

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Commonwealth Securities and
Investment Legislation Amendment Bill
2008**

No. , 2008

(Treasury)

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

Contents

| | | |
|---|--------------------|---|
| 1 | Short title | 1 |
| 2 | Commencement | 1 |
| 3 | Schedule(s) | 2 |

Schedule 1—Commonwealth borrowing, and Commonwealth securities and investments 3

Part 1—Amendments 3

Commonwealth Inscribed Stock Act 1911 3

Financial Management and Accountability Act 1997 5

Loans Securities Act 1919 7

Part 2—Application 10

1 **A Bill for an Act to amend the law in relation to**
2 **Commonwealth borrowing, and Commonwealth**
3 **securities and investments, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

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

8 **2 Commencement**

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

1

3 Schedule(s)

2

Each Act that is specified in a Schedule to this Act is amended or

3

repealed as set out in the applicable items in the Schedule

4

concerned, and any other item in a Schedule to this Act has effect

5

according to its terms.

1
2 **Schedule 1—Commonwealth borrowing, and**
3 **Commonwealth securities and**
4 **investments**

5 **Part 1—Amendments**

6 *Commonwealth Inscribed Stock Act 1911*

7 **1 Before section 4**

8 Insert:

9 **3A Authority to borrow**

10 (1) The Treasurer may, from time to time, borrow money on behalf of
11 the Commonwealth by issuing stock denominated in Australian
12 currency.

13 (2) Nothing in this section affects the power of the Treasurer under
14 any other Act to borrow money on behalf of the Commonwealth,
15 or to issue stock or securities under this or any other Act in relation
16 to those borrowings.

17 **2 At the end of subsection 4(1)**

18 Add:

19 ; or (d) lending by the Treasurer under securities lending
20 arrangements under section 5BA of the *Loans Securities Act*
21 *1919*.

22 **3 Paragraph 4(2)(a)**

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

25 **4 After section 4**

26 Insert:

1 **5 Limit on stock and securities on issue**

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

22 **5 After section 51J**

23 Insert:

24 **51JA Delegation by Treasurer of powers under section 3A**

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

1 (2) The Treasurer must, by signed instrument, give a direction as to the
2 maximum total face value of stock and securities that may be on
3 issue under this Act and the *Loans Securities Act 1919*,
4 disregarding stock and securities of the kind mentioned in
5 subsection 5(2), in relation to borrowings under section 3A of this
6 Act and section 4 of the *Loans Redemption and Conversion Act*
7 *1921* while the direction is in force.

8 (3) In exercising the Treasurer's powers under section 3A, a delegate
9 must comply with:

- 10 (a) a direction in force under subsection (2); and
11 (b) any other direction given, by signed instrument, to the
12 delegate by the Treasurer.

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

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

18 ***Financial Management and Accountability Act 1997***

19 **6 Section 5**

20 Insert:

21 ***Department of the Treasury*** means the Department administered
22 by the Treasurer and includes:

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

28 **7 Subsection 39(2)**

29 Repeal the subsection, substitute:

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

32 **8 Subsection 39(10) (subparagraph (b)(iv) of the definition of** 33 ***authorised investment***)

- 1 Repeal the subparagraph, substitute:
2 (iv) debt instruments issued or guaranteed by the
3 government of a foreign country being debt instruments
4 with an investment grade credit rating;
5 (iva) debt instruments issued or guaranteed by a financial
6 institution whose members consist of foreign countries,
7 or of Australia and foreign countries, being debt
8 instruments with an investment grade credit rating;
9 (ivb) debt instruments denominated in Australian currency
10 with an investment grade credit rating;

11 **9 Section 62A**

12 Repeal the section, substitute:

13 **62A Treasurer may delegate powers**

- 14 (1) The Treasurer may, by signed instrument, delegate to any of the
15 following officials of the Department of the Treasury any of the
16 Treasurer's powers or functions under this Act:
17 (a) an official who is an SES employee;
18 (b) an official who is an APS employee who holds or performs
19 the duties of an Executive Level 2, or equivalent, position;
20 (c) an official who occupies an office or position at an equivalent
21 level to that of an SES employee, or an Executive Level 2.
- 22 (2) The Treasurer may, by signed instrument, give directions in
23 relation to either or both of the following:
24 (a) the class or classes of authorised investment in which public
25 money may be invested;
26 (b) matters of risk and return.
- 27 (3) The Treasurer must not give a direction under subsection (2) that
28 has the purpose, or has or is likely to have the effect, of directly or
29 indirectly requiring a delegate or delegates to allocate financial
30 assets to a particular company, partnership, trust, body politic or
31 business.
- 32 (4) If, at any time, a delegation is in force under subsection (1), there
33 must be at least one direction in force under subsection (2).
- 34 (5) In exercising powers or functions under a delegation, a delegate
35 must comply with:
-

- 1 (a) a direction in force under subsection (2); and
2 (b) any other direction given, by signed instrument, to the
3 delegate by the Treasurer.

4 (6) The Treasurer must table a direction given under subsection (2) or
5 paragraph (5)(b) in each House of the Parliament no later than 15
6 sitting days of that House after it is given.

7 (7) In this section:

8 *authorised investment* has the same meaning as in paragraph (b) of
9 the definition of *authorised investment* in subsection 39(10).

10 ***Loans Securities Act 1919***

11 **10 After section 5B**

12 Insert:

13 **5BA Power to enter into securities lending arrangements**

14 (1) The Treasurer may, from time to time, enter into securities lending
15 arrangements, on behalf of the Commonwealth, by lending stock
16 and securities issued under the *Commonwealth Incribed Stock Act*
17 *1911*, and denominated in Australian currency.

18 (2) The total face value of stock and securities on loan by the
19 Treasurer at any time under securities lending arrangements
20 entered into under subsection (1) must not exceed \$5 billion.

21 (3) The Treasurer must not lend stock or securities under securities
22 lending arrangements entered into under subsection (1) unless the
23 Treasurer receives collateral of one or more of the following kinds:

- 24 (a) cash;
25 (b) debt instruments denominated in Australian currency with an
26 investment grade credit rating;
27 (c) collateral of the kind mentioned in paragraph (b), where the
28 instrument is in electronic form;
29 (d) a deposit with a bank, including a deposit evidenced by a
30 certificate of deposit;
31 (e) any other collateral prescribed by the regulations.

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

11 **11 After section 5D**

12 Insert:

13 **5E Delegation of powers and functions under section 5BA**

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

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

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

1

2 **Part 2—Application**

3 **12 Application of items 1 and 5**

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

6 **13 Application of items 2 and 3**

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

9 **14 Application of item 4**

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

14 **15 Application of items 6 to 9**

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

17 **16 Application of items 10 and 11**

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