

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Local
Government, the Hon Wendy Fatin, MP)

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 1991

OUTLINE

This Bill:

- . gives effect to the Special Premiers' Conference decision that "Funds for local roads be untied and paid at the same real level as at present to Local Governments, and to State Governments where they are responsible for local roads, via general purpose grants." The bulk of funds currently provided for local roads under the Australian Land Transport Development Act 1988 will be provided as general purpose assistance under the Local Government (Financial Assistance) Act 1986 (the Act). The Bill makes provision for an additional \$296.1m to be provided under the Act as the base for the 1991/92 financial year. Of this base, \$272.7m relates to funds that will be provided to councils using a formula based on population and road length and \$23.4m relates to funds that will be provided to councils on the basis of an assessment of special works needs. These base funds will be further adjusted in 1991/92 and subsequent years in line with existing general purpose grants.
 - . rectifies the unintended consequence for Local Government arising from the transfer of the Debits Tax base to the States and Territories in 1990/91. The reduction in general revenue assistance to the States to compensate for the transfer of the Debits Tax Base would, under the current funding formula, have the effect of reducing general purpose grants to Local Government. The Bill provides for the effect of the transfer to be disregarded in calculating Local Government funding entitlements.
 - . provides the Treasurer with a discretion to make adjustments to the factor by which general purpose assistance to Local Government is adjusted to reflect changes in Commonwealth/State funding arrangements. The discretion will overcome the need for frequent amendments to the Act but at the same time ensure that general purpose assistance to Local Government is set at a level consistent with the underlying growth in general revenue assistance to the States.
 - . provides for the movement in general purpose assistance to Local Government to be directly linked to the movement in general revenue assistance to the States and the Northern Territory.
-) The Bill also makes minor procedural and technical changes to the Act and deletes obsolete provisions.

FINANCIAL IMPACT STATEMENT

In respect of monies previously allocated for local roads, the Special Premiers' Conference decision provided for these funds to be paid (in 1991/92) at the same real level as at present (1990/91). These funds will thereafter be adjusted in line with existing general purpose funding for Local Government (as outlined below). Under previous arrangements these funds were subject to a real terms guarantee up until 1990/91. To the extent that this guarantee would not have been continued under the previous arrangements the new arrangements represent an additional cost.

Establishing a direct link between the movement in general purpose assistance to Local Government and the movement in general revenue assistance to the States and the Northern Territory will effectively provide Local Government with a real terms funding guarantee for the next 3 years subject to the qualification below. At the June 1990 Premiers' Conference the Treasurer announced that general revenue assistance to the States would be maintained in real terms for the period 1991/92 to 1993/94. The commitment was conditional upon its not applying if Australia were to experience a major deterioration in its economic circumstances. The estimated cost of this move is \$0.9m in 1991/92 and \$1.9m in 1992/93. This results primarily from the removal from the funding formula of the non-indexed general purpose capital assistance payments.

NOTES ON INDIVIDUAL CLAUSES

Clause 1 - Short title etc

1. This clause provides for the Act to be cited as the Local Government (Financial Assistance) Amendment Act 1991 and defines the Principal Act being amended as the Local Government (Financial Assistance) Act 1986.

Clause 2 - Commencement

2. With the exception of the following sections this clause provides for the Act to commence on Royal Assent. Subsection 3(2), sections 5, 7 and 9, subsection 11(2), section 14, subsections 15(2) and 17(2) and section 18 will commence on the day after Royal Assent. The different commencement dates are required because some sections are being amended twice, with the first amendment relating to the 1990/91 financial year and the second amendment relating to the 1991/92 and subsequent financial years eg with respect to the determination of the final factor (see Clause 6 below).

Clause 3 - Interpretation

3. This clause omits and amends various definitions used in the Act, most notably, the definition of 'base figure' is amended to include, for the 1992/93 financial year, the additional funding to be provided in 1991/92 as a result of the Special Premiers' Conference decision to untie local road funding (see clause 14 below).

Clauses 4-11

Background

4. Sections 5, 6 and 7 of the Act provide that each State receive a certain proportion of a pool of funds and these funds are paid quarterly. The pool is fixed by increasing a **base** funding amount by the percentage change in general purpose payments to the States. The precise amount to be paid to Local Government can only be determined when the final payments to the States are known. In order to allow payments to Local Government to be made from early in the year an estimate of the growth in Local Government payments is made on the basis of estimated State payments. In both cases, the actual outcome (the **final factor**) and the estimated growth (the **estimated factor**) are determined by the Treasurer. This very general description of the machinery embedded in the Act will be continued after the amendments. However, clauses 4 to 11 make changes to the detail of how the determination of these factors are to be made.

Clause 4 - Determination of estimated factor

5. This clause omits from section 5 provisions which relate to previous financial years and which are now redundant.

Clause 5

6. This clause repeals section 5 and substitutes a new section 5. The repealed provisions are those which are applicable to the 1990/91 financial year.

7. The new section 5 provides for the determination of an estimated factor for the 1991/92 financial year and for subsequent financial years. The estimated factor is an estimate by the Treasurer of the underlying percentage increase (or decrease) in Commonwealth financial assistance grants (including special revenue assistance) to the States in that year over the previous year. It determines the increase (or decrease) in the amount which is used to make quarterly instalments to Local Government. These payments are subject to adjustment once the final factor is known (see clause 7 below).

8. The Treasurer is required to give each State Treasurer written notice specifying the estimated factor and explaining the basis of its estimation. A copy of such a notice is also required to be given to the Minister.

Clause 6 - Determination of final factor

9. This clause removes the unintended effect upon Local Government of the Commonwealth's decision to transfer the Debits Tax base to the States and adjusts the level of general revenue assistance to the States accordingly for 1990/91. This is achieved by providing that, in calculating the final factor for the 1990/91 financial year, the effect on States grants of the transfer of the Debits Tax base is disregarded.

10. This clause also amends Section 6 of the Act to remove provisions relating to previous financial years which are now redundant.

Clause 7

11. This clause repeals section 6 and substitutes a new section 6 which includes a new formula for calculating the estimated and final factors. The formula differs from the formula contained in the repealed section in that:

. it does not refer to 'identified health grants'

which are a discontinued category of financial assistance to the States;

- . it does not refer to 'general purpose capital assistance payments' to the States;
- . it includes reference to special revenue assistance grants to the States; and
- . it is based upon payments to the States and the Northern Territory, rather than to the six States only.

12. The effect of the above changes is to update the formula so that it reflects the existing categories of general revenue assistance to the States.

13. The new section also provides the Treasurer with a discretion to adjust the formula to ensure that payments to Local Government reflect underlying movements in payments to the States. In the past it has been necessary to amend the Act when the categories of payments to the States were altered, or when payments to the States were adjusted because of the transfer of expenditure or taxation responsibilities between the Commonwealth and the States. Under the new section the Treasurer will have a discretion to make the necessary adjustments and legislative changes will not be required.

14. In practice, the Treasurer will liaise with the Minister in the exercise of the discretion provided under the amended clause 6 and 7 in determining both the estimated and final factor.

Clause 8 - State entitlements for local government purposes

15. This clause omits provisions in section 7 which relate to previous financial years and which are now redundant.

Clause 9

16. This clause repeals section 7 of the Principal Act and substitutes a new section 7 which sets out the entitlements of each State to funding for local government purposes in 1991/92 and in subsequent financial years. The new section removes references to the 1990/91 financial year. The basis of the entitlements has not changed - it is based on the percentage of the Australian population residing in the State.

Clause 10 - Repeal of section 7A

17. This clause repeals section 7A which was only applicable to the 1989/90 financial year.

Clause 11 - Adjustment consequential on difference between estimated and final factor - section 7 payments

18. This clause clarifies that the Commonwealth may pay to the States, in either the current or the following financial year, amounts owing as a result of the difference between the estimated and final factors.

Clause 12 - Principles of allocation by States amongst local governing bodies - section 7 payments

19. This clause amends section 9 of the Act to remove the necessity for adjustment payments, consequential on the difference between the estimated and final factors, to be subject to the principles governing the allocation of payments under section 7. Adjustment payments under section 8 will only be subject to the conditions contained in section 11 as amended (see clause 15 below).

Clause 13 - Allocation amongst local governing bodies - section 7 payments

20. This clause amends section 10 of the Act to remove references to provisions which were applicable to previous financial years and which are now redundant. The clause also removes the reference to adjustment payments so that section 10 conditions no longer apply to adjustment payments under section 8. Adjustment payments under section 8 will only be subject to the conditions contained in section 11 as amended (see clause 15 below).

Clause 14 - Additional untied funding for 1991/92

21. This clause inserts new sections 10A, 10B, and 10C into the Act. Section 10A provides for identified amounts to be provided to the States for Local Government purposes in 1991/92. These amounts are in addition to the entitlement of the States under section 7.

22. The amounts equate to the real terms equivalent of the bulk of funding provided in 1990/91 as specific purpose grants under the Australian Land Transport Development Act 1988. These amounts will be paid direct to councils in 1990/91. The amounts identified in subsection 10A(1) equate to the real terms equivalent of amounts provided to councils in 1990/91 in accordance with a funding formula embodied in

principles approved or determined by the Minister for Land Transport under section 28 of the Australian Land Transport Development Act 1988. The amounts identified in subsection 10A(2) equate to the real terms equivalent of amounts provided in 1990/91 for special works on local roads under the Australian Land Transport Development Act 1988 in respect of the States nominated.

23. Subsection 10B provides for an adjustment of the amounts payable under subsection 10A to reflect the difference between the estimated factor and the final factor. The procedure is similar to the procedure in relation to the adjustment of section 7 payments (see section 8).

24. Subsection 10C provides that payments under subsection 10A are subject to various conditions. In common with conditions applicable to payments under section 7 (see section 10) the Local Government Grants Commission of the State must have made recommendations with respect to the allocation of the amount among local governing bodies. Those recommendations must accord with relevant principles approved or determined under section 28 of the Australian Land Transport Development Act (in respect of subsection 10A(1) payments) and having regard to advice (if any) from the Department of Transport and Communications, peak local government associations, or a road authority of the State (in respect of subsection 10A(2) payments). The Minister must also be satisfied that the States have had regard to, or have adopted, the recommendations of the Local Government Grants Commission for the State.

Clause 15 - Condition of payments to States

25. This clause amends the condition of payments at section 11 of the Act to limit the applicability of the conditions on payments set out in section 10 to payments under section 7. Section 10 conditions previously also applied to adjustment payments under section 8. The clause requires that section 8 adjustment payments are paid in the same proportion as payments under section 7. The clause also inserts new paragraphs (ab) and (ac) which set out the conditions applicable to payments under section 10A and section 10B respectively.

26. In respect of section 10A, the conditions require that payments be made, unconditionally, to local governing bodies as provided for in section 10C. Adjustment payments under section 10B must also be paid unconditionally to local governing bodies, in the same proportion as payments under section 10A.

Clause 16 - Reports etc. of Local Government Grants Commissions

27. This clause is to remove any ambiguity concerning the need for the Minister to table any report or recommendations received from the State Local Government Grants Commissions. The Principal Act refers at one point to "report of recommendations" and at another point to "report or recommendations".

Clause 17 - Application of amendments

28. This clause ensures that repealed or amended provisions continue to apply, in relation to payments for 1990/91 and earlier years, as if those repeals or amendments had not been made.

Clause 18 - Transitional - Statistician's estimate of State population

29. This is a transitional clause to retain the Statistician's population estimate for 1990/91 in the event that it has been estimated prior to the repeal of section 7 of the Principal Act.

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