2) of *Appropriation Act (No. 2) 2019-2020* is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* applies to the determination.

### **Statement of Compatibility with Human Rights**

Appropriation Acts perform an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the annual Appropriation Acts.

However, as the High Court has emphasised, beyond this, the annual Appropriation Acts do not create rights and nor do they, importantly, impose any duties.

Given that the legal effect of annual Appropriation Acts is limited in this way, the increase of amounts in the annual Appropriation Acts through an AFM is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Consultation and Impact**

Consistent with Part 1 of the *Legislation Act 2003*, Health was consulted in the preparation of this Determination.

The instrument determines that, in *Appropriation Act (No. 2) 2019-2020*, the Administered Assets and Liabilities for Health is increased by \$380,000,000.

This Advance is provided to enable Health to fund the further procurement of masks and other emergency medical or emergency health equipment to address the unforeseen scale of the COVID-19 spread across the globe and possible shortages due to global demand and domestic manufacturing capability.

PROTECTED



**SENATOR THE HON MATHIAS CORMANN**

**Minister for Finance  
Leader of the Government in the Senate**

REF: MS20-000360

The Hon Greg Hunt MP  
Minister for Health  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am writing regarding funding arrangements for the further purchase of emergency medical or emergency health equipment for the National Medical Stockpile following the activation of the Australian Health Sector Emergency Response Plan for Novel Coronavirus.

Noting the urgency of your request, I agree to \$780 million being made available through an allocation to the Department Health from the Advance to the Finance Minister provided through *Appropriation (Coronavirus Economic Response Package) Act (No. 2)*, and *Appropriation Act (No. 2) 2019-2020*.

My decision to support your request will be included in the *Report on Advances Provided under the Annual Appropriation Acts for the Year Ended 30 June 2020*, which will be tabled in Parliament.

Kind regards

s22

Mathias Cormann  
**Minister for Finance**

8 April 2020

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PDR Number:  
MS20-000360



Australian Government

Department of Finance

## MINISTERIAL SUBMISSION

Copies to:  
Secretary  
Dr Helgeby  
Mr Yannopoulos  
Ms Carroll  
Mr Graham  
Ms Stace

Minister for Finance

April 2020

### Advance to the Finance Minister – Further purchase of medical equipment to support the Australian Health Sector Emergency Response Plan for Novel Coronavirus

**Timing:** Urgent. Your approval will allocate \$780 million to the Department of Health (Health) to allow that entity to purchase additional masks and other emergency medical or emergency health equipment for the National Medical Stockpile (NMS).

#### Recommendation:

That you:

- i. **sign** the determination (Attachment A1) to allocate to Health \$400 million under *Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-2020*, using an Advance to the Finance Minister (AFM);  
SIGNED / PLEASE DISCUSS
- ii. **note** if you sign the determination at Attachment A1 the AFM available under *Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-2020* will be fully allocated and a second allocation from *Appropriation Act (No.2) 2019-2020* will be necessary to meet the Minister's request;  
NOTED / PLEASE DISCUSS
- iii. **sign** the determination (Attachment A2) to allocate to Health \$380 million under *Appropriation Act (No.2) 2019-2020*;  
SIGNED / PLEASE DISCUSS
- iv. **approve** the accompanying Explanatory Statements (Attachment B1 and B2); and  
APPROVED / NOT APPROVED / PLEASE DISCUSS
- v. **sign** the attached letter to the Minister for Health agreeing to allocate additional amounts through an Advance to the Finance Minister (Attachment C).  
SIGNED / PLEASE DISCUSS
- vi. **note** the attached media release will be issued advising of your decision to allocate this AFM (Attachment D).  
NOTED / PLEASE DISCUSS

#### Key Issues:

The Minister for Health has written to request a further AFM of \$780 million to purchase personal protective equipment and other emergency medical or emergency health equipment for the NMS following the activation of the Australian Health Sector Emergency Response Plan for Novel Coronavirus.



2. AFMs can be provided through multiple Acts. The available balances of the Acts are below:

- (a) *Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-2020* - \$400m available;
- (b) *Appropriation Act (No.2) 2019-2020* - \$380 million available;
- (c) *Appropriation Act (No. 6) 2019-2020* - \$24 000 million available

s47C, s47D, s47E

5. The Minister's request satisfies the criteria for an AFM in both Acts. Specifically, as set out in section 12(1) of *Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-2020* and as set out in 12(1) *Appropriation Act (No.2) 2019-2020*, there is an urgent need for expenditure that is not provided for because of unforeseen circumstances:

- (a) urgent need, because current unspent administered appropriation is insufficient to fund anticipated purchases of additional masks; and
- (b) unforeseen circumstances, because the decision to purchase additional masks was not taken until after the commencement of each relevant Act.

6. If you approve the Minister's request, the accompanying explanatory statements will be published. The use of the AFM provision will also be reported in the Annual Report of Advances to the Finance Minister that will be tabled in Parliament following completion of the 2019-2020 financial year.

**Financial Implications:**

7. The Budget estimates do not assume that the AFM will be allocated, as such approving an AFM will have an impact on the Budget.

**Consultation:**

8. Internally we consulted with Budget and Financial Reporting Group.

Marc Vickers  
Assistant Secretary  
Financial Management Branch

02 6215 1641 / 0412 999 138

Contact Officer:

Job Title/Level:

Telephone:

PDR Number

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Mathias Cormann

P 9 / 20