

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

FINANCIAL AGREEMENT BILL 1994

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Honourable Ralph Willis, MP)



FINANCIAL AGREEMENT BILL 1994

OUTLINE

1. The Bill approves a new Financial Agreement - the *Financial Agreement Between the Commonwealth, States and Territories* and is introduced along with the *National Debt Sinking Fund Repeal Bill 1994*.
2. The new Financial Agreement provides for the continued existence of a Loan Council, with broadly specified role and powers, and sets out certain obligations in respect of past borrowings. It removes what have been obsolete provisions under the present Agreement, simplifies administration, and provides for formal membership of Loan Council for the Australian Capital Territory and the Northern Territory.
3. The new Agreement has been made pursuant to Loan Council's decision to amend the *Financial Agreement Between the Commonwealth and the States*. Loan Council agreed: to abolish the restriction on States borrowing in their own names; to remove the Commonwealth's explicit power to borrow on behalf of the States; to remove the requirement for future Commonwealth and State borrowings to be approved under the provisions of the Agreement; to remove references to the National Debt Sinking Fund; and to include the Australian Capital Territory and the Northern Territory as members of Loan Council and as parties to the Financial Agreement.
4. The original *Financial Agreement Between the Commonwealth and the States* was made in 1927 and approved under the Commonwealth's *Financial Agreement Act 1928* and by the Parliament of each State. The Agreement established the Loan Council and required the Commonwealth and each State to submit an annual borrowing program for Loan Council approval. The Agreement provided that sinking funds established in respect of the States' debt were placed under the control of the National Debt Commission, which was constituted by the *National Debt Sinking Fund Act 1923* and continued under the *National Debt Sinking Fund Act 1966*.
5. Under Section 105A(4) of the Constitution, the parties to the Agreement are empowered to vary or rescind it. The Agreement has been varied on seven occasions, most recently in 1976. On this occasion it is proposed that the Agreement, as varied, be rescinded, as provided in clause 16(1). The new Agreement recognises that Loan Council scrutiny of public sector borrowings has for many years taken place under voluntary arrangements rather than the provisions of the Agreement. The Commonwealth has undertaken no new money borrowings on behalf of the States since 1987-88 and the States' extensive borrowing activities are now conducted through their central borrowing authorities outside the provisions of the Agreement.
6. The Bill provides for the establishment of debt redemption arrangements, through the Debt Retirement Reserve Trust Account (DRRTA), to replace those which have operated through the NDSF and the Northern Territory Debt Sinking Fund (NTDSF). In so doing, the Bill formalises arrangements as agreed between the Commonwealth, the States and the Northern Territory, which have applied since 1 July 1990.
7. The new Agreement will be given effect by the passage of complementary Commonwealth, State and Territory legislation and will not become effective until legislation has been enacted in all jurisdictions.

FINANCIAL IMPACT STATEMENT

8. The Bill appropriates the Consolidated Revenue Fund to enable the Commonwealth to provide debt redemption assistance payments to the States and the Northern Territory. The basis of payment is identical to that which has applied following the 1990 Agreement between the Commonwealth, the States and the Territories.

NOTES ON CLAUSES

THE BILL

Clause 1 - Short Title

Clause 2 - Commencement

Clause 3 - Interpretation

Clause 4 - Approval of Agreement

1. These clauses are self-explanatory.

Clause 5 - Appropriation

2. This clause appropriates moneys required for the Commonwealth to meet obligations under the new Agreement, including its debt assistance contributions to the States and the Northern Territory (Clause 8 of the Schedule) and reimbursement to the States (Clause 10 of the Schedule) and the Northern Territory (Clause 11 of the Schedule) of the expenses of debt redemption, repayment and purchase above those which would have been incurred under the present Agreement (the 'Principal Agreement') (for the States) and under the 1986 Arrangements (for the Northern Territory), which are defined in the Agreement.

Clause 6 - Establishment of trust account

3. This clause provides for the establishment of a trust account for the administration of the purchase, redemption and repayment of Commonwealth Government security debt allocated to the States and the Northern Territory. The trust account replaces arrangements applying, respectively, through the NDSF and the NTDSF.

Clause 7 - Establishment of State and Territory accounts

4. Self explanatory.

Clause 8 - Transfer of moneys into the Northern Territory account

5. This clause provides for the transfer of moneys between the old and new funds established to administer the redemption of Commonwealth Government securities on issue for the Northern Territory.

SCHEDULE TO THE BILL

Clause 1

6. Sub-clause (1) provides that, for the new Agreement to become effective, the Parliaments of all parties to the Agreement must pass complementary legislation.
7. The cessation of the NDSF created by the *National Debt Sinking Fund Act 1966* (sub-clause (2)(a)) is to be effected through the *National Debt Sinking Fund Repeal Bill 1994* which is being introduced along with this Bill.

8. The DRRTA referred to in sub-clause 1(2)(b) of the new Agreement is being established under Clause 6 of this Bill for the purchase, redemption and repayment of State debt formerly handled through the NDSF and for the redemption of Northern Territory debt formerly handled through the NTDSF. Sub-clause 1(2)(c) of the new Agreement provides for the transfer of balances between the old and new funds established to administer the redemption of Commonwealth Government Security (CGS) debt on allocation to the States and the Northern Territory and for the new funds to receive contribution obligations. This is effected under clause 7 of the *National Debt Sinking Fund Repeal Bill 1994* for the States' balances and clause 8 of this Bill for Northern Territory balances. Clauses 7 and 8 in the new Agreement provide for contribution obligations from the Commonwealth, the States and the Northern Territory.

Clause 2

9. Sub-clause 2(2) antedates the effect of changed debt redemption arrangements as agreed between the Commonwealth, the States and the Northern Territory to 1 July 1990.

Clause 3

10. Self explanatory.

Clause 4

11. Clause 4 provides for the continued existence of the Loan Council and sets down its basic operating conditions, including in relation to membership and substitute membership, convening and chairing of meetings, and the quorum for meetings. Clause 4(9) provides Loan Council with powers to make resolutions in relation to borrowings, raisings, and other financial arrangements of public sector entities.

Clause 5

12. This clause sets out interest payment obligations of the Commonwealth, the States and the Northern Territory consistent with the provisions of the Principal Agreement and of the 1986 Arrangements.

Clause 6

13. This clause provides for the structure, including as to interest entitlements, and operations of the account established under Clause 6 of this Bill to replace the NDSF for the States and the NTDSF for the Northern Territory to administer the purchase, redemption and repayment of their allocation of Commonwealth Government securities.

Clause 7

14. This clause enables the calculation of the amount to be paid, including by way of contributions by the States and the Northern Territory, to accounts in the NDSF (for the States) and the NTDSF (for the Northern Territory) prior to establishment of the DRRTA, and into that account subsequently.

Clause 8

15. This clause details the basis of annual Commonwealth contributions payable to accounts in the NDSF (for the States) and the NTDSF (for the Northern Territory) prior to the establishment of the DRRTA, and into that account subsequently.

Clause 9

16. This clause provides for the basis of payments by the Northern Territory required under Clause 7(3) of this Schedule.

Clause 10

17. This clause formalises the 1990 Loan Council agreement whereby the States were to make additional payments to the NDSF sufficient to permit the purchase, redemption and repayment at their maturity of all CGS currently issued on their behalf on the condition that they were not to be disadvantaged by so doing, in comparison with the situation which would have applied under continuation of the debt redemption arrangements set out in the Principal Agreement.

Clause 11

18. This clause mirrors for the Northern Territory the effect of Clause 10 for the States.

Clause 12

19. This clause incorporates an equivalent to clause 14 of the Principal Agreement into the new Agreement and extends its operation to the Northern Territory.

Clause 13

20. This clause incorporates an equivalent to clause 16 of the Principal Agreement into the new Agreement and reflects the establishment of the DRRTA.

Clause 14

21. This clause mirrors for the Northern Territory the provisions of clause 13 for the States.

Clause 15

22. This clause incorporates clause 17 of the Principal Agreement into the new Agreement in relation to the DRRTA as to both the States and the Northern Territory.

Clause 16

23. This clause provides generally for the rescinding of the Principal Agreement with effect from the date on which the new Agreement comes into effect. However, certain of the debt redemption provisions of the Principal Agreement are retained pending the establishment of the new trust account through which the purchase, redemption and repayment of debt is to be administered. In addition, the clause recognises that certain of the debt redemption provisions established by the new Agreement are, by sub-clause 2(2), antedated to have effect from 1 July 1990.

