



Loans Securities Act 1919

Act No. 25 of 1919 as amended

This compilation was prepared on 4 October 2000
taking into account amendments up to Act No. 131 of 1988

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to authorize the issue of Securities in relation to Loans and for other purposes in connexion therewith

1 Short title [see Note 1]

This Act may be cited as the *Loans Securities Act 1919*.

2 Interpretation

In this Act, unless the contrary intention appears:

Registrar means the Registrar or a Deputy Registrar of Stock or the Registrar or a Deputy Registrar of securities or other documents issued under this Act.

Registry means a Registry for the inscription of Stock and for the issue and registration of securities or other documents in relation to loans.

Security means any document made out and issued under this Act for defining or registering the indebtedness of the Commonwealth to lenders, and includes a Debenture to bearer, Bond to Bearer, and Treasury Bill, and any coupon in connexion therewith.

Stock means Stock issued under this Act and a reference to Stock includes a reference to Stock included in a Stock Certificate to bearer and a reference to registered Stock.

3 Conditions of loans

- (1) Where under an Act the Treasurer has the authority to borrow money in accordance with the *Commonwealth Inscribed Stock Act 1911* or any Act authorising the issue of Treasury bills, the Governor-General may, in spite of anything in those Acts, in writing, authorise the Treasurer:
 - (a) to borrow the money in amounts not exceeding, in the aggregate, such amount as the Governor-General determines;
 - (b) to borrow the money:
 - (i) either by way of a single borrowing or by way of a program of borrowings, as the Governor-General determines;

- (ii) in such manner as the Governor-General determines;
and
 - (iii) at prices, and on terms and conditions, that are not less favourable to the Commonwealth than the prices, and the terms and conditions, determined by the Governor-General; and
 - (c) to issue, in such form as the Governor-General determines, such stock and securities as the Governor-General determines.
- (2) An authority under subsection (1) may, instead of determining any matter referred to in paragraph (1)(b) or (c), authorise the Treasurer to determine that matter and, in that case, the Treasurer is empowered to determine, in writing, that matter.

4 Payment of principal and interest

The principal money secured by any Stock or security issued under this Act and the interest thereon shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated for the purpose.

5 Establishment of Registries and appointment of Registrars

The Governor-General may:

- (a) establish Registries at any places outside the Commonwealth for the inscription of Stock and for the issue and registration of securities or any other documents required in connexion with the issue of any loan or for defining or registering the indebtedness of the Commonwealth to lenders;
- (b) appoint such Registrars or Deputy Registrars as he thinks necessary.

5A Powers of Treasurer in relation to borrowings outside Australia

Where the Treasurer is authorised to borrow money outside Australia, the Treasurer may, for the purposes of the borrowing:

- (a) enter into agreements with banks or other financial institutions;
- (b) enter into fiscal agency agreements;
- (c) in relation to the issue of any stock or security:

- (i) issue information memoranda in relation to the stock or security; and
- (ii) issue any document necessary for the listing of the stock or security on any stock exchange or security market; and
- (d) take any action (including the signing of any document) required or permitted to be taken by or on behalf of the Commonwealth:
 - (i) under any agreement referred to in paragraph (a) or (b) or following the issue of a document under paragraph (c); or
 - (ii) for any purpose relating to the borrowing.

5B Power of Treasurer to enter into swaps or other financial arrangements

- (1) The Treasurer may, on behalf of the Commonwealth, enter into an agreement with any person or organisation or the government of any country, either within or outside Australia, under which:
 - (a) the Commonwealth undertakes to make payments in any currency to, or to the account of, the other party to the agreement; and
 - (b) the other party undertakes to make payments to, or to the account of, the Commonwealth, in the same or any other currency.
- (2) Any money payable by the Commonwealth under an agreement under subsection (1) and any expenditure incurred in connection with the negotiation, management or service of, or a repayment under, any such agreement, shall be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

5C Jurisdiction of foreign courts

- (1) The Treasurer may, on behalf of the Commonwealth, enter into a written agreement or undertaking under which the Commonwealth agrees or undertakes to submit to the jurisdiction of a foreign court for the purposes of any action or proceeding before that court relating to:
 - (a) an agreement referred to in section 5A or subsection 5B(1);or

- (b) the issue by the Treasurer of any stock or security in relation to the borrowing of money outside Australia.
- (2) Subject to any other Act, the Treasurer may, on behalf of the Commonwealth, in connection with:
 - (a) any action or proceeding referred to in subsection (1); or
 - (b) the execution of any order made or judgment given in such an action or proceeding;waive, and enter into a written agreement or undertaking under which the Commonwealth agrees or undertakes to waive, any immunity from suit or other legal process of:
 - (c) the Commonwealth; or
 - (d) any property or asset of, or in the custody of, or administered by, the Commonwealth (other than any property or asset used or intended to be used for any diplomatic, consular or military purpose).

5D Delegation

- (1) The Treasurer may, by signed instrument, delegate to:
 - (a) a specified officer of the Department; or
 - (b) any person who from time to time holds, or performs the duties of, a specified office in the Department;all or any of the following powers:
 - (c) the powers (if any) of the Treasurer under subsection 3(2) to determine matters for the purposes of paragraph 3(1)(b) or (c);
 - (d) the powers of the Treasurer under sections 5A, 5B and 5C.
- (2) The Treasurer may, by signed instrument, delegate to:
 - (a) a specified member of the diplomatic mission of Australia in a foreign country; or
 - (b) any person who from time to time holds, or performs the duties of, a specified post in the diplomatic mission of Australia in a specified foreign country;all or any of the following powers:
 - (c) the powers (if any) of the Treasurer under subsection 3(2) to determine matters for the purposes of paragraph 3(1)(b) or (c);
 - (d) the powers of the Treasurer under section 5A;

- (e) the powers of the Treasurer under section 5C in so far as they are exercisable for the purposes of an action or proceeding relating to:
 - (i) an agreement referred to in section 5A; or
 - (ii) the issue by the Treasurer of any stock or security in relation to the borrowing of money outside Australia.

6 Provisions for payment of judgments in United Kingdom

- (1) Whenever, by the final judgment decree rule or order of any court of competent jurisdiction in the United Kingdom, any sum of money is adjudged to be payable by the Commonwealth in respect of any stock or securities, the Minister for Finance shall forthwith pay the sum out of the Consolidated Revenue Fund, which is hereby appropriated accordingly.
- (2) In this section *final judgment decree rule or order* means, in case of appeal, the final judgment decree rule or order of the ultimate court hearing the appeal.
- (3) Without in any way limiting the foregoing provisions of this section, it is hereby declared that, in the case of any Stock or securities being colonial Stock to which the Imperial Acts known as the Colonial Stock Acts 1877 to 1900 apply, the Minister for Finance shall forthwith pay out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, whatever sums of money are from time to time required to enable the Registrar to comply forthwith with any judgment decree rule or order with which under the Imperial Acts the Registrar is required to comply.

6A Currency in which moneys may be borrowed

Where under an Act the Treasurer has authority to borrow moneys, the Governor-General may authorize the Treasurer to borrow the moneys in whole or in part in currency other than Australian currency, and, in that case, the Treasurer is empowered to borrow the moneys accordingly.

6B Exemption of certain securities issued abroad from taxation

- (1) Where, by the terms or conditions upon which any stock or security has been issued by or on behalf of the Commonwealth

outside Australia (whether before or after the commencement of this section and whether under this Act or otherwise), the Commonwealth has given an undertaking, howsoever expressed, to the effect that the stock or security, or the principal or interest moneys payable under the stock or security, will be exempt from, free of, or not subject to, taxes imposed in the Commonwealth except where the stock or security is the property of a person included in a particular class of persons consisting of or including all residents of Australia, then, notwithstanding anything contained in any law of the Commonwealth or of a State or Territory, the stock or security, its amount or value, and any principal or interest moneys payable under the stock or security, are not subject to any tax or duty under any such law and shall be disregarded for all purposes in determining the liability of any person to pay tax or duty under any such law or in determining the amount of any such liability, except where the stock or security was, at the time of the act, transaction or event that, according to the provisions of the law imposing the tax or duty, gave rise to liability to the tax or duty, the property of a person included in that particular class of persons.

- (1A) Where, by the terms or conditions upon which any stock or security has been issued by or on behalf of the Commonwealth outside Australia (whether under this Act or otherwise), the Commonwealth has given an undertaking, howsoever expressed, to the effect that any amount, including the amount of any commitment fee, payable in respect of the stock or security, in addition to the principal or interest moneys payable under the stock or security, will be exempt from, free of, or not subject to, taxes imposed in the Commonwealth except where the amount is payable to or in respect of a person included in a particular class of persons consisting of or including all residents of Australia, then, notwithstanding anything contained in any law of the Commonwealth or of a State or Territory, the amount so payable is not subject to any tax or duty under any such law and shall be disregarded for all purposes in determining the liability of any person to pay tax or duty under any such law or in determining the amount of any such liability, except where the amount was, at the time of the act, transaction or event that, according to the provisions of the law imposing the tax or duty, gave rise to liability to the tax or duty, payable to or in respect of a person included in that particular class of persons.

- (2) In this section:
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- (a) a reference to stock or to a security shall be read as including a reference to an interest in stock or in a security; and
- (b) a reference to tax or duty shall be read as including a reference to withholding tax within the meaning of the *Income Tax Assessment Act 1936-1968* and to tax or duty in respect of:
 - (i) the estates of deceased persons;
 - (ii) property derived from deceased persons; and
 - (iii) gifts or other dispositions of property.

7 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters and forms which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for the conduct of any business relating to the issue, sale, transfer and dealing with securities to which this Act applies.
- (2) Authority is given for the making by the Registrar of the Registry situated at London in the United Kingdom of regulations under section 16 of the Imperial Act known as the Colonial Stock Act 1877 for the purpose specified in subsection (1) of section 1 of the Imperial Act known as the Colonial Stock Act 1948 in relation to stock issued in the United Kingdom before the date of commencement of this section.

Table of Acts**Notes to the *Loans Securities Act 1919*****Note 1**

The *Loans Securities Act 1919* as shown in this compilation comprises Act No. 25, 1919 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Loans Securities Act 1919	25, 1919	28 Oct 1919	28 Oct 1919	
Loans Securities Act 1956	82, 1956	7 Nov 1956	7 Nov 1956	—
Loans Securities Act 1959	55, 1959	9 Sept 1959	9 Sept 1959	—
Loans Securities Act 1968	28, 1968	7 June 1968	7 June 1968	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
Administrative Changes (Consequential Provisions) Act 1978	36, 1978	12 June 1978	12 June 1978	S. 8
Loans Securities Amendment Act 1988	131, 1988	22 Dec 1988	22 Dec 1988	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3.....	rs. No. 82, 1956; No. 131, 1988
Ss. 5A-5D.....	ad. No. 131, 1988
S. 6.....	am. No. 36, 1978
S. 6A.....	ad. No. 82, 1956
S. 6B.....	ad. No. 55, 1959 am. No. 28, 1968; No. 216, 1973
S. 7.....	am. No. 28, 1968