



Higher Education Endowment Fund (Consequential Amendments) Bill 2007

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Law and Bills Digest Section

Contents

Purpose.....	2
Background.....	2
Basis of policy commitment	2
Main provisions	3
Investment mandate.....	3
Investment function	4
ITAA amendments	4

Higher Education Endowment Fund (Consequential Amendments) Bill 2007

Date introduced: 16 August 2007

House: House of Representatives

Portfolio: Education, Science and Training

Commencement: Sections 1-3 commence upon Royal Assent, Schedule 1 commences as the same time as the *Higher Education Endowment Fund Act 2007*.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The Bill seeks to amend the [Future Fund Act 2006](#) (the Future Fund Act) and the *Income Tax Assessment Act 1997* (the ITAA) to support implementation of the Higher Education Endowment Fund (HEEF). The Bill also seeks to amend the Future Fund Act to limit Ministerial directions on investments.

Background

Basis of policy commitment

The Treasurer opened his 2007-2008 Budget speech with the announcement that \$5 billion of the budget surplus would be invested in an endowment fund, the Higher Education Endowment Fund (HEEF), the earnings of which will fund university capital works and research facilities.¹ The Treasurer has subsequently announced an extra \$1 billion of budget surplus will be added to the HEEF by January 2008.

The HEEF will be managed by the Future Fund Board of Guardians. The HEEF and its investment and disbursement parameters will be established through the Higher Education

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1. The Hon. Peter Costello MP, Treasurer, *Budget Speech 2007-2008*, transcript, <http://www.aph.gov.au/budget/2007-08/speech/html/Speech.htm> Since introducing the Bill, the Government has announced an extra \$1 billion from the budget surplus will be added to the HEEF.

Warning:

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Endowment Fund Bill 2007, currently before Parliament. Readers are referred to the [Bills Digest](#) for that Bill for a detailed background on the HEEF, public comment on the proposed scheme, and key issues arising out of that Bill.²

This Bill seeks to make consequential amendments to the Future Fund Act and the ITAA to support the establishment and operation of the HEEF.

Main provisions

Schedule 1, Part 1 contains amendments to the Future Fund Act to expand the legislative mandate of the Future Fund Board of Guardians to include management of the HEEF. The main changes insert new definitions and clarify that the Future Fund Board of Guardians will now have a dual role – to manage the Future Fund and the Higher Education Endowment Fund. As far as possible, the role of the Board in relation to the HEEF has been detailed in the HEEF Bill currently before Parliament. The amendments contained in this Bill mostly relate to clarifying the role of the Future Fund Board with regard to management of the Future Fund investments. Some of the main amendments are outlined below.

Investment mandate

Under the existing Future Fund Act, the Board is bound by an Investment Mandate given to it by the responsible Ministers (the Treasurer and Minister for Finance), in relation to investments for the Future Fund.

References to ‘investment mandate’ will be amended to make it clear that the Future Fund Board will now be bound by a **Future Fund Investment Mandate** and a **Higher Education Fund Investment Mandate** (which is detailed in the HEEF Act currently before Parliament).³

Item 26 proposes to insert **new section 18A** into the Future Fund Act, placing limitations on the Future Fund Investment Mandate. Under proposed 18A, the responsible Ministers must not give a direction within the Future Fund Investment Mandate which would, directly or indirectly, require the Board to invest in a particular financial asset, acquire a particular derivative, or allocate finances to a particular business entity or activity or business. These provisions have also been included in the HEEF Investment Mandate in

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2. Coral Dow and Bronwen Jagers, ‘Higher Education Endowment Fund Bill 2007’, *Bills Digest* no. 38, 2007-08, Parliamentary Library, Canberra, 4 September 2007, www.aph.gov.au/library/pubs/bd/2007-08/08bd038pdf.
 3. See: the *Explanatory Memorandum* at p. 7 for details on which items relate to the Investment Mandate provisions in the Act.

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the HEEF Bill. In her Second Reading speech for this Bill the Minister cited ‘responsible governance’ as the reason for this update to the Future Fund Act.⁴

Investment function

References in the existing Future Fund Act regarding the Board’s **investment function** are amended to make it clear that the Board will now have two investment functions – for the Future Fund and the HEEF.

ITAA amendments

Items 75 – 77 amend the ITAA to allow monetary gifts to the HEEF to be considered tax deductible.

4. The Hon. Julie Bishop MP, Minister for Education, ‘Second Reading Speech: Higher Education Endowment Fund (Consequential Amendments) Bill 2007’ House of Representatives [Debates](#), 16 August 2007, p. 5.

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