

2008-2009

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

GUARANTEE OF STATE AND TERRITORY BORROWING APPROPRIATION
BILL 2009

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Treasurer, the Hon Wayne Swan MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
Central Financing Authority	<p>Means any of the following:</p> <ul style="list-style-type: none">• the New South Wales Treasury Corporation, constituted under the <i>Treasury Corporation Act 1983</i> (NSW);• the Treasury Corporation of Victoria established under the <i>Treasury Corporation of Victoria Act 1992</i> (Vic);• the Queensland Treasury Corporation originally constituted under the <i>Statutory Bodies Financial Arrangements Act 1982</i> (QLD) and continued and preserved in existence under the <i>Queensland Treasury Corporation Act 1988</i> (QLD) under the name and style "Queensland Treasury Corporation";• the Western Australian Treasury Corporation established under the <i>Western Australian Treasury Corporation Act 1986</i> (WA);• the South Australian Government Financing Authority, a corporation established under the <i>Government Financing Authority Act 1982</i> (SA);• the Tasmanian Public Finance Corporation, established under the <i>Tasmanian Public Finance Corporation Act 1985</i> (Tas);• the Northern Territory Treasury Corporation, established under the <i>Northern Territory Treasury Corporation Act 1994</i> (NT);• the Australian Capital Territory

Deed of Guarantee	The deed of guarantee executed on behalf of the Commonwealth entitled 'Deed of Guarantee in respect of the Australian Government Guarantee of State and Territory Borrowing', which is published on www.stateguarantee.gov.au .
Scheme Rules	The Scheme Rules identified in the Deed of Guarantee, which are published on www.stateguarantee.gov.au .
State(s)	The States and Territories covered by the Guarantee of State and Territory Borrowing either individually or collectively.

General outline and financial impact

Guarantee of State and Territory Borrowing

The Guarantee of State and Territory Borrowing is established in the Deed of Guarantee and the Scheme Rules.

This Bill appropriates funds to enable claims to be paid under the Deed of Guarantee in accordance with the Scheme Rules. The Bill also provides a borrowing power, should there be insufficient funds in the Consolidated Revenue Fund at the time claims are to be paid.

Date of effect: The Guarantee of State and Territory Borrowing will come into effect on the date specified in the Deed of Guarantee.

Proposal announced: 25 March 2009.

Financial impact: The expected financial impact of the Guarantee of State and Territory Borrowing is remote and unquantifiable.

Expenditure would arise under the Deed of Guarantee only in the unlikely event that a State fails to meet its obligations with respect to a commitment that is subject to the Deed of Guarantee and the Deed of Guarantee is called upon. In this case, the Government is likely to be able to recover any such expenditure through a claim on the relevant State. The impact on the Government's budget would depend on the extent of the State's default and its ability to meet the Government's claim.

Chapter 1

Guarantee of State and Territory Borrowing

Outline of chapter

1.1 The Bill provides an appropriation to enable claims to be paid under the Guarantee of State and Territory Borrowing. The Bill also provides a borrowing power, enabling money to be borrowed to pay those claims, should there be insufficient funds in the Consolidated Revenue Fund at the time claims are to be paid.

Context of amendments

1.2 On 25 March 2009, the Australian Government announced a temporary guarantee over borrowing by the States (the Guarantee of State and Territory Borrowing).

1.3 The Guarantee of State and Territory Borrowing covers securities issued by Central Financing Authorities but does not include:

- securities with a maturity length of greater than 15 years;
- securities denominated in a foreign currency;
- securities which are ‘complex’; or
- borrowings for non-government owned entities.

1.4 Guidance as to what is considered ‘complex’ can be found on the website www.stateguarantee.gov.au.

Summary of new law

1.5 The Bill provides for an appropriation enabling claims to be paid under the Deed of Guarantee in accordance with the Scheme Rules, and a borrowing power, enabling money to be borrowed to pay those claims

should there be insufficient funds in the Consolidated Revenue Fund at the time claims are to be paid.

Detailed explanation of new law

Appropriation

1.6 The Consolidated Revenue Fund is appropriated for two purposes. First, to pay claims under the Deed of Guarantee in accordance with the Scheme Rules. Second, to repay a borrowing, and to pay interest on a borrowing, made on behalf of the Commonwealth for the purpose of paying claims under the Deed of Guarantee in accordance with the Scheme Rules. *[Sections 3 and 5]*

Borrowing

1.7 The Minister may, on behalf of the Commonwealth, borrow money for the purpose of paying claims under the Deed of Guarantee in accordance with the Scheme Rules *[Subsection 6(1)]*. This power is provided because money may need to be borrowed if there are insufficient funds in the Consolidated Revenue Fund to pay claims at the time those claims are to be paid. Borrowed money is paid into the Consolidated Revenue Fund.

1.8 The borrowing must not be for a period exceeding 24 months. Borrowing includes raising money or obtaining credit, whether by dealing in securities or otherwise. *[Subsections 6(2) and (3)]*

Other provisions

1.9 The Act may be cited as the *Guarantee of State and Territory Borrowing Appropriation Act 2009*. *[Section 1]*

1.10 The Act will commence on the day on which it receives Royal Assent. *[Section 2]*

1.11 Payments may be made under the Deed of Guarantee in accordance with the Scheme Rules either inside or outside Australia *[Sections 4 and 5]*. Money may be borrowed, for the purpose of paying claims under the Deed of Guarantee in accordance with the Scheme Rules, and those borrowings repaid, either inside or outside Australia. *[Sections 4 and 6]*