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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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## **Higher Education Endowment Fund Bill 2007**

**No.     , 2007**

*(Education, Science and Training)*

**A Bill for an Act about the Higher Education  
Endowment Fund, and for related purposes**



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# Contents

<b>Part 1—Introduction</b>	1
1 Short title .....	1
2 Commencement .....	1
3 Object .....	2
4 Simplified outline .....	2
5 Definitions .....	3
6 Financial assets .....	6
7 Crown to be bound .....	7
8 Extension to external Territories .....	7
9 Extra-territorial application .....	7
<b>Part 2—The Higher Education Endowment Fund</b>	8
<b>Division 1—Introduction</b>	8
10 Simplified outline .....	8
<b>Division 2—Establishment of the Higher Education Endowment Fund etc.</b>	9
11 Establishment of the Higher Education Endowment Fund .....	9
12 Establishment of the Higher Education Endowment Fund Special Account .....	9
<b>Division 3—Credits of amounts to the Higher Education Endowment Fund</b>	10
13 Initial credit of \$5 billion to the Fund Account .....	10
14 Subsequent credits of amounts to the Fund Account—determinations by the responsible Ministers .....	10
15 Credit of amounts to the Fund Account—gifts .....	10
<b>Division 4—Debits of amounts from the Higher Education Endowment Fund</b>	12
16 Purposes of the Fund Account .....	12
17 Future Fund Board must ensure that there is sufficient money in the Fund Account to cover authorised grants etc. ....	14
<b>Division 5—Transfers between the Higher Education Endowment Fund and the Future Fund</b>	15
18 Transfers from the Future Fund to the Higher Education Endowment Fund .....	15
19 Transfers from the Higher Education Endowment Fund to the Future Fund .....	15

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<b>Part 3—Investment of the Higher Education Endowment Fund</b>	16
20	Simplified outline ..... 16
21	Objects of investment of the Fund..... 16
22	Investment of the Fund..... 17
23	Management of investments of the Fund..... 17
24	Higher Education Endowment Fund Investment Mandate ..... 17
25	Limitation on Higher Education Endowment Fund Investment Mandate ..... 19
26	Future Fund Board to be consulted on Higher Education Endowment Fund Investment Mandate ..... 20
27	Compliance with Higher Education Endowment Fund Investment Mandate ..... 21
28	Future Fund Board must not trigger the takeover provisions of the <i>Corporations Act 2001</i> ..... 22
29	Borrowing..... 22
30	Higher Education Endowment Fund investment policies ..... 23
31	Derivatives..... 24
32	Additional financial assets..... 24
33	Securities lending arrangements ..... 25
34	Investment managers ..... 25
35	Custody of securities ..... 26
36	Refund of franking credits ..... 26
37	Realisation of non-financial assets ..... 26
38	Additional function of the Future Fund Board..... 27
<b>Part 4—Grants of financial assistance to eligible higher education institutions</b>	28
<b>Division 1—Introduction</b>	28
39	Simplified outline ..... 28
<b>Division 2—Higher Education Endowment Fund Advisory     Board</b>	30
40	Higher Education Endowment Fund Advisory Board ..... 30
41	Function of the Advisory Board ..... 30
42	Remuneration and allowances ..... 31
43	Disclosure of interests ..... 31
44	Resignation..... 31
<b>Division 3—Authorisation of grants</b>	33
45	Authorisation of grants ..... 33
46	Limits on authorisation of grants ..... 33
47	Maximum Grants Rules..... 34
48	Calculation of maximum grants amount..... 35

---

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49	Accumulated nominal earnings .....	36
<b>Division 4—Terms and conditions of grants</b>		<b>37</b>
50	Terms and conditions of grants of financial assistance to eligible higher education institutions .....	37
<b>Part 5—Reporting obligations</b>		<b>38</b>
51	Nominated Minister may require Future Fund Board to prepare reports or give information .....	38
52	Keeping the responsible Ministers informed etc.....	39
<b>Part 6—Miscellaneous</b>		<b>40</b>
53	Higher Education Endowment Fund Investment Mandate and Maximum Grant Rules—additional obligations of responsible Ministers .....	40
54	Nominated Minister .....	41
55	Delegation by the Education Minister .....	41
56	Delegation by the Finance Minister .....	42
57	Regulations .....	42



1 **A Bill for an Act about the Higher Education**  
2 **Endowment Fund, and for related purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Introduction**  
5

6 **1 Short title**

7 This Act may be cited as the *Higher Education Endowment Fund*  
8 *Act 2007*.

9 **2 Commencement**

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

Section 3

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1     **3 Object**

2             The object of this Act is to enhance the Commonwealth's ability  
3             to:

- 4             (a) make grants of financial assistance to eligible higher  
5                 education institutions in relation to capital expenditure; and  
6             (b) make grants of financial assistance to eligible higher  
7                 education institutions in relation to research facilities.

8     **4 Simplified outline**

9             The following is a simplified outline of this Act:

- |    |   |
|----|---|
| 10 | • This Act sets up the Higher Education Endowment Fund          |
| 11 | which consists of:  |
| 12 | (a) the Higher Education Endowment Fund Special                 |
| 13 | Account; and  |
| 14 | (b) the investments of the Higher Education                     |
| 15 | Endowment Fund.   |
| 16 | • The main purposes of the Higher Education Endowment Fund      |
| 17 | Special Account are:  |
| 18 | (a) to make grants of financial assistance to eligible          |
| 19 | higher education institutions in relation to capital            |
| 20 | expenditure; and  |
| 21 | (b) to make grants of financial assistance to eligible          |
| 22 | higher education institutions in relation to research           |
| 23 | facilities.   |
| 24 | • This Act establishes the Higher Education Endowment Fund      |
| 25 | Advisory Board to advise the Education Minister about grants.   |
| 26 | • The Education Minister is responsible for authorising grants. |



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- The total amount of grants authorised in a financial year must not exceed the maximum grants amount calculated in accordance with the Maximum Grants Rules.
  - The terms and conditions on which financial assistance is granted are to be set out in a written agreement between the Commonwealth and the eligible higher education institution concerned.
  - The Future Fund Board of Guardians is responsible for deciding how to invest the Higher Education Endowment Fund.
  - Investments of the Higher Education Endowment Fund will consist of financial assets.
  - The Future Fund Board of Guardians is bound by a Higher Education Endowment Fund Investment Mandate given to it by the responsible Ministers.

16 Note: The *Future Fund Act 2006* provides that the Future Fund Management  
17 Agency is responsible for assisting and advising the Future Fund  
18 Board of Guardians.

## 19 **5 Definitions**

20 In this Act:

21 ***accumulated nominal earnings*** of the Fund has the meaning given  
22 by section 49.

23 ***Advisory Board*** means the Higher Education Endowment Fund  
24 Advisory Board established under section 40.

25 ***Agency*** means the Future Fund Management Agency.

26 ***asset*** means:

- 27 (a) any kind of real or personal property; or  
28 (b) any legal or equitable estate or interest in real or personal  
29 property; or  
30 (c) any legal or equitable right.

Section 5

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- 1                    **balance of the Fund** means the sum of:
- 2                    (a) amounts standing to the credit of the Fund Account; and
- 3                    (b) the value of investments of the Fund.
- 4                    **bank** has the same meaning as in the *Financial Management and*
- 5                    *Accountability Act 1997*.
- 6                    **business entity** means:
- 7                    (a) a company; or
- 8                    (b) a partnership; or
- 9                    (c) a trust; or
- 10                   (d) a body politic.
- 11                   **Chair** means the Chair of the Future Fund Board.
- 12                   **derivative** means a derivative (within the meaning of Chapter 7 of
- 13                   the *Corporations Act 2001*) that is a financial asset.
- 14                   **Education Minister** means the Minister responsible for
- 15                   administering the *Higher Education Support Act 2003*.
- 16                   **eligible higher education institution** means:
- 17                   (a) a Table A provider (within the meaning of the *Higher*
- 18                   *Education Support Act 2003*); or
- 19                   (b) a Table B provider (within the meaning of that Act).
- 20                   **Finance Department** means the Department administered by the
- 21                   Finance Minister.
- 22                   **Finance Minister** has the same meaning as in the *Financial*
- 23                   *Management and Accountability Act 1997*.
- 24                   **financial asset** has the meaning given by section 6.
- 25                   **Fund** means the Higher Education Endowment Fund established
- 26                   by section 11.
- 27                   **Fund Account** means the Higher Education Endowment Fund
- 28                   Special Account established by section 12.
- 29                   **Future Fund Board** means the Future Fund Board of Guardians.

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Section 5

1           **Future Fund Board member** means a member of the Future Fund  
2 Board, and includes the Chair.

3           **Future Fund Special Account** means the Future Fund Special  
4 Account established by section 12 of the *Future Fund Act 2006*.

5           **GFS Australia** means the publication of the Australian Bureau of  
6 Statistics known as Australian System of Government Finance  
7 Statistics: Concepts, Sources and Methods, as updated from time to  
8 time. This updating takes 2 forms:

- 9           (a) from time to time, a new version of the publication is  
10 produced;
- 11           (b) from time to time, material in the current version of the  
12 publication is updated by other publications of the Australian  
13 Bureau of Statistics.

14           **GFS system** has the same meaning as in GFS Australia.

15           **Government contribution to the Fund Account** means:

- 16           (a) the amount credited to the Fund Account under section 13; or  
17           (b) an amount credited to the Fund Account under section 14.

18           **Higher Education Endowment Fund investment function** of the  
19 Future Fund Board means:

- 20           (a) a function or power conferred on the Future Fund Board by  
21 section 22, 23, 29, 31, 33 or 34; or  
22           (b) a right or power conferred on the Future Fund Board in its  
23 capacity as the holder of an investment of the Fund.

24           **Higher Education Endowment Fund Investment Mandate** has the  
25 meaning given by subsection 24(4).

26           **investment** means any mode of application of money or financial  
27 assets for the purpose of gaining a return (whether by way of  
28 income, capital gain or any other form of return).

29           **investment manager** means a person or body (other than the  
30 Agency) who undertakes to do any or all of the following:

- 31           (a) invest amounts on behalf of the Future Fund Board;  
32           (b) manage the investment of funds on behalf of the Future Fund  
33 Board;

Section 6

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- 1 (c) acquire derivatives on behalf of the Future Fund Board;  
2 (d) manage derivatives on behalf of the Future Fund Board;  
3 (e) enter into securities lending arrangements on behalf of the  
4 Future Fund Board;  
5 (f) realise financial assets on behalf of the Future Fund Board;  
6 (g) perform custodial functions in relation to the financial assets  
7 of the Future Fund Board.

8 **investment of the Fund** means a financial asset that, under a  
9 provision of this Act, is taken to be an investment of the Fund.

10 **Maximum Grants Rules** means the rules made under section 47.

11 **nominated Minister** has the meaning given by section 54.

12 **person** (except in Part 4) includes a partnership.

13 Note: See also paragraph 22(1)(a) of the *Acts Interpretation Act 1901*.

14 **realise** includes redeem or dispose of.

15 **responsible Ministers** means:

- 16 (a) the Treasurer; and  
17 (b) the Finance Minister.

18 **securities lending arrangement** means an agreement of the kind  
19 known as a securities lending arrangement.

20 **value** of an investment of the Fund means the market value of the  
21 investment. For this purpose, disregard anything that would  
22 prevent or restrict conversion of a financial asset to money.

23 **6 Financial assets**

24 A reference in this Act to a **financial asset** is a reference to:

- 25 (a) an asset that, in accordance with GFS Australia, is treated as  
26 a financial asset for the purposes of the GFS system in  
27 Australia; or  
28 (b) an asset specified in regulations made for the purposes of this  
29 paragraph;

1 but does not include a reference to an asset that, under the  
2 regulations, is taken to be a non-financial asset for the purposes of  
3 this Act.

4 Note: For specification by class, see subsection 13(3) of the *Legislative*  
5 *Instruments Act 2003*.

6 **7 Crown to be bound**

7 (1) This Act binds the Crown in each of its capacities.

8 (2) This Act does not make the Crown liable to be prosecuted for an  
9 offence.

10 **8 Extension to external Territories**

11 This Act extends to every external Territory.

12 **9 Extra-territorial application**

13 This Act extends to acts, omissions, matters and things outside  
14 Australia (unless the contrary intention appears).

Section 10

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2 **Part 2—The Higher Education Endowment Fund**

3 **Division 1—Introduction**

4 **10 Simplified outline**

5 The following is a simplified outline of this Part:

- 6
- 7 • This Part sets up the Higher Education Endowment Fund.
  - 8 • The Higher Education Endowment Fund consists of:
    - 9 (a) the Higher Education Endowment Fund Special Account; and
    - 10 (b) the investments of the Higher Education
    - 11 Endowment Fund.
  - 12 • An initial amount of \$5 billion must be credited to the Fund
  - 13 Account.
  - 14 • The responsible Ministers may determine that additional
  - 15 amounts are to be credited to the Fund Account.
  - 16 • Amounts may be debited from the Fund Account in
  - 17 accordance with the purposes of the Fund Account.
  - 18 • The main purposes of the Fund Account are:
    - 19 (a) to make grants of financial assistance to eligible
    - 20 higher education institutions in relation to capital
    - 21 expenditure; and
    - 22 (b) to make grants of financial assistance to eligible
    - 23 higher education institutions in relation to research
    - 24 facilities.

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**Division 2—Establishment of the Higher Education  
Endowment Fund etc.**

**11 Establishment of the Higher Education Endowment Fund**

- (1) The Higher Education Endowment Fund is established by this section.
- (2) The Higher Education Endowment Fund consists of:
  - (a) the Higher Education Endowment Fund Special Account; and
  - (b) the investments of the Fund.

**12 Establishment of the Higher Education Endowment Fund Special  
Account**

- (1) The Higher Education Endowment Fund Special Account is established by this section.
- (2) The Fund Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

Note 1: **Fund Account** means the Higher Education Endowment Fund Special Account—see section 5.

Note 2: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a Special Account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to that Special Account.

Section 13

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2 **Division 3—Credits of amounts to the Higher Education**  
3 **Endowment Fund**

4 **13 Initial credit of \$5 billion to the Fund Account**

- 5 (1) As soon as practicable after the commencement of this Act, the  
6 responsible Ministers must:
- 7 (a) by writing, determine that \$5 billion is to be credited to the  
8 Fund Account on a specified day; or
  - 9 (b) by writing, determine that \$5 billion is to be credited to the  
10 Fund Account in specified instalments on specified days.
- 11 (2) A determination under subsection (1) is irrevocable.
- 12 (3) A determination under subsection (1) is a legislative instrument,  
13 but section 42 (disallowance) of the *Legislative Instruments Act*  
14 *2003* does not apply to the determination.

15 **14 Subsequent credits of amounts to the Fund Account—**  
16 **determinations by the responsible Ministers**

- 17 (1) The responsible Ministers may, by writing, determine that:
- 18 (a) a specified amount is to be credited to the Fund Account on a  
19 specified day; or
  - 20 (b) a specified amount is to be credited to the Fund Account in  
21 specified instalments on specified days.
- 22 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
23 *Interpretation Act 1901*.
- 24 (2) A determination under subsection (1) is a legislative instrument,  
25 but section 42 (disallowance) of the *Legislative Instruments Act*  
26 *2003* does not apply to the determination.

27 **15 Credit of amounts to the Fund Account—gifts**

- 28 (1) The Future Fund Board may accept a gift of money made for the  
29 purposes of the Fund if the acceptance of the gift is authorised  
30 under subsection (2).



Section 15

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1 (2) The Education Minister may, by writing, authorise the acceptance  
2 under subsection (1) of a specified gift.

3 Note: For specification by class, see subsection 13(3) of the *Legislative*  
4 *Instruments Act 2003*.

5 (3) An amount accepted under subsection (1) is to be credited to the  
6 Fund Account.

7 (4) An instrument under subsection (2) is a legislative instrument, but  
8 section 42 (disallowance) of the *Legislative Instruments Act 2003*  
9 does not apply to the instrument.

Section 16

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2 **Division 4—Debits of amounts from the Higher Education**  
3 **Endowment Fund**

4 **16 Purposes of the Fund Account**

5 *Grants purposes and purposes related exclusively to the Fund*

6 (1) Each of the following is a purpose of the Fund Account:

- 7 (a) making grants of financial assistance to eligible higher  
8 education institutions in relation to capital expenditure, so  
9 long as the grants are authorised under subsection 45(1);
- 10 (b) making grants of financial assistance to eligible higher  
11 education institutions in relation to research facilities, so long  
12 as the grants are authorised under subsection 45(2);
- 13 (c) paying the costs of, or incidental to, the acquisition of  
14 financial assets under section 22;
- 15 (d) paying expenses of an investment of the Fund;
- 16 (e) paying the costs of, or incidental to, the acquisition of  
17 derivatives under section 31;
- 18 (f) paying or discharging the costs, expenses and other  
19 obligations incurred by the Future Fund Board under a  
20 contract between the Future Fund Board and an investment  
21 manager engaged under subsection 34(1);
- 22 (g) paying or discharging the costs, expenses and other  
23 obligations incurred in connection with the establishment,  
24 maintenance or operation of a bank account of the Future  
25 Fund Board, where the bank account relates exclusively to  
26 the Fund;
- 27 (h) paying a premium in respect of a contract of insurance  
28 entered into by the Future Fund Board exclusively in  
29 connection with the Fund;
- 30 (i) paying or discharging any other costs, expenses, obligations  
31 or liabilities incurred by the Future Fund Board exclusively  
32 in connection with the Fund.

33 Note: See section 21 of the *Financial Management and Accountability Act*  
34 *1997* (debits from Special Accounts).

1 (2) Paragraph (1)(a) does not limit paragraph (1)(b).

2 (3) Paragraph (1)(b) does not limit paragraph (1)(a).

3 *Purposes not related exclusively to the Fund*

4 (4) Each of the following is a purpose of the Fund Account:

5 (a) paying or discharging the costs, expenses and other  
6 obligations incurred in connection with the establishment,  
7 maintenance or operation of a bank account of the Future  
8 Fund Board, where those costs, expenses or obligations are  
9 not covered by:

10 (i) paragraph (1)(g); or

11 (ii) paragraph 2(1)(g) of Schedule 2 to the *Future Fund Act*  
12 *2006*;

13 (b) paying a premium in respect of a contract of insurance  
14 entered into by the Future Fund Board, where the premium is  
15 not covered by:

16 (i) paragraph (1)(h); or

17 (ii) paragraph 2(1)(h) of Schedule 2 to the *Future Fund Act*  
18 *2006*;

19 (c) paying or discharging any other costs, expenses, obligations  
20 or liabilities incurred by the Future Fund Board, where the  
21 costs, expenses, obligations or liabilities are not covered by:

22 (i) a paragraph of subsection (1); or

23 (ii) a paragraph of subclause 2(1) of Schedule 2 to the  
24 *Future Fund Act 2006*;

25 (d) paying remuneration and allowances of Future Fund Board  
26 members;

27 (e) paying remuneration, and other employment-related costs  
28 and expenses, in respect of members of the staff of the  
29 Agency;

30 (f) paying or discharging the costs, expenses and other  
31 obligations incurred by the Commonwealth under a contract  
32 entered into under section 78 or 82 of the *Future Fund Act*  
33 *2006*;

**Part 2** The Higher Education Endowment Fund

**Division 4** Debits of amounts from the Higher Education Endowment Fund

Section 17

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1 (g) paying or discharging the costs, expenses and other  
2 obligations incurred by the Commonwealth in connection  
3 with the operation of the Agency.

4 Note: See section 21 of the *Financial Management and Accountability Act*  
5 1997 (debits from Special Accounts).

6 **17 Future Fund Board must ensure that there is sufficient money in**  
7 **the Fund Account to cover authorised grants etc.**

8 The Future Fund Board must take all reasonable steps to ensure  
9 that the amount of money standing to the credit of the Fund  
10 Account is sufficient to cover the debit of amounts for grants  
11 authorised, or proposed to be authorised, under subsection 45(1) or  
12 (2).

13 Note: This may require the Future Fund Board to realise an investment of  
14 the Fund in accordance with section 23.

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2 **Division 5—Transfers between the Higher Education**  
3 **Endowment Fund and the Future Fund**

4 **18 Transfers from the Future Fund to the Higher Education**  
5 **Endowment Fund**

- 6 (1) If an amount is debited from the Fund Account for a purpose  
7 mentioned in subsection 16(4), the Finance Minister may, by  
8 writing, direct that a specified amount is to be:  
9 (a) debited from the Future Fund Special Account; and  
10 (b) credited to the Fund Account;  
11 on a specified day.
- 12 (2) The specified amount must not exceed the amount debited from the  
13 Fund Account as mentioned in subsection (1).
- 14 (3) A direction under subsection (1) is not a legislative instrument.

15 **19 Transfers from the Higher Education Endowment Fund to the**  
16 **Future Fund**

- 17 (1) If an amount is debited from the Future Fund Special Account for a  
18 purpose mentioned in subclause 2(2) of Schedule 2 to the *Future*  
19 *Fund Act 2006*, the Education Minister may, by writing, direct that  
20 a specified amount is to be:  
21 (a) debited from the Fund Account; and  
22 (b) credited to the Future Fund Special Account;  
23 on a specified day.
- 24 (2) The specified amount must not exceed the amount debited from the  
25 Future Fund Special Account as mentioned in subsection (1).
- 26 (3) A direction under subsection (1) is not a legislative instrument.

Section 20

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## **Part 3—Investment of the Higher Education Endowment Fund**

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### **20 Simplified outline**

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The following is a simplified outline of this Part:

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- The Future Fund Board of Guardians is responsible for deciding how to invest the Higher Education Endowment Fund.
- Investments of the Higher Education Endowment Fund will consist of financial assets.
- Investments of the Higher Education Endowment Fund will be held in the name of the Future Fund Board.
- The Future Fund Board of Guardians is bound by a Higher Education Endowment Fund Investment Mandate given to it by the responsible Ministers.

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### **21 Objects of investment of the Fund**

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- (1) The main object of the acquisition by the Future Fund Board of a financial asset as an investment of the Fund is to enhance the Commonwealth's ability to:
  - (a) make grants of financial assistance to eligible higher education institutions in relation to capital expenditure; and
  - (b) make grants of financial assistance to eligible higher education institutions in relation to research facilities.
- (2) The ancillary objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Fund are to enhance the ability of the Commonwealth and the Future Fund Board to:
  - (a) discharge costs, expenses, obligations and liabilities; and
  - (b) make payments;

1 as mentioned in paragraphs 16(1)(c) to (i) and 16(4)(a) to (g).

## 2 **22 Investment of the Fund**

- 3 (1) The Future Fund Board may invest amounts standing to the credit  
4 of the Fund Account in any financial assets.
- 5 (2) Investments under subsection (1) are to be made in the name of the  
6 Future Fund Board.
- 7 (3) Investments under subsection (1) are taken to be investments of the  
8 Fund.
- 9 (4) This section does not authorise the acquisition of a derivative.

10 Note: For acquisition of derivatives, see section 31.

## 11 **23 Management of investments of the Fund**

- 12 (1) Income derived from an investment of the Fund is to be credited to  
13 the Fund Account.
- 14 (2) A return of capital, or any other financial distribution, relating to  
15 an investment of the Fund is to be credited to the Fund Account.
- 16 (3) The Future Fund Board may realise an investment of the Fund.
- 17 (4) Upon realisation of an investment of the Fund, the proceeds of the  
18 investment are to be credited to the Fund Account.
- 19 (5) At any time before an investment of the Fund matures, the Future  
20 Fund Board may authorise the re-investment of the proceeds upon  
21 maturity in a financial asset investment with the same entity. The  
22 new investment is taken to be an investment of the Fund.
- 23 (6) Section 39 of the *Financial Management and Accountability Act*  
24 *1997* does not apply to an investment of the Fund.

## 25 **24 Higher Education Endowment Fund Investment Mandate**

- 26 (1) The responsible Ministers may give the Future Fund Board written  
27 directions about the performance of its Higher Education

Section 24

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1 Endowment Fund investment functions, and must give at least one  
2 such direction.

3 Note 1: **Higher Education Endowment Fund investment function** is defined  
4 in section 5.

5 Note 2: For variation and revocation, see subsection 33(3) of the *Acts*  
6 *Interpretation Act 1901*.

7 Note 3: See also section 53 (additional obligations of responsible Ministers).

8 (2) Subsection (1) has effect subject to section 25.

9 (3) In giving a direction under subsection (1), the responsible  
10 Ministers must have regard to:

11 (a) maximising the return earned on the Fund over the long term,  
12 consistent with international best practice for institutional  
13 investment; and

14 (b) enhancing the Commonwealth's ability to:

15 (i) make grants of financial assistance to eligible higher  
16 education institutions in relation to capital expenditure;  
17 and

18 (ii) make grants of financial assistance to eligible higher  
19 education institutions in relation to research facilities;  
20 and

21 (c) any Maximum Grants Rules that are in force; and

22 (d) such other matters as the responsible Ministers consider  
23 relevant.

24 (4) Directions under subsection (1) are to be known collectively as the  
25 **Higher Education Endowment Fund Investment Mandate**.

26 (5) A direction under subsection (1) may set out the policies to be  
27 pursued by the Future Fund Board in relation to:

28 (a) matters of risk and return; and

29 (b) the allocation of financial assets.

30 A policy relating to the allocation of financial assets must not be  
31 inconsistent with a policy relating to matters of risk and return.

32 (6) Subsection (5) does not limit subsection (1).

33 (7) Subsection (5) has effect subject to section 25.



- 1 (8) The Higher Education Endowment Fund Investment Mandate  
2 prevails over subsection (12) to the extent of any inconsistency.
- 3 (9) The responsible Ministers must not give a direction under  
4 subsection (1) that is inconsistent with this Act (other than  
5 subsection (12)).
- 6 (10) A direction under subsection (1) must not take effect before the  
7 15th day after the day on which it is given.
- 8 (11) A direction under subsection (1) is a legislative instrument.
- 9 Note 1: Section 42 (disallowance) of the *Legislative Instruments Act 2003*  
10 does not apply to the direction—see section 44 of that Act.
- 11 Note 2: Part 6 (sunsetting) of the *Legislative Instruments Act 2003* does not  
12 apply to the direction—see section 54 of that Act.
- 13 (12) In the performance of its Higher Education Endowment Fund  
14 investment functions, the Future Fund Board must seek to:
- 15 (a) maximise the return earned on the Fund over the long term,  
16 consistent with international best practice for institutional  
17 investment; and
- 18 (b) enhance the Commonwealth's ability to:
- 19 (i) make grants of financial assistance to eligible higher  
20 education institutions in relation to capital expenditure;  
21 and
- 22 (ii) make grants of financial assistance to eligible higher  
23 education institutions in relation to research facilities.
- 24 Note: *Higher Education Endowment Fund investment function* is defined  
25 in section 5.
- 26 (13) Subsection (12) has effect subject to:
- 27 (a) this Act; and  
28 (b) a direction under subsection (1).

## 29 **25 Limitation on Higher Education Endowment Fund Investment** 30 **Mandate**

- 31 (1) The responsible Ministers must not give a direction under  
32 subsection 24(1) that has the purpose, or has or is likely to have the  
33 effect, of directly or indirectly requiring the Board to:

Section 26

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- 1 (a) invest an amount standing to the credit of the Fund Account  
2 in a particular financial asset; or  
3 (b) acquire a particular derivative; or  
4 (c) allocate financial assets to:  
5 (i) a particular business entity; or  
6 (ii) a particular activity; or  
7 (iii) a particular business.

8 (2) Paragraphs (1)(a) and (b) do not limit paragraph (1)(c).

9 **26 Future Fund Board to be consulted on Higher Education**  
10 **Endowment Fund Investment Mandate**

- 11 (1) Before giving the Future Fund Board a direction under subsection  
12 24(1), the responsible Ministers must:  
13 (a) send a draft of the direction to the Future Fund Board; and  
14 (b) invite the Future Fund Board to make a submission to the  
15 responsible Ministers on the draft direction within a time  
16 limit specified by the responsible Ministers; and  
17 (c) consider any submission that is received from the Future  
18 Fund Board within that time limit.

19 (2) If:

- 20 (a) the responsible Ministers give the Future Fund Board a  
21 direction under subsection 24(1); and  
22 (b) the Future Fund Board made a submission to the responsible  
23 Ministers on a draft of the direction within the time limit  
24 specified by the responsible Ministers;  
25 the submission is to be tabled in each House of the Parliament with  
26 the direction.

27 Note: For tabling of the direction, see section 38 of the *Legislative*  
28 *Instruments Act 2003*.

29 (3) A time limit specified under this section must be reasonable.

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**27 Compliance with Higher Education Endowment Fund  
Investment Mandate**

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2
- 3 (1) The Future Fund Board must take all reasonable steps to comply  
4 with the Higher Education Endowment Fund Investment Mandate.
- 5 (2) As soon as practicable after the Future Fund Board becomes aware  
6 that it has failed to comply with the Higher Education Endowment  
7 Fund Investment Mandate, the Future Fund Board must give the  
8 responsible Ministers a written statement:
- 9 (a) informing the responsible Ministers of the failure to comply  
10 with the Higher Education Endowment Fund Investment  
11 Mandate; and
- 12 (b) setting out the action that the Future Fund Board proposes to  
13 take in order to comply with the Higher Education  
14 Endowment Fund Investment Mandate.
- 15 (3) If the responsible Ministers are satisfied that the Future Fund  
16 Board has failed to comply with the Higher Education Endowment  
17 Fund Investment Mandate, the responsible Ministers may, by  
18 written notice given to the Future Fund Board, direct the Future  
19 Fund Board:
- 20 (a) to give the responsible Ministers, within a period specified in  
21 the notice, a written explanation for the failure to comply  
22 with the Higher Education Endowment Fund Investment  
23 Mandate; and
- 24 (b) to take action specified in the notice, within a period  
25 specified in the notice, in order to comply with the Higher  
26 Education Endowment Fund Investment Mandate.
- 27 (4) The Future Fund Board must comply with a direction under  
28 subsection (3).
- 29 (5) A failure to comply with:
- 30 (a) the Higher Education Endowment Fund Investment Mandate;  
31 or  
32 (b) a direction under subsection (3);  
33 does not affect the validity of any transaction.
- 34 (6) A direction under subsection (3) is not a legislative instrument.

Section 28

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1     **28 Future Fund Board must not trigger the takeover provisions of**  
2     **the *Corporations Act 2001***

3             (1) Subsections 606(1A) and (2A) and section 611 of the *Corporations*  
4             *Act 2001* do not apply to an acquisition by the Future Fund Board  
5             if the acquisition is the result of the performance by the Future  
6             Fund Board of its Higher Education Endowment Fund investment  
7             functions.

8             (2) A failure by the Future Fund Board to comply with section 606 of  
9             the *Corporations Act 2001* (as modified by this section) does not  
10            affect the validity of any transaction.

11            Note:     See also section 39 of the *Future Fund Act 2006* (application of the  
12            *Corporations Act 2001*).

13     **29 Borrowing**

14            (1) The Future Fund Board must not borrow money for a purpose in  
15            connection with the Fund unless the borrowing is authorised by  
16            subsection (2) or (3).

17            (2) The Future Fund Board is authorised to borrow money for a  
18            purpose in connection with the Fund if:

- 19            (a) the purpose of the borrowing is to enable the Future Fund  
20            Board to cover settlement of a transaction for the acquisition  
21            of one or more financial assets; and  
22            (b) at the time the relevant acquisition decision was made, it was  
23            likely that the borrowing would not be needed; and  
24            (c) the period of the borrowing does not exceed 7 days; and  
25            (d) if the borrowing were to take place, the total amount  
26            borrowed by the Future Fund Board would not exceed 10%  
27            of the balance of the Fund.

28            (3) The Future Fund Board is authorised to borrow money for a  
29            purpose in connection with the Fund if the borrowing takes place  
30            in such circumstances (if any) as are specified in the regulations.

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**30 Higher Education Endowment Fund investment policies**

- 1  
2 (1) The Future Fund Board must formulate written policies to be  
3 complied with by it in relation to the following matters in  
4 connection with the Fund:  
5 (a) the investment strategy for the Fund;  
6 (b) benchmarks and standards for assessing the performance of  
7 the Fund;  
8 (c) risk management for the Fund;  
9 (d) a matter relating to international best practice for institutional  
10 investment;  
11 (e) a matter specified in the regulations.

12 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
13 *Interpretation Act 1901*.

- 14 (2) The Future Fund Board must ensure that policies formulated under  
15 subsection (1) are consistent with the Higher Education  
16 Endowment Fund Investment Mandate.

17 *Publication of policies*

- 18 (3) The Future Fund Board must cause copies of policies formulated  
19 under subsection (1) to be published on the Internet.  
20 (4) The Future Fund Board must ensure that the first set of policies  
21 formulated under subsection (1) is published on the Internet as  
22 soon as practicable after the commencement of this section.

23 *Review of policies*

- 24 (5) The Future Fund Board must conduct periodic reviews of policies  
25 formulated under subsection (1).  
26 (6) If there is a change in the Higher Education Endowment Fund  
27 Investment Mandate, the Future Fund Board must review any  
28 relevant policies formulated under subsection (1).

29 *Compliance with policies*

- 30 (7) The Future Fund Board must take all reasonable steps to comply  
31 with policies formulated under subsection (1).

Section 31

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- 1 (8) A failure to comply with a policy formulated under subsection (1)  
2 does not affect the validity of any transaction.

3 *Policies*

- 4 (9) A policy formulated under subsection (1) is not a legislative  
5 instrument.

6 **31 Derivatives**

- 7 (1) The Future Fund Board may acquire a derivative for the purpose  
8 of:  
9 (a) protecting the value of an investment of the Fund (other than  
10 a derivative); or  
11 (b) protecting the return on an investment of the Fund (other than  
12 a derivative); or  
13 (c) achieving indirect exposure to financial assets (other than  
14 derivatives) for a purpose in connection with the Fund; or  
15 (d) achieving transactional efficiency for a purpose in connection  
16 with the Fund;  
17 but must not acquire a derivative for the purpose of:  
18 (e) speculation; or  
19 (f) leverage.  
20 (2) The acquisition of a derivative under subsection (1) must be  
21 consistent with the investment strategy embodied in a policy  
22 formulated by the Future Fund Board under subsection 30(1).  
23 (3) A derivative acquired under subsection (1) is to be held in the  
24 name of the Future Fund Board.  
25 (4) A derivative acquired under subsection (1) is taken to be an  
26 investment of the Fund.

27 **32 Additional financial assets**

- 28 If, as a result of:  
29 (a) the Future Fund Board's holding of an investment of the  
30 Fund; or

- 1 (b) the exercise of any rights or powers conferred on the Future  
2 Fund Board in its capacity as the holder of an investment of  
3 the Fund;  
4 the Future Fund Board becomes the holder of a financial asset, that  
5 financial asset is taken to be an investment of the Fund.

### 6 **33 Securities lending arrangements**

- 7 (1) The Future Fund Board may enter into securities lending  
8 arrangements for a purpose in connection with the Fund.
- 9 (2) Any money received by the Future Fund Board under a securities  
10 lending arrangement entered into under subsection (1) is to be  
11 credited to the Fund Account.
- 12 (3) To avoid doubt, a securities lending arrangement entered into  
13 under subsection (1) may provide for the Future Fund Board to  
14 realise an investment of the Fund.
- 15 (4) If, as the result of the operation of a securities lending arrangement  
16 entered into under subsection (1), the Future Fund Board becomes  
17 the holder of a financial asset, that financial asset is taken to be an  
18 investment of the Fund.

### 19 **34 Investment managers**

- 20 (1) The Future Fund Board may engage one or more investment  
21 managers for purposes in connection with the Fund.
- 22 (2) The Future Fund Board must not:  
23 (a) invest amounts under subsection 22(1); or  
24 (b) acquire derivatives under subsection 31(1); or  
25 (c) enter into a securities lending arrangement under subsection  
26 33(1); or  
27 (d) realise financial assets that are investments of the Fund;  
28 unless the Future Fund Board does so:  
29 (e) through an investment manager engaged by the Future Fund  
30 Board under subsection (1) of this section; or  
31 (f) in a manner approved, in writing, by the responsible  
32 Ministers.

## Section 35

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- 1 (3) The Future Fund Board must ensure that any investment manager  
2 engaged by the Future Fund Board under subsection (1) operates  
3 within this Act.
- 4 (4) The Future Fund Board must ensure that any investment manager  
5 engaged by the Future Fund Board under subsection (1) reports to:  
6 (a) the Future Fund Board; and  
7 (b) the Agency;  
8 on the state of the investments of the Fund at such times and in  
9 such manner as the Future Fund Board determines.

### 35 Custody of securities

11 Section 40 of the *Financial Management and Accountability Act*  
12 *1997* does not apply to an investment of the Fund.

### 36 Refund of franking credits

- 14 If:  
15 (a) the Future Fund Board receives a refund of a tax offset under  
16 the *Income Tax Assessment Act 1997*; and  
17 (b) the tax offset is attributable to an investment of the Fund;  
18 the refund is to be credited to the Fund Account.

19 Note 1: See also section 84B of the *Future Fund Act 2006*.

20 Note 2: For refunds of tax offsets, see Division 63 of the *Income Tax*  
21 *Assessment Act 1997*.

### 37 Realisation of non-financial assets

- 22 (1) If an asset held by the Future Fund Board as an investment of the  
23 Fund ceases to be a financial asset:  
24 (a) the Future Fund Board must realise the asset as soon as  
25 practicable after the Future Fund Board becomes aware of the  
26 cessation; and  
27 (b) this Act (other than this section) applies in relation to the  
28 asset (including in relation to the realisation of the asset) as if  
29 the asset had remained a financial asset, and an investment of  
30 the Fund, until the realisation.  
31



- 1                   (2) If an asset acquired by the Future Fund Board, purportedly as an  
2 investment of the Fund, is not a financial asset:
- 3                   (a) the Future Fund Board must realise the asset as soon as  
4 practicable after the Future Fund Board becomes aware that  
5 the asset is not a financial asset; and
- 6                   (b) this Act (other than this section) applies in relation to the  
7 asset (including in relation to the realisation of the asset) as if  
8 the asset had been a financial asset, and an investment of the  
9 Fund, from the time of its acquisition by the Future Fund  
10 Board until the realisation.

11                   **38 Additional function of the Future Fund Board**

12                   The functions of the Future Fund Board include the function of  
13 investing amounts in accordance with this Act.

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2 **Part 4—Grants of financial assistance to eligible**  
3 **higher education institutions**

4 **Division 1—Introduction**

5 **39 Simplified outline**

6 The following is a simplified outline of this Part:

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- The Higher Education Endowment Fund Advisory Board is established.
- The function of the Higher Education Endowment Fund Advisory Board is to advise the Education Minister about the following matters:
  - (a) making grants of financial assistance to eligible higher education institutions in relation to capital expenditure;
  - (b) making grants of financial assistance to eligible higher education institutions in relation to research facilities.
- The Education Minister may authorise:
  - (a) grants of financial assistance to eligible higher education institutions in relation to capital expenditure; and
  - (b) grants of financial assistance to eligible higher education institutions in relation to research facilities.
- The total amount of grants authorised in a financial year must not exceed the maximum grants amount calculated in accordance with the Maximum Grants Rules.

Section 39

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- The terms and conditions on which financial assistance is granted to an eligible higher education institution are to be set out in a written agreement between the Commonwealth and the institution.

Section 40

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2 **Division 2—Higher Education Endowment Fund Advisory**  
3 **Board**

4 **40 Higher Education Endowment Fund Advisory Board**

- 5 (1) The Higher Education Endowment Fund Advisory Board is  
6 established.
- 7 (2) The Advisory Board consists of such persons as the Education  
8 Minister from time to time appoints, by writing, to the Advisory  
9 Board.
- 10 (3) The Education Minister may terminate a person's appointment to  
11 the Advisory Board.
- 12 (4) The Education Minister may give the Advisory Board written  
13 directions as to:  
14 (a) the way in which the Advisory Board is to carry out its  
15 function; and  
16 (b) procedures to be followed in relation to meetings.
- 17 (5) A direction under subsection (4) is a legislative instrument.

18 Note 1: Section 42 (disallowance) of the *Legislative Instruments Act 2003*  
19 does not apply to the direction—see section 44 of that Act.

20 Note 2: Part 6 (sunsetting) of the *Legislative Instruments Act 2003* does not  
21 apply to the direction—see section 54 of that Act.

22 **41 Function of the Advisory Board**

- 23 (1) The function of the Advisory Board is to advise the Education  
24 Minister about matters referred to it by the Education Minister.
- 25 (2) Each matter referred to the Advisory Board must be a matter that  
26 relates to:  
27 (a) making grants of financial assistance to eligible higher  
28 education institutions in relation to capital expenditure; or  
29 (b) making grants of financial assistance to eligible higher  
30 education institutions in relation to research facilities.

1       **42 Remuneration and allowances**

- 2               (1) A member of the Advisory Board is to be paid the remuneration  
3               that is determined by the Remuneration Tribunal. If no  
4               determination of that remuneration by the Tribunal is in operation,  
5               the member is to be paid the remuneration that is determined by the  
6               Education Minister.
- 7               (2) A member of the Advisory Board is to be paid the allowances that  
8               are prescribed.
- 9               (3) This section has effect subject to the *Remuneration Tribunal Act*  
10              1973.

11       **43 Disclosure of interests**

- 12              (1) This section applies to a member of the Advisory Board who has a  
13              material personal interest in a matter being considered, or about to  
14              be considered, by the Advisory Board.
- 15              (2) The member must, as soon possible after the relevant facts have  
16              come to the member's knowledge:  
17                  (a) disclose the nature of the interest at a meeting of the  
18                  Advisory Board; and  
19                  (b) disclose the nature of the interest to the Education Minister.
- 20              (3) A disclosure under paragraph (2)(a) must be recorded in the  
21              minutes of the meeting.
- 22              (4) The Education Minister must terminate the appointment of a  
23              member of the Advisory Board if the member fails, without  
24              reasonable excuse, to comply with subsection (2).
- 25              (5) Subsection (4) does not limit subsection 40(3).

26       **44 Resignation**

- 27              (1) A member of the Advisory Board may resign his or her  
28              appointment by giving the Education Minister a written  
29              resignation.

**Part 4** Grants of financial assistance to eligible higher education institutions

**Division 2** Higher Education Endowment Fund Advisory Board

**Section 44**

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- 1                   (2) The resignation takes effect on the day it is received by the  
2                   Education Minister or, if a later day is specified in the resignation,  
3                   on that later day.

1

2 **Division 3—Authorisation of grants**

3 **45 Authorisation of grants**

4 (1) The Education Minister may, by writing, authorise a grant of  
5 financial assistance to an eligible higher education institution in  
6 relation to capital expenditure.

7 (2) The Education Minister may, by writing, authorise a grant of  
8 financial assistance to an eligible higher education institution in  
9 relation to a research facility.

10 (3) Subsection (1) does not limit subsection (2).

11 (4) Subsection (2) does not limit subsection (1).

12 (5) An instrument under subsection (1) or (2) is a legislative  
13 instrument, but section 42 (disallowance) of the *Legislative*  
14 *Instruments Act 2003* does not apply to the instrument.

15 **46 Limits on authorisation of grants**

16 (1) The Education Minister must not authorise a grant under section 45  
17 during a financial year unless the Education Minister has been  
18 given a statement under subsection 48(1) in relation to the financial  
19 year.

20 Note: A statement under subsection 48(1) sets out the result of the Future  
21 Fund Board's calculation of the maximum grants amount in relation to  
22 the financial year.

23 (2) The total amount of grants authorised under section 45 during a  
24 financial year must not exceed the result set out in the statement  
25 given to the Education Minister under subsection 48(1) in relation  
26 to the financial year.

27 (3) The Education Minister must not authorise a grant under section 45  
28 before 1 July 2008.

Section 47

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1 **47 Maximum Grants Rules**

- 2 (1) The responsible Ministers may, by writing, make rules for  
3 ascertaining the maximum amount that can be debited from the  
4 Fund Account during a financial year for the following purposes:  
5 (a) making grants of financial assistance to eligible higher  
6 education institutions in relation to capital expenditure;  
7 (b) making grants of financial assistance to eligible higher  
8 education institutions in relation to research facilities;  
9 and must make at least one such rule before 1 July 2008.

10 Note 1: For variation and revocation, see subsection 33(3) of the *Acts*  
11 *Interpretation Act 1901*.

12 Note 2: See also section 53 (additional obligations of responsible Ministers).

- 13 (2) Rules under subsection (1) are to be known as the ***Maximum***  
14 ***Grants Rules***.

15 *Criteria etc.*

- 16 (3) Subject to subsection (5), in making rules under subsection (1), the  
17 responsible Ministers must have regard to:  
18 (a) the objective that, over the medium to long term, grants  
19 authorised under section 45 should not result in the balance  
20 of the Fund falling below the real value of the Government  
21 contributions to the Fund Account; and  
22 (b) the objective of moderating volatility in maximum grants  
23 amounts from financial year to financial year;  
24 and must not have regard to any other matters.

25 Note: For ***medium to long term***, see subsection (8).

- 26 (4) The responsible Ministers must not make rules under  
27 subsection (1) that are inconsistent with this Act.

28 *Accumulated nominal earnings*

- 29 (5) The maximum amount that can be debited from the Fund Account  
30 during a financial year for the following purposes:  
31 (a) making grants of financial assistance to eligible higher  
32 education institutions in relation to capital expenditure;



- 1 (b) making grants of financial assistance to eligible higher  
2 education institutions in relation to research facilities;  
3 must not exceed the accumulated nominal earnings of the Fund as  
4 at the start of the financial year.

5 Note: For *accumulated nominal earnings*, see section 49.

6 *Consultation*

- 7 (6) Before making rules under subsection (1), the responsible  
8 Ministers must:  
9 (a) consult the Education Minister; and  
10 (b) consult the Future Fund Board in relation to any implications  
11 for the performance of Future Fund Board's Higher  
12 Education Endowment Fund investment functions.

13 *Legislative instrument*

- 14 (7) Rules made under subsection (1) are legislative instruments, but  
15 section 42 (disallowance) of the *Legislative Instruments Act 2003*  
16 does not apply to the rules.

17 *Medium to long term*

- 18 (8) For the purposes of this section, the *medium to long term* is a  
19 period of 5 years or longer.

20 **48 Calculation of maximum grants amount**

- 21 (1) As soon as practicable after the start of:  
22 (a) the financial year beginning on 1 July 2008; and  
23 (b) each later financial year;  
24 the Future Fund Board must:  
25 (c) calculate, in accordance with the Maximum Grants Rules, the  
26 maximum amount that can be debited from the Fund Account  
27 during the financial year for the following purposes:  
28 (i) making grants of financial assistance to eligible higher  
29 education institutions in relation to capital expenditure;

**Part 4** Grants of financial assistance to eligible higher education institutions

**Division 3** Authorisation of grants

**Section 49**

---

- 1 (ii) making grants of financial assistance to eligible higher  
2 education institutions in relation to research facilities;  
3 and  
4 (d) give the Education Minister a written statement setting out  
5 the result of the calculation; and  
6 (e) give each responsible Minister a copy of the statement.
- 7 (2) A statement, or a copy of a statement, given under subsection (1)  
8 may be accompanied by such comments (if any) about the  
9 calculation as the Future Fund Board considers relevant.

10 **49 Accumulated nominal earnings**

- 11 For the purposes of this Act, the *accumulated nominal earnings* of  
12 the Fund as at the start of a financial year is:  
13 (a) if the balance of the Fund as at the start of the financial year  
14 exceeds the total of the Government contributions to the  
15 Fund Account that were made before the start of the financial  
16 year—the amount of the excess; or  
17 (b) otherwise—nil.

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2 **Division 4—Terms and conditions of grants**

3 **50 Terms and conditions of grants of financial assistance to eligible**  
4 **higher education institutions**

- 5 (1) This section applies if an amount is to be debited from the Fund  
6 Account for the purpose of making a grant of financial assistance  
7 to an eligible higher education institution as mentioned in  
8 paragraph 16(1)(a) or (b).
- 9 (2) The terms and conditions on which that financial assistance is  
10 granted are to be set out in a written agreement between the  
11 Commonwealth and the eligible higher education institution.
- 12 (3) An agreement under subsection (2) may be entered into by the  
13 Education Minister on behalf of the Commonwealth.

Section 51

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**Part 5—Reporting obligations**

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**51 Nominated Minister may require Future Fund Board to prepare reports or give information**

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*Reports*

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(1) The nominated Minister may, by written notice given to the Future Fund Board, require the Future Fund Board to:

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(a) prepare a report about one or more specified matters relating to the performance of the Future Fund Board's functions under this Act; and

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(b) give copies of the report to the nominated Minister within the period specified in the notice.

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*Information*

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(2) The nominated Minister may, by written notice given to the Future Fund Board, require the Future Fund Board to:

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(a) prepare a document setting out specified information relating to the performance of the Future Fund Board's functions under this Act; and

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(b) give copies of the document to the nominated Minister within the period specified in the notice.

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*Compliance*

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(3) The Future Fund Board must comply with a requirement under subsection (1) or (2).

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*Publication of reports and documents*

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(4) The nominated Minister may cause to be published (whether on the Internet or otherwise):

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28

(a) a report under subsection (1); or

29

(b) a document under subsection (2).

1                    *Reports and documents*

2                    (5) A report under subsection (1) is not a legislative instrument.

3                    (6) A document under subsection (2) is not a legislative instrument.

4                    **52 Keeping the responsible Ministers informed etc.**

5                    (1) The Future Fund Board must keep the responsible Ministers  
6                    informed of the operations of the Future Fund Board under this  
7                    Act.

8                    (2) The Future Fund Board must give the nominated Minister such  
9                    reports, documents and information in relation to those operations  
10                    as are appropriate.

Section 53

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**Part 6—Miscellaneous**

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**53 Higher Education Endowment Fund Investment Mandate and  
Maximum Grant Rules—additional obligations of  
responsible Ministers**

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*Higher Education Endowment Fund Investment Mandate*

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(1) If the responsible Ministers propose to:

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(a) give a direction under subsection 24(1); or

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(b) vary or revoke a direction given under subsection 24(1);

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the responsible Ministers must:

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(c) consider whether they should:

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(i) make rules under subsection 47(1); or

14

(ii) vary or revoke rules made under subsection 47(1); and

15

(d) consult the Future Fund Board about whether the responsible  
Ministers should:

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(i) make rules under subsection 47(1); or

18

(ii) vary or revoke rules made under subsection 47(1).

19

*Maximum Grant Rules*

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(2) If the responsible Ministers propose to:

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(a) make rules under subsection 47(1); or

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(b) vary or revoke rules made under subsection 47(1);

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the responsible Ministers must:

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(c) consider whether they should:

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(i) give a direction under subsection 24(1); or

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(ii) vary or revoke a direction given under subsection 24(1);  
and

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(d) consult the Future Fund Board about whether the responsible  
Ministers should:

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(i) give a direction under subsection 24(1); or

31

(ii) vary or revoke a direction given under subsection 24(1).

**54 Nominated Minister**

- 1
- 2 (1) As soon as practicable after the commencement of this Act, the  
3 responsible Ministers must, by writing, determine that one of them  
4 is to be the *nominated Minister* for the purposes of this Act.
- 5 (2) A determination under subsection (1) may be varied, but not  
6 revoked, in accordance with subsection 33(3) of the *Acts*  
7 *Interpretation Act 1901*.
- 8 (3) A determination under subsection (1) is not a legislative  
9 instrument.
- 10 (4) The nominated Minister may give the other responsible Minister:  
11 (a) a report under subsection 51(1) or 52(2); or  
12 (b) a document under subsection 51(2) or 52(2); or  
13 (c) any other information or document obtained by the  
14 nominated Minister under this Act.
- 15 (5) As soon as practicable after receiving:  
16 (a) a report under subsection 51(1) or 52(2); or  
17 (b) a document under subsection 51(2) or 52(2); or  
18 (c) any other document or information under this Act;  
19 the nominated Minister must give a copy of the report, document  
20 or other document or information, as the case may be, to the  
21 Education Minister.

**55 Delegation by the Education Minister**

- 22
- 23 (1) The Education Minister may, by writing, delegate any or all of his  
24 or her powers under section 15, 19, 45 or 50 to:  
25 (a) the Secretary of the Department; or  
26 (b) an SES employee, or acting SES employee, in the  
27 Department.
- 28 Note: The expressions *SES employee* and *acting SES employee* are defined  
29 in section 17AA of the *Acts Interpretation Act 1901*.
- 30 (2) In exercising powers under a delegation, the delegate must comply  
31 with any directions of the Education Minister.

Section 56

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1       **56 Delegation by the Finance Minister**

- 2               (1) The Finance Minister may, by writing, delegate his or her power  
3               under section 18 to:  
4               (a) an SES employee, or acting SES employee, in the Agency; or  
5               (b) the Chair.

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

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

10       **57 Regulations**

- 11               The Governor-General may make regulations prescribing matters:  
12               (a) required or permitted to be prescribed by this Act; or  
13               (b) necessary or convenient to be prescribed for carrying out or  
14               giving effect to this Act.