

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

COMMONWEALTH GUARANTEES (CHARGES) BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by the Authority of the Treasurer,  
the Hon P.J. Keating, MP)



## COMMONWEALTH GUARANTEES (CHARGES) BILL 1986

## GENERAL OUTLINE AND MAIN PURPOSE

The purpose of the Bill is to give effect to the decision by the Government, announced by the Treasurer in the 1986 Budget Speech, that from 1986-87 an annual charge should be applied to borrowings or other raisings of money by Commonwealth semi-government authorities which are guaranteed by the Commonwealth.

The Bill provides that borrowings or raisings of money otherwise than by borrowing undertaken on 1 July 1986 or thereafter by authorities (listed in the Schedule to the Bill) which carry an explicit Commonwealth Government guarantee may attract a charge at a rate not exceeding 0.5 per cent per annum. Under the Bill, the Treasurer is given the power to determine the extent to which borrowings or raisings of money by an authority will be subject to a charge and if so, the level of that charge and the time and manner in which it is payable.

Estimates prepared since the 1986 Budget Speech indicate that the Commonwealth guarantee charge is expected to raise about \$3.4 million in 1986-87.

NOTES ON CLAUSES

CLAUSE 1 - SHORT TITLE

Self explanatory.

CLAUSE 2 - COMMENCEMENT

Self explanatory.

CLAUSE 3 - INTERPRETATION

Clause 3 defines terms relevant to the definition of borrowings and raisings of money otherwise than by borrowing which may be subject to a charge.

Sub-clause 3(1) provides a broad definition of securities including stocks, debentures, bonds, promissory notes, bills of exchange and similar financial instruments.

Sub-clause 3(2) defines the phrase "dealing with securities" to involve a broad range of financial transactions involving securities.

Sub-clause 3(3) provides that a raising of money otherwise than by borrowing includes the issue by an authority of an instrument acknowledging a debt in consideration of a payment

or deposit of money and the provision or obtaining of credit otherwise than in the ordinary course of day-to-day operations of the authority. This sub-clause does not apply to Commonwealth financial institutions (the Australian Industry Development Corporation, Commonwealth Bank of Australia, Commonwealth Development Bank of Australia, Commonwealth Savings Bank of Australia) for which the raising of money otherwise than by borrowing represents part of the day to day operations of the institutions. It also does not apply to wholly-owned subsidiaries of the Australian National Airlines Commission and the Federal Airports Corporation, which are covered by sub-clause 3(4).

Sub-clause 3(4) provides that a borrowing by a wholly-owned subsidiary of either the Australian National Airlines Commission or the Federal Airports Corporation includes the issue of an instrument acknowledging a debt in consideration of a payment or deposit of money and the provision or obtaining of credit.

Sub-clause 3(5) provides that in the case of Commonwealth financial institutions (the Australian Industry Development Corporation, Commonwealth Bank of Australia, Commonwealth Development Bank of Australia and Commonwealth Savings Bank of Australia) borrowing includes the taking of deposits of money in the ordinary course of day-to-day operations.

## CLAUSE 4 - APPLICATION AND OPERATION OF THE ACT

Sub-clause 4(1) provides that the provisions of this Bill will apply to borrowings otherwise than from the Commonwealth and raisings of money otherwise than by borrowing undertaken on or after 1 July 1986 the Commonwealth authorities listed in the Schedule of the Bill. Borrowings and raisings of money include borrowings and raisings of money by dealing with securities and made whole or in part in a currency other than Australian currency (see also clause 3).

The borrowings and raisings of money defined in this Clause (in conjunction with clause 3) generally correspond with the borrowings and raisings of money which the Commonwealth authorities listed in the Schedule are empowered to undertake.

Sub-clause 4(2) provides that a determination under Clauses 5 or 6 made by the Treasurer within 3 months of the Bill receiving Royal Assent, may be made to take effect as from a day not earlier than 1 July 1986.

Sub-clause 4(3) provides that amendments to the list of bodies contained in the Schedule and any consequential amendments to sub-clauses 3(3), (4) and (5) may be made by way of regulation.

CLAUSE 5 - CHARGES FOR COMMONWEALTH GUARANTEES PROVIDED  
PURSUANT TO A LAW OF THE COMMONWEALTH

Sub-clause 5(1) provides that the Treasurer, where a guarantee is provided by the Commonwealth to an authority undertaking a borrowing or raising of money either by the Treasurer or, in the case of the Australian Industry Development Corporation, when the authority itself determines that a guarantee is provided, may determine in writing that a charge is payable to the Commonwealth for that guarantee.

Sub-clause 5(2) provides that a determination made by the Treasurer pursuant to sub-clause 5(1) shall specify the amount of borrowings or raisings of money (excluding interest) to which a charge is to apply (paragraph (a)), the method by which the charge is to be calculated (paragraph (b)) and the time and manner of payment (paragraph (d)). Paragraph (c) provides that the charge determined by the Treasurer is not to exceed 0.5 per cent per annum. Paragraph (e) provides that the amount of the charge is recoverable as a debt due to the Commonwealth, together with interest on any amount not paid by the due date.

Sub-clause 5(3) provides that the Treasurer may determine that the charge shall be calculated on the basis of the amounts of borrowings or raisings of money that are outstanding at such times as are provided in the determination.

Paragraph (a) of sub-clause 5(4) provides that the Treasurer may determine that authorities are required to provide to him statements certifying the amounts of borrowings or raisings of money which are guaranteed, the charges calculated to apply to those borrowings or raisings of money and other particulars of the borrowings and raisings of money relevant to the calculation of the charge.

Paragraph (b) of sub-clause 5(4) provides that the Treasurer may determine that interest is to be payable on any amount of a charge which is not paid by the due date.

CLAUSE 6 - CHARGES FOR COMMONWEALTH GUARANTEES ARISING  
AUTOMATICALLY BY FORCE OF A LAW OF THE COMMONWEALTH

Sub-clause 6(1) provides that the Treasurer may, where a statute provides for an automatic guarantee by the Commonwealth of borrowings and raisings of money by an authority, determine in writing that a charge is payable to the Commonwealth for that guarantee.

Sub-clause 6(2) provides that a determination made by the Treasurer pursuant to sub-clause 6(1) shall specify the amount of borrowings or raisings of money (excluding interest) to which a charge is to apply (paragraph (a)), the method by which the charge is to be calculated (paragraph (c)) and the time and manner of payment (paragraph (e)). Paragraph (d) provides that the charge determined by the



Treasurer is not to exceed 0.5 per cent per annum. Paragraph (f) provides that the amount of the charge due is recoverable as a debt due to the Commonwealth, together with interest on any amount not paid by the due date. Paragraph (b) provides that in the case of the Commonwealth Bank of Australia, Commonwealth Development Bank of Australia and Commonwealth Savings Bank of Australia the charge may only apply to borrowings or raisings of money that in the opinion of the Treasurer are overseas borrowings or raisings of money.

Sub-clause 6(3) provides that the Treasurer may determine that the charge shall be calculated on the basis of the amounts of borrowings or raisings of money that are outstanding at such times as are provided in the determination.

Paragraph (a) of sub-clause 6(4) provides that the Treasurer may determine that authorities are required to provide to him statements certifying the amounts of borrowings and raisings of money which are guaranteed, the charges calculated to apply to those borrowings or raisings of money and any other particulars of the borrowings or raisings of money relevant to the calculation of the charge.

Paragraph (b) of sub-clause 6(4) provides that the Treasurer may determine that interest is to be payable on any amount of a charge which is not paid by the due date.

## CLAUSE 7 - REGULATIONS

This clause authorises the Governor-General to make regulations necessary to give effect to the requirements of this Bill.

CLAUSE 8 - SPECIAL TRANSITIONAL PROVISION FOR THE AUSTRALIAN  
INDUSTRY DEVELOPMENT CORPORATION

This clause gives effect to a change, provided for in the Australian Industry Development Corporation Amendment Bill 1986 and proposed to become effective from 8 October 1986, in the arrangements for the guarantee by the Commonwealth of borrowings or raisings of money by the Australian Industry Development Corporation. Prior to that date all moneys payable by the Corporation to any person other than the Commonwealth were automatically guaranteed by the Commonwealth. The Amendment Bill provides that after that date the Corporation may determine whether or not the Commonwealth guarantees a borrowing or raising of money by the Corporation.

## SCHEDULE

The Schedule provides a list of Commonwealth authorities that receive a Commonwealth guarantee and categorises them according to the method by which the guarantee is provided.











