

FIRST PRINT

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
BILL 1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Miscellaneous Acts (Public Authorities Financial Arrangements) Amendment Bill 1987 is cognate with this Bill.

The objects of this Bill are—

- (a) to repeal the Public Authorities (Financial Accommodation) Act 1981 and to re-enact the provisions of that Act while simplifying and streamlining certain procedures under that Act;
- (b) to clarify the power of public authorities to enter into certain financial arrangements;
- (c) to make provision with respect to the investment of funds by certain public authorities;
- (d) to constitute the New South Wales Capital Works Financing Corporation which is to obtain financial accommodation for the purpose of funding capital works; and
- (e) to make provision for various other minor or consequential matters.

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**PART 1—PRELIMINARY**

Clause 1 specifies the short title of the proposed Act.

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Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 contains definitions for the purposes of the proposed Act.

Clause 4 provides that references in the proposed Act to the obtaining of financial accommodation include the borrowing or raising of money and participation in any arrangement or transaction approved by the Treasurer or prescribed by the regulations. The ordinary meaning of that expression is not affected by the definition.

Clause 5 provides that references in the proposed Act to the effecting of a financial adjustment mean a currency swap, an interest rate swap, a forward exchange rate agreement, a forward interest rate agreement, a futures contract, a futures option or any other transaction or arrangement prescribed by the regulations.

PART 2—FINANCIAL ACCOMMODATION AND OTHER ARRANGEMENTS

DIVISION 1—*Interpretation*

Clause 6 defines “authority” for the purposes of that Part of the proposed Act which deals with financial accommodation and financial adjustments. It includes the public authorities listed in Schedule 1 to the proposed Act. Other public authorities, persons and non-government bodies may be declared to be an authority by the regulations.

DIVISION 2—*Powers of authorities*

Clause 7 provides for the Governor’s approval to the obtaining of financial accommodation by an authority.

Clause 8 empowers an authority to obtain financial accommodation for the purpose of exercising its functions. The Treasurer’s approval is required.

Clause 9 empowers the Treasurer to advance money to an authority.

Clause 10 empowers an authority to effect a financial adjustment. The Treasurer’s approval is required.

Clause 11 makes it clear that an authority may do all things necessary and convenient to be done in connection with obtaining financial accommodation or effecting a financial adjustment.

Clause 12 gives effect to provisions in Schedules 2 and 3 to the proposed Act relating to the issue of debentures and other securities and the establishment of a reserve for financial accommodation repayment fund by authorities.

DIVISION 3—*Protection of lenders*

Clause 13 provides that the Treasurer’s approval to an authority obtaining financial accommodation or effecting a financial adjustment is conclusive evidence that the financial accommodation or financial adjustment approved of is authorised by this Act.

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Clause 14 provides that a person from whom an authority obtains financial accommodation is not bound to inquire into its application and is not responsible for non-application or misapplication of it.

DIVISION 4—*Guarantees*

Clause 15 gives a government guarantee of repayment of, and payment of interest on, financial accommodation obtained by the issue of debentures and other securities or obtained in such other form as may be prescribed by the regulations.

Clause 16 empowers the Government to guarantee any other obligation incurred by an authority under the proposed Act.

Clause 17 empowers the Treasurer to charge a fee for the giving of a Government guarantee.

Clause 18 empowers the Government to make any payment in relation to financial accommodation obtained or financial adjustments effected by an authority.

Clause 19 empowers the Treasurer or a person appointed by the Governor to execute guarantees on behalf of the Government.

Clause 20 provides that the obligations of the Government under guarantees and of an authority in relation to financial accommodation all rank equally without preference with all other outstanding obligations of the Government.

Clause 21 makes an authority liable for any payment the Treasurer makes under a guarantee or agreement concerning financial accommodation obtained by the authority.

Clause 22 provides that a liability of the Treasurer and the Government under the proposed Act is to be discharged out of the Consolidated Fund.

PART 3—INVESTMENT

Clause 23 defines “authority”, for the purposes of the proposed Part, to mean any corporation constituted by an Act.

Clause 24 enables regulations to be made which declare that an authority has the investment powers specified in Part 1, 2, 3 or 4 of proposed Schedule 4 for all or specified funds of the authority.

Clause 25 provides that an authority may engage an approved funds manager to manage the authority’s funds. The Treasurer’s approval is required.

Clause 26 empowers a Government Superannuation Board to act as a funds manager for the investment of an authority’s funds.

Clause 27 makes it clear that investment powers conferred on an authority by the proposed Part replace any investment powers the authority may have under its own Act.

Clause 28 requires an authority on which investment powers are conferred by the proposed Part to submit a report of its investment activities to the Treasurer with its annual report under the Annual Reports (Statutory Bodies) Act 1984.



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PART 4—NEW SOUTH WALES CAPITAL WORKS FINANCING CORPORATION

Clause 29 defines “Secretary” to mean the Secretary of the Treasury.

Clause 30 constitutes the New South Wales Capital Works Financing Corporation. The Secretary is to manage the Financing Corporation.

Clause 31 charges the Financing Corporation with the function of obtaining financial accommodation from the Treasury Corporation, and accepting other funds, for the purpose of funding capital works.

Clause 32 empowers the Secretary or an authorised person to affix the seal of the Financing Corporation.

Clause 33 makes provision for the staff of the Financing Corporation.

Clause 34 requires a Special Deposits Account in the Treasury to be kept, called the “New South Wales Capital Works Financing Corporation Account”.

Clause 35 provides that the Financing Corporation’s financial year is the year commencing on 1 July.

Clause 36 requires the Financing Corporation to pay money received by it to the Treasurer for credit of the Consolidated Fund.

Clause 37 appropriates the Consolidated Fund for payment of money payable by the Financing Corporation in relation to financial accommodation obtained by it.

PART 5—MISCELLANEOUS

Clause 38 exempts an authority from stamp duty which would otherwise be payable in connection with financial accommodation obtained, financial adjustments effected or investments made under the proposed Act. The Treasurer may also exempt other parties to such transactions from stamp duty.

Clause 39 provides that investment in securities issued by an authority for the purpose of obtaining financial accommodation is an authorised trustee investment.

Clause 40 authorises the Treasurer to delegate the Treasurer’s power to approve of an authority obtaining financial accommodation or effecting a financial adjustment.

Clause 41 gives effect to the Schedule of repeals—Schedule 5.

Clause 42 gives effect to the Schedule of savings and transitional provisions—Schedule 6.

Clause 43 empowers the making of regulations by the Governor for the purposes of the proposed Act.

Schedule 1 lists the public authorities authorised to obtain financial accommodation under the proposed Act.

Schedule 2 makes provision for the issue by an authority of debentures and other securities in connection with the obtaining of financial accommodation.



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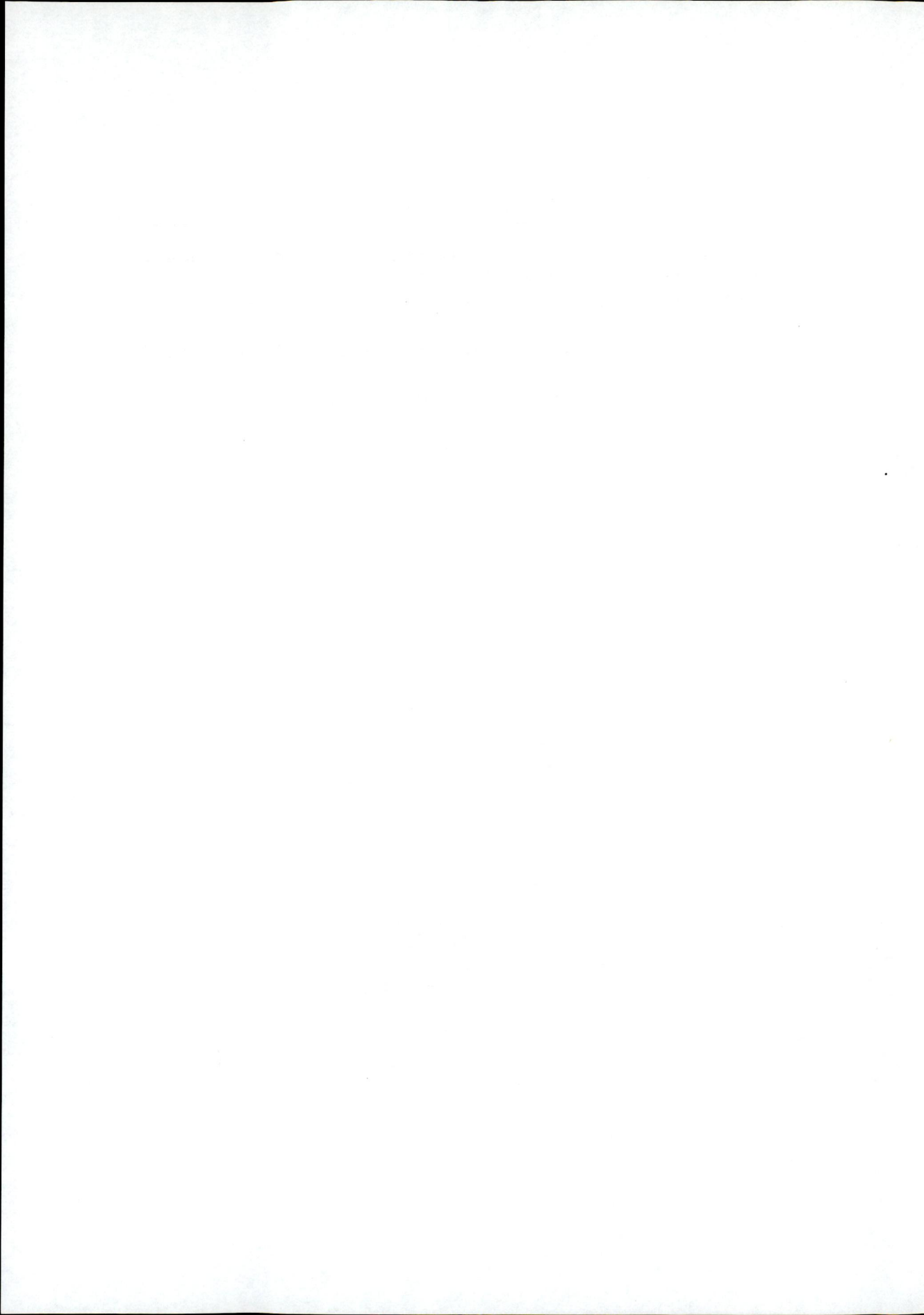
Schedule 3 requires an authority which obtains financial accommodation to establish a reserve for financial accommodation repayment fund.

Schedule 4 lists the various classes of investment powers which may be conferred on an authority.

Schedule 5 lists the various Acts to be repealed as a consequence of the enactment of the proposed Act.

Schedule 6 makes provisions of a savings and transitional nature.

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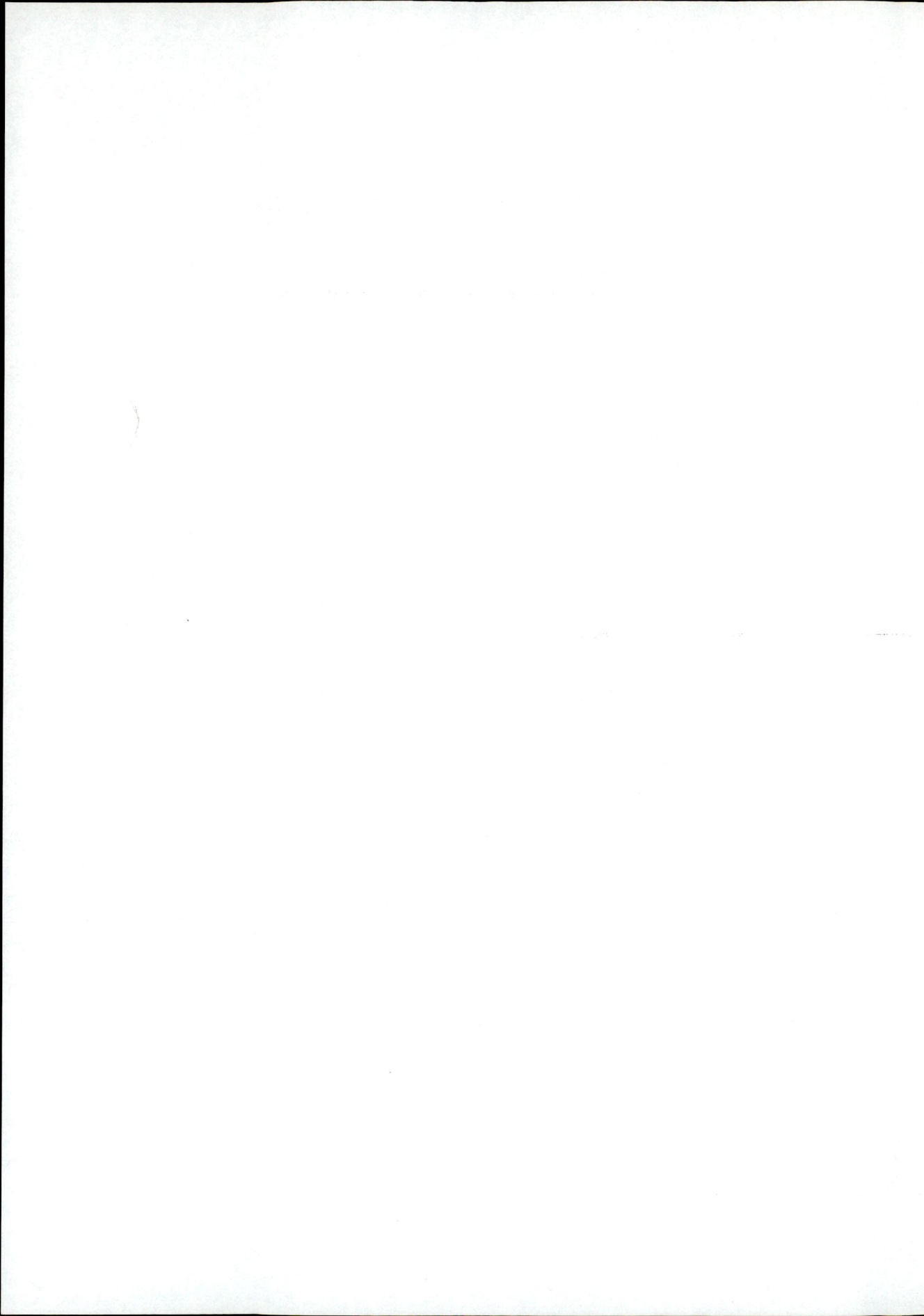
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**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
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No.           , 1987

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**A BILL FOR**

An Act to make provision with respect to certain financial arrangements and investments of public authorities; to constitute the New South Wales Capital Works Financing Corporation; to repeal the Public Authorities (Financial Accommodation) Act 1981; and for other purposes.

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See also Miscellaneous Acts (Public Authorities Financial Arrangements) Amendment Bill 1987.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

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## PART 1

## PRELIMINARY

**Short title**

1. This Act may be cited as the "Public Authorities (Financial Arrangements) Act 1987".

10 **Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation  
15 published in the Gazette.

**Interpretation**

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

20 "Financing Corporation" means the New South Wales Capital Works Financing Corporation constituted by this Act;

"Government" means the Crown in right of New South Wales;

"Minister" means—

- (a) in relation to an authority constituted by a provision of an Act—the Minister administering the provision; or  
25 (b) in relation to an authority not constituted by an Act—the chief executive officer or governing body of the authority;

"regulations" means regulations made under this Act;

"Treasury Corporation" means the New South Wales Treasury Corporation constituted by the Treasury Corporation Act 1983.

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(2) In this Act, a reference (however expressed) to the repayment of financial accommodation includes a reference to the payment of money by the authority concerned in relation to the financial accommodation, whether or not by way of repayment of money by the authority and whether or not  
5 constituting a payment by way of advance.

(3) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function  
10 is a duty, a reference to the performance of the duty.

**Meaning of obtaining financial accommodation**

4. (1) In this Act, a reference (however expressed) to the obtaining of financial accommodation by an authority includes (without limiting the ordinary meaning of that expression) a reference to—

- 15 (a) the borrowing or raising of money by the authority including by means of the issue of debentures, bonds, inscribed stock, registered stock, discounted securities, promissory notes or any other security; and
- 20 (b) the participation by the authority in any other arrangement or transaction which is approved by the Treasurer or prescribed for the purposes of this Act.

(2) An approved or prescribed arrangement or transaction need not involve the repayment of money by an authority.

**Meaning of effecting a financial adjustment**

25 5. In this Act, a reference (however expressed) to the effecting of a financial adjustment by an authority is a reference to the entering into or the participation by the authority in any of the following arrangements or transactions or a combination of them:

- (a) a currency swap;
- 30 (b) an interest rate swap;
- (c) a forward exchange rate agreement;
- (d) a forward interest rate agreement;
- (e) a futures contract or a futures option (within the meaning of the Futures Industry (New South Wales) Code);



- (f) such other transactions or arrangements as may be prescribed.
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## PART 2

### FINANCIAL ACCOMMODATION AND OTHER ARRANGEMENTS

#### DIVISION 1—*Interpretation*

##### 5 **Definition of “authority”**

6. In this Part—

“authority” means—

- (a) a corporation specified in Schedule 1; or
- 10 (b) a person (including a corporation) or a partnership, joint venture, association or other body who or which is declared by regulations made on the recommendation of the Treasurer to be an authority for the purposes of this Part,

but does not include a council within the meaning of the Local Government Act 1919.

#### 15 DIVISION 2—*Powers of authorities*

##### **Governor’s approval to financial accommodation**

7. The Governor may, by order, approve of the obtaining of financial accommodation by an authority in accordance with this Act.

##### **Power to obtain financial accommodation**

20 8. (1) This section applies to an authority in respect of which an approval is in force under section 7.

(2) For the purpose of exercising its functions, an authority may, in accordance with the written approval of the Treasurer, obtain financial accommodation within or outside Australia.

25 (3) The Treasurer’s approval—

- (a) may be specific or general; and
- (b) may be given on such terms as the Treasurer thinks fit.

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(4) The terms on which the Treasurer's approval is given may include, but are not limited to, terms as to any of the following:

- (a) the form of the financial accommodation to be obtained, including the currency in which it is to be obtained;
- 5 (b) the manner in which it is to be obtained;
- (c) the terms and conditions on which it is to be obtained;
- (d) the security to be given for it and the instruments to be executed in connection with it.

**Treasury advances**

10 9. (1) The Treasurer may advance to an authority such money as may be determined by the Treasurer in consultation with the Minister for the authority.

(2) The terms and conditions as to—

- (a) the repayment of money so advanced; and
- 15 (b) the payment of interest on that money,

shall, except to the extent that the Act (if any) by which the authority is constituted otherwise provides, be determined by the Treasurer in consultation with the Minister for the authority.

**Financial adjustments**

20 10. (1) For the purpose of exercising its functions, an authority may, in accordance with the written approval of the Treasurer, effect a financial adjustment.

(2) The Treasurer's approval—

- (a) may be specific or general; and
- 25 (b) may be given on such terms as the Treasurer thinks fit.

**General powers in relation to obtaining financial accommodation and effecting financial adjustments**

30 11. (1) An authority may do all things necessary or convenient to be done in connection with obtaining financial accommodation or effecting a financial adjustment.

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(2) In particular, but without limiting the power given by this section, the authority may—

- (a) enter into any contract, agreement or other transaction;
- 5 (b) incur any obligations under a contract, agreement or other transaction;
- (c) make any payment (including an advance) under a contract, agreement or other transaction;
- (d) make any covenants or promises, including those which are absolute and unconditional;
- 10 (e) exercise such other functions as the Treasurer may approve; and
- (f) do or effect any of the things it is empowered to do under this Act by or through any affiliate of the authority.

(3) This section does not limit any powers that the authority has apart from this section.

15 (4) In this section—

“affiliate”, in relation to an authority, includes any corporation, partnership or other body or entity in which the authority has a controlling interest, whether by reason of any shareholding, proprietary interest, voting power or otherwise.

20 **Provisions relating to authorities which obtain financial accommodation**

12. Unless the Treasurer otherwise directs in a particular case, Schedules 2 and 3 have effect in relation to an authority which obtains financial accommodation.

DIVISION 3—*Protection of lenders*

25 **Treasurer’s approval as evidence**

13. The written approval of the Treasurer to the obtaining of financial accommodation or to the effecting of a financial adjustment by an authority is conclusive evidence that anything done by the authority in accordance with the approval is authorised by this Act.

30 **Application of financial accommodation**

14. A person from whom an authority obtains financial accommodation is not bound to inquire into the application of the financial accommodation and is not responsible for any non-application or misapplication of it.



DIVISION 4—*Guarantees***Statutory guarantee**

15. (1) The due repayment of—

- 5 (a) financial accommodation obtained by an authority (whether within or outside Australia) by the issue of debentures, bonds, inscribed stock, registered stock, discounted securities or promissory notes; or
- (b) financial accommodation obtained by an authority in such other forms as may be prescribed,

10 and, where payable, the due payment of interest and other charges relating to that financial accommodation are guaranteed by the Government and are charges on the income and revenue of the authority from whatever source arising.

(2) The guarantee provided by this section does not apply to financial accommodation obtained from the Treasury Corporation unless the  
15 Treasurer otherwise directs in writing.

(3) The charge imposed on the income and revenue of an authority does not operate to prevent the authority from dealing, in the ordinary course of the exercise of its functions, with its income and revenue free of the charge.

**Discretionary guarantees**

20 16. (1) The Government may guarantee the due performance by an authority of any obligation incurred by the authority as a result of or in connection with the authority's entering into or participating in any arrangement or transaction, as authorised by this Act.

25 (2) The form of the guarantee (including its terms and conditions) shall be as determined by the Treasurer who may determine different forms for different guarantees.

**Guarantee fee**

30 17. An authority shall, if the Treasurer requires, pay for credit of the Consolidated Fund a fee determined by the Treasurer in respect of a guarantee which is provided by or under this Act and which is directly or indirectly related to the obtaining of financial accommodation by the authority.

**Other payments by Government**

18. The Government may, in relation to any financial accommodation obtained by an authority or any financial adjustment effected by an authority, agree to make a payment even though the authority may be  
5 precluded by the law of New South Wales from making the payment.

**Execution of guarantee etc.**

19. A guarantee or other instrument relating to—

(a) financial accommodation obtained under this Act; or

(b) a financial adjustment effected under this Act,

10 may be executed on behalf of the Government by the Treasurer or by a person appointed by the Governor for the purpose.

**Priorities**

20. (1) All obligations of an authority to repay financial accommodation, if repayment is secured on the income and revenue of the  
15 authority (whether under this Act or otherwise), rank equally without preference by reason of priority of date or otherwise.

(2) All obligations of the Government under a guarantee rank equally without preference with all other outstanding obligations of the Government.

**20 Recovery of money paid under guarantee or agreement**

21. (1) If, under this Part, the Treasurer pays an amount under a guarantee or pursuant to an agreement, the authority is liable to pay that amount to the Treasurer for credit of the Consolidated Fund.

25 (2) The amount is payable by such instalments, at such times, and with such interest as the Treasurer, after consultation with the Minister for the authority, determines in each case.

**Appropriation**

22. Any liability of the Treasurer or the Government under this Act or arising out of any action taken under this Act shall be discharged out of the  
30 Consolidated Fund without any further appropriation than this Act.

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PART 3  
INVESTMENT

**Definition of “authority”**

23. In this Part—

5 “authority” means a corporation constituted by or under an Act.

**Investment powers of authorities**

24. (1) The regulations may declare that an authority has, in respect of all or specified funds of or under the control of the authority, the investment powers described in Part 1, 2, 3 or 4 of Schedule 4.

10 (2) Such a regulation—

(a) may be made only on the recommendation of the Treasurer and the Minister for the authority; and

(b) operates to confer on the authority concerned the investment powers specified.

15 (3) The investment powers conferred on an authority by this Part may be exercised only in connection with the exercise of the functions of the authority.

**Funds managers**

20 25. (1) An authority on which investment powers are conferred by this Part may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the authority’s funds.

(2) An approved funds manager is a person prescribed as an approved funds manager for the purposes of this section by regulations made on the  
25 recommendation of the Treasurer.

(3) The Treasurer’s approval may be given only on the recommendation of the Minister for the authority and may be given subject to terms and conditions.

30 (4) An approved funds manager may on behalf of the authority, subject to any terms and conditions of the Treasurer’s approval, invest funds of the authority in any investment in which the funds manager is authorised to invest its own funds or other funds.



**Superannuation Boards—power to act as funds manager**

26. (1) A Superannuation Board which is prescribed as an approved funds manager for the purposes of section 25 is by this Act authorised to exercise the functions of a funds manager under that section.

5 (2) In this section—

“Superannuation Board” means—

- (a) the State Superannuation Board constituted by the Superannuation Act 1916;
- 10 (b) the State Public Service Superannuation Board constituted by the State Public Service Superannuation Act 1985; or
- (c) the Public Authorities Superannuation Board constituted by the Public Authorities Superannuation Act 1985.

**Replacement of other investment powers**

27. While any investment power is conferred on an authority by this  
15 Part, any other investment powers of the authority under the Act by which it is constituted do not apply to the investment of the funds concerned.

**Report of investment activities**

28. (1) An authority on which investment powers are conferred by this  
20 Part shall include in its annual report the prescribed information concerning its investment activities during the period covered by the report.

(2) The annual report of an authority is the annual report or the copy of that report required by the Annual Reports (Statutory Bodies) Act 1984 to be submitted to the Treasurer.

**PART 4**

25 **NEW SOUTH WALES CAPITAL WORKS FINANCING CORPORATION**

**Definition of “Secretary”**

29. In this Part—

30 “Secretary” means the person for the time being holding or acting in the office of Secretary of the Treasury.

**Financing Corporation**

30. (1) There is constituted by this Act a corporation under the corporate name of the "New South Wales Capital Works Financing Corporation".

5 (2) The Secretary shall, as part of the duties of the office of Secretary of the Treasury, manage the affairs of the Financing Corporation.

(3) Any act, matter or thing done in the name of, or on behalf of, the Financing Corporation by the Secretary, or with the authority of the Secretary, shall be deemed to have been done by the Financing Corporation.

10 (4) The Financing Corporation is subject to the control and direction of the Minister.

**Functions of the Financing Corporation**

31. The Financing Corporation may—

15 (a) obtain financial accommodation from the Treasury Corporation with the approval of the Treasurer; and

(b) accept any funds transferred to it,  
for the purpose of funding capital works.

**Seal of Financing Corporation**

20 32. (1) The Financing Corporation shall have a seal which may be affixed by the Secretary or by a person authorised by the Secretary to affix the seal either generally or in a particular case or class of cases.

(2) The Secretary or person so authorised shall attest by his or her signature the fact and date of the affixing of the seal.

**Staff**

25 33. For the purpose of enabling the Financing Corporation to exercise its functions, the Secretary may—

(a) make use of the services of any officer or temporary employee of the Public Service appointed or employed in connection with the conduct of the business of the Treasury; or

30 (b) with the approval of the Treasurer and on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.



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**Financing Corporation Account**

34. An account shall be kept in the Special Deposits Account in the Treasury, to be called the "New South Wales Capital Works Financing Corporation Account", to record the transactions of the Financing Corporation.

**Financial year of Corporation**

35. The financial year of the Corporation is the year commencing on 1 July.

**Deposit of funds**

10 36. Money received by the Financing Corporation (except under section 37) shall, at such times as the Treasurer directs, be paid to the Treasurer for credit of the Consolidated Fund.

**Appropriation**

15 37. (1) Any money payable by the Financing Corporation in relation to financial accommodation obtained by it under this Part shall be paid out of the Consolidated Fund to the Financing Corporation for that purpose.

(2) The money may be paid to the Financing Corporation without any further appropriation than this Act.

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PART 5

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MISCELLANEOUS

**Stamp duty exemption**

38. (1) Unless the Treasurer otherwise directs in a particular case, an authority is not liable to stamp duty under the Stamp Duties Act 1920 in respect of anything done by the authority for the purposes of this Act.

25 (2) The Treasurer may direct in writing that any other specified person is not liable to stamp duty in respect of anything done for the purposes of this Act and the direction has effect accordingly.

**Trustee investment etc.**

39. (1) A trustee (unless expressly forbidden by the trust instrument, if any) may invest trust funds in any debentures, bonds, inscribed stock, registered stock, discounted securities, promissory notes or other securities  
5 or instruments issued by an authority under this Act.

(2) Such an investment may be made whether the funds are at the time in a state of investment or not.

(3) Such an investment shall be deemed to be an investment in a security authorised by the Trustee Act 1925.

10 (4) An authority or officer of an authority is not competent to receive notice of an express, implied or constructive trust affecting any such security or instrument issued by an authority or a coupon attached to the security or instrument.

(5) A company, a council within the meaning of the Local Government  
15 Act 1919 and any other body corporate constituted by an Act may invest its funds in providing financial accommodation obtained by an authority under this Act.

**Delegation of power to approve financial accommodation or adjustment**

40. (1) The Treasurer may delegate to a person the exercise of the power  
20 of the Treasurer to give approval to an authority to obtain financial accommodation, or to effect a financial adjustment, in any particular case or class of cases.

(2) A delegation under this section—

- (a) shall be in writing;  
25 (b) may be general or limited; and  
(c) may be revoked, wholly or partly, by the Treasurer.

(3) A delegate is, in the exercise of a delegated function, subject to such conditions as are specified in the instrument of delegation.

30 (4) A delegated function, when exercised by the delegate, shall be deemed to have been exercised by the Treasurer.

(5) A delegation does not prevent the exercise of a power by the Treasurer.

(6) A function purporting to have been exercised by a delegate shall, until  
35 the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

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**Repeals**

41. Each Act specified in Schedule 5 is, to the extent indicated, repealed.

**Savings and transitional provisions**

42. Schedule 6 has effect.

**5 Regulations**

43. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

10 (2) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind; or

15 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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**SCHEDULE 1**

(Sec. 6)

**AUTHORITIES**

20 Albury-Wodonga (New South Wales) Corporation.

Area health service constituted under the Area Health Services Act 1986.

Art Gallery of New South Wales Trust.

Australian Museum Trust.

Bathurst-Orange Development Corporation.

25 Board of Fire Commissioners of New South Wales.

Centennial Park Trust.

Central West County Council.

Darling Harbour Authority.

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SCHEDULE 1—*continued*AUTHORITIES—*continued*

- Fish Marketing Authority.
- Forestry Commission of New South Wales.
- Grain Handling Authority of New South Wales.
- Harness Racing Authority of New South Wales.
- 5 Hawkesbury Agricultural College.
- Health Administration Corporation.
- Historic Houses Trust of New South Wales.
- Homebush Abattoir Corporation.
- 10 Hospital within the meaning of, and specified in the Second Schedule to, the Public Hospitals Act 1929.
- Illawarra County Council.
- Library Council of New South Wales.
- Lord Howe Island Board.
- Macarthur Development Corporation.
- 15 Macquarie County Council.
- Metropolitan Waste Disposal Authority.
- Minister administering the Environmental Planning and Assessment Act 1979.
- Minister administering the Heritage Act 1977.
- Minister for Tourism.
- 20 Ministerial Corporation for Industry.
- Mitchell College of Advanced Education.
- Monaro County Council.
- Murray River County Council.
- Murrumbidgee County Council.
- 25 Namoi Valley County Council.
- New England County Council.
- New South Wales Capital Works Financing Corporation.
- New South Wales Film Corporation.
- New South Wales Investment Corporation.



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SCHEDULE 1—*continued*

AUTHORITIES—*continued*

- New South Wales Land and Housing Corporation.
- New South Wales Meat Industry Authority.
- New South Wales State Conservatorium of Music.
- New South Wales Treasury Corporation.
- 5 North West County Council.
- Northern Riverina County Council.
- Northern Rivers College of Advanced Education.
- Northern Rivers County Council.
- Ophir County Council.
- 10 Oxley County Council.
- Peel-Cunningham County Council.
- Prospect County Council.
- Public Servant Housing Authority of New South Wales.
- Riverina College of Advanced Education.
- 15 Royal Botanic Gardens and Domain Trust.
- Rural Assistance Board.
- Shortland County Council.
- South West Slopes County Council.
- Southern Mitchell County Council.
- 20 Southern Riverina County Council.
- Southern Tablelands County Council.
- State Rail Authority of New South Wales.
- State Sports Centre Trust.
- Sydney College of Advanced Education.
- 25 Sydney County Council.
- Sydney Cove Redevelopment Authority.
- Sydney Cricket and Sports Ground Trust.
- Sydney Market Authority.
- Teacher Housing Authority of New South Wales.



*Public Authorities (Financial Arrangements) 1987*

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SCHEDULE 1—*continued*  
 AUTHORITIES—*continued*

- The Archives Authority of New South Wales.
  - The Broken Hill Water Board.
  - The Cobar Water Board.
  - The Commissioner for Main Roads.
  - 5 The Commissioner for Motor Transport.
  - The Electricity Commission of New South Wales.
  - The Hunter District Water Board.
  - The Maritime Services Board of New South Wales.
  - The Metropolitan Water Sewerage and Drainage Board.
  - 10 The New South Wales Institute of Technology.
  - The Sydney Opera House Trust.
  - The Trustees of the Museum of Applied Arts and Sciences.
  - The Wild Dog Destruction Board.
  - Tourism Commission of New South Wales.
  - 15 Traffic Authority of New South Wales.
  - Tumut River County Council.
  - Ulan County Council.
  - Urban Transit Authority of New South Wales.
  - Water Administration Ministerial Corporation.
  - 20 Zoological Parks Board of New South Wales.
- 

SCHEDULE 2

(Sec. 12)

PROVISIONS RELATING TO SECURITIES ETC.

**Application of Schedule**

- 25 1. This Schedule applies to an authority which obtains financial accommodation under Part 2.

*Public Authorities (Financial Arrangements) 1987*

SCHEDULE 2—*continued*

PROVISIONS RELATING TO SECURITIES ETC.—*continued*

**Definition of “security”**

2. In this Schedule—

“security” includes debenture, bond, inscribed stock, prescribed security and other instrument.

**5 Debentures etc.**

3. (1) To evidence the obligation of an authority to repay financial accommodation, including, where interest is payable, an obligation to pay interest, the authority may, as provided by the regulations, issue or execute securities.

10 (2) A debenture or bond and a coupon originally annexed to the debenture or bond (whether or not the coupon is separated from the debenture or bond) may be transferred by delivery.

(3) Inscribed stock is transferable in the books of the authority as provided by the regulations.

**Interest on debenture or bond**

15 4. The holder of a coupon originally annexed to a security (whether or not the coupon is separated from the security) is entitled to receive payment from the authority of the interest specified in the coupon on its presentation on or after the date when, and at the place where, interest is payable.

**Execution of securities**

20 5. (1) An authority may appoint a person or persons for and on behalf of the authority to—

(a) enter into any securities relating to financial accommodation;

(b) sign, execute or otherwise perfect those securities; and

25 (c) do all such things as may be necessary or convenient to be done for the purpose of obtaining the financial accommodation.

(2) The authority may revoke or vary such an appointment or make a different appointment.

(3) A security may be signed, executed or otherwise perfected by means of a signature or seal transmitted by electronic means, including facsimile reproduction.

**30 Loss etc. of debentures etc.**

6. (1) If a security issued or executed by an authority is lost, stolen, destroyed, mutilated or defaced before it has been redeemed, the authority may issue or execute a security in its place.

(2) A replacement security may be issued or executed only if—

35 (a) the authority receives evidence to its satisfaction of the loss, theft or destruction, or if the mutilated or defaced security is surrendered; and

*Public Authorities (Financial Arrangements) 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO SECURITIES ETC.—*continued*

- (b) the authority receives security or indemnity satisfactory to it against double payment if the missing security is later presented for payment.
- (3) A replacement security with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the security it replaces.
- 5 (4) This clause applies to a lost, stolen, destroyed, mutilated or defaced coupon in the same way as it applies to a lost, stolen, destroyed, mutilated or defaced security.

## SCHEDULE 3

(Sec. 12)

## FINANCIAL ACCOMMODATION REPAYMENT

**10 Application of Schedule**

1. This Schedule applies to an authority which obtains financial accommodation under Part 2.

**Definition of "fund"**

2. In this Schedule—

15 "fund", in relation to an authority, means the reserve for financial accommodation repayment fund established by the authority pursuant to this Schedule.

**Exemptions**

3. This Schedule does not apply—

20 (a) in so far as the Act (if any) by or under which an authority is constituted otherwise provides; or

(b) in respect of financial accommodation obtained within Australia if any money payable in relation to that accommodation is payable by instalments at intervals not exceeding 1 year.

**Establishment of reserve for financial accommodation repayment fund**

25 4. An authority shall establish a reserve for financial accommodation repayment fund in respect of all financial accommodation obtained by the authority before or after the commencement of this Act.

*Public Authorities (Financial Arrangements) 1987*

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SCHEDULE 3—*continued*

FINANCIAL ACCOMMODATION REPAYMENT—*continued*

**Payments into fund**

5 (1) An authority shall, during each year, transfer from its revenue to its fund at least the amount that the authority, in the application for the Treasurer's approval to obtain the financial accommodation concerned, specified as the amount that it proposed to transfer to the fund or a like fund.

(2) If no amount was specified, the authority shall make transfers to its fund at such rate or in such amounts—

(a) as may from time to time be determined by the Minister for the authority with the concurrence of the Treasurer; or

10 (b) if there is no such determination in force, as the authority thinks fit.

**Application of fund**

6. (1) Money paid into the fund of an authority shall be applied in or towards payment of money payable in relation to financial accommodation obtained by the authority.

15 (2) If, after financial accommodation obtained by an authority has been repaid, any balance remains in the fund, that balance shall be paid to the general funds of the authority unless the Treasurer, after consultation with the Minister for the authority, otherwise directs.

20 (3) An authority may cancel debentures, bonds, inscribed stock or other prescribed securities purchased with money from the authority's fund established for repayment of the financial accommodation in relation to which they were issued.

**Protection of fund**

7. The fund of an authority is not liable to seizure in satisfaction of a debt other than financial accommodation in respect of which transfers were made to the fund.

25 **Investment of fund**

8. (1) Money held by an authority in its fund may be invested—

(a) in any manner authorised for the investment of trust funds;

(b) on deposit with the Treasury Corporation; or

(c) in such other manner as may be prescribed.

30 (2) Any interest on, or profits realised on, an investment made by an authority under this clause shall be added to, and form part of, the fund of the authority.

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## SCHEDULE 4

(Sec. 24)

## INVESTMENT POWERS OF AUTHORITIES

## PART 1

5 **Investment powers**

1. Funds may be invested—

- (a) in any manner authorised for the investment of trust funds;
- (b) on deposit with the Treasury Corporation; or
- (c) in such other manner as may be prescribed.

10

## PART 2

**Interpretation**

2. In this Part—

15 “bank” means a bank within the meaning of the Banking Act 1959 of the Commonwealth or a bank constituted by a law of a State or of the Commonwealth, and includes the Reserve Bank of Australia;

“eligible company” means—

- (a) a company which is given a prescribed credit rating by a prescribed credit rating organisation; or
- 20 (b) a company the liabilities of which are unconditionally guaranteed by a company to which paragraph (a) applies;

“State” means State of the Commonwealth and includes the Northern Territory.

**Investment powers**

3. (1) Funds may be invested by means of any of the following:

- (a) in any manner authorised for the investment of trust funds;
- 25 (b) on deposit with the Treasury Corporation;
- (c) a bill of exchange that has been accepted or endorsed by a bank;
- (d) a promissory note made by—
  - (i) a statutory body constituted under an Act of the Commonwealth or a State; or
  - 30 (ii) an eligible company;
- (e) a loan of money on the security of a letter of credit which is issued or confirmed by a bank;
- (f) an advance to a bank;



*Public Authorities (Financial Arrangements) 1987*SCHEDULE 4—*continued*INVESTMENT POWERS OF AUTHORITIES—*continued*

- (g) an advance to an eligible company secured by such legally enforceable documents or other security as the Treasurer or a person appointed by the Treasurer for the purpose approves;
- (h) futures contracts traded on the Sydney Futures Exchange Limited;
- 5 (i) forward exchange or interest rate agreements complying with the publication of the Australian Bankers' Association entitled "The Australian Dollar Forward Rate Agreements Recommended Terms and Conditions";
- (j) foreign currency deposits with, or foreign currency advances to, a bank;
- 10 (k) foreign currency deposits with, or foreign currency advances to, an eligible company secured by such legally enforceable documents or other security as the Treasurer or a person appointed by the Treasurer for the purpose approves;
- (l) foreign currency investments in securities issued by—
- (i) a statutory body constituted under an Act of the Commonwealth or a State;
- (ii) a bank; or
- 15 (iii) an eligible company;
- (m) the purchase and the sale prior to, and at, maturity of an investment prescribed by any of the preceding paragraphs;
- (n) in such other manner as may be prescribed.
- (2) The Treasurer may—
- 20 (a) nominate the investments (if any) in which funds shall be invested; and
- (b) determine the amount of funds that shall be invested in each investment so nominated.

## PART 3

**Definition of "public securities"**

25 4. In this Part—

"public securities" means—

- (a) bonds, debentures, stock, securities or other instruments issued by—
- (i) the Commonwealth, this or any other State or a Territory of the Commonwealth; or
- 30 (ii) a municipal corporation, other local governing body or public authority constituted by or under an Act or by or under a law of the Commonwealth or of another State or of a Territory of the Commonwealth; or

*Public Authorities (Financial Arrangements) 1987*SCHEDULE 4—*continued*INVESTMENT POWERS OF AUTHORITIES—*continued*

(b) prescribed securities or other instruments.

**Investment powers**

5. Subject to this Part, funds may, in such manner as the authority thinks fit, be invested for the purpose of producing income and for related purposes.

**5 Temporary application of funds**

6. Funds may, pending investment, be lodged at call, or partly at call and partly on fixed deposit, with the Treasurer or with any bank (within the meaning of Part 2 of this Schedule) and shall, while so lodged with a bank, be deemed to be money of the Crown.

**Limitation on investment**

10 7. (1) The authority shall, so far as is practicable, ensure that at all times the investments of the authority under this Part comply with the requirements of this clause.

(2) Investments under this Part shall include public securities the cost of which, averaged over each succeeding period of 3 months commencing on the relevant day, is not less than 30 per cent of the cost of all investments of the authority under this Part.

15 (3) Investments under this Part shall not include any one investment (other than public securities) the cost of which is more than 5 per cent of the cost of all investments of the authority under this Part.

**Relevant day**

20 8. For the purposes of this Part, the relevant day is the day on which this Part commences to apply to the authority concerned.

**Variation of limitations**

9. The percentage referred to in clause 7 (2) or (3) may be varied by regulation.

**One investment**

25 10. For the purposes of this Part, investments made by an authority under this Part shall be considered as one investment if the investments comprise—

(a) securities within the meaning of the Securities Industry (New South Wales) Code and other instruments, being securities or instruments allotted or issued by any one corporation, or by related corporations within the meaning of the Companies (New South Wales) Code; or

30 (b) an interest as beneficiary under any one trust.

*Public Authorities (Financial Arrangements) 1987*

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SCHEDULE 4—*continued*

INVESTMENT POWERS OF AUTHORITIES—*continued*

PART 4

**Investment powers**

11. Funds may be invested in such manner as the authority determines.
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SCHEDULE 5

5

(Sec. 41)

REPEALS

- Public Authorities (Financial Accommodation) Act 1981 No. 82—the whole Act
- Public Authorities (Financial Accommodation) Further Amendment Act 1983 No. 78—the whole Act
- 10 Public Authorities (Financial Accommodation) (Housing) Amendment Act 1985 No. 166—the whole Act
- Miscellaneous Acts (Area Health Services) Amendment Act 1986 No. 53—so much of Schedule 1 as amends Act No. 82, 1981
- 15 Miscellaneous Acts (Water Administration) Amendment Act 1986 No. 205—so much of Schedule 2 as amends Act No. 82, 1981
- 

SCHEDULE 6

(Sec. 42)

SAVINGS AND TRANSITIONAL PROVISIONS

**Definition of “repealed Act”**

- 20 1. In this Schedule—

“repealed Act” means the Public Authorities (Financial Accommodation) Act 1981, as in force immediately before its repeal.

*Public Authorities (Financial Arrangements) 1987*SCHEDULE 6—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Approvals under repealed Act**

2. An approval of the Governor to the obtaining of financial accommodation, given under the repealed Act and in force immediately before the commencement of this Act, shall on that commencement be deemed to be an approval of the Treasurer under this Act.

**Guarantees under repealed Act**

3. A guarantee in force under the repealed Act immediately before the commencement of this Act shall, on that commencement, be deemed to be a guarantee under this Act.

**Guarantee fees**

4. Section 17 applies in respect of a guarantee provided by the Government before the commencement of this Act if—

- (a) the guarantee is of a kind to which that section applies;
- (b) the guarantee is in force as at that commencement; and
- (c) money is still payable or repayable in relation to the financial accommodation concerned.

**Preservation of current investments of authorities**

5. An authority on which investment powers are conferred by Part 3 may maintain any investment made before the powers are conferred even if the investment is not authorised by the powers conferred.

**Priorities**

6. Section 20 applies in respect of financial accommodation whether obtained before or after the commencement of this Act.

**Regulations under repealed Act**

7. A regulation in force under the repealed Act immediately before the commencement of this Act shall, on that commencement, be deemed to have been made under this Act.

**Regulations—savings, transitional**

8. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or



*Public Authorities (Financial Arrangements) 1987*

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SCHEDULE 6—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have  
5 effect notwithstanding the other clauses of this Schedule.



**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)  
ACT 1987 No. 33**

NEW SOUTH WALES



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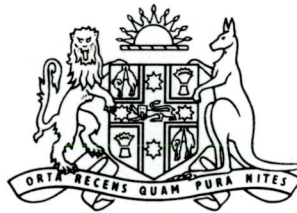
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**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS) ACT 1987**  
**No. 33**

NEW SOUTH WALES



**Act No. 33, 1987**

An Act to make provision with respect to certain financial arrangements and investments of public authorities; to constitute the New South Wales Capital Works Financing Corporation; to repeal the Public Authorities (Financial Accommodation) Act 1981; and for other purposes. [Assented to 15 May 1987]

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See also Miscellaneous Acts (Public Authorities Financial Arrangements) Amendment Act 1987.

*Public Authorities (Financial Arrangements) 1987*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1  
PRELIMINARY

**Short title**

1. This Act may be cited as the "Public Authorities (Financial Arrangements) Act 1987".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Interpretation**

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Financing Corporation" means the New South Wales Capital Works Financing Corporation constituted by this Act;

"Government" means the Crown in right of New South Wales;

"Minister" means—

- (a) in relation to an authority constituted by a provision of an Act—the Minister administering the provision; or
- (b) in relation to an authority not constituted by an Act—the chief executive officer or governing body of the authority;

"regulations" means regulations made under this Act;

"Treasury Corporation" means the New South Wales Treasury Corporation constituted by the Treasury Corporation Act 1983.

*Public Authorities (Financial Arrangements) 1987*

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(2) In this Act, a reference (however expressed) to the repayment of financial accommodation includes a reference to the payment of money by the authority concerned in relation to the financial accommodation, whether or not by way of repayment of money by the authority and whether or not constituting a payment by way of advance.

(3) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Meaning of obtaining financial accommodation**

4. (1) In this Act, a reference (however expressed) to the obtaining of financial accommodation by an authority includes (without limiting the ordinary meaning of that expression) a reference to—

- (a) the borrowing or raising of money by the authority including by means of the issue of debentures, bonds, inscribed stock, registered stock, discounted securities, promissory notes or any other security; and
- (b) the participation by the authority in any other arrangement or transaction which is approved by the Treasurer or prescribed for the purposes of this Act.

(2) An approved or prescribed arrangement or transaction need not involve the repayment of money by an authority.

**Meaning of effecting a financial adjustment**

5. In this Act, a reference (however expressed) to the effecting of a financial adjustment by an authority is a reference to the entering into or the participation by the authority in any of the following arrangements or transactions or a combination of them:

- (a) a currency swap;
- (b) an interest rate swap;
- (c) a forward exchange rate agreement;
- (d) a forward interest rate agreement;
- (e) a futures contract or a futures option (within the meaning of the Futures Industry (New South Wales) Code);

- (f) such other transactions or arrangements as may be prescribed.
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## PART 2

### FINANCIAL ACCOMMODATION AND OTHER ARRANGEMENTS

#### DIVISION 1—*Interpretation*

##### **Definition of “authority”**

6. In this Part—

“authority” means—

- (a) a corporation specified in Schedule 1; or
- (b) a person (including a corporation) or a partnership, joint venture, association or other body who or which is declared by regulations made on the recommendation of the Treasurer to be an authority for the purposes of this Part,

but does not include a council within the meaning of the Local Government Act 1919.

#### DIVISION 2—*Powers of authorities*

##### **Governor’s approval to financial accommodation**

7. The Governor may, by order, approve of the obtaining of financial accommodation by an authority in accordance with this Act.

##### **Power to obtain financial accommodation**

8. (1) This section applies to an authority in respect of which an approval is in force under section 7.

(2) For the purpose of exercising its functions, an authority may, in accordance with the written approval of the Treasurer, obtain financial accommodation within or outside Australia.

(3) The Treasurer’s approval—

- (a) may be specific or general; and
- (b) may be given on such terms as the Treasurer thinks fit.



*Public Authorities (Financial Arrangements) 1987*

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(4) The terms on which the Treasurer's approval is given may include, but are not limited to, terms as to any of the following:

- (a) the form of the financial accommodation to be obtained, including the currency in which it is to be obtained;
- (b) the manner in which it is to be obtained;
- (c) the terms and conditions on which it is to be obtained;
- (d) the security to be given for it and the instruments to be executed in connection with it.

**Treasury advances**

9. (1) The Treasurer may advance to an authority such money as may be determined by the Treasurer in consultation with the Minister for the authority.

- (2) The terms and conditions as to—
  - (a) the repayment of money so advanced; and
  - (b) the payment of interest on that money,

shall, except to the extent that the Act (if any) by which the authority is constituted otherwise provides, be determined by the Treasurer in consultation with the Minister for the authority.

**Financial adjustments**

10. (1) For the purpose of exercising its functions, an authority may, in accordance with the written approval of the Treasurer, effect a financial adjustment.

- (2) The Treasurer's approval—
  - (a) may be specific or general; and
  - (b) may be given on such terms as the Treasurer thinks fit.

**General powers in relation to obtaining financial accommodation and effecting financial adjustments**

11. (1) An authority may do all things necessary or convenient to be done in connection with obtaining financial accommodation or effecting a financial adjustment.

*Public Authorities (Financial Arrangements) 1987*

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(2) In particular, but without limiting the power given by this section, the authority may—

- (a) enter into any contract, agreement or other transaction;
- (b) incur any obligations under a contract, agreement or other transaction;
- (c) make any payment (including an advance) under a contract, agreement or other transaction;
- (d) make any covenants or promises, including those which are absolute and unconditional;
- (e) exercise such other functions as the Treasurer may approve; and
- (f) do or effect any of the things it is empowered to do under this Act by or through any affiliate of the authority.

(3) This section does not limit any powers that the authority has apart from this section.

(4) In this section—

“affiliate”, in relation to an authority, includes any corporation, partnership or other body or entity in which the authority has a controlling interest, whether by reason of any shareholding, proprietary interest, voting power or otherwise.

**Provisions relating to authorities which obtain financial accommodation**

12. Unless the Treasurer otherwise directs in a particular case, Schedules 2 and 3 have effect in relation to an authority which obtains financial accommodation.

*DIVISION 3—Protection of lenders*

**Treasurer’s approval as evidence**

13. The written approval of the Treasurer to the obtaining of financial accommodation or to the effecting of a financial adjustment by an authority is conclusive evidence that anything done by the authority in accordance with the approval is authorised by this Act.

**Application of financial accommodation**

14. A person from whom an authority obtains financial accommodation is not bound to inquire into the application of the financial accommodation and is not responsible for any non-application or misapplication of it.

DIVISION 4—*Guarantees***Statutory guarantee**

15. (1) The due repayment of—

- (a) financial accommodation obtained by an authority (whether within or outside Australia) by the issue of debentures, bonds, inscribed stock, registered stock, discounted securities or promissory notes; or
- (b) financial accommodation obtained by an authority in such other forms as may be prescribed,

and, where payable, the due payment of interest and other charges relating to that financial accommodation are guaranteed by the Government and are charges on the income and revenue of the authority from whatever source arising.

(2) The guarantee provided by this section does not apply to financial accommodation obtained from the Treasury Corporation unless the Treasurer otherwise directs in writing.

(3) The charge imposed on the income and revenue of an authority does not operate to prevent the authority from dealing, in the ordinary course of the exercise of its functions, with its income and revenue free of the charge.

**Discretionary guarantees**

16. (1) The Government may guarantee the due performance by an authority of any obligation incurred by the authority as a result of or in connection with the authority's entering into or participating in any arrangement or transaction, as authorised by this Act.

(2) The form of the guarantee (including its terms and conditions) shall be as determined by the Treasurer who may determine different forms for different guarantees.

**Guarantee fee**

17. An authority shall, if the Treasurer requires, pay for credit of the Consolidated Fund a fee determined by the Treasurer in respect of a guarantee which is provided by or under this Act and which is directly or indirectly related to the obtaining of financial accommodation by the authority.



**Other payments by Government**

18. The Government may, in relation to any financial accommodation obtained by an authority or any financial adjustment effected by an authority, agree to make a payment even though the authority may be precluded by the law of New South Wales from making the payment.

**Execution of guarantee etc.**

19. A guarantee or other instrument relating to—

- (a) financial accommodation obtained under this Act; or
- (b) a financial adjustment effected under this Act,

may be executed on behalf of the Government by the Treasurer or by a person appointed by the Governor for the purpose.

**Priorities**

20. (1) All obligations of an authority to repay financial accommodation, if repayment is secured on the income and revenue of the authority (whether under this Act or otherwise), rank equally without preference by reason of priority of date or otherwise.

(2) All obligations of the Government under a guarantee rank equally without preference with all other outstanding obligations of the Government.

**Recovery of money paid under guarantee or agreement**

21. (1) If, under this Part, the Treasurer pays an amount under a guarantee or pursuant to an agreement, the authority is liable to pay that amount to the Treasurer for credit of the Consolidated Fund.

(2) The amount is payable by such instalments, at such times, and with such interest as the Treasurer, after consultation with the Minister for the authority, determines in each case.

**Appropriation**

22. Any liability of the Treasurer or the Government under this Act or arising out of any action taken under this Act shall be discharged out of the Consolidated Fund without any further appropriation than this Act.

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## PART 3

## INVESTMENT

**Definition of "authority"**

23. In this Part—

"authority" means a corporation constituted by or under an Act.

**Investment powers of authorities**

24. (1) The regulations may declare that an authority has, in respect of all or specified funds of or under the control of the authority, the investment powers described in Part 1, 2, 3 or 4 of Schedule 4.

(2) Such a regulation—

(a) may be made only on the recommendation of the Treasurer and the Minister for the authority; and

(b) operates to confer on the authority concerned the investment powers specified.

(3) The investment powers conferred on an authority by this Part may be exercised only in connection with the exercise of the functions of the authority.

**Funds managers**

25. (1) An authority on which investment powers are conferred by this Part may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the authority's funds.

(2) An approved funds manager is a person prescribed as an approved funds manager for the purposes of this section by regulations made on the recommendation of the Treasurer.

(3) The Treasurer's approval may be given only on the recommendation of the Minister for the authority and may be given subject to terms and conditions.

(4) An approved funds manager may on behalf of the authority, subject to any terms and conditions of the Treasurer's approval, invest funds of the authority in any investment in which the funds manager is authorised to invest its own funds or other funds.

**Superannuation Boards—power to act as funds manager**

26. (1) A Superannuation Board which is prescribed as an approved funds manager for the purposes of section 25 is by this Act authorised to exercise the functions of a funds manager under that section.

(2) In this section—

“Superannuation Board” means—

- (a) the State Superannuation Board constituted by the Superannuation Act 1916;
- (b) the State Public Service Superannuation Board constituted by the State Public Service Superannuation Act 1985; or
- (c) the Public Authorities Superannuation Board constituted by the Public Authorities Superannuation Act 1985.

**Replacement of other investment powers**

27. While any investment power is conferred on an authority by this Part, any other investment powers of the authority under the Act by which it is constituted do not apply to the investment of the funds concerned.

**Report of investment activities**

28. (1) An authority on which investment powers are conferred by this Part shall include in its annual report the prescribed information concerning its investment activities during the period covered by the report.

(2) The annual report of an authority is the annual report or the copy of that report required by the Annual Reports (Statutory Bodies) Act 1984 to be submitted to the Treasurer.

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**PART 4****NEW SOUTH WALES CAPITAL WORKS FINANCING CORPORATION****Definition of “Secretary”**

29. In this Part—

“Secretary” means the person for the time being holding or acting in the office of Secretary of the Treasury.

**Financing Corporation**

30. (1) There is constituted by this Act a corporation under the corporate name of the "New South Wales Capital Works Financing Corporation".

(2) The Secretary shall, as part of the duties of the office of Secretary of the Treasury, manage the affairs of the Financing Corporation.

(3) Any act, matter or thing done in the name of, or on behalf of, the Financing Corporation by the Secretary, or with the authority of the Secretary, shall be deemed to have been done by the Financing Corporation.

(4) The Financing Corporation is subject to the control and direction of the Minister.

**Functions of the Financing Corporation**

31. The Financing Corporation may—

- (a) obtain financial accommodation from the Treasury Corporation with the approval of the Treasurer; and
- (b) accept any funds transferred to it,

for the purpose of funding capital works.

**Seal of Financing Corporation**

32. (1) The Financing Corporation shall have a seal which may be affixed by the Secretary or by a person authorised by the Secretary to affix the seal either generally or in a particular case or class of cases.

(2) The Secretary or person so authorised shall attest by his or her signature the fact and date of the affixing of the seal.

**Staff**

33. For the purpose of enabling the Financing Corporation to exercise its functions, the Secretary may—

- (a) make use of the services of any officer or temporary employee of the Public Service appointed or employed in connection with the conduct of the business of the Treasury; or
- (b) with the approval of the Treasurer and on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.



**Financing Corporation Account**

34. An account shall be kept in the Special Deposits Account in the Treasury, to be called the "New South Wales Capital Works Financing Corporation Account", to record the transactions of the Financing Corporation.

**Financial year of Corporation**

35. The financial year of the Corporation is the year commencing on 1 July.

**Deposit of funds**

36. Money received by the Financing Corporation (except under section 37) shall, at such times as the Treasurer directs, be paid to the Treasurer for credit of the Consolidated Fund.

**Appropriation**

37. (1) Any money payable by the Financing Corporation in relation to financial accommodation obtained by it under this Part shall be paid out of the Consolidated Fund to the Financing Corporation for that purpose.

(2) The money may be paid to the Financing Corporation without any further appropriation than this Act.

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**PART 5****MISCELLANEOUS****Stamp duty exemption**

38. (1) Unless the Treasurer otherwise directs in a particular case, an authority is not liable to stamp duty under the Stamp Duties Act 1920 in respect of anything done by the authority for the purposes of this Act.

(2) The Treasurer may direct in writing that any other specified person is not liable to stamp duty in respect of anything done for the purposes of this Act and the direction has effect accordingly.



**Trustee investment etc.**

39. (1) A trustee (unless expressly forbidden by the trust instrument, if any) may invest trust funds in any debentures, bonds, inscribed stock, registered stock, discounted securities, promissory notes or other securities or instruments issued by an authority under this Act.

(2) Such an investment may be made whether the funds are at the time in a state of investment or not.

(3) Such an investment shall be deemed to be an investment in a security authorised by the Trustee Act 1925.

(4) An authority or officer of an authority is not competent to receive notice of an express, implied or constructive trust affecting any such security or instrument issued by an authority or a coupon attached to the security or instrument.

(5) A company, a council within the meaning of the Local Government Act 1919 and any other body corporate constituted by an Act may invest its funds in providing financial accommodation obtained by an authority under this Act.

**Delegation of power to approve financial accommodation or adjustment**

40. (1) The Treasurer may delegate to a person the exercise of the power of the Treasurer to give approval to an authority to obtain financial accommodation, or to effect a financial adjustment, in any particular case or class of cases.

(2) A delegation under this section—

(a) shall be in writing;

(b) may be general or limited; and

(c) may be revoked, wholly or partly, by the Treasurer.

(3) A delegate is, in the exercise of a delegated function, subject to such conditions as are specified in the instrument of delegation.

(4) A delegated function, when exercised by the delegate, shall be deemed to have been exercised by the Treasurer.

(5) A delegation does not prevent the exercise of a power by the Treasurer.

(6) A function purporting to have been exercised by a delegate shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

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**Repeals**

41. Each Act specified in Schedule 5 is, to the extent indicated, repealed.

**Savings and transitional provisions**

42. Schedule 6 has effect.

**Regulations**

43. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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SCHEDULE 1

(Sec. 6)

AUTHORITIES

Albury–Wodonga (New South Wales) Corporation.

Area health service constituted under the Area Health Services Act 1986.

Art Gallery of New South Wales Trust.

Australian Museum Trust.

Bathurst–Orange Development Corporation.

Board of Fire Commissioners of New South Wales.

Centennial Park Trust.

Central West County Council.

Darling Harbour Authority.

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SCHEDULE 1—*continued*

AUTHORITIES—*continued*

Fish Marketing Authority.  
Forestry Commission of New South Wales.  
Grain Handling Authority of New South Wales.  
Harness Racing Authority of New South Wales.  
Hawkesbury Agricultural College.  
Health Administration Corporation.  
Historic Houses Trust of New South Wales.  
Homebush Abattoir Corporation.  
Hospital within the meaning of, and specified in the Second Schedule to, the Public Hospitals Act 1929.  
Illawarra County Council.  
Library Council of New South Wales.  
Lord Howe Island Board.  
Macarthur Development Corporation.  
Macquarie County Council.  
Metropolitan Waste Disposal Authority.  
Minister administering the Environmental Planning and Assessment Act 1979.  
Minister administering the Heritage Act 1977.  
Minister for Tourism.  
Ministerial Corporation for Industry.  
Mitchell College of Advanced Education.  
Monaro County Council.  
Murray River County Council.  
Murrumbidgee County Council.  
Namoi Valley County Council.  
New England County Council.  
New South Wales Capital Works Financing Corporation.  
New South Wales Film Corporation.  
New South Wales Investment Corporation.

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SCHEDULE 1—*continued*AUTHORITIES—*continued*

New South Wales Land and Housing Corporation.  
New South Wales Meat Industry Authority.  
New South Wales State Conservatorium of Music.  
New South Wales Treasury Corporation.  
North West County Council.  
Northern Riverina County Council.  
Northern Rivers College of Advanced Education.  
Northern Rivers County Council.  
Ophir County Council.  
Oxley County Council.  
Peel-Cunningham County Council.  
Prospect County Council.  
Public Servant Housing Authority of New South Wales.  
Riverina College of Advanced Education.  
Royal Botanic Gardens and Domain Trust.  
Rural Assistance Board.  
Shortland County Council.  
South West Slopes County Council.  
Southern Mitchell County Council.  
Southern Riverina County Council.  
Southern Tablelands County Council.  
State Rail Authority of New South Wales.  
State Sports Centre Trust.  
Sydney College of Advanced Education.  
Sydney County Council.  
Sydney Cove Redevelopment Authority.  
Sydney Cricket and Sports Ground Trust.  
Sydney Market Authority.  
Teacher Housing Authority of New South Wales.



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SCHEDULE 1—*continued*

AUTHORITIES—*continued*

The Archives Authority of New South Wales.  
 The Broken Hill Water Board.  
 The Cobar Water Board.  
 The Commissioner for Main Roads.  
 The Commissioner for Motor Transport.  
 The Electricity Commission of New South Wales.  
 The Hunter District Water Board.  
 The Maritime Services Board of New South Wales.  
 The Metropolitan Water Sewerage and Drainage Board.  
 The New South Wales Institute of Technology.  
 The Sydney Opera House Trust.  
 The Trustees of the Museum of Applied Arts and Sciences.  
 The Wild Dog Destruction Board.  
 Tourism Commission of New South Wales.  
 Traffic Authority of New South Wales.  
 Tumut River County Council.  
 Ulan County Council.  
 Urban Transit Authority of New South Wales.  
 Water Administration Ministerial Corporation.  
 Zoological Parks Board of New South Wales.

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SCHEDULE 2

(Sec. 12)

PROVISIONS RELATING TO SECURITIES ETC.

**Application of Schedule**

1. This Schedule applies to an authority which obtains financial accommodation under Part 2.

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SCHEDULE 2—*continued*

PROVISIONS RELATING TO SECURITIES ETC.—*continued*

**Definition of “security”**

2. In this Schedule—

“security” includes debenture, bond, inscribed stock, prescribed security and other instrument.

**Debentures etc.**

3. (1) To evidence the obligation of an authority to repay financial accommodation, including, where interest is payable, an obligation to pay interest, the authority may, as provided by the regulations, issue or execute securities.

(2) A debenture or bond and a coupon originally annexed to the debenture or bond (whether or not the coupon is separated from the debenture or bond) may be transferred by delivery.

(3) Inscribed stock is transferable in the books of the authority as provided by the regulations.

**Interest on debenture or bond**

4. The holder of a coupon originally annexed to a security (whether or not the coupon is separated from the security) is entitled to receive payment from the authority of the interest specified in the coupon on its presentation on or after the date when, and at the place where, interest is payable.

**Execution of securities**

5. (1) An authority may appoint a person or persons for and on behalf of the authority to—

- (a) enter into any securities relating to financial accommodation;
- (b) sign, execute or otherwise perfect those securities; and
- (c) do all such things as may be necessary or convenient to be done for the purpose of obtaining the financial accommodation.

(2) The authority may revoke or vary such an appointment or make a different appointment.

(3) A security may be signed, executed or otherwise perfected by means of a signature or seal transmitted by electronic means, including facsimile reproduction.

**Loss etc. of debentures etc.**

6. (1) If a security issued or executed by an authority is lost, stolen, destroyed, mutilated or defaced before it has been redeemed, the authority may issue or execute a security in its place.

(2) A replacement security may be issued or executed only if—

- (a) the authority receives evidence to its satisfaction of the loss, theft or destruction, or if the mutilated or defaced security is surrendered; and

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SCHEDULE 2—*continued*PROVISIONS RELATING TO SECURITIES ETC.—*continued*

- (b) the authority receives security or indemnity satisfactory to it against double payment if the missing security is later presented for payment.
  - (3) A replacement security with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the security it replaces.
  - (4) This clause applies to a lost, stolen, destroyed, mutilated or defaced coupon in the same way as it applies to a lost, stolen, destroyed, mutilated or defaced security.
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## SCHEDULE 3

(Sec. 12)

## FINANCIAL ACCOMMODATION REPAYMENT

**Application of Schedule**

- 1. This Schedule applies to an authority which obtains financial accommodation under Part 2.

**Definition of "fund"**

- 2. In this Schedule—

"fund", in relation to an authority, means the reserve for financial accommodation repayment fund established by the authority pursuant to this Schedule.

**Exemptions**

- 3. This Schedule does not apply—

- (a) in so far as the Act (if any) by or under which an authority is constituted otherwise provides; or
- (b) in respect of financial accommodation obtained within Australia if any money payable in relation to that accommodation is payable by instalments at intervals not exceeding 1 year.

**Establishment of reserve for financial accommodation repayment fund**

- 4. An authority shall establish a reserve for financial accommodation repayment fund in respect of all financial accommodation obtained by the authority before or after the commencement of this Act.

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SCHEDULE 3—*continued*

FINANCIAL ACCOMMODATION REPAYMENT—*continued*

**Payments into fund**

5. (1) An authority shall, during each year, transfer from its revenue to its fund at least the amount that the authority, in the application for the Treasurer's approval to obtain the financial accommodation concerned, specified as the amount that it proposed to transfer to the fund or a like fund.

(2) If no amount was specified, the authority shall make transfers to its fund at such rate or in such amounts—

(a) as may from time to time be determined by the Minister for the authority with the concurrence of the Treasurer; or

(b) if there is no such determination in force, as the authority thinks fit.

**Application of fund**

6. (1) Money paid into the fund of an authority shall be applied in or towards payment of money payable in relation to financial accommodation obtained by the authority.

(2) If, after financial accommodation obtained by an authority has been repaid, any balance remains in the fund, that balance shall be paid to the general funds of the authority unless the Treasurer, after consultation with the Minister for the authority, otherwise directs.

(3) An authority may cancel debentures, bonds, inscribed stock or other prescribed securities purchased with money from the authority's fund established for repayment of the financial accommodation in relation to which they were issued.

**Protection of fund**

7. The fund of an authority is not liable to seizure in satisfaction of a debt other than financial accommodation in respect of which transfers were made to the fund.

**Investment of fund**

8. (1) Money held by an authority in its fund may be invested—

(a) in any manner authorised for the investment of trust funds;

(b) on deposit with the Treasury Corporation; or

(c) in such other manner as may be prescribed.

(2) Any interest on, or profits realised on, an investment made by an authority under this clause shall be added to, and form part of, the fund of the authority.

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## SCHEDULE 4

(Sec. 24)

## INVESTMENT POWERS OF AUTHORITIES

## PART 1

**Investment powers**

1. Funds may be invested—
  - (a) in any manner authorised for the investment of trust funds;
  - (b) on deposit with the Treasury Corporation; or
  - (c) in such other manner as may be prescribed.

## PART 2

**Interpretation**

2. In this Part—

“bank” means a bank within the meaning of the Banking Act 1959 of the Commonwealth or a bank constituted by a law of a State or of the Commonwealth, and includes the Reserve Bank of Australia;

“eligible company” means—

- (a) a company which is given a prescribed credit rating by a prescribed credit rating organisation; or
- (b) a company the liabilities of which are unconditionally guaranteed by a company to which paragraph (a) applies;

“State” means State of the Commonwealth and includes the Northern Territory.

**Investment powers**

3. (1) Funds may be invested by means of any of the following:
  - (a) in any manner authorised for the investment of trust funds;
  - (b) on deposit with the Treasury Corporation;
  - (c) a bill of exchange that has been accepted or endorsed by a bank;
  - (d) a promissory note made by—
    - (i) a statutory body constituted under an Act of the Commonwealth or a State;  
or
    - (ii) an eligible company;
  - (e) a loan of money on the security of a letter of credit which is issued or confirmed by a bank;
  - (f) an advance to a bank;

*Public Authorities (Financial Arrangements) 1987*SCHEDULE 4—*continued*INVESTMENT POWERS OF AUTHORITIES—*continued*

- (g) an advance to an eligible company secured by such legally enforceable documents or other security as the Treasurer or a person appointed by the Treasurer for the purpose approves;
- (h) futures contracts traded on the Sydney Futures Exchange Limited;
- (i) forward exchange or interest rate agreements complying with the publication of the Australian Bankers' Association entitled "The Australian Dollar Forward Rate Agreements Recommended Terms and Conditions";
- (j) foreign currency deposits with, or foreign currency advances to, a bank;
- (k) foreign currency deposits with, or foreign currency advances to, an eligible company secured by such legally enforceable documents or other security as the Treasurer or a person appointed by the Treasurer for the purpose approves;
- (l) foreign currency investments in securities issued by—
  - (i) a statutory body constituted under an Act of the Commonwealth or a State;
  - (ii) a bank; or
  - (iii) an eligible company;
- (m) the purchase and the sale prior to, and at, maturity of an investment prescribed by any of the preceding paragraphs;
- (n) in such other manner as may be prescribed.
- (2) The Treasurer may—
  - (a) nominate the investments (if any) in which funds shall be invested; and
  - (b) determine the amount of funds that shall be invested in each investment so nominated.

## PART 3

**Definition of "public securities"**

4. In this Part—

"public securities" means—

- (a) bonds, debentures, stock, securities or other instruments issued by—
  - (i) the Commonwealth, this or any other State or a Territory of the Commonwealth; or
  - (ii) a municipal corporation, other local governing body or public authority constituted by or under an Act or by or under a law of the Commonwealth or of another State or of a Territory of the Commonwealth; or

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SCHEDULE 4—*continued*

INVESTMENT POWERS OF AUTHORITIES—*continued*

- (b) prescribed securities or other instruments.

**Investment powers**

5. Subject to this Part, funds may, in such manner as the authority thinks fit, be invested for the purpose of producing income and for related purposes.

**Temporary application of funds**

6. Funds may, pending investment, be lodged at call, or partly at call and partly on fixed deposit, with the Treasurer or with any bank (within the meaning of Part 2 of this Schedule) and shall, while so lodged with a bank, be deemed to be money of the Crown.

**Limitation on investment**

7. (1) The authority shall, so far as is practicable, ensure that at all times the investments of the authority under this Part comply with the requirements of this clause.

(2) Investments under this Part shall include public securities the cost of which, averaged over each succeeding period of 3 months commencing on the relevant day, is not less than 30 per cent of the cost of all investments of the authority under this Part.

(3) Investments under this Part shall not include any one investment (other than public securities) the cost of which is more than 5 per cent of the cost of all investments of the authority under this Part.

**Relevant day**

8. For the purposes of this Part, the relevant day is the day on which this Part commences to apply to the authority concerned.

**Variation of limitations**

9. The percentage referred to in clause 7 (2) or (3) may be varied by regulation.

**One investment**

10. For the purposes of this Part, investments made by an authority under this Part shall be considered as one investment if the investments comprise—

- (a) securities within the meaning of the Securities Industry (New South Wales) Code and other instruments, being securities or instruments allotted or issued by any one corporation, or by related corporations within the meaning of the Companies (New South Wales) Code; or
- (b) an interest as beneficiary under any one trust.

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SCHEDULE 4—*continued*

INVESTMENT POWERS OF AUTHORITIES—*continued*

PART 4

**Investment powers**

11. Funds may be invested in such manner as the authority determines.

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SCHEDULE 5

(Sec. 41)

REPEALS

Public Authorities (Financial Accommodation) Act 1981 No. 82—the whole Act

Public Authorities (Financial Accommodation) Further Amendment Act 1983 No. 78—  
the whole Act

Public Authorities (Financial Accommodation) (Housing) Amendment Act 1985 No.  
166—the whole Act

Miscellaneous Acts (Area Health Services) Amendment Act 1986 No. 53—so much of  
Schedule 1 as amends Act No. 82, 1981

Miscellaneous Acts (Water Administration) Amendment Act 1986 No. 205—so much  
of Schedule 2 as amends Act No. 82, 1981

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SCHEDULE 6

(Sec. 42)

SAVINGS AND TRANSITIONAL PROVISIONS

**Definition of “repealed Act”**

1. In this Schedule—

“repealed Act” means the Public Authorities (Financial Accommodation) Act 1981,  
as in force immediately before its repeal.



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SCHEDULE 6—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

**Approvals under repealed Act**

2. An approval of the Governor to the obtaining of financial accommodation, given under the repealed Act and in force immediately before the commencement of this Act, shall on that commencement be deemed to be an approval of the Treasurer under this Act.

**Guarantees under repealed Act**

3. A guarantee in force under the repealed Act immediately before the commencement of this Act shall, on that commencement, be deemed to be a guarantee under this Act.

**Guarantee fees**

4. Section 17 applies in respect of a guarantee provided by the Government before the commencement of this Act if—

- (a) the guarantee is of a kind to which that section applies;
- (b) the guarantee is in force as at that commencement; and
- (c) money is still payable or repayable in relation to the financial accommodation concerned.

**Preservation of current investments of authorities**

5. An authority on which investment powers are conferred by Part 3 may maintain any investment made before the powers are conferred even if the investment is not authorised by the powers conferred.

**Priorities**

6. Section 20 applies in respect of financial accommodation whether obtained before or after the commencement of this Act.

**Regulations under repealed Act**

7. A regulation in force under the repealed Act immediately before the commencement of this Act shall, on that commencement, be deemed to have been made under this Act.

**Regulations—savings, transitional**

8. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or

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SCHEDULE 6—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding the other clauses of this Schedule.



