

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FINANCIAL LEGISLATION AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Honourable
John Kerin, MP)



FINANCIAL LEGISLATION AMENDMENT BILL 1991 (INCORPORATING AMENDMENTS TO THE CURRENCY ACT 1965 AND TO THE FINANCIAL CORPORATIONS ACT 1974, AND THE REPEAL OF THE SPECIAL EMPLOYMENT-RELATED PROGRAMS ACT 1982)

OUTLINE

The Bill will (i) simplify the statutory procedures for the approval of new coin issues under the Currency Act 1965, and remove potential ambiguities in the wording of sections 13 and 14 of the Act, (ii) effect two minor amendments to the Financial Corporations Act 1974, and (iii) repeal the Special Employment-related Programs Act 1982.

(i) Amendments to the Currency Act

Simplification of Procedures

The present statutory procedures for the approval of new coins, including variations to the design, composition, etc of existing denominations, require that regulations be made by Executive Council to validate their issue. These statutory procedures were drawn up at a time when the number of new collector coins being issued was very small.

In recent years, however, there has been an increase in the number of such coins being produced by both the Royal Australian Mint and Gold Corporation, a statutory authority of the WA Government that produces precious metal coins. Considerable administrative effort is required to make the necessary regulations for each new coin.

The proposed amendments to the Act provide the Treasurer with the authority to approve new coins, or determine variations to design and/or other characteristics of existing denominations, by signed disallowable instrument, without reference to Executive Council. It is expected that these procedures will lead to considerable administrative savings.

Parliamentary scrutiny of new coins determined by disallowable instrument will, however, be retained, as required under section 46A of the Acts Interpretation Act 1901. The latter provides for the same scrutiny as now exists for regulations made by Executive Council.

Clarification of Powers of Sections 13 and 14

In June 1987 sections 13 and 14 of the Act were amended to facilitate the production of the same coin denomination in different precious metals and thereby provide significantly expanded market opportunities for collector coins. The amendments now proposed are designed to remove some potential ambiguities and difficulties in interpretation arising from the amendments made in 1987.

(ii) Amendments to the Financial Corporations Act 1974

The amendments to the Financial Corporations Act 1974 are to simplify administrative processes and do not concern the collection of statistics on operations which non-bank financial institutions are required to provide to the Reserve Bank of Australia. Nor do the amendments concern the unproclaimed Part IV of the Act.

The amendments will permit the Treasurer to:

- . delegate to the Governor or Deputy Governor of the Reserve Bank of Australia his or her responsibility for varying and publishing the list of non-bank financial institutions which fall under the Act; and
- . publish the varied list in a manner or form as he or she thinks appropriate and not be restricted to the Gazette.

In recent years the varied lists of financial institutions have been published in the Reserve Bank of Australia monthly Bulletin in addition to the Gazette. It is envisaged that publication will continue in the Bulletin and perhaps by way of Bank press releases.

(iii) Repeal of the Special Employment-related Programs Act
1982

The Act provided for the expenditure of up to \$300 million on employment generation programs from moneys expected to be saved under wage pause legislation for Commonwealth employees. All activities provided for under the Act have been completed and all moneys accounted for. The Act is effectively spent and will be removed from the statute books.

FINANCIAL IMPACT

Although the simplification of the approval procedures for coinage should lead to administrative savings, the amendments to the Currency Act do not have any direct financial implications. The amendments to the Financial Corporations Act should lead to administrative savings, including savings in respect of publication costs. The repeal of the Special Employment-related Programs Act has no financial consequences.

PART 1 - PRELIMINARY

Clause 1 - Short title

Provides for the Act to be cited as the Financial Legislation Amendment Act 1991.

Clause 2 - Commencement

2. This clause is self-explanatory.

PART 2 - AMENDMENTS OF THE CURRENCY ACT 1965

Clause 3 - Principal Act

3. This clause is self-explanatory.

Clause 4 - Section 13 of Principal Act

Standard Composition of Coins

4. This clause provides for the repeal of section 13 of the Principal Act and its substitution with new sections 13 and 13A. The amendments serve the purposes of both simplification of approval procedures and clarification of powers to make coins.

5. To assist the purpose of clarifying the Act, powers relating to the determination of the characteristics of coins, which the amendments propose will be exercised by the

Treasurer, are specified in section 13, and the Treasurer's powers in relation to the making and issuing of coins are specified in section 14. At present, some of the powers relating to the determination of the characteristics of coins are in section 14. The Act is further clarified by the specification of matters relating to the determination of the standard composition (the metallic composition) of coins, which is a coin characteristic specified in the Schedule to the Act, in proposed subsections 13(1) to 13(6) inclusive. Provision for the determination of other coin characteristics (standard weight, design and dimensions) is in proposed subsections 13A(1) to 13A(4).

6. The new subsection 13(1) provides that, subject to the Treasurer's power under subsection 13(2)(a) to determine another standard composition, each coin denomination specified in the Schedule to the Act has the standard composition specified in the Schedule. The eleven denominations of coins actually specified in the Schedule are one, two, five, ten, twenty, and fifty cents, and ten, twenty-five, fifty, one hundred and two hundred dollars. (All other approved denominations of coins are deemed to be specified in the Schedule.)

7. The new subsections 13(2)(a) and 13(3) provide for the Treasurer to determine other standard compositions of coins, where the denomination is specified in the Schedule to the Act. Subsections 13(2)(b) and 13(4) provide for such a

determination by the Treasurer, where the denomination is not specified but deemed to be specified in the Schedule.

Subsection 13(5) provides for the Treasurer to determine more than one standard composition for each coin denomination.

8. Subsections 13(6) and 13A(4) provide that a determination made by the Treasurer under the Act is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901 and so is subject to the same Parliamentary scrutiny that applies at present to regulations making new coins.

9. Subsection 13A(1) provides for the determination by the Treasurer of the other coin characteristics- standard weight, allowable variation from standard weight, design, and dimensions; and subsections 13A(2) and 13A(3) provide for the determination of more than one set of such characteristics for each coin denomination.

Clause 5 - Treasurer may issue coins

10. This clause amends section 14 of the Act both to simplify approval procedures and clarify powers to make coins. Section 14 has been principally amended by the omission of the present subsections (1A), (1B), (2), (2A) and (3). Matters in subsections 14(1A), 14(1B) and 14(2A), which relate to characteristics of coins made by regulation, are dealt with in the proposed amendments, where appropriate, in section 13 (refer to paragraph 5 above). Subsections 14(2) and 14(3) have been omitted in favour of the proposed subsections 14(2) and 14(3).

11. Subsection 14(1) is clarified by including reference to the Treasurer's powers to make and issue coins where the denomination is not specified but deemed to be specified in the Schedule to the Act. Subsections 14(2) and 14(3) provide for the Treasurer to make and issue coins of standard composition specified, or taken to be specified, in the Schedule to the Act, and whose other characteristics have been determined by the Treasurer by signed instrument.

Clause 6 - Transitional

12. Clause 6 provides for the continuation in force of regulations made under the Act, including the provision for Parliamentary scrutiny.

PART 3 - AMENDMENTS TO THE FINANCIAL CORPORATIONS ACT 1974

Clause 7 - Principal Act

13. This clause is self-explanatory.

Clause 8 - Section 8 of the Principal Act

14. Clause 8 amends sub-section 8(2)(1) of the Principal Act. It provides that the Treasurer may publish the varied list of non-bank financial institutions which are exempt from the application of the Act in such manner and form as he or she determines, and not be restricted to the Gazette.

Clause 9 - Section 10 of the Principal Act

15. Section 10 of the Principal Act concerns the preparation of a list of non-bank financial institutions, the division of that list into categories (eg under such headings as finance companies or money market corporations), the variation of the list of institutions and the publication of the list.

16. Sub-section (a) amends sub-section 10(3) of the Principal Act to relieve the Reserve Bank of the requirement to advise the Treasurer of proposed variations to the list of institutions when the Treasurer has exercised the power of delegation.

17. Sub-section (b) amends sub-section 10(5) of the Principal Act by repealing the on-going powers of the Treasurer to vary and publish the list of institutions. Those powers are reformulated in sub-section (c).

18. Sub-section (c) inserts four new sub-sections into section 10 of the Principal Act.

Sub-section 10(5A) provides that when the Treasurer prepares a new list of institutions divided into categories, he or she must give a copy of the list to the Reserve Bank to publish in a manner and form as the Treasurer thinks appropriate.

- . Sub-section 10(5B) provides that when the Treasurer prepares a variation to the list of institutions, that he or she must give a copy of the variations to the Reserve Bank to publish in a manner and form as he or she thinks appropriate.
- . Sub-section 10(5C) provides that if the Treasurer has exercised the power of delegation under the Act, the Reserve Bank must give to the Treasurer a copy of any variation to the list of institutions.
- . Sub-section 10(5D) provides that any variation to the list of institutions must be published in a manner and form as the Treasurer determines.

19. Sub-section (d) amends sub-section 10(7) of the Principal Act to avoid the possibility, in the event of the delegation to the Governor or Deputy Governor of the Reserve Bank, that the delegates would be obliged by the legislation to take advice from the Bank on matters of the categorisation of individual institutions.

20. Sub-section (e) inserts a new sub-section into section 10 of the Principal Act. Sub-section 10(8) was made necessary by the amendment to sub-section 10(7) and restores the provision that when exercising his or her powers under sub-section 10(7), the Treasurer must take into account any advice from the Reserve Bank.

Clause 10 - Section 22 of the Principal Act

21. Clause 10 inserts a new section into the Principal Act. It provides that the Treasurer may delegate to the Governor or Deputy Governor of the Reserve Bank his or her powers to vary the list of institutions subject to the Act (but not the categorisation of the list), and to publish the varied list.

PART 4 - MISCELLANEOUS

Clause 11 - Repeal

22. Clause 11 repeals the Special Employment-related Programs Act 1982 in its entirety.

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