



# **Nation-building Funds (Consequential Amendments) Act 2008**

**No. 155, 2008**

**An Act to deal with consequential matters arising from the enactment of the *Nation-building Funds Act 2008*, and for other purposes**

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



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**No. 155, 2008**

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**An Act to deal with consequential matters arising from the enactment of the *Nation-building Funds Act 2008*, and for other purposes**

*[Assented to 18 December 2008]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Nation-building Funds (Consequential Amendments) Act 2008*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	18 December 2008
2. Schedules 1 to 3	At the same time as section 3 of the <i>Nation-building Funds Act 2008</i> commences.	1 January 2009

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### ***Higher Education Endowment Fund Act 2007***

#### **1 The whole of the Act**

Repeal the Act.

## Schedule 2—Amendments

### *Future Fund Act 2006*

#### 1 Section 4 (note)

Omit “the *Higher Education Endowment Fund Act 2007*”, substitute “the *Nation-building Funds Act 2008*”.

#### 2 Section 5

Insert:

*acquire* includes acquire by way of issue.

#### 3 Section 5

Insert:

*Building Australia Fund* means the Building Australia Fund established by section 12 of the *Nation-building Funds Act 2008*.

#### 4 Section 5

Insert:

*Building Australia Fund Special Account* means the Building Australia Fund Special Account established by section 13 of the *Nation-building Funds Act 2008*.

#### 5 Section 5

Insert:

*Communications Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

#### 6 Section 5

Insert:

*Education Investment Fund* means the Education Investment Fund established by section 131 of the *Nation-building Funds Act 2008*.

#### 7 Section 5

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Insert:

***Education Investment Fund Special Account*** means the Education Investment Fund Special Account established by section 132 of the *Nation-building Funds Act 2008*.

**8 Section 5 (definition of *Education Minister*)**

Repeal the definition, substitute:

***Education Minister*** has the same meaning as in the *Nation-building Funds Act 2008*.

**9 Section 5**

Insert:

***Energy Minister*** has the same meaning as in the *Nation-building Funds Act 2008*.

**10 Section 5**

Insert:

***Health and Hospitals Fund*** means the Health and Hospitals Fund established by section 214 of the *Nation-building Funds Act 2008*.

**11 Section 5**

Insert:

***Health and Hospitals Fund Special Account*** means the Health and Hospitals Fund Special Account established by section 215 of the *Nation-building Funds Act 2008*.

**12 Section 5**

Insert:

***Health Minister*** has the same meaning as in the *Nation-building Funds Act 2008*.

**13 Section 5 (definition of *Higher Education Endowment Fund*)**

Repeal the definition.

**14 Section 5 (definition of *Higher Education Endowment Fund investment function*)**

Repeal the definition.

**15 Section 5 (definition of *Higher Education Endowment Fund matter*)**

Repeal the definition.

**16 Section 5 (definition of *Higher Education Endowment Fund Special Account*)**

Repeal the definition.

**17 Section 5**

Insert:

*Infrastructure Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

**18 Section 5**

Insert:

*Research Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

**19 Section 5**

Insert:

*Water Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

**20 Section 13**

After “Schedules 1, 2”, insert “, 2A”.

**21 Section 13 (after note 2)**

Insert:

Note 2A: Schedule 2A is about transfers of amounts from the Future Fund to the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund.

**22 Subsection 28(5)**

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Repeal the subsection, substitute:

(5) Neither of the following Acts:

- (a) this Act;
- (b) the *Nation-building Funds Act 2008*;

prevents the same person from being engaged as an investment manager under 2 or more of the following provisions:

- (c) subsection (1) of this section;
- (d) subsection 45(1) of the *Nation-building Funds Act 2008*;
- (e) subsection 164(1) of the *Nation-building Funds Act 2008*;
- (f) subsection 239(1) of the *Nation-building Funds Act 2008*.

**23 Section 33 (note)**

Omit “the *Higher Education Endowment Fund Act 2007*”, substitute “the *Nation-building Funds Act 2008*”.

**24 Paragraph 35(b)**

Repeal the paragraph, substitute:

- (b) such other functions as are conferred on the Board by:
  - (i) this Act; or
  - (ii) the *Nation-building Funds Act 2008*;

**25 Subsection 55(3)**

Repeal the subsection, substitute:

- (3) Subsections (1) and (2) do not apply to the operations of the Board under the *Nation-building Funds Act 2008*.

**26 Section 60 (at the end of the penalty)**

Add “or 2,000 penalty units, or both”.

**27 Section 61 (at the end of the penalty)**

Add “or 2,000 penalty units, or both”.

**28 Section 62 (at the end of the penalty)**

Add “or 2,000 penalty units, or both”.

**29 Paragraph 63(1)(b)**

Repeal the paragraph, substitute:

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(b) the *Nation-building Funds Act 2008*;

**30 Paragraph 63(2)(aa)**

Repeal the paragraph, substitute:

(aa) the *Nation-building Funds Act 2008*; or

**31 Subparagraph 65(b)(ii)**

Repeal the subparagraph, substitute:

(ii) after making an independent assessment of the information or advice, having regard to the Board member's knowledge of the Board and the complexity of the structure and operations of the Board; and

**32 Paragraph 81(1)(h)**

Omit "and".

Note: The following heading to subsection 81(1) is inserted "*Board, Agency and Future Fund*".

**33 Paragraphs 81(1)(i) to (n)**

Repeal the paragraphs.

**34 After subsection 81(1)**

Insert:

*Building Australia Fund*

(1A) A report under subsection (1) for a financial year must include a report of:

- (a) the performance of the investments of the Building Australia Fund; and
- (b) the total amount debited from the Building Australia Fund Special Account for the purpose mentioned in paragraph 18(1)(i) of the *Nation-building Funds Act 2008*; and
- (c) the total amount debited from the Building Australia Fund Special Account for the purpose mentioned in paragraph 20(d) of the *Nation-building Funds Act 2008*; and
- (d) the total amount debited from the Building Australia Fund Special Account for the purpose mentioned in paragraph 20(e) of the *Nation-building Funds Act 2008*; and

- 
- (e) the total amount debited from the Building Australia Fund Special Account for the purpose mentioned in paragraph 20(f) of the *Nation-building Funds Act 2008*; and
  - (f) the total amount debited from the Building Australia Fund Special Account for the purpose mentioned in paragraph 20(g) of the *Nation-building Funds Act 2008*;
- during the financial year.

*Education Investment Fund*

- (1B) A report under subsection (1) for a financial year must include a report of:
- (a) the performance of the investments of the Education Investment Fund; and
  - (b) the total amount debited from the Education Investment Fund Special Account for the purpose mentioned in paragraph 136(1)(i) of the *Nation-building Funds Act 2008*; and
  - (c) the total amount debited from the Education Investment Fund Special Account for the purpose mentioned in paragraph 138(d) of the *Nation-building Funds Act 2008*; and
  - (d) the total amount debited from the Education Investment Fund Special Account for the purpose mentioned in paragraph 138(e) of the *Nation-building Funds Act 2008*; and
  - (e) the total amount debited from the Education Investment Fund Special Account for the purpose mentioned in paragraph 138(f) of the *Nation-building Funds Act 2008*; and
  - (f) the total amount debited from the Education Investment Fund Special Account for the purpose mentioned in paragraph 138(g) of the *Nation-building Funds Act 2008*;
- during the financial year.

*Health and Hospitals Fund*

- (1C) A report under subsection (1) for a financial year must include a report of:
- (a) the performance of the investments of the Health and Hospitals Fund; and
  - (b) the total amount debited from the Health and Hospitals Fund Special Account for the purpose mentioned in paragraph 218(1)(e) of the *Nation-building Funds Act 2008*; and

- (c) the total amount debited from the Health and Hospitals Fund Special Account for the purpose mentioned in paragraph 219(d) of the *Nation-building Funds Act 2008*; and
  - (d) the total amount debited from the Health and Hospitals Fund Special Account for the purpose mentioned in paragraph 219(e) of the *Nation-building Funds Act 2008*; and
  - (e) the total amount debited from the Health and Hospitals Fund Special Account for the purpose mentioned in paragraph 219(f) of the *Nation-building Funds Act 2008*; and
  - (f) the total amount debited from the Health and Hospitals Fund Special Account for the purpose mentioned in paragraph 219(g) of the *Nation-building Funds Act 2008*;
- during the financial year.

### **35 Subsection 81(2)**

Omit “and (j) to (n)”.

Note: The following heading to subsection 81(2) is inserted “*Benchmarks*”.

### **36 After subsection 81(2)**

Insert:

- (2A) A report under this section must include a benchmark in relation to the amounts referred to in paragraphs (1A)(b) to (f).
- (2B) A report under this section must include a benchmark in relation to the amounts referred to in paragraphs (1B)(b) to (f).
- (2C) A report under this section must include a benchmark in relation to the amounts referred to in paragraphs (1C)(b) to (f).

Note: The following heading to subsection 81(3) is inserted “*Tabling of report*”.

### **37 Subsection 81(4)**

Repeal the subsection, substitute:

- (4) As soon as practicable after receiving a report under this section, the nominated Minister must give a copy of the report to the following Ministers:
  - (a) the Communications Minister;
  - (b) the Education Minister;
  - (c) the Energy Minister;

- (d) the Health Minister;
- (e) the Infrastructure Minister;
- (f) the Research Minister;
- (g) the Water Minister.

### **38 After section 83**

Insert:

#### **83A Delegation by the nominated Minister**

- (1) The nominated Minister may, by writing, delegate any or all of his or her powers under:
  - (a) section 84; or
  - (b) Schedule 2A;to:
  - (c) the Secretary of a Department; or
  - (d) an SES employee, or acting SES employee, in a Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation, the delegate must comply with any directions of the nominated Minister.

#### **83B Delegation by the Board**

- (1) The Board may, by writing, delegate any or all of its powers under:
  - (a) subsection 28(1) of this Act; or
  - (b) subsection 45(1) of the *Nation-building Funds Act 2008*; or
  - (c) subsection 164(1) of the *Nation-building Funds Act 2008*; or
  - (d) subsection 239(1) of the *Nation-building Funds Act 2008*;to:
  - (e) the Chair; or
  - (f) an SES employee, or acting SES employee, in the Agency.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Board.

### **39 Paragraph 84(1)(b)**

Repeal the paragraph, substitute:

- (b) none of the following:
  - (i) another provision of this Act;
  - (ii) a provision of the *Nation-building Funds Act 2008*; requires the amount to be credited to:
  - (iii) the Fund Account; or
  - (iv) the Building Australia Fund Special Account; or
  - (v) the Education Investment Fund Special Account; or
  - (vi) the Health and Hospitals Fund Special Account;

#### **40 Subsections 84(2), (3) and (4)**

Repeal the subsections, substitute:

*Transfer of amounts to the Building Australia Fund Special Account*

- (2) If an amount is credited to the Fund Account under subsection (1), the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and
  - (b) credited to the Building Australia Fund Special Account; on a specified day.

*Transfer of amounts to the Education Investment Fund Special Account*

- (3) If an amount is credited to the Fund Account under subsection (1), the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and
  - (b) credited to the Education Investment Fund Special Account; on a specified day.

*Transfer of amounts to the Health and Hospitals Fund Special Account*

- (4) If an amount is credited to the Fund Account under subsection (1), the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and

(b) credited to the Health and Hospitals Fund Special Account; on a specified day.

*Other provisions*

- (5) If:
- (a) an amount (the **first amount**) is credited to the Fund account under subsection (1); and
  - (b) one or more amounts (the **transfer amounts**) are specified under any or all of subsections (2), (3) and (4) in relation to the first amount;
- the sum of the transfer amounts must not exceed the first amount.
- (6) A direction under subsection (2), (3) or (4) is not a legislative instrument.

**41 Subparagraph 2(2)(a)(ii) of Schedule 2**

Repeal the subparagraph, substitute:

- (ii) paragraph 18(1)(j) of the *Nation-building Funds Act 2008*; or
- (iii) paragraph 136(1)(j) of the *Nation-building Funds Act 2008*; or
- (iv) paragraph 137(e) of the *Nation-building Funds Act 2008*; or
- (v) paragraph 218(1)(f) of the *Nation-building Funds Act 2008*;

**42 Subparagraph 2(2)(b)(ii) of Schedule 2**

Repeal the subparagraph, substitute:

- (ii) paragraph 18(1)(k) of the *Nation-building Funds Act 2008*; or
- (iii) paragraph 136(1)(k) of the *Nation-building Funds Act 2008*; or
- (iv) paragraph 137(f) of the *Nation-building Funds Act 2008*; or
- (v) paragraph 218(1)(g) of the *Nation-building Funds Act 2008*;

**43 Subparagraph 2(2)(c)(ii) of Schedule 2**

Repeal the subparagraph, substitute:

- (ii) a paragraph of subsection 18(1) of the *Nation-building Funds Act 2008*; or
- (iii) a paragraph of subsection 136(1) of the *Nation-building Funds Act 2008*; or
- (iv) a paragraph of section 137 of the *Nation-building Funds Act 2008*; or
- (v) a paragraph of subsection 218(1) of the *Nation-building Funds Act 2008*;

#### **44 After Schedule 2**

Insert:

### **Schedule 2A—Inter-fund transfers**

Note: See section 13.

#### **1 Simplified outline**

The following is a simplified outline of this Schedule:

- Amounts may be transferred from the Future Fund to the Building Australia Fund, the Education Investment Fund or the Health and Hospitals Fund.

#### **2 Transfers from the Future Fund to the Building Australia Fund**

- (1) If an amount is debited from the Building Australia Fund Special Account for a purpose mentioned in section 20 of the *Nation-building Funds Act 2008*, the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and
  - (b) credited to the Building Australia Fund Special Account;on a specified day.
- (2) The specified amount must not exceed the amount debited from the Building Australia Fund Special Account as mentioned in subsection (1).
- (3) A direction under subsection (1) is not a legislative instrument.

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### **3 Transfers from the Future Fund to the Education Investment Fund**

- (1) If an amount is debited from the Education Investment Fund Special Account for a purpose mentioned in section 138 of the *Nation-building Funds Act 2008*, the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and
  - (b) credited to the Education Investment Fund Special Account; on a specified day.
- (2) The specified amount must not exceed the amount debited from the Education Investment Fund Special Account as mentioned in subsection (1).
- (3) A direction under subsection (1) is not a legislative instrument.

### **4 Transfers from the Future Fund to the Health and Hospitals Fund**

- (1) If an amount is debited from the Health and Hospitals Fund Special Account for a purpose mentioned in section 219 of the *Nation-building Funds Act 2008*, the nominated Minister may, by writing, direct that a specified amount is to be:
  - (a) debited from the Fund Account; and
  - (b) credited to the Health and Hospitals Fund Special Account; on a specified day.
- (2) The specified amount must not exceed the amount debited from the Health and Hospitals Fund Special Account as mentioned in subsection (1).
- (3) A direction under subsection (1) is not a legislative instrument.

## ***Income Tax Assessment Act 1997***

### **45 Subsection 30-25(2) (table item 2.2.35)**

Repeal the item.

### **46 Subsection 30-25(3)**

Repeal the subsection.

**47 Subsection 30-315(2) (table item 56A)**

Repeal the item.

***Telecommunications (Consumer Protection and Service Standards) Act 1999***

**48 Part 9C**

Repeal the Part.

**49 Subsection 159B(1)**

Omit “(1)”.

**50 Subsection 159B(2)**

Repeal the subsection.

***Telstra Corporation Act 1991***

**51 Section 3 (definition of *Communications Fund*)**

Repeal the definition.

**52 Subsection 3B(3)**

Omit “or the *Communications Fund*”.

Note: The heading to subsection 3B(3) is altered by omitting “*and Communications Fund*”.

**53 Subsection 8AJ(6D)**

Omit “or the *Communications Fund*”.

**54 Subsection 8AYB(4)**

Omit “or the *Communications Fund*”.

Note: The heading to subsection 8AYB(4) is altered by omitting “*and Communications Fund*”.

**55 Section 8AYD**

Omit “or the *Communications Fund*”.

**56 Subclause 12(4AA) of the Schedule**

Omit “or the *Communications Fund*”.

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## **Schedule 3—Transitional and application provisions etc.**

### **1 Definition**

In this Schedule:

*Future Fund Board* means the Future Fund Board of Guardians.

### **2 Transitional—annual report to deal with Higher Education Endowment Fund matters**

#### *Scope*

- (1) This item applies to the report under section 81 of the *Future Fund Act 2006* for the financial year beginning on 1 July 2008.

#### *Higher Education Endowment Fund Matters*

- (2) The report must include a report of:
- (a) the performance of the investments of the Higher Education Endowment Fund; and
  - (b) the total amount debited from the Higher Education Endowment Fund Special Account for the purpose mentioned in paragraph 16(1)(f) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (c) the total amount debited from the Higher Education Endowment Fund Special Account for the purpose mentioned in paragraph 16(4)(d) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (d) the total amount debited from the Higher Education Endowment Fund Special Account for the purpose mentioned in paragraph 16(4)(e) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (e) the total amount debited from the Higher Education Endowment Fund Special Account for the purpose mentioned in paragraph 16(4)(f) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (f) the total amount debited from the Higher Education Endowment Fund Special Account for the purpose mentioned

in paragraph 16(4)(g) of the repealed *Higher Education Endowment Fund Act 2007*;

during the period:

- (g) beginning on 1 July 2008; and
  - (h) ending immediately before the commencement of this item.
- (3) The report must include a benchmark in relation to the amounts referred to in paragraphs (2)(b) to (f).

### **3 Transitional—borrowing**

#### *Scope*

- (1) This item applies if:
- (a) the Future Fund Board borrowed money for a purpose in connection with the Higher Education Endowment Fund before the commencement of this item; and
  - (b) the borrowing was authorised by subsection 29(2) or (3) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (c) the period of the borrowing ends after the commencement of this item.

#### *Authorisation etc.*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) the Future Fund Board had borrowed the money for a purpose in connection with the Education Investment Fund; and
  - (b) the borrowing had been authorised by subsection 159(2) or (3), as the case requires, of that Act.

### **4 Transitional—securities lending arrangement**

#### *Scope*

- (1) This item applies if:
- (a) before the commencement of this item, the Future Fund Board entered into a securities lending arrangement under subsection 33(1) of the repealed *Higher Education Endowment Fund Act 2007*; and

- (b) the arrangement was in force immediately before the commencement of this item.

*Continuity of arrangement*

- (2) The *Nation-building Funds Act 2008* has effect as if the arrangement had been entered into by the Future Fund Board under subsection 163(1) of that Act for a purpose in connection with the Education Investment Fund.

**5 Transitional—investment manager**

*Scope*

- (1) This item applies if:
  - (a) before the commencement of this item, the Future Fund Board engaged an investment manager under subsection 34(1) of the repealed *Higher Education Endowment Fund Act 2007*; and
  - (b) the engagement was in force immediately before the commencement of this item.

*Continuity of engagement*

- (2) The *Nation-building Funds Act 2008* has effect as if the Future Fund Board had engaged the investment manager under subsection 164(1) of that Act for purposes in connection with the Education Investment Fund.

**6 Transitional—refund of franking credits**

If:

- (a) after the commencement of this item, the Future Fund Board receives a refund of a tax offset under the *Income Tax Assessment Act 1997*; and
- (b) the tax offset is attributable to an investment of the Higher Education Endowment Fund that was held by the Future Fund Board before the commencement of this item;

the refund is to be credited to the Education Investment Fund Special Account.

**7 Transitional—definition of *acquire* in section 5 of the *Future Fund Act 2006***

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The amendment made by item 2 of Schedule 2 does not imply that, at a time before the commencement of that item, a reference in the *Future Fund Act 2006* to acquire did not include a reference to acquire by way of issue.

## **8 Application—gifts to the Higher Education Endowment Fund**

The amendments of the *Income Tax Assessment Act 1997* made by Schedule 2 apply in relation to gifts made after the commencement of this item.

## **9 Transitional—advice given by Infrastructure Australia to the Infrastructure Minister**

### *Scope*

- (1) This item applies if:
  - (a) before the commencement of this item, criteria known as the interim BAF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, Infrastructure Australia advised the Infrastructure Minister that a payment satisfies the relevant interim BAF evaluation criteria.

### *Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
  - (a) immediately after the commencement of this item, Infrastructure Australia had advised the Infrastructure Minister, under section 116 of that Act, that the payment satisfies the relevant BAF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

### *Definition*

- (3) In this item:

***Infrastructure Minister*** has the same meaning as in the *Nation-building Funds Act 2008*.

**10 Transitional—advice given by Infrastructure Australia to the Communications Minister**

*Scope*

- (1) This item applies if:
- (a) before the commencement of this item, criteria known as the interim BAF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, Infrastructure Australia advised the Communications Minister that a payment satisfies the relevant interim BAF evaluation criteria.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) immediately after the commencement of this item, Infrastructure Australia had advised the Communications Minister, under section 117 of that Act, that the payment satisfies the relevant BAF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definition*

- (3) In this item:  
*Communications Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

**11 Transitional—advice given by Infrastructure Australia to the Energy Minister**

*Scope*

- (1) This item applies if:
- (a) before the commencement of this item, criteria known as the interim BAF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, Infrastructure Australia advised the Energy Minister

that a payment satisfies the relevant interim BAF evaluation criteria.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) immediately after the commencement of this item, Infrastructure Australia had advised the Energy Minister, under section 118 of that Act, that the payment satisfies the relevant BAF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definition*

- (3) In this item:  
*Energy Minister* has the same meaning as in the *Nation-building Funds Act 2008*.

**12 Transitional—advice given by Infrastructure Australia to the Water Minister**

*Scope*

- (1) This item applies if:
- (a) before the commencement of this item, criteria known as the interim BAF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, Infrastructure Australia advised the Water Minister that a payment satisfies the relevant interim BAF evaluation criteria.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) immediately after the commencement of this item, Infrastructure Australia had advised the Water Minister, under section 119 of that Act, that the payment satisfies the relevant BAF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definition*

- (3) In this item:  
**Water Minister** has the same meaning as in the *Nation-building Funds Act 2008*.

**13 Transitional—advice given by the Interim EIF Advisory Board to the Education Minister**

*Scope*

- (1) This item applies if:
- (a) before the commencement of this item:
    - (i) a committee known as the Interim EIF Advisory Board was established under the executive power of the Commonwealth; and
    - (ii) criteria known as the interim EIF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, the Board advised the Education Minister that a payment satisfies the relevant interim EIF evaluation criteria.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) immediately after the commencement of this item, the EIF Advisory Board had advised the Education Minister, under paragraph 171(1)(a) of that Act, that the payment satisfies the relevant EIF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definitions*

- (3) In this item:  
**Education Minister** has the same meaning as in the *Nation-building Funds Act 2008*.  
**EIF Advisory Board** has the same meaning as in the *Nation-building Funds Act 2008*.

#### **14 Transitional—advice given by the Interim EIF Advisory Board to the Research Minister**

##### *Scope*

- (1) This item applies if:
  - (a) before the commencement of this item:
    - (i) a committee known as the Interim EIF Advisory Board was established under the executive power of the Commonwealth; and
    - (ii) criteria known as the interim EIF evaluation criteria were published on a Commonwealth website; and
  - (b) after the publication, but before the commencement of this item, the Board advised the Research Minister that a payment satisfies the relevant interim EIF evaluation criteria.

##### *Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
  - (a) immediately after the commencement of this item, the EIF Advisory Board had advised the Research Minister, under paragraph 171(1)(b) of that Act, that the payment satisfies the relevant EIF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

##### *Definitions*

- (3) In this item:

**EIF Advisory Board** has the same meaning as in the *Nation-building Funds Act 2008*.

**Research Minister** has the same meaning as in the *Nation-building Funds Act 2008*.

#### **15 Transitional—advice given by the Higher Education Endowment Fund Advisory Board**

##### *Scope*

- (1) This item applies if:
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- (a) before the commencement of this item, the Higher Education Endowment Fund Advisory Board gave advice about a payment by way of a grant of financial assistance; and
- (b) the Board did so under section 41 of the *Higher Education Endowment Fund Act 2007*; and
- (c) in giving that advice, the Board complied with the document that:
  - (i) is entitled “Higher Education Endowment Fund (HEEF) Application and Assessment Procedures for the 2009 Funding Round”; and
  - (ii) was attached to the *Higher Education Endowment Fund Advisory Board Directions No. 1 of 2008* as in force before the commencement of this item.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
  - (a) immediately after the commencement of this item, the EIF Advisory Board had, under subsection 171(6) of that Act, given advice to the EIF designated Ministers about the payment; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definitions*

- (3) In this item:
  - EIF Advisory Board* has the same meaning as in the *Nation-building Funds Act 2008*.
  - EIF designated Ministers* has the same meaning as in the *Nation-building Funds Act 2008*.

**16 Transitional—advice given by the Interim HHEF Advisory Board to the Health Minister**

*Scope*

- (1) This item applies if:
  - (a) before the commencement of this item:

- (i) a committee known as the Interim HHF Advisory Board was established under the executive power of the Commonwealth; and
  - (ii) criteria known as the interim HHF evaluation criteria were published on a Commonwealth website; and
- (b) after the publication, but before the commencement of this item, the Board advised the Health Minister that a payment satisfies the interim HHF evaluation criteria.

*Advice*

- (2) The *Nation-building Funds Act 2008* has effect as if:
- (a) immediately after the commencement of this item, the HHF Advisory Board had advised the Health Minister, under paragraph 246(1)(a) of that Act, that the payment satisfies the HHF evaluation criteria; and
  - (b) any requirements imposed by that Act in relation to that advice had been complied with.

*Definitions*

- (3) In this item:
- Health Minister** has the same meaning as in the *Nation-building Funds Act 2008*.
- HHF Advisory Board** has the same meaning as in the *Nation-building Funds Act 2008*.

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*[Minister's second reading speech made in—  
House of Representatives on 13 November 2008  
Senate on 3 December 2008]*

(209/08)

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