

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 29 May 1991

(Minister for Local Government)

A BILL

FOR

An Act to amend the *Local Government (Financial Assistance) Act 1986*, and for related purposes

The Parliament of Australia enacts:

Short title etc.

1. (1) This Act may be cited as the *Local Government (Financial Assistance) Amendment Act 1991*.

5 (2) In this Act, “**Principal Act**” means the *Local Government (Financial Assistance) Act 1986*¹.

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

10 (2) Subsection 3 (2), sections 5, 7 and 9, subsection 11 (2), section 14, subsections 15 (2) and 17 (2) and section 18 commence on the day after the day on which this Act receives the Royal Assent.

Interpretation

3. (1) Section 3 of the Principal Act is amended:

- (a) by omitting paragraphs (a), (b), (ba) and (bb) of the definition of “base figure”;
- (b) by relettering paragraph (bc) of the definition of “base figure” as paragraph (a);
- (c) by inserting “, as in force immediately before the commencement of section 1 of the *Local Government (Financial Assistance) Amendment Act 1991*” after “7A (4)” in paragraph (bc) of the definition of “base figure”;
- (d) by omitting the definitions of “calculation quarter”, “index estimate” and “index number”.

(2) Section 3 of the Principal Act is amended:

- (a) by omitting paragraph (c) of the definition of “base figure” and substituting the following paragraphs:
- “(b) in relation to the year commencing on 1 July 1992 (in this paragraph called the ‘current year’)—the amount worked out using the formula:

$$(\text{APYBF} + \text{AAUA}) \times \text{EF}$$

where:

‘APYBF’ [Adjusted Previous Year Base Figure] means the amount that would have been the base figure for the year preceding the current year if that amount had been calculated using the final factor for that preceding year instead of the estimated factor;

‘AAUA’ [Adjusted Additional Untied Amount] means the total amount that would have been payable under section 10A if that amount had been calculated using the final factor for that preceding year instead of the estimated factor;

‘EF’ [Estimated Factor] means the estimated factor for the current year; or

- (c) in relation to a year (in this paragraph called the ‘current year’), being:

- (i) the year commencing on 1 July 1991; or
- (ii) the year commencing on 1 July 1993 or a subsequent year;

the amount worked out using the formula:

$$\text{APYBF} \times \text{EF}$$

where:

‘APYBF’ [Adjusted Previous Year Base Figure] means the amount that would have been the base figure for the year preceding the current year if that amount had been

calculated using the final factor for that preceding year instead of the estimated factor;

‘EF’ [Estimated Factor] means the estimated factor for the current year;”;

- 5 (b) by omitting “published” from the definitions of “estimated factor” and “final factor”.

Determination of estimated factor

4. Section 5 of the Principal Act is amended:

- 10 (a) by omitting subsection (1);
(b) by omitting from subsection (3) “(1) or”.

5. Section 5 of the Principal Act is repealed and the following section is substituted:

Determination of estimated factor

- 15 “5. (1) The Treasurer must, before 15 August in the year commencing on 1 July 1991 and in each subsequent year, make an estimate of the factor, being a number calculated to 4 decimal places, to be ascertained under subsection 6 (3) in relation to that year.

- 20 “(2) The Treasurer must, as soon as practicable after the ascertainment of the factor covered by subsection (1), cause to be given to the Treasurer of each State a written notice:

- (a) specifying the factor; and
(b) explaining the basis of estimation of the factor.

“(3) The Treasurer must cause a copy of a notice covered by subsection (2) to be given to the Minister.”.

25 **Determination of final factor**

6. Section 6 of the Principal Act is amended:

- (a) by omitting subsections (1) and (4);
(b) by omitting from subsection (3) “(1) or”;
30 (c) by omitting subsections (6) and (7) and substituting the following subsection:

- 35 “(6) For the purposes of subsection (5), the amount of the financial assistance grants to the States for the year commencing on 1 July 1990 is taken to be the amount that would have been the amount of the financial assistance grants to the States for that year if the component **DTRA** [Debits Tax Reduction Amount] had been omitted from the formula in section 5 of the *States Grants (General Purposes) Act 1990*.”.

7. Section 6 of the Principal Act is repealed and the following section is substituted:

Determination of final factor

“6. (1) The Treasurer must, as soon as practicable after 31 March in the year commencing on 1 July 1991 and in each subsequent year, cause to be given to the Treasurer of each State a written notice:

- (a) specifying the factor ascertained under subsection (3) in relation to that year; and 5
- (b) explaining the basis of the calculation of that factor.

“(2) The Treasurer must cause a copy of a notice covered by subsection (1) to be given to the Minister.

“(3) The Treasurer must, as soon as practicable after 31 March in the year commencing on 1 July 1991 and in each subsequent year (in this subsection called the ‘current year’), cause to be ascertained the factor worked out by: 10

- (a) calculating, to 4 decimal places, the factor obtained using the formula: 15

$$\frac{\text{Adjusted current year grants}}{\text{Adjusted previous year grants}}$$

where:

‘Adjusted current year grants’ means:

- (i) the sum of the financial assistance grants and the special revenue assistance grants to the States for the current year; or 20
- (ii) if the Treasurer considers that it is appropriate to increase or decrease that sum—the increased or decreased sum, as the case requires;

‘Adjusted previous year grants’ means: 25

- (iii) the sum of the financial assistance grants and the special revenue assistance grants to the States for the year immediately preceding the current year; or
- (iv) if the Treasurer considers that it is appropriate to increase or decrease that sum—the increased or decreased sum, as the case requires; and 30
- (b) if the factor calculated under paragraph (a) would, if it were calculated to 5 decimal places, end in a number greater than 4—increasing that factor by 0.0001.

“(4) In making a decision under paragraph (3) (a), the Treasurer must have regard to the following matters: 35

- (a) underlying movements in general purpose Commonwealth payments to the States;
- (b) changes to the classification of any relevant Commonwealth payments to the States; 40

- ## State entitlements for local government purposes

(e) by omitting from subsection (11) “sections 7A and” and substituting “section”.

State entitlements for local government purposes

Base figure × Proportion of total Australian population

‘Proportion of total Australian population’ means the State’s proportion of the total Australian population for that year.

(a) the proportion, calculated to 6 decimal places, obtained using the formula:

Population of the State

Population of Australia

(b) if the proportion calculated under paragraph (a) would, if it were calculated to 7 decimal places, end in a number greater than 4—that proportion increased by 0.000001.

“(3) The estimate by the Statistician for the purposes of this section of the population of a State on 31 December in a year must be made after that date and before 10 June next following that date.

“(4) The Statistician, in making an estimate under this section of the population of a State, must: 5

(a) where practicable, consult the official statistician of the State; and

(b) have regard to the latest statistics in relation to the population available to the Statistician on the day on which the estimate is made. 10

“(5) The Treasurer must, as soon as practicable after the Statistician estimates the population of each State for the purposes of this section, cause to be given to the Treasurer of each State a written notice specifying each State’s proportion of the total Australian population.

“(6) The Treasurer must cause a copy of a notice covered by subsection (5) to be given to the Minister. 15

“(7) A State is not entitled to a payment under this section in respect of a year unless a notice under section 5 has been given in relation to that year.

“(8) A State is not entitled to a payment under this section in respect of a year until 15 August in that year. 20

“(9) So far as practicable, the amount to which a State is entitled under this section in respect of a year must be paid in equal quarterly instalments.”.

Repeal of section 7A 25

10. Section 7A of the Principal Act is repealed.

Adjustment consequential on difference between estimated and final factor—section 7 payments

11. (1) Section 8 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection: 30

“(3) If an amount is payable to a State under subsection (1) in respect of a year, nothing in this Act prevents that amount from being paid to the State together with a payment to which the State is entitled under section 7 in respect of the following year.”.

(2) Section 8 of the Principal Act is amended: 35

(a) by omitting from subsection (1) all the words after “of the amount” and substituting “calculated using the formula:

Final factor amount—Estimated factor amount

where:

5 **'Final factor amount'** means the amount of the payment to which the State would have been entitled under section 7 in respect of that year if the amount of that payment had been calculated using the final factor for that year instead of the estimated factor;

'Estimated factor amount' means the amount of the payment to which the State is entitled under section 7 in respect of that year.”;

- 10 (b) by omitting from subsection (2) all the words after “Commonwealth the amount” and substituting “calculated using the formula:

Estimated factor amount—Final factor amount

where:

15 **'Estimated factor amount'** means the amount of the payment to which the State is entitled under section 7 in respect of that year;

20 **'Final factor amount'** means the amount of the payment to which the State would have been entitled under section 7 in respect of that year if the amount of that payment had been calculated using the final factor for that year instead if the estimated factor.”.

Principles of allocation by States amongst local governing bodies—section 7 payments

25 12. Section 9 of the Principal Act is amended:

- (a) by omitting “or 8” (wherever occurring);
(b) by omitting from paragraph (2) (c) “sections 7 and 8” and substituting “section 7”.

Allocation amongst local governing bodies—section 7 payments

30 13. Section 10 of the Principal Act is amended:

- (a) by omitting from subsection (1) “, 7A or 8”;
(b) by omitting paragraph (1) (g) and substituting the following paragraph:

35 “(g) the Minister is satisfied that the State has allocated the amount amongst local governing bodies in the State in accordance with any principles applicable to the State under section 9 in respect of that year.”;

- (c) by omitting subsection (2).

14. After section 10 of the Principal Act the following sections are inserted:

Additional untied funding for 1991-92

“10A. (1) Subject to this section and to section 10C, each State is entitled to the payment, in respect of the year commencing on 1 July 1991, by way of financial assistance for local government purposes, of the amount calculated using the formula:

$$\text{Estimated factor} \times \text{Table amount}$$

where:

‘Estimated factor’ means the estimated factor for the year;

‘Table amount’ means such amount as is specified in the following table:

State	Amount
New South Wales	\$80,814,302
Victoria	\$59,389,748
Queensland	\$59,038,770
Western Australia	\$44,776,297
South Australia	\$13,507,339
Tasmania	\$11,660,981
Northern Territory	\$3,475,747

“(2) Subject to this section and to section 10C, each of the States specified in the following table is entitled to the payment, in respect of the year commencing on 1 July 1991, by way of financial assistance for local government purposes, of the amount calculated using the formula:

$$\text{Estimated factor} \times \text{Table amount}$$

where:

‘Estimated factor’ means the estimated factor for the year;

‘Table amount’ means such amount as is specified in the table:

State	Amount
New South Wales	\$10,606,984
Victoria	\$5,573,107
Western Australia	\$3,403,424
South Australia	\$3,809,708

“(3) A State is not entitled to a payment under this section until 15 August 1991.

“(4) A State is not entitled to a payment under this section unless a notice under section 5 has been given in relation to the year commencing on 1 July 1991.

“(5) So far as practicable, an amount to which a State is entitled under this section must be paid in equal quarterly instalments.

Adjustment consequential on difference between estimated and final factor—section 10A payments

“10B. (1) If the final factor for the year commencing on 1 July 1991 exceeds the estimated factor for that year, each State is entitled, in addition to the payment to which it is entitled under section 10A,

to the payment, in respect of that year, by way of financial assistance for local government purposes, of the amount calculated using the formula:

Final factor amount—Estimated factor amount

5 where:

‘Final factor amount’ means the amount of the payment to which the State would have been entitled under section 10A if the amount of that payment had been calculated using the final factor for that year instead of the estimated factor;

10 **‘Estimated factor amount’** means the amount of the payment to which the State is entitled under section 10A.

“(2) In addition to any other conditions to which a payment under this Act is subject, payment of an amount to a State under this Act is subject to the condition that, if the final factor for the year commencing on 1 July 1991 is less than the estimated factor for that year, the State will pay to the Commonwealth the amount calculated using the formula:

Estimated factor amount—Final factor amount

where:

20 **‘Estimated factor amount’** means the amount of the payment to which the State is entitled under section 10A;

‘Final factor amount’ means the amount of the payment to which the State would have been entitled under section 10A if the amount of that payment had been calculated using the final factor for that year instead of the estimated factor.

25 “(3) If an amount is payable to a State under subsection (1), nothing in this Act prevents that amount from being paid to the State together with a payment to which the State is entitled under section 7 in respect of the year commencing on 1 July 1992.

30 “(4) If a State is liable to pay an amount to the Commonwealth under subsection (2), the amount may be deducted from any other amount that is payable to the State under this Act, and if an amount is so deducted, an amount equal to the amount so deducted is taken, for the purposes of this Act, in spite of the deduction, to have been paid in full to the State.

35 “(5) An amount payable by a State to the Commonwealth under subsection (2) must be paid on or before such date as the Minister, by written notice given to the Treasurer of the State, determines.

Allocation amongst local governing bodies—section 10A payments

40 “10C. (1) A State is not entitled to payment of an amount under section 10A unless:

(a) there is a Local Government Grants Commission of the State; and

(b) that Commission has made recommendations with respect to

the allocation of the amount amongst local governing bodies in the State; and

- (c) in the case of an amount under subsection 10A (1)—the Commission has made its recommendations in accordance with any relevant principles approved or determined by the Minister administering the *Australian Land Transport Development Act 1988* under section 28 of that Act, being principles in force immediately before 1 July 1991; and 5
- (d) in the case of an amount under subsection 10A (2)—if:
 - (i) an officer of the Department of Transport and Communications authorised in writing by the Secretary to that Department; or 10
 - (ii) the peak local government association for the State; or
 - (iii) a roads authority for the State;
 gives advice to the Commission—the Commission has had regard to that advice in considering its recommendations; and 15
- (e) the Minister is satisfied that, in determining the manner in which the State has allocated the amount amongst local governing bodies in the State, the State has had regard to or has adopted those recommendations; and 20
- (f) before particulars of the manner in which the State has allocated the amount amongst local governing bodies in the State are made public, the relevant State Minister has informed the Minister, in writing, of those particulars.

“(2) In this section: 25

‘**peak local government association**’ means:

- (a) the Local Government Association of New South Wales; and
- (b) the Shires Association of New South Wales; and
- (c) the Municipal Association of Victoria; and
- (d) the Western Australian Municipal Association; and 30
- (e) the Local Government Association of South Australia Inc;

‘**roads authority**’, in relation to a State, means an authority of the State, being an incorporated body but not being a local governing body, that is responsible for the construction or maintenance of roads in, or in an area of, the State.”. 35

Condition of payments to States

15. (1) Section 11 of the Principal Act is amended:

- (a) by inserting in paragraph (a) “in the case of a payment under section 7—” before “without”; 40
- (b) by inserting after paragraph (a) the following paragraph:
 - “(aa) in the case of a payment under section 8—without undue delay, make payments, being payments that are

unconditional, to local governing bodies in the State in the same proportion as the payments under section 7 for that year were allocated; and”.

(2) Section 11 of the Principal Act is amended by inserting before paragraph (b) the following paragraphs:

“(ab) in the case of a payment under section 10A—without undue delay, make payments, being payments that are unconditional, to local governing bodies in the State in accordance with the allocation determined as mentioned in section 10C of the amount amongst local governing bodies in the State; and

(ac) in the case of a payment under section 10B—without undue delay, make payments, being payments that are unconditional, to local governing bodies in the State in the same proportion as the payments under section 10A for that year were allocated; and”.

Reports etc. of Local Government Grants Commissions

16. Section 13 of the Principal Act is amended by omitting “report of” and substituting “report or”.

Application of amendments

17. (1) In spite of the amendments made by subsection 3 (1), sections 4, 6, 8, 10, 12 and 13 and subsection 15 (1), the Principal Act continues to apply, in relation to payments for years earlier than the year commencing on 1 July 1990, as if those amendments had not been made.

(2) In spite of the amendments made by subsection 3 (2), sections 5, 7 and 9 and subsection 11 (2), the Principal Act continues to apply, in relation to payments for the year commencing on 1 July 1990, as if those amendments had not been made.

Transitional—Statistician’s estimate of State population

18. (1) In this section:

“amended Act” means the Principal Act as amended by this Act.

(2) For the purposes of the amended Act, an estimate by the Statistician for the purposes of section 7 of the Principal Act of the population of a State on 31 December 1990 has effect as if it had been made for the purposes of section 7 of the amended Act.

NOTE

1. No. 79, 1986, as amended. For previous amendments, see Nos. 45 and 141, 1987; No. 50, 1988; and No. 62, 1989.



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