



# **Local Government (Financial Assistance) Act 1995**

**No. 86, 1995**

## **Compilation No. 8**

<b>Compilation date:</b>	10 March 2016
<b>Includes amendments up to:</b>	Act No. 4, 2016
<b>Registered:</b>	6 June 2016

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## About this compilation

### **This compilation**

This is a compilation of the *Local Government (Financial Assistance) Act 1995* that shows the text of the law as amended and in force on 10 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# Contents

<b>Part 1—Preliminary</b>	1
1 Short title .....	1
2 Commencement .....	1
3 Objects of Act .....	1
4 Definitions .....	2
4A Population estimates .....	5
5 Local Government Grants Commissions .....	6
6 National principles governing allocation by States among local governing bodies .....	6
<b>Part 2—Grants Of financial assistance</b>	9
7 Estimates by Treasurer and Minister .....	9
8 Determination of final factor .....	10
9 State entitlements for local government purposes .....	11
10 Adjustment of estimates—section 9 payments .....	13
11 Allocation among local governing bodies—section 9 payments .....	15
12 Additional funding for local government purposes .....	16
13 Adjustment of estimates—section 12 payments .....	17
14 Allocation among local governing bodies—section 12 payments .....	19
15 Conditions of payments to States other than the Australian Capital Territory .....	20
<b>Part 3—Miscellaneous</b>	22
16 Reports .....	22
17 Review .....	22
18 Regulations .....	23
18A Recoverable payments .....	23
18B Reports about recoverable payments .....	24
19 Appropriation .....	26
<b>Part 4—Repeal And Transitional</b>	27
20 Repeal .....	27
21 Local governing bodies .....	27
22 Local Government Grants Commissions .....	27
23 Estimate of factor by Treasurer .....	27
24 Modification of State principles applicable to 1995-1996 .....	28

---

25	Modification of principles applicable to 1995-1996 in respect of section 12 payments.....	28
26	Transitional modification of national principles.....	28
27	Avoidance of double payments to Australian Capital Territory .....	28
28	Overpayments and underpayments of general grants in respect of 1994-1995 .....	28
29	Overpayments and underpayments of other grants in respect of 1994-1995 .....	29
30	Estimates of population by Statistician.....	29

<b>Endnotes</b>	30
<b>Endnote 1—About the endnotes</b>	30
<b>Endnote 2—Abbreviation key</b>	32
<b>Endnote 3—Legislation history</b>	33
<b>Endnote 4—Amendment history</b>	35

# **An Act to provide for financial assistance for local government purposes by means of grants to the States, the Australian Capital Territory and the Northern Territory, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Local Government (Financial Assistance) Act 1995*.

### **2 Commencement**

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

### **3 Objects of Act**

- (1) This section explains the objects of the Parliament in enacting this Act.
- (2) The Parliament wishes to provide financial assistance to the States for the purposes of improving:
  - (a) the financial capacity of local governing bodies; and
  - (b) the capacity of local governing bodies to provide their residents with an equitable level of services; and
  - (c) the certainty of funding for local governing bodies; and
  - (d) the efficiency and effectiveness of local governing bodies; and
  - (e) the provision by local governing bodies of services to Aboriginal and Torres Strait Islander communities.
- (3) The financial assistance is to be provided by the making to the States, for local government purposes, of general grants under section 9 and additional funding under section 12.

Section 4

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- (4) In providing this financial assistance the Parliament's goals are to:
- (a) increase the transparency and accountability of the States in respect of the allocation of funds under this Act to local governing bodies; and
  - (b) promote consistency in the methods by which grants are allocated to achieve equitable levels of services by local governing bodies.
- (5) To achieve those goals this Act provides for:
- (a) the formulation of national principles for the purposes of the allocation of funds by the States to local governing bodies (section 6); and
  - (b) the making of an annual report to the Parliament about the operation of this Act (subsection 16(1)); and
  - (c) an assessment of the performance of local governing bodies (subsection 16(3)).

#### 4 Definitions

- (1) In this Act:

**base figure** means:

- (a) in relation to the year beginning on 1 July 1995, the amount worked out using the formula:

Initial amount × Relevant final factor

where:

**Initial amount** has the meaning given by subsection (2).

**Relevant final factor** means the final factor for the year; or

- (b) in relation to a later year (the **current year**), the amount worked out using the formula:

Previous year base figure × Relevant final factor

where:

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**Previous year base figure** means the base figure for the year immediately before the current year.

**Relevant final factor** means the final factor for the current year.

(2) In this Act, unless the contrary intention appears:

**additional previous year funding amount**, in relation to a State for a year (the **current year**) means:

- (a) if the current year is the year beginning on 1 July 1995:
  - (i) in relation to a State other than the Australian Capital Territory—the amount that would have been payable to the State under section 10A of the repealed Act for the year immediately preceding the current year if the amount had been calculated using the final factor within the meaning of that Act for that preceding year instead of the estimated factor for that preceding year; or
  - (ii) in relation to the Australian Capital Territory—an amount determined by the Treasurer in writing; or
- (b) if the current year is a later year—the amount that would have been payable to the State under section 12 of this Act for the year immediately preceding the current year if the amount had been calculated using the final factor for that preceding year instead of the estimated factor for that preceding year.

**estimated additional previous year funding amount**, in relation to a State for a year, means the amount estimated under subsection 7(4) or (5), as the case may be, in relation to the State for the year.

**estimated factor**, in relation to a year, means the factor estimated under subsection 7(3) in relation to the year.

**estimated initial amount** means the amount estimated under subsection 7(1).

**final factor**, in relation to a year, means the factor worked out under section 8 in relation to the year.

**initial amount** means the sum of:

- (a) the amount that would have been the base figure under the repealed Act for the year that began on 1 July 1994 if that amount had been calculated using the final factor within the meaning of that Act for that year instead of the estimated factor; and
- (b) an amount determined by the Treasurer in writing to be the amount by which the amount referred to in paragraph (a) would have been increased if the Australian Capital Territory had been a State for the purposes of the repealed Act.

**local governing body** means:

- (a) a local governing body established by or under a law of a State, other than a body whose sole or principal function 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 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 named in a declaration in force under section 5 as the Local Government Grants Commission of the State.

**relevant State Minister** means:

- (a) in relation to, or in relation to a body in, a State (other than the Australian Capital Territory)—the Minister of the State who is for the time being responsible for the administration of the law of the State that establishes the Local Government Grants Commission of the State; or
- (b) in relation to, or in relation to a body in, the Australian Capital Territory:
  - (i) subject to subparagraph (ii), the Minister for Urban Services of the Territory; or



- (ii) if another Minister of the Territory is prescribed by the regulations for the purposes of this paragraph—that other Minister.

**repealed Act** means the *Local Government (Financial Assistance) Act 1986*.

**State** includes the Australian Capital Territory and the Northern Territory.

**Statistician** means the Australian Statistician.

**year** means the financial year beginning on 1 July 1995 or a later financial year.

- (3) The Treasurer has power to make written determinations for the purposes of this Act.
- (4) The Minister has power to make declarations for the purposes of paragraph (b) of the definition of “local governing body” in subsection (2).

#### **4A Population estimates**

- (1) For the purposes of:
- (a) causing a factor to be worked out under subsection 8(1) in relation to the current year mentioned in that subsection; and
  - (b) applying section 10 in respect of the current year mentioned in that section;
- the following apply:
- (c) the expression **population of the State** means the population of the State on 31 December in the year immediately before the current year as set out in an estimate of that population on that date made by the Statistician for the purposes of this section;
  - (d) the expression **population of Australia** means the total population of all of the States on 31 December in the year immediately before the current year as set out in an estimate

of that population on that date made by the Statistician for the purposes of this section.

- (2) The Statistician, in making an estimate for the purposes of this section of the population of a State, must have regard to the latest statistics in relation to the population available to the Statistician on the day on which the estimate is made.
- (3) The Minister must, as soon as practicable after the Statistician makes an estimate of the population of each State for the purposes of this section, cause to be given to the Treasurer of each State a written notice setting out the population of the State and the total population of all of the States.

## 5 Local Government Grants Commissions

- (1) In this section:

*State* does not include the Australian Capital Territory.

- (2) If:

- (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 people 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 published in the *Gazette*, declare the body to be the Local Government Grants Commission of the State for the purposes of this Act.

## 6 National principles governing allocation by States among local governing bodies

- (1) The Minister, after consulting the relevant State Ministers and with a body or bodies representative of local government, must

formulate national principles for the purpose of allocating among local governing bodies amounts payable to States (other than the Australian Capital Territory) under this Act in the year beginning on 1 July 1996 and later years.

- (2) In formulating national principles, the Minister:
  - (a) is to have regard to the need to ensure that the allocation of funds for local government purposes under section 9 is made, as far as practicable, on a full horizontal equalisation basis; but
  - (b) must ensure that no local governing body in a State will be allocated an amount under section 9 in a year that is less than the amount that would be allocated to the body if 30% of the amount to which the State is entitled under that section in respect of the year were allocated among local governing bodies in the State on a per capita basis.
- (3) The reference in paragraph (2)(a) to the allocation of funds for local government purposes on a full horizontal equalisation basis is a reference to an allocation of funds that:
  - (a) ensures that each local governing body in a 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
  - (b) takes account of differences in the expenditure required to be incurred by local governing bodies in the performance of their functions and in their capacity to raise revenue.
- (4) The Minister may, after consulting with relevant State Ministers and with a body or bodies representative of local government, revoke or vary any principles formulated under subsection (1).
- (5) The Minister must cause to be given to the relevant State Minister of each State other than the Australian Capital Territory and to a body or bodies representative of local government a copy of any instrument formulating principles under subsection (1) and a copy of any instrument under subsection (4) revoking or varying any of those principles.

Section 6

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- (6) National principles formulated under subsection (1), and revocations or variations of national principles under subsection (4), are legislative instruments.

Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the principles: see subsection 44(1) of that Act.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the principles: see subsection 54(1) of that Act.

- (7) If there are no national principles in force under this section, paragraph 11(2)(d) is to be read as requiring the Commission to make the recommendations on the same basis as the basis on which the Minister is, under subsection (2) of this section, required to act in formulating national principles (see paragraphs (2)(a) and (b)).
- (8) For the purposes of this section, any possibility of a reduction in the amount allocated to any local governing body in complying with the condition in paragraph 15(aa) is to be disregarded.

## Part 2—Grants Of financial assistance

### 7 Estimates by Treasurer and Minister

- (1) The Treasurer must, as soon as practicable after the commencement of this Act, make a written estimate of the *initial amount*.
- (2) The Minister must, before the start of each year (the *current year*) after the year beginning on 1 July 1995, make a written estimate of the *base figure* for the year immediately preceding the current year.
- (3) The Treasurer must:
  - (a) as soon as practicable after the commencement of this Act, make a written estimate of the *factor*, calculated to 4 decimal places, to be worked out under subsection 8(1) in relation to the year beginning on 1 July 1995; and
  - (b) before the start of each later year, make a written estimate of the *factor*, calculated to 4 decimal places to be worked out under subsection 8(1) in relation to the year.
- (3A) In making an estimate for the purpose of paragraph 3(b), the Treasurer must, so far as the estimate relates to the population of Australia, consult the Statistician.
- (4) The Treasurer must, as soon as practicable after the commencement of this Act, make a written estimate of the *additional previous year funding amount* in relation to each State for the year beginning on 1 July 1995.
- (5) The Minister must, before the start of each year (the *relevant year*) after the year beginning on 1 July 1995, make a written estimate of the *additional previous year funding amount* in relation to each State for the relevant year.

Section 8

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- (6) The Treasurer must, as soon as practicable after an estimate is made under subsection (1), (3) or (4), cause to be given to the Minister a written notice:
- (a) setting out the estimate; and
  - (b) explaining the basis on which the estimate was made;
- and the Minister must cause a copy of the notice to be given to the Treasurer of each State.
- (7) The Minister must, as soon as practicable after an estimate is made under subsection (2) or (5), cause to be given to the Treasurer of each State a written notice:
- (a) setting out the estimate; and
  - (b) explaining the basis on which the estimate was made.

### 8 Determination of final factor

- (1) The Treasurer must, not later than 30 June in each year (the **current year**), cause a factor in relation to the current year to be worked out by:
- (a) calculating, to 4 decimal places, the factor using the formula:

$$\frac{\text{Population of Australia}}{\text{Previous population of Australia}} \times \frac{\text{Index number}}{\text{Previous index number}}$$

where:

**index number** means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Statistician in respect of the March quarter in the current year.

**population of Australia** has the meaning given by paragraph 4A(1)(d).

**previous index number** means the index number in respect of the March quarter in the year immediately before the current year.

**previous population of Australia** means the population of Australia that was used in working out the factor under this

- section in relation to the year immediately before the current year; and
- (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; and
  - (c) if the Treasurer considers that there are special circumstances for doing so—increasing or decreasing the factor calculated under paragraph (a) (as increased by any amount under paragraph (b)) by such amount as the Treasurer considers appropriate.
- (1A) For the purposes of the formula in paragraph (1)(a), if the Statistician changes the index reference period for an index number, only index numbers published in terms of the new index reference period are to be used after the change.
- (2) In making a decision under paragraph (1)(c), the Treasurer is to have regard to the following matters:
- (a) the objects of the Parliament in enacting this Act, as set out in section 3; and
  - (d) any other matters that the Treasurer thinks relevant.
- (3) The Treasurer must, not later than 30 June in each year, cause to be given to the Minister a written notice:
- (a) setting out the factor worked out under subsection (1) in relation to the year; and
  - (b) explaining the basis on which the factor was worked out.
- (4) The Minister must cause a copy of the notice to be given to the Treasurer of each State.

## **9 State entitlements for local government purposes**

- (1) Subject to this section and to section 11, each State is entitled to the payment, in respect of a year (the *current year*), by way of financial assistance for local government purposes, of a general grant, being:

Section 9

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- (a) if the current year is the year beginning on 1 July 1995, the amount worked out using the formula:

$$\text{Estimated initial amount} \times \text{Relevant estimated factor} \times \frac{\text{Projected population of the State}}{\text{Projected population of Australia}}; \text{ or}$$

- (b) if the current year is a later year, the amount worked out using the formula:

$$\text{Estimated previous year base figure} \times \text{Relevant estimated factor} \times \frac{\text{Projected population of the State}}{\text{Projected population of Australia}}$$

where:

**Relevant estimated factor** means the estimated factor for the current year.

**Projected population of the State** means the population of the State on 31 December in the year immediately before the current year as set out in a preliminary estimate of that population on that date made by the Statistician according to assumptions specified by the Minister in writing for the purpose, after consulting the Statistician.

**Projected population of Australia** means the total population of all the States on 31 December in the year immediately before the current year as set out in a preliminary estimate of that population on that date made by the Statistician according to assumptions specified by the Minister in writing for the purpose, after consulting the Statistician.

**Estimated previous year base figure** means the amount estimated under subsection 7(2) in relation to the year immediately before the current year.

Note: For *estimated initial amount* and *estimated factor* see subsection 4(2).

- (2) A State is not entitled to a payment under this section in respect of a year unless:



- (a) if the year is the year beginning on 1 July 1995—an estimate under subsection 7(1) has been made in relation to that year; and
  - (b) if the year is a later year—an estimate under subsection 7(2) has been made in relation to the immediately preceding year; and
  - (c) in any case—an estimate under subsection 7(3) has been made in relation to the year.
- (3) A State is not entitled to a payment under this section in respect of a year until 15 August in the year.
- (4) 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.

### 10 Adjustment of estimates—section 9 payments

- (1) This section applies to a State in respect of a year (the *current year*) if the amount worked out under subsection 9(1) (the *preliminary grant amount*) in relation to the State in respect of the current year is greater or less than:
- (a) if the current year is the year beginning on 1 July 1995, the amount (the *final grant amount*) worked out using the formula:

$$\text{Initial amount} \times \text{Relevant final factor} \times \frac{\text{Population of the State}}{\text{Population of Australia}}; \text{ or}$$

- (b) if the current year is a later year, the amount (the *final grant amount*) worked out using the formula:

$$\frac{\text{Previous year base figure}}{\text{figure}} \times \text{Relevant final factor} \times \frac{\text{Population of the State}}{\text{Population of Australia}}$$

where:

Section 10

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**Relevant final factor** means the final factor for the current year.

**Population of the State** has the meaning given by paragraph 4A(1)(c).

**Population of Australia** has the meaning given by paragraph 4A(1)(d).

**Previous year base figure** means the base figure for the year immediately before the current year.

Note 1: For **initial amount** and **final factor** see subsection 4(2).

Note 2: For **base figure** see subsection 4(1).

- (4) If the final grant amount for a State in respect of a year exceeds the preliminary grant amount for the State in respect of the year, the State is entitled, in addition to the payment to which it is entitled under section 9 in respect of the year, to the payment in respect of the year, by way of financial assistance for local government purposes, of an amount equal to the excess.
- (5) 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 grant amount for the State in respect of a year is less than the preliminary grant amount for the State in respect of the year, the State will pay to the Commonwealth an amount equal to the difference.
- (6) If an amount is payable to a State under subsection (4) in respect of a year, the amount is to be paid to the State in the following year by equal quarterly instalments at the times when instalments to which the State is entitled under section 9 in respect of the following year are paid.
- (6A) Despite subsection (6), if the Minister considers that it is appropriate, the Minister may decide that an amount payable to a State under subsection (4) is to be paid at such times, and in such instalments, as the Minister decides. The Minister cannot decide that an amount is to be paid later than it would be paid under subsection (6).

Example: The Minister may decide that an amount payable to a State in respect of a year be paid in one payment during that year.

- (6B) If the Minister makes a decision under subsection (6A) in relation to a State, the Minister must, as soon as practicable, notify the Treasurer of the State in writing of the decision.
- (7) If a State is liable to pay an amount to the Commonwealth under subsection (5) in respect of a year, one-quarter of the amount is to be deducted from each quarterly instalment that, apart from this subsection, would be payable to the State under section 9 in respect of the following year.

### **11 Allocation among local governing bodies—section 9 payments**

- (1) In this section:

*State* does not include the Australian Capital Territory.

- (2) A State is not entitled to payment of an amount under section 9 in respect of a year unless:
- (a) there is a Local Government Grants Commission of the State; and
  - (b) the Commission has made recommendations with respect to the allocation of the amount among local governing bodies in the State; and
  - (c) the Commission:
    - (i) held public hearings (whether or not it also held private hearings) in connection with the recommendations; and
    - (ii) permitted or required local governing bodies in the State or associations of those bodies to make submissions to it in connection with the recommendations; and
  - (d) the Commission has made the recommendations:
    - (i) if the year is the year beginning on 1 July 1995—in accordance with the principles that were applicable to the State under section 9 of the repealed Act in respect of the immediately preceding year or, if those principles have been modified under section 24, in accordance with those principles as so modified; or
    - (ii) if the year is a later year—in accordance with national principles in force under section 6 of this Act in respect

Section 12

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of the later year or, if those principles have been modified under section 26 in relation to the State in respect of the later year, in accordance with those principles as so modified; and

- (e) the relevant State Minister has given the Minister in writing particulars of the manner in which the State proposes to allocate the amount among local governing bodies in the State; and
  - (f) the Minister is satisfied that, in determining the manner in which the State proposes to allocate the amount among local governing bodies in the State, the State has adopted the recommendations of the Commission; and
  - (g) the State does not allocate the amount among local governing bodies in the State except in accordance with the proposed allocation or in accordance with that proposed allocation as altered with the agreement of the Minister.
- (3) For the purposes of this section, any possibility of a reduction in the amount allocated to any local governing body in complying with the condition in paragraph 15(aa) is to be disregarded.

## 12 Additional funding for local government purposes

- (1) Subject to this section and section 14, each State is entitled to the payment, in respect of a year (the *current year*), by way of financial assistance for local government purposes, of the amount worked out using the formula:

Estimated additional previous year funding amount × Estimated factor

where:

***Estimated additional previous year funding amount*** means the estimated additional previous year funding amount in relation to the State for the current year;

***Estimated factor*** means the estimated factor for the current year.

Note: For *estimated additional previous year funding amount* and *estimated factor* see subsection 4(2).

- (2) A State is not entitled to a payment under this section in respect of a year until 15 August in the year.
- (3) A State is not entitled to a payment under this section in respect of a year unless:
  - (a) an estimate under subsection 7(3) has been made in relation to the year; and
  - (b) an estimate under subsection 7(4) or (5), as the case may be, has been made in relation to the State for the year.
- (4) So far as practicable, an amount to which a State is entitled under this section must be paid in equal quarterly instalments.

### 13 Adjustment of estimates—section 12 payments

- (1) This section applies to a State in respect of a year (the *current year*) if the amount worked out under section 12 (the *preliminary additional grant amount*) in relation to the State in respect of the current year is greater or less than the amount (the *final additional grant amount*) worked out in relation to the State in respect of the current year using the formula:

Additional previous year funding amount × Final factor

where:

*Additional previous year funding amount* means the additional previous year funding amount in relation to the State for the current year.

*Final factor* means the final factor for the current year.

Note: For *additional previous year funding amount* and *final factor* see subsection 4(2).

- (2) If the final additional grant amount for a State in respect of a year exceeds the preliminary additional grant amount for the State in

Section 14

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respect of the year, the State is entitled, in addition to the payment to which it is entitled under section 12 in respect of the year, to the payment in respect of the year, by way of financial assistance for local government purposes, of an amount equal to the excess.

- (3) 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 additional grant amount for the State in respect of a year is less than the preliminary additional grant amount for the State in respect of the year, the State will pay to the Commonwealth an amount equal to the difference.
- (4) If an amount is payable to a State under subsection (2) in respect of a year, the amount is to be paid to the State in the following year by equal quarterly instalments at the times when instalments to which the State is entitled under section 12 in respect of that following year are paid.
- (4A) Despite subsection (4), if the Minister considers that it is appropriate, the Minister may decide that an amount payable to a State under subsection (2) is to be paid at such times, and in such instalments, as the Minister decides. The Minister cannot decide that an amount is to be paid later than it would be paid under subsection (4).
- Example: The Minister may decide that an amount payable to a State in respect of a year be paid in one payment during that year.
- (4B) If the Minister makes a decision under subsection (4A) in relation to a State, the Minister must, as soon as practicable, notify the Treasurer of the State in writing of the decision.
- (5) If a State is liable to pay an amount to the Commonwealth under subsection (3), one-quarter of the amount is to be deducted from each quarterly instalment that, apart from this subsection, would be payable to the State under section 12 in respect of the following year.

**14 Allocation among local governing bodies—section 12 payments**

(1) In this section:

*State* does not include the Australian Capital Territory.

(2) A State is not entitled to payment of an amount under section 12 in respect of a year unless:

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

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

(c) the Commission has made the recommendations:

(i) if the year is the year beginning on 1 July 1995—in accordance with any principles that were applicable to the State under paragraph 10C(1)(da) of the repealed Act in respect of the immediately preceding year or, if those principles have been modified under section 25, in accordance with those principles as so modified; or

(ii) if the year is a later year—in accordance with any relevant national principles in force under section 6 in respect of the later year that relate to expenditure on local roads by local governing bodies or, if those principles have been modified under section 26 in relation to the State in respect of the later year, in accordance with those principles as so modified; and

(d) the relevant State Minister has given the Minister in writing particulars of the manner in which the State proposes to allocate the amount among local governing bodies in the State; and

(e) the Minister is satisfied that, in determining the manner in which the State proposes to allocate the amount among local governing bodies in the State, the State has adopted the recommendations of the Commission; and

(f) the State does not allocate the amount among local governing bodies in the State except in accordance with the proposed

Section 15

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allocation or in accordance with that proposed allocation as altered in accordance with the agreement of the Minister.

- (3) For the purposes of this section, any possibility of a reduction in the amount allocated to any local governing body in complying with the condition in paragraph 15(aa) is to be disregarded.

### **15 Conditions of payments to States other than the Australian Capital Territory**

Payment of an amount to a State (other than the Australian Capital Territory) under this Act in respect of a year is subject to:

- (a) a condition, subject to the condition in paragraph (aa), that the State will:
- (i) if the payment is made under section 9—without undue delay, make unconditional payments to local governing bodies in the State in accordance with the allocation determined as mentioned in section 11; and
  - (ii) if the payment is made under section 10—without undue delay, make unconditional payments to local governing bodies in the State in the same proportion as the payments under section 9 in respect of the year were allocated; and
  - (iii) if the payment is made under section 12—without undue delay, make unconditional payments to local governing bodies in the State in accordance with the allocation determined as mentioned in section 14; and
  - (iv) if the payment is made under section 13—without undue delay, make unconditional payments to local governing bodies in the State in the same proportion as the payments under section 12 in respect of the year were allocated; and
- (aa) a condition that, if the payment is one from which, according to an agreement between the Commonwealth and the State, the State is to withhold an amount that represents voluntary GST payments that should have, but have not, been paid by



- local governing bodies—the State will withhold the amount and pay it to the Commonwealth; and
- (b) a condition that the Treasurer of the State will give the Minister, as soon as practicable after 30 June in each year:
- (i) a statement, in a form approved by the Minister, setting out the payments made by the State during the year ending on that date in accordance with this Act, and the dates of the payments; and
  - (ii) a certificate by the Auditor-General of the State certifying that, in his or her opinion, the contents of the statement are correct; and
- (c) a condition that, if the Minister tells the Treasurer of the State that the Minister is satisfied that the State has, with respect to the whole or a part of the amount, failed to fulfil any of the conditions applicable under paragraphs (a), (aa) and (b) to the payment of the amount, the State will repay to the Commonwealth any amount determined by the Minister that is not more than the amount in respect of which the Minister is so satisfied.

## Part 3—Miscellaneous

### 16 Reports

- (1) The Minister must, as soon as practicable after 30 June in each year, cause a report or reports to be prepared about the operation of this Act in respect of the year.

Note: The first report under this subsection will relate to the year beginning on 1 July 1995; see the definition of *year* in subsection 4(2).

- (2) The Minister must ensure that relevant State Ministers and a body or bodies representative of local government are consulted in connection with the preparation of a report under subsection (1).
- (3) The report or one of the reports must include an assessment by the Minister (based on comparable national data), in relation to the year, of:
  - (a) the extent (if any) to which the allocation of funds for local government purposes has been made on a full horizontal equalisation basis as mentioned in paragraph 6(2)(a); and
  - (b) the methods used by the Local Government Grants Commissions in making their recommendations; and
  - (c) the performance by local governing bodies of their functions including:
    - (i) their efficiency; and
    - (ii) services provided by them to Aboriginal and Torres Strait Islander communities.
- (4) The Minister must cause a copy of each report to be laid before each House of the Parliament as soon as practicable after the report has been prepared.

### 17 Review

- (1) The Minister is to cause a review of the operation of this Act to be carried out not later than 30 June 2001 in consultation with the

States and with a body or bodies representative of local government.

- (2) A review is to examine:
- (a) the effectiveness of the arrangements under this Act in relation to ensuring that the allocation of funds for local government purposes is made on a full horizontal equalisation basis as mentioned in paragraph 6(2)(a); and
  - (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; and
  - (c) the implications of any changes in the functions or responsibilities of local governing bodies; and
  - (d) the eligibility for assistance under this Act of bodies declared by the Minister under section 4 to be local governing bodies; and
  - (e) any other matters relating to local government that the Minister determines.

## **18 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### **18A Recoverable payments**

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the *relevant amount*) to a State purportedly as an amount under this Act, then the Commonwealth may pay the relevant amount to the State.

*Recovery*

- (2) If:
- (a) a payment is made under subsection (1) to a State; and

Section 18B

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- (b) the State is entitled to receive an amount under this Act;  
then:
- (c) the relevant amount; or
- (d) such part of the relevant amount as the Minister determines;  
may, if the Minister so directs, be recovered by deduction from the  
amount mentioned in paragraph (b).

**18B Reports about recoverable payments**

- (1) During the applicable publication period for a reporting period, the Secretary of the Department must cause to be published, in such manner as the Secretary thinks fit, a report that sets out:
  - (a) the number of payments made under subsection 18A(1) during the reporting period; and
  - (b) the total amount of those payments.
- (2) However, a report is not required if the number mentioned in paragraph (1)(a) is zero.

*Deferred reporting*

- (3) Subsection (1) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Departmental official was aware the payment was made under subsection 18A(1).
- (4) For the purposes of this section, if:
  - (a) a payment was made under subsection 18A(1) in a reporting period; and
  - (b) because of subsection (3) of this section, subsection (1) of this section did not require a report to deal with the payment; and
  - (c) during a later reporting period, a Departmental official becomes aware that the payment was made under subsection 18A(1);the payment is subject to a ***deferred reporting obligation*** in relation to the later reporting period.

- (5) If one or more payments made under subsection 18A(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary of the Department must, during the applicable publication period for the later reporting period:
- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

*Reporting period*

- (6) For the purposes of this section, a **reporting period** is:
- (a) a financial year; or
  - (b) if a shorter recurring period is specified in a legislative instrument made by the Minister—that period.

*Applicable publication period*

- (7) For the purposes of this section, the **applicable publication period** for a reporting period is the period of:
- (a) 4 months; or
  - (b) if a lesser number of months is specified, in relation to the reporting period, in a legislative instrument made by the Minister—that number of months;
- beginning immediately after the end of the reporting period.

Section 19

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*Departmental official*

- (8) For the purposes of this section, ***Departmental official*** means an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of the Department.

**19 Appropriation**

Payments to a State under this Act are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **Part 4—Repeal And Transitional**

### **20 Repeal**

- (1) The *Local Government (Financial Assistance) Act 1986* is repealed.
- (2) Despite the repeal effected by subsection (1), the repealed Act continues to apply in relation to financial years before the year beginning on 1 July 1995.

### **21 Local governing bodies**

A body that, immediately before the commencement of this Act, was duly declared for the purposes of paragraph (b) of the definition of *local governing body* in section 3 of the repealed Act to be a local governing body for the purposes of that Act is taken to be declared for the purposes of paragraph (b) of the definition of *local governing body* in subsection 4(2) of this Act to be a local governing body for the purposes of this Act.

### **22 Local Government Grants Commissions**

If, immediately before the commencement of this Act, an instrument was in force under section 4 of the repealed Act declaring a body to be the Local Government Grants Commission of a State, the instrument is taken to be a declaration duly made under subsection 5(2) of this Act.

### **23 Estimate of factor by Treasurer**

If the Treasurer made an estimate before the commencement of this Act under section 5 of the repealed Act in relation to the year beginning on 1 July 1995, the estimate is taken to have been made under subsection 7(3) of this Act.

#### **24 Modification of State principles applicable to 1995-1996**

A State may, with the Minister's written approval, modify any of the principles referred to in subparagraph 11(2)(d)(i).

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

The Minister may modify any of the principles referred to in subparagraph 14(2)(c)(i).

#### **26 Transitional modification of national principles**

The Minister may determine in writing that any one or more of the national principles in force under section 6 are, in respect of a year referred to in the determination, to have effect, in relation to a State or States so referred to, subject to modifications set out in the determination.

#### **27 Avoidance of double payments to Australian Capital Territory**

The total of the amounts that, apart from this section, would be payable under this Act to the Australian Capital Territory in respect of the year beginning on 1 July 1995 is reduced by any amount or amounts paid to that Territory for local government purposes in respect of that year under the *Appropriation Act (No. 2) 1995-96*.

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

- (1) If an amount is payable to a State under subsection 8(1) of the repealed Act as it continues to apply under subsection 20(2) of this Act in relation to the year that began on 1 July 1994, the amount is to be paid to the State in the year beginning on 1 July 1995 by equal quarterly instalments at the times when instalments to which the State is entitled under section 9 of this Act in respect of that last-mentioned year are paid.



- (2) If a State is liable to pay an amount to the Commonwealth under subsection 8(2) of the repealed Act as it continues to apply under subsection 20(2) in this Act in relation to the year that began on 1 July 1994, one-quarter of the amount is to be deducted from each quarterly instalment that, apart from this subsection, would be payable to the State under section 9 of this Act in respect of the year beginning on 1 July 1995 and, if an amount is so deducted, then, despite the deduction, an amount equal to the deduction is taken, for the purposes of this Act, to have been paid to the State.

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

- (1) If an amount is payable to a State under subsection 10B(1) of the repealed Act as it continues to apply under subsection 20(2) of this Act in relation to the year that began on 1 July 1994, the amount is to be paid to the State in the year beginning on 1 July 1995 by equal quarterly instalments at the times when instalments to which the State is entitled under section 12 of this Act in respect of that last-mentioned year are paid.
- (2) If a State is liable to pay an amount to the Commonwealth under subsection 10B(2) of the repealed Act as it continues to apply under subsection 20(2) in this Act in relation to the year that began on 1 July 1994, one-quarter of the amount is to be deducted from each quarterly instalment that, apart from this subsection, would be payable to the State under section 12 of this Act in respect of the year beginning on 1 July 1995 and, if an amount is so deducted, then, despite the deduction, an amount equal to the deduction is taken, for the purposes of this Act, to have been paid to the State.

### **30 Estimates of population by Statistician**

A reference in this Act to a preliminary estimate, or to an estimate, of population made by the Statistician includes a reference to such a preliminary estimate, or estimate, made before the commencement of this Act.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Local Government (Financial Assistance) Act 1995	86, 1995	1 July 1995	1 July 1995 (s 2)	
Local Government (Financial Assistance) Amendment Act 2000	71, 2000	27 June 2000	27 June 2000 (s 2)	Sch 1 (items 19, 20)
Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006	109, 2006	27 Sept 2006	Sch 2 (items 33–35): 27 Sep 2006 (s 2(1) item 5)	—
Financial Assistance Legislation Amendment Act 2009	36, 2009	27 May 2009	Sch 1 (items 2, 3): 27 May 2009 (s 2)	—
Financial Framework Legislation Amendment Act (No. 2) 2012	82, 2012	28 June 2012	Sch 1 (item 72): 29 June 2012 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (item 222) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

*Local Government (Financial Assistance) Act 1995*

33

Compilation No. 8

Compilation date: 10/3/16

Registered: 6/6/16

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 356, 357): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (items 26, 27): 10 Dec 2015 (s 2(1) item 7)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 1 (item 20): 10 Mar 2016 (s 2(1) item 2)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 4A.....	ad No 71, 2000
s 6 .....	am No 71, 2000; No 109, 2006; No 126, 2015; No 4, 2016
<b>Part 2</b>	
s 7 .....	am No 71, 2000
s 8 .....	am No 71, 2000; No 145, 2015
s 9 .....	am No 71, 2000
s 10 .....	am No 71, 2000; No 36, 2009
s 11 .....	am No 71, 2000
s 13 .....	am No 36, 2009
s 14 .....	am No 71, 2000
s 15 .....	am No 71, 2000
<b>Part 3</b>	
s 18A.....	ad No 82, 2012
s 18B.....	ad No 82, 2012
	am No 62, 2014