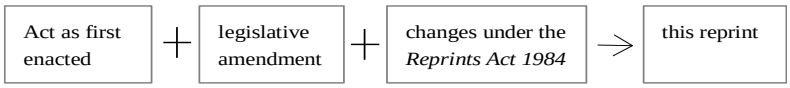
Western Australia

Financial Agreement Act 1928

Reprinted as at 1 February 2002

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

   Notes of this kind may also be at the foot of Schedules or headings.
2. The other kind of editorial note shows something has been —
   - removed (because it was repealed or deleted from the law); or
   - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

   The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprinted under the *Reprints Act 1984* as at 1 February 2002

Western Australia

Financial Agreement Act 1928

CONTENTS

1.	Short title	1
2.	Approval of agreement	1
3.	Sinking funds	1
4.	Suspension of *Sale of Government Property Act 1907*	3
5.	Construction of Acts of W.A.	3
6.	Modification of conflicting provisions	3
7.	Appropriation	4
8.	Regulations	4
9.	Investment of moneys in Commonwealth Government securities	4
	The Schedule	5
	Notes	
	Compilation table	30

Western Australia

Reprinted under the *Reprints Act 1984* as at 1 February 2002

Financial Agreement Act 1928

An Act to approve an agreement between the Commonwealth of Australia and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia, and Tasmania concerning the adjustment of the financial relations between the Commonwealth and the States, and for purposes incidental thereto.

1. Short title

This Act may be cited as the *Financial Agreement Act 1928* [1].

2. Approval of agreement

The agreement, a copy of which is set forth in the Schedule (hereinafter referred to as **"the said agreement"**) is hereby approved.

3. Sinking funds

(1) All inscribed stock and debentures of this State held on 30 June 1927, as sinking fund investments under the *General Loan and Inscribed Stock Act 1910* [2], or any Act thereby repealed, shall by force of this Act, if and when Part III of the said agreement shall come into force and effect, be cancelled as from the said 30 June, and the public debt shall to that extent be redeemed, and payment of interest and sinking fund contributions on and in respect of such cancelled securities shall, as from the said 30 June, cease.

For the purposes of this subsection, inscribed stock or debentures of this State in which the proceeds of the sale of any other inscribed stock or debentures held on the said date as sinking fund investments may thereafter be or have been invested, shall be deemed to be inscribed stock or debentures of this State held as aforesaid on the said date.

(2) All sinking fund contributions payable after 30 June 1927, under and at the rate prescribed by the *General Loan and Inscribed Stock Act 1910* [2], or any other Act, for investment by the trustees appointed in London under the said Act in respect of any public debt of the State shall, subject as hereinafter provided, be suspended, and if and when Part III of the said agreement shall come into force and effect shall be superseded by the sinking fund contributions payable under the said agreement; but if Part III of the said agreement shall not come into force and effect, all suspended interest and sinking fund contributions shall be paid by the State to the trustees forthwith.

(3) This section shall not apply to loans domiciled with the Crown agents for the Colonies, or to the 5% inscribed stock for £140 000 maturing on 19 February 1936.

(4) As from the date of the commencement of the operation of Part II of the said agreement, paragraphs (a) and (d) of the proviso to section 6, and the words "so long as the currency of 30 years is not exceeded" in paragraph (c) of such proviso, and the second paragraph of section 9 of the *Treasury Bonds Deficiency Act 1916* [2], as thereby enacted and as incorporated with the *Treasury Bonds Deficiency Acts of 1918* [2], *1918(2)* [2], *1919* [2], *1920* [2], and *1924* [2], and also section 14 of the *Land Act Amendment Act 1909* [3], and section 9 of the *Land Act Amendment Act 1915* [3], shall be suspended during the period fixed for the operation of Part II of the said agreement, and as from the time that Part III of the said agreement shall come into force the same shall cease to have effect.

(5) The State shall indemnify the trustees of the sinking funds established under the *General Loan and Inscribed Stock Act 1910* [2], and any Act thereby repealed, from all responsibility in respect thereof, arising from the provisions of the said agreement or of this Act.

4. Suspension of *Sale of Government Property Act 1907* [4]

(1) As from the date of the commencement of the operation of Part II of the said agreement, the provisions of the *Sale of Government Property Act 1907* [4], shall be suspended during the period fixed for the operation of Part II of the said agreement, and as from the time that Part III of the said agreement shall come into force the same shall cease to have effect, subject to subsections (2) and (3).

[(2), (3) repealed]

[Section 4 amended by No. 98 of 1985 s. 3; No. 92 of 1990 s. 39(1).]

5. Construction of Acts of W.A.

All Acts of the Parliament of Western Australia, whether passed before or after the commencement of this Act, so far as they relate to matters or things provided for or contained in this Act or the said agreement, shall be read and construed as subject to this Act and the said agreement, and shall, with such alterations, modifications, substitutions, additions, and omissions as are necessary, have effect accordingly.

6. Modification of conflicting provisions

(1) The Governor may, by Order in Council published in the *Gazette*, suspend, repeal or amend, or modify in any manner whatever any Order in Council or Regulation, whether promulgated or made before or after the commencement of this Act, which it may be considered necessary or convenient to suspend, repeal, amend, or modify, in order to provide for the

administration of this Act and the said agreement, and the carrying into effect of the objects and purposes of this Act and the said agreement.

(2) Any Order in Council under this section may be repealed, amended, or modified by a like Order in Council, and any such Order in Council as amended or modified shall take effect accordingly.

7. Appropriation

The Consolidated Fund is hereby appropriated for the purposes of this Act, and to the extent necessary for carrying into effect the said agreement on the part of this State.

[Section 7 amended by No. 6 of 1993 s. 11.]

8. Regulations

The Governor may from time to time make regulations providing for all or any purposes (either generally or to meet particular cases) necessary or convenient for the administration of this Act and the said agreement, or for carrying into effect the objects and purposes of this Act and the said agreement; and where there is in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient for the administration of this Act or the said agreement, or for carrying into effect the objects and purposes of this Act and the said agreement, providing for and supplying such omission or insufficiency.

9. Investment of moneys in Commonwealth Government securities

Any reference in any Act enabling or requiring any moneys to be invested in Western Australian Government securities, shall be read and construed and have effect as if it enabled or required such moneys to be invested either in Western Australian Government securities or in Commonwealth Government securities, or in both kinds of securities.

The Schedule

AGREEMENT MADE THE TWELFTH DAY OF DECEMBER One thousand nine hundred and twenty-seven BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this Agreement called the Commonwealth) of the first part, THE STATE OF NEW SOUTH WALES of the second part, THE STATE OF VICTORIA of the third part, THE STATE OF QUEENSLAND of the fourth part, THE STATE OF SOUTH AUSTRALIA of the fifth part, THE STATE OF WESTERN AUSTRALIA of the sixth part, and THE STATE OF TASMANIA of the seventh part (each of the parties of the second, third, fourth, fifth, sixth, and seventh parts being in this Agreement referred to as a State and the expression "the States" hereinafter used meaning where the context so permits or requires all of such parties).

WHEREAS with a view to making provision for the adjustment of Commonwealth and State financial relations the general principle of a draft scheme was affirmed by a Conference of Commonwealth and State Ministers in Melbourne which commenced on the sixteenth day of June One thousand nine hundred and twenty-seven:

AND WHEREAS permanent effect cannot be given to the proposals contained in the said scheme unless the Constitution of the Commonwealth is altered so as to confer on the Parliament of the Commonwealth power to make laws for carrying out or giving permanent effect to such proposals:

AND WHEREAS pending the submission to the electors of a proposed law for the alteration of the said Constitution as aforesaid and in order to obtain immediately some of the advantages which would result from united action by adoption of the said scheme the Commonwealth and the States have agreed that for the period commencing on the first day of July One thousand nine hundred and twenty-seven and ending on the thirtieth day of June One thousand nine hundred and twenty-nine certain of the proposed provisions of the said scheme shall be temporarily adopted:

NOW THIS AGREEMENT WITNESSETH:

PART I.

1. This Agreement shall have no force or effect and shall not be binding on any party unless and until it is approved by the Parliaments of the Commonwealth and of the States.

2. — DEFINITIONS.

In this Agreement —

"Net Public debt of a State existing on 30th June, 1927," means in respect of each State the amount of debt set forth hereunder opposite to the name of that State, viz.: —

	£
New South Wales	234,088,501
Victoria	136,949,942
Queensland	101,977,855
South Australia	84,834,364
Western Australia	61,060,675
Tasmania	22,434,060
	£641,345,397

The said amount of the net public debt of each State includes the debts of that State secured by —

(i) Inscribed Stock, including Local Inscribed Stock and Government Inscribed Stock;

(ii) Instalment Stock;

(iii) Registered Stock;

(iv) Funded Stock;

(v) Stock payable to bearer;

(vi) Bonds, including registered bonds;

(vii) Debentures, including registered debentures and instalment debentures;

(viii) Treasury Bills not repayable within twelve months from the date of issue; or

(ix) Fixed deposit receipts or special deposit receipts for moneys borrowed for other than temporary purposes;

issued or created by the State or by or on behalf of a Colony the predecessor of the State in respect of moneys borrowed by the Colony or State together with debts of the State to the

Commonwealth of the amount set out respectively hereunder opposite to the name of the State so far as those last mentioned debts are not included by being secured in manner aforesaid: —

	£
New South Wales	12,553,698
Victoria	23,688,269
Queensland	16,082,583
South Australia	18,446,197
Western Australia	16,739,872
Tasmania	3,948,613
	£91,459,232

after deducting therefrom the amount for which the Commonwealth by this agreement assumes liability under Part III., Clause 4, of this Agreement and the amount of any moneys or securities standing to the credit of a sinking fund, redemption fund, or a fund of a like nature of the State as on 30th June, 1927, and does not include any moneys raised by the State by way of overdraft, fixed deposit, or special deposit for temporary purposes only.

The said sum of £234,088,501 (being the amount of debt of New South Wales above-mentioned) comprises the debts referred to in, and has been computed in the manner shown in the Statement signed by representatives of the Commonwealth and of New South Wales.

"Gross Public Debt of a State existing on 30th June, 1927," means in respect of each State the amount of debt set forth hereunder opposite the name of that State, viz.: —

	£
New South Wales	239,441,363
Victoria	144,844,530
Queensland	105,259,916
South Australia	87,614,005
Western Australia	70,705,913
Tasmania	24,254,688
	£672,120,415

The said amount of the gross public debt of each State includes the net public debt of that State together with the amount for which the Commonwealth by this Agreement assumes liability under Part III., Clause (4), of this Agreement and the amount of any moneys or securities standing to the credit of any sinking fund redemption fund or fund of a like nature of the State as on 30th June, 1927.

"Transferred Properties" means the properties mentioned or specified in the Schedule of Transferred Properties signed by representatives of the Commonwealth and the States as revised to the 30th June, 1927, being properties which became vested in the Commonwealth pursuant to Section 85(i) of the Constitution of the Commonwealth.

"The Loan Council" means the Australian Loan Council created in pursuance of this Agreement.

"Bondholder" means an owner of any —

(i) Inscribed Stock, including Local Inscribed Stock and Government Inscribed Stock;

(ii) Instalment Stock;

(iii) Registered Stock;

(iv) Funded Stock;

(v) Stock payable to bearer;

(vi) Bonds, including registered bonds;

(vii) Debentures, including registered debentures and instalment debentures;

(viii) Treasury Bills not repayable within twelve months from the date of issue; or

(ix) Fixed deposit receipts or special deposit receipts for moneys borrowed for other than temporary purposes:

issued or created by a State or by or on behalf of a Colony the predecessor of the State in respect of borrowed moneys but does not include the Commonwealth.

3. — AUSTRALIAN LOAN COUNCIL.

(a) There shall be an Australian Loan Council, which shall consist of one Minister of State of the Commonwealth to be appointed in writing from time to time by the Prime Minister of the Commonwealth to represent the Commonwealth, and one Minister of State of each State to be appointed in writing from time to time by the Premier of that State to represent that State. Provided that, if in the opinion of the Prime Minister or of any Premier of a State, special circumstances exist at any time which make it desirable so to do, a person who is not a Minister may instead of a Minister be appointed by the Prime Minister or the Premier as the case may be to represent the Commonwealth or a State as a member of the Loan Council. The name of each person appointed to represent a State shall be notified in writing by the Premier of that State to the Prime Minister.

(b) The member representing the Commonwealth on the Loan Council shall hold office during the pleasure of the Prime Minister of the Commonwealth and a member representing a State shall hold office during the pleasure of the Premier of the State which the member was appointed to represent.

(c) A decision in which all the members for the time being of the Loan Council concur shall be a unanimous decision of the Loan Council notwithstanding any vacancy then existing in its membership.

(d) A meeting of the Loan Council may at any time be convened by the member representing the Commonwealth, and shall be so convened upon the request of at least three members representing States.

(e) A majority of the members of the Loan Council shall constitute a quorum of the Loan Council for the exercise of its powers at any meeting. Provided that —

(i) a member may at any time appoint in writing a deputy to act in his absence; and any deputy so appointed may in the absence of the member exercise all the powers and functions of the member and his presence shall be deemed the presence of the member; and

(ii) an absent member who has not appointed a deputy may vote by letter or by telegram, and in such case that member shall be counted as being present in relation only to the questions on which he has voted.

(f) The Loan Council may make rules of procedure including rules relating to places, times, and notices of meetings, and conduct of business at meetings, and from time to time may alter such rules.

(g) The Commonwealth and each State will from time to time while Part II. of this Agreement is in force, and while Part III. of this Agreement is in force, submit to the Loan Council a programme setting forth the amount it desires to raise by loans for each financial year for purposes other than the conversion, renewal or redemption of existing loans, or temporary purposes. Each programme shall state the estimated total amount of such loan expenditure for the year, and the estimated amount of repayments which will be available towards meeting that expenditure. Any revenue deficit to be funded shall be included in such loan programme, and the amount of such deficit shall be set out. Loans for Defence purpose approved by the Parliament of the Commonwealth shall not be included in the Commonwealth's loan programme or be otherwise subject to this Agreement.

(h) If the Loan Council decides that the total amount of the loan programme for the year cannot be borrowed at reasonable rates and conditions it shall decide the amount to be borrowed for the year, and may by unanimous decision allocate such amount between the Commonwealth and the States.

(i) If the members of the Loan Council fail to arrive at a unanimous decision under the last preceding subclause allocating the amount to be borrowed for any year, the amount to be borrowed for that year shall be allocated as follows: —

(i) The Commonwealth shall, if it so desires, be entitled to have one-fifth or any less proportion of such amount allocated to the Commonwealth; and

(ii) Each State shall be entitled to have allocated to it a sum (being a portion of the balance of such amount) bearing to the balance of such amount the same proportion which the net loan expenditure of that State in the preceding five years bears to the net loan expenditure of all the States during the same period. Provided that any State may, if it so desires, have allocated to it a sum less than the sum to which it is entitled under this subclause or no sum, and that when a less sum or no sum has been allocated to any State or States in manner aforesaid the amount then remaining available for allocation shall be allocated to the other States in the proportion which the net loan

expenditure of each of such other States in the preceding five years bears to the net loan expenditure of all such other States during the same period. For the purposes of this subclause net loan expenditure does not include expenditure for the conversion, renewal, or redemption of loans, but means the gross other loan expenditure of a State less any amounts of such expenditure repaid to the State other than moneys repaid to the State in manner stated in Part II., Clause 4(e), or Part III., Clause 3(i) of this Agreement.

(j) If the total amount to be borrowed as aforesaid for any year is to be borrowed by means of more than one loan the Loan Council may by unanimous decision apportion between the Commonwealth and the States the amount to be borrowed by each such loan other than the loan by means of which the balance of the total amount to be borrowed as aforesaid for the year is borrowed.

(k) If the members of the Loan Council fail to arrive at a unanimous decision under the last preceding subclause apportioning the amount to be borrowed as aforesaid by any loan the amount to be borrowed by that loan shall be apportioned between the Commonwealth and the States in proportion to the amount then to be borrowed as aforesaid for the Commonwealth and for each State for the year.

(l) The Commonwealth and each State will also from time to time, while Part II. of this Agreement is in force and while Part III. of this Agreement is in force, submit to the Loan Council a statement setting out the amount it requires for each financial year for the conversion, renewal or redemption of existing loans.

(m) If the members of the Loan Council fail to arrive at a unanimous decision on any matter other than the matters referred to in Subclauses (h) and (j) of Clause 3 and Subclause (b) of Clause 4 of this part of this Agreement, the matter shall be determined by a majority of votes of the members.

On every question for decision by the Loan Council the member representing the Commonwealth shall have two votes and a casting vote, and each member representing a State shall have one vote.

(n) A decision of the Loan Council in respect of a matter which the Loan Council is by this Agreement empowered to decide shall be final and binding on all parties to this Agreement.

(o) In this clause the expressions "Prime Minister" and "Premier" include the persons for the time being respectively acting as such.

4. — FUTURE BORROWINGS OF COMMONWEALTH AND STATES.

(a) Except in cases where the Loan Council has decided under Subclause (b) of this clause that moneys shall be borrowed by a State, the Commonwealth, while Part II. or Part III. of this Agreement is in force, shall, subject to the decisions of the Loan Council and subject also to Clauses 5 and 6 of this Part of this Agreement, arrange for all borrowings for or on behalf of the Commonwealth or any State, and for all conversions, renewals, redemptions, and consolidations of the Public Debts of the Commonwealth and of the States.

(b) If at any time the Loan Council by unanimous decision so decides a State may in accordance with the terms of the decision borrow moneys outside Australia in the name of the State and issue securities for the moneys so borrowed. The Commonwealth shall guarantee that the State will perform all its obligations to bond holders in respect of the moneys so borrowed. For all the purposes of this Agreement, including the making of sinking fund contributions, the moneys so borrowed shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of that State.

(c) If any State after the 30th June, 1927, and before this Agreement has been approved by the Parliaments of the Commonwealth and of the States has borrowed moneys in the name of the State and issued securities for the moneys so borrowed, such moneys shall for all the purposes of this Agreement, including the making of sinking fund contributions, be deemed to be moneys borrowed by the Commonwealth for and on behalf of that State.

(d) While Part II. and Part III. of this Agreement is in force moneys shall not be borrowed by the Commonwealth or any State otherwise than in accordance with this Agreement.

5. — BORROWING BY STATES.

For any purpose (including the redemption of securities given or issued at any time for moneys previously borrowed or used in manner stated in this clause) a State may, while Part II. or Part III. of this Agreement is in force —

(a) Subject to any maximum limits decided upon by the Loan Council from time to time for interest, brokerage, discount and other

charges, borrow moneys within the State from authorities, bodies, funds or institutions (including Savings Banks) constituted or established under Commonwealth or State law or practice and from the public by counter sales of securities, and

(b) use any public moneys of the State which are available under the laws of the State.

Any securities that are issued for moneys so borrowed or used shall be Commonwealth securities, to be provided by the Commonwealth upon terms approved by the Loan Council.

Where any such borrowing or use is solely for temporary purposes, the provisions of this Agreement, other than this clause, shall not apply.

Where any such borrowing or use is not solely for temporary purposes, and Commonwealth securities are issued in respect thereof, the moneys borrowed or used shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of the State, and may be retained by the State. A State may convert securities given or issued at any time by that State for moneys previously borrowed or used in manner stated in this clause. New securities issued on any such conversion shall be Commonwealth securities to be provided by the Commonwealth upon terms approved by the Loan Council. The amount for which such new securities are issued shall be deemed to be moneys borrowed by the Commonwealth for and on behalf of the State.

If the moneys deemed under this clause to be moneys borrowed by the Commonwealth on behalf of the State, together with the amounts raised by the Commonwealth for and on behalf of the State exceed the total amount of loan moneys decided upon by the Loan Council as the moneys to be raised for and on behalf of the State for the financial year in which the money is deemed to be borrowed, the excess shall, unless the Loan Council otherwise decides, be deemed to be moneys received by the State in the following year on account of its loan programme for that year.

For the purposes of this clause counter sales of securities shall be deemed to mean sales of securities made at the offices of the State Treasury, and at such other places as may be decided upon by the Loan Council.

The Commonwealth shall not be under any obligation to make sinking fund contributions in respect of moneys borrowed or used pursuant to this clause to meet a revenue deficit of a State, but the provisions of Clause 4(d) of

Part II. and of Clause 3(j) of Part III. of this Agreement shall apply respectively to all moneys borrowed or used for that purpose.

Except in cases where the Loan Council has otherwise decided under sub-clause (b) of clause 4 of Part I. of this Agreement a State shall not have the right to invite loan subscriptions by the issue of public prospectus.

Notwithstanding anything contained in this Agreement, any State may use for temporary purposes any public moneys of the State which are available under the laws of the State, or may, subject to maximum limits (if any) decided upon by the Loan Council from time to time for interest, brokerage, discount, and other charges, borrow money for temporary purposes by way of overdraft, or fixed, special, or other deposit, and the provisions of this Agreement other than this paragraph shall not apply to such moneys.

6. — BORROWING BY COMMONWEALTH.

For any purpose (including the redemption of securities given or issued at any time for moneys previously borrowed or used in manner stated in this clause) the Commonwealth may, while Part II. or Part III. of this Agreement is in force —

(a) subject to any maximum limits decided upon by the Loan Council from time to time for interest, brokerage, discount and other charges, borrow moneys within the Commonwealth from authorities, bodies, funds or institutions (including Savings Banks) constituted or established under Commonwealth or State law or practice, and from the public by counter sales of securities; and

(b) use any public moneys of the Commonwealth which are available under the laws of the Commonwealth.

Any securities that are issued for moneys so borrowed or used shall be Commonwealth securities, to be provided by the Commonwealth upon terms approved by the Loan Council.

Where any such borrowing or use is solely for temporary purposes, the provisions of this Agreement, other than this clause, shall not apply.

Where any such borrowing or use is not solely for temporary purposes, and Commonwealth securities are issued in respect thereof, the moneys borrowed or used may be retained by the Commonwealth. The Commonwealth may convert

securities given or issued at any time by the Commonwealth for moneys previously borrowed or used in manner stated in this clause. New securities issued on any such conversion shall be Commonwealth securities to be provided by the Commonwealth upon terms approved by the Loan Council.

If the moneys so borrowed or used are not borrowed or used solely for temporary purposes and Commonwealth securities are issued in respect thereof, and such moneys, together with other moneys borrowed by the Commonwealth for and on behalf of the Commonwealth as part of the total amount of loan moneys decided upon by the Loan Council as the moneys to be raised for and on behalf of the Commonwealth for the financial year in which the securities are issued, exceeds such total amount the excess shall, unless the Loan Council otherwise decides, be deemed to be moneys received by the Commonwealth in the following year on account of its loan programme for that year.

For the purposes of this clause, counter sales of securities shall be deemed to mean sales of securities made at the offices of the Commonwealth Treasury, and at such other places as may be decided upon by the Loan Council.

Notwithstanding anything contained in this Agreement, the Commonwealth may use for temporary purposes any public moneys of the Commonwealth which are available under the laws of the Commonwealth or may, subject to maximum limits (if any) decided upon by the Loan Council from time to time for interest, brokerage, discount, and other charges, borrow money for temporary purposes by way of overdraft, or fixed, special or other deposit, and the provisions of this Agreement other than this paragraph shall not apply to such moneys.

7. — PAYMENT OF INTEREST AND SINKING FUND.

In the event of Part III. of this Agreement not coming into force each State shall in respect of all moneys borrowed by the Commonwealth for and on behalf of that State during the period commencing on the 1st July, 1927, and ending on the 30th June, 1929 —

(a) pay to the Commonwealth interest at the full rate of interest payable by the Commonwealth in respect of the loan by which such moneys were borrowed or such other rate of interest as may be payable by that State to the Commonwealth under any agreement made or to be made between the Commonwealth and that State in respect of such moneys. Such interest shall be payable for the full term of that loan and be paid to the Commonwealth on the respective days upon which interest is payable by the Commonwealth in respect of that loan; and

(b) make sinking fund contributions to the National Debt Commission in respect of the loan by which such moneys were borrowed at the full rate and for the proportion unexpired on the 30th June, 1929, of the full period provided for in the conditions under which the public were invited to subscribe to that loan; and

(c) pay to the Commonwealth when the loan matures an amount which (together with the sinking fund contributions made by the Commonwealth and the State in respect of that loan and the accumulations of such contributions) will be sufficient to provide for the redemption of that loan. For the purposes of this sub-clause such contributions shall be deemed to accumulate at the rate of 4½ per centum per annum compounded.

PART II.

1. This part of this Agreement shall be in force only during and in respect of the period of two years, commencing on 1st July, 1927, and ending on 30th June, 1929.

2. — CONTRIBUTION BY COMMONWEALTH TO INTEREST.

The Commonwealth will in each of the said two years pay to each State by equal monthly instalments the amount set out opposite to the name of that State as shown hereunder: —

	£
New South Wales	2,917,411
Victoria	2,127,159
Queensland	1,096,235
South Australia	703,816
Western Australia	473,432
Tasmania	266,859
	£7,584,912

Each State shall apply the amount so paid to it towards payment of interest due by that State on the Public Debt of that State. All amounts paid by the Commonwealth to a State in pursuance of Section 6 of the *State Grants Act 1927*, of the Commonwealth shall be deemed to be payments to that State under this clause.

3. — TRANSFERRED PROPERTIES.

The Commonwealth will in each of the said two years pay to each State interest at the rate of 5 per centum per annum on the agreed value of transferred properties in the State, such value being in the case of each State as follows: —

	£
New South Wales	4,788,005
Victoria	2,302,862
Queensland	1,560,639
South Australia	1,035,631
Western Australia	736,432
Tasmania	500,754
Total	£10,924,323

4. — SINKING FUNDS.

(a) In each of the said two years the Commonwealth will pay from revenue a sinking fund contribution at the rate of 2s. 6d. per annum for each £100 of the Net public debts of the States existing on 30th June, 1927, and each State (other than the State of New South Wales) will pay from revenue a sinking fund contribution at the rate of 5s. per annum for each £100 of the net public debt of that State existing on 30th June, 1927. The State of New South Wales will in the financial year commencing 1st July, 1928, pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of the net public debt of that State existing on 30th June, 1927.

(b) Where in respect of any debt included in the gross public debt of a State existing on 30th June, 1927, there is under laws or contracts existing at that date an obligation to provide a sinking fund at a rate in excess of 7s. 6d. per annum for each £100, any amount to be so provided in excess of the rate of 7s. 6d. per annum for each £100 shall be provided out of the National Debt Sinking Fund established under the laws of the Commonwealth. Provided that if any law imposing such an obligation is repealed or is amended so as to reduce the rate of sinking fund to be provided, the only amount (if any) to be provided out of the National Debt Sinking Fund pursuant to this subclause in respect of that debt shall, as from the date of such repeal or amendment, be the amount (if any) by which the reduced rate of sinking fund for the time being exceeds 7s. 6d. per annum for each £100.

(c) In respect of each loan raised after the 30th June, 1927, either by a State or by the Commonwealth for and on behalf of a State (other than a loan raised for the conversion, renewal, or redemption of a loan, or for temporary purposes) the Commonwealth and that State shall, subject to the next succeeding subclause as from the date of the raising of that loan, each pay from revenue a sinking fund contribution at the rate of five shillings (5s.) per annum for each £100 of the amount of such loan. Provided, however, that the liability of the State of New South Wales to make sinking fund contributions under this sub-clause shall commence on the 1st July, 1928. The provisions of this sub-clause apply to a loan raised after the 30th June, 1927, to meet a revenue deficit which accrued on or before that date.

(d) In respect of any loan raised after 30th June, 1927, by a State or by the Commonwealth for and on behalf of a State to meet a revenue deficit accruing after that date no sinking fund contribution shall be payable by the Commonwealth, but that State shall pay from revenue a sinking fund contribution at a rate of not less than 4 per centum per annum on the amount of that loan.

(e) Where loan moneys have been advanced by a State under terms providing for the repayment of such moneys, the State shall as and when such moneys are repaid pay such moneys either to the State Loan Fund or to the account or fund from which such moneys were advanced, and shall in addition, make from revenue its sinking fund contributions in respect of the loan or loans from which the moneys so advanced were provided. Provided that when loan moneys have been advanced by a State to a public or local authority or body constituted by the State, or under the laws of the State, and the authority or body repays such moneys out of its revenue, the State may out of moneys so repaid make its sinking fund contributions in respect of the loan moneys so advanced.

(f) All sinking fund contributions to be made in pursuance of this Part of this Agreement shall be paid to the National Debt Commission constituted under the *National Debt Sinking Fund Act 1923-25*, of the Commonwealth (herein called the National Debt Commission) as follows: —

(i) As regards the net public debt of a State existing on 30th June, 1927 — by half-yearly instalments on 30th September and 31st March in each financial year, or on such other dates as may be agreed between the Commonwealth and the State;

(ii) as regards loans raised after 30th June, 1927 — by equal instalments on the dates on which interest on such loans is

payable or on such other dates as may be agreed upon between the Commonwealth and the State concerned.

(g) Where the conditions relating to sinking funds, redemption funds, and funds of a like nature require payments to be made to trustees, the National Debt Commission will either directly or through any State concerned, make the necessary payments to those trustees.

(h) The sinking fund contributions made under this Part of this Agreement in respect of the Public Debt of a State (other than constributions paid or to be paid to trustees under the last preceding sub-clause hereof) shall so far as the same will suffice be applied in the repurchase or redemption of the Public Debt of that State and in the event of the proposed law for the alteration of the constitution referred to in Part IV. of this Agreement not becoming law, and of this Agreement not being validated thereunder on or before the 30th June, 1929, all State securities repurchased or redeemed as aforesaid shall be cancelled with the exception of securities the market value of which represents the amount of money provided in excess of the rate of 7s. 6d. per annum for each £100 under paragraph (b) of this clause, which latter securities shall be retained by and belong to the National Debt Commission.

PART III.

This Part of this Agreement shall not come into force or be binding upon any party hereto unless before the 1st July, 1929, the constitution of the Commonwealth has been altered in accordance with the proposals referred to in Part IV. of this Agreement, and a law of the Parliament of the Commonwealth has been made thereunder validating this Agreement, but shall come into full force and effect if, and when, before the said date the Constitution is so altered and this Agreement is so validated.

When this Part of this Agreement comes into force every matter or thing done and payment made under or in pursuance of Part II. of this Agreement shall be deemed, so far as is practicable, to have been done or made under this Part of this Agreement to the same extend as if this Part had then in fact been in force, and all necessary adjustments shall be made in respect of moneys so paid in order to ensure that no party hereto shall be liable for or make double payments in respect of the same matter.

PERMANENT PROVISIONS.

1. — TAKING OVER STATES' PUBLIC DEBTS.

Subject to the provisions of this part of this Agreement the Commonwealth will take over on the 1st July, 1929: —

(i) the balance then unpaid of the gross public debt of each State existing on 30th June, 1927; and

(ii) all other debts of each State existing on the 1st July, 1929, for moneys borrowed by that State which by this Agreement are deemed to be moneys borrowed by the Commonwealth for and on behalf of that State —

and will in respect of the debts so taken over assume as between the Commonwealth and the States the liabilities of the States to bondholders.

2. — PAYMENT OF INTEREST.

(a) Subject to this clause the Commonwealth will pay to bondholders from time to time interest payable on the Public Debts of the States taken over by the Commonwealth as aforesaid other than debts due by the States to the Commonwealth.

(b) The Commonwealth will in each year during the period of 58 years, commencing on 1st July, 1927, provide by equal monthly instalments the following amounts in respect of each State as shown hereunder towards the interest payable by that State: —

	£
New South Wales	2,917,411
Victoria	2,127,159
Queensland	1,096,235
South Australia	703,816
Western Australia	473,432
Tasmania	266,859
	£7,584,912

(c) Each State shall in each year during the same period of 58 years pay to the Commonwealth the excess over the amounts to be provided by the Commonwealth under the last preceding subclause necessary to make up as

they fall due the interest charges falling due in that year on the public debt of that State taken over by the Commonwealth as aforesaid and then unpaid, and on any moneys borrowed by the Commonwealth on behalf of that State and then unpaid, and after the expiration of the said period each State shall in each year pay to the Commonwealth, as they fall due, the whole of the interest charges on any debt then unpaid and included in the public debt of that State taken over by the Commonwealth as aforesaid, and on any moneys borrowed by the Commonwealth on behalf of that State and then unpaid.

(d) The method by which payments shall be made by a State under Subclause (c) of this clause shall be arranged from time to time between the Commonwealth and that State.

(e) The rate of interest payable under Subclause (c) of this clause in respect of moneys borrowed by the Commonwealth on behalf of a State shall be the full rate of interest payable by the Commonwealth in respect of the loan by which such moneys were borrowed or such other rate of interest as may be payable by the State to the Commonwealth under any Agreement made or to be made between the Commonwealth and that State in respect of such moneys and such interest shall be payable by the State for the full term of that loan.

3. — SINKING FUND.

(a) A sinking fund at the rate of 7s. 6d. per annum for each £100 of the net public debts of the States existing on 30th June, 1927, shall be established in the manner hereinafter set forth.

(b) During the period of fifty-eight years commencing on the 1st July, 1927, the Commonwealth shall pay from revenue annually a sinking fund contribution at the rate of 2s. 6d. for each £100 of the net public debts of the States existing on 30th June, 1927, and each State (other than the State of New South Wales) shall in each year during the said period pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of the net public debt of such State existing on 30th June, 1927. The State of New South Wales during the period of fifty-eight years commencing on the 1st July, 1928, shall in each year pay from revenue a sinking fund contribution at the rate of 5s. for each £100 of the net public debt of that State existing on 30th June, 1927.

(c) Where in respect of any debt included in the gross public debt of a State existing at the 30th June, 1927, there is under laws or contracts existing at that date an obligation to provide a sinking fund at a rate in excess of 7s. 6d. per annum for each £100, any amount to be so provided in excess of 7s. 6d. per

annum for each £100 shall be provided out of the National Debt Sinking Fund, established under the laws of the Commonwealth. Provided that if any law imposing such an obligation is repealed or is amended so as to reduce the rate of sinking fund to be provided the only amount (if any) to be provided out of the National Debt Sinking Fund pursuant to this subclause in respect of that debt shall as from the date of such repeal or amendment be the amount (if any) by which the reduced rate of sinking fund for the time being exceeds 7s. 6d. per annum for each £100.

(d) When a loan is issued for the conversion, renewal, or redemption of any debt of a State included in the gross Public Debt of that State existing on 30th June, 1927, the only sinking fund contribution to be made by the Commonwealth and that State in respect of the debt so converted, renewed, or redeemed shall be sinking fund contributions at the same rate and for the same period and upon the same amount as if such debt had not been converted, renewed, or redeemed.

(e) Subject to Subclauses (h) and (j) of this clause a sinking fund at the rate of 10s. per annum for each £100 of the amount of each new loan raised by a State or by the Commonwealth for and on behalf of a State after 30th June, 1927, shall be established.

(f) Subject to Subclauses (h) and (j) of this clause, in each year during the period of fifty-three years from the date of the raising after 30th June, 1927, of any new loan by a State or by the Commonwealth for and on behalf of a State the Commonwealth and that State shall each pay from revenue a sinking fund contribution of a sum equal to 5s. for each £100 of the amount of the new loan.

Provided that the period of fifty-three years during which the State of New South Wales shall make sinking fund contributions in respect of new loans raised in the financial year beginning on the 1st July, 1927, shall commence on the 1st July, 1928.

(g) For the purpose of the last two preceding subclauses a loan issued after the 30th June, 1927, to meet a revenue deficit which accrued on or before that date shall be deemed to be a new loan, but a loan issued for the conversion, renewal or redemption of a debt shall not be deemed to be a new loan, and where a loan is issued partly for the conversion, renewal, or redemption of a debt and partly for other purposes so much only of the loan as has been issued for other purposes shall be deemed to be a new loan.

(h) Where it is agreed between the Commonwealth and a State that a loan or any portion of a loan raised after 30th June, 1927, and expended or to be expended upon wasting assets should be redeemed within a shorter period than fifty-three years, the annual sinking fund contributions of the State in respect of that loan or the portion thereof, shall be increased to an amount which with the sinking fund contributions of the Commonwealth in respect of that loan or the portion thereof will provide for the redemption of that loan or the portion thereof within such shorter period. All sinking fund contributions of the State in respect of that loan or the portion thereof shall cease on the expiration of the shorter period, but the Commonwealth contributions in respect of that loan shall continue for the remainder of the period of fifty-three years from the date of the raising of that loan, and during such remainder of the period the State contributions to the sinking fund in respect of other loans of that State shall be reduced by the amount of the Commonwealth contributions during that remainder of the period in respect of such redeemed loan or the portion thereof. For the purposes of this subclause the sinking fund contributions of the Commonwealth and the State shall be deemed to accumulate at the rate of 4½ per centum per annum compounded.

(i) Where loan moneys have been advanced by a State under terms providing for the repayment of such moneys the State shall as and when such moneys are repaid pay such moneys either to the State Loan Fund or to the account or fund from which such moneys were advanced, or to the sinking fund and shall in addition make from revenue its sinking fund contributions in respect of the loan or loans from which the moneys so advanced were provided. Provided that when loan moneys have been advanced by a State to a public or local authority or body constituted by the State, or under the laws of the State, and the authority or body repays such moneys out of its revenue, the State may out of moneys so repaid make its sinking fund contributions in respect of the loan moneys so advanced.

(j) In respect of any loan raised after the 30th June, 1927, by a State or by the Commonwealth for and on behalf of a State to meet a revenue deficit accruing after that date no sinking fund contribution shall be payable by the Commonwealth, but that State shall for a period sufficient to provide for the redemption of that loan pay from revenue in each year during such period a sinking fund contribution at a rate of not less than 4 per centum per annum of the amount of that loan. For the purposes of this subclause the sinking fund contributions of the State shall be deemed to accumulate at the rate of 4½ per centum per annum compounded.

(k) All sinking fund contributions to be made in pursuance of this part of this Agreement shall be debts payable to the National Debt Commission as follows: —

(i) As regards the net public debt of a State existing on 30th June, 1927 — by half-yearly instalments on 30th September and 31st March in each financial year or on such other dates as may be agreed between the Commonwealth and that State.

(ii) As regards loans raised after 30th June, 1927 — by equal instalments on the dates on which interest on such loans is payable or on such other dates as may be agreed upon between the Commonwealth and the State concerned.

(l) Subject to the next succeeding sub-clause all moneys and securities standing to the credit of sinking funds, redemption funds and funds of a like nature of a State existing on 30th June, 1929, shall forthwith be transferred by the States to the National Debt Commission. Nothing in this subclause contained shall be deemed to limit the power of a State to cancel before 30th June, 1929, any such securities.

(m) Where the conditions relating to sinking funds, redemption funds, and funds of a like nature as aforesaid held by a State on trust or by trustees under statutory or contractual obligations preclude the transfer of those funds to the National Debt Commission, such funds shall remain under the control of the State or those trustees, and the National Debt Commission will either directly or through the State concerned make all future payments to the State or to those Trustees from the sinking fund.

(n) The sinking funds to be established under this Agreement shall be controlled by the National Debt Commission. The National Debt Commission may arrange with any State to act as its agent in connection with payments due to bondholders.

(o) Sinking fund contributions made under this Agreement in respect of the debts of a State, and funds of that State transferred to the National Debt Commission under sub-clause (l) of the clause will not be accumulated, but (subject to sub-clauses (m) and (p) of this clause) will be applied to the redemption of the public debts of that State and of loans raised by the Commonwealth for and on behalf of that State, or to the purchase of securities issued in respect thereof.

(p) If at any time it is deemed inexpedient by the National Debt Commission to apply sinking funds in the manner set forth in sub-clause (o) of this clause, such funds may be temporarily invested in any securities in which the National Debt Commission is from time to time by law authorised to invest moneys.

(q) When a security issued in respect of a public debt of a State or of a loan raised by the Commonwealth for and on behalf of a State is repurchased or redeemed by the National Debt Commission such security shall be cancelled —

(i) if a repurchased security — on the last day of September, December, March or June next ensuing after the date of repurchase, or on the date of maturity of the security whichever shall first occur; and

(ii) if a redeemed security — on the date of redemption.

In addition to the sinking fund contributions otherwise payable in respect of that debt or loan the State concerned shall —

(i) as from the date of cancellation of each security and for the full period during which the said sinking fund contributions are payable make from revenue a further sinking fund contribution at the rate of 4½ per centum per annum of the face value of the cancelled security; and

(ii) also pay to the National Debt Commission interest on the face value of each repurchased security at the rate provided by the security from the last date preceding the repurchase upon which interest was payable under the terms of the security up to the date of cancellation of the security.

4. — TRANSFERRED PROPERTIES.

It is agreed that all questions between the Commonwealth and the States relating to State properties transferred to the Commonwealth or acquired by the Commonwealth under section 85 of the Constitution shall be settled as follows: —

The State will as from 1st July, 1929, and as between the Commonwealth and the States be completely free and discharged from all liability whether in respect of principal, interest or sinking fund, or otherwise, which liability shall be assumed by the Commonwealth in respect of so much of the public debts of

the States bearing interest at the rate of 5 per centum per annum, taken over by the Commonwealth as aforesaid as amounts to the agreed value of transferred properties, namely, £10,924,323, apportioned to the several States as follows: —

	£
New South Wales	4,788,005
Victoria	2,302,862
Queensland	1,560,639
South Australia	1,035,631
Western Australia	736,432
Tasmania	500,754
Total	£10,924,323

The particular portion of the public debt of each State in respect of which the States shall become free and discharged from liability shall be determined by the Commonwealth.

Each State will issue to the Commonwealth freehold titles (or, if the laws of any State do not permit of the issue of freehold titles, then titles as near to freehold as the laws of that State will permit) for transferred properties consisting of land or interest in land in that State, and all liability of the Commonwealth to the State in respect of transferred properties shall as from 1st July, 1929, be extinguished.

The provisions of clauses 2 and 3 of this Part of this Agreement shall not apply to the said amount of £10,924,323.

PART IV. — MISCELLANEOUS.

1. — EXPENSES OF LOAN FLOTATION.

Each State shall repay to the Commonwealth all expenses incurred or payments made by the Commonwealth in the performance of this Agreement in relation to the State including the following expenses and payments: —

(i) Loan flotation charges;

(ii) Management charges;

(iii) Stamp duties on transfer of securities;

(iv) Commission on payment of interest;

(v) Expenses incurred in the conversion, renewal, redemption or consolidation of loans;

(vi) Exchange on transference of moneys.

Unless it is otherwise agreed between the Commonwealth and a State the Commonwealth will not do anything in connexion with a loan of that State existing on the 30th June, 1927, or raised thereafter pursuant to this Agreement, which if done by that State would be a breach of any now existing agreement by that State with any Bank.

A certificate by the Auditor-General of the Commonwealth stating the amount to be repaid by a State to the Commonwealth and the matter in respect of which the repayment is to be made shall, in the event of a dispute, be conclusive as to the amount and matter stated.

2. — ALTERATION OF THE CONSTITUTION.

The Commonwealth will take the necessary action to submit to the Parliament of the Commonwealth and to the electors proposals for the alteration of the Constitution of the Commonwealth in the following form: —

"105A. (1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including —

(a) the taking over of such debts by the Commonwealth;

(b) the management of such debts;

(c) the payment of interest and the provision and management of sinking funds in respect of such debts;

(d) the consolidation, renewal, conversion, and redemption of such debts;

(e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and

(f) the borrowing of money by the States or by the Commonwealth or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto, notwithstanding anything contained in this Constitution or the constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section 105 of this Constitution."

3. — INDEMNITY.

Each State agrees with the Commonwealth that it will by the faithful performance of its obligations under this agreement indemnify the Commonwealth against all liabilities whatsoever in respect of the public debt of that State taken over by the Commonwealth as aforesaid (other than the liabilities of the Commonwealth under this Agreement to pay interest and to make sinking fund contributions and under Clause 4 of Part III. of this Agreement), and in respect of all loans of that State in respect of which this Agreement provides that sinking fund contributions shall be made.

4. — ACCOUNTS.

Separate accounts shall be kept by the Commonwealth for each State in respect of Debt, Interest, and Sinking Funds.

In witness whereof the Prime Minister of the Commonwealth of Australia and the Premiers of each of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia, and Tasmania, have signed this Agreement respectively for and on behalf of the Commonwealth of Australia, and of the said States.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of — } S. M. BRUCE.

EARLE PAGE.

Signed by the Premier of the State of New South Wales for an on behalf of the said State in the presence of —	T. R. BAVIN.
B. S. STEVENS.	
Signed by the Premier of the State of Victoria for and on behalf of the said State in the presence of —	E. J. HOGAN.
H. A. PITT.	
Signed by the Premier of the State of Queensland for and on behalf of the said State in the presence of —	W. McCORMACK.
J. MULLEN.	
Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of —	R. L. BUTLER.
H. TASSIE.	
Signed by the Premier of the State of Western Australia for and on behalf of the said State in the presence of —	P. COLLIER.
GEO. W. SIMPSON.	
Signed by the Premier of the State of Tasmania for and on behalf of the said State in the presence of —	J. A. LYONS.
J. ALLAN GUY.	

Notes

[1] This reprint is a compilation as at 1 February 2002 of the *Financial Agreement Act 1928* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
Financial Agreement Act 1928	1 of 1928	30 Aug 1928	30 Aug 1928
Acts Amendment (Financial Administration and Audit) Act 1985 s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and *Gazette* 30 Jun 1986 p. 2255)
Financial Administration and Audit Amendment Act 1990 s. 39(1)	92 of 1990	20 Dec 1990	8 Mar 1991 (see s. 2 and *Gazette* 8 Mar 1991 p. 1029)
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))

The *Financial Agreement Act 1928* is affected by and should be read with the following:

Financial Agreement (Amendment) Act 1944 (No. 18 of 1944)
Financial Agreement (Amendment) Act 1966 (No. 88 of 1966)
Financial Agreement (Amendment) Act 1976 (No. 15 of 1976)

[2] Repealed by the *Statute Law Revision Act 1965*.

[3] Repealed by the *Land Act 1933* which was repealed by the *Land Administration Act 1997*.

[4] Repealed by the *Acts Amendment (Financial Administration and Audit) Act 1985*.

By Authority: JOHN A. STRIJK, Government Printer