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Appropriation Bill (No. 3) 2003–04

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Appropriation Bill (No. 3) 2003–04

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Appropriation Bill (No. 3) 2003–04

Date Introduced: 11 February 2004

House: House of Representatives

Portfolio: Department of Finance and Administration

Commencement: On the day when it receives the Royal Assent

Purpose

To appropriate additional sums for the ordinary annual services of the Government.

Background

Section 83 of the Constitution states:

> No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

There are two broad categories of appropriations:

- annual appropriations, and
- special (or standing) appropriations.

There are six annual appropriation Bills. They authorise about 30 per cent of annual Commonwealth spending.

Special (or standing) appropriations—the terms are often used interchangeably—authorise about 70 per cent of spending. An example of special appropriations is road spending. This is authorised under three Acts: the *Australian Land Transport Development Act 1988*, the *Roads to Recovery Act 2000*, and the *Local Government (Financial Assistance) Act 1995*.

Three annual appropriations Bills are introduced when the Budget is brought down. They are:

- Appropriation Bill (No. 1)
- Appropriation Bill (No. 2), and
- Appropriation (Parliamentary Departments) Bill.

These Bills are contained in Budget Paper No. 4.

The Bills authorise the payment of specified amounts for particular purposes. Appropriation Bill (No. 1) provides for the appropriation of money from the Consolidated Revenue Fund for the ordinary annual services of government. Appropriation Bill (No. 2) provides for the appropriation of money from the Consolidated Revenue Fund for purposes other than the ordinary services of government. The division of items between the two Bills accords with the 1965 'compact' between the House of Representatives and the Senate.

Appropriation Bill (No. 2) provides appropriations for:

- administered expenses, and
- non-operating costs.

Administered expenses include:

- grants to the States and Territories (so called section 96 grants), and
- new administered outcomes.

Administered items are expenses, revenues, assets or liabilities managed by agencies on behalf of the Commonwealth. Agencies do not control administered items. Administered expenses include grants, subsidies and benefits. In many cases, administered expenses fund the delivery of third party outputs.

Non-operating costs—sometimes called 'capital costs'—include:

- 'equity injections', which are provided to agencies to enable investment in new capacity when normal cash flows are insufficient
- 'loans', which are provided to agencies and used when an investment is expected to result in a direct return such as an efficiency saving
- previous years outputs appropriations: these provide funding for outputs that were delivered in a previous year. This can occur, for example, when a decision is made to implement a new activity after the date for inclusion in the additional appropriation

Bills. Such activities are funded initially from cash balances, which are then replenished by the previous years outputs appropriation, and

- 'administered assets and liabilities' appropriations: they provide funding for acquiring new assets, extending existing assets, and discharging administered liabilities relating to activities administered by agencies in their fiduciary capacity on behalf of the Government.[1]

The Parliamentary Departments have a separate Appropriation Bill because Parliament is constitutionally separate and independent of the Executive.

Funding requirements often change after the Budget is brought down. Governments make new policy commitments which have to be funded. Agencies reassess their requirements and, if necessary, submit requests for additional funding. The Government may agree to additional funding if the amounts in the Appropriation Acts are inadequate. The process whereby additional funds are provided is called additional estimates, and begins around November. The approved additional estimates are incorporated into Appropriation Bill (No 3), Appropriation Bill (No 4), and Appropriations (Parliamentary Departments) Bill No. 2. These Bills are the counterparts of Appropriation Bills No. 1 and 2 and Appropriations (Parliamentary Departments) Bill No. 1 respectively.

Portfolio Additional Estimates Statements (PAES) are the additional estimates counterparts of Portfolio Budget Statements (PBS) and contain explanations of Appropriation Bills 3 and 4 and Appropriations (Parliamentary Departments) Bill No. 2.

The Advance to the Finance Minister (AFM) provides flexibility to the system of appropriating funds. The AFM is a contingency fund from which the Minister for Finance can spend for emergency or unforeseen circumstances. Authority for payments derives from the annual Appropriation Acts. According to Department of Finance and Administration guidelines, funding is available only if agencies meet two tests:

- the need for funding must be urgent, and
- the need was unforeseen or arose because of erroneous omission or understatement.

The Appropriation Acts also require the Finance Minister to account to Parliament for spending from the AFM, which the Minister does by tabling monthly and annual statements. These reports are, however, virtually useless in finding out the purposes for which funds were expended because the reports contain so little information: the data are aggregated and the outcomes are vague.

Special Accounts are a mechanism used to record in the Consolidated Revenue Fund amounts that are earmarked for specified purposes, that is, they are a way of classifying revenue and spending into different categories. The Australian National Audit Office recently released a report that criticised agency management of Special Accounts.

According to the second reading speech, sums sought in the Bill include:

- $235.8 million to the Department of Defence, Department of Foreign Affairs and Trade, AusAID and the Australian Federal Police, in relation to peace-keeping commitments and aid work in the Solomon Islands
- $86.3 million towards drought assistance and interim support payments
- $75 million in indexation adjustments for the Department of Defence
- $75.1 million for rephasing from 2002-03 into 2003-04 of funds for the Department of Health and Ageing
- $65.5 million to the Australian Federal Police to cover the costs of the Papua New Guinea deployment
- $38.8 million for implementation of the MedicarePlus package
- $19.3 million to meet Australia's contribution payments to various international organisations
- $19 million across 15 of the 17 portfolios in order to implement the findings of the Budget Estimates and Framework Review
- $21.4 million in assistance for victims of the Bali terrorist attacks and their families and for meeting the cost of the investigations
- $14.3 million in relation to changes in the Hearing Services model, and
- $12.8 million towards the government's response to the recommendations of the inquiry into regional telecommunications.

The remaining amount—around $269.5 million—relates to estimates variations and other measures.[2]

Main Provisions

Proposed Part 2 deals with 'basic appropriations'. These are the amounts allocated to agencies to enable them to perform ordinary annual services. **Clause 6** of proposed Part 2 specifies a total of $944 938 000. The amounts, by agency, are contained in **proposed Schedule 1**.

The Bill contains two new clauses, that is, similar clauses do not appear in *Appropriation Act (No. 3) 2002-03*. In his second reading speech, the Parliamentary Secretary to the Minister for Finance and Administration, the Hon. Peter Slipper said:

> Two new clauses have been added to the three additional estimates bills. The new clauses will provide a mechanism for the finance minister, on request from a portfolio minister, to lapse amounts of departmental expense appropriations which are not required. Such amounts may be not required because of an accounting reclassification, efficiency gains resulting in reduced spending or changes in the structure of government.
>
> The first clause provides the lapsing mechanism in respect of the three bills. The second clause provides the same mechanism in respect of the annual appropriation acts agreed to since the 1999 budget.

The first new clause—**Clause 9** of proposed Part 2—provides that a Minister—**proposed subsection 9(1)**—or a Chief Executive—**proposed subsection 9(2)**—may request the Minister for Finance to make a written determination which reduces a departmental item by the amount specified in the determination. Following receipt of such a request, the Minister for Finance can issue such a determination. **Proposed subsection 9(5)** limits the amount of the reduction in two circumstances. First, paragraph 9(5)(a) limits the reduction to the amount in the determination. Second, where payments have already been made from the Consolidated Revenue Fund, paragraph 9(5)(b) limits the actual reduction to the difference between the amount already paid and the reduction sought in the determination. **Proposed subsection 9(9)** provides that a determination is a disallowable instrument for the purpose of section 46A of the *Acts Interpretation Act 1901*.

A similar mechanism is intended in **Clause 10** of proposed Part 2. Clause 10 empowers the Minister for Finance, on receipt of a written request from a Minister—**proposed subsection 10(2)**—or a Chief Executive—**proposed subsection 10(3)**—to reduce, by a written determination, amounts allocated by the Acts set out in **subsection 10(1)**. All these Acts are Appropriation Acts of earlier years.

Proposed Part 3 deals with additions to basic appropriations. **Clause 13** authorises the Minister for Finance to spend no more than $175 million from the AFM and to provide Parliament with details of the amounts spent.

Concluding Comments

Compared with *Appropriation Act (No. 3) 2002–03*, the only significant change in the Bill—other than the amounts appropriated—are Clauses 9 and 10 of proposed Part 2.

The effect of Clause 9 seems to be to make it possible to claw back the amount appropriated under the Bill to the amount likely to be spent. Similarly, Clause 10 seems to be intended to claw back unused departmental appropriations from previous years. The purpose of these clauses is not clear but seems to be a spending control mechanism aimed at preventing agencies from seeking unduly large appropriations for departmental expenses and carrying forward unspent amounts to future years that agencies are unlikely to spend.

Endnotes

1 Budget Paper No. 4 2003-04. pp. 4–5.

2 House Hansard, 11 February 2004, p. 24255.