

EXPLANATORY STATEMENT

Statutory Rule 1988 No 249 Issued by the Authority of the Minister for Transport and Communications

Section 116 of the Postal Services Act 1975 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted to be prescribed by the regulations, or which are necessary or convenient to be prescribed by the regulations, for carrying out or giving effect to the Act.

Section 82 of the Act provides that the Australian Postal Services Commission (the Commission) must obtain the Minister's approval before entering into a contract exceeding the amount of \$500,000, or if a higher amount is prescribed by regulations, that higher amount.

Regulation 56A of the Postal Services Regulations previously provided that, for the purposes of section 82 of the Act the prescribed higher amount was \$6,000,000.

Section 75A of the Act empowers the Commission to borrow money from sources other than the Commonwealth. The approval of the Treasurer is required, which approval may relate to a particular transaction or to transactions included in a specified class of transactions (subsection 75A(4)).

Subsection 78(2) provides that moneys of the Commission not immediately required for the purposes of the Commission may be invested in a manner approved by the Treasurer (paragraph 78(2)(c)).

In the course of its normal operations, the Commission makes a large number of transactions relating to money management in accordance with approvals given by the Treasurer under section 75A and subsection 78(2). An average of sixty of these transactions each month exceed the \$6,000,000 threshold set for the purposes of section 82. The Commission had not previously sought additional approval under section 82 for such transactions, relying instead on the Treasurer's approval under section 75A or subsection 78(2).

Department of Finance Circular No 1988/12 entitled "Investment and Borrowing Powers of Statutory Authorities - Need for Ministerial Approval", states that:

"Statutory authorities that are governed by a requirement to seek Ministerial approval for contracts above a specified limit should now ensure that investment or borrowing transactions above that limit receive Ministerial approval".

This Circular was based on legal advice from the Attorney-General's Department. For the Commission this had the effect that where a transaction relating to money management exceeded \$6,000,000, approval had to be obtained under section 82 of the Act in addition to any approval required under section 75A or subsection 78(2).

It was impracticable for the Commission to obtain approval from the Minister for each individual money market transaction. Further, it was considered that the requirement for the Treasurer's approval under section 75A or subsection 78(2) provided adequate supervision for these sorts of transaction.

The Government has decided that the requirement that the Commission obtain Ministerial approval to enter into contracts be removed (see Ministerial statement of 25 May 1988 by the Minister for Transport and Communications "Reshaping the Transport and Communications Government Business Enterprises" - page 34). This will require an amendment of section 82 of the Act. To allow the Commission to engage in investment and borrowing transactions in the period until the Act is amended, the Minister for Transport and Communications in consultation with the Prime Minister decided that where the Commission proposes to enter into a transaction in accordance with the approval from the Treasurer under section 75A or subsection 78(2), additional approval under section 82 will be required only where the amount involved exceeds \$50,000,000.

The statutory rule repeals regulation 56A and substitutes a new regulation which provides a dual threshold for contract approvals under section 82 of:

- . \$50,000,000 where the transaction is entered into for the purposes of section 75A or subsection 78(2); and
- . \$6,000,000 in any other case.

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