

Act No. 129

**NEW SOUTH WALES INVESTMENT CORPORATION  
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The objects of this Bill are to amend the New South Wales Investment Corporation Act 1986—

- (a) for the purpose of increasing the capital of the Corporation and restructuring that capital so that it is divided into shares;
- (b) to enable the Treasurer, on behalf of the Crown, and certain public authorities to acquire shares in the capital of the Corporation;
- (c) to provide for the Corporation to pay dividends to its shareholders according to their shareholdings;
- (d) to provide for the restructuring of the New South Wales Investment Corporation Fund so that it has an investment component and a financial assistance and development component; and
- (e) to extend the indemnity provisions in section 21 of that Act to all nominees of the Corporation who become directors of bodies corporate by virtue of the fact that the Corporation holds shares in those bodies,

and to make other amendments to that Act of a minor, consequential or ancillary nature.

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Clause 1 specifies the short title of the proposed Act.

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

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Clause 3 is a formal provision that gives effect to the Schedule of amendments to the New South Wales Investment Corporation Act 1986 ("the Principal Act").

Clause 4 gives effect to the Schedule of savings and transitional provisions.

Schedule 1 (1) amends section 3 of the Principal Act, which defines certain expressions for the purposes of that Act, by inserting in that section definitions of "financial assistance and development function", "financial year", "investment function", "public authority", "register of shareholders", "shareholder", "share certificate" and "shares" (in relation to the Corporation). Further amendments to that section deal with the provision of financial accommodation by the Corporation and the repayment of financial accommodation so provided.

Schedule 1 (2) amends section 6 of the Principal Act, which specifies the general functions of the Corporation. The amendment is consequential on the amendments relating to the provision of financial accommodation, effected by Schedule 1 (1).

Schedule 1 (3) amends section 7 of the Principal Act, which specifies the powers of the Corporation. The amendment replaces the concept of loan with the wider concept of financial accommodation.

Schedule 1 (4) amends section 8 of the Principal Act, which requires the Corporation to comply with the Government's policy objectives. The amendment is designed to restrict the making of directions with respect to the application of the Corporation's capital to that part provided by the Treasurer from the Consolidated Fund.

Schedule 1 (5) amends section 15 of the Principal Act, which sets out the financial objectives of the Corporation. The amendment is consequential on the amendment to section 18 of the Principal Act (Schedule 1 (7)).

Schedule 1 (6) replaces section 17 of the Principal Act, which provides for the capital of the Corporation, with proposed sections 17-17G.

The substituted section 17 provides for the capital of the Corporation to be increased from \$100,000,000 to \$150,000,000. The capital of the Corporation will be divided into class "A" shares and class "B" shares of such nominal values as the Corporation will determine. Class "A" shares will be capable of being acquired by the Treasurer on behalf of the Crown whereas class "B" shares will be available for acquisition by the Treasurer on behalf of the Crown or by certain public authorities. It will be possible to issue class "A" or class "B" shares with such preferred, deferred or other special rights, or such restrictions, as the Corporation may determine.

Proposed section 17A provides for the issue of class "A" shares.

Proposed section 17B provides for the issue of class "B" shares.

Proposed section 17C sets out the rights of holders of shares in the capital of the Corporation. A shareholder will be entitled to receive dividends declared by the Corporation in respect of shares in its capital. Class "B" shares will be transferable.

Proposed section 17D requires the Corporation to keep a register of shareholders.

Proposed section 17E provides that a shareholder of the Corporation is entitled to a share certificate.

Proposed section 17F prohibits the Corporation from dealing in its own shares.

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Proposed section 17G provides for the payment of dividends on shares in the Corporation's capital.

Schedule 1 (7) amends section 18 of the Principal Act, which provides for the establishment in the Special Deposits Account in the Treasury of the New South Wales Investment Corporation Fund. As a result of the amendment, the Fund will be divided into 2 components, an investment component (which will deal with the Corporation's entrepreneurial activities) and a financial assistance and development component.

Schedule 1 (8) amends section 19 of the Principal Act, which deals with the provision by the Corporation of financial assistance to business undertakings. The amendment is consequential on the replacement of the concept of loan by that of financial accommodation.

Schedule 1 (9) amends section 20 of the Principal Act, which deals with the acquisition and disposal of securities of business undertakings to which the Corporation has granted financial assistance. The amendment provides for that section to apply to all securities of a business undertaking and not just to shares and prescribed interests as at present.

Schedule 1 (10) amends section 21 of the Principal Act, which provides for a director of the Corporation who is a director of a body corporate by virtue of the fact that the Corporation holds shares in that body corporate to be indemnified against certain liabilities incurred as a result of being a director of that body corporate. The amendment extends the operation of the section to all nominees of the Corporation who become directors of bodies corporate by virtue of the fact that the Corporation holds shares in those bodies.

Schedule 1 (11) amends section 32 of the Principal Act, which empowers the Governor-in-Council to make regulations for the purposes of that Act. The amendment will replace subsection (2) of that section and will enable regulations to be made which will, with prescribed modifications, apply specified provisions of the Companies (New South Wales) Code to the Corporation or its directors, shareholders or employees. The amendment to subsection (1) of that section is consequential on the replacement of subsection (2) of that section.

Schedule 2 provides for savings and matters of a transitional nature.

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