

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C
Secretary
Ms Foster
Mr Reid
Ms
Cvijanovic
Mr Rush

To: Prime Minister (for signature by Friday, 9 April 2021 to enable consideration of these matters at the Executive Council meeting on Thursday, 15 April 2021)

PMO
Dr Kunkel
s 22(1)(a)(ii)

MACHINERY OF GOVERNMENT CHANGES - SMALL BUSINESS FUNCTIONS AND THE DIGITAL TRANSFORMATION AGENCY

Recommendations - that you:


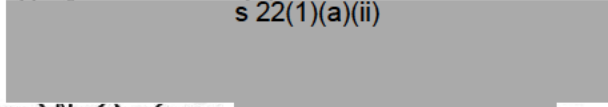
- 1. Sign the Executive Council documents proposing to:
 - a. transfer small business functions to the Department of the Treasury, and transfer the Digital Transformation Agency (DTA) to the Prime Minister and Cabinet portfolio (Attachment A); and
 - b. make the Minister for Employment, Workforce, Skills, Small and Family Business, the Hon Stuart Robert MP, responsible for the DTA (Attachment B).
- 2. Sign the letter to the Governor-General proposing he appoint Mr Robert to administer the Department of the Prime Minister and Cabinet (Attachment C), the instrument to appoint Mr Robert (Attachment D) and the letter to Mr Robert advising him of your decisions to make him the minister responsible for the DTA, public data policy and small business functions (Attachment E).
- 3. Sign the letter to the Minister for Government Services, Senator the Hon Linda Reynolds CSC, advising her of your decision to make Mr Robert the minister responsible for the DTA and public data policy (Attachment F).
- 4. Sign the letter to the Governor-General asking to lodge papers for consideration at the Executive Council meeting on 15 April 2021 outside of the required timeframe (Attachment G).

Signed / Not Signed

Signed / Not Signed

Signed / Not Signed

Signed / Not Signed


s 22(1)(a)(ii)


SCOTT MORRISON

Date:

12-4-2

Comments:

Key Points:

1. As requested by your Office, we have prepared documents for your signature to finalise machinery of government arrangements following the recent changes to the Ministry.
 - a. On 30 March 2021, Mr Robert was appointed to administer the Treasury (in addition to the Department of Education, Skills and Employment) in anticipation of responsibility for 'small business' transferring to the Treasury portfolio.
 - b. Your Office has indicated that you are also inclined to agree to Mr Robert's proposal that he be responsible for the DTA in the Prime Minister and Cabinet portfolio (PM&C).
2. Once signed by you and the Governor-General in Council, the attached documents would:
 - a. transfer responsibility for small business functions and the associated legislation from the Department of Industry, Science, Energy and Resources to the Department of the Treasury;
 - b. transfer the DTA from the Social Services portfolio to PM&C; and
 - c. amend the Administrative Arrangements Order (AAO) to reflect these machinery changes.
3. To enable Mr Robert to oversee the DTA, following transfer to PM&C, he also needs to be appointed to administer PM&C.
 - a. This would also allow Mr Robert to administer public data policy and related matters, within PM&C, as was the case before the Ministry changes on 30 March 2021.
 - b. Once signed by you, the instrument of appointment at Attachment D also needs to be signed by the Governor-General. There is no requirement for a new Oath of Office or swearing-in ceremony.
4. Once executed, the documents at Attachment B would also give effect to changes to the mandate of the DTA s 34(3), s 34(2)
5. To ensure these matters can be considered at the next Executive Council meeting on 15 April 2021, it is necessary for you to write to the Governor-General seeking permission to lodge papers outside of the usual timeframe. The letter at Attachment G identifies a number of late items for Executive Council consideration on 15 April 2021:
 - a. Amendments to the AAO to reflect machinery of government changes (small business and DTA) and amendments to the Order to identify the Minister responsible for the DTA and specifying its functions, which are the subject of this submission.

s 22(1)(a)(ii)

Peter Rush
Assistant Secretary
Parliamentary and Government Branch
8 April 2021

Policy Officer: s 22(1)(a)(ii)
Phone no: (02) s 22(1)(a)(ii) / s 22(1)(a)(ii)
Consultation: Policy Innovation and
Projects

PROTECTED CABINET

ATTACHMENTS

- ATTACHMENT A EXECUTIVE COUNCIL DOCUMENTS TO TRANSFER FUNCTIONS AND AMEND AAO**
- ATTACHMENT B EXECUTIVE COUNCIL DOCUMENTS TO IDENTIFY MINISTER RESPONSIBLE FOR THE DTA AND SPECIFY THE DTA'S FUNCTIONS**
- ATTACHMENT C LETTER TO THE GOVERNOR-GENERAL PROPOSING HE APPOINT MR ROBERT TO ADMINISTER THE DEPARTMENT OF THE PRIME MINISTER AND CABINET**
- ATTACHMENT D INSTRUMENT OF APPOINTMENT TO ADMINISTER PM&C - MINISTER ROBERT**
- ATTACHMENT E LETTER TO MINISTER ROBERT**
- ATTACHMENT F LETTER TO MINISTER REYNOLDS**
- ATTACHMENT G LETTER TO THE GOVERNOR-GENERAL SEEKING PERMISSION TO BRING ITEMS TO THE 15 APRIL EXECUTIVE COUNCIL MEETING**

PROTECTED CABINET



PRIME MINISTER

Departmental No. /2021

Minute Paper for the Executive Council

Executive Council
Meeting No.

Subject

The Constitution

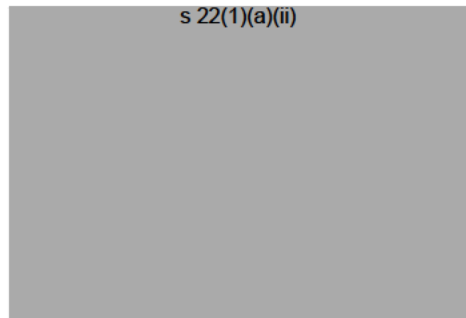
Administrative Arrangements Order

Approved in Council

Recommended for the approval of His Excellency the Governor-General in Council that the Administrative Arrangements Order be amended in the attached form.

.....

David Hurley
Governor-General



.....

Filed in the Records
of the Council

Scott Morrison
Prime Minister

.....

Secretary to the Executive Council

COMMONWEALTH OF AUSTRALIA

The Constitution

Administrative Arrangements Order

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under Chapter II of the *Constitution*, order that the Administrative Arrangements Order made on 18 March 2021 be amended as set out in the Schedule.

The amendments set out in the Schedule will take effect from and including 15 April 2021.

Signed and sealed with the
Great Seal of Australia on
2021

David Hurley
Governor-General

By His Excellency's Command
s 22(1)(a)(ii)

Scott Morrison
Prime Minister

SCHEDULE

AMENDMENTS TO THE ADMINISTRATIVE ARRANGEMENTS ORDER

PART 9 THE DEPARTMENT OF INDUSTRY, SCIENCE, ENERGY AND RESOURCES

Matters dealt with by the Department

Omit: Small business policy and programmes

Legislation administered by the Minister

Omit: *Australian Small Business and Family Enterprise Ombudsman Act 2015*

PART 13 THE DEPARTMENT OF THE TREASURY

Matters dealt with by the Department

Add: Small business policy and programmes

Legislation administered by the Minister

Add: *Australian Small Business and Family Enterprise Ombudsman Act 2015*

PART 12 THE DEPARTMENT OF SOCIAL SERVICES

Matters dealt with by the Department

Omit: Whole of government information and communications technology

Omit: Information and communications technology procurement policy and services

PART 11 THE DEPARTMENT OF THE PRIME MINISTER AND CABINET

Matters dealt with by the Department

Add: Whole of government information and communications technology

Add: Information and communications technology procurement policy and services

EXPLANATORY MEMORANDUM

Minute No. of 2021 – Prime Minister

Subject - *The Constitution*

Administrative Arrangements Order

The proposed amendments to the Administrative Arrangements Order would give effect to the Prime Minister's decision to transfer responsibility for small business functions to the Department of the Treasury, and the Digital Transformation Agency to the Department of the Prime Minister and Cabinet.

The Administrative Arrangements Order (AAO) stems directly from the *Constitution*. Section 61 of the *Constitution* places the executive power of the Commonwealth in The Queen and provides that it is exercisable by the Governor-General. Section 62 provides for the Executive Council and section 64 provides that the Governor-General may appoint Ministers of State to administer such Departments of State of the Commonwealth as the Governor-General in Council establishes.

The AAO specifies the names of Departments of State, the principal matters they deal with and the legislation administered within each portfolio.

The Minute proposes that the Governor-General make amendments to the AAO made on 18 March 2021 to reflect changes to administrative arrangements recommended by the Prime Minister.

The proposed amendments would transfer small business functions and responsibility for the *Australian Small Business and Family Enterprise Ombudsman Act 2015* from the Department of Industry, Science, Energy and Resources to the Department of the Treasury, and responsibility for the Digital Transformation Agency (DTA) from the Department of Social Services to the Department of the Prime Minister and Cabinet, as proposed by the Prime Minister. The DTA is the subject of another item proposed for Executive Council consideration.

These proposed amendments would provide greater alignment of policy directions and objectives in the Government's agenda.

The Minute recommends that the Order be amended in the form proposed.

Authority: Chapter II of the *Constitution*



PRIME MINISTER

Departmental No. /2021

Minute Paper for the Executive Council

Subject

Public Service Act 1999

Executive Council
Meeting No.

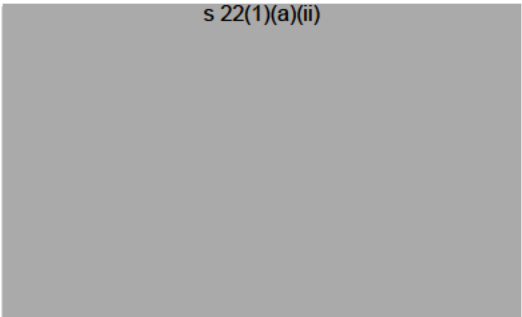
Order to identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the Digital Transformation Agency, and to specify the functions of the Digital Transformation Agency

Approved in Council

Recommended for the approval of His Excellency the Governor-General in Council that he make an Order in the attached form.

.....

David Hurley
Governor-General



Scott Morrison
Prime Minister

.....

Filed in the Records
of the Council

.....

Secretary to the Executive Council



COMMONWEALTH OF AUSTRALIA

Public Service Act 1999

Order to identify the Minister responsible for the Digital Transformation Agency, and to Specify Functions for the Digital Transformation Agency

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 65 of the *Public Service Act 1999*, amend the Order to establish the Digital Transformation Agency as an Executive Agency, made on 12 March 2015 and amended on 21 September 2015, 27 October 2016, 30 August 2018 and 29 May 2019, by omitting paragraphs (d) and (e) of that Order and substituting the following paragraphs:

- (d) identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the Executive Agency; and
- (e) specify that the functions of the Digital Transformation Agency be as follows:
 - i. provide strategic and policy leadership on whole of government and shared Information and Communication Technology (ICT) investments and digital service delivery;
 - ii. develop, deliver and monitor whole of government strategies, policies and standards for digital and ICT investments, including ICT procurement;
 - iii. manage strategic coordination and oversight functions for digital and ICT investments across the project life cycle, including providing advice on whole of government reuse opportunities;
 - iv. manage whole of government digital procurement to simplify processes for government agencies, reduce costs and generate reuse opportunities;
 - v. provide advice to the Minister on whole of government and shared digital and ICT investment proposals; and
 - vi. undertake other relevant tasks as the Minister may require from time to time.

Paragraph (d) in this Order will commence on the date of Gazettal.

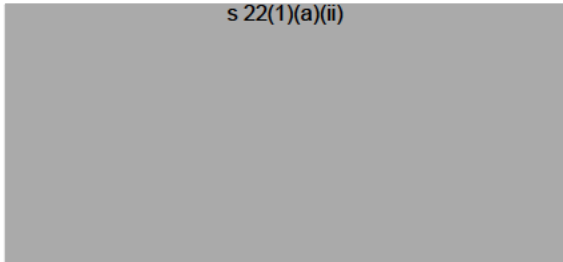
Paragraph (e) in this Order will commence on 1 July 2021.

Dated April 2021

David Hurley
Governor-General

By His Excellency's Command

s 22(1)(a)(ii)



Scott Morrison
Prime Minister

EXPLANATORY MEMORANDUM

Minute No. of 2021 – Prime Minister

Subject - *Public Service Act 1999*

Order to identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the Digital Transformation Agency and to specify the functions of the Digital Transformation Agency

The proposed instrument would identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the Digital Transformation Agency (DTA) and specify the functions of the DTA.

Section 65 of the *Public Service Act 1999* (the Act) provides for the establishment of an Executive Agency. Under paragraph 65(1)(c) of the Act, the Governor-General may identify the Minister who is responsible for an Executive Agency by Order in the *Gazette*.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character the power shall be construed as including a power exercisable in the like manner to repeal, rescind, revoke, amend, or vary any such instrument.

The DTA, originally named the Digital Transformation Organisation (DTO), was established as an Executive Agency by an Order in Council on 12 March 2015, to take effect on 1 July 2015. That Order identified the Minister for Communications as the Minister responsible. On 21 September 2015, the Minister responsible was changed to the Prime Minister. On 27 October 2016, the Order was amended to rename the DTO to the DTA and specify functions of the DTA. On 30 August 2018, the Minister responsible became the Minister for Human Services and Digital Transformation, with the DTA remaining in the Prime Minister and Cabinet portfolio. On 29 May 2019, the Minister responsible was changed to the Minister for Government Services, and the DTA moved to the Social Services portfolio.

The purpose of the Minute is to recommend that the Minister responsible for DTA be updated to reflect the current responsible Minister, the Minister for Employment, Workforce, Skills, Small and Family Business. The Order proposes that the change to the responsible Minister for the DTA will commence on the date of gazettal.

The Minute also recommends that the functions of the DTA be amended to reflect current Government priorities for the DTA's role in whole of government and shared Information and Communication Technology (ICT) investments and digital service delivery, and on other related matters. The Order proposes that these amended functions will commence on 1 July 2021.

It is proposed that all other aspects of the Order as established and amended continue unchanged. The Minute recommends that the Order be made in the form proposed.

Authority: Section 65 of the *Public Service Act 1999*

PROTECTED CABINET



PRIME MINISTER

Reference: MS21-000508

12 APR 2021

Senator the Hon Linda Reynolds CSC
Minister for Government Services
Minister for the National Disability Insurance Scheme
Parliament House
CANBERRA ACT 2600

Dear Minister

I am writing to advise you of my decision to transfer the Digital Transformation Agency (DTA) from the Social Services portfolio to the Prime Minister and Cabinet portfolio and to transfer ministerial responsibility for the DTA, and public data policy and related matters, to the Minister for Employment, Workforce, Skills, Small and Family Business.

This change aligns with the Government's priorities for the DTA's role in whole of government and shared Information and Communication Technology investments and digital service delivery.

I have separately written to the Minister for Employment, Workforce, Skills, Small and Family Business, the Hon Stuart Robert MP, advising him of my decision.

s 22(1)
(a)(ii)

Yours sincerely

s 22(1)(a)(ii)

SCOTT MORRISON



APPOINTMENT OF MINISTER OF STATE

I, DAVID JOHN HURLEY, Governor-General of the Commonwealth of Australia, pursuant to sections 64 and 65 of the Constitution, hereby direct and appoint STUART ROWLAND ROBERT, a member of the Federal Executive Council, to administer THE DEPARTMENT OF THE PRIME MINISTER AND CABINET.

Signed and sealed with the
Great Seal of Australia on
15 April 2021

s 22(1)(a)(ii)



Governor-General

s 22(1)(a)(ii)

By His Excellency's Command

s 22(1)(a)(ii)

Prime Minister

PROTECTED CABINET



PRIME MINISTER

12 APR 2021

Reference: MS21-000508

The Hon Stuart Robert MP
Minister for Employment, Workforce, Skills, Small and Family Business
Parliament House
CANBERRA ACT 2600

Dear Minister

I have made two decisions relevant to your responsibilities as the Minister for Employment, Workforce, Skills, Small and Family Business.

The first is to transfer responsibility for small business functions and the associated legislation from the Department of Industry, Science, Energy and Resources to the Department of the Treasury. The second is to move the Digital Transformation Agency (DTA) to my portfolio and transfer ministerial responsibility for the DTA to you as the Minister for Employment, Workforce, Skills, Small and Family Business.

I have made the following recommendations to the Governor-General to implement these changes:

- that the Administrative Arrangements Order be amended to transfer small business functions to the Department of the Treasury, and the transfer of the DTA to the Prime Minister and Cabinet portfolio;
- that an Order be made to identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the DTA; and
- that you be appointed to administer the Department of the Prime Minister and Cabinet to enable you to oversee the DTA, and public data policy and related matters.

A copy of this letter has been sent to the Treasurer, the Hon Josh Frydenberg MP, the Minister for Finance, Senator the Hon Simon Birmingham, the Minister for Industry, Science and Technology, the Hon Christian Porter MP, and the Australian Public Service Commissioner, Mr Peter Woolcott AO.

I look forward to continuing to work with you on these important Government priorities.

^{s 22(1)(a)}
(ii)
Yours sincerely
^{s 22(1)(a)(ii)}

SCOTT MORRISON

PROTECTED CABINET



PRIME MINISTER

Reference: MS21-000508

12 APR 2021

His Excellency General the Honourable David Hurley AC DSC (Retd)
Governor-General of the Commonwealth of Australia
Government House
CANBERRA ACT 2600

Your Excellency

I write to recommend a change to the appointment arrangements for one Minister and to provide the document necessary to implement the change, for your consideration.

My recommendation is to appoint the Hon Stuart Robert MP to administer the Department of the Prime Minister and Cabinet to allow him to be the responsible Minister for the Digital Transformation Agency (DTA) and for public data policy and related matters.

The proposal to transfer responsibility for the DTA from the Social Services portfolio to the Prime Minister and Cabinet portfolio will be considered at an Executive Council meeting on 15 April 2021.

As this change is of an administrative nature only, Mr Robert will not need to subscribe an Oath of Office.

Yours sincerely

s 22(1)(a)(ii)

SCOTT MORRISON

PROTECTED CABINET



PRIME MINISTER

Reference: MS21-000508

12 APR 2021

His Excellency General the Honourable David Hurley AC DSC (Retd)
Governor-General of the Commonwealth of Australia
Government House
YARRALUMLA ACT 2600

Your Excellency

I am writing to request your agreement to include late items for your consideration in the meeting of the Federal Executive Council on 15 April 2021.

Your consideration of these items promptly would support an efficient transition and uptake of responsibilities for the new Ministry appointed on 30 March 2021 to serve the Australian people.

The first item seeks to amend the Administrative Arrangements Order made on 18 March 2021 to:

- transfer responsibility for small business functions and the associated legislation from the Department of Industry, Science, Energy and Resources to the Department of the Treasury; and
- transfer responsibility for the Digital Transformation Agency from the Social Services portfolio to the Prime Minister and Cabinet portfolio.

Related to the second point above, I am also seeking to bring you an Order to identify the Minister for Employment, Workforce, Skills, Small and Family Business as the Minister responsible for the Digital Transformation Agency, and to amend the functions of that Agency to reflect current Government priorities.

s 22(1)(a)(ii)

These proposed amendments would provide greater alignment of policy directions and objectives in the Government's agenda.

Should you agree to my request, the final documentation will be provided to the Federal Executive Council Secretariat as soon as possible.

^s
22(1)
Yours sincerely
s 22(1)(a)(ii)

SCOTT MORRISON