

ATTACHMENT A

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) ACT 1995



Local Government (Financial Assistance) Act 1995

Act No. 86 of 1995 as amended

This compilation was prepared on 31 July 2000
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The text of any of those amendments not in force
on that date is appended in the Notes section

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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 [see Note 1]

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

2 Commencement [see Note 1]

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.
- (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:

$$\text{Initial amount} \times \text{Relevant final factor}$$

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:

$$\text{Previous year base figure} \times \text{Relevant final factor}$$

where:

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, in writing, 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, in writing, 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.
- (6) National principles formulated under subsection (1), and revocations or variations of national principles under subsection (4), are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (7) If there are no national principals 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.
- (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 reference base for an index number, only index numbers published in terms of the new base 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:
- (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:

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

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:

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

where:

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.
- (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 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 \times 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 \times 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 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.
- (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 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.

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.

Notes to the *Local Government (Financial Assistance) Act 1995*

Note 1

The *Local Government (Financial Assistance) Act 1995* as shown in this compilation comprises Act No. 86, 1995 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date commencement	of	Application, saving or transitional provisions
<i>Local Government (Financial Assistance) Act 1995</i>	86, 1995	1 July 1995	1 July 1995		
<i>Local Government (Financial Assistance) Amendment Act 2000</i>	71, 2000	27 June 2000	27 June 2000		Sch. 1 (items 19, 20)

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed

Provision affected How affected

S. 4A..... ad. No. 71, 2000
Ss. 6–11..... am. No. 71, 2000
Ss. 14, 15..... am. No. 71, 2000

Table A

Application, saving or transitional provisions

Local Government (Financial Assistance) Amendment Act 2000 (No. 71, 2000)

Schedule 1

19 Application

- (1) The amendments made by items 1 and 4 to 13 apply where the current year mentioned in section 8, 9 or 10 of the *Local Government (Financial Assistance) Act 1995* as amended by this Schedule is the year beginning on 1 July 2000 or any later year.
- (2) The amendment made by item 3 applies where the estimate mentioned in subsection 7(3A) of the *Local Government (Financial Assistance) Act 1995*, as inserted by that item, relates to the year beginning on 1 July 2000 or any later year.
- (3) The amendments made by items 16 to 18 apply where the payment mentioned in paragraph 15(1)(aa) of the *Local Government (Financial Assistance) Act 1995* as amended by this Schedule is made in the year beginning on 1 July 2001 or any later year.

20 Transitional

For the purpose of causing a factor to be worked out under subsection 8(1) of the *Local Government (Financial Assistance) Act 1995* as amended by this Schedule in relation to the year beginning on 1 July 2000, the definition of ***previous population of Australia*** in the formula in that subsection is replaced by the following definition:

previous population of Australia means the population of Australia used in applying section 10 of this Act, as in force immediately before its amendment by the *Local Government (Financial Assistance) Amendment Act 2000*, in respect of the year beginning on 1 July 1999.

ATTACHMENT B

NATIONAL PRINCIPLES FOR THE ALLOCATION OF GENERAL PURPOSE AND LOCAL ROADS GRANT

1. This attachment sets out:
 - the five National Principles relating to the allocation of General Purpose grants payable under Section 9 of the *Local Government (Financial Assistance) Act 1995*; and
 - the single National Principle relating to the allocation of the Local Roads grants payable under section 12 of the Act.
2. It also provides the Explanatory Statement which was issued at the time the National Principles were tabled in Parliament as a disallowable instrument.

**NATIONAL PRINCIPLES FOR THE ALLOCATION OF GENERAL PURPOSE
AND LOCAL ROAD GRANTS**

- A.** The National Principles relating to the allocation of general purpose grants payable under Section 9 of the *Local Government (Financial Assistance) Act 1995* (the Act) among local governing bodies are as follows:

1. Horizontal Equalisation

General purpose grants will be allocated to local governing bodies, as far as practicable, on a full horizontal equalisation basis as defined by the Act. This is a 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 functions and in the capacity of those local governing bodies to raise revenue.

2. Effort Neutrality

An effort or policy neutral approach will be used in assessing expenditure requirements and revenue raising capacity of each local governing body. This means as far as practicable, policies of individual local governing bodies in terms of expenditure and revenue effort will not affect the grant determination.

3. Minimum Grant

The minimum general purpose grant allocation for a local governing body in a year will be not less than the amount to which the local governing body would be entitled if 30% of the total amount of general purpose grants to which the State/Territory is entitled under Section 9 of the Act in respect of the year were allocated among local governing bodies in the State/Territory on a per capita basis.

4. Other Grant Support

Other relevant grant support provided to local governing bodies to meet any of the expenditure needs assessed should be taken into account using an inclusion approach.

5. Aboriginal Peoples and Torres Strait Islanders

Financial assistance shall be allocated to councils in a way which recognises the needs of Aboriginal peoples and Torres Strait Islanders within their boundaries.

B. The National Principle relating to the allocation of the amounts payable under Section 12 of the Act (the identified road component of the financial assistance grants) among local governing bodies is as follows:

1. Identified Road Component

The identified road component of the financial assistance grants should be allocated to local governing bodies as far as practicable on the basis of the relative needs of each local governing body for roads expenditure and to preserve its road assets. In assessing road needs, relevant considerations include length, type and usage of roads in each local governing area.

**EXPLANATORY STATEMENT
LOCAL GOVERNMENT FINANCIAL ASSISTANCE PROGRAM**

**DISALLOWABLE INSTRUMENT PURSUANT TO SUBSECTION 6(1) OF THE
*LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) ACT 1995***

(LGFA/1995-1)

Context

The Minister, following extensive consultations with State/Territory Local Government and Local Government Association officials and with the relevant State Ministers, has formulated these National Principles. These Principles were formally agreed by the Commonwealth, State/Territory Ministers and the Australian Local Government Association at the April 1995 Local Government Ministers' Conference.

Background

Following discussion at the Local Government Ministers' Conference in June 1993, the Commonwealth announced a review of processes associated with payments made to Local Government under the *Local Government (Financial Assistance) Act 1986*.

The Australian Urban and Regional Development Review Discussion Paper No 1 *Financing Local Government* was released in February 1994 as part of the review.

As a result of this discussion paper, the review commissioned subsequent studies one specifically relating to aspects of various States allocation methodologies.

The methodologies study (Discussion Paper No 2 — *Local Government Funding Methodologies*) found that:

- (a) there are seven different models operating in the nation; and
- (b) the current process requiring the Minister to approve grant allocation principles on a State by State basis is of little relevance in ensuring equity in distribution or of allowing for monitoring of outcomes.

The review of the legislation led to the enactment of the *Local Government (Financial Assistance) Act 1995*. The new legislation includes the requirement to establish national principles by way of a disallowable instrument.

Purpose and Effect of the Instrument

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.

These principles reflect existing and well established distribution practices of the Commonwealth Grants Commission and of most State and Territory Local Government Grants Commissions. Applications of common principles will ensure, subject to the particular methodologies of the State and Territory Grants Commissions, that similar councils receive similar grants, at least in relative terms.

Legislation Pursuant to which the Instrument is made

This instrument is made pursuant to the *Local Government (Financial Assistance) Act 1995*. The purpose of that Act is to provide financial assistance to the States/Territories for the purpose of improving:

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

The financial assistance is provided to the States/Territories for local government purposes in the form of general grants under section 9 and additional funding for local roads under section 12 of that Act. The States distribute these funds to local governing bodies in accordance with recommendations of Local Governments Grants Commission which are required to make their recommendations in accordance with the National Principles for 1995–96 financial year and later years.

Explanation of the National Principles

Principle A1 — Horizontal Equalisation — This principle is the basis that ensure 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 functions and in the capacity of those local governing bodies to raise revenue.

Principle A2 — Effort Neutrality — This principle allows for the use of effort or policy neutral approach in assessing expenditure requirements and revenue raising capacity of each local governing body. This means as far as practicable, policies of individual local

governing bodies in terms of expenditure and revenue effort will not affect the grant determination.

Principle A3 — Minimum Grant — This principle requires that the minimum general grant allocation for a local governing body in a year 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 in respect of the year were allocated among local governing bodies in the State/Territory on a per capita basis. The effect of this is to provide each local governing body with a guaranteed minimum grant.

In summary, Principles A1 to A3 — Horizontal Equalisation, Effort Neutrality and Minimum Grant — reiterate principles that exist within the current legislation. Their inclusion in the National Principles contributes to the balance and completeness of the National Principles and allows for clarification of their definitions.

Principle A4 — Other Grant Support — This principle requires the recognition and application of certain relevant grants from other sources against council expenditure needs. The issue here is to account for revenue from other sources provided for the purpose of delivering certain local government services.

Principle A5 — Aboriginal Peoples and Torres Strait Islanders — This principle requires financial assistance to be allocated in a way which recognises the needs of Aboriginal peoples and Torres Strait Islanders. The Principle addressed the specific need for the provision of equitable council services to Aboriginal peoples and Torres Strait Islanders and indicates that the level of grants received by councils reflects the Aboriginal and Torres Strait Islander population within Council boundaries.

Principle B1 — Identified Road Funding — The principle relates to the allocation of the local road funding component of the financial assistance grants and replaces the existing prescriptive bilateral principles, highlighting the requirement to focus on road expenditure needs of local governing bodies as well as the requirement to preserve current road assets. The principle recognises the variations across States and that the Local Government Grants Commissions are best placed to determine the detailed methodologies to meet the national principle.