

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
FURTHER AMENDMENT ACT 1989 No. 178**

**NEW SOUTH WALES**



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**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
FURTHER AMENDMENT ACT 1989 No. 178**

NEW SOUTH WALES



**Act No. 178, 1989**

An Act to amend the Public Authorities (Financial Arrangements) Act 1987 in respect of the investment powers of public authorities.  
[Assented to 14 December 1989]

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See also Universities Legislation (Investment) Amendment Act 1989; Treasury Corporation (Amendment) Act 1989.

*Public Authorities (Financial Arrangements) Further Amendment  
1989*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Public Authorities (Financial Arrangements) Further Amendment Act 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Public Authorities (Financial Arrangements) Act 1987  
No. 33**

3. The Public Authorities (Financial Arrangements) Act 1987 is amended as set out in Schedule 1.

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**SCHEDULE 1 - AMENDMENTS**

(Sec. 3)

(1) Section 10 (**Financial adjustments**):

After section 10 (2), insert:

(3) The Treasurer's approval is required even though the financial adjustment is, or is effected in connection with, financial accommodation authorised under this Part, an investment authorised under Part 3 or for any other purpose.

(2) Section 24 (**Investment powers of authorities**):

After section 24 (2), insert:

(2A) A person recommending the making of such a regulation is to have regard to the general criteria approved by the Treasurer for determining the appropriate investment powers to be conferred on authorities.

(2B) The criteria are to provide for the determination of the appropriate investment powers by reference to:

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- (a) the class of the authority as determined in accordance with any official government classification of authorities; and
  - (b) the volume of funds to be invested by the authority; and
  - (c) the expertise of, and facilities available to, the employees of the authority undertaking the investments.
- (3) Section 25 (**Funds managers**):
- (a) Omit section 25 (2), insert instead:
    - (2) An approved funds manager is a person designated as an approved funds manager for the authority in the Treasurer's approval.
  - (b) After section 25 (4), insert:
    - (5) The terms and conditions of an approval under subsection (4) are to restrict the investment powers of an approved funds manager in connection with an authority to the most extensive powers of investment available under the criteria referred to in section 24 having regard to the classification of the authority.
- (4) Section 26 (**Power of certain authorities to act as funds manager**):
- Omit "The State Authorities Superannuation Board, if prescribed as an approved funds manager", insert instead "An authority, if designated as an approved funds manager".
- (5) Section 27 (**Replacement of other investment powers**):
- At the end of the section, insert:
- (2) If, because of this section or of an amendment to this Act or for any other reason, an authority ceases to have an investment power, any investment made under that former

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power continues to be a valid investment and may be maintained by the authority.

(6) Section 28 (**Report of investment activities**):

Omit the section.

(7) Section 28A:

At the end of Part 3, insert:

**General powers in relation to investments**

28A. (1) An authority may do all things necessary or convenient to be done in connection with the exercise of its investment powers under this Part.

(2) In particular, but without limiting the power given by this section, the authority may:

- (a) enter into any contract, agreement or other transaction; and
- (b) incur any obligations under a contract, agreement or other transaction; and
- (c) make any payment (including an advance) under a contract, agreement or other transaction; and
- (d) make any covenants or promises, including those which are absolute and unconditional; and
- (e) exercise such other functions as the Treasurer may approve; and
- (f) do or effect any of the things it is empowered to do under this Act by or through an affiliate of the authority.

(3) This section does not limit any powers that the authority has apart from this section.

(4) In this section:

"**affiliate**", in relation to an authority, includes a corporation, partnership or other body in which the authority has a controlling interest, whether by reason

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**SCHEDULE 1 - AMENDMENTS - *continued***

of any shareholding, proprietary interest, voting power or otherwise.

(8) Section 40:

Omit the section, insert instead:

**Delegation of Treasurer's functions**

40. The Treasurer may delegate to a person any of the following functions of the Treasurer under this Act:

- (a) the giving of an approval to an authority to obtain financial accommodation; or
- (b) the giving of an approval to an authority to effect a financial adjustment; or
- (c) the giving of an approval to an authority to engage a funds manager.

(9) Schedule 3 (**Financial accommodation repayment**), clause 8 (**Investment of fund**):

Omit clause 8 (1), insert instead:

(1) Money held by an authority in its fund may be invested in any manner authorised for the investment of the general funds of the authority or in any manner authorised under Part 1 of Schedule 4.

(10) Schedule 4:

Omit the Schedule, insert instead:

**SCHEDULE 4 - INVESTMENT POWERS OF  
AUTHORITIES**

(Sec. 24)

*Preliminary*

1. (1) In this Schedule:

"**bank**" means a bank within the meaning of the Banking Act 1959 of the Commonwealth or a bank constituted by a law of a State or of the

SCHEDULE 1 - AMENDMENTS - *continued*

Commonwealth or of a Territory, and includes the Reserve Bank of Australia;

"**eligible entity**" means an entity given a prescribed rating by a prescribed rating agency or given prescribed ratings by different prescribed rating agencies;

"**eligible rating**" means a prescribed rating given by a prescribed rating agency or prescribed ratings given by different prescribed rating agencies;

"**prescribed**" means prescribed by the regulations on the recommendation of the Treasurer.

(2) For the purposes of this Schedule, an investment power includes a power to purchase or sell the investment at any time before, at or after maturity.

PART 1

2. The following investments are authorised for an authority which may exercise Part 1 investment powers:

- (a) deposits with a bank or the Treasury Corporation (not including certificates of deposit or other transferable securities);
- (b) investments in an Hour-Glass investment facility of the Treasury Corporation (being a facility under which the Treasury Corporation accepts funds on behalf of Government and public or other authorities for investment by fund managers approved by the Treasury Corporation);
- (c) such additional investments as are prescribed.

PART 2

3. The following investments are authorised for an authority which may exercise Part 2 investment powers:

- (a) the investments described in Part 1;
- (b) investments guaranteed by the Government of the Commonwealth, of a State or of a Territory;

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- (c) bills of exchange that have been accepted by a bank;
- (d) a loan to a person who is a dealer in the short-term money market and in relation to whom, at the time the loan is made, the Reserve Bank of Australia stands as lender of last resort;
- (e) certificates of deposit issued by a bank;
- (f) such additional investments as are prescribed.

PART 3

4. (1) The following investments are authorised for an authority which may exercise Part 3 investment powers:

- (a) the investments described in Part 2;
- (b) bills of exchange that have been endorsed by a bank;
- (c) a loan of money on the security of a letter of credit which is issued or confirmed by a bank;
- (d) an advance to a bank, or to an eligible entity, secured in such manner as the authority making the investment determines;
- (e) promissory notes, bonds, debentures or inscribed or registered stock made or issued by a bank or by an eligible entity;
- (f) promissory notes, bonds, debentures or inscribed or registered stock that have an eligible rating;
- (g) foreign currency deposits with, or advances to, a bank or an eligible entity, secured in such manner as the authority making the investment determines;
- (h) foreign currency investments in securities:
  - (i) guaranteed by the Government of the Commonwealth, of a State or of a Territory, or
  - (ii) issued by a bank; or
  - (iii) issued by an eligible entity;



SCHEDULE 1 - AMENDMENTS - *continued*

- (i) foreign currency investments in securities that have an eligible rating;
- (j) the spot purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency within 2 banking days after the day on which the currency is purchased or sold;
- (k) the forward purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency more than 2 banking days after the day on which the currency is purchased or sold;
- (l) such additional investments as are prescribed.

(2) The investments described in subclause (1) (g) - (k), being investments involving foreign exchange transactions, are not authorised under this Part unless the investments are made by the authority in accordance with the written approval of the Treasurer.

(3) The Treasurer's approval:

- (a) may be specific or general; or
- (b) may be given on such terms as the Treasurer thinks fit.

(4) Investments in stocks or securities are not authorised under this Part if they are investments (either directly or indirectly) in equity shares.

**PART 4**

5. Investments of any kind are authorised for an authority which may exercise Part 4 investment powers.

- (11) Schedule 6 (**Savings and transitional provisions**):
  - (a) Clause 5 (**Preservation of current investments of authorities**):  
Omit the clause.

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SCHEDULE 1 - AMENDMENTS - *continued*

- (b) **Clause 8 (Regulations - savings, transitional):**
- (i) From clause 8 (1), omit "this Act", insert instead:  
the following Acts:  
    this Act  
    Public Authorities (Financial Arrangements)  
    Further Amendment Act 1989  
    Universities Legislation (Investment)  
    Amendment Act 1989.
- (ii) From clause 8 (2), omit "to this Act", insert instead  
"to the Act concerned".
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[*Minister's second reading speech made in -  
Legislative Assembly on 15 November 1989  
Legislative Council on 22 November 1989*]