

1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 2 May 1986

(Minister for Local Government and Administrative Services)

A BILL

FOR

**An Act to provide financial assistance for local government
by means of grants to the States and the Northern Territory**

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

Short title

- 5 1. This Act may be cited as the *Local Government (Financial
Assistance) Act 1986*.

Commencement

2. This Act shall come into operation on 1 July 1986.

Interpretation

- 10 3. In this Act, unless the contrary intention appears—
“base figure” means—
 (a) in relation to the year commencing on 1 July 1986—the
 amount ascertained by multiplying \$540,982,049 by the
 estimated factor for the year commencing on 1 July 1986;

- (b) in relation to the year commencing on 1 July 1987—the amount ascertained in accordance with the formula $A \times B$, where—
- A** is the amount that would be the base figure for the year commencing on 1 July 1986 if that amount had been calculated using the final factor for the year commencing on that day; and
 - B** is the estimated factor for the year commencing on 1 July 1987; or
- (c) in relation to the year commencing on 1 July 1988 or any subsequent year (in this paragraph referred to as the “relevant year”)—the amount ascertained in accordance with the formula $A \times B$, where—
- A** is the amount that would be the base figure for the year preceding the relevant year if that amount had been calculated using the final factor for that preceding year; and
 - B** is the estimated factor for the relevant year;
- “estimated factor”, in relation to a year to which this Act applies, means the factor specified in a notice published under section 5 in relation to that year;
- “final factor”, in relation to a year to which this Act applies, means the factor specified in a notice published under section 6 in relation to that year;
- “local governing body” means—
- (a) a local governing body established by or under a law of a State, other than a body the sole or principal function of which is to provide a particular service, such as the supply of electricity or water; or
 - (b) a body declared by the Minister, on the advice of the relevant State Minister, by notice in writing published in the *Gazette*, to be a local governing body for the purposes of this Act;
- “Local Government Grants Commission”, in relation to a State, means the body specified in a declaration in force under section 4 as the Local Government Grants Commission of that State;
- “relevant State Minister”, in relation to a State or a body in a State, means the Minister who is for the time being responsible for the administration of the law of the State that establishes the Local Government Grants Commission of that State;
- “State” includes the Northern Territory;
- “Statistician” means the Australian Statistician;
- “year” means a financial year;
- “year to which this Act applies” means the year commencing on 1 July 1986 and each subsequent year.

Local Government Grants Commissions of States

4. (1) Where—

- (a) the principal function of a body established by a law of a State is the making of recommendations to the Government of the State with respect to the provision of financial assistance to local governing bodies in the State; and
- (b) the Minister is satisfied that the membership of the body includes at least 2 persons who are or have been associated with local government in the State, whether as members of a local governing body or otherwise,

the Minister may, by notice in writing published in the *Gazette*, declare the body to be the Local Government Grants Commission of the State for the purposes of this Act.

(2) Where, immediately before the commencement of this Act, a declaration was in force under section 4 of the *Local Government (Personal Income Tax Sharing) Act 1976* specifying a body as the Local Government Grants Commission of a State, the declaration shall be deemed to have been made under sub-section (1) and, subject to sub-section (3), such a declaration is not ineffective by reason only that the membership of the body includes not more than 1 person who is or has been associated with local government in the State.

(3) Where—

- (a) sub-section (2) applies to the Local Government Grants Commission of a State;
- (b) at the commencement of this Act, the membership of that Commission included only 1 person who is or has been associated with local government in the State; and
- (c) on 1 July 1990, the membership of that Commission does not include at least 2 persons who are or have been associated with local government in the State,

the declaration under this section in respect of that body ceases to be in force.

Determination of estimated factor

5. (1) The Treasurer shall, before 31 August in the year commencing on 1 July 1986 and in the subsequent year, make an estimate of—

- (a) the factor, being a number calculated to 4 decimal places, to be ascertained under sub-section 6 (4) in relation to that year; and
- (b) the factor, being a number calculated to 4 decimal places, to be ascertained under sub-section 6 (5) in relation to that year,

and shall, before that day, cause to be published in the *Gazette* a notice in writing specifying the greater of those factors.

(2) The Treasurer shall, before 31 August in the year commencing on 1 July 1988 and in each subsequent year, make an estimate of the factor,

being a number calculated to 4 decimal places, to be ascertained under sub-section 6 (5) in relation to that year, and shall, before that day, cause to be published in the *Gazette* a notice in writing specifying the factor so ascertained.

(3) The Treasurer shall cause a copy of a notice published under sub-section (1) or (2) to be given to the Treasurer of each State.

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Determination of final factor

6. (1) The Treasurer shall, as soon as practicable after the end of the March quarter in the year commencing on 1 July 1986 and in the subsequent year, cause to be published in the *Gazette* a notice in writing specifying the factor that is the greater of the factor ascertained under sub-section (4) in relation to that year and the factor ascertained under sub-section (5) in relation to that year.

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(2) The Treasurer shall, as soon as practicable after the end of the March quarter in the year commencing on 1 July 1988 and in each subsequent year, cause to be published in the *Gazette* a notice in writing specifying the factor ascertained under sub-section (5) in relation to that year.

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(3) The Treasurer shall cause a copy of a notice published under sub-section (1) or (2) to be given to the Treasurer of each State.

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(4) The Treasurer shall, as soon as practicable after the Statistician publishes an index number in respect of the March quarter in the year commencing on 1 July 1986 and in the subsequent year, cause to be ascertained the factor, being—

(a) the number, calculated to 4 decimal places, ascertained by dividing the sum of—

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(i) the index number in respect of the March quarter in that year; and

(ii) the index numbers in respect of the 3 quarters that immediately preceded that quarter,

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by the sum of—

(iii) the index number in respect of the March quarter in the preceding year; and

(iv) the index numbers in respect of the 3 quarters that immediately preceded that quarter; or

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(b) if the number so ascertained would, if it were calculated to 5 decimal places, end in a number greater than 4—the number so ascertained increased by 0.0001.

(5) The Treasurer shall, as soon as practicable after the end of the March quarter in each year to which this Act applies, cause to be ascertained the factor, being—

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(a) the number, calculated to 4 decimal places, ascertained by dividing the sum of the financial assistance grants, identified health grants

and general purpose capital assistance grants to the States for that year by the sum of the financial assistance grants, identified health grants and general purpose capital assistance grants to the States for the preceding year; or

- 5 (b) if the number so ascertained would, if it were calculated to 5 decimal places, end in a number greater than 4—the number so ascertained increased by 0.0001.

10 (6) Subject to sub-section (7), if at any time, whether before or after the commencement of this section, the Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

15 (7) If at any time, whether before or after the commencement of this section, the Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

20 (8) In this section, “index number”, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Statistician in respect of that quarter.

(9) In sub-section (5), “State” does not include the Northern Territory.

State entitlements for local government purposes

25 7. (1) Subject to sub-section (10) and to section 10, each State is entitled to the payment, in respect of the year commencing on 1 July 1986, by way of financial assistance for local government purposes, of such percentage of the base figure for the year as is specified in the following table opposite to the name of the State:

State	Percentage of Base Figure
New South Wales	36.1593
Victoria	25.2153
Queensland	16.7043
Western Australia	9.3026
South Australia	8.5212
Tasmania	3.1700
Northern Territory	0.9273

30 (2) Subject to sub-section (10) and to section 10, each State is entitled to the payment, in respect of the year commencing on 1 July 1987, by way of financial assistance for local government purposes, of such percentage of the base figure for the year as is specified in the following table opposite to the name of the State:

State	Percentage of Base Figure
New South Wales	35.6609
Victoria	25.8433
Queensland	16.6526
Western Australia	9.2407
South Australia	8.6552
Tasmania	3.0049
Northern Territory	0.9424

(3) Subject to sub-section (10) and to section 10, each State is entitled to the payment, in respect of the year commencing on 1 July 1988, by way of financial assistance for local government purposes, of such percentage of the base figure for the year as is specified in the following table opposite to the name of the State:

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State	Percentage of Base Figure
New South Wales	35.1625
Victoria	26.4714
Queensland	16.6010
Western Australia	9.1788
South Australia	8.7890
Tasmania	2.8398
Northern Territory	0.9575

(4) Subject to sub-section (10) and to section 10, each State is entitled to the payment, in respect of the year commencing on 1 July 1989 and each subsequent year, by way of financial assistance for local government purposes, of an amount that bears to the base figure for that year the same proportion as the population of the State on 31 December in the preceding year bears to the total population of all States on 31 December in the preceding year.

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(5) For the purposes of sub-section (4), the population of a State on 31 December in a year is the population of the State on that day as estimated by the Statistician.

(6) The estimate by the Statistician for the purpose of sub-section (5) of the population of a State on 31 December in a year shall be made after that date and before 10 June next following that date.

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(7) The Statistician, in making an estimate under this section of the population of a State, shall, where practicable, consult with the official Statistician of the State and shall have regard to the latest statistics in relation to population available to the Statistician on the day on which the estimate is made.

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(8) The Treasurer shall, as soon as practicable after the Statistician estimates the population of each State for the purpose of sub-section (5), cause to be published in the *Gazette* a notice in writing specifying the proportion that the estimated population of each State on 31 December in the preceding year bears to the estimated total population of all States on 31 December in the preceding year.

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(9) The Treasurer shall cause a copy of a notice published under sub-section (8) to be given to the Treasurer of each State.

(10) A State is not entitled to a payment under sub-section (1), (2), (3) or (4) in respect of a year until a notice under section 5 has been published in relation to that year.

Adjustment consequential on difference between estimated and final factor

8. (1) If the final factor for a year to which this Act applies exceeds the estimated factor for that year, each State is entitled, in addition to the payment to which it is entitled under section 7 in respect of that year, to the payment, in respect of that year, by way of financial assistance for local government purposes, of the amount ascertained by deducting the amount of the payment to which the State is entitled under section 7 in respect of that year from the amount of the payment to which it would have been entitled under that section if the amount of that payment had been calculated using the final factor for that year.

(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 a year to which this Act applies is less than the estimated factor for that year, the State will pay to the Commonwealth the amount ascertained by deducting the amount of the payment to which the State would have been entitled under section 7 if the amount of that payment had been calculated using the final factor for that year from the amount of the payment to which it is entitled under that section in respect of that year.

(3) Where an amount is payable to a State in respect of a year under sub-section (1), that amount may be paid to the State together with the payment to which the State is entitled under section 7 in respect of the following year.

(4) Where a State is liable to pay an amount to the Commonwealth under sub-section (2), the amount may be deducted from any other amount that is payable to the State under this Act, and where an amount is so deducted, an amount equal to the amount so deducted shall, notwithstanding the deduction, be deemed, for the purposes of this Act, to have been paid in full to the State.

(5) An amount payable by a State to the Commonwealth under sub-section (2) shall be paid on or before such date as the Minister, by notice in writing given to the Treasurer of the State, determines.

Principles of allocation by States amongst local governing bodies

9. (1) Each State shall, before 1 July 1987, formulate principles for the purposes of allocating amounts payable to the State under section 7 or 8 amongst local governing bodies in the State, and shall give a copy of the principles so formulated to the Minister before that date.

(2) In formulating principles under sub-section (1) or in preparing proposals for revocation or variation of principles so formulated, a State—

- (a) shall consult with a body or bodies representative of local government in the State;
- (b) shall have regard to the objective of ensuring that the allocation of funds for local government purposes is made, as far as practicable, on a full horizontal equalisation basis, being a basis that ensures that each local governing body in the State is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State, and that takes account of differences in the expenditure required by those local governing bodies in the performance of their functions and in the capacity of those local governing bodies to raise revenue; and
- (c) notwithstanding the objective referred to in paragraph (b), shall ensure that no local governing body in the State will be allocated an amount in a year that is less than the amount that would be allocated to that body if 30% of the amount to which the State is entitled under sections 7 and 8 in respect of the year were allocated amongst local governing bodies in the State on a per capita basis.

(3) Where a State formulates principles under sub-section (1) or prepares proposals for revocation or variation of principles so formulated, the State shall inform the Minister as to which body or bodies the State has consulted with in accordance with paragraph (2) (a).

(4) Where—

- (a) a State does not, before 1 July 1987, give a copy of principles formulated by the State under sub-section (1) to the Minister; or
- (b) the Minister is not prepared to approve principles formulated by a State under that sub-section,

the Minister shall, having regard to the objective set out in paragraph (2) (b), to paragraph (2) (c) and to such other matters as the Minister considers relevant, formulate principles for the purposes of allocating amounts payable to the State under section 7 or 8 amongst local governing bodies in the State, and shall give a copy of the principles so formulated to the relevant State Minister.

(5) Where a State, before 1 July 1987, gives a copy of principles formulated by the State under sub-section (1) to the Minister, the Minister may, by notice in writing given to the relevant State Minister, approve those principles.

(6) A State may, with the approval in writing of the Minister, revoke or vary any of the principles applicable to the State under this section.

(7) Where the Minister has formulated principles in relation to a State under sub-section (4), the Minister may, by notice in writing given to the relevant State Minister, revoke or vary any of those principles.

(8) The Minister may, at the end of the period of 3 years commencing on the day on which the Minister approves principles formulated by a State under sub-section (1), or formulates principles in relation to a State under sub-section (4), and at the end of each succeeding period of 3 years, review the principles applicable to that State under this section and, where the Minister considers it appropriate to do so in all the circumstances, the Minister may, after such a review, by notice in writing given to the relevant State Minister, revoke or vary any of those principles.

(9) Where—

(a) the Minister has approved principles formulated by a State under sub-section (1); or

(b) the Minister has formulated principles under sub-section (4) in relation to a State,

those principles have effect in relation to the allocation of amounts payable to that State under section 7 or 8 amongst local governing bodies in that State in respect of the year commencing on 1 July 1991 and in respect of subsequent years or, if the Minister, by notice in writing given to the relevant State Minister, determines that those principles are to have effect in relation to the allocation by that State of those amounts in respect of an earlier year, in respect of that earlier year and in respect of subsequent years.

(10) Where the relevant State Minister of a State requests the Minister to make a determination under sub-section (9) that the principles mentioned in that sub-section are to have effect in relation to that State in respect of a specified year, being a year earlier than the year commencing on 1 July 1991, the Minister may make such a determination in accordance with the request.

Allocation amongst local governing bodies

10. A State is not entitled to payment of an amount under section 7 or 8 in respect of a year unless—

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

(b) that Commission has made recommendations with respect to the allocation of the amount amongst local governing bodies in the State;

(c) that Commission—

(i) held public hearings (whether or not that Commission also held private hearings) in connection with those recommendations; and

(ii) permitted or required local governing bodies in the State or associations of those bodies to make submissions to that Commission in connection with those recommendations;

(d) the Minister is satisfied that that Commission will, at least once every 3 years, publish a report setting out details of the methods used by that Commission in making its recommendations with respect

to the allocation amongst local governing bodies of amounts to which the State is entitled under this Act;

- (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; 5
- (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; and 10
- (g) the Minister is satisfied that the State has allocated the amount amongst local governing bodies in the State—
 - (i) in a case where principles applicable to the State under section 9 have effect in respect of that year—in accordance with those principles; or 15
 - (ii) in any other case—in accordance with the method of allocating amounts payable to the State under the *Local Government (Personal Income Tax Sharing) Act 1976* that was applied in respect of the year that commenced on 1 July 1985 or, if the Minister has, by agreement with the relevant State Minister, modified that method, in accordance with that method as so modified. 20

Conditions of payments to States

11. Payment of an amount to a State under this Act in respect of a year is subject to the condition that the State will— 25

- (a) 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 10 of the amount amongst local governing bodies in the State; and
- (b) furnish to the Treasurer, as soon as practicable after 30 June in each year to which this Act applies— 30
 - (i) a statement, in accordance with a form approved by the Treasurer, specifying the payments made by the State during the year ending on that date in accordance with this Act, and the dates of those payments; and 35
 - (ii) a certificate by the Auditor-General of the State certifying that, in the opinion of the Auditor-General, the contents of the statement are correct.

Additional condition

12. In addition to the condition referred to in section 11, payment of an amount to a State under this Act is subject to the condition that, if the Minister informs the Treasurer of the State that the Minister is satisfied that the State has, with respect to the whole or a part of that amount, failed to fulfil the conditions applicable under that section to the payment of that 40

amount, the State will repay to the Commonwealth such amount as the Minister determines, being an amount not exceeding the amount in respect of which the Minister is so satisfied.

Reports, &c., of Local Government Grants Commissions

- 5 **13.** The Minister shall cause a copy of any report of recommendations of the Local Government Grants Commission of a State that is furnished to the Minister to be laid before each House of the Parliament within 15 sitting days of that House after receipt by the Minister of the report or recommendations.

10 **Review**

14. (1) The Minister may, after 30 June 1992, cause reviews of the operation of the provisions of this Act to be carried out in consultation with the States and with a body or bodies representative of local government.

(2) A review carried out under sub-section (1) shall examine—

- 15 (a) the effectiveness of the arrangements under this Act in relation to the attaining of the objective referred to in paragraph 9 (2) (b);
- (b) the impact of this Act on the raising of revenue by local governing bodies and on the assistance provided by the States to local governing bodies;
- 20 (c) the implications of any changes in the functional responsibilities of local governing bodies;
- (d) the eligibility for assistance under this Act of bodies declared by the Minister under section 3 to be local governing bodies; and
- 25 (e) such other matters (if any) relating to local government as the Minister determines.

Appropriation

15. Payments under this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Repeal

- 30 **16. (1)** The following Acts are repealed:

Local Government (Personal Income Tax Sharing) Act 1976

Local Government (Personal Income Tax Sharing) Amendment Act 1977

35 *Local Government (Personal Income Tax Sharing) Amendment Act 1979*

Local Government (Personal Income Tax Sharing) Amendment Act 1980

Local Government (Personal Income Tax Sharing) Amendment Act 1981

40 *Local Government (Personal Income Tax Sharing) Act 1984*

Local Government (Personal Income Tax Sharing) Amendment Act 1985.

(2) Notwithstanding the repeals effected by sub-section (1), the repealed Acts continue to apply in relation to payments to the States by way of financial assistance for local government purposes for a year to which the *Local Government (Personal Income Tax Sharing) Act 1976* applied.

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