A New Tax System
(Commonwealth-State Financial Arrangements) Bill 1999

No. , 1999

(Treasury)

A Bill for an Act to provide financial assistance to the States, the Australian Capital Territory and the Northern Territory, and for related purposes
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A Bill for an Act to provide financial assistance to the States, the Australian Capital Territory and the Northern Territory, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the A New Tax System (Commonwealth-State Financial Arrangements) Act 1999.
Part 1 Preliminary

Section 2

2 Commencement

(1) This Act commences at the later of:
   (a) the start of the day on which this Act receives the Royal
       Assent; and
   (b) the start of the day after the last day on which any of the
       following receive the Royal Assent:
       (i) the GST Act; and
       (ii) the GST Imposition Acts; and
       (iii) the A New Tax System (Goods and Services Tax

(2) To avoid doubt, this Act does not commence unless all of the Acts
    mentioned in subsection (1) have received the Royal Assent.

3 Outline of Act

This Act provides for GST revenue to be distributed to the States. This revenue can be used by the States for any purpose. In addition, some other amounts are payable to the States. It also deals with circumstances in which the rate of the GST and the GST base can be altered.

Part 1 of the Act deals with preliminary matters and contains the definitions of terms used throughout the Act.

Part 2 contains the provisions related to changing the rate and base of the GST.

Part 3 provides for grants to the States. Division 1 of that Part provides for the GST revenue to be paid to the States, Division 2 provides for the payment of other amounts and Division 3 contains general provisions about the timing and payments of grants.

Part 4 contains miscellaneous provisions.
Schedule 1 contains provisions that apply for the transitional GST years. These ensure that no State can receive less than a guaranteed minimum amount and allow the Commonwealth to make grants totalling more than the GST revenue in certain circumstances.

### 4 Definitions

In this Act, unless the contrary intention appears:

*estimated population* has the meaning given by section 7.

*GST* has the same meaning as in the GST Act.

*GST Act* means the *A New Tax System (Goods and Services Tax) Act 1999*.

*GST Imposition Acts* mean:

(a) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;

(b) the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;

(c) the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*.

*GST law* has the same meaning as in the GST Act.

*GST revenue* has the meaning given by section 5.

*GST year* means:

(a) the financial year commencing on 1 July 2000; and

(b) each succeeding financial year.

These are described by a figure referring to 2 years (for example, the 2000-01 GST year is the GST year commencing on 1 July 2000).

*guaranteed minimum amount* for a State for a GST year has the meaning given by clause 2 of Schedule 1.

*Health Minister* means the Minister administering the *National Health Act 1953*. 
Part 1 Preliminary

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hospital grant has the meaning given by section 6.

index factor for a GST year means the factor worked out under section 8.

index number, for a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

relativities factor for a State for a GST year has the meaning given by section 9.

State includes the Australian Capital Territory and the Northern Territory.

Torres Strait Treaty means the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the 2 countries, including the area known as Torres Strait, and Related Matters, signed at Sydney, Australia on 18 December 1978.

Note: The text of the Treaty is set out in the Australian Treaty Series 1985 No. 4.

transitional GST year means:
(a) a GST year commencing on or before 1 July 2002; or
(b) a later prescribed GST year.

These are described by a figure referring to 2 years (for example, the 2000-01 transitional GST year is the transitional GST year commencing on 1 July 2000).

5 GST revenue

(1) The Commissioner must make a determination for each of the matters covered by subsections (3) and (4) stating:
(a) the actual amount for the period from 1 July to 31 May in the GST year; and
(b) the estimated amount for June in the GST year; and
(c) except for the first GST year—the actual amount for June in the previous GST year.
(2) The **GST revenue** for a GST year is the amount determined by the Commissioner as the amount worked out in the following way:

<table>
<thead>
<tr>
<th>Step 1.</th>
<th>Add together all of the actual amounts determined for matters covered by subsection (3) for the period from 1 July to 31 May in the GST year.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 2.</td>
<td>Add together all of the estimates for June in the GST year for matters covered by subsection (3).</td>
</tr>
<tr>
<td>Step 3.</td>
<td>Add the result of Step 1 to the result of Step 2.</td>
</tr>
<tr>
<td>Step 4.</td>
<td>Add together all of the actual amounts determined for matters covered by subsection (4) for the period from 1 July to 31 May in the GST year.</td>
</tr>
<tr>
<td>Step 5.</td>
<td>Add together all of the estimates for June in the GST year for matters covered by subsection (4).</td>
</tr>
<tr>
<td>Step 6.</td>
<td>Add the result of Step 4 to the result of Step 5.</td>
</tr>
<tr>
<td>Step 7.</td>
<td>Subtract the result of Step 6 from the result of Step 3.</td>
</tr>
<tr>
<td>Step 8.</td>
<td>Adjust the result worked out in Step 7 for the GST year by the amount necessary to take account of the difference between the estimates made in relation to June in the previous GST year and the actual amounts determined for that month.</td>
</tr>
</tbody>
</table>

(3) The matters are:

(a) the amount of GST that was collected; and

(b) the amount of payments made to the Commissioner of Taxation where the payment represents an amount of GST that would have been payable if the Constitution did not prevent tax from being imposed on property of any kind belonging to a State and if section 5 of the GST Imposition Acts had not been enacted; and
Section 6

(c) the amount of additional amounts of GST that would have been collected if the Commonwealth and Commonwealth entities could be made subject to taxation by a Commonwealth law and if section 177-1 of the GST Act made those entities actually liable rather than notionally liable; and

(d) the amount of diesel fuel credits arising under Division 123 of the GST Act.

(4) The matters are:

(a) the amount paid or applied under Division 35 of the GST Act; and

(b) the amount paid or applied under section 39 of the *Taxation Administration Act 1953*.

(5) The Commissioner of Taxation must make determinations under this section for a GST year before 15 June in the GST year.

(6) In this section:

*Commonwealth entity* has the same meaning as in section 177-1 of the GST Act.

### 6 Hospital grants

(1) A *hospital grant* for a State for a GST year is the amount worked out using the formula:

\[
\text{Total amount payable} - \text{Sum of deductible amounts} - \text{Applicable reduction}
\]

where:

*applicable reduction* means the amount determined by the Health Minister before 10 June in the GST year to be the estimate of the reduction in the amount otherwise payable to the State during the GST year under a health care grant (being a reduction required by the conditions of the grant).

*sum of deductible amounts* means the amount determined by the Health Minister before 10 June in the GST year to be the estimate...
of such part of the total amount payable as is the sum of the following amounts:

(a) the sum of the deductible amounts payable to the State during the GST year;

(b) the sum of the deductible amounts payable to a hospital, or to another person, during the GST year, being amounts that would have been payable to the State had the Health Minister been satisfied that the State was adhering to the principles set out in subsection 6(2) of the Health Care (Appropriation) Act 1998.

total amount payable means the amount determined by the Health Minister before 10 June in the GST year to be the estimate of the sum of the following amounts:

(a) the amount payable to the State during the GST year under a health care grant;

(b) the amount payable to a hospital, or to another person, during the GST year under a health care grant, being an amount that would have been payable to the State had the Health Minister been satisfied that the State was adhering to the principles set out in subsection 6(2) of the Health Care (Appropriation) Act 1998.

(2) In this section:

deductible amounts are amounts that relate to the following:

(a) mental health services;

(b) projects or programs of a kind referred to in paragraph 4(1)(b) of the Health Care (Appropriation) Act 1998;

(c) the critical and urgent treatment incentive program;

(d) the recognition of special demands arising from the Torres Strait Treaty;

(e) the transition from a 1993-98 Medicare Agreement to another agreement or arrangement between the Commonwealth and a State, being an agreement or arrangement that specifies conditions applying to health care grants;

(f) a service, project or program, or a component of a health care grant, that is determined by the Health Minister to be a
Section 7

service, project, program or component in relation to which
an amount payable is to be treated as a deductible amount.

*health care grant* means a grant of financial assistance under
section 4 of the *Health Care (Appropriation) Act 1998*.

7 Determination of population of a State

(1) The *estimated population* of a State on 31 December in a GST
year is the population of the State on that date as determined by the
Australian Statistician after that date and before 10 June in the
GST year.

(2) In making a determination under this section, the Australian
Statistician must:
(a) if practicable, consult with the official Statistician of each
State concerned; and
(b) have regard to the latest statistics in relation to population
available to the Australian Statistician on the day on which
the determination is made.

8 Index factor

(1) The index factor for a GST year is the factor worked out using the
formula:

\[
\frac{\text{GST year index number}}{\text{Previous GST year index number}}
\]

where:

*GST year index number* means the sum of the index numbers for
each of the first 3 quarters in the GST year and the final quarter for
the previous GST year.

*previous GST year index number* means the GST year index
number for the previous GST year.

(2) For the purposes of subsection (1), all financial years are taken to
be GST years.
9 Relativities factor

(1) The \textit{relativities factor} for a State for a GST year is the factor determined in writing by the Treasurer. The Treasurer must determine the factor before 10 June in the GST year.

(2) Before making the determination, the Treasurer must consult each of the States.
Part 2—Changing the rate and base of GST

10 Changing the rate and base of GST

(1) The rate of the GST, and the GST base, are not to be changed unless each State agrees to the change. Such changes to the GST base should be consistent with:
   (a) maintaining the integrity of the GST base; and
   (b) administrative simplicity; and
   (c) minimising compliance costs for taxpayers.

(2) This section does not apply to the changes to the GST base that are contained in legislation introduced, or regulations or other instruments made, before 1 July 2001 if the changes are:
   (a) of an administrative nature; and
   (b) necessary to facilitate minor adjustments to the GST; and
   (c) made having regard to the need to protect the revenue of the States.

(3) Also, this section does not apply to later changes to the GST base if the changes are of an administrative nature and are approved by a majority of the Commonwealth and the States.

11 Definitions

In this Part:

rate of the GST is the rate of tax specified in the GST Imposition Acts.
Part 3—Grants to the States

Division 1—GST revenue grants

12 GST revenue grants

Subject to this Act, each State is entitled to the payment, by way of financial assistance, for a GST year, of a grant worked out using the formula:

\[
\text{Adjusted State population} \times \frac{\text{GST revenue}}{\text{Total hospital grants}} + \frac{\text{State hospital grant}}{\text{Adjusted total population}}
\]

where:

- \text{adjusted State population} means the estimated population of the State on 31 December in the GST year (see subsection 7(1)) multiplied by the relativities factor (see section 9) for the State for that year.

- \text{adjusted total population} means the sum of the adjusted populations of all of the States for the GST year.

- \text{GST revenue} means the GST revenue for the GST year (see section 5).

- \text{State hospital grant} means the hospital grant for the State for the GST year (see section 6).

- \text{total hospital grants} means the sum of the hospital grants for all of the States for the GST year.

Note: See also Schedule 1 which deals with transitional GST years.
Division 2—Other grants

13 Franchise fees windfall tax reimbursement payments

Each State is to be paid by way of financial assistance, for a GST year, a franchise fees windfall tax reimbursement payment equal to the sum of the amounts determined by the Commissioner of Taxation, before 22 June in the GST year, to be:

(a) the total of the amounts of tax collected by the State under the Franchise Fees Windfall Tax (Collection) Act 1997 that are remitted to the Commissioner of Taxation before 1 June in the GST year; and

(b) the total of the amounts of tax to be collected by the State under that Act that is likely to be remitted to the Commissioner of Taxation during the month of June in the GST year.

14 Competition Agreement payments

(1) The Treasurer may pay, by way of financial assistance to a State, for a GST year:

(a) an amount that does not exceed; or

(b) amounts that in total do not exceed;

the maximum competition payment amount worked out under whichever of subsection (2), (3) or (4) applies.

(2) The maximum competition payment amount for a State for the 2000-01 GST year is:

\[
\text{Base amount} \times \text{Index factor} \times \frac{\text{State population}}{\text{Total population}}
\]

where:

base amount means the sum of the maximum amounts referred to in section 12A of the States Grants (General Purposes) Act 1994 for the financial year commencing on 1 July 1999.
index factor means the index factor for the GST year (see section 8).

State population means the estimated population of the State on 31 December in the GST year (see subsection 7(1)).

total population means the sum of the estimated populations of all of the States on 31 December in the GST year.

(3) The maximum competition payment amount for a State for the 2001-02 GST year is:

\[
\text{Base amount} \times 1.5 \times \text{index factor} \times \frac{\text{State population}}{\text{Total population}}
\]

where:

\text{base amount} means the total of the maximum competition payment amounts for the year commencing on 1 July 2000 for each of the States.

\text{index factor} means the index factor for the GST year (see section 8).

State population means the estimated population of the State on 31 December in the GST year (see subsection 7(1)).

\text{total population} means the sum of the estimated populations of all the States on 31 December in the GST year.

(4) The maximum competition payment amount for a State for a later GST year is:

\[
\text{Base amount} \times \text{index factor} \times \frac{\text{State population}}{\text{Total population}}
\]

where:

\text{base amount} means the total of the maximum competition payment amounts for the previous GST year for each of the States.

\text{index factor} means the index factor for the GST year (see section 8).
Part 3 Grants to the States
Division 2 Other grants

Section 14

State population means the estimated population of the State on 31 December in the GST year (see subsection 7(1)).

total population means the sum of the estimated populations of all of the States on 31 December in the GST year.
Division 3—Payment of grants

15 Overpayment or underpayment of grant

(1) If a State has been paid an amount in excess of the amount that, under a provision of this Act, it was entitled to receive by way of financial assistance for a GST year, the Treasurer must deduct an amount equal to the excess from any amount that the State is entitled to receive by way of financial assistance under this Act for the year immediately following the GST year.

(2) If a State has been paid less than the amount that, under a provision of this Act, it was entitled to receive by way of financial assistance for a GST year, the Treasurer must add an amount equal to the shortfall to any amount that the State is entitled to receive by way of financial assistance under this Act for the year immediately following the GST year.

16 Advance payments for GST year

The Treasurer may make advances to a State of portions of the amount or amounts to which, it appears to the Treasurer, the State will be entitled under this Act for a GST year.

17 Treasurer may fix amounts, and times of payments, of financial assistance

Financial assistance payable to a State under this Act is to be paid in such amounts, and at such times, as the Treasurer determines in writing.
Part 4—Miscellaneous

18 Appropriation

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

19 Delegation by Treasurer

(1) The Treasurer may, by signed writing, delegate to an SES officer (within the meaning of the Public Service Act 1922) in the Department all or any of the Treasurer’s powers under sections 16 and 17.

(2) A delegate is, in the exercise of a power so delegated, subject to the Treasurer’s directions.

20 Determinations

A determination made under this Act by:

(a) the Treasurer; or
(b) the Health Minister; or
(c) the Commissioner of Taxation; or
(d) the Australian Statistician;

is, for the purposes of this Act, conclusively presumed to be correct.

21 Regulations

The Governor-General may make regulations:

(a) prescribing matters required or permitted by this Act to be prescribed; or
(b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.
Schedule 1—Transitional arrangements

Note: See section 12

1 Overview

This Schedule contains provisions that apply for the first 3 GST years and other GST years that are prescribed. Clause 2 requires the Treasurer to specify the guaranteed minimum amount for each State. Clauses 3, 4, 5 and 6 adjust the amount of grants, and provide for loans, in certain circumstances.

2 Guaranteed minimum amount

(1) The Treasurer must, before 10 June in a transitional GST year, determine the guaranteed minimum amount for each State for the GST year. The determination must be made in writing.

(2) Before making the determination, the Treasurer must consult each of the States.

3 First GST year—GST revenue does not exceed guaranteed minimum amounts

(1) This clause applies if the GST revenue for the 2000-01 transitional GST year is less than, or equal to, the sum of the guaranteed minimum amounts for all of the States.

(2) If this clause applies, a State is not entitled to the payment of so much of a grant under section 12 for the GST year as exceeds the guaranteed minimum amount for the State for the GST year.

(3) If, apart from this subclause, a State would have been entitled to the payment of a grant under section 12 for the GST year of an amount that is less than its guaranteed minimum amount for that year:

(a) the amount to which the State is entitled under section 12 is to be increased by the amount worked out under subclause (4); and
Schedule 1  Transitional arrangements

Clause 4

(b) the State is entitled to the payment, by way of financial assistance, of a loan worked under subclause (5).

(4) The amount of the increase for the GST year is:

\[
\text{Redistribution amount} \times \frac{\text{State shortfall}}{\text{Total shortfall}}
\]

where:

- **redistribution amount** means the sum of amounts to which States are not entitled in the GST year because of subclause (2).
- **State shortfall** means the amount by which the State’s guaranteed minimum amount exceeds the amount to which, apart from subclause (2), the State would be entitled under section 12 for the GST year.
- **total shortfall** means the sum of the State shortfalls for the GST year.

(5) The amount of the loan to which a State is entitled under this subclause is the amount by which the State’s guaranteed minimum amount exceeds the amount to which the State is entitled under section 12 (as increased by paragraph (3)(a) of this clause) for the GST year.

(6) The Treasurer may deduct an amount equal to the amount of a loan to a State under subclause (5) from any amount that the State is entitled to receive by way of financial assistance under this Act for the 2001-02 transitional GST year.

4  Second or third GST year—GST revenue does not exceed guaranteed minimum amounts

(1) This clause applies if the GST revenue for the 2001-02 or 2002-03 transitional GST year is less than, or equal to, the sum of the guaranteed minimum amounts for all of the States.

(2) If this clause applies, a State is not entitled to so much of a grant under section 12 for the GST year as exceeds the guaranteed minimum amount for the State for the GST year.
Clause 5

(3) If, apart from this subclause, a State would have been entitled to the payment of a grant under section 12 for the GST year of an amount that is less than its guaranteed minimum amount for that year:

(a) the amount to which the State is entitled under section 12 is to be increased by the amount worked out under subclause (4); and

(b) the State is entitled to the payment, by way of financial assistance, of a grant worked under subclause (5).

(4) The amount of the increase for the GST year is:

\[
\text{Redistribution amount} \times \frac{\text{State shortfall}}{\text{Total shortfall}}
\]

where:

- **redistribution amount** means the sum of amounts to which States are not entitled in the GST year because of subclause (2).

- **State shortfall** means the amount by which the State’s guaranteed minimum amount exceeds the amount to which, apart from subclause (2), the State would be entitled under section 12 for the GST year.

- **total shortfall** means the sum of the State shortfalls for the GST year.

(5) The amount of the grant to which a State is entitled under this subclause is the amount by which the State’s guaranteed minimum amount exceeds the amount to which the State is entitled under section 12 (as increased by paragraph (3)(a) of this clause) for the GST year.

5 First 3 transitional GST years—GST revenue exceeds guaranteed minimum amounts

(1) This clause applies if the GST revenue for the 2000-01, 2001-02 or 2002-03 transitional GST year is more than the sum of the guaranteed minimum amounts for all of the States but the amount...
Clause 6

of the grant to which at least one State is entitled under section 12
is less than the guaranteed minimum amount for the State.

(2) If, apart from this subclause, the amount to which a State would be
entitled under section 12 is more than the guaranteed minimum
amount for that State for the GST year, the amount to which the
State is entitled under that section is instead worked out using the
formula:

\[
\text{Guaranteed minimum amount} + \frac{\text{State excess}}{\text{Total excess}} \times \text{Excess GST amount}
\]

where:

- **excess GST amount** is the amount by which the GST revenue for
  the GST year exceeds the sum of the guaranteed minimum
  amounts for all of the States for the GST year.
- **guaranteed minimum amount** means the guaranteed minimum
  amount for the State for the GST year.
- **State excess** is the amount by which the amount to which, apart
  from this subclause, the State would be entitled under section 12
  exceeds the guaranteed minimum amount for the State for the GST
  year.
- **total excess** is the total of the State excesses for each State to
  which this subclause applies for the GST year.

(3) If, apart from this subclause, the amount to which a State would be
entitled under section 12 is less than the guaranteed minimum
amount for that State for the GST year, the amount to which the
State is entitled under that section is instead the guaranteed
minimum amount for the State for the GST year.

6 Prescribed transitional GST years—guaranteed minimum amount

(1) This clause applies for any GST year that is prescribed to be a
transitional GST year for the purpose of paragraph (b) of the
definition of transitional GST year in section 4.
Clause 6

(2) If the amount to which a State would be entitled under section 12 is less than the guaranteed minimum amount for that State for the GST year, the State is entitled to a grant equal to the shortfall.