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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES MANAGEMENT (FINANCIAL ASSISTANCE) BILL  
1992

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister  
for Primary Industries and Energy,  
the Honourable Simon Crean MP)



## NATURAL RESOURCES MANAGEMENT (FINANCIAL ASSISTANCE) BILL 1992

### GENERAL OUTLINE

The purpose of this Bill is to authorise arrangements through which the Commonwealth can contribute financial assistance to the States, Territories, institutions and individuals for natural resource management projects. Such assistance to be administered by the Department of Primary Industries and Energy will form part of the National Landcare Program. A second purpose of the Bill is to establish a National Landcare Advisory Committee.

The Bill notes that the object of the Act will be to facilitate the efficient, equitable and sustainable management of the nation's natural resources through the adoption of integrated approaches to natural resource management. Agreements entered into under the Act will seek to reflect this objective in the program of activities that are developed for financial assistance.

This Bill will bring within the one piece of legislation authority for Commonwealth contributions for natural resource programs that was previously provided by the Soil Conservation (Financial Assistance) Act 1985 and the National Water Resources (Financial Assistance) Act 1978. It will make these Acts redundant and provides for the repeal of these Acts. Projects that would have normally received assistance under these Acts will in future be funded by way of agreements between the Commonwealth and grantees within the integrated approaches to natural resource management assisted by this Bill.

The National Landcare Advisory Committee is to be established to provide advice on the priorities and strategies for natural resource management activities and will have a majority of community-based representatives in its membership. This is to ensure that the Committee can provide the Government with a broad community view of the nature and priorities of natural resource issues that can be addressed within the National Landcare Program.

### FINANCIAL IMPACT STATEMENT

The financial impact of the Bill cannot be accurately quantified. The Bill does not provide for any fixed or indexed level of financial assistance. Expenditure under the Bill will be determined each year as part of the annual Budget process. Administrative costs are estimated to be in the order of \$250 000 a year including the allowances and expenses for the operation of the National Landcare Advisory Committee. The direct gains from natural resource management activities are not readily estimated but are likely to be significant especially where there are improvements in natural resource management policies, programs and activities by public and private resource managers as a result of activities sponsored under the Bill. It is possible that some revenue could be generated for the Commonwealth by way of patents and inventions that arise from activities financed under the Bill.

## NOTES ON CLAUSES

### PART 1 - PRELIMINARY

#### Clause 1: Short title

1. Provides for the citation of the Bill.

#### Clause 2: Commencement

2. The Bill will come into effect when it receives Royal Assent.

#### Clause 3: Objects

3. This clause provides a statement of the objects of the Bill and the agreements and arrangements that will be made under the Bill. The primary object of the Bill is for agreements and arrangements to assist in the development of integrated approaches to natural resource management that will meet the goals of achieving efficient, sustainable and equitable management of natural resources and which reflects principles of ecologically sustainable development. The clause notes that these approaches are to be promoted through partnership arrangements involving local community members and organisations, industry and government. The intention of stating the objects is to assist those who will enter into agreements and arrangements under the Bill to understand the aims that the Commonwealth seeks to achieve with this legislation.

#### Clause 4: Interpretation

##### Subclause 4 (1)

4. An "agreement", described more fully under clauses 5 and 6 (see paragraphs 14 and 20) forms the instrument for providing funds for specified projects or groups of projects within a program undertaken by a State or Territory, or by institutions or persons that are not State or Territory Governments.
5. "Chairperson" means the Chairperson of the National Landcare Advisory Committee.
6. "Committee" means the National Landcare Advisory Committee, the nature and functions of which are outlined in Part 4 and which envisage the Committee providing advice to the Minister and the Environment Minister on natural resources management issues that are of national significance.
7. "Fund" refers to the Natural Resources Management Fund established by clause 11 of this Bill and which is a continuation of the fund established under section 8 of the Soil Conservation (Financial Assistance) Act 1985. This fund is a trust account which will be used to fund projects that are undertaken by persons or organisations other than State or Territory Governments, and to meet certain administrative expenses.
8. "Member" means a member of the National Landcare Advisory Committee (see paragraph 40).

9. "Natural resources management" in this context refers to activities which may involve one or more of the natural resources of soil, water and vegetation and could include other living organisms associated with those resources.
10. "Officer" means an officer or employee of the Commonwealth employed under the Public Service Act 1922. Officers would be those of the Department administering the Bill, presently the Department of Primary Industries and Energy.
11. "Project" means an activity relating to natural resources management that is funded under the Bill in accordance with arrangements or an agreement. Activities may include those related to soil conservation, promotion of community based action to provide direct and indirect measures to prevent land and water degradation, education and information transfer. Projects may also include joint and cooperative action by governments and others involving more than one of the natural resources specified.
12. "State" also includes the Australian Capital Territory and the Northern Territory.

#### Subclause 4 (2)

13. Authorised officers, who have powers and responsibilities under a number of clauses in the Bill, are those officers authorised in writing by the Minister for these purposes. The purpose of having authorised officers is to facilitate administration of the Bill while maintaining Ministerial responsibility.

### PART 2 - FINANCIAL ASSISTANCE

#### Clause 5: Agreements with States

##### Subclause 5 (1)

14. This clause concerns the provision of financial assistance to the States, including State bodies such as soil conservation agencies, water authorities and other agencies responsible for natural resources management. A significant part of this assistance will go to support the activities of community landcare groups for projects that have been approved within the National Landcare Program. The basis for the provision of financial assistance will be a written agreement between the Minister and the appropriate State Minister under clause 5 (2). Clause 5 (1) also requires that funds be provided either in respect of projects specified at the time the agreement is made, or for projects which could subsequently be approved under the provisions of the head agreement. This would include projects that are to be undertaken by a State or its agencies and an agreement with the State on the operation of community landcare projects within that State.

##### Subclause 5 (2)

15. Financial assistance to the States will be provided where there is a written agreement.

##### Subclause 5 (3)

16. This clause indicates that the agreement for financial assistance must conform with other clauses in the Bill (see clauses 8, 9 and 10 in particular).

##### Subclause 5 (4)

17. Any agreement or amending agreement with a State or Territory will be tabled in each House within 15 sitting days of the making of the agreement, so that they can receive Parliamentary scrutiny.

Subclause 5 (5)

18. Where progress of a project or projects is dependent on provision of funds under the Bill, it is possible to make an advance of some or all of the amount, provided the agreement allows for this. The conditions attached to the financial assistance, including such advances are set out in clause 8. An advance may, for example, be required where the relevant State agency may have difficulty progressing a project until the funds are actually available.

Subclause 5 (6)

19. Provision of financial assistance to the States may only be made from monies appropriated specially for this purpose. Separate appropriations under subclause 6 (1) (see paragraph 20) for other persons allow full Parliamentary scrutiny of the components of financial assistance granted by the Commonwealth.

Clause 6: Agreements with other personsSubclause 6 (1)

20. Subclause 6 (1) indicates that "person" also refers to organisations, so that the subclause may encompass universities, research organisations, such as the CSIRO, individuals or private companies and the like.

Subclause 6 (2)

21. Agreements under subclause 6 vary from agreements with the States (see paragraph 14) in that the Minister need not make the actual agreement, the reason being that such agreements would be more numerous and are not inter-governmental transactions. However, the Minister must approve any agreements made by the authorised officers.

Subclause 6 (3)

22. This requires that an agreement under this clause be in writing.

Subclause 6 (4)

23. As with agreements with the States, the Minister may approve advances of some or all of a payment for a project, provided that there is a corresponding reference in the agreement.

Subclause 6 (5)

24. Financial assistance under this clause will be made from the Natural Resources Management Fund, which is a trust account (see paragraph 38).

Clause 7: Matters to be provided for in an agreement

25. This clause sets out the basic components that must be included in an agreement with either the States or other persons. These include establishing the purpose of projects or a program of projects to which an agreement relates and making all payments subject to conditions and whether or not by advances etc. For example, an agreement could specify the proportion of funds that will be directed to community-based landcare activities. The clause also allows for agreement on the process of monitoring and evaluation of projects and for a review of the operation of the agreement and subsequent amendment of the agreement if required. Agreements may

include additional matters to those outlined in the clause and, for example, could extend to cover statements of the strategic outcomes to be achieved by the projects to which an agreement relates.

Clause 8: Payments to be subject to conditions

Subclause 8 (1)

26. An "authorised person" means in the case of an agreement with the States the Minister or an officer authorised by the Minister and in the case of an agreement with other persons, an authorised officer. This subclause indicates that a payee is the party to which amounts are payable under an agreement. The subclause also specifies that all conditions in clause 8 are applicable to advances as well as payments against expenditure already incurred.

Subclause 8 (2)

27. This subclause requires that in addition to conditions that are to be provided for in an agreement (see paragraph 25) any payment by the Commonwealth will be made on certain basic conditions.

Subclause 8 (3)

28. The conditions provide that where, either the Minister or an authorised officer is satisfied that conditions have not been met, or that the project does not conform to the agreement, the payee will refund monies or have monies deducted from any further payments due for the project or for other projects under the Bill. The same conditions apply if there has been an over payment to the payee in respect of the project or projects under the Bill. Either the Minister or an authorised officer may initiate action where there is a breach of conditions but the Minister will determine the amount of any refund or deduction. The purpose of subclauses 8 (3), (4) and (5) is to provide the Commonwealth with specific powers to ensure that financial assistance is being used in the agreed and intended manner and to recover monies where this is not the case. In general it is expected that determinations will be made by the Minister where recovery action may involve significant or disputed amounts, and the authorised officer will take action in less significant cases such as where refund or overpayment is involved.

Clause 9: Conditions relating to audit requirements

Subclause 9 (1)

29. This subclause requires that agreements will be subject to certain audit requirements specified in the Bill unless there are other audit provisions contained in an agreement.

Subclause 9 (2)

30. This subclause requires that a payee is not entitled to a payment under the Bill unless there is a statement or certificate provided by the payee to an authorised officer for the expenditure undertaken by the payee.

Subclause 9 (3)

31. In the case of the States, the Auditor-General or the head of the Department, authority or the body responsible for expenditure of monies received under the Bill must provide an authorised officer with a statement and certificate that the money was expended in accordance with an agreement or state that a certificate to this effect has been received from a qualified accountant. The latter would normally apply where

some work on the project may have been undertaken by a person outside of the direct control of the payee, such as a contractor.

Subclause 9 (4)

32. In the case of other persons a statement and certificate from a qualified accountant is required. However, if the payee in this case is subject to a State or Commonwealth Auditor-General, for example an organisation such as the CSIRO or a university, the responsible head of the organisation may provide the certificate.

Subclause 9 (5)

33. Specifies the requisite professional status of accountants who may provide certificates under subclauses (3) and (4).

Subclause 9 (6)

34. An authorised person where such a person has been authorised in writing, is entitled to access to all financial and other documents concerning a project.

Subclause 9 (7)

35. The payee may also be required to provide a special report or interim report on the project (in addition to the requisite final report) and the authorised officer may specify the particulars to be required in a report. This would normally arise if there were reasons to believe that there was unsatisfactory progress or some other cause for concern in connection with the project.

Subclause 9 (8)

36. The payee is to provide as soon as practicable after the completion of a project a final report. The conditions specified in this clause are directed at not only providing the opportunity to detect mismanagement etc but also to enable full accounting of the use to which financial assistance is put in a particular project or group of projects and to enable assessment of the Commonwealth's involvement in activities related to natural resource management.

Clause 10: Other conditions

37. Clause 10 specifies that an agreement may where appropriate provide that a payee will pay to the Commonwealth some or all of any net income derived from a project funded by the Bill, and makes similar provisions concerning patents and the disposal of goods. This would be a matter for consideration in the light of the nature of each project, such as the anticipated amount of income, how readily it could be realised etc. The terms of the agreement can be decided by either the Minister or an authorised officer and the nature of the project amounts involved would indicate which would be appropriate. The purpose of this provision in providing a capacity to receive monies such as those described above is to ensure that the benefits from public expenditure on natural resource management accrue to the community generally and are widely distributed and not for the sole benefit of grant recipients.

### PART 3 - NATURAL RESOURCES MANAGEMENT FUND

Clause 11: Natural Resources Management Fund

38. This clause preserves the Trust Account established under the Soil Conservation (Financial Assistance) Act 1985 and renames the fund as the Natural Resources Management Fund, into which will be paid monies appropriated for use by other

persons (that is not for State Departments), other monies such as bequests, and payments to the Commonwealth by other persons under clause 10. Payments from the fund will be used to make advances and payments to other persons under a clause 6 agreement, to meet expenses associated with the National Landcare Advisory Committee and for other administrative costs associated with the Bill which the Minister considers should be paid out of the Fund. The Fund continues as a Trust Account established under section 62A of the Audit Act 1901. The original intention for establishing a trust account for the purpose of providing financial assistance to a person under clause 6 as opposed to clause 5 (States) was to facilitate the management of projects by persons such as universities or individuals, by providing flexibility in the supply of financial assistance that would not always be possible in the normal budgetary cycle. Experience with the previous form of the Fund has shown that such flexibility is necessary to manage efficiently the relatively small but numerous grants to individuals or institutions.

Clause 12: Application of gifts or bequests

39. This clause ensures that any conditions applying to bequests or gifts can be observed and that all monies must be specifically accounted for.

#### PART 4 - NATIONAL LANDCARE ADVISORY COMMITTEE

Clause 13: National Landcare Advisory Committee

40. This clause establishes a commitment to a National Landcare Advisory Committee. The functions of the Committee are to be an advisory committee to the Minister and to the Minister for the Environment on the priorities and strategies concerning natural resources management relevant to the operation of this Bill. In addition to providing advice to the Minister and the Minister for the Environment on issues that the Committee identifies as significant, it will be able to investigate and report on issues referred to it by the Ministers.

Clause 14: Constitution of Committee

41. The Committee will have at least 12 members, appointed by the Minister, with members drawn from the community and non-government organisations with an interest in natural resource management outcomes and who have some experience in or knowledge of, natural resources management. The exact number of members drawn from this group could change but it is intended that community-based members, including those from non-government organisations, would form the majority of the Committee. It is intended that the Committee will also have representatives from the three spheres of Government. The clause provides for part-time appointment to the Committee and a term that does not exceed three years. A member who is a Departmental officer or the Chairperson (see paragraph 43) however, will hold office at the pleasure of the Minister.

Clauses 15, 16, 17, and 18: Convening of meetings, Presiding at meetings, Quorum, Voting at meetings

42. These clauses deal with the frequency of meetings and procedural matters such as the quorum, casting vote by the Chairperson etc.

Clause 19: Chairperson

43. The Chairperson of the Committee will be appointed by the Minister. The Chairperson will form part of the Committee but would not necessarily be selected for appointment from amongst those who have been appointed to the Committee. It is the intention that the Chairperson would be an independent person and therefore cannot be



a Commonwealth officer. No fixed term is provided for the Chairperson who would hold office during the pleasure of the Minister. If the Chairperson's appointment is terminated that person would no longer be a member of the Committee.

Clause 20: Deputy member

44. This clause provides for a member to have a deputy to represent that member on the Committee. Ministerial approval will be required for a deputy nominated by a member to represent that member on the Committee. A member can revoke the appointment of their deputy subject to the Minister's approval. A Deputy cannot chair a meeting of the Committee.

Clause 21: Remuneration and allowances

45. With the exception of a member who is employed by the Commonwealth or a State government all members, including the Chairperson, and deputy members will be remunerated at rates determined or prescribed by the Remuneration Tribunal. Allowances are payable at rates prescribed by the Tribunal.

Clause 22: Termination of appointment and resignation

46. The Bill provides that termination of appointments and resignations should be subject to appropriate standards.

Clause 23: Disclosure of interests

47. Members with a potential or actual pecuniary interest in any matter before the Committee must draw this to the attention of the Committee. The Minister or the Committee will determine (in the absence of the member) whether or not that member should be a party to any deliberation or decision by the Committee on that matter. The purpose of this is to ensure that the Committee's advice and consideration of matters before it are impartial.

## PART 5 - MISCELLANEOUS

Clause 24: Repeal of Acts

48. This Bill will make redundant the Soil Conservation (Financial Assistance) Act 1985 and the National Water Resources (Financial Assistance) Act 1978. Agreements for activities that were previously supported by these Acts will now be made under this Bill. The two Acts are therefore repealed and as a consequence of this the Soil Conservation Advisory Committee established under the Soil Conservation (Financial Assistance) Act 1985 is abolished.

Clause 25: Transitional arrangements

49. The purpose of this clause is to ensure that obligations under the previous legislation and agreements which are unlikely to be fulfilled by the time the two Acts are abolished are met. The principal issues relate to acquittal of expenditure and assistance, including the provision of audit certificates, provided under the previous legislation and final reports on projects. The clause will enable agreements entered into under the previous legislation to be terminated by agreements under this Bill. This clause provides for a final report to be provided by the Soil Conservation Advisory Committee.

Clause 26: Annual report in relation to operation of the Act etc.

50. An annual report will be prepared on the operation of the Bill and agreements made under the legislation. This would include reporting on the operations of the Natural Resources Management Fund and on financial assistance provided to the States under clause 5. Activities in this latter group would include reporting on the funding for community based landcare projects. The annual report would be incorporated in the annual report of the Department of Primary Industries and Energy.

Clause 27: Annual report of the Committee

51. The Committee will present the Minister with an annual report of its activities which the Minister will table in each House within 15 sitting days of receipt. The first report under the Bill will be for the year ending 30 June 1993.

Clause 28: Regulations

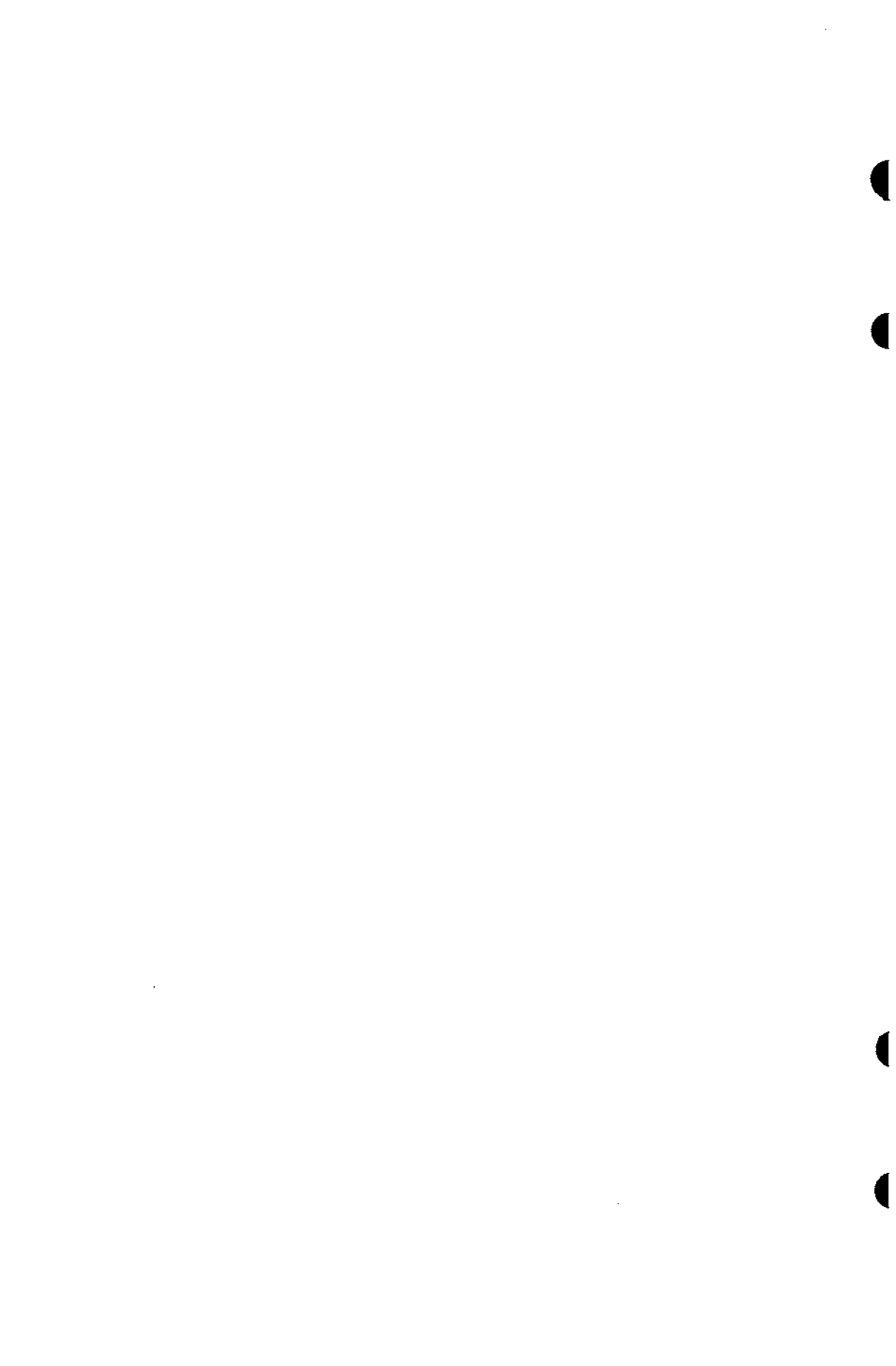
52. The Governor-General may make regulations under the Act.

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