

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
FURTHER AMENDMENT ACT 1989 No. 178**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33

SCHEDULE 1 - AMENDMENTS



**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
FURTHER AMENDMENT ACT 1989 No. 178**

NEW SOUTH WALES



Act No. 178, 1989

An Act to amend the Public Authorities (Financial Arrangements) Act 1987 in respect of the investment powers of public authorities.
[Assented to 14 December 1989]

See also Universities Legislation (Investment) Amendment Act 1989; Treasury Corporation (Amendment) Act 1989.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Authorities (Financial Arrangements) Further Amendment Act 1989.

Commencement

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

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

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

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 10 (**Financial adjustments**):

After section 10 (2), insert:

(3) The Treasurer's approval is required even though the financial adjustment is, or is effected in connection with, financial accommodation authorised under this Part, an investment authorised under Part 3 or for any other purpose.

(2) Section 24 (**Investment powers of authorities**):

After section 24 (2), insert:

(2A) A person recommending the making of such a regulation is to have regard to the general criteria approved by the Treasurer for determining the appropriate investment powers to be conferred on authorities.

(2B) The criteria are to provide for the determination of the appropriate investment powers by reference to:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) the class of the authority as determined in accordance with any official government classification of authorities; and
- (b) the volume of funds to be invested by the authority; and
- (c) the expertise of, and facilities available to, the employees of the authority undertaking the investments.

(3) Section 25 (**Funds managers**):

- (a) Omit section 25 (2), insert instead:

(2) An approved funds manager is a person designated as an approved funds manager for the authority in the Treasurer's approval.

- (b) After section 25 (4), insert:

(5) The terms and conditions of an approval under subsection (4) are to restrict the investment powers of an approved funds manager in connection with an authority to the most extensive powers of investment available under the criteria referred to in section 24 having regard to the classification of the authority.

(4) Section 26 (**Power of certain authorities to act as funds manager**):

Omit "The State Authorities Superannuation Board, if prescribed as an approved funds manager", insert instead "An authority, if designated as an approved funds manager".

(5) Section 27 (**Replacement of other investment powers**):

At the end of the section, insert:

(2) If, because of this section or of an amendment to this Act or for any other reason, an authority ceases to have an investment power, any investment made under that former

SCHEDULE 1 - AMENDMENTS - *continued*

power continues to be a valid investment and may be maintained by the authority.

(6) Section 28 (**Report of investment activities**):

Omit the section.

(7) Section 28A:

At the end of Part 3, insert:

General powers in relation to investments

28A. (1) An authority may do all things necessary or convenient to be done in connection with the exercise of its investment powers under this Part.

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

- (a) enter into any contract, agreement or other transaction; and
- (b) incur any obligations under a contract, agreement or other transaction; and
- (c) make any payment (including an advance) under a contract, agreement or other transaction; and
- (d) make any covenants or promises, including those which are absolute and unconditional; and
- (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 an 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 a corporation, partnership or other body in which the authority has a controlling interest, whether by reason

SCHEDULE 1 - AMENDMENTS - *continued*

of any shareholding, proprietary interest, voting power or otherwise.

(8) Section 40:

Omit the section, insert instead:

Delegation of Treasurer's functions

40. The Treasurer may delegate to a person any of the following functions of the Treasurer under this Act:

- (a) the giving of an approval to an authority to obtain financial accommodation; or
- (b) the giving of an approval to an authority to effect a financial adjustment; or
- (c) the giving of an approval to an authority to engage a funds manager.

(9) Schedule 3 (**Financial accommodation repayment**), clause 8 (**Investment of fund**):

Omit clause 8 (1), insert instead:

(1) Money held by an authority in its fund may be invested in any manner authorised for the investment of the general funds of the authority or in any manner authorised under Part 1 of Schedule 4.

(10) Schedule 4:

Omit the Schedule, insert instead:

**SCHEDULE 4 - INVESTMENT POWERS OF
AUTHORITIES**

(Sec. 24)

Preliminary

1. (1) In this Schedule:

"**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

SCHEDULE 1 - AMENDMENTS - *continued*

Commonwealth or of a Territory, and includes the Reserve Bank of Australia;

"**eligible entity**" means an entity given a prescribed rating by a prescribed rating agency or given prescribed ratings by different prescribed rating agencies;

"**eligible rating**" means a prescribed rating given by a prescribed rating agency or prescribed ratings given by different prescribed rating agencies;

"**prescribed**" means prescribed by the regulations on the recommendation of the Treasurer.

(2) For the purposes of this Schedule, an investment power includes a power to purchase or sell the investment at any time before, at or after maturity.

PART 1

2. The following investments are authorised for an authority which may exercise Part 1 investment powers:

- (a) deposits with a bank or the Treasury Corporation (not including certificates of deposit or other transferable securities);
- (b) investments in an Hour-Glass investment facility of the Treasury Corporation (being a facility under which the Treasury Corporation accepts funds on behalf of Government and public or other authorities for investment by fund managers approved by the Treasury Corporation);
- (c) such additional investments as are prescribed.

PART 2

3. The following investments are authorised for an authority which may exercise Part 2 investment powers:

- (a) the investments described in Part 1;
- (b) investments guaranteed by the Government of the Commonwealth, of a State or of a Territory;

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) bills of exchange that have been accepted by a bank;
- (d) a loan to a person who is a dealer in the short-term money market and in relation to whom, at the time the loan is made, the Reserve Bank of Australia stands as lender of last resort;
- (e) certificates of deposit issued by a bank;
- (f) such additional investments as are prescribed.

PART 3

4. (1) The following investments are authorised for an authority which may exercise Part 3 investment powers:

- (a) the investments described in Part 2;
- (b) bills of exchange that have been endorsed by a bank;
- (c) a loan of money on the security of a letter of credit which is issued or confirmed by a bank;
- (d) an advance to a bank, or to an eligible entity, secured in such manner as the authority making the investment determines;
- (e) promissory notes, bonds, debentures or inscribed or registered stock made or issued by a bank or by an eligible entity;
- (f) promissory notes, bonds, debentures or inscribed or registered stock that have an eligible rating;
- (g) foreign currency deposits with, or advances to, a bank or an eligible entity, secured in such manner as the authority making the investment determines;
- (h) foreign currency investments in securities:
 - (i) guaranteed by the Government of the Commonwealth, of a State or of a Territory, or
 - (ii) issued by a bank; or
 - (iii) issued by an eligible entity;

SCHEDULE 1 - AMENDMENTS - *continued*

- (i) foreign currency investments in securities that have an eligible rating;
- (j) the spot purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency within 2 banking days after the day on which the currency is purchased or sold;
- (k) the forward purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency more than 2 banking days after the day on which the currency is purchased or sold;
- (l) such additional investments as are prescribed.
- (2) The investments described in subclause (1) (g) - (k), being investments involving foreign exchange transactions, are not authorised under this Part unless the investments are made by the authority in accordance with the written approval of the Treasurer.
- (3) The Treasurer's approval:
 - (a) may be specific or general; or
 - (b) may be given on such terms as the Treasurer thinks fit.
- (4) Investments in stocks or securities are not authorised under this Part if they are investments (either directly or indirectly) in equity shares.

PART 4

5. Investments of any kind are authorised for an authority which may exercise Part 4 investment powers.

- (11) Schedule 6 (**Savings and transitional provisions**):
 - (a) Clause 5 (**Preservation of current investments of authorities**):
Omit the clause.

SCHEDULE 1 - AMENDMENTS - *continued*

(b) Clause 8 (**Regulations - savings, transitional**):

- (i) From clause 8 (1), omit "this Act", insert instead:
the following Acts:

 this Act

 Public Authorities (Financial Arrangements)
 Further Amendment Act 1989

 Universities Legislation (Investment)
 Amendment Act 1989.

- (ii) From clause 8 (2), omit "to this Act", insert instead
"to the Act concerned".
-

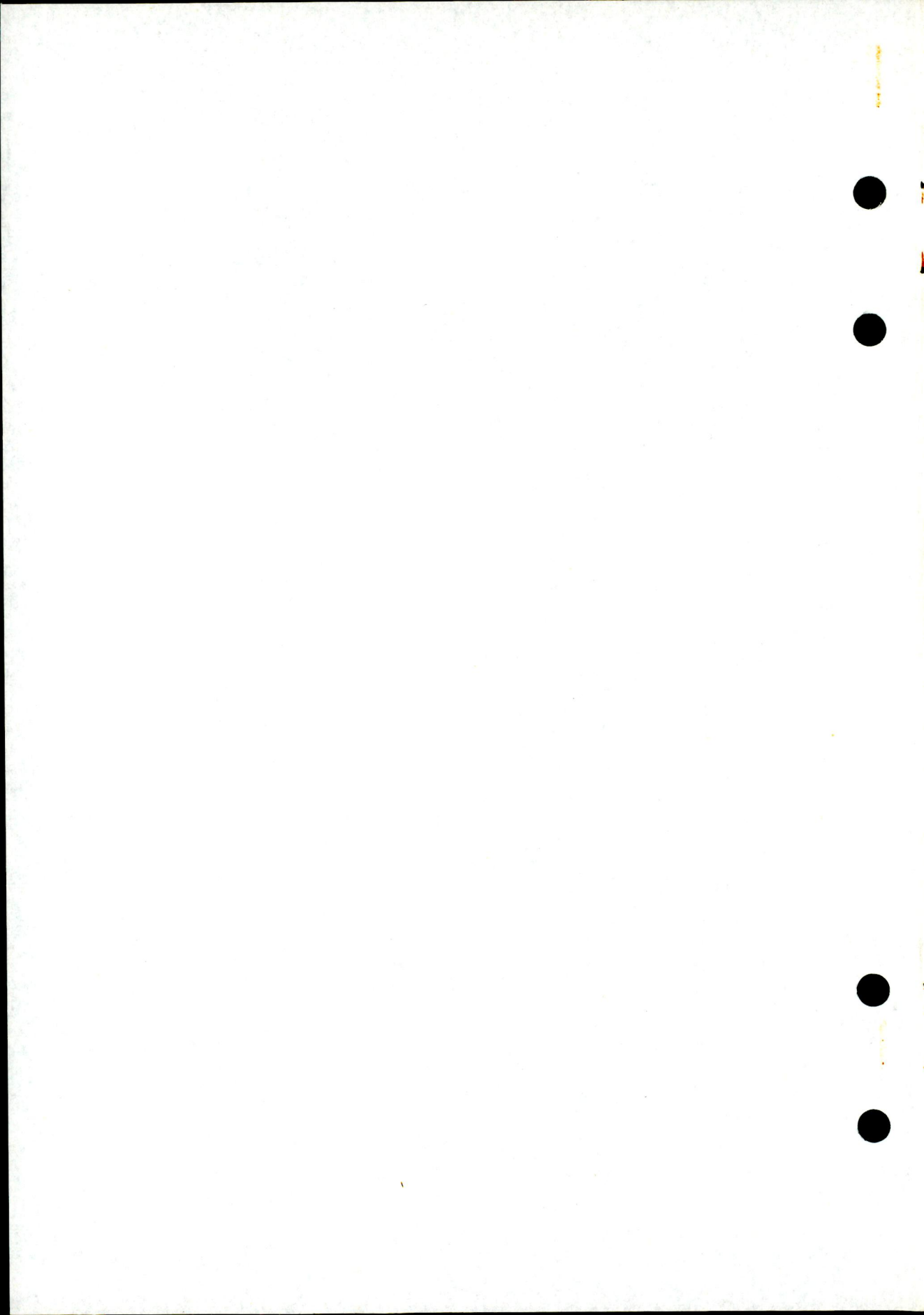
[*Minister's second reading speech made in -
Legislative Assembly on 15 November 1989
Legislative Council on 22 November 1989*]











FIRST PRINT

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
FURTHER AMENDMENT BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Universities Legislation (Investment) Amendment Bill 1989 and the Treasury Corporation (Amendment) Bill 1989 are cognate with this Bill.

The object of this Bill is to amend the Public Authorities (Financial Arrangements) Act 1987 so as:

- (a) to replace the existing investment powers that may be allocated by regulation to public authorities with more flexible investment powers; and
- (b) to provide for the criteria for allocating investment powers to public authorities; and
- (c) to make miscellaneous amendments in respect of the investment activities of public authorities.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Public Authorities (Financial Arrangements) Act 1987.

SCHEDULE 1 - AMENDMENTS

Investment powers of authorities

Section 24 of the Act provides that the regulations may declare that an authority has, in respect of its funds, the investment powers described in the specified Part of Schedule 4 to the Act. Schedule 1 (10) substitutes Schedule 4 to provide for more flexible levels (Parts 1, 2, 3 or 4) of investment powers which range from simple

*Public Authorities (Financial Arrangements) Further Amendment
1989*

deposits with banks or the Treasury Corporation, to foreign currency investments and to investment powers of any kind (the latter being Part 4 powers). Included in Part 1 investment powers are investments in an Hour-Glass investment facility of the Treasury Corporation.

Schedule 1 (2) amends section 24 to provide that the criteria for determining the appropriate investment powers for an authority are the class of the authority (as determined in accordance with any official government classification of authorities), the volume of funds to be invested and the expertise of the authority. The criteria are to be applied by the Treasurer and the relevant Minister when recommending the making of the regulation which gives the authority its investment powers.

Schedule 1 (3) amends section 25 to provide that an approved funds manager is a person designated for the authority concerned in the Treasurer's approval (instead of the regulations). Also, the investment powers of an approved funds manager are (in relation to the funds of an authority) to be restricted to the most extensive powers of investment under the criteria relating to the classification of the authority. Schedule 1 (4) is a consequential amendment.

Schedule 1 (5) provides that if an authority ceases to have an investment power, any investment made under that former power continues to be a valid investment made by the authority.

Schedule 1 (7) inserts section 28A (general powers in relation to investments) to provide that an investment power includes a power to do incidental things, including to enter into any contract or other transaction in connection with the particular investment. The Act already confers similar powers in connection with the obtaining of financial accommodation.

Miscellaneous amendments

Schedule 1 (1) amends section 10 (financial adjustments) to make it clear that the Treasurer's approval is required even though an authority effects a financial adjustment in connection with an authorised investment.

Schedule 1 (6) omits section 28 (Report of investment activities). Authorities are to be required to report on their investment performance under the Annual Reports (Statutory Bodies) Act 1984.

Schedule 1 (8) substitutes section 40 (delegation of Treasurer's functions) to enable delegations of the power to approve the engagement of funds managers.

Schedule 1 (9) amends Schedule 3 (financial accommodation repayment) to enable an authority to invest money held in its financial accommodation repayment fund in a manner authorised for the investment of its general funds as well as in the manner authorised under Part 1 of Schedule 4.

Schedule 1 (11) amends Schedule 6 (savings and transitional provisions) as a consequence of Schedule 1 (5) and to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

FIRST PRINT

**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
FURTHER AMENDMENT BILL 1989**

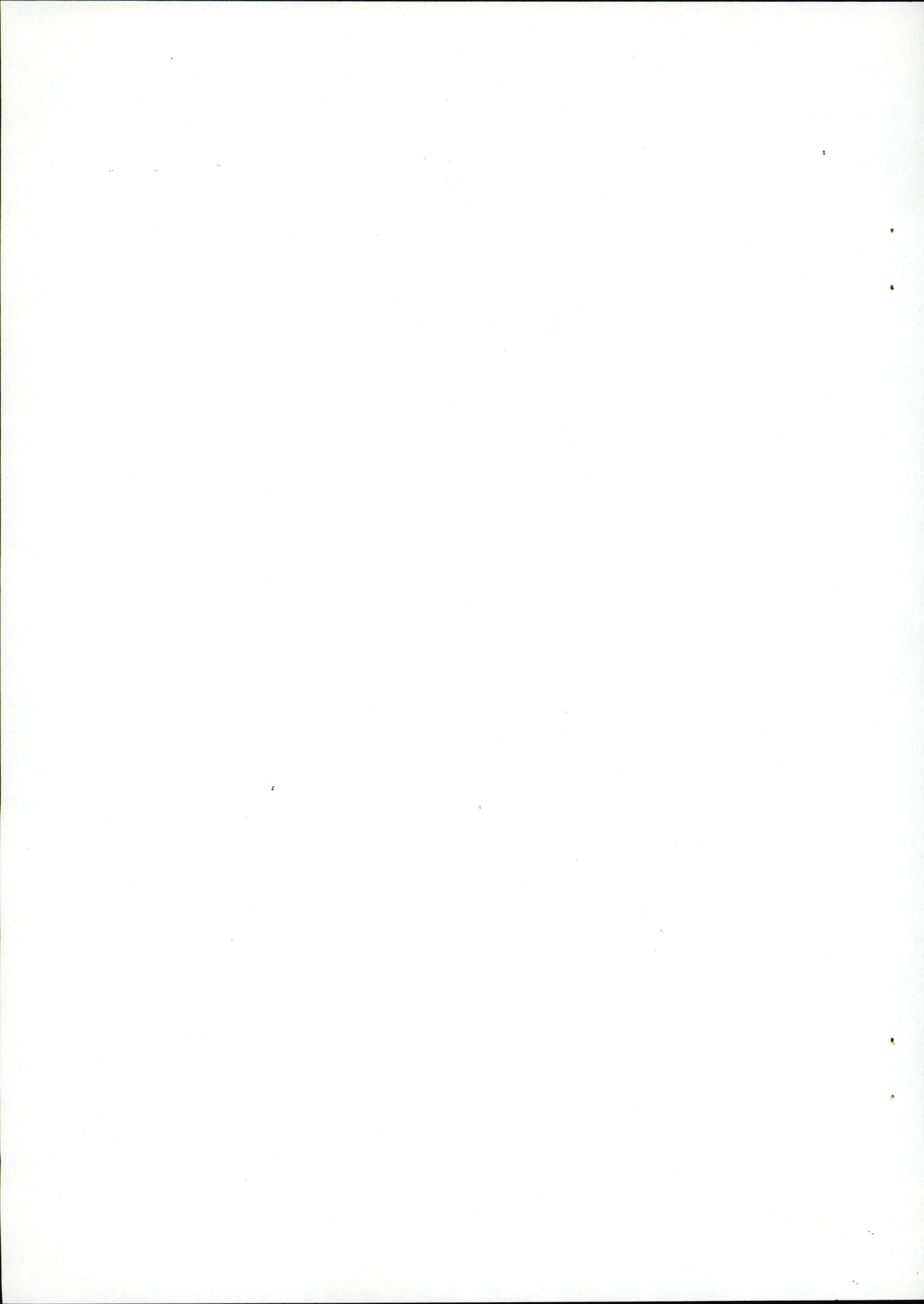
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33

SCHEDULE 1 - AMENDMENTS



**PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS)
FURTHER AMENDMENT BILL 1989**

NEW SOUTH WALES



No. , 1989

A BILL FOR

**An Act to amend the Public Authorities (Financial Arrangements) Act
1987 in respect of the investment powers of public authorities.**

See also Universities Legislation (Investment) Amendment Bill 1989; Treasury Corporation
(Amendment) Bill 1989.

*Public Authorities (Financial Arrangements) Further Amendment
1989*

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Authorities (Financial Arrangements) Further Amendment Act 1989.

Commencement

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

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

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

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 10 (**Financial adjustments**):

After section 10 (2), insert:

(3) The Treasurer's approval is required even though the financial adjustment is, or is effected in connection with, financial accommodation authorised under this Part, an investment authorised under Part 3 or for any other purpose.

(2) Section 24 (**Investment powers of authorities**):

After section 24 (2), insert:

(2A) A person recommending the making of such a regulation is to have regard to the general criteria approved by the Treasurer for determining the appropriate investment powers to be conferred on authorities.

(2B) The criteria are to provide for the determination of the appropriate investment powers by reference to:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) the class of the authority as determined in accordance with any official government classification of authorities; and
 - (b) the volume of funds to be invested by the authority, and
 - (c) the expertise of, and facilities available to, the employees of the authority undertaking the investments.
- (3) **Section 25 (Funds managers):**
- (a) Omit section 25 (2), insert instead:
 - (2) An approved funds manager is a person designated as an approved funds manager for the authority in the Treasurer's approval.
 - (b) After section 25 (4), insert:
 - (5) The terms and conditions of an approval under subsection (4) are to restrict the investment powers of an approved funds manager in connection with an authority to the most extensive powers of investment available under the criteria referred to in section 24 having regard to the classification of the authority.
- (4) **Section 26 (Power of certain authorities to act as funds manager):**
- Omit "The State Authorities Superannuation Board, if prescribed as an approved funds manager", insert instead "An authority, if designated as an approved funds manager".
- (5) **Section 27 (Replacement of other investment powers):**
- At the end of the section, insert:
- (2) If, because of this section or of an amendment to this Act or for any other reason, an authority ceases to have an investment power, any investment made under that former

SCHEDULE 1 - AMENDMENTS - *continued*

power continues to be a valid investment and may be maintained by the authority.

(6) Section 28 (**Report of investment activities**):

Omit the section.

(7) Section 28A:

At the end of Part 3, insert:

General powers in relation to investments

28A. (1) An authority may do all things necessary or convenient to be done in connection with the exercise of its investment powers under this Part.

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

- (a) enter into any contract, agreement or other transaction; and
- (b) incur any obligations under a contract, agreement or other transaction; and
- (c) make any payment (including an advance) under a contract, agreement or other transaction; and
- (d) make any covenants or promises, including those which are absolute and unconditional; and
- (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 an 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 a corporation, partnership or other body in which the authority has a controlling interest, whether by reason

SCHEDULE 1 - AMENDMENTS - *continued*

of any shareholding, proprietary interest, voting power or otherwise.

(8) Section 40:

Omit the section, insert instead:

Delegation of Treasurer's functions

40. The Treasurer may delegate to a person any of the following functions of the Treasurer under this Act:

- (a) the giving of an approval to an authority to obtain financial accommodation; or
- (b) the giving of an approval to an authority to effect a financial adjustment; or
- (c) the giving of an approval to an authority to engage a funds manager.

(9) Schedule 3 (Financial accommodation repayment), clause 8 (Investment of fund):

Omit clause 8 (1), insert instead:

(1) Money held by an authority in its fund may be invested in any manner authorised for the investment of the general funds of the authority or in any manner authorised under Part 1 of Schedule 4.

(10) Schedule 4:

Omit the Schedule, insert instead:

**SCHEDULE 4 - INVESTMENT POWERS OF
AUTHORITIES**

(Sec. 24)

Preliminary

1. (1) In this Schedule:

"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

SCHEDULE 1 - AMENDMENTS - *continued*

Commonwealth or of a Territory, and includes the Reserve Bank of Australia;

"eligible entity" means an entity given a prescribed rating by a prescribed rating agency or given prescribed ratings by different prescribed rating agencies;

"eligible rating" means a prescribed rating given by a prescribed rating agency or prescribed ratings given by different prescribed rating agencies;

"prescribed" means prescribed by the regulations on the recommendation of the Treasurer.

(2) For the purposes of this Schedule, an investment power includes a power to purchase or sell the investment at any time before, at or after maturity.

PART 1

2. The following investments are authorised for an authority which may exercise Part 1 investment powers:

- (a) deposits with a bank or the Treasury Corporation (not including certificates of deposit or other transferable securities);
- (b) investments in an Hour-Glass investment facility of the Treasury Corporation (being a facility under which the Treasury Corporation accepts funds on behalf of Government and public or other authorities for investment by fund managers approved by the Treasury Corporation);
- (c) such additional investments as are prescribed.

PART 2

3. The following investments are authorised for an authority which may exercise Part 2 investment powers:

- (a) the investments described in Part 1;
- (b) investments guaranteed by the Government of the Commonwealth, of a State or of a Territory;

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) bills of exchange that have been accepted by a bank;
- (d) a loan to a person who is a dealer in the short-term money market and in relation to whom, at the time the loan is made, the Reserve Bank of Australia stands as lender of last resort;
- (e) certificates of deposit issued by a bank;
- (f) such additional investments as are prescribed.

PART 3

4. (1) The following investments are authorised for an authority which may exercise Part 3 investment powers:
- (a) the investments described in Part 2;
 - (b) bills of exchange that have been endorsed by a bank;
 - (c) a loan of money on the security of a letter of credit which is issued or confirmed by a bank;
 - (d) an advance to a bank, or to an eligible entity, secured in such manner as the authority making the investment determines;
 - (e) promissory notes, bonds, debentures or inscribed or registered stock made or issued by a bank or by an eligible entity;
 - (f) promissory notes, bonds, debentures or inscribed or registered stock that have an eligible rating;
 - (g) foreign currency deposits with, or advances to, a bank or an eligible entity, secured in such manner as the authority making the investment determines;
 - (h) foreign currency investments in securities:
 - (i) guaranteed by the Government of the Commonwealth, of a State or of a Territory, or
 - (ii) issued by a bank; or
 - (iii) issued by an eligible entity;

SCHEDULE 1 - AMENDMENTS - *continued*

- (i) foreign currency investments in securities that have an eligible rating;
- (j) the spot purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency within 2 banking days after the day on which the currency is purchased or sold;
- (k) the forward purchase or sale of foreign currency, being the purchase or sale of foreign currency the price of which is set with regard to delivery of the currency more than 2 banking days after the day on which the currency is purchased or sold;
- (l) such additional investments as are prescribed.
- (2) The investments described in subclause (1) (g) - (k), being investments involving foreign exchange transactions, are not authorised under this Part unless the investments are made by the authority in accordance with the written approval of the Treasurer.
 - (3) The Treasurer's approval:
 - (a) may be specific or general; or
 - (b) may be given on such terms as the Treasurer thinks fit.
 - (4) Investments in stocks or securities are not authorised under this Part if they are investments (either directly or indirectly) in equity shares.

PART 4

5. Investments of any kind are authorised for an authority which may exercise Part 4 investment powers.

- (11) Schedule 6 (Savings and transitional provisions):
 - (a) Clause 5 (Preservation of current investments of authorities):
Omit the clause.

*Public Authorities (Financial Arrangements) Further Amendment
1989*

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) Clause 8 (**Regulations - savings, transitional**):
- (i) From clause 8 (1), omit "this Act", insert instead:
the following Acts:
 this Act
 Public Authorities (Financial Arrangements)
 Further Amendment Act 1989
 Universities Legislation (Investment)
 Amendment Act 1989.
- (ii) From clause 8 (2), omit "to this Act", insert instead
"to the Act concerned".
-

