

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by authority of the Deputy Prime Minister and Minister for Housing and Regional Development, the Honourable Brian Howe MP)



LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) BILL 1995

OUTLINE

The Local Government (Financial Assistance) Bill 1995 replaces the Local Government (Financial Assistance) Act 1986 as the basis upon which Commonwealth financial assistance is provided to Local Government through the States and Territories.

The principal objectives of the Bill are:

- improving the capacity of local governing bodies to provide their residents with an equitable level of services;
- improving the financial capacity of local governing bodies;
- improving the certainty of funding for local governing bodies;
- improving the efficiency and effectiveness of local governing bodies; and
- improving the provision by local governing bodies of services to Aboriginal and Torres Strait Islander communities.

The Bill will replace the intra-state principles for the distribution of financial assistance to local governments, currently negotiated on a bilateral basis, with nationally applicable principles. The purpose of this is to focus on the major issues applicable to all States and allow greater flexibility for State Local Government Grants Commissions in determining their methodologies to reflect individual State requirements.

The Bill provides for an early announcement (at the time of the Federal Budget) of the estimated grant entitlement for the States and Territories. This has been done to meet the need of some States to provide estimated distributions to local governments prior to the start of a financial year to assist local governments in setting their rates.

The Bill provides for the tabling of a National Report on the operation of the Act and matters pertaining to it.

The Bill provides for the continued separate identification of grants identified in the Bill as 'additional funding for local government purposes' which originated from historical grants related to the relative local road needs of the States and Territories. These funds are henceforth referred to as local road funding, although their usage is untied in the hands of local governments.

Funding for the Australian Capital Territory is included in the Bill. This replaces a separate analogous payment.

In 1994/95, the level of funding to the States will be based on the amount Local Government was eligible for under the Local Government (Financial Assistance) Act 1986. For 1995/96 and for each subsequent financial year this base payment will be increased by adding in the amount that the Australian Capital Territory would have received had it been a State under the repealed Act.

FINANCIAL IMPACT STATEMENT

Escalation of local government funding is determined by the Treasurer in consultation with the Minister and having regard to the level of the financial assistance grants and special revenue assistance paid to States each year. At the April 1995 Council of Australian Governments meeting, it was agreed that the States would be provided with a rolling three year guarantee that financial assistance grants (FAG) would be maintained in real per capita terms, with the per capita component from 1997/98 being contingent on individual State's compliance with agreed conditions related to the implementation of the National Competition Policy. The Agreement to Implement the National Competition Policy and Related Reforms concluded between the Commonwealth and the States recorded that Local Government will benefit from the link between the State and Local Government FAG pools.

Funding under the current legislation for 1994/95 will be approximately \$1,082 million (excluding the ACT). The addition of the ACT will add approximately another \$23.8 million giving a total of \$1,106 million.

Assuming an escalation rate of 4% per annum (to the State FAG pool) in 1995/96 (including 1% for population growth), payment to Local Government in that year under the Bill would approximate \$1,150 million.

If the same escalation rate applied for 1996/97, payments would approximate \$1,200 million in that year.

Local Government (Financial Assistance) Bill 1995**Notes on Clauses****PART 1 - PRELIMINARY****Clause 1 - Short Title**

This clause specifies the short title of the Act as the Local Government (Financial Assistance) Act 1995.

Clause 2 - Commencement

This clause provides that the Act commences on the day on which it receives Royal Assent.

Clause 3 - Objects of Act

This clause explains the purposes for which financial assistance is provided through the States to local government, the Parliament's goals in providing financial assistance to the States for local government purposes and the processes being adopted to achieve those goals.

The objects of the current legislation have been continued but have now been supplemented to include improved efficiency and effectiveness of local governing bodies and improved provision of local government services to indigenous communities.

Emphasis is placed on increasing the transparency and accountability of the States in allocating funds to local governing bodies and in promoting consistency in the methods by which grants are allocated.

Clause 4 - Definitions

The definitions in this clause are largely self explanatory with the following exceptions:

'base figure' is the final entitlement of the general component of the grants in any one year and an estimate of the base figure is required to determine the final entitlement for each year.

'additional previous year funding amount' is the final entitlement of the local road funding component of the grants in the previous year and is required to determine the final amount of local road funding payable to a State in any one year.

'estimated initial amount' is the Treasurer's determination of the general payment that will be distributed to the States for the purposes of determining individual local governing body distributions in 1995/96.

'estimated factor' is the escalation factor determined by the Treasurer based on estimated figures for the coming year and is required to permit an estimate to be made of the amount payable for Local Government in each year. The factor is directly linked to the level of State financial assistance grants.

'final factor' is the escalation factor determined by the Treasurer based on the final figures for the year and reflecting the underlying movements in general purpose payments to the States. The final factor is required to determine the actual entitlement payable to the States for local government purposes in any one year. This factor will adjust the estimate made at the beginning of the year.

'initial amount' is the final entitlement of general grants payable to the States for distribution to local governing bodies for the 1994/95 year and is derived using the final factor for that year as set out in the current legislation. For future years this figure is referred to as the base figure (refer above).

'local governing bodies' are those bodies which are eligible to receive local government financial assistance grants. These bodies are local governing bodies incorporated under State Local Government legislation or incorporated bodies which a relevant State Minister believes is carrying out local government functions to the extent to warrant funding. These bodies are recommended by the relevant State Minister and approved and gazetted by the Commonwealth Minister.

'Local Government Grants Commissions' must exist in each State and the Northern Territory and are the bodies which recommend the allocation to local governing bodies of funds provided under the Act. The means by which they are recognised in the Act are set out in clause 5 of the Act and aspects of their operation as required under the Act are set out in clause 11 of the Act.

Clause 5 - Local Government Grants Commissions

This clause establishes the criteria a body must satisfy in order to be eligible for recognition as a Local Government Grants Commission under the Act.

Clause 6 - National principles governing allocation by States among local governing bodies

This clause provides that, the Minister shall formulate, in writing, national principles governing the distribution of funds by the States and Northern Territory to Local Government. In the Local Government (Financial Assistance) Act 1986, the State distribution principles were negotiated with each State on a bilateral basis.

Two areas that the Minister must have regard to in formulating the principles are horizontal equalisation and a minimum grant.

Horizontal equalisation is the basis that ensures that each local governing body in the State/Territory is able to function by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State. It takes account of differences in the expenditure required by those local governing bodies in the performance of their function and in the capacity of those local governing bodies to raise revenue.

The minimum general grant allocation for a local governing body will be not less than the amount to which the local governing body would be entitled if 30% of the total amount of general grant funds for the State/Territory were allocated on a per capita basis.

The main objectives of having national principles in lieu of bilateral principles is to establish a more nationally consistent and transparent basis for allocating funds to local governing bodies.

PART 2 - GRANTS OF FINANCIAL ASSISTANCE

The following clauses provide that each State receives a certain proportion of a pool of funds for distribution to local governing bodies 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 final annual amount to be paid to Local Government can only be determined when the final annual payment to the States is known. In order to allow for early announcement, an estimated entitlement for local government funding is determined at the time of the Federal Budget based on the estimated growth in the State general purpose funding.

Each year the amount paid to each State will consist of two components:

- The first will be the sum of the estimated entitlements announced under clause 9 (for the general component) and clause 12 (for the identified road component). It is intended that this announcement should be made in the Budget context consistent with the Government's intention that the States should have adequate prior notice of entitlements before the commencement of the new financial year. Estimates under these clauses will rely upon preliminary estimates of: the base amount; forecast growth in general purpose payments to the States; and, in the case of clause 9, projections of State populations. However, once estimates have been produced for budget purposes and conveyed to State governments, no further adjustments will occur until the year following the year of payments.
- The estimated entitlement frozen for the coming twelve months will be prepared using the estimates prepared by the Minister and the Treasurer of base and growth factors as set out in clause 7 (and the population estimates as determined by the Statistician).
- The second component (which may be either positive or negative), will be

the adjustment in respect of the current year but which cannot be calculated until the final details of the payments to State governments are known. These amounts will be the sum of those determined under clause 10 for the general component, and under clause 13 for the identified road component. While an estimate of this component will be separately included in the notification of entitlements to the States concerning the coming year, they will be finally calculated in June of each year and conveyed to the States as soon as possible thereafter. As these amounts will be distributed in accordance with the earlier year's population numbers and previous State Grants Commissions' recommendations, their later calculation and determination will not delay work by the State Grants Commissions on the coming year's distribution to councils.

- The adjustment component will depend upon actual payments to the States compared with the finally determined entitlement for the year. The entitlement which is finally determined will depend, in the case of the general component, upon final population determinations by the Statistician, the previous year base figure and the final factor determined in accordance with clause 8. The entitlement finally determined for the identified road component will depend upon the additional previous year funding amount and the final factor.

Clause 7 - Estimates by Treasurer and Minister

This clause requires the Treasurer to estimate:

- an escalation factor to be applied to the estimated final outturn for 1994/95 for the purposes of determining the amount of general payment funding and additional funding (untied local road funding) for local government purposes for the 1995/96 year. This will be the estimated entitlement which will be provided to the States for determination of distribution to their relevant local governing bodies in 1995/96; and
- for future years an escalation factor to be provided to the Minister.

The clause requires, after the 1995/96 year, that the Minister determines the estimated funding levels for budget purposes by using the estimated escalation factor determined by the Treasurer.

Clause 8 - Determination of final factor

This clause requires the Treasurer to determine and notify the Minister the percentage increase or decrease in local government grants between the estimated entitlement, derived at the time of the budget for the financial year, and the final grant amount derived at the end of the year when specific outturn figures are known. The final factor will take into account a range of variables including the underlying movements in Commonwealth payments to the States.

Clause 9 - State entitlements for local government purposes

This clause defines the method by which the State shares of Local Government financial assistance will be determined. The provision of an estimated entitlement in the Budget requires all figures used in the calculations to be estimates.

The clause sets out that a State is not entitled to payment unless the appropriate estimates have been made under clause 7. Payments in equal quarterly instalments become payable from 15 August in any year.

Clause 10 - Adjustments of estimate - section 9 payments

This clause establishes a formula to calculate the final grant amount to which the States are entitled. The formula is used to determine the amount of under or overpayment and the mechanisms by which these are adjusted between the Commonwealth and the States. The formula determining the final grant amount applies the final factor, determined under clause 8, to the previous year base figure and takes into account the State proportion of the Australian population.

Clause 11 - Allocation among local governing bodies - section 9 payments

This clause sets out all the factors that must be satisfied, in relation to Local Government Grants Commissions and their recommendations, before a State is entitled to payment of an amount under clause 9. The clause includes the necessity for a State to have a local Government Grants Commission and the various actions a Commission must undertake in making its determinations.

Clause 12 - Additional funding for local government purposes

Clauses 12 to 14 relate to the provision of untied local road funding to Local Government which is a separately identified component of the Local Government financial assistance grants to that dealt with under clauses 9 to 11.

Clause 12 provides for calculations relating to the local road funding component of the financial assistance grants. The estimated factor used is the same as that used in clause 9. The important difference between this clause and clause 9 is that for local road funding the escalation factor is applied to fixed State shares while for clause 9 payments the escalation factor is applied to the total pool and then distributed amongst States on the basis of relative population.

All other aspects of this clause relating to entitlement and timings are the same as clause 9.

Clause 13 - Adjustment of estimates - section 12 payments

This clause corresponds to the previous clause 10 as clause 12 corresponded to clause 9. The purpose of the clause is to make final adjustments to local road funding grants to the States using a final factor. The clause also provides

mechanisms by which under or over payments are adjusted between the Commonwealth and the States.

Clause 14 - Allocation among local governing bodies - section 12 payments

Analogous to clause 11, this clause sets out all the factors that must be satisfied in relation to Local Government Grants Commissions and their recommendations, before a State is entitled to payment of an amount under Clause 12. The clause includes the necessity for a State to have a Local Government Grants Commission and the various actions a Commission must undertake in making its recommendations.

Clause 15 - Conditions of payments to the States other than the Australian Capital Territory

This clause establishes the procedural conditions under which payments to the States are made, namely :

- payments to local government bodies must be made promptly, unconditionally and in accordance with the approved allocation;
- the State must provide a certified statement to the Minister accounting for the distribution of payments made to local government; and
- that the State will repay to the Commonwealth the whole or part of a grant where the State has not fulfilled the conditions of the grant.

PART 3 - MISCELLANEOUS

Clause 16 - Reports

This clause requires the Minister to cause to be prepared and to table in Parliament a National Report on the operation of the Act. The report will provide a basis for assessing the extent to which the payments made under the legislation are achieving the purposes of the legislation. The report must include an assessment by the Minister of:

- the extent to which the allocation of funds has been made on a full horizontal equalisation basis;
- the methods used by Local Government Grant Commissions in making their recommendations;
- the efficiency of local councils in performing their functions; and
- the performance of local government in providing services to Aboriginal and Torres Strait Islander communities.

Clause 17 - Review

This clause signals the Government's intention to review the operation of the Act in consultation with the States and Local Government. The clause requires that the Minister cause a review of the Act before 30 June 2001, and that it must address as a minimum the matters specified in this clause.

Clause 18 - Regulations

This clause enables the Governor General to make regulations prescribing matters which are necessary or convenient for carrying out or giving effect to the Act.

Clause 19 - Appropriation

This clause appropriates the necessary funds to make payments to the States under the Act.

PART 4 - REPEAL AND TRANSITIONAL**Clause 20 - Repeal**

This clause repeals the Local Government (Financial Assistance) Act 1986, but allows for its continued operation with respect to financial years preceding 1995/96, where it is still necessary for the purposes of reconciling differences between estimated and final payments and for audit purposes.

Clause 21 - Local Governing Bodies

This clause provides for continued recognition of local governing bodies that were recognised under the repealed Act.

Clause 22 - Local Government Grants Commissions

This clause provides for continued recognition of Local Government Grants Commissions that were recognised under the repealed Act.

Clause 23 - Estimate of factor by Treasurer

This clause provides for the continued validity of the Treasurer's estimate of the factor made under the repealed Act.

Clause 24 - Modification of State principles applicable to 1995-1996

This clause provides that in respect of the 1995/96 financial year, a State may, with the Minister's permission, modify the State principles that applied under the repealed Act.

Clause 25 -Modification of principles applicable to 1995-1996 in respect of section 12 payments

This clause provides that in respect of the 1995/96 financial year, the Minister may modify the local road funding principles that applied under the repealed Act.

Clause 26 - Transitional modification of national principles

This clause allows the Minister to modify a national principle in respect to a particular year and a particular State or States, for example, to provide a means to phase in significant distribution effects of changes in the national principles.

Clause 27 - Avoidance of double payments to Australian Capital Territory

To avoid double payments, this clause deducts from amounts payable to the Australian Capital Territory under the Act, any amounts paid to the Australian Capital Territory under the Appropriation Act (No 2) 1995-96 for local government purposes.

Clause 28 - Overpayments and underpayments of general grants in respect of 1994-1995

This clause provides the transitional arrangements to adjust under or overpayments made in 1994/95 under the repealed Act relating to the general component of the financial assistance grants with any adjustments being made over the four quarterly payments

Clause 29 - Overpayments and underpayments of other grants in respect of 1994-1995

This clause provides the transitional arrangements to adjust under or overpayments made under the repealed Act relating to the local road funding component of the financial assistance grants with any adjustments being made over the four quarterly payments.

Clause 30 - Estimates of population by Statistician

This clause provides for the continued validity of population estimates made by the Statistician before the commencement of this Act.

