



Commonwealth Securities and Investment Legislation Amendment Act 2008

No. 78, 2008

**An Act to amend the law in relation to
Commonwealth borrowing, and Commonwealth
securities and investments, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 78, 2008

**An Act to amend the law in relation to
Commonwealth borrowing, and Commonwealth
securities and investments, and for related purposes**

[Assented to 12 July 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Commonwealth Securities and
Investment Legislation Amendment Act 2008*.

Commonwealth Securities and Investment Legislation Amendment Act 2008 No. 78, 2008

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2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Commonwealth borrowing, and Commonwealth securities and investments

Part 1—Amendments

Commonwealth Inscribed Stock Act 1911

1 Before section 4

Insert:

3A Authority to borrow

- (1) The Treasurer may, from time to time, borrow money on behalf of the Commonwealth by issuing stock denominated in Australian currency.
- (2) Nothing in this section affects the power of the Treasurer under any other Act to borrow money on behalf of the Commonwealth, or to issue stock or securities under this or any other Act in relation to those borrowings.

2 At the end of subsection 4(1)

Add:

; or (d) lending by the Treasurer under securities lending arrangements under section 5BA of the *Loans Securities Act 1919*.

3 Paragraph 4(2)(a)

Omit “by an Act”, substitute “by section 3A of this Act or by any other Act”.

4 After section 4

Insert:

5 Limit on stock and securities on issue

- (1) The total face value of stock and securities on issue under this Act and the *Loans Securities Act 1919* at any time must not exceed \$75 billion.
- (2) In working out the total face value of that stock and securities, disregard:
 - (a) stock and securities issued in relation to money borrowed under the *Loan (Temporary Revenue Deficits) Act 1953*; and
 - (b) stock and securities loaned by the Treasurer under a securities lending arrangement under section 5BA of the *Loans Securities Act 1919*, or held by or on behalf of the Treasurer for the purpose of such an arrangement; and
 - (c) stock and securities invested under subsection 39(2) of the *Financial Management and Accountability Act 1997*; and
 - (d) stock and securities on issue on the commencement of this section, other than Treasury Fixed Coupon Bonds.
- (3) For the purposes of this section:
 - (a) the *face value* of a Treasury Indexed Bond is taken to be its face value at the time it was issued; and
 - (b) the *loan* of stock or a security is taken to include an arrangement under which it is sold and repurchased.

5 After section 51J

Insert:

51JA Delegation by Treasurer of powers under section 3A

- (1) The Treasurer may, by signed instrument, delegate all or any of the Treasurer's powers under section 3A to:
 - (a) an SES employee in the Department; or
 - (b) an APS employee who holds or performs the duties of an Executive Level 2, or equivalent, position in the Department; or
 - (c) a person appointed as a staff member of the Reserve Bank Service under section 67 of the *Reserve Bank Act 1959* who occupies an office or position at an equivalent level to that of an SES employee, or an Executive Level 2, in the Department.

- (2) The Treasurer must, by signed instrument, give a direction as to the maximum total face value of stock and securities that may be on issue under this Act and the *Loans Securities Act 1919*, disregarding stock and securities of the kind mentioned in subsection 5(2), in relation to borrowings under section 3A of this Act and section 4 of the *Loans Redemption and Conversion Act 1921* while the direction is in force.
- (3) In exercising the Treasurer's powers under section 3A, a delegate must comply with:
 - (a) a direction in force under subsection (2); and
 - (b) any other direction given, by signed instrument, to the delegate by the Treasurer.
- (4) The Treasurer must table a direction given under subsection (2) or paragraph (3)(b) in each House of the Parliament no later than 15 sitting days of that House after it is given.

Note: The heading to section 51K is altered by adding at the end "of powers under sections 14 and 29".

Financial Management and Accountability Act 1997

6 Section 5

Insert:

Department of the Treasury means the Department administered by the Treasurer and includes:

- (a) persons who are allocated to the Department (for the purposes of this Act) by regulations made for the purposes of subparagraph (a)(i) of the definition of ***Agency*** in this section; or
- (b) any part of the Department that is a prescribed Agency.

7 Subsection 39(2)

Repeal the subsection, substitute:

- (2) The Treasurer may invest public money in any authorised investment.

8 Subsection 39(10) (subparagraph (b)(iv) of the definition of *authorised investment*)

Repeal the subparagraph, substitute:

- (iv) debt instruments issued or guaranteed by the government of a foreign country being debt instruments with an investment grade credit rating;
- (iva) debt instruments issued or guaranteed by a financial institution whose members consist of foreign countries, or of Australia and foreign countries, being debt instruments with an investment grade credit rating;
- (ivb) debt instruments denominated in Australian currency with an investment grade credit rating;

9 Section 62A

Repeal the section, substitute:

62A Treasurer may delegate powers

- (1) The Treasurer may, by signed instrument, delegate to any of the following officials of the Department of the Treasury any of the Treasurer's powers or functions under this Act:
 - (a) an official who is an SES employee;
 - (b) an official who is an APS employee who holds or performs the duties of an Executive Level 2, or equivalent, position;
 - (c) an official who occupies an office or position at an equivalent level to that of an SES employee, or an Executive Level 2.
 - (2) The Treasurer may, by signed instrument, give directions in relation to either or both of the following:
 - (a) the class or classes of authorised investment in which public money may be invested;
 - (b) matters of risk and return.
 - (3) The Treasurer must not give a direction under subsection (2) that has the purpose, or has or is likely to have the effect, of directly or indirectly requiring a delegate or delegates to allocate financial assets to a particular company, partnership, trust, body politic or business.
 - (4) If, at any time, a delegation is in force under subsection (1), there must be at least one direction in force under subsection (2).
 - (5) In exercising powers or functions under a delegation, a delegate must comply with:
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- (a) a direction in force under subsection (2); and
 - (b) any other direction given, by signed instrument, to the delegate by the Treasurer.
- (6) The Treasurer must table a direction given under subsection (2) or paragraph (5)(b) in each House of the Parliament no later than 15 sitting days of that House after it is given.
- (7) In this section:
- authorised investment* has the same meaning as in paragraph (b) of the definition of *authorised investment* in subsection 39(10).

Loans Securities Act 1919

10 After section 5B

Insert:

5BA Power to enter into securities lending arrangements

- (1) The Treasurer may, from time to time, enter into securities lending arrangements, on behalf of the Commonwealth, by lending stock and securities issued under the *Commonwealth Incribed Stock Act 1911*, and denominated in Australian currency.
- (2) The total face value of stock and securities on loan by the Treasurer at any time under securities lending arrangements entered into under subsection (1) must not exceed \$5 billion.
- (3) The Treasurer must not lend stock or securities under securities lending arrangements entered into under subsection (1) unless the Treasurer receives collateral of one or more of the following kinds:
 - (a) cash;
 - (b) debt instruments denominated in Australian currency with an investment grade credit rating;
 - (c) collateral of the kind mentioned in paragraph (b), where the instrument is in electronic form;
 - (d) a deposit with a bank, including a deposit evidenced by a certificate of deposit;
 - (e) any other collateral prescribed by the regulations.

- (4) The Treasurer must take sufficient collateral of one or more of the kinds mentioned in subsection (3) to cover the market value of the security on loan at all times.
- (5) **Lending** stock or a security is taken to include an arrangement under which it is sold and repurchased.
- (6) The Consolidated Revenue Fund is appropriated as necessary for the purposes of this section.
- (7) Nothing in this section affects the power to make investments under section 39 of the *Financial Management and Accountability Act 1997*.

11 After section 5D

Insert:

5E Delegation of powers and functions under section 5BA

- (1) The Treasurer may, by signed instrument, delegate all or any of the Treasurer's powers and functions under section 5BA to:
 - (a) an SES employee in the Department; or
 - (b) an APS employee who holds or performs the duties of an Executive Level 2, or equivalent, position in the Department; or
 - (c) a person appointed as a staff member of the Reserve Bank Service under section 67 of the *Reserve Bank Act 1959* who occupies an office or position at an equivalent level to that of an SES employee, or an Executive Level 2, in the Department.
- (2) The Treasurer must, by signed instrument, give a direction as to the kinds of collateral that must be received in relation to securities lending arrangements entered into under subsection 5BA(1).
- (3) In exercising the Treasurer's powers and functions under section 5BA, a delegate must comply with:
 - (a) a direction in force under subsection (2); and
 - (b) any other direction given, by signed instrument, to the delegate by the Treasurer.

- (4) The Treasurer must table a direction given under subsection (2) or paragraph (3)(b) in each House of the Parliament no later than 15 sitting days of that House after it is given.

Note: The heading to section 5D is altered by adding at the end “**under sections 3, 5A, 5B and 5C**”.

Part 2—Application

12 Application of items 1 and 5

The amendments made by items 1 and 5 of this Schedule apply to money borrowed on or after the commencement of those items.

13 Application of items 2 and 3

The amendments made by items 2 and 3 of this Schedule apply to stock and securities issued on or after the commencement of those items.

14 Application of item 4

The amendment made by item 4 of this Schedule applies on or after the commencement of that item, regardless of whether the stock and securities were issued before, on or after the commencement of that item.

15 Application of items 6 to 9

The amendments made by items 6 to 9 of this Schedule apply in relation to public money invested on or after the commencement of those items.

16 Application of items 10 and 11

The amendments made by items 10 and 11 of this Schedule apply to securities lending arrangements entered into on or after the commencement of those items.

*[Minister's second reading speech made in—
House of Representatives on 4 June 2008
Senate on 18 June 2008]*

(126/08)

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