



## Appropriation Bill (No. 1) 2009-2010

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## Appropriation Bill (No. 1) 2009-2010

**Date introduced:** 12 May 2009

**House:** House of Representatives

**Portfolio:** Finance and Deregulation

**Commencement:** On Royal Assent

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To appropriate about \$71.283 billion for the ordinary annual services of government.

### Constitutional aspects

#### Annual appropriations

Section 83 of the Constitution provides that no monies may be withdrawn from the Consolidated Revenue Fund except 'under an appropriation made by law'.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
- one of (usually) six annual appropriation acts.

Special appropriations—which account for about 80 per cent of spending—are spending authorised by Acts for particular purposes. Examples are age pensions, carer payments, and the seniors concession allowance paid under the *Social Security (Administration) Act 1999*, and Family Tax Benefits A and B paid under *A New Tax System (Family Assistance) (Administration) Act 1999*. The remaining twenty per cent of spending is funded by annual appropriations. Appropriation Bill (No. 1) 2009-2010 (the Bill) is an annual appropriation.

#### Ordinary and 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 annual

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appropriation 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). Appropriation Bill (No. 1) is introduced with the Budget and appropriates funds for the ‘ordinary annual services of the Government’. Appropriation Bill (No. 2)—which is also introduced with the Budget—appropriates funds for other annual services. A third Appropriation Bill—Appropriation (Parliamentary Departments) Bill No. 1—funds the parliamentary departments.

## The Senate’s powers in relation to ordinary annual services

Section 53 of the Constitution provides that the Senate may not amend proposed laws appropriating revenue or moneys for the ordinary annual services of the government. The Senate may, however, return to the House of Representatives any such proposed laws requesting, by message, the omission or amendment of any items or provisions therein.

## Budget terms and processes

### Departmental and administered expenses

Departmental expenses (outputs) are the costs incurred in running agencies, for example, salaries, depreciation and other day-to-day operating expenses. Administered expenses (items) are the costs of providing the programs that agencies administer. Most administered expenses are funded through special appropriations but some are funded through the Appropriation Bills. The Bass Strait Passenger Vehicle Equalisation Scheme is an example of an administered expense funded as an ordinary annual service.

### Outcomes

Departmental outputs and administered expenses contribute to outcomes. Outcomes are the results or consequences for the community that the government wishes to achieve. An example, in the Attorney-General’s portfolio, is:

An equitable and accessible system of federal civil justice.<sup>1</sup>

### Reduction processes

Departmental expenses and administered expenses Budget allocations can be reduced. It is sometimes the case that an appropriation for a departmental expense exceeds what is

1. Attorney-General’s Department, *Portfolio Budget Statements 2009-10*, p. 25, viewed 14 May 2009, [http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~03+PBS+09\\_10+AGD\\_web+Final.pdf/\\$file/03+PBS+09\\_10+AGD\\_web+Final.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~03+PBS+09_10+AGD_web+Final.pdf/$file/03+PBS+09_10+AGD_web+Final.pdf)

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needed. However, departmental items do not automatically lapse if they are not spent. In these circumstances, a 'reduction process' to extinguish the unspent amount is available. Under this process, on request in writing from a minister, the Finance Minister may issue a determination to reduce the agency's departmental expenses appropriation. In short, the excess of the amount allocated over the amount expended can be extinguished.

Appropriations for administered expenses are also subject to an annual process to extinguish amounts that are not required. The amount identified as spending on administered expenses in agencies' financial statements—as published in their annual reports—is the basis for this process. In short, the amount of the reduction is the difference between the amount appropriated and the amount spent as shown in the agency's financial statements.

In effect, the unused amounts are returned to consolidated revenue.

### Advance to the Finance Minister

The advance to the Finance Minister (AFM) provides flexibility to the Budget process by authorising the Finance Minister to expend money when the Finance Minister is satisfied that there is an urgent need for expenditure during the financial year but for which there is not a sufficient appropriation. The Finance Minister can expend money from the AFM only if the proposed expenditure meets certain criteria, namely, there is an urgent need for the expenditure that is not provided for, or is insufficiently provided for, because of an omission or understatement or because of unforeseen circumstances.

### Portfolio Budget Statements

When the Budget is brought down, the government releases Portfolio Budget Statements. They contain, amongst other things, explanations of the funding sought through the three Appropriation Bills. The Portfolio Budget Statements are 'relevant documents' for the purposes of section 15AB of the *Acts Interpretation Act 1901*. This means that the Portfolio Budget Statements can be used to help interpret an Act.

## Financial implications

The Bill appropriates about \$71.283 billion for the ordinary annual services of government compared with about \$60.875 billion in Appropriation Bill (No. 1) 2008-09. **Schedule 1** contains the amounts appropriated and the purposes for which the funds are appropriated as defined by outcomes. As usual, the single largest portfolio appropriation is for defence with some \$23 billion.

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## Main provisions

The provisions are largely identical to those in previous Appropriation Bills. The notable exception is the addition of **clause 14** which deals with Indigenous Employment Special Account Receipts.

### Part 2—Appropriation items

**Clause 6—Summary of appropriations**—states that the total of the items specified in **Schedule 1** is \$71 283 073 000.

**Clause 7** provides that the amount specified in a departmental item for an agency may be applied for its departmental expenditure. The note to the clause observes that the Finance Minister manages the expenditure of public money under the *Financial Management and Accountability Act 1997*.

**Clause 8** deals with ‘administered items’. **Subclause 8(1)** confirms that if an amount is specified as an administered item for an outcome, then money can be expended to achieve that outcome. **Subclause 8(2)** provides that where the Portfolio Statements indicate that an activity is for an outcome, the amount in the administered item is taken to contribute towards the achievement of that outcome.

**Clause 9** deals with ‘CAC Act body payment items’. A CAC Act body is a Commonwealth authority or company within the meaning of the [Commonwealth Authorities and Companies Act 1997](#) (the CAC Act). CAC Act bodies are legally and financially separate from the Commonwealth and so do not debit appropriations or make payments from the Consolidated Revenue Fund. Rather, funding for CAC Act bodies is paid to the relevant portfolio departments which, in turn, pass the funds on to the CAC Act bodies. **Subclause 9(2)** provides that if a CAC Act body is subject to another Act, and that Act requires that amounts, appropriated by Parliament for the purposes of that body to be paid to the body, then the full amount of the CAC Act body payment must be paid to the body.

### Part 3—Adjusting appropriation items

A process exists whereby unspent departmental expenses appropriations can be abolished. **Clause 10—Reducing departmental items** contains this process. **Subclause 10(1)** specifies who can request reductions in departmental expenses. **Paragraph 10(1)(a)** empowers the Minister for an agency to ask the Finance Minister to reduce a departmental item for that agency, while **paragraph 10(1)(b)** enables the Chief Executive of an agency, for which the Finance Minister is responsible, to ask the Finance Minister to reduce a departmental item for that agency. **Subclause 10(2)** specifies that the Finance Minister may make a determination reducing a departmental item by the amount in the request.

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**Subclause 10(3)** provides that the determination will have no effect to the extent that it would reduce the departmental item below nil.

**Clause 11—Reducing administered items** contains the process for extinguishing appropriations for administered items that are not needed. **Subclause 11(1)** provides that if the amount shown in the financial statements of an agency's annual report shows that the expensed amount for an administered item is less than the amount appropriated for that item, then the amount of the reduction is the difference between the appropriated amount and the amount in the annual report. **Subclause 11(2)** enables the Finance Minister to determine that an amount, published in the financial statements of an agency, is taken to be the amount specified in his or her determination, while **paragraph 11(2)(b)** ensures that the amount published in the annual report can be corrected. **Subclause 11(3)** provides that the Finance Minister's determination, made under **subclause 11(2)**, is a legislative instrument, that section 42 (relating to disallowance) of the [Legislative Instruments Act 2003](#) applies to the determination, but that Part 6 (relating to sunset provisions) of the [Legislative Instruments Act 2003](#) does not apply to the determination. In short, this means that the Finance Minister's determinations are disallowable by Parliament, but once made, will not expire.

**Clause 12** contains the process for reducing CAC Act body payments. This is almost identical to that for departmental items in **clause 10**.

As noted, the advance to the Finance Minister (AFM) provides flexibility to the Budget process by authorising the Finance Minister to expend money in certain circumstances. **Clause 13** deals with the AFM. **Subclause 13(1)** contains the criteria the Finance Minister must apply before the Finance Minister can make payments from the AFM. The criteria are that the Finance Minister must be satisfied that there is an urgent need for expenditure that is not provided for, or is insufficiently provided for, in **Schedule 1** because of an omission or understatement or because of unforeseen circumstances. **Subclause 13(3)** limits expenditure from the AFM to \$295 million. **Subclause 13(4)** provides that where the Finance Minister has made a determination to expend money from the AFM, the determination is a legislative instrument. Further, the determination must be tabled in Parliament but is not subject to disallowance or sunset.

**Clause 14 Indigenous Employment Special Account Receipts** is a new clause. The wording in this clause is virtually identical to that of section 15 Flexible Funding Pool receipts in [Appropriation Act \(No. 1\) 2008-09](#). The provisions dealing with Flexible Funding Pool receipts were introduced following the Commonwealth government's Northern Territory Emergency Response. A special account titled the Northern Territory Flexible Funding Pool Special Account (NTFFP) was established to fund employment creation initiatives under the Response. According to the Explanatory Memorandum:

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Clause 14 provides appropriations for agencies to spend amounts equal to receipts from the Indigenous Employment Special Account or the Northern Territory Flexible Funding Pool Special Account (the NTFFP).<sup>2</sup>

With respect to the Indigenous Employment Special Account, the Explanatory Memorandum explains:

The Indigenous Employment Special Account was established to replace the NTFFP to better reflect the range of activities that the Government intended to fund. Although it is anticipated that the Indigenous Employment Special Account may operate alongside the NTFFP Special Account for a short period of time, it is intended that once the balance of the NTFFP Special Account reaches zero that Special Account will be abolished.<sup>3</sup>

**Subclause 14(1)** provides that if an amount from the NTFFP or the Indigenous Employment Special Account is debited to an outcome for an administered item [**paragraph 14(1)(a)**], and if the Finance Minister specifies that item in a written determination [**paragraph 14(1)(b)**], the administered item is increased by the amount of the debit. **Subclause 14(3)** provides that the amount can be used only in accordance with the conditions specified in the determination. **Subclause 14(4)** provides that a determination made under **paragraph 14(1)(b)** is a legislative instrument but that it is not subject to the disallowance or sunset provisions of the *Legislative Instruments Act 2003*.

#### Part 4—Miscellaneous

**Clause 16 Appropriation of the Consolidated Revenue Fund** provides that the Consolidated Revenue Fund is appropriated for the purposes of the Bill including the operation of the Bill as affected by the *Financial Management and Accountability Act 1997*.

#### Schedule 1—Services for which money is appropriated

**Schedule 1** lists the portfolios and the amounts the Bill appropriates to each. The following is the **Summary** from the Bill.

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2. Explanatory Memorandum, *Appropriation Bill No. 1 2009-2010*, p. 12, viewed 14 May 2009, [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4110\\_ems\\_43ce28a3-47b9-4df2-93f5-b623f88597b5/upload\\_pdf/329137.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4110_ems_43ce28a3-47b9-4df2-93f5-b623f88597b5/upload_pdf/329137.pdf;fileType=application%2Fpdf)
  3. Explanatory Memorandum, *Appropriation Bill No. 1 2009-2010*, p. 13, viewed 14 May 2009, [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4110\\_ems\\_43ce28a3-47b9-4df2-93f5-b623f88597b5/upload\\_pdf/329137.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4110_ems_43ce28a3-47b9-4df2-93f5-b623f88597b5/upload_pdf/329137.pdf;fileType=application%2Fpdf)

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## SUMMARY

Summary of Appropriations (plain figures)—2009-2010  
Actual Available Appropriation (*italic figures*)—2008-2009

Portfolio	Departmental Outputs \$'000	Administered Expenses \$'000	Total \$'000
Agriculture, Fisheries and Forestry	327,702 <i>366,037</i>	238,154 <i>445,686</i>	565,856 <i>811,723</i>
Attorney-General's	3,464,154 <i>3,279,785</i>	670,656 <i>592,624</i>	4,134,810 <i>3,872,409</i>
Broadband, Communications and the Digital Economy	260,548 <i>208,237</i>	1,311,139 <i>1,255,343</i>	1,571,687 <i>1,463,580</i>
Defence	22,856,981 <i>20,636,528</i>	115,213 <i>124,407</i>	22,972,194 <i>20,760,935</i>
Education, Employment and Workplace Relations	1,122,750 <i>2,187,760</i>	6,479,007 <i>5,162,227</i>	7,601,757 <i>7,349,987</i>
Environment, Water, Heritage and the Arts	818,859 <i>736,801</i>	4,065,935 <i>2,146,220</i>	4,884,794 <i>2,883,021</i>
Families, Housing, Community Services and Indigenous Affairs	575,752 <i>1,572,702</i>	1,960,034 <i>1,831,876</i>	2,535,786 <i>3,404,578</i>
Finance and Deregulation	321,565 <i>343,949</i>	215,832 <i>202,564</i>	537,397 <i>546,513</i>
Foreign Affairs and Trade	1,474,040 <i>1,365,043</i>	3,492,145 <i>3,333,032</i>	4,966,185 <i>4,698,075</i>
Health and Ageing	672,574 <i>659,300</i>	5,757,075 <i>5,213,136</i>	6,429,649 <i>5,872,436</i>
Human Services	4,069,458 <i>1,709,927</i>	11,826 <i>177,533</i>	4,081,284 <i>1,887,460</i>
Immigration and Citizenship	1,238,514 <i>1,222,850</i>	511,635 <i>484,778</i>	1,750,149 <i>1,707,628</i>
Infrastructure, Transport, Regional Development and Local Government	232,546 <i>242,521</i>	733,808 <i>540,446</i>	966,354 <i>782,967</i>
Innovation, Industry, Science and Research	328,404 <i>322,740</i>	1,867,889 <i>1,701,382</i>	2,196,293 <i>2,024,122</i>
Prime Minister and Cabinet	480,293 <i>401,724</i>	259,270 <i>56,375</i>	739,563 <i>458,099</i>
Resources, Energy and Tourism	203,298 <i>221,869</i>	1,049,351 <i>545,613</i>	1,252,649 <i>767,482</i>
Treasury	4,086,855 <i>3,840,815</i>	9,811 <i>32,584</i>	4,096,666 <i>3,873,399</i>
<b>Total: Bill 1</b>	<b>42,534,293</b> <i>39,318,588</i>	<b>28,748,780</b> <i>23,845,826</i>	<b>71,283,073</b> <i>63,164,414</i>

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## Concluding comments

It is difficult to relate the items in **Schedule 1** to the measures announced in the [second reading speech](#) by the Treasurer, the Hon. Wayne Swan, because the Bill will fund only some of the measures. Further information can, however, be found in the [Portfolio Budget Statements](#) for 2009-2010.

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