

First print



New South Wales

Public Authorities (Financial Arrangements) Amendment Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Public Authorities (Financial Arrangements) Act 1987* to enable the Treasurer to give "succession guarantees" in relation to the performance of specified obligations of public authorities under financial arrangements or transactions authorised under that Act.

The effect of such a guarantee is to make such obligations binding on the successor to the authority or, if the authority ceases to exist or ceases to be responsible for the exercise of functions constituting, or relevant to, the performance of those obligations, the Government. The proposed amendment also provides for the circumstances in which the guarantee ceases to operate.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act by proclamation.

Clause 3 is a formal provision giving effect to the amendment to the *Public Authorities (Financial Arrangements) Act 1987* as set out in Schedule 1.

Schedule 1 amends the *Public Authorities (Financial Arrangements) Act 1987* as described in the above overview.

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New South Wales

Public Authorities (Financial Arrangements) Amendment Bill 1998

No. , 1998

A Bill for

An Act to amend the *Public Authorities (Financial Arrangements) Act 1987* in relation to guarantees concerning the performance of obligations incurred by public authorities under certain financing arrangements and transactions.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Authorities (Financial Arrangements) Amendment Act 1998*.

2 Commencement

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This Act commences on a day to be appointed by proclamation.

3 Amendment of Public Authorities (Financial Arrangements) Act 1987 No 33

The *Public Authorities (Financial Arrangements) Act 1987* is amended as set out in Schedule 1.

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Schedule 1 Amendment

(Section 3)

Section 22AA

Insert after section 22A:

22AA Succession guarantee

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- (1) The Treasurer may, by instrument in writing, declare that the performance of all or any specified obligations incurred by an authority as a result of or in connection with its entering into, or participating in, any specified arrangement or transaction as authorised by this Act, is guaranteed by this section. A declaration may be made subject to terms and conditions specified in the instrument. 10
- (2) The effect of the guarantee is (subject to any terms and conditions specified in the instrument) that, if the authority: 15
 - (a) ceases to exist, or
 - (b) ceases to be responsible for the exercise of functions constituting any such obligation, or
 - (c) ceases to be responsible for the exercise of functions relevant to the performance of any such obligation, 20the obligation is (by force of this section) taken to be binding on the successor to the authority or, in the absence of a successor, the Government. 25
- (3) Such a guarantee continues until the obligation is performed, ceases to be required to be performed, or is varied without the prior consent of the Treasurer, or until the guarantee ceases to be in force in accordance with the terms and conditions of the instrument under this section (whichever first occurs). 30
- (4) An obligation varied without the prior consent of the Treasurer may however be the subject of a further declaration under this section.

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Schedule 1 Amendment

- (5) In the case of a joint financing arrangement, a declaration under this section may, without limitation, be included in the Treasurer's instrument of approval under section 20.
- (6) This section extends to arrangements and transactions entered into, and obligations incurred, before the commencement of this section. 5
- (7) In this section:
successor to an authority includes a person or body that assumes the relevant functions or liabilities of the authority. 10