

1994

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

FINANCIAL AGREEMENT BILL 1994

EXPLANATORY MEMORANDUM

Circulated by the authority of the Chief Minister and Treasurer

Rosemary Follett MLA

FINANCIAL AGREEMENT BILL 1994

OUTLINE

1. The Bill approves a new Financial Agreement - the *Financial Agreement Between the Commonwealth, States and Territories*.
2. The new Financial Agreement provides for the continued existence of a Loan Council, with broadly specified role and powers, and sets out certain obligations in respect of past borrowings. It provides for formal membership of Loan Council for the Australian Capital Territory and the Northern Territory, and removes what have been obsolete provisions under the present Agreement and simplifies administration.
3. The new Agreement has been made pursuant to Loan Council's decision to amend the *Financial Agreement Between the Commonwealth and the States* to:
 - abolish the restriction on States borrowing in their own names;
 - to remove the Commonwealth's explicit power to borrow on behalf of the States;
 - to remove the requirement for future Commonwealth and State borrowings to be approved under the provisions of the Agreement;
 - to remove references to the National Debt Sinking Fund (NDSF); and
 - to include the Australian Capital Territory and the Northern Territory as members of Loan Council and as parties to the Financial Agreement.
4. The original *Financial Agreement Between the Commonwealth and the States* was made in 1927 and approved under the Commonwealth's *Financial Agreement Act 1928* and by the Parliament of each State. The Agreement established the Loan Council and required the Commonwealth and each State to submit an annual borrowing program for Loan Council approval. The Agreement provided that sinking funds established in respect of the States' debt were placed under the control of the National Debt Commission, which was constituted by the *National Debt Sinking Fund Act 1923* and continued under the *National Debt Sinking Fund Act 1966*.
5. Under Section 105A(4) of the Constitution, the parties to the Agreement are empowered to vary or rescind the Agreement. It is proposed that the Agreement, as varied, be rescinded, as provided in clause 16(1). The new Agreement recognises that Loan Council scrutiny of public sector borrowings has for many years taken place under voluntary arrangements rather than the provisions of the Agreement. The Commonwealth has undertaken no new money borrowings on behalf of the States since 1987-88.
6. The new Agreement will be given effect by the passage of complementary Commonwealth, State and Territory legislation and will not become effective until legislation has been enacted in all jurisdictions.

IMPLICATIONS FOR THE A.C.T.

7. The Bill provides for ACT membership of the Loan Council.
8. The Bill has a large number of other clauses which do not relate to the ACT. These clauses refer to debt redemption arrangements between the Commonwealth and the States and the Northern Territory for past borrowings undertaken on their behalf by the Commonwealth under the previous Financial Agreement. Such clauses specifically relate to the establishment of a Debt Retirement Reserve Trust Account (DRRTA) to replace those which have operated through the former NDSF.
9. The ACT was not a party to the former Agreement nor to the NDSF arrangements. The ACT repays both historical and new market debt raised on its behalf by the Commonwealth directly to the Consolidated Revenue Fund of the Commonwealth.
10. The relevant clauses are:

Clauses 5-15 inclusive.

NOTES ON CLAUSES

THE BILL

Clause 1 - Short Title

Clause 2 - Commencement

Clause 3 - Interpretation

Clause 4 - Approval of Agreement

1. These clauses are self-explanatory.

SCHEDULE TO THE BILL

Clause 1

2. Sub-clause (1) provides that, for the new Agreement to become effective, the Parliaments of all parties to the Agreement must pass complementary legislation.

Clause 3

3. Self explanatory.

Clause 4

4. Clause 4 provides for the continued existence of the Loan Council and sets down its basic operating conditions, including in relation to membership and substitute membership, convening and chairing of meetings, and the quorum for meetings. Clause 4(9) provides Loan Council with powers to make resolutions in relation to borrowings, raisings and other financial arrangements of public sector entities.

Clauses 5-15

5. These clauses do not relate to the ACT.

Clause 16

6. This clause provides generally for the rescinding of the Principal Agreement with effect from the date on which the new Agreement comes into effect.