



New South Wales

Appropriation (Refunds and Subsidies) Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The following Bills are cognate with this Bill:

Business Franchise Licences (Repeal) Bill 1997

Petroleum Products Subsidy Bill 1997

Overview of Bill

The object of this Bill is to appropriate an additional amount of \$282 million from the Consolidated Fund for recurrent services of the Government for the financial year 1997–98.

The appropriation is necessary because of the decision of the High Court of Australia given on 5 August 1997 in *Ngo Ngo Ha & Anor v State of New South Wales & Ors* and *Walter Hammond and Associates Pty Limited v State of New South Wales & Ors* in which tobacco licence fees under the *Business Franchise Licences (Tobacco) Act 1987* were found to be invalid as imposing a duty or duties of excise within the meaning of section 90 of the *Commonwealth Constitution*. The decision also affects liquor licence fees and petroleum licence fees.

Explanatory note

The amount appropriated is comprised as follows:

	\$ million
Refunds of liquor licence fees to the liquor industry	130.0
Off-road diesel subsidies	97.5
Subsidies for low alcohol beer and wine	12.5
On-road petrol and diesel subsidies	37.5
Subsidies for vigneron's sales and wine tastings	<u>4.5</u>
	282.0

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the proposed Act to commence on 1 July 1997, which is the date of commencement of the *Appropriation Act 1997*.

Clause 3 is the appropriation provision. Clause 3 (1) appropriates the sum specified above. Clause 3 (2) identifies the program for which the sum is appropriated. Clause 3 (3) allows the Treasurer to amend the estimates (a similar provision is contained in section 26 of the *Public Finance and Audit Act 1983*).

Clause 4 contains miscellaneous provisions concerning the operation of the proposed Act. Clause 4 (1) provides that the proposed Act is to be construed as part of the *Appropriation Act 1997* (this emphasises that the appropriation is part of the budgetary process for the year 1997–98, and ensures that terms are construed consistently). Clause 4 (2) is consequential on subclause (1), and makes it clear that the appropriation is not limited to meeting a shortfall from other appropriations. Clause 4 (3) validates any payment of the appropriated sum before the date of assent to the proposed Act. Clause 4 (3) also provides that the proposed subsection applies whether or not the proposed Act is assented to during or after the year 1997–98 (this removes an argument, based on section 23 of the *Public Finance and Audit Act 1983*, that the appropriation lapses at the close of the year).

First print



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New South Wales

Appropriation (Refunds and Subsidies) Bill 1997

No. , 1997

A Bill for

An Act to appropriate an additional amount out of the Consolidated Fund for recurrent services of the Government for the year 1997–98.

See also *Business Franchise Licences (Repeal) Bill 1997*, *Petroleum Products Subsidy Bill 1997*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Appropriation (Refunds and Subsidies) Act 1997*.

2 Commencement

This Act is taken to have commenced on 1 July 1997, which is 5
the date of commencement of the *Appropriation Act 1997*.

3 Appropriation

(1) The sum of \$282,000,000 is hereby appropriated out of the
Consolidated Fund for payment to the Treasurer for services for 10
the year 1997-98, which sum may be issued and applied for the
program referred to in subsection (2), in addition to any other
sums that have been appropriated.

(2) The program is the program numbered 69.1.2 in the Budget
Paper entitled *Budget Estimates 1997-98*, as shown under the 15
following headings:

69 Crown Transactions

69.1 Service-wide Payments and Services

69.1.2 Refunds and Remissions of Crown Revenue.

(3) The Treasurer may amend the appropriate payments estimates for 20
the year 1997-98 to take into account the appropriation provided
for by this Act.

4 Operation of Act

(1) This Act is to be construed as if it formed part of the
Appropriation Act 1997.

(2) This Act is an Appropriation Act for the purposes of section 21A 25
of the *Public Finance and Audit Act 1983*.

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- (3) The issue and payment before the date of assent to this Act out of the Consolidated Fund of the whole or any part of the sum appropriated by this Act is validated. This subsection applies whether this Act is assented to during or after the year 1997-98.