

PGPA Act – section 75

Transfers of functions between non-corporate Commonwealth entities

When this section applies

(1) This section applies if a function of a non-corporate Commonwealth entity (the **transferring entity**) is transferred to another non-corporate Commonwealth entity, either because the transferring entity is abolished or for any other reason.

Adjustments to appropriations

(2) The Finance Minister may determine that the operation of one or more Schedules to one or more Appropriation Acts is modified in a specified way. The modification must be related to the transfer of function.

(3) Each Appropriation Act concerned has effect as if the operation of the Schedule concerned were modified in accordance with the determination.

No increase in overall appropriation etc.

(4) A determination under subsection (2) must not result in:

- (a) a change in the total amount appropriated in relation to the financial year in which the determination is made; or
- (b) an increase in the total amount appropriated in relation to any previous financial year.

Transfer of function involving a Parliamentary Department

(5) If the transfer of function involves a Parliamentary Department, then the Finance Minister must not make a determination under subsection (2) unless it is in accordance with a written recommendation of the relevant Presiding Officer.

Note: If the transfer is between Parliamentary Departments, then the recommendation of both Presiding Officers would be needed before the Finance Minister could make the determination.

No extension of time limits

(6) A determination under subsection (2) does not have the effect of extending any time limit that applies to an appropriation.

Legislation Act 2003

(7) A determination under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

(8) A determination under subsection (2) may be expressed to commence before the day it is registered under that Act (including before the day it is made).

(9) Subsection (8) does not authorise expenditure under an appropriation that did not exist at the time of the expenditure.

(9A) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to a determination under subsection (2) of this section.

Rules about transfers of functions

(10) The rules may make provision in relation to a transfer of function to which this section applies, including in relation to the exercise of a power, the performance of a function or the discharge of a duty delegated under this Act or the rules.