

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Miscellaneous Acts (Public Authorities Financial Arrangements) Amendment Bill 1987 is cognate with this Bill.

The objects of this Bill are—

- (a) to repeal the Public Authorities (Financial Accommodation) Act 1981 and to re-enact the provisions of that Act while simplifying and streamlining certain procedures under that Act;
- (b) to clarify the power of public authorities to enter into certain financial arrangements;
- (c) to make provision with respect to the investment of funds by certain public authorities;
- (d) to constitute the New South Wales Capital Works Financing Corporation which is to obtain financial accommodation for the purpose of funding capital works; and
- (e) to make provision for various other minor or consequential matters.

PART I—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Public Authorities (Financial Arrangements) 1987

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 contains definitions for the purposes of the proposed Act.

Clause 4 provides that references in the proposed Act to the obtaining of financial accommodation include the borrowing or raising of money and participation in any arrangement or transaction approved by the Treasurer or prescribed by the regulations. The ordinary meaning of that expression is not affected by the definition.

Clause 5 provides that references in the proposed Act to the effecting of a financial adjustment mean a currency swap, an interest rate swap, a forward exchange rate agreement, a forward interest rate agreement, a futures contract, a futures option or any other transaction or arrangement prescribed by the regulations.

PART 2—FINANCIAL ACCOMMODATION AND OTHER ARRANGEMENTS

DIVISION 1—*Interpretation*

Clause 6 defines “authority” for the purposes of that Part of the proposed Act which deals with financial accommodation and financial adjustments. It includes the public authorities listed in Schedule 1 to the proposed Act. Other public authorities, persons and non-government bodies may be declared to be an authority by the regulations.

DIVISION 2—*Powers of authorities*

Clause 7 provides for the Governor’s approval to the obtaining of financial accommodation by an authority.

Clause 8 empowers an authority to obtain financial accommodation for the purpose of exercising its functions. The Treasurer’s approval is required.

Clause 9 empowers the Treasurer to advance money to an authority.

Clause 10 empowers an authority to effect a financial adjustment. The Treasurer’s approval is required.

Clause 11 makes it clear that an authority may do all things necessary and convenient to be done in connection with obtaining financial accommodation or effecting a financial adjustment.

Clause 12 gives effect to provisions in Schedules 2 and 3 to the proposed Act relating to the issue of debentures and other securities and the establishment of a reserve for financial accommodation repayment fund by authorities.

DIVISION 3—*Protection of lenders*

Clause 13 provides that the Treasurer’s approval to an authority obtaining financial accommodation or effecting a financial adjustment is conclusive evidence that the financial accommodation or financial adjustment approved of is authorised by this Act.

Public Authorities (Financial Arrangements) 1987

Clause 14 provides that a person from whom an authority obtains financial accommodation is not bound to inquire into its application and is not responsible for non-application or misapplication of it.

DIVISION 4—*Guarantees*

Clause 15 gives a government guarantee of repayment of, and payment of interest on, financial accommodation obtained by the issue of debentures and other securities or obtained in such other form as may be prescribed by the regulations.

Clause 16 empowers the Government to guarantee any other obligation incurred by an authority under the proposed Act.

Clause 17 empowers the Treasurer to charge a fee for the giving of a Government guarantee.

Clause 18 empowers the Government to make any payment in relation to financial accommodation obtained or financial adjustments effected by an authority.

Clause 19 empowers the Treasurer or a person appointed by the Governor to execute guarantees on behalf of the Government.

Clause 20 provides that the obligations of the Government under guarantees and of an authority in relation to financial accommodation all rank equally without preference with all other outstanding obligations of the Government.

Clause 21 makes an authority liable for any payment the Treasurer makes under a guarantee or agreement concerning financial accommodation obtained by the authority.

Clause 22 provides that a liability of the Treasurer and the Government under the proposed Act is to be discharged out of the Consolidated Fund.

PART 3—INVESTMENT

Clause 23 defines “authority”, for the purposes of the proposed Part, to mean any corporation constituted by an Act.

Clause 24 enables regulations to be made which declare that an authority has the investment powers specified in Part 1, 2, 3 or 4 of proposed Schedule 4 for all or specified funds of the authority.

Clause 25 provides that an authority may engage an approved funds manager to manage the authority’s funds. The Treasurer’s approval is required.

Clause 26 empowers a Government Superannuation Board to act as a funds manager for the investment of an authority’s funds.

Clause 27 makes it clear that investment powers conferred on an authority by the proposed Part replace any investment powers the authority may have under its own Act.

Clause 28 requires an authority on which investment powers are conferred by the proposed Part to submit a report of its investment activities to the Treasurer with its annual report under the Annual Reports (Statutory Bodies) Act 1984.

Public Authorities (Financial Arrangements) 1987

PART 4—NEW SOUTH WALES CAPITAL WORKS FINANCING CORPORATION

Clause 29 defines "Secretary" to mean the Secretary of the Treasury.

Clause 30 constitutes the New South Wales Capital Works Financing Corporation. The Secretary is to manage the Financing Corporation.

Clause 31 charges the Financing Corporation with the function of obtaining financial accommodation from the Treasury Corporation, and accepting other funds, for the purpose of funding capital works.

Clause 32 empowers the Secretary or an authorised person to affix the seal of the Financing Corporation.

Clause 33 makes provision for the staff of the Financing Corporation.

Clause 34 requires a Special Deposits Account in the Treasury to be kept, called the "New South Wales Capital Works Financing Corporation Account".

Clause 35 provides that the Financing Corporation's financial year is the year commencing on 1 July.

Clause 36 requires the Financing Corporation to pay money received by it to the Treasurer for credit of the Consolidated Fund.

Clause 37 appropriates the Consolidated Fund for payment of money payable by the Financing Corporation in relation to financial accommodation obtained by it.

PART 5—MISCELLANEOUS

Clause 38 exempts an authority from stamp duty which would otherwise be payable in connection with financial accommodation obtained, financial adjustments effected or investments made under the proposed Act. The Treasurer may also exempt other parties to such transactions from stamp duty.

Clause 39 provides that investment in securities issued by an authority for the purpose of obtaining financial accommodation is an authorised trustee investment.

Clause 40 authorises the Treasurer to delegate the Treasurer's power to approve of an authority obtaining financial accommodation or effecting a financial adjustment.

Clause 41 gives effect to the Schedule of repeals—Schedule 5.

Clause 42 gives effect to the Schedule of savings and transitional provisions—Schedule 6.

Clause 43 empowers the making of regulations by the Governor for the purposes of the proposed Act.

Schedule 1 lists the public authorities authorised to obtain financial accommodation under the proposed Act.

Schedule 2 makes provision for the issue by an authority of debentures and other securities in connection with the obtaining of financial accommodation.

Public Authorities (Financial Arrangements) 1987

Schedule 3 requires an authority which obtains financial accommodation to establish a reserve for financial accommodation repayment fund.

Schedule 4 lists the various classes of investment powers which may be conferred on an authority.

Schedule 5 lists the various Acts to be repealed as a consequence of the enactment of the proposed Act.

Schedule 6 makes provisions of a savings and transitional nature.
