

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

PEACE TRUST FUND BILL

EXPLANATORY MEMORANDUM

24 May 1989

PEACE TRUST FUND BILL

OUTLINE

The purposes of this bill are to establish a right of conscientious objection to the payment of taxes that are to be, or may be used for military purposes; to establish a Peace Trust Fund into which conscientious objectors can request the payment of the equivalent of 10 % of their income tax payments, and to establish a Board of Trustees to administer that fund.

The functions of the Board of Trustees of the Peace Trust Fund are designed to promote domestic, regional and international peace and security through a variety of non-violent, non-military means. The powers of the Board enable it to do all those things that are necessary or convenient to be done in connection with its functions.

The Board of Trustees is to comprise 5 persons appointed after consultation between the Minister and the National Consultative Committee on Peace and Disarmament and 4 nominees of the Secretary of the Department of Foreign Affairs and Trade. The Chairman of the Board is appointed by the Minister.

The Bill defines the functions of the Board, which include: to enhance Australian independence and security by non-violent and non-military means; to support work for the enhancement of international law, international institutions and bilateral co-operation; to assist nations in the region to develop technologies appropriate to their national development; to support research into the non-violent resolution of conflict, training in mediation and conflict resolution skills and their practice at international, national and local levels; to support peace research in Australian universities; to support peace education in Australian educational institutions; to support research and development involving the conversion of industrial production from military to non-military uses; to support the development of communication and regional co-operation amongst the nations in the Australian region; and such other purposes as may be approved.

Th Bill also makes provision for administrative and operational matters. With regard to financial management, the Bill requires the Commission to provide estimates of receipts and expenditure as requested by the Minister, and provides that the Commission is subject to the scrutiny of the Auditor-General.

Financial Impact Statement

The amount due to be appropriated to the fund each financial year, and the administrative native and operational expenses relating to staff, travel, meetings and day-to-day running costs of the Board, following proclamation of the Act, will be determined by the Board and annually in the budget.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short Title

1. Provides for the Act to be cited as the Peace Trust Fund Act 1989.

Clause 2 - Commencement

2. Provides that the Act shall come into operation on the day on which it receives the Royal Assent.

Clause 3 - Interpretation

3. Defines terms used in subsequent clauses of the Bill.

Clause 4 - Extension to external Territories

4. Provides for the Act to extend to all Territories.

PART II - REGISTER OF CONSCIENTIOUS OBJECTORS

Clause 5 - Conscientious Objectors

5. Subclause S(1) provides that natural persons who object to the payment of taxes that are to be or may be used for military purposes may register as conscientious objectors on the basis of their commitment to pacifism arising out of religious, moral or ethical beliefs.

Subclause 5(2) provides that applications to be registered as a conscientious objector shall be lodged annually as a statutory declaration on a prescribed form.

Subclause 5(3) refers to requests under clause 8.

Clause 6 - Register of Conscientious Objectors

6. Subclause 6(1) requires the Commissioner of Taxation to keep a register of persons who have applied to be registered as conscientious objectors.

Subclause 6(2) requires the Commissioner to register an applicant as a conscientious objector after receipt of the application and on being satisfied that it was duly made.

Subclause 6(3) requires the Commissioner to enter the applicant's personal particulars on the register; to notify the applicant in writing of the fact of registration and to furnish the registered person with an identity number allocated to the entry of the person on the register.

Subclause 6(4) requires the Commissioner to keep an index of the entries in the register.

Clause 7 - Removal of Name from Register

7. Where a person has requested that their name be removed from the register, or where the person has a physical or mental incapacity which nullifies his or her judgement in relation to the conscientious objection or where the person has died, the Commissioner is required to remove the person's name from the register.

PART III - PEACE TRUST FUND

Clause 8 - Allocation of Taxes for Peaceful Purposes

8. Under subclause 8(1) a registered conscientious objector can request that 10 % of their annual taxation payments be paid into the Peace Trust Fund established by this Act.

Subclause 8(2) provides that subclause (1) does not apply to a return of income made by a registered conscientious objector as trustee in respect of trust property.

Clause 9 - Payments of part of tax into Peace Trust Fund

9. Subclause 9(1) provides that where a registered conscientious objector has requested to have a portion of their assessed taxation payment paid into the Peace Trust Fund there shall be paid into the Peace Trust Fund, out of the Consolidated Revenue Fund, by an Appropriation Act, an amount equal to 10 % of the tax paid.

Subclause 9(2) provides for necessary adjustments, including refunds to the registered taxpayer and to the Commonwealth, where an assessment of taxation payable has been amended subsequently.

Subclause 9(3) provides that payments into the Peace Trust Fund must be made by a Parliamentary appropriation.

Subclause 9(4) enables tax credits to be taken into account when amounts are directed to the Peace Trust Fund.

Clause 10 - Establishment of Peace Trust Fund

10. Subclause 10(1) creates the Peace Trust Fund which becomes a Trust Account and a Public Authority for the purposes of the Audit Act 1901 under subclauses 10(2) and (3). Subclauses (4) and (5) provide that auditing and reporting procedures under the Audit Act 1901 apply.

Clause 11 - Board and Peace Trust Fund exempt from taxation

11. The income, property and transactions of the Board and the Peace Trust Fund are exempted from all Commonwealth, State and Territory taxation, including sales tax.

Clause 12 - Other Payments into the Peace Trust Fund

12. The Peace Trust Fund can also receive money from the sale of property, from interest on investments and as borrowings from the Commonwealth.

Clause 13 - Borrowing from the Commonwealth

13. Provides that the Board is to borrow, and limits the Commission to borrowing, money appropriated by Parliament for that purpose.

Clause 14 - Payments out of Peace Trust Fund

14. Sets out the basis for the application of the moneys of the Board.

Clause 15 - Contracts

15. Requires the Board to obtain Ministerial approval before entering into any contract for the purchase or sale of assets valued in excess of \$500,000, and before entering into a lease for a period of 10 years or more.

Clause 16 - Investment

16. Empowers the Board to invest money not immediately required for the purposes of the Commonwealth in specified ways.

PART IV - BOARD OF TRUSTEES OF PEACE TRUST FUND

Clause 17 - Board of Trustees of Peace Trust Fund

17. Provides that the Board will have the normal incidents of corporate personality.

Clause 18 - Functions of Board

18. Clause 18 provides that the functions of the Board are:

- to enhance the independence and security of Australia by non-violent and non-military means;
- to support work for the enhancement of international law, international institutions and bilateral co-operation;
- to assist nations in the Australian region to develop technologies appropriate to their national development;
- to support research into the non-violent resolution of conflict, training in mediation and conflict resolution skills and their practice at international, national and local levels;
- to support peace research in Australian universities;
- to support peace education in Australian educational institutions;
- to support research and development involving the conversion of industrial production from military to non-military uses;
- to support the development of communication and regional co-operation amongst the nations in the Australian region; and
- such other purposes as may be approved.

Subclauses 18(2) to 18(5) provide, amongst other things, that these functions may be performed within or outside Australia, and in co-operation with a State or Territory or any person, association or organisation. Further provides that these functions may be performed to the extent only that they are not in excess of the functions that may be conferred on the Board by virtue of any of the legislative powers of Parliament. In particular, they may be performed by expending money that is appropriated by Parliament, and for purposes related to the collection of statistics, to external territories, and to a Territory.

Clause 19 - Powers of Board

19. Clause 19 provides that the major powers of the Board are:

- to enter into contracts;
- to erect buildings;
- to occupy, use and control land or buildings owned or leased by the Commonwealth and made available to the Board;
- to acquire, hold and dispose of real and personal property;
- to accept gifts, benefits and devises made to the Board and act as trustee of money or other property vested in the Board on trust;
- to make grants or loans of money, and to provide scholarships or other benefits on such terms as it thinks fit;
- to co-operate with the States and local governing bodies and with other persons and organisations concerned with the furthering of the functions of the Board, and
- to do anything incidental to its powers.

Clause 20 - Membership of the Board

20. Subclause 20(1) provides that the Board is to comprise 5 persons appointed after consultation between the Minister and the National Consultative Committee on Peace and Disarmament; or if that committee has been disbanded, between the Minister and organisations or groups representative of the Australian Peace Movement; and 4 nominees of the Secretary of the Department of Foreign Affairs and Trade.

Subclause 20(2) provides that the Board is to be part-time and under subclause 20(3) a Chairperson is to be appointed by the Minister for 12 months. Vacancies are not to affect the functioning of the Board (subclause 20(4)) and members' appointments are not invalidated merely because of irregularity: subclause 20(5). The Minister is empowered to determine the terms and conditions of the Board: subclause 20(6).

Clause 21 - Term of Office

21. Under subclauses 21(1) and (2), Board members can hold office for between 1 and 4 years initially and for up to 6 years if re-appointed. Members who have served for 6 years can only be re-appointed after a break of 2 years under subclause 21(3). For the position of Chairperson after a 6 year appointment, time served as Chairperson only shall be counted in relation to appointment and re-appointment.

Clause 22 - Leave of Absence

22. Provides for grants of leave of absence to the Board and other members of the Board.

Clause 23 - Resignation

23. Provides for members to resign by notifying the Minister in writing.

Clause 24 - Disclosure of Interests

24. Requires members to declare any pecuniary interests to the Chairperson of the Board.

Clause 25 - Termination of Office

25. Provides for the termination of appointment of a member by the Minister on specified grounds.

Clause 26 - Meetings

26. The Board is to meet as often as necessary for the efficient performance of its functions so long as no longer than 3 months expires between meetings. This clause also enables three members to require a meeting to be held and enables the Minister to convene a meeting. Further it outlines the requirements for board meetings, established the quorum, describes the voting arrangements, and requires the Board to keep a record of its meetings and resolutions.

Clause 27 - Committees

27. Enables the Board to establish such committees of its members as it thinks fit, and to co-opt persons to be additional members of such committees.

PART V - STRATEGIC PLANS AND OPERATIONAL PLANS

Clause 28 - Strategic Plans

28. Requires the Board to prepare and implement strategic plans in relation to the performance of its functions, on a four-yearly basis. The intention of this provision is to ensure that the Board operates within overall Government objectives and policies. The strategic plans will be laid before each House of Parliament.

Clause 29 - Variation of Strategic Plans

29. The Board may vary its strategic plan but the varied plan but also be laid before each House of Parliament.

Clause 30 - Annual Operational Plan

30. Requires the Board to develop an annual operational plan for each financial year which sets out the programs the Board proposes to carry out and the resources the Board proposes to allocate to each program in order to give effect to the strategic plan. The Minister may request the Board to revise its operational plan if of the opinion that the plan is inconsistent with the strategic plan.

Clause 31 - Annual Report

31. The Board is required to prepare to an annual report to the Minister and to table it in Parliament as soon as possible after the end of each financial year.

Clause 32 - Regulations

32. Empowers the Board to make regulations not inconsistent with the Act, prescribing matters required, permitted, necessary or convenient to be prescribed, in particular regulating the use of the Board emblem, logo, design, mark, symbol or name associated with the Board.

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