

Chapter 1

Introduction

Referral

1.1 On 27 May 2015, the Treasurer, the Hon. Joe Hockey MP, introduced the Medical Research Future Fund Bill 2015 and the Medical Research Future Fund (Consequential Amendments) Bill 2015 (the Bills) in the House of Representatives.¹

1.2 On 16 June 2015, the Senate referred the provisions of the Bills to the Community Affairs Legislation Committee (the committee) for inquiry and report by 10 August 2015.²

Background

1.3 The health and wellbeing of all Australians is essential to the continuation of Australia as a productive nation.³

1.4 The proposed Medical Research Future Fund (MRFF) will ensure that this potential is realised by guaranteeing a long-term and secure revenue source for medical research and innovation in Australia.⁴

Purpose and key provisions of the Bills

1.5 In the 2014–15 Budget, the Australian Government announced its intention to establish the MRFF⁵ to support medical research and innovation in Australia.⁶ Together, the Bills establish this Fund and propose a number of changes to existing acts to allow for the administration of the Fund.

Medical Research Future Fund Bill 2015

1.6 The Medical Research Future Fund Bill 2015 (MRFF Bill), as read a third time in the House of Representatives, is comprised of 6 Parts. Parts 1–4 introduce the 2014–15 Budget measures, Part 5 outlines the reporting requirements of both the Finance Minister and the Future Fund Board of Guardians, and Part 6 outlines delegations and rules.

Part 2 – Medical Research Future Fund

1.7 The MRFF will consist of the:

1 *House of Representatives Votes and Proceedings*, No. 117—27 May 2015, p. 1317.

2 *Journals of the Senate*, No. 96—16 June 2015, pp. 2661–2.

3 Medical Research Future Fund Bill 2015, p. 1.

4 The Hon. Joe Hockey MP, Treasurer, Second Reading Speech, *House of Representatives Proof Hansard*, 27 May 2015, pp 4701–4703.

5 Australian Government, *Budget Paper No. 2 2014-15*, p. 115, http://budget.gov.au/2014-15/content/bp2/download/BP2_consolidated.pdf (accessed 20 July 2015).

6 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 4.

- MRFF Special Account; and
- the investments of the Medical Research Future Fund (Fund).⁷

1.8 Credits to the MRFF will be determined by the responsible Ministers (the Finance Minister and the Treasurer), and will include an undetermined balance of the Health and Hospitals Fund (HHF),⁸ in addition to the value of health saving measures announced.⁹

1.9 The Finance Minister, under the direction of the Health Minister who must take into consideration the Australian Medical Research and Innovation Priorities (the Priorities), can direct that specified amounts from the Fund can be debited and credited to:

- the MRFF Health Special Account for the purpose of making grants to medical research institutes, universities, a corporate Commonwealth entity and corporations;
- the COAG Reform Fund for making payments to the States and Territories for expenditure on medical research and medical innovation; and
- corporate Commonwealth entities outside the General Government Sector.^{10¹¹}

1.10 The exclusive and non-exclusive investment purposes of the MRFF Special Account are outlined in sections 18 and 19,¹² and the MRFF Health Special Account is established under part 2, division 4, subdivision D.¹³

1.11 Finally, the Australian Medical Research Advisory Board (the Advisory Board) is established under Part 2A of the MRFF Bill.

1.12 The Advisory Board, under the direction of the Health Minister, will be required to determine the Australian Medical Research and Innovation Strategy (Strategy) and the Priorities.¹⁴

1.13 In determining the Strategy, the Board must take into account the national strategy for medical research and public health research as prepared under the *National Health and Medical Research Council Act 1992* and any other relevant

7 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 4.

8 Medical Research Future Fund Bill 2015, clause 12(1), p. 13.

9 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 4.

10 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 4.

11 Section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the above determinations.

12 Medical Research Future Fund Bill 2015, clause 18 and 19, pp 18–20.

13 Medical Research Future Fund Bill 2015, part 2 division 4 subdivision D, pp 22–23.

14 Medical Research Future Fund Bill, part 2A division 2, p. 28.

matters. The Strategy will be in force for five years, and cannot directly stipulate that any particular person or project shall receive financial assistance.¹⁵

1.14 The Priorities must be in alignment with the Strategy, and the Advisory Board must take into account the following in determining the Priorities:

- the burden of disease on the Australian community;
- how to deliver practical benefits from medical research and medical innovation to as many Australians as possible;
- how to ensure that financial assistance provided under this Act provides the greatest value for all Australians;
- how to ensure that financial assistance provided under this Act complements and enhances other financial assistance provided for medical research and medical innovation; and
- any other relevant matter.¹⁶¹⁷

1.15 Membership of the Advisory Board will consist of the Chief Executive Officer (CEO) of the National Health and Medical Research Council (the NHMRC) and up to seven other members to be appointed by the Health Minister.¹⁸

1.16 In determining a member's eligibility, the Health Minister must ensure that the Advisory Board collectively possesses a balance of the following experience and/or knowledge: medical research, policy relating to health systems, management of health services, medical innovation, financing, and investment and commercialisation.¹⁹

1.17 Membership on the Advisory Board cannot exceed a period of five years.²⁰

Part 3 – Maximum annual distributions

1.18 This part proposes that the Advisory Board will determine the maximum cash annual distributions (the limit) that can be debited from the MRFF each financial year, whilst minimising the long-term fluctuation of the nominal value of the capital.²¹

Part 4 – Investment of the Medical Research Future Fund

1.19 This part proposes that income derived from investments of the MRFF will be held in the name of the Future Fund Board and must be credited to the MRFF Special Account.²²

15 Medical Research Future Fund Bill, clause 32D, pp. 29.

16 Medical Research Future Fund Bill, clause 32E, p. 30.

17 Section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the above determinations, nor does subsection 33(3) of the *Acts Interpretation Act 1901*.

18 Medical Research Future Fund Bill, clause 32F and 32G, p. 32.

19 Medical Research Future Fund Bill, clause 32G clause 2, p. 32.

20 Medical Research Future Fund Bill, clause 32G, clause 4, p. 32.

21 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 5.

1.20 This part also proposes that, although the Future Fund Board will be responsible for determining how to invest the MRFF, the Government will issue an investment mandate (the Medical Research Future Fund Investment Mandate) to provide the Future Fund Board with strategic guidance in making this determination.²³

1.21 The Future Fund Board must take all reasonable steps to comply with the investment mandate, however the responsible Minister must provide the Future Fund Board with an initial draft of this mandate, and invite the Future Fund Board to make a submission on the direction outlined in the mandate.^{24²⁵}

1.22 Any submission made by the Future Fund Board in response to this draft must be tabled in each House of Parliament.²⁶

Part 5 – Reporting obligations

1.23 This part proposes that the publication of any MRFF reports will be at the discretion of the Finance Minister.²⁷

1.24 The Future Fund Board, at the direction of the Finance Minister, will be required to:

- prepare reports and/or documents about matters pertaining to the performance of the Future Fund Board's functions under this Bill; and
- keep the responsible Ministers informed of the Board's operations under this Bill, and prepare any reports and/or documents relating to these operations as necessary.²⁸

1.25 The Health Minister will be required to prepare:

- a report every two years in conjunction with the conclusion of the Priorities that summarises any financial assistance provided to medical research and medical innovation from the MRFF during the period in which the most recent Priorities were in effect; and
- information relating to grants awarded through a debit of the MRFF Special Account.²⁹

22 Medical Research Future Fund Bill 2015, clause 37, pp 38–39.

23 Medical Research Future Fund Bill 2015, clause 39, pp 39–40.

24 Medical Research Future Fund Bill 2015, clause 42(1), p. 42.

25 Section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to this direction.

26 Medical Research Future Fund Bill 2015, clause 42(2), p. 42.

27 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 5.

28 Medical Research Future Fund Bill 2015, clause 55(1) and 56, p. 50.

29 Medical Research Future Fund Bill 2015, clause 57A and 58, p.50–51.

Part 6 – Miscellaneous

1.26 This part proposes that the Finance Minister, the Health Minister and Treasurer have delegation powers to certain employees within their respective Departments. In addition, the Health Minister can delegate powers to the CEO or an SES employee of the NHMRC.³⁰

1.27 A review of the operation of this Bill must be undertaken at a date to be determined by the responsible Minister, no later than 30 June 2023.³¹

1.28 The Finance Minister, by legislative instrument, may make rules covering matters required to be prescribed in this Act, or matters that it would be convenient to prescribe for the purposes of this Act.³²

Medical Research Future Fund (Consequential Amendments) Bill 2015

1.29 The Medical Research Future Fund (Consequential Amendments) Bill 2015 (the Consequential Bill) seeks to provide for consequential amendments related to the MRFF Bill in six Commonwealth Acts.³³ These amendments will:

- enable grants to the States and Territories through the COAG Reform Fund;
- extend the Future Fund Board's duties to manage the MRFF; and
- allow for amounts to be transferred between the MRFF and the Future Fund to allow for proper apportioning of common expenses incurred by the Future Fund Board in managing the MRFF, the Nation-building Funds and the DisabilityCare Australia Fund.³⁴

1.30 The Consequential Bill abolishes the HHF by repealing relevant sections of the *Nation-building Funds Act 2008*, and amends the *Health Insurance Act 1973* to allow for the Department of Health to meet ongoing financial commitments arising from HHF projects that had already been committed to.³⁵

Amendments and New Clauses to the Bills

1.31 On 22 June 2015 the House of Representatives considered and agreed to 22 Government amendments relating to the Bills.³⁶

30 Medical Research Future Fund Bill 2015, clause 61A, p. 53.

31 Medical Research Future Fund Bill 2015, clause 62, pp 53–54.

32 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 54.

33 These Commonwealth Acts are: the *COAG Reform Fund Act 2008*; the *DisabilityCare Australia Fund Act 2013*; the *Health Insurance Act 1973*; the *Future Fund Act 2006* and the *Nation-building Funds Act 2008*.

34 Explanatory Memorandum, Medical Research Future Fund (Consequential Amendments) Bill 2015, p. 4.

35 Explanatory Memorandum, Medical Research Future Fund (Consequential Amendments) Bill 2015, p. 4.

36 *House of Representatives Votes and Proceedings*, No. 127—22 June 2015, p. 1425.

1.32 These amendments, as discussed above, collectively:

- establish an independent expert Australian Medical Research Advisory Board (Advisory Board) to develop a required Australian Medical Research and Innovation Strategy (the Strategy) and a required Australian Medical Research and Innovation Priorities (the Priorities);
- specify that decision-making mechanisms for the disbursement of funds from the MRFF must take into account the Strategy and the Priorities, which will determine the focus of medical research and innovation every two years; and
- clarify the involvement of the National Health and Medical Research Council (NHMRC) in the effective disbursement of funding from the MRFF.³⁷

1.33 Supplementary Explanatory Notes provided in the Supplementary Explanatory Memorandum further stipulates that clauses 12(2) and 15(3) will be declared as legislative instruments and, as such, any determinations relating to crediting the MRFF by the responsible Ministers must be tabled in Parliament and published on the Federal Register of Legislative Instruments.³⁸

1.34 Finally, the amendments to the MRFF Bill require mandatory reporting every two years by the Health Minister on MRFF funding expenditure and to clarify the Health Minister's role in debiting amounts from the MRFF to ensure that all decision-making processes have a high degree of transparency.³⁹

Financial implications

1.35 The 2014–15 Budget foreshadowed \$1 billion in initial funding for the MRFF from uncommitted funds in the HFF.⁴⁰ Statements made by the Hon. Joe Hockey MP indicate that an amount close to this figure is still expected to be deposited into the MRFF.⁴¹

1.36 The 2014–15 Budget also indicated that the MRFF would receive further reinvestments equal to the estimated value of health saving measures published in the 2014–15 Budget, until the MRFF reaches a target capital level of \$20 billion by 2019–20.⁴²

37 Supplementary Explanatory Memorandum, Medical Research Future Fund Bill 2015 and Medical Research Future Fund (Consequential Amendments) Bill 2015, p. 2.

38 Supplementary Explanatory Memorandum, Medical Research Future Fund Bill 2015 and Medical Research Future Fund (Consequential Amendments) Bill 2015, p. 7.

39 Supplementary Explanatory Memorandum, Medical Research Future Fund Bill 2015 and Medical Research Future Fund (Consequential Amendments) Bill 2015, p. 4.

40 Australian Government, *Budget Paper No. 2 2014-15*, p. 115, http://budget.gov.au/2014-15/content/bp2/download/BP2_consolidated.pdf, (accessed 20 July 2015).

41 Explanatory Memorandum, Medical Research Future Fund Bill 2015, p. 4.

42 Australian Government, *Budget Paper No. 2 2014-15*, p. 115, http://budget.gov.au/2014-15/content/bp2/download/BP2_consolidated.pdf, (accessed 20 July 2015).

Consideration of the Bills by other committees

1.37 The Bills were considered by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny committee) on 17 June 2015.⁴³ The Scrutiny committee made no comment on the Bills.

1.38 The Bills were also considered by the Parliamentary Joint Committee on Human Rights (Human Rights committee) on 18 June 2015.⁴⁴ The Human Rights committee concluded the Bills do not raise human rights concerns.

Conduct of the inquiry

1.39 Details of the inquiry, including a link to the Bills and associated documents, were placed on the committee's website. The committee also wrote to 112 organisations inviting submissions by 10 July 2015.

1.40 The committee received 58 submissions. Submissions are listed at Appendix 1 and were published on the committee's website.

1.41 The committee held a public hearing in Melbourne on 4 August 2015. A list of witnesses who appeared at the hearing is at Appendix 2, and the *Hansard* transcript is available through the committee's website.⁴⁵

Acknowledgement

1.42 The committee thanks those organisations who made submissions and who gave evidence at the public hearing.

Notes on references

1.43 References to the committee *Hansard* are to the *Proof Hansard*. Page numbers may vary between the proof and official *Hansard* transcript.

43 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 6 of 2015*, pp 34–35.

44 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Twenty-third report of the 44th Parliament*; 18 June 2015, p. 2.

45 See:
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Future_Fund/Public_Hearings.

