Statute Stocktake (Appropriations) Bill (No. 1) 2012

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Law and Bills Digest Section

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Statute Stocktake ( Appropriations ) Bill ( No. 1 ) 2012

Date introduced:  20 June 2012
House:  House of Representatives
Portfolio:  Finance and Deregulation
Commencement:  On the day of Royal Assent

Links:  The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the Statute Stocktake ( Appropriations ) Bill ( No. 1 ) 2012 (the Bill) is to repeal:

- three Acts containing redundant special appropriations from the Treasury portfolio:
  - Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Act 2006
  - Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Act 2006 and
  - Mint Employees Act 1964.
- three provisions containing special appropriations from the Finance portfolio, as set out in:
  - Superannuation Act 1922 and
  - Superannuation (Pension Increases) Act 1961.1

Background

Basis of Policy Commitment

The Government has committed to routinely review and repeal redundant standing appropriations as part of the process of cleaning up the statute book.2 This practice is consistent with

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2. Ibid., p. 2.

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Recommendation 12 of the Murray Review which also addressed the need to reduce unnecessary red tape and regulation within the financial framework. 3

History of events

A relevant history regarding the Government’s commitment to review and repeal redundant legislation was set out in the Digest for the Statute Stocktake Bill (No. 1) 2011 4:

On 16 April 2006, Mr Lindsay Tanner, the then Opposition Shadow Minister for Finance, re-released a discussion paper entitled Operation Sunlight which aimed to enhance budget transparency and accountability by certain measures such as tightening the outcomes and outputs framework and improving the readability and usefulness of budget papers. 5 On 24 March 2008, as Minister for Finance, he then asked Senator Andrew Murray to review Operation Sunlight (the Murray Review) with terms of reference for the review to consider:

- existing financial reporting arrangements and the reforms announced in Operation Sunlight
- the recommendations that were made by the Senate Finance and Public Administration Committee in its report Transparency and Accountability of Commonwealth in Public Funding and Expenditure, March 2007 and
- consistent with the Government’s commitments to reducing unnecessary regulation and red tape, any current arrangements within the financial framework that can be simplified or removed without detriment to appropriate levels of accountability. 6

Recommendation 12 of the Murray Review recommended, in part:

- that Special/Standing Appropriations and their continued operation be given greater attention whereby:
  - the Government conduct a housekeeping exercise and repeal standing appropriations that are redundant
  - at least annually Finance undertake a review of these appropriations and report to Parliament as to whether there is a continuing need for the appropriations and/or the legislation within which those appropriations clauses reside. 7

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6. Ibid.
7. Ibid., p. 10.

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The Government response noted this recommendation and agreed that Standing Appropriations should be regularly reviewed. Accordingly, the Government committed to review and repeal redundant provisions as part of the process of cleaning up the statute book in relation to the financial regulatory framework. It undertook to conduct housekeeping exercises and to repeal redundant standing appropriations.

Further reforms aimed at deregulation

The Business Advisory Forum to the Council of Australian Governments (COAG) was held on the 12 May 2012. It was chaired by the Prime Minister and attended by Premiers and Chief Ministers, business CEOs, and representatives of Australia’s peak business organisations.

A number of the reforms proposed by the Forum were aimed at deregulation, including:

- fast tracking environmental approvals and assessments
- ending duplication in carbon and energy schemes, and major projects
- improving development assessments processes and
- businesses to assist in identifying burdensome, inefficient or duplicative regulations.

These reforms were also discussed by the Prime Minister in her closing remarks to the Prime Minister’s Economic Forum:

...a recommitment to the deregulation and competition agenda first outlined at the Business Advisory Forum which met with COAG in April... It’s imperative that we bring the reforms that we outlined through that process home this year and next year.

Committee consideration

At its meeting of 28 June 2012, the Senate Selection of Bills Committee determined that the Bill not be referred to any committee for inquiry and report.

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9. J Gillard (Prime Minister), P Wong (Minister for Finance and Deregulation) and D Bradbury (Minister Assisting for Deregulation), Business advisory forum agrees to cut red tape, media release, 12 April 2012, viewed 9 August 2012, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F1562477%22

10. Ibid., p. 1.


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Policy position of non-government parties/independents

The Coalition, while supporting the Bill, have criticised the Government’s approach to deregulation.

In his third reading speech the Member for Goldstein, Mr Andrew Robb, commented that:

This Bill, while supported by the coalition, represents another massive missed opportunity for material reform in the area of deregulation—an area of abysmal failure, I am afraid, by this government.13

He further commented that:

While this work is worthwhile—and we support the nature of this bill and the removal of all those acts from the statute; it is indeed tidying up—it does not make any material change with regard to easing the regulatory burden on business, as suggested by the explanatory memorandum. It can hardly be described as a feature of a meaningful deregulation agenda to remove some appropriation bill that applied for three years some 20 years ago.14

He also referred to:

The latest analysis by the Parliamentary Library shows that, since coming to office, the government has in fact introduced 18,089 new regulations and has repealed just 86 items—not 18,086 items but 86 items.15

Financial implications

According to the Explanatory Memorandum:

The proposed amendments have no financial impact. The unspent appropriations in the 128 Appropriation and Supply Acts lapsed at the end of the relevant financial year and have no continuing effect. The 3 Treasury Acts and 2 superannuation-related special appropriations to be repealed are also redundant.16

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15. Ibid.

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Main issues

In his second reading speech, the Special Minister of State and Minister for the Public Service and Integrity stated that the Bill will:

continue the Government’s commitment to a regular review of the special appropriations and maintain effective legislative housekeeping.\(^\text{17}\)

He further commented that:

The Bill also furthers the Government’s deregulation agenda. The Government has stepped up its deregulation reform program, including the progress made at the Business Advisory Forum in May 2012, and the Prime Minister’s Economic Forum in June 2012. The Government considers that it is important that continued progress is made in this important area.\(^\text{18}\)

While the Bill continues the Government’s commitment to clean up the statute book in relation to the financial regulatory framework, it does not appear to do any more than this.

Key provisions

Appropriation legislation

Some of the terminology used when referring to financial legislation is set out in *Odgers’ Australian Senate Practice*:

Appropriation bills fall into several categories:

- annual appropriation bills, which appropriate money for the services of the government and the Parliament for the financial year
- additional appropriation bills, which appropriate additional funds for the services of the government and the Parliament for the financial year
- supply bills, which appropriate money for the services of the government and the Parliament for the period from the beginning of the financial year until the annual appropriation bills are passed, and which are subsumed by the annual appropriation bills and

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18. Ibid.

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• special appropriation bills, appropriating money for special purposes, including bills which make continuing and indefinite appropriations.19

The following Acts have been reviewed and found to be redundant. They are repealed under this Bill.

**Appropriation Acts**

**Items 1-93** of the Bill repeal 93 Appropriation Acts from *Appropriation Act (No. 1) 1984–85* to *Appropriation Act (No. 4) 1998–99*.

Until 30 June 1999, any unspent appropriations lapsed at the end of the financial year and had no continuing effect.20 Therefore all Appropriations Acts from 1901 to 1998-99 are now redundant. Since 1934, five Acts have repealed Appropriation or Supply Acts that have been either spent or have lapsed, with the effect being that all such Acts from 1901 to 1983-84 have been repealed and removed from the statute book.21 This Bill will repeal the remaining Appropriations Acts from 1984-85 to 1998-99.

In 1999-2000, accrual budgeting was introduced, which resulted in accrual appropriations now not lapsing at the end of the financial year.22

**Supply Acts**

**Items 97-131** of the Bill repeal 35 Supply Acts from *Supply Act (No. 1) 1984–85* to *Supply Act (No. 2) 1996–97*.

An explanation of Supply Acts is provided in *Odgers’ Australian Senate Practice*:

> Strictly speaking, supply was the money granted by the Parliament in the supply bills which, before the change in the budget cycle in 1994, were usually passed in April-May of each year, and which appropriated funds for the period between the end of the financial year on 30 June and the passage of the main annual appropriation bills. The latter appropriate funds for the whole financial year, were formerly passed in October-November and are now passed in June.23

In addition, as set out in the Explanatory Memorandum to the Bill:

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22. Ibid., p. 5.


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the introduction of accrual budgeting in 1999-2000 enables appropriations to be carried over from one financial year until the next. If it is not possible for the Budget to be delivered in May... it is no longer necessary to enact Supply Acts to provide appropriations until the Appropriation Acts are passed. The Parliament could enact [supplementary appropriation Acts] to provide the necessary appropriations until the Budget occurs and the Budget Appropriation Acts are passed.

As a result, therefore, of the change to the Budget timetable (with the delivery of the Budget in May and the passage of the main appropriation Bills in June) and the introduction of accrual budgeting (with the ability to enact supplementary appropriation Acts), Supply Acts are no longer needed. As all the remaining Supply Acts in the statute book are now redundant, there is no issue with them being repealed.

Treasury Acts

Item 94 of the Bill repeals the Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Act 2006, item 95 of the Bill repeals the Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Act 2006 and item 96 of the Bill repeals the Mint Employees Act 1964.

A detailed explanation as to why these Acts are now redundant is set in the Explanatory Memorandum.

Special Appropriations Acts

Item 132 repeals subsection 7(4) of the Superannuation Act 1922 and item 133 repeals subsections 6(2) and (4) of the Superannuation (Pension Increases) Act 1961.

A detailed explanation as to why these Acts are now redundant is set in the Explanatory Memorandum to the Bill.

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25. Ibid., pp. 6-7.
26. Ibid., pp. 7-8.

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