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11 January 2010, no. 76, 2009–10, ISSN 1328-8091

Appropriation Bill (No. 3) 2009–2010

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Economics Section

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Appropriation Bill (No. 3) 2009–2010

Date introduced: 26 November 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 $1.69 billion for the ordinary annual services of government.

Background

Constitutional aspects

Annual appropriations

Section 83 of the *Australian Constitution* provides that no monies may be withdrawn from the Treasury except 'under appropriation made by law'. Acts authorising expenditure are either:

- special appropriations, or
- one of (usually) six annual appropriation Acts.

Special appropriations—which account for more than 80 per cent of expenditure—are expenditure authorised by Acts for particular purposes. An example of a special appropriation is the Tax Benefits A and B paid under the *A New Tax System (Family Assistance) (Administration) Act 1999*. The remainder of expenditure is funded by annual appropriations. Appropriation Bill (No. 3) 2009–2010 (the Bill) is an annual appropriation Bill.

Ordinary and other annual services

Section 54 of the *Australian Constitution* requires that there be a separate law appropriating funds for the ordinary annual services of the government. There are therefore separate annual 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.[1]

The Senate's powers in relation to ordinary annual services

Section 53 of the *Australian 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.

Additional estimates

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.

Funding requirements usually change after the budget is brought down. The government may agree to additional funding if the amounts in the three budget Appropriation Acts are inadequate and so has to seek parliamentary approval for additional expenditure. The process whereby additional funds are provided is called 'additional estimates' and usually begins around November of the budget year. The approved additional funding is incorporated into Appropriation Bills No. 3 and No. 4 and Appropriation (Parliamentary Departments) Bill No. 2. These Bills are the counterparts of Appropriation Bills No. 1 and No. 2 and Appropriation (Parliamentary Departments) Bill No. 1 respectively.

Terms used in the Bill

Departmental and administered expenses

Departmental expenses (outputs) are the costs incurred in running agencies, for example, salaries, supplies of goods and services, and other day-to-day operating expenses. Administered expenses 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.

Reduction processes

Budget allocations can be reduced. It is sometimes the case that an appropriation for a departmental expense exceeds what is needed. However, departmental items do not

1. The Compact was updated to take account of adoption of accrual budgeting.

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 expenditure 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.

A process exists for reducing payments to bodies to which the *Commonwealth Authorities and Companies Act 1997* (CAC Act) applies (see below). This process is almost identical to that for departmental items.

Outcomes

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

> An equitable and accessible system of federal civil justice.[2]

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.[3] They contain, amongst other things, information on all sources of funding for an agency—

2. Attorney–General's Department, *Portfolio Budget Statements 2009–10*, Commonwealth of Australia, Canberra, 2009, p. 25, viewed 30 November 2009, http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)~02_03+PBS+09_10+AGD_web+Final.pdf/$file/02_03+PBS+09_10+AGD_web+Final.pdf

including annual Appropriation Bills—and how the agency proposes to spend those funds. The Portfolio Budget Statements are 'relevant documents' for the purposes of paragraph 15AB (2)(e) of the *Acts Interpretation Act 1901*. This means that the Portfolio Budget Statements can be used to help interpret an Act.

Portfolio Additional Estimates Statements

Portfolio Additional Estimates Statements are the counterparts of Portfolio Budget Statements and contain explanations of the funding sought through the additional estimates Appropriation Bills.[4]

CAC Act body

As noted above, a CAC Act body is a Commonwealth authority or company established under the *Commonwealth Authorities and Companies Act 1997* (CAC Act). Examples of CAC Act bodies are the Australian War Memorial and the Australian Broadcasting Corporation. 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. Payments to CAC Act bodies used to be made 'directly' to the bodies. Since 2008–09, in recognition of the fact that CAC Act bodies are legally and financially separate, payments to CAC Act bodies have been made 'indirectly' through portfolio departments. For example, funding for the Australian Broadcasting Corporation and the Special Broadcasting Corporation are made through the Department of Broadband, Communications and the Digital Economy, this being the relevant portfolio department. The department then passes the funds to the CAC Act bodies.

Special Accounts

A Special Account is an appropriation mechanism that notionally sets aside an amount within the Consolidated Revenue Fund to be expended for specific purposes. The appropriation authority is section 20 or 21 of the *Financial Management and Accountability Act 1997* (FMA Act). The type of appropriation provided by a Special Account is a special appropriation. The appropriation amount is limited up to the balance of the Special Account and this remains available until the Special Account is abolished. An example of a Special Account is that established for the Future Fund. A Special Account can be established by:

- a legislative instrument made by the Finance Minister, under section 20 of the FMA Act or

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3. Australian Government 2009–10 Budget website, *Portfolio Budget Statements*, viewed 30 November 2009, http://www.budget.gov.au/2009-10/content/pbs/html/index.htm

4. Australian Government 2009–10 Budget website, *Portfolio Additional Estimates Statements*, viewed 30 November 2009, http://www.budget.gov.au/2009-10/content/paes/html/index.htm

- an enabling Act, under section 21 of the FMA Act.

Depreciation, amortisation and make good funding

Depreciation is the wear and tear on non-financial assets (sometimes called fixed assets) such as computers and plant and equipment. Amortisation refers to the writing-off of so-called 'intangible' assets such as patents and trademarks. In their financial statements, agencies recognise depreciation as an expense (debit) and credit an asset depreciation account annually. The effect is to create a reserve from which the asset can be replaced.

Under accrual budgeting, agencies are funded for their depreciation expense annually. Agencies are also funded for amortisation expenses and the cost of restoring assets. The latter is also called 'make good' money because funds are provided to make good an asset. Agencies hold the depreciation funds until they replace the asset. Some have questioned why agencies are given funds before they need them.[5] The Rudd Government has adopted a two-pronged approach to this matter. The first is to cease funding depreciation annually and, instead, fund agencies only when they replace assets. Government policy with respect to the cessation of depreciation funding is set out in *Operation Sunlight*:

> The Government will cease funding for depreciation from 1 July 2009 for collecting institutions in relation to their heritage and cultural assets and from 2010–11 for all other agencies in the general government sector.[6]

The second approach is to recover from agencies unspent depreciation funds. The Bill contains a mechanism for doing so.

Basis of policy commitment

In his second reading speech, the Minister for Small Business, Independent Contractors and the Service Economy, Minister Assisting the Finance Minister on Deregulation, and Minister for Competition Policy and Consumer Affairs, Dr Emerson, MP referred to appropriations for programs administered by:

- the Department of Education, Employment and Workplace Relations
- the Department of the Environment, Water, Heritage and the Arts
- the Department of Health and Ageing, and

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5. J R Blondal, D Bergvall, I Hawkesworth and R Deighton-Smith, 'Budgeting in Australia', *OECD Journal on Budgeting*, vol. 2008/2, 2008, viewed 1 December 2009, http://www.oecd.org/dataoecd/59/24/42007191.pdf

6. Department of Finance and Deregulation, *Operation Sunlight*, December 2008, p. 18, viewed 30 November 2009, http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/operation-sunlight/docs/operation-sunlight-enhancing-budget-transparency.pdf

- the Department of Human Services.[7]

The following are quotes about some of these programs from the 2009–10 Mid-Year Economic and Fiscal Outlook.[8] Information on other proposed appropriations can be found in the Portfolio Additional Estimates Statements for the relevant agency.

Department of Education, Employment and Workplace Relations

Jobs and Skills for a Low Pollution Future — National Green Jobs Corps

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of Education, Employment and Workplace Relations	-	20.7	39.3	19.6	-
Centrelink	-	2.0	0.5	0.4	-
Total	-	22.7	39.8	20.0	-

The Government will provide $82.5 million over three years to establish 10,000 environmental and heritage training and work experience placements, lasting 26 weeks, for young people aged 17 to 24.

This initiative is available to young people who are: in receipt of Youth Allowance (other), Newstart Allowance or Parenting Payment who work less than 15 hours a week; in receipt of Disability Support Pension with an assessed work capacity of more than 15 hours a week; or aged 17 to 20 years who are not eligible for income support, not in full-time education and working less than 15 hours a week.

Eligible young people will also receive the National Green Jobs Corps supplement of $41.60 per fortnight. National Green Jobs Corps will run from 1 January 2010 to 31 December 2011. Eligible young people will undertake accredited training at Certificate level 1 or above.

Further information can be found in the press release of 30 July 2009 issued by the Prime Minister.

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7. C Emerson, 'Second reading speech: Appropriation Bill (No. 3) 2009–2010', House of Representatives, *Debates*, 26 November 2009, pp. 2–4, viewed 2 December 2009, http://parlinfo/parlInfo/genpdf/chamber/hansardr/2009-11-26/0009/hansard_frag.pdf;fileType=application%2Fpdf

8. Australian Government 2009–10 Budget website, *Mid-Year Economic and Fiscal Outlook*, viewed 4 January 2010, http://www.budget.gov.au/2009-10/content/myefo/html/index.htm

Department of the Environment, Water, Heritage and the Arts

Solar Homes and Communities Plan — additional funding

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of the Environment, Water, Heritage and the Arts	-	510.8	23.2	-	-

The Government will provide an additional $534.0 million over two years to meet commitments under the Solar Homes and Communities Plan. The program was terminated on 9 June 2009. The program provided rebates of up to $8,000 for the installation of solar power panels in homes, and grants for up to half the cost of a 2 kilowatt system for community buildings.

The program has now been replaced by the Solar Credits Scheme, which is part of the expanded Renewable Energy Target. The scheme provides assistance to households, small businesses and community groups with the upfront costs of eligible small-scale renewable energy systems installed after 9 June 2009.

Further information can be found in the joint press release of 9 June 2009 issued by the Minister for the Environment, Heritage and the Arts and the Minister for Climate Change and Water, and the press release of 10 September 2009 issued by the Minister for Climate Change and Water.

Water for the Future — National Rainwater and Greywater Initiative — reduced funding

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of the Environment, Water, Heritage and the Arts	-	-13.0	-31.4	-	-

The Government will reduce funding for the National Rainwater and Greywater Initiative in response to lower-than-expected demand. The initiative provides rebates of up to $500 towards the cost of installing rainwater tanks or new piping for greywater use, or up to $10,000 to surf life saving clubs to install a rainwater tank or as a contribution towards a larger water-saving project.

The initiative will now provide $204.7 million over five years from 2009–10.

This measure will provide savings of $44.4 million over two years from 2009–10.

Water for the Future — Water Smart Australia — reduced funding

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of the Environment, Water, Heritage and the Arts	-	-10.0	-10.0	-	-

The Government will reduce funding for project contingencies under the Water Smart Australia program. The program will now provide $386.4 million over two years from 2009–10. The program provides grants to projects that aim to accelerate the development and uptake of smart water technologies and practices across Australia.

This measure will provide savings of $20.0 million over two years from 2009–10.

Economic Stimulus Plan Recalibration — Energy Efficient Homes package — modification

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of the Environment, Water, Heritage and the Arts	-	-310.0	-300.0	-250.0	-

The Government has closed the Low Emission Assistance Plan for Renters in response to lower-than-expected demand. The program provided rebates of up to $1,000 to owners of private sector rental homes to help with the cost of installing insulation. Landlords and renters who install insulation in private sector rental homes are now eligible to receive rebates under the Home Insulation Program.

The Government will also modify the Home Insulation Program. The program will meet the costs of installing ceiling insulation up to a cap of $1,200 per home. The program previously met the cost up to a cap of $1,600. Funding for the Home Insulation Program has also been capped at $2.45 billion over the two years from 2009–10.

This measure will provide net savings of $860.0 million over three years. Of these savings, funding of $610.0 million from the closure of the Low Emission Assistance Plan for Renters has been redirected to the Primary Schools for the 21st Century element of the Building the Education Revolution (BER) program.

Further to this measure, the Government is providing additional funding of $985.8 million in 2009–10, which has been brought forward from 2010–11 ($695.8 million) and 2011–12 ($290.0 million), to meet an increased demand for rebates under the Home Insulation Program.

These changes are part of the Government's recalibration of the stimulus program to ensure it continues to provide an appropriate level of support to the economy, taking into account the demand for individual programs, evolving labour market conditions and the need to provide continued value for money. The recalibration complements the withdrawal of stimulus that is already built into the design of the fiscal strategy. The Government will continue to monitor the stimulus program, as well as its overall fiscal settings, to ensure they remain suited to economic conditions.

Further information on the transition of landlords and renters to the Home Insulation Program can be found in the Commonwealth Coordinator-General's Progress Report issued on 27 August 2009 by the Minister Assisting the Prime Minister for Government Service Delivery.

Department of Health and Ageing

Swine flu (H1N1 influenza virus) pandemic response

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Department of Health and Ageing	-	45.2	0.8	0.3	0.3
Department of Agriculture, Fisheries and Forestry	-	-	-	-	-
Total	-	45.2	0.8	0.3	0.3
Related capital ($m)					
Department of Health and Ageing	-	*26.0*	-	-	-

The Government will provide $229.6 million over five years (including $21.0 million in 2008–09) in response to the H1N1 influenza virus pandemic. This funding supports the following activities designed to manage this pandemic and to enhance preparedness for any future pandemics:

- storage, compounding and distribution of antivirals and personal protective equipment;
- purchase of H1N1 influenza vaccine and associated clinical trials;
- production, processing and distribution of immunisation consent forms;
- monitoring and policy development;
- immunisation awareness campaign;
- purchase of the antiviral Relenza®; and
- immediate communications, border protection, surveillance and health care worker support and training in 2008–09. This included expenditure by the Department of Health and Ageing of $15.3 million, by the Department of Agriculture, Fisheries and Forestry of $4.2 million and by the Australian Customs and Border Protection Service of $1.5 million.

Funding for these programs will consist of up to $72.6 million of additional funding, with the remaining $152.8 million of the cost of this measure being met from within the existing resourcing of the Department of Health and Ageing and the Australian Customs and Border Protection Service. The Government will also provide an equity injection of $4.2 million in 2009–10 to the Department of Agriculture, Fisheries and Forestry as reimbursement for costs incurred in 2008–09.

Department of Human Services

Centrelink efficiencies — reduction in paper-based claims and correspondence

Expense ($m)

	2008–09	2009–10	2010–11	2011–12	2012–13
Centrelink	-	12.4	-43.0	-50.1	-57.2
Related capital ($m)					
Centrelink	-	*6.6*	-	-	-

The Government will reduce the use of paper-based claim forms and correspondence within Centrelink by increasing the use of document scanning and enhancing systems to better manage and handle all forms and correspondence. From 1 July 2010, paper forms received by Centrelink each day will be scanned at, or as close as possible to, the point of receipt. This will increase efficiency by reducing the cost of transferring paper forms between Centrelink sites and record management units, and by reducing storage costs for paper documents.

This measure is expected to deliver net savings of $131.3 million over four years and includes capital funding of $6.6 million in 2009–10.

Reclassifications

The second reading speech refers to reclassifications of appropriations and outlines three major reclassifications, namely, $639.242 million in the Department of Defence; $118.652 million in the Department of Environment, Water, Heritage and the Arts; and $42.572 million in the Department of Education, Employment and Workplace Relations.[9] These reclassifications appear in the relevant Portfolio Additional Estimates Statements.

Where previously appropriated funds are reclassified, the government cannot simply proceed and spend the funds under the new classifications. Rather, the government must seek parliamentary approval to spend the funds under the new classifications. That is why the Bill seeks approval to spend the reclassified funds.

Financial implications

The Bill appropriates about $1.69 billion for the ordinary annual services of government compared with about $71.28 billion in Appropriation Act (No. 1) 2009–10. **Schedule 2** shows the amounts and the portfolios for which funds are appropriated.

As discussed below, the Bill empowers the Finance Minister to require agencies to return unspent funds previously allocated for depreciation, amortisation and the restoration of

9. Ibid., p. 3.

assets. There are no estimates of the magnitude of the amounts involved in the Explanatory Memorandum.

Main provisions

The provisions are largely identical to those in previous Appropriation Acts. The notable exceptions are **clauses 13** and **14**.

Part 2—Appropriation items

Clause 6—Summary of appropriations—states that the total of the items specified in **Schedule 1** is $1 690 281 000.

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'. **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. **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 sunsetting 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 above, the Advance to the Finance Minister (AFM) provides flexibility to the budget process by authorising the Finance Minister to expend money, by determination, in certain circumstances. **Clause 13** deals with the AFM but differs from comparable clauses in previous Appropriation Acts. For example, clause 13 of *Appropriation Act (No. 1) 2009–2010*:

- contained the criteria the Finance Minister had to apply before making payments from the AFM (subsection 13(1))
- changed an amount in Schedule 1 of *Appropriation Act (No. 1) 2009–2010* by the amount that the Finance Minister had paid from the AFM (subsection 13(2))
- limited expenditure from the AFM to the amount specified ($295 million) (subsection 13(3)), and
- provided that where the Finance Minister had made a determination to expend money from the AFM, the determination was a legislative instrument (subsection 13(4)).

Subclause 13(1) provides that if the Finance Minister has made a determination under subsection 13(2) of *Appropriation Act (No. 1) 2009–2010* before the Bill commences—thereby changing an amount authorised under *Appropriation Act (No. 1) 2009–2010*—then the determined amount is to be disregarded for the purposes of section 13(3) of the *Appropriation Act (No. 1) 2009–2010* when the Bill commences. In other words, the effect of **subclause 13(1)** is to ensure that the amount of the AFM remains at $295 million and is not reduced by the amount of a determination. As the Note to **subclause 13(1)** states:

> This means that, after the commencement of this Act, the Finance Minister has access to $295 million under section 13 of the *Appropriation Act (No. 1) 2009–2010*, regardless of the amounts that have already been determined.

Subclause 13(2) is designed to ensure that expenditure on the same item is not authorised twice: once under the AFM and once under the Bill. **Subclause 13(2)** provides that if the Bill appropriates an amount for particular expenditure (**paragraph 13(2)(a)**) and if, before the Bill commences, the Finance Minister has determined an amount—the advanced amount—under section 13 of the *Appropriation Act (No. 1) 2009–2010* for the expenditure, the amount the Bill appropriates is taken to be reduced (but not below nil) by the advanced amount. The Explanatory Memorandum contains the following example:

> For example if the Bill provides $20 million for a grants program and an advanced amount of $5 million is determined by the Finance Minister under [*Appropriation Act (No. 1) 2009–2010*] for a particular grant payment under that program, then the amount appropriated by the Bill, once enacted, will be reduced by $5 million (i.e. appropriating only $15 million for the grants program).[10]

Part 4—Reducing departmental and administered items in previous Acts

As noted above, the Bill contains a mechanism for recovering from agencies cash they have received for depreciation, amortisation, and the restoration of assets but which agencies have not yet used. **Clause 14(6)** defines 'depreciation and make good amount' as the total of the amounts of departmental items and administered items from all previous Acts that have been identified by the Finance Minister as having been provided for the following purposes, but which have not yet been applied:

(a) meeting depreciation costs;

(b) meeting amortisation costs;

(c) meeting the costs of returning an asset to a previous state or condition.

The mechanism for 'clawing back' unused funds is to reduce departmental and administered funds allocated under previous Acts. **Subclause 14(1)** provides that the Finance Minister may determine, in writing, that a departmental item or an administered item for an agency in a previous Act is to be reduced by the amount specified in the determination. **Subclause 14(3)** provides that a departmental or administered item is deemed to be reduced by the amount in the written determination.

Subclause 14(2) limits the effects of any determination made under **subclause 14(1)**. **Subclause 14(2)** provides that a determination will have no effect where the item is reduced below nil [**paragraph 14(2)(a)**] or, where the amount in the determination, when added to other amounts specified in relation to the agency under **subclause 14(1)**, exceeds the depreciation and make good amount for the agency (**paragraph 14(2)(b))**. The Explanatory Memorandum explains that **paragraph 14(2)(b)** is:

10. Explanatory Memorandum, Appropriation Bill (No. 3) 2009–2010, p. 13.

> … intended to confine the amount of the reduction only to amounts identified as being for depreciation and make good amounts that have not yet been applied.[11]

Subclause 14(4) provides that a determination under **subclause 14(1)** is a legislative instrument, that section 42 of the *Legislative Instruments Act 2003* (relating to disallowance) applies to the determination, but that Part 6 (relating to sunsetting provisions) of the *Legislative Instruments Act 2003* does not apply to the determination. In short, this means that determinations are disallowable by Parliament, but once made, will not expire.

Subclause 14(5) provides that a determination must not be rescinded, revoked, amended or varied despite subsection 33(3) of the *Acts Interpretation Act 1901*.[12]

Subclause 14(6) provides definitions of terms in the context of the operation of **clause 14**. Definitions include those for ‘depreciation and make good amount’ and ‘previous Act’. **Subclause 14(6)** also lists the Acts to which determinations apply.

Part 5—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 that the Bill appropriates to each. The following is the **Summary** of appropriations in the Bill.

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11. Ibid., p. 15.

12. Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue an instrument, it is taken to include a power to repeal, rescind or otherwise vary the instrument.

SUMMARY

Summary of Appropriations (bold figures)—2009–2010
Budget Appropriation (italic figures)—2009–2010

Portfolio	Departmental Outputs	Administered Expenses	Total
	$'000	$'000	$'000
Agriculture, Fisheries and Forestry	**-**	**742**	**742**
	327,702	*238,154*	*565,856*
Attorney-General's	**4,026**	**7,923**	**11,949**
	3,464,154	*670,656*	*4,134,810*
Broadband, Communications and the Digital Economy	**2,000**	**31,047**	**33,047**
	260,548	*1,311,139*	*1,571,687*
Defence	**689,776**	**-**	**689,776**
	22,856,981	*115,213*	*22,972,194*
Education, Employment and Workplace Relations	**-**	**97,159**	**97,159**
	1,122,750	*6,479,007*	*7,601,757*
Environment, Water, Heritage and the Arts	**8,889**	**534,238**	**543,127**
	818,859	*4,065,935*	*4,884,794*
Families, Housing, Community Services and	**425**	**23,460**	**23,885**
Indigenous Affairs	*575,752*	*1,960,034*	*2,535,786*
Finance and Deregulation	**11,389**	**90**	**11,479**
	321,565	*215,832*	*537,397*
Foreign Affairs and Trade	**33,264**	**250**	**33,514**
	1,474,040	*3,492,145*	*4,966,185*
Health and Ageing	**6,272**	**85,562**	**91,834**
	672,574	*5,757,075*	*6,429,649*
Human Services	**40,180**	**748**	**40,928**
	4,069,458	*11,826*	*4,081,284*
Immigration and Citizenship	**24,479**	**29,567**	**54,046**
	1,238,514	*511,635*	*1,750,149*
Infrastructure, Transport, Regional Development and	**-**	**7,153**	**7,153**
Local Government	*232,546*	*733,808*	*966,354*
Innovation, Industry, Science and Research	**1,971**	**7,028**	**8,999**
	328,404	*1,867,889*	*2,196,293*
Prime Minister and Cabinet	**5,741**	**-**	**5,741**
	480,293	*259,270*	*739,563*
Resources, Energy and Tourism	**10,217**	**4,936**	**15,153**
	203,298	*1,049,351*	*1,252,649*
Treasury	**8,386**	**13,363**	**21,749**
	4,099,493	*9,821*	*4,109,314*
Total: Bill 3	**847,015**	**843,266**	**1,690,281**
	42,546,931	*28,748,790*	*71,295,721*

Concluding comments

The Bill empowers the Finance Minister to reduce past appropriations for depreciation, amortisation and the restoration of assets where agencies have not yet spent funds for those purposes. When implemented, this will return funds to the Consolidated Revenue Fund. This should not be a problem for agencies that have retained the funds. The Bill does not contain estimates of the magnitude of the funds returns.