



Appropriation Bill (No. 2) 2007-08

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Appropriation Bill (No. 2) 2007-08

Date introduced: 8 May 2007

House: House of Representatives

Portfolio: Finance and Administration

Commencement: On Royal Assent

Purpose

To appropriate approximately \$10.133 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Section 83 of the Constitution provides that no monies may be withdrawn from the Consolidated Revenue Fund except ‘under an appropriation made by law’.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) 2007-2008 (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
- new administered expenses

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- requirements for so-called ‘non-operating’ costs, that is, for equity injections, loans and previous years’ outputs appropriations, and
- requirements to create or acquire administered assets and to discharge administered liabilities.

Financial implications

The Bill appropriates about \$10.133 billion (compared to about \$9.215 billion in *Appropriation Act (No. 2) 2006-2007*).

Main provisions

The provisions of the Bill are generally identical to those in *Appropriation Act (No. 2) 2006-07*. The main difference is that the Bill drops the section relating to adjustments to departmental items.

Section 12 of *Appropriation Act (No. 1) 2006-07* allowed the Finance Minister to increase, by determination, spending on departmental items. The maximum allowed was \$20 million. Such determinations were legislative instruments but were not disallowable under the *Legislative Instruments Act 2003*. The Bill, by removing this section, eliminates the power of the Finance Minister to increase departmental appropriations by determination. The practical effect is that the amount authorised for departmental appropriations is capped at the amounts specified in the Bill. The minister, in the second reading speech, gave the following as the reason for this change:

We have also taken the opportunity to remove a redundant provision from appropriation bills Nos. 1 and 2 and the parliamentary departments appropriation bill. The Departmental Items Adjustments and other similar provisions will no longer be required in the annual appropriation bills. These sections were originally included to smooth the transition to the accrual arrangements implemented in 1999-2000. They have not been exercised for some five years and are no longer required.¹

However, the power to make some supplementation remains. Under **proposed section 12**, the Finance Minister may increase the total amount appropriated in **Schedule 1** by up to a total of \$175 million in urgent cases where the need for an 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 is not disallowable under the *Legislative Instruments Act 2003*: **proposed subsection 12(4)**.

The only other change is to **proposed paragraph 14(2)(b)**. **Proposed section 14** deals with conditions attached to payments to the states and territories and to local government.

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Proposed section 14 provides that where a payment is made, it must accord with the conditions of the payments, and with the way set out in **subsection 14(3)**. Paragraph 14(2)(b) has three elements. Payments:

- with respect to amounts and timing must accord with a determination
- the determination must be in writing, and
- the Minister—specified in column 4 of the table in Schedule 1—must make the determination.

The minister, in the second reading speech, gave the following reason for the change:

The bill includes a minor technical change to section 14 to streamline ministerial determinations that are made on payments to the states, territories and local government authorities. The change will enable payments to be made without the mandatory ministerial determination on the amount and timing. The provision otherwise is unaltered and determinations may be issued if required.²

Endnotes

1. Hon G Nairn, Special Minister of State, 'Second reading speech: Appropriation Bill (No. 2) 2007-08', *Votes and Proceedings*, 8 May 2007, p. 60.
2. *ibid.*

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