



Loans Securities Amendment Act 1988

No. 131 of 1988

An Act to amend the *Loans Securities Act 1919*

[Assented to 22 December 1988]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title etc.

1. (1) This Act may be cited as the *Loans Securities Amendment Act 1988*.

(2) In this Act, "Principal Act" means the *Loans Securities Act 1919*¹.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

3. Section 3 of the Principal Act is repealed and the following section is substituted:

Conditions of loans

“3. (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. After section 5 of the Principal Act the following sections are inserted:

Powers of Treasurer in relation to borrowings outside Australia

“5A. 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.

Power of Treasurer to enter into swaps or other financial arrangements

“5B. (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:

Loans Securities Amendment No. 131, 1988

- (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.

Jurisdiction of foreign courts

“5C. (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).

Delegation

“5D. (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

Loans Securities Amendment No. 131, 1988

- (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.”.

NOTE

1. No. 25, 1919, as amended. For previous amendments, see No. 82, 1956; No. 55, 1959; No. 28, 1968; No. 216, 1973; No. 37, 1976; and No. 36, 1978.

[*Minister's second reading speech made in—
House of Representatives on 28 September 1988
Senate on 10 November 1988*]