

WESTERN AUSTRALIAN FUTURE FUND AMENDMENT (FUTURE HEALTH RESEARCH AND INNOVATION FUND) BILL 2019

EXPLANATORY MEMORANDUM

INTRODUCTION

The Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 (the Bill) amends the *Western Australian Future Fund Act 2012* to establish a long term secure source of funding to support medical and health research, and medical and health innovation and commercialisation in Western Australia.

The Bill will enable funds to be made available to support activities that contribute to one or more of the following:

- improving the financial sustainability of Western Australia's health system;
- improving the health and wellbeing of Western Australians;
- improving Western Australia's economic prosperity; or
- advancing Western Australia to being, or maintaining Western Australia's position as, a national or international leader in any qualifying activities.

The Bill will repurpose the Western Australian Future Fund (the Future Fund), established by the *Western Australian Future Fund Act 2012*, to create the Western Australian Future Health Research and Innovation Fund (the FHRI Fund), and establish a new agency special purpose account to be called the Western Australian Future Health Research and Innovation Account (the FHRI Account). The FHRI Fund will continue as the Treasurer's special purpose account and administered by the Treasurer. The FHRI Account is administered by the Minister for Health.

Other components of the Bill include:

- a power for the Minister for Health to make arrangements to facilitate the furthering of the object of the Act;
- a power for the Minister for Health to approve existing arrangements made before the commencement of the amendments;
- a power for the Minister for Health to apply money standing to the credit of the FHRI Account for the purposes of, or in relation to, an arrangement;
- reporting requirements for the FHRI Account and the FHRI Fund;
- a delegation power for the Minister for Health and the chief executive officer of the FHRI Account Department;
- a power for the Minister for Health to establish and maintain an advisory group; and
- retaining the manner and form provision, in relation to sections 7, 8, 9 and 10, until 30 June 2032.

Detail for each clause of the Bill is outlined below.

Clause 1: Short title

This clause provides for the Act to be cited as the *Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Act 2019*.

Clause 2: Commencement

This clause provides for commencement of the Act. Sections 1 and 2 come into operation on the day on which the Act receives Royal Assent.

The remainder of the Act comes into operation 28 days after the date of Royal Assent. This is to allow sufficient time to finalise the arrangements for the administration of the amended *Western Australian Future Fund Act 2012* (the amended Act).

Clause 3: Act amended

This clause provides for the *Western Australian Future Fund Act 2012* to be amended by this Act.

Clause 4: Long title replaced

This clause replaces the long title in the *Western Australian Future Fund Act 2012* to insert the following new long title: “An Act to establish the Western Australian Future Health Research and Innovation Account and the Western Australian Future Health Research and Innovation Fund and for related purposes.”

Clause 5: Part 1 heading inserted

This clause inserts the heading “Part 1 – Preliminary provisions” before section 1.

Clause 6: Short title amended

This clause amends section 1 so that the short title of the amended Act becomes *Western Australian Future Health Research and Innovation Fund Act 2012*.

Clause 7: Section 3 amended

Subclause 7(1) amends section 3 to delete the definitions of ***Future Fund***, ***Regional Development Minister*** and ***Royalties for Regions Fund***, as these are no longer required following the repurposing of the Western Australian Future Fund (the Future Fund), and the repeal of section 6.

Subclause 7(2) amends section 3 to insert 13 new definitions:

advisory group means the advisory group established and maintained under section 4F(1).

amendment day means the day that section 3 of the *Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Act 2019* comes into operation.

arrangement means a contract, programme, schemes or any other type of arrangement. This has been drafted broadly to ensure a vast range of mechanisms are captured.

CEO means the chief executive officer of the FHRI Account Department.

department means a department of the Public Service.

FHRI Account means the account called the Western Australian Future Health Research and Innovation Account established under section 4A. This is an agency special purpose account.

FHRI Account Department means the department principally assisting the Minister for Health in the administration of the FHRI Account.

FHRI Fund means the account called the Western Australian Future Health Research and Innovation Fund established under section 5. This is a Treasurer's special purpose account.

FHRI Fund Department means the department principally assisting the Treasurer in the administration of the FHRI Fund.

forecast investment income is the estimate of investment income expected in a financial year from investing the money standing to the credit of the FHRI Fund. This figure is set out in the part of the State's Budget Papers titled "Economic and Fiscal Outlook". There is also provision for regulations to prescribe another part of the Budget Papers.

Minister for Health is the Minister to whom the administration of section 4A is for the time being committed by the Governor and includes any Minister acting in this position.

Public Bank Account has the meaning given in section 3 of the *Financial Management Act 2006*.

qualifying activities means any type of medical research, other research in the field of human health, medical innovation, other innovation in the field of human health, or commercialisation or other utilisation or development, of any products or other outcomes of any of the above research or innovation.

Subclause 7(3) amends the definition of **forecast royalty income** to delete reference to "General Government Operating Statement" and insert a reference to "Economic and Fiscal Outlook". This ensures consistency with the definition of **forecast investment income** when referencing the State's Budget Papers.

Clause 8: Section 4 replaced

This clause deletes the former purpose of the *Western Australian Future Fund Act 2012* which was to provide for the accumulation of a portion of the revenue from the State's mineral resources and other money for the benefit of future generations.

This clause provides that the object of the amended Act is to provide a secure source of funding to support qualifying activities. These qualifying activities are to contribute, either directly or indirectly, to one or more of the following:

- (a) improving the financial sustainability of Western Australia's health system;
- (b) improving the health and wellbeing of Western Australians;
- (c) improving Western Australia's economic prosperity;

(d) advancing Western Australia to being, or maintaining Western Australia's position as, a national or international leader in any qualifying activities.

Clause 9: Part 2 inserted

This clause inserts "Part 2 – Western Australian Future Health Research and Innovation Account" into the amended Act. Part 2 is comprised of seven sections.

Section 4A – Establishment of Western Australian Future Health Research and Innovation Account

Subsection (1) provides for the FHRI Account to be established for the purpose of supporting qualifying activities that contribute directly, or indirectly, to one or more of the things listed in section 4(a) to (d). The purpose is linked to the broader object of the amended Act to provide a secure source of funding to support qualifying activities.

Subsection (2) states that the FHRI Account is an agency special purpose account under section 16 of the *Financial Management Act 2006*.

Subsection (3) provides for the FHRI Account to be administered by the Minister for Health.

Subsection (4) provides that money standing to the credit of the FHRI Account is to be held in the Public Bank Account, subject to any investment of that money under the *Financial Management Act 2006* section 37(1). This provision makes it clear that money standing to the credit of the FHRI Account may be invested by the Treasurer in a manner prescribed by regulations made pursuant to section 37(1) of the *Financial Management Act 2006*.

Section 4B – Amounts to be credited to FHRI Account

Subsection (1) provides for the FHRI Account to be credited as outlined in section 9(1).

Subsection (2) provides that the FHRI Account may also be credited with:

(a) any income derived from investment of money standing to the credit of the FHRI Account; and

(b) any other money lawfully made available to the FHRI Account. This is a broad provision to allow for funds received for the purpose of the account to be credited such as parliamentary funding or private sector contributions.

Section 4C – Application of FHRI Account

Subsection (1) provides the Minister for Health with express statutory powers:

(a) to make arrangements; and

(b) to approve arrangements that have already been made (whether by the Minister or otherwise).

The Minister can only make or approve arrangements that the Minister considers will further, or facilitate the furthering of, the purpose of the FHRI Account as outlined in section 4A(1). This provision imposes a subjective test and requires the Minister to form a view as to whether the arrangement will further, or facilitate the furthering of, the purpose outlined in section 4A(1).

Subsection (2) provides that the Minister may apply money standing to the credit of the FHRI Account for the purposes of, or in relation to, an arrangement made or approved under subsection (1). This is drafted broadly to ensure the Minister can apply the money in a variety of ways, provided it is for the purposes of, or in relation to, an arrangement that has been made or approved by the Minister. For example, the Minister may apply money as a prize under an arrangement, through a grant, or to pay for costs or services as outlined in the arrangement.

Subsection (3) provides that regulations may prescribe other cases in which the Minister may apply money standing to the credit of the FHRI Account. This provision allows for additional circumstances which may arise in the future that do not readily fall within section 4C(1). The Minister is still required to form a view that the application of money in those cases will further, or facilitate the furthering of, the relevant purpose.

Subsection (4) provides examples of the types of arrangements that can be made or approved by the Minister under subsection (1). Subsection (4) is intended to aid in the interpretation of what types of arrangements the Minister can make or approve, but is not intended to limit the Minister's discretion when making or approving an arrangement.

Paragraph (a) provides that an arrangement can involve a person considered by the Minister to be someone who carries out or facilitates a qualifying activity. This is drafted broadly to also cover a person supporting another in carrying out or facilitating the qualifying activity. An arrangement can also involve a person who administers a programme or scheme that supports qualifying activities.

Paragraph (b) provides that an arrangement can also involve a person who provides services in relation to the making or approving of arrangements, or in the administration of arrangements. These examples make it clear that the Minister can make arrangements involving persons such as service providers to assist in identifying suitable recipients of funds, as well as make arrangements to engage service providers to manage and administer grants programmes.

Subsection (5) provides that payments under an arrangement can be made in advance. Payments can be applied to fund a programme or scheme, or to pay for services. These examples make it clear that the Minister may make, or approve, an arrangement to fund a programme or scheme where the person makes decisions about the final disbursement of grants to successful recipients, as well as to make an arrangement to pay for the person's services.

Subsection (6) provides that an arrangement may involve financial or other benefits being given to the State.

Subsection (7) makes it clear that the examples outlined in subsections (4) to (6) do not limit the Minister's discretion when making or approving arrangements under subsection (1). The examples are not intended to limit the Minister's power or to restrict the interpretation of the Minister's power in any way. The examples outline the types of persons or payments that might be involved.

Subsection (8) is a transitional provision indicating that the power to approve arrangements can apply to arrangements that were made before the amendment day.

Section 4D – Other provisions relating to FHRI Account

Subsection (1) provides that money standing to the credit of the FHRI Account can be transferred back to the FHRI Fund, if agreed in writing by the Treasurer and the Minister for Health. The ability to transfer money back to the FHRI Fund provides a mechanism to cover situations where there might be uncommitted funds in the FHRI Account in a given year. These funds may be returned from the FHRI Account to the FHRI Fund and reinvested to build the capital in the FHRI Fund.

Subsection (2) provides that the Treasurer cannot give a direction in relation to the FHRI Account under section 20(1) of the *Financial Management Act 2006*. This means that the Treasurer cannot use section 20(1) of the *Financial Management Act 2006* to transfer any cash balance of the FHRI Account to the Consolidated Account. This ensures funds are preserved for qualifying activities under the amended Act. In the event that funds accumulate in the FHRI Account, such funds can be returned to the FHRI Fund under subsection 4D(1)."

Subsection (3) provides that the provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting requirements of departments apply to the FHRI Account.

Subsection (4) makes it clear that the administration of the FHRI Account is a service of the FHRI Account Department for the purposes of section 52 of the *Financial Management Act 2006*.

Subsections (5) and (6) provide an annual reporting requirement for the FHRI Account. The annual report for the financial year prepared by the accountable authority of the FHRI Account Department is to contain information about the operation of the FHRI Account during the financial year. This includes outlining how the money has been applied during the financial year. The reporting requirement is in addition to any other statutory reporting requirements for agency special purpose accounts under the *Financial Management Act 2006*.

Section 4E – Delegation by Minister for Health and CEO

Subsection (1) provides that the Minister for Health may delegate to the CEO any functions of the Minister under sections 4A or 4C, including any regulations made for the purposes of section 4C(3).

Subsection (2) provides that the CEO may delegate any function that has been delegated to the CEO to a public service officer of the FHRI Account Department.

Subsection (3) provides that the public service officer to whom a function is delegated under subsection (2) cannot delegate that function. This means that any function delegated by the CEO cannot be further delegated.

Subsection (4) provides that a delegation by either the Minister or the CEO must be in writing and signed.

Subsection (5) provides that the performance of a delegated function must be done in accordance with the terms of the delegation. The written delegation will outline the terms of the delegate's functions.

Subsection (6) provides that the *Health Legislation Administration Act 1984* section 9 does not apply to, or in relation to, any function under this Part (if it would otherwise

do so). This makes it clear that the Minister's statutory delegation power is derived from section 4E(1).

Subsection (7) provides that nothing in section 4E limits the ability of the Minister to exercise or perform a function through an officer or agent. While the Treasurer is not given statutory powers of delegation, the Treasurer is similarly not intended to be limited from acting through officers or agents.

Section 4F – Advisory group to be established and maintained

Subsection (1) provides that the Minister for Health must establish and maintain an advisory group. The Minister has discretion to determine the name of the advisory group.

Subsection (2) states that the functions of the advisory group are to provide any advice or other assistance requested by the Minister or the FHRI Account Department. The inclusion of the FHRI Account Department in subsection (2) ensures the FHRI Account Department can make requests of the advisory group if, and when, required. The advice, or assistance, requested can relate to the furthering, or facilitating the furthering of, the purpose outlined in section 4A(1). The advice, or assistance, requested can also relate to any other matter related to any function of the Minister under sections 4A or 4C, including any regulations made for the purposes of section 4C(3).

Subsection (3) provides for the membership composition of the advisory group.

The individuals identified in paragraphs (a) and (b) are intended to be standing members.

Paragraph (a) provides that the CEO of the FHRI Account Department, or a nominee of the CEO, is a member of the advisory group.

Paragraph (b) provides that the chief executive officer of the department that the Minister considers is most closely involved with qualifying activities, or a nominee of that chief executive officer, is a member of the advisory group. For example, this may be the department principally responsible for assisting the Minister for Science or the Minister for Innovation. This provision provides flexibility in the appointment of a standing member for the advisory group and ensures the Minister can determine the most appropriate and relevant department.

The individuals identified in paragraphs (c) to (f) are appointed by the Minister.

Paragraph (c) provides that one individual is to be appointed as a community representative.

Paragraph (d) provides that one individual is to be appointed whom the Minister considers is an expert in qualifying activities that are research. This includes medical research or research in the field of human health.

Paragraph (e) provides that one individual is to be appointed whom the Minister considers is an expert in qualifying activities that are innovation. This includes medical innovation or innovation in the field of human health.

Paragraph (f) provides that at least three other individuals are to be appointed by the Minister whom, taken together, the Minister considers have a suitable variety and level of relevant expertise and experience. This may include expertise in business, finance, law, corporate governance, or experience in philanthropic, charitable or not-for-profit sectors. If required, the Minister may appoint more than three individuals in order to achieve the necessary variety and level of expertise and experience.

Subsection (4) provides that at least one of the members must have experience dealing with issues relating to the health of Aboriginal people in Western Australia. The individual may be an expert in another field, as well as in Aboriginal health issues.

Subsection (5) provides that at least one of the members must have experience dealing with issues relating to the health of people living in regional Western Australia. The individual may be an expert in another field, as well as in regional health issues.

Subsection (6) provides that an individual appointed to the advisory group as a member may include a public service officer. This subsection makes it clear that a public service officer will be a full voting member if appointed under section 4F(3)(c) to (f).

Section 4G – Other provisions relating to advisory group

Subsection (1) outlines provisions related to the term of a member appointed by the Minister for Health under section 4F(3)(c) to (f) and conditions required to be specified in the instrument of appointment.

Paragraph (a) provides that the member holds office for a period not exceeding five years. The term of appointment is to be specified in their instrument of appointment. The Minister may outline conditions under which the appointment may be ended or under which the member may be suspended. Those conditions will outline the circumstances for reinstating a member following a suspension.

Paragraph (b) provides that the member is eligible for reappointment.

Paragraph (c) provides that the member is entitled to remuneration, allowances or reimbursement of expenses, unless the instrument of appointment specifies otherwise. For example, a public service officer would not be entitled to any remuneration pursuant to the instrument of appointment. The instrument of appointment may also specify the extent of any entitlements.

Paragraph (d) provides that the member may be subject to other conditions to be outlined in the instrument of appointment.

Subsection (2) provides that the instrument of appointment for a member appointed by the Minister under section 4F(3)(c) to (f) must include a condition around the steps to be taken by the member if the member has any actual, or potential, material conflict of interest arising out of the advisory group's functions. The condition may include the steps to be taken if there is a perceived conflict of interest.

Subsection (3) provides that the Minister has the power to determine matters relating to the operation or procedures of the advisory group. This may include determining its quorum and matters relating to voting. These are examples only and do not limit the

Minister's discretion to determine other matters relating to the operation or procedures of the advisory group. This is a broad power that would also include the Minister determining how the advisory group may seek specialist advice. The Minister also has the power to designate a member of the advisory group as the chairperson.

Subsection (4) provides that the advisory group may determine its own procedures. However, this is subject to any determinations made by the Minister pursuant to section 4G(3). The power for the advisory group to determine its own procedures allows flexibility to ensure the advisory group can make decisions about administrative matters related to its functions. The advisory group may perform its functions through sub-groups of its members. Subsection (4) also provides that any vacancies in the membership of the advisory group will not impact its ability to perform its functions.

Subsection (5) provides that the members under section 4F(3)(a) and (b) are non-voting members and cannot be the chairperson.

Subsection (6) provides that the Minister for Health may appoint another individual as an alternate member to act temporarily in place of a member who may be unable, or unavailable, to act. The appointment of an alternate member may be due to the suspension, illness or absence of a member, or for any other cause. Subsection (6) makes it clear that the alternate member must satisfy the same eligibility requirements that are outlined in section 4F(3)(c) to (f).

Subsection (7) provides that the alternate member has any entitlement of a member of the advisory group appointed under section 4F(3)(c) to (f). This entitles the alternate member to the same remuneration, allowances or reimbursement of expenses. Subsection (7) also provides that the alternate member is a member of the advisory group. This ensures the requirements of section 4F(4) and (5) apply to the alternate member. Further, this ensures the alternate member will be protected from civil liability for anything done, or omitted to be done, in good faith in the performance, or purported performance, of the advisory group's functions or as a member of the advisory group.

Subsection (8) provides that the act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment, or acting, had not arisen, or had ceased. This is intended to avoid potential disputes about whether a member of the advisory group under section 4F(3)(c) to (f) was genuinely unavailable or unable to act.

Subsections (9) and (10) provide protection from civil liability for any individual who is, or has been, a member of the advisory group. The individual is protected from civil liability for anything done, or omitted to be done, in good faith in the performance, or purported performance, of the advisory group's functions or otherwise as a member of the advisory group.

Clause 10: Part 3 heading inserted

This clause inserts the heading "Part 3 – Western Australian Future Health Research and Innovation Fund" before section 5 of the amended Act.

Clause 11: Section 5 amended

Subclause (1) deletes former section 5(1) and inserts new subsections (1) and (1A) into section 5 of the amended Act.

Section 5(1) provides that the Future Fund that was formerly established by the *Western Australian Future Fund Act 2012* is discontinued.

Section 5(1A) establishes the FHRI Fund for the purpose of funding the FHRI Account under section 9(1).

It is necessary to discontinue, rather than retitle, the Future Fund as the purpose for its establishment has changed.

Subclause (2) amends section 5(2) and (3) of the amended Act to insert a reference to the “FHRI Fund”, instead of the “Future Fund”.

Subclause (3) deletes former section 5(4) and inserts two new subsections (3A) and (4) into section 5 of the amended Act.

Section 5(3A) provides that money standing to the credit of the Future Fund immediately before amendment day stands to the credit of the FHRI Fund. This ensures money that has accumulated in the Future Fund since the commencement of the *Western Australian Future Fund Act 2012* carries over to the FHRI Fund.

Section 5(4) provides that money standing to the credit of the FHRI Fund is to be held in the Public Bank Account, subject to any investment of that money under the *Financial Management Act 2006* section 37(1). This provision makes it clear that money standing to the credit of the FHRI Fund may be invested by the Treasurer in a manner prescribed by regulations made pursuant to section 37(1) of the *Financial Management Act 2006*.

Subclause (4) amends section 5(5) of the amended Act to insert a reference to the “FHRI Fund”, instead of the “Future Fund”. Consistent with provisions that applied to the Future Fund, investment of money in the FHRI Fund is to be restricted to cash, various debt instruments of high credit quality and gold. Investment of money standing to the credit of the FHRI Fund is to be conducted in a manner consistent with the investment policy underpinning the Future Fund.

The note to clause 11 provides that the heading to section 5 of the amended Act changes from “Western Australian Future Fund” to “Establishment of Western Australian Future Health Research and Innovation Fund”.

Clause 12: Section 6 deleted

This clause deletes section 6 of the amended Act which authorised the transfer of money from the Royalties for Regions Fund to the Future Fund. This section is no longer required as its purpose has been achieved.

Clause 13: Section 7 amended

Subclause (1) amends section 7 of the amended Act to remove reference to the financial year commencing on 1 July 2016. Instead, money can be credited to the FHRI Fund in each financial year that starts on or after the amendment day.

Subclause (2) amends section 7(a) of the amended Act to insert a reference to the “FHRI Fund”, instead of the “Future Fund”. The FHRI Fund is to be credited with an amount equal to one per cent of the forecast royalty income for that year. Section 7(b) of the *Western Australian Future Fund Act 2012* has been retained. Section 7(b) states

that the amount referred to in section 7(a) is to be charged to the Consolidated Account, which is to the extent necessary appropriated accordingly. This means section 7(b) of the amended Act provides for the standing appropriation which authorises the transfer of the amounts described in section 7(a) from the Consolidated Account to the FHRI Fund.

The note to clause 13 provides that the heading to section 7 of the amended Act changes from “Credits to Future Fund from forecast royalty income” to “Credits to FHRI Fund from forecast royalty income”.

Clause 14: Sections 8 and 9 replaced

This clause deletes former sections 8 and 9. This clause inserts new sections 8 and 9 in the amended Act.

Section 8 – Additional money to be credited to FHRI Fund

The former section 8(1) of the *Western Australian Future Fund Act 2012* has been repealed as it is superfluous given the amended section 8.

Section 8 provides that, in addition to forecast royalty income that is to be credited to the FHRI Fund under section 7, the FHRI Fund may also be credited with:

- (a) any income derived from the investment of money standing to the credit of the FHRI Fund;
- (b) any amount that is subject of a joint direction of the Treasurer and the Minister for Health under section 4D(1); and
- (c) any other money lawfully made available to the FHRI Fund. This is intended to be a broad provision to allow for funds received for the purpose of the account to be credited such as parliamentary funding or private sector contributions.

Section 9 – Application of FHRI Fund

The former section 9 of the *Western Australian Future Fund Act 2012* has been repealed. The former purpose of providing for public works and other public infrastructure in the metropolitan area and regions of Western Australia is no longer applicable.

Subsection (1) provides that in each financial year starting on, or after, amendment day, an amount equal to the forecast investment income for the financial year is to be charged to the FHRI Fund and credited to the FHRI Account. The close monitoring of the FHRI Fund investment means that any difference between actual and estimated interest earnings is expected to be insignificant. Further, this gives certainty to the Minister for Health of the amount that is credited to the FHRI Account.

Subsection (2) provides that money standing to the credit of the FHRI Fund is held in perpetuity to the credit of the FHRI Fund and cannot be applied for any purpose.

Subsection (3) provides that the Treasurer cannot give a direction in relation to the FHRI Fund under section 20(1) of the *Financial Management Act 2006*. This means that the Treasurer cannot use section 20(1) of the *Financial Management Act 2006* to transfer any money standing to the credit of the FHRI Fund to the Consolidated

Account. This ensures the capital in the FHRI Fund is preserved and protected over time.

Subsection (4) provides that section 12 of the *Financial Management Act 2006* does not apply to money standing to the credit of the FHRI Fund. Section 12 of the *Financial Management Act 2006* allows the Treasurer to apply any money standing to the credit of the Public Bank Account to make any lawful payment. To ensure the purpose of the FHRI Fund is preserved and protected over time, section 9(4) of the amended Act prohibits the application of section 12 of the *Financial Management Act 2006* to the FHRI Fund.

Section 9A – Annual reporting on FHRI Fund

New section 9A outlines the annual reporting requirements for the FHRI Fund.

Subsection (1) provides that the FHRI Fund Department must include information about the operation of the FHRI Fund during a financial year in its annual report for that year.

Subsection (2) provides that the annual report must include details of the forecast investment income charged to the FHRI Fund pursuant to section 9(1) of the amended Act. The reporting requirement is in addition to any other statutory reporting requirements for Treasurer's special purpose accounts under the *Financial Management Act 2006*.

Clause 15: Part 4 heading inserted

This clause inserts the heading "Part 4 – Final provisions" before section 10 of the amended Act.

Clause 16: Section 10 amended

Subclause (1) replaces "accumulation period" with "establishment period", as this concept better reflects the policy of the amended Act. Money standing to the credit of the FHRI Fund is not being accumulated for the purposes of draw downs after 30 June 2032. Instead, the amount equal to the forecast investment income is made available immediately for the purpose of crediting the FHRI Account.

Subclause (2) amends section 10(2) of the amended Act to:

- (a) remove reference to section 6 as this section is repealed; and
- (b) replaces reference to "accumulation" with "establishment".

Section 10(2) of the amended Act retains the entrenching or manner and form provision which requires an absolute majority of both Houses of Parliament to repeal or amend the Act during the establishment period. An absolute majority constitutes one more than half the votes of the total number of members of each House, whether they are present or not. The manner and form clause continues until 30 June 2032. This means any amendments to section 7, 8, 9 or 10 of the amended Act must satisfy the requirements outlined in section 10(2). After 30 June 2032, the manner and form requirements will no longer apply.

The note to clause 16 provides that the heading to amended section 10 changes from “Manner and form of amendment or repeal during accumulation period” to “Manner and form of amendment or repeal during establishment period”.

Clause 17: Section 11 deleted

This clause deletes section 11 which outlines the annual reporting requirements for the Future Fund. This section is no longer required as the annual reporting requirements for the FHRI Fund are outlined in section 9A of the amended Act.