

Senate Finance and Public Administration Legislation Committee

Inquiry into the Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022

Department of Finance

Response to Question on Notice

Written Question on Notice 1 - (Senator Colbeck)

Are the provisions in the bill that would allow the responsible Ministers to adjust the maximum disbursement amount via a disallowable legislative instrument consistent with other funds managed by the Future Fund Board of Guardians through the Future Fund Management Agency?

Response

There are similar provisions in the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*. Section 25 of that Act allows the Minister for Finance and Minister for Indigenous Australians to make discretionary additional payments from the Aboriginal and Torres Strait Islander Land and Sea Future Fund (on top of indexed annual payments). Similar to the Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022, before authorising an additional payment, the Ministers must consult the Future Fund Board of Guardians on the impacts of any proposed additional payment and have regard to that advice. However, in the case of the ATSILSFF Act, additional payments are made by way of notifiable instrument and are not subject to parliamentary disallowance.

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Response to Question on Notice

Written Question on Notice 2 - (Senator Colbeck)

Under the relevant legislation governing the Future Fund, the Medical Research Future Fund, the Aboriginal and Torres Strait Islander and Sea Future Fund, the Future Drought Fund, or the DisabilityCare Australia Fund, are there provisions that would allow the responsible Ministers to adjust the maximum disbursement amount via a disallowable legislative instrument?

Response

There are similar provisions in the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*. Section 25 of that Act allows the Minister for Finance and Minister for Indigenous Australians to make discretionary additional payments from the Aboriginal and Torres Strait Islander Land and Sea Future Fund (on top of indexed annual payments). Similar to the Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022, before authorising an additional payment, the Ministers must consult the Future Fund Board of Guardians on the impacts of any proposed additional payment and have regard to that advice. However, in the case of the ATSILSFF Act, additional payments are made by way of notifiable instrument and are not subject to parliamentary disallowance.

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Response to Question on Notice

Written Question on Notice 3 - (Senator Colbeck)

What mechanisms are in place within the legislation to mitigate the risk that a decision by the Responsible Ministers to increase the maximum disbursement amount from the Emergency Response Fund (Disaster Ready Fund) beyond the current legislated cap could negatively impact the perpetuity of the fund?

Response

Before making a determination to amend the maximum disbursement amount, the responsible Ministers would be required, by proposed section 34A, to consult the Future Fund Board of Guardians (Board) on the Board's ability to comply with the investment mandate and the Act under the proposed change. Proposed subsection 34(5) of the Bill would require the responsible Ministers to have regard to the Board's advice in making a determination. These provisions would ensure that Ministers are appropriately informed of the impacts of any proposed amendments before bringing forward proposals.

The Parliament would retain oversight via the disallowance process and could choose to exercise its disallowance powers in circumstances where it does not believe that the responsible Ministers have justified a change to the maximum disbursement amount.

Senate Finance and Public Administration Legislation Committee

Inquiry into the Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022

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Response to Question on Notice

Written Question on Notice 4 - (Senator Colbeck)

Are there mechanisms outside of the legislation to mitigate the risk that a decision by the Responsible Ministers to increase the maximum disbursement amount from the Emergency Response Fund (Disaster Ready Fund) beyond the current legislated cap could negatively impact the perpetuity of the fund?

Response

In bringing forward proposals to amend the maximum disbursement amount via a disallowable legislative instrument, the responsible Ministers in consultation with the Emergency Management Minister will need to justify the case for change to the Parliament.

As part of this process, the responsible Ministers would be required to consult the Future Fund Board of Guardians on the Board's ability to comply with the investment mandate and the Act.

Any legislative instrument that proposes to amend the maximum disbursement amount would be accompanied by an explanatory statement that details the rationale for the proposed change.

The Parliament can choose to exercise its disallowance powers if it is not convinced that the change has been sufficiently justified by the responsible Ministers. Further, the Government may drawdown less than the maximum disbursement amount in any given year(s) in order to maintain the fund's sustainability.