



Appropriation Bill (No. 2) 2006–2007

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Law and Bills Digest Section

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Appropriation Bill (No. 2) 2006–2007

Date introduced: 9 May 2006

House: House of Representatives

Portfolio: Finance and Administration

Commencement: On Royal Assent.

Purpose

To appropriate approximately \$9.215 billion for the non-ordinary (or ‘other’) annual services of Government.

Background

Section 83 of the Constitution provides that no monies may be withdrawn from the Consolidated Revenue Fund except ‘under an appropriation made by law’. Laws authorising spending are either:

- special appropriations, or
- six (usually) annual appropriation acts.

Of the appropriation Bills introduced to accompany the May Budget, by far the most important in dollar terms is Appropriation Bill (No. 1), which appropriates funds for the ‘ordinary’ annual services of the government while Appropriation Bill (No. 2) appropriates funds for other annual services. Section 54 of the Constitution requires that there be a separate law appropriating funds for the ordinary annual services of the government. That is why there are separate bills for ordinary annual services and for other annual services. The distinction between ordinary and other annual services was set out in a ‘Compact’ between the Senate and the government in 1965 (the Compact was updated to take account of the adoption of accrual budgeting).

The Appropriation Bill (No. 2) 2006-2007 (the Bill) provides funding for agencies to meet:

- expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory, the Australian Capital Territory and local government authorities;
- administered expenses for new outcomes;

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- requirements for departmental equity injections, loans and previous years' outputs; and
- requirements to create or acquire administered assets and to discharge administered liabilities.

Financial implications

The total appropriated by the Bill is approximately \$9.215 billion (as compared to the *Appropriation Act (No. 2) 2005-2006*, where the amount was approximately \$7.87 billion).¹

Main provisions

The main provisions of the Bill largely follow those of *Appropriation Act (No. 2) 2005-06*, with a few minor deletions to take account of redundant provisions. However, local government authorities are recognised in the Bill for the first time.

New section 4 provides that Portfolio Budget Statements are to be considered as relevant extrinsic interpretational material under section 15AB of the *Acts Interpretation Act 1903*.

New section 6 lists the total amount appropriated by the Bill – \$9,214,607,000. The actual appropriation is done under **new section 16**.

New Section 7 deals with the basic appropriation of funds to be paid to States, the Northern Territory, the Australian Capital Territory and local government authorities. **Subsection 7(1)** limits the amount of money the Finance Minister can issue from the Consolidate Revenue Fund to the *lesser* of the amount specified in **Schedule 2**, and the amount that the Finance Minister includes in a determination. Such determinations are not legislative instruments and thus not disallowable by Parliament under the *Legislative Instruments Act 2003*. The payments to the States, the Northern Territory, the Australian Capital Territory and local government authorities may only be for the purpose of contributing to the relevant agency outcome listed in **Schedule 2**.

New Section 8 deals with the basic appropriation of funds for administered items. **Subsection 8(1)** limits the amount of money the Finance Minister can issue from the Consolidate Revenue Fund to the *lesser* of the amount specified in **Schedule 2**, and the amount that the Finance Minister includes in a determination. Such determination are not legislative instruments and thus not disallowable by Parliament under the *Legislative Instruments Act 2003*. The amounts appropriated may be used for the carrying out of agency activities for the purpose of contributing to the relevant agency outcome listed in **Schedule 2**.

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New section 11 provides that the responsible portfolio Minister may request the Finance Minister to make a written determination reducing an administered asset or liabilities item or other departmental item in the budget of an entity within their portfolio. The amount of reduction is to be no greater than the amount requested, or, where payments have already been made from the Consolidated Revenue Fund, the difference between the amount appropriated to an item and the amount already paid. For entities within the Finance Minister's portfolio, the reduction request must come from the Chief Executive of the relevant entity. **Subsection 11(9)** provides that a determination may be disallowed by either House of Parliament in accordance with the provisions of section 42 of the *Legislative Instruments Act 2003*.

Under **new section 12**, the Finance Minister is able to increase the amount appropriated for certain items, such as equity injections, listed in **Schedule 2**. The maximum additional amount available under **new section 12** is a total of \$20 million. Similar provisions are contained in previous appropriation Acts. Such determinations are legislative instruments, but are not disallowable under the *Legislative Instruments Act 2003*: **new subsection 12(3)**.

New section 13 effectively allows the Finance Minister to increase the total amount appropriated in **Schedule 2** by up to \$215 million in urgent cases where the need for additional amount was unforeseen or not provided for due to an 'erroneous omission or understatement'. A determination by the Finance Minister increasing the appropriation is a legislative instrument, but not disallowable under the *Legislative Instruments Act 2003*: **new subsection 13(4)**.

For specific payments to States, Territories and local government authorities, the relevant portfolio Minister (listed in **column 3** of **Schedule 1**) is able to determine conditions under which payments can be made: **new section 15**. Such determinations are not legislative instruments and thus not disallowable by Parliament under the *Legislative Instruments Acts 2003*.

Concluding comments

In previous equivalent appropriation Bills, local government authorities have not been mentioned as one of the entities who receive the funds appropriated - only States and Territories have been. Presumably the change is to facilitate payments going directly to local government authorities rather than through State or Territory governments.

Endnotes

1. Although with later adjustments, the 'actual available' 2005-2006 appropriation appears to have been 9.045 billion. See p. 18 of the Bill.

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