



## Appropriation Bill (No. 4) 2005-06

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## Appropriation Bill (No. 4) 2005-06

**Date introduced:** 8 February 2006

**House:** House of Representatives

**Portfolio:** Finance and Administration

**Commencement:** On the day it receives Royal Assent

### Purpose

To appropriate sums, additional to those sought through *Appropriation Act (No. 2) 2005-06*, 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 usually six annual appropriation Bills. They authorise about 25 per cent of annual Commonwealth spending.

Special (or standing) appropriations—the terms are often used interchangeably—authorise about 75 per cent of spending. An example is the *Social Security (Administration) Act 1999* under which age pensions and other social security payments are made.

### Annual Appropriation Bills

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 (No. 1).

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These Bills are reproduced 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. 1) appropriates amounts according to whether they are departmental or administered expenses. Departmental expenses are those that agencies control.<sup>1</sup> Examples are salaries, other cash expenses, and non-cash expenses such as accruing employee entitlements and depreciation. Administered expenses are those that agencies administer on behalf of the government. [While some administered expenses are paid under Appropriation Bill (No. 1), most are paid under special appropriations].

Appropriation Bill (No. 2) provides appropriations for:

- administered expenses, and
- non-operating costs.

Administered expenses include:

- grants to the States and Territories (sometimes called section 96 grants because the grants are made under section 96 of the Constitution), and
- new administered outcomes.

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

- '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.<sup>2</sup>

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New policy proposals should not be included in Appropriation Bill (No. 1) because they do not fall with the classification of ordinary annual services. New policy measures are funded either through Appropriation Bill (No. 2) or special appropriations.

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

## The Senate's powers and 'money' bills

Section 53 of the Constitution states:

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

In short, the Senate cannot amend any laws for appropriating monies for the ordinary annual services of the government such as this Bill. The Senate can, however, amend any appropriations for other purposes.

## Additional estimates

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

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(No. 2). These Bills are the counterparts of Appropriation Bill (No. 1), Appropriation Bill (No. 2), and Appropriations (Parliamentary Departments) Bill (No. 1) respectively.

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

New policy proposals should not be included in Appropriation Bill (No. 3) because they do not fall with the classification of ordinary annual services. New policy measures are funded either through Appropriation Bill (No. 4) or special appropriations.

Further annual appropriation bills can be introduced during the year if required. They are called 'supplementary' additional estimates.

### Advance to the Finance Minister

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.

### Net appropriations

In addition to the amount sought as a 'basic' appropriation and the AFM, the Bill provides for agencies to spend income received under 'net appropriations' agreements (also known as section 31 agreements, a reference to section 31 of the *Financial Management and Accountability Act 1997*).

In January 2006, the Australian National Audit Office released a report titled [Management of Net Appropriation Agreements](#). The report describes net appropriations as follows:

2. ... net appropriation arrangements are a longstanding feature of the Commonwealth's financial framework. They provide a means by which an agency's appropriation item in the annual Appropriation Acts can be increased by amounts received from non-appropriation sources. This provides the agency with the appropriation authority to retain and spend those amounts ...

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4. Under the Commonwealth's current financial framework, Section 31 of the Financial Management and Accountability Act 1997 (FMA Act) allows the Finance Minister to enter into net appropriation agreements (known as Section 31 agreements) for the purposes of appropriation items in Appropriation Acts that are marked "net appropriation". The FMA Act requires that an agreement be made with the Minister responsible for the appropriation item or, in the case of items for which the Finance Minister is responsible, with the Chief Executive of the agency for which the appropriation is made.

5. A Section 31 agreement specifies the types of departmental and/or administered receipts that will be eligible to be retained by the relevant agency, and the terms on which the relevant appropriation item will be increased for those receipts by operation of the agreement. For example, the agreement may require certain receipts to be shared with the Budget in nominated proportions. The annual Appropriation Acts provide that, if a Section 31 agreement applies to an appropriation item, the amount specified in the item is taken to be increased in accordance with the agreement, on the conditions set out in the agreement. The increase cannot be more than the relevant receipts covered by the agreement.<sup>3</sup>

## Special Accounts

The Bill refers to Special Accounts. In essence, they are ledgers in the Consolidated Revenue Fund that are used to record all spending and revenue relevant to a particular activity. Special accounts are thus a means of simplifying the recording and keeping track of amounts of money associated with that activity. Special Accounts can be established in two ways: by the Finance Minister under the *Financial Management and Accountability Act 1997* or by another Act.

## Financial implications

The Bill seeks a total of \$1,368,647,000 for basic appropriations, that is, almost \$1.4 billion.

Basic appropriations can be supplemented by adjustments to departmental items, and by spending from the AFM. Adjustments are subject to a maximum of \$20 million for all of financial year 2005-06. Similarly, spending under the AFM is limited to \$215 million for all of financial year 2005-06.

## Major items of expenditure

**Note:** the numbers in brackets below are references (where possible) to the relevant page numbers in the [Mid-year Economic and Fiscal Outlook 2005-06](#).

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According to the Minister's second reading speech, the Bill seeks additional funding to agencies for:

- expenses in relation to grants to the states under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory, and
- non-operating purposes such as equity injections and loans.

The principal factors contributing to the additional requirement since the 2005-06 Budget include \$744.4 million in additional payments to the states and territories, such as:

- \$346.3 million in GST compensation payments
- an additional \$304.3 million to support primary producers in regions that have been declared eligible for exceptional circumstances assistance (88)
- \$18 million under the Tasmanian Community Forest Agreement to fund additional plantation establishment and productivity improvements in existing plantations and native forests (93)
- \$16.3 million for mental health under the Australian health care agreements, and
- an additional contribution of up to \$10 million to Victoria to enhance and extend the scope of the Melbourne 2006 Commonwealth Games opening ceremony.

The Bill also proposes \$333.8 million in additional appropriations for non-operating expenses, including:

- \$131 million to the Department of Health and Ageing to purchase and store antivirals, vaccines, intravenous antibiotics and protective equipment for the national medical stockpile, in preparation for a potential pandemic influenza (198)
- \$27.9 million will be allocated to the Department of Defence to fund a Special Forces Task Group to Afghanistan, and a further \$27 million will be provided to deploy helicopters and support elements in Afghanistan; these increases have been fully offset by savings arising in the department's non-operating budget (117)
- a total of \$34.3 million to the Australian Federal Police to fund the Joint Airport Intelligence Group and to implement phase 1 of community policing at airports
- \$40.9 million to the Department of Employment and Workplace Relations to implement the workplace relations reform package (130-134)
- \$11.4 million to the Australian Security Intelligence Organisation to fund additional temporary accommodation (106), and
- \$290.5 million has been re-appropriated to the Department of Transport and Regional Services as a new administered expense for the Roads to Recovery program to facilitate the direct payment of these funds to local councils.

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## Main provisions

The provisions in the Bill are identical to those in *Appropriation Act (No. 4) 2004-05* except for several minor changes. The changes include:

- dropping ‘for the purposes of the *Legislative Instruments Act 2003*’ from the subclauses dealing with whether an item is a legislative instrument, and editorial changes that simplify the English expression [**subclauses 7(3), 8(3), 11(9), 11(10), 12(3), 13(5), 15(4) and 15(6)**].
- inserting under ‘definitions’ in **clause 3**, the definition of Portfolio Supplementary Estimates Statements
  - this is necessary because the Government introduced as a supplementary estimate the [\*Appropriation \(Regional Telecommunications Services\) Act 2005-06\*](#)
  - **clauses 4(1) and 4(2)** consequently includes a reference to Portfolio Supplementary Estimates Statements
- with respect to adjustments to departmental items (see below), **subclause 12(1)** inserts ‘during the current year’ when referring to when the Finance Minister may make a determination increasing the amount for a departmental item
  - this amendment has the effect of limiting to the 2005-06 financial year the ability of the Finance Minister to make determinations under **clause 12**
- **clause 13** deals with the Advance to the Finance Minister. **Paragraph 13(1)(a)** inserts ‘in the current year’
  - this amendment has the effect of limiting to the 2005-06 financial year the ability of the Finance Minister to issue funds made available under **clause 13**. Were it not for this amendment, the Finance Minister could issue the funds made available under clause 13 in other financial years.

## Part 2-Basic appropriations

**Clause 6** provides that the basic appropriation is \$1,368,647,000, that is, almost \$1.4 billion. The amounts allocated to each agency are set out in **Schedule 2**.

**Clause 7** empowers the Finance Minister to issue money from the Consolidated Revenue Fund to entities so that the entities can make payments to the states.

**Clause 8** deals with administered items in the basic appropriation. **Subclause 8(1)** limits the amount of money the Finance Minister can issue from the Consolidate Revenue Fund to the amount specified (in Schedule 2), and the amount that the Finance Minister includes in a determination. The general procedure with respect to the latter is as follows:

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Appropriations for administered expenses are subject to a determination by the Finance Minister on the amounts to be issued. The effect of that determination is to prevent any part of the appropriation that has not been expensed in the year from being issued from the Consolidated Revenue Fund. By convention the Finance Minister issues determinations in relation to administered expenses appropriations following the completion of each financial year. ... the determinations for administered expenses do not reduce the appropriation. Rather, they are a declaration by the Finance Minister of the maximum amount that may be issued for the respective items.<sup>4</sup>

**Clause 11** deals with reductions of appropriations. The general process for reductions is as follows:

Amounts appropriated for departmental expenses and for non-operating costs can be subject to a reduction process first introduced in the additional estimates appropriations acts for 2003-2004. Under this process, on request in writing from a responsible minister for an agency, the Finance Minister may issue a determination to reduce the agency's departmental expense or non-operating costs appropriation. Requests for amounts to be lapsed may arise, for example, because the appropriation is no longer required. Until the Finance Minister issues a determination under this process, moneys appropriated for departmental expenses and non-operating costs may be issued from the CRF.<sup>5</sup>

### Part 3-Additions to basic appropriations

**Clause 12** deals with the power of the Finance Minister to increase the amount allocated to a departmental item up to a maximum of \$20 million for the 2005-06 financial year. As noted, departmental expenses are essentially the costs of running agencies such as salaries and rent. Clause 12 provides flexibility in that when situations arise where an agency finds that it does not have enough funds for departmental expenses and the shortfall cannot be met through the normal additional estimates processes, it may request additional funds by means of a determination that the Finance Minister issues. **Subclause 12(3)** provides that such a determination is a legislative instrument. This provides some accountability for the Finance Minister's actions.

**Clause 13** deals with the AFM. **Subclause 12(3)** limits the combined total the Finance Minister can issue under *Appropriation Act (No. 1) 2005-06* and the Bill to \$215 million.

### Part 4 –Miscellaneous

**Clause 14** provides, that when an item of spending or revenue falls within the purpose for which a Special Account has been created, then that item may be respectively debited or credited to the Special Account.

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**Clause 15** deals with the terms and conditions under which payments are made to the states. In essence, clause 15 provides that payments to the states must be made in accordance with relevant terms and conditions [**subclause 15(2)**]. **Subclause 15(5)** defines ‘applicable terms and conditions’ as they relate to payments to the states. In essence, these are the conditions that the Minister responsible for determining conditions applicable to payments, decides upon. **Subclause 15(6)** provides that a determination of terms and conditions, mentioned in the definition of applicable terms and conditions, is not a legislative instrument.

## Endnotes

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1. Agency Resourcing 2005-06, Budget Paper No. 4, p. 4.
2. For a more comprehensive discussion, see, *ibid.*, p. 5.
3. Australian National Audit Office, *Management of Net Appropriation Agreements*, Audit Report no. 28, 2005-06, p. 13.
4. Budget Paper No. 4, *op. cit.*, p. 6.
5. *ibid.*, p. 6.

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