



# **Federal Financial Relations Act 2009**

**No. 11, 2009 as amended**

**Compilation start date:** 1 July 2014

**Includes amendments up to:** Act No. 62, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Federal Financial Relations Act 2009* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 4 August 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

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

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

### Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to provide financial assistance 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 *Federal Financial Relations Act 2009*.

### **2 Commencement**

This Act commences on 1 April 2009.

### **3 Object**

The object of this Act is to provide ongoing financial support for the delivery of services by the States, through:

- (a) general revenue assistance, including the provision of GST revenue grants, to be used by the States for any purpose; and
- (b) national specific purpose payments, to be spent by the States on certain service delivery sectors; and
- (ba) national health reform payments, to be spent by the States in accordance with the National Health Reform Agreement; and
- (c) national partnership payments, to:
  - (i) support the delivery by the States of specified outputs or projects; or
  - (ii) facilitate reforms by the States; or
  - (iii) reward the States for nationally significant reforms.

### **4 Definitions**

In this Act:

***Appropriation Act*** means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

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**COAG Reform Fund** means the COAG Reform Fund established by section 5 of the *COAG Reform Fund Act 2008*.

**estimated population** of a State has the meaning given by section 7.

**general interest charge** means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

**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** means the following Acts:

- (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*;
- (d) the *A New Tax System (Goods and Services Tax Imposition (Recipients)—Customs) Act 2005*;
- (e) the *A New Tax System (Goods and Services Tax Imposition (Recipients)—Excise) Act 2005*;
- (f) the *A New Tax System (Goods and Services Tax Imposition (Recipients)—General) Act 2005*.

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

**GST refund provision** means a provision of a Commonwealth law the effect of which is to require the Commonwealth to refund some or all of an amount of GST that has been paid, whether or not the provision also applies in relation to other kinds of tax.

**GST revenue** has the meaning given by section 6.

**GST revenue sharing relativity** for a State for a payment year has the meaning given by section 8.

***Intergovernmental Agreement*** means the *Intergovernmental Agreement on Federal Financial Relations* that took effect on 1 January 2009, as amended from time to time.

Note: The *Intergovernmental Agreement on Federal Financial Relations* provides an overarching framework for financial transfers between the Commonwealth and the States and related collaboration on policy development and service delivery.

***luxury car tax law*** has the meaning given by section 27-1 of the *A New Tax System (Luxury Car Tax) Act 1999*.

***National Health Reform Agreement*** means the National Health Reform Agreement agreed to by the Council of Australian Governments on 2 August 2011, as amended from time to time.

***payment year*** means:

- (a) the financial year starting on 1 July 2009; and
- (b) each succeeding financial year.

These are described by a figure referring to 2 years (for example, the 2009-10 payment year is the payment year starting on 1 July 2009).

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

***wine equalisation tax law*** has the meaning given by section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

## Part 2—General revenue assistance

### Division 1—GST revenue grants

#### 5 GST revenue grants

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

$$\frac{\text{Adjusted State population} \times \text{GST revenue}}{\text{Adjusted total population}}$$

where:

**adjusted State population** means the estimated population of the State on 31 December in the payment year (see section 7) multiplied by the GST revenue sharing relativity (see section 8) for the State for that year.

**adjusted total population** means the sum of the adjusted State populations of all of the States for the payment year.

**GST revenue** means the GST revenue for the payment year (see section 6).

#### 6 GST revenue

- (1) The Minister must determine the amounts described in subsections (3) and (4) for a payment year.
- (2) The **GST revenue** for a payment year is the difference between:
  - (a) the sum of all the amounts described in subsection (3) and determined for the payment year; and
  - (b) the amount described in subsection (4) and determined for the payment year.
- (3) For the purposes of paragraph (2)(a) the amounts are:
  - (a) the amount that is the total of the following:



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- (i) the GST that was collected;
    - (ii) the payments made to the Commissioner of Taxation representing amounts 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 section 5 of the GST Imposition Acts had not been enacted;
    - (iii) the additional GST that would have been collected if the Commonwealth and Commonwealth entities could be made subject to taxation by a Commonwealth law and section 177-1 of the GST Act made those entities actually liable rather than notionally liable; and
  - (b) the amount of general interest charge that was collected to the extent that it is attributable to:
    - (i) unpaid GST; or
    - (ii) unpaid general interest charge payable in respect of unpaid GST; and
  - (c) the amount, determined in a manner agreed by the Commonwealth and all of the States, that represents amounts of voluntary GST payments that should have, but have not, been paid by local government bodies.
- (4) For the purposes of paragraph (2)(b) the amount is the total of the following, so far as each of them is attributable to GST:
- (a) payments under the GST refund provisions;
  - (b) what was payable under the GST refund provisions and was (rather than being paid directly under those provisions) allocated, applied or refunded in accordance with Part IIB of the *Taxation Administration Act 1953*.
- (5) In making determinations for the purposes of this section, the Minister must make such adjustments as are necessary to ensure that any effect that the luxury car tax law or wine equalisation tax law would otherwise have on the amounts of GST, and the amounts attributable to GST, is removed.
- (6) A determination made under subsection (1) is not a legislative instrument.
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**7 Determination of population of a State**

The *estimated population* of a State on 31 December in a payment year is the population of the State on that date as determined by the Australian Statistician after that date and before 31 August in the following payment year.

**8 GST revenue sharing relativity**

- (1) The Minister may determine that a factor specified in the determination is the *GST revenue sharing relativity* for a State for a payment year.
- (2) Before making a determination under subsection (1), the Minister must consult each of the States.
- (3) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

## **Division 2—Other general revenue assistance**

### **9 General purpose financial assistance**

- (1) The Minister may determine that an amount specified in the determination is to be paid to a State specified in the determination for the purpose of making a grant of general purpose financial assistance to the State.
- (2) If the Minister determines an amount under subsection (1):
  - (a) that amount must be credited to the COAG Reform Fund; and
  - (b) the Minister must ensure that, as soon as practicable after the amount is credited, the COAG Reform Fund is debited for the purposes of making the grant.
- (3) Despite subsection (2), if an Appropriation Act relating to a financial year declares that a specified amount is the **debit limit** for the financial year for the purposes of this section:
  - (a) the total amount credited to the COAG Reform Fund under paragraph (2)(a) during the financial year; and
  - (b) the total amount debited from the COAG Reform Fund during the financial year for the purposes of making such grants;must not exceed that specified amount.
- (4) Despite subsection (2), if, for a financial year, no Appropriation Act relating to the financial year declares that a specified amount is the **debit limit** for the financial year for the purposes of this section:
  - (a) amounts must not be credited to the COAG Reform Fund under paragraph (2)(a) during the financial year; and
  - (b) amounts must not be debited from the COAG Reform Fund during the financial year for the purposes of making such grants.
- (5) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

## Part 3—National specific purpose payments

### 12 National specific purpose payments for skills and workforce development

- (1) Financial assistance is payable in accordance with this section to a State, for the financial year starting on 1 July 2008 and for each later financial year, for the purpose of expenditure on skills and workforce development.
- (2) The total amount of all financial assistance payable under subsection (1) to the States for a financial year is:
  - (a) for the financial year starting on 1 July 2008—the amount determined by the Minister; or
  - (b) for the financial year starting on 1 July 2009—\$1,317,877,000; or
  - (c) for a later financial year—the total amount under this subsection for the preceding financial year, indexed in accordance with subsection (4).
- (3) A determination under paragraph (2)(a) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.
- (4) The Minister may, by legislative instrument, determine the manner in which the total amount under paragraph (2)(c) is to be indexed for a particular financial year. The determination must include a statement of the total amount for that financial year.
- (5) The Minister may, by legislative instrument, determine, for each financial year, the manner in which the total amount under subsection (2) is to be divided between the States.
- (6) Financial assistance is payable to a State under this section on condition that the financial assistance is spent on skills and workforce development.

**13 National specific purpose payments for disability services**

- (1) Financial assistance is payable in accordance with this section to a State, for the financial year starting on 1 July 2008 and for each later financial year, for the purpose of expenditure on disability services.
- (2) The total amount of all financial assistance payable under subsection (1) to the States for a financial year is:
  - (a) for the financial year starting on 1 July 2008—the amount determined by the Minister; or
  - (b) for the financial year starting on 1 July 2009—\$903,686,000; or
  - (c) for a later financial year—the total amount under this subsection for the preceding financial year, adjusted in accordance with subsection (4).
- (3) A determination under paragraph (2)(a) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.
- (4) The Minister may, by legislative instrument, determine the manner in which the total amount under paragraph (2)(c) is to be adjusted for a particular financial year. The determination must include a statement of the total amount for that financial year.
- (5) The Minister may, by legislative instrument, determine, for each financial year, the manner in which the total amount under subsection (2) is to be divided between the States.
- (6) Financial assistance is payable to a State under this section on condition that the financial assistance is spent on disability services.

**14 National specific purpose payments for housing services**

- (1) Financial assistance is payable in accordance with this section to a State, for the financial year starting on 1 July 2008 and for each later financial year, for the purpose of expenditure on housing services.

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- (2) The total amount of all financial assistance payable under subsection (1) to the States for a financial year is:
  - (a) for the financial year starting on 1 July 2008—the amount determined by the Minister; or
  - (b) for the financial year starting on 1 July 2009—\$1,202,590,000; or
  - (c) for a later financial year—the total amount under this subsection for the preceding financial year, indexed in accordance with subsection (4).
- (3) A determination under paragraph (2)(a) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.
- (4) The Minister may, by legislative instrument, determine the manner in which the total amount under paragraph (2)(c) is to be indexed for a particular financial year. The determination must include a statement of the total amount for that financial year.
- (5) The Minister may, by legislative instrument, determine, for each financial year, the manner in which the total amount under subsection (2) is to be divided between the States.
- (6) Financial assistance is payable to a State under this section on condition that the financial assistance is spent on housing services.

## **Part 3A—National health reform payments**

### **15A National health reform payments**

- (1) The Minister may determine that an amount specified in the determination is to be paid to a State specified in the determination for the purpose of making a grant of financial assistance for the purpose of expenditure in accordance with the National Health Reform Agreement.
- (2) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.
- (3) Financial assistance is payable to a State under this section on condition that the financial assistance is spent in accordance with the National Health Reform Agreement.

## Part 4—National partnership payments

### 16 National partnership payments

- (1) The Minister may determine that an amount specified in the determination is to be paid to a State specified in the determination for the purpose of making a grant of financial assistance to:
    - (a) support the delivery by the State of specified outputs or projects; or
    - (b) facilitate reforms by the State; or
    - (c) reward the State for nationally significant reforms.
  - (2) If the Minister determines an amount under subsection (1):
    - (a) that amount must be credited to the COAG Reform Fund; and
    - (b) the Minister must ensure that, as soon as practicable after the amount is credited, the COAG Reform Fund is debited for the purposes of making the grant.
  - (3) Despite subsection (2), if an Appropriation Act relating to a financial year declares that a specified amount is the **debit limit** for the financial year for the purposes of this section:
    - (a) the total amount credited to the COAG Reform Fund under paragraph (2)(a) during the financial year; and
    - (b) the total amount debited from the COAG Reform Fund during the financial year for the purposes of making such grants;must not exceed that specified amount.
  - (4) Despite subsection (2), if, for a financial year, no Appropriation Act relating to the financial year declares that a specified amount is the **debit limit** for the financial year for the purposes of this section:
    - (a) amounts must not be credited to the COAG Reform Fund under paragraph (2)(a) during the financial year; and
    - (b) amounts must not be debited from the COAG Reform Fund during the financial year for the purposes of making such grants.
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- (5) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

## **Part 5—Payment of grants**

### **17 Advance payments for financial year**

The Minister may make advances to a State of portions of the amount or amounts to which, it appears to the Minister, the State will be entitled under:

- (a) section 5; or
  - (b) a provision of Part 3 or 3A;
- for a financial year.

### **18 Overpayment or underpayment of grant**

- (1) If a State has been paid an amount in excess of the amount that, under:
  - (a) section 5; or
  - (b) a provision of Part 3 or 3A;it was entitled to receive by way of financial assistance for a financial year, the Minister must deduct an amount equal to the excess from any amount that the State is entitled to receive by way of financial assistance under that provision for the first practicable subsequent financial year.
- (2) If a State has been paid less than the amount that, under:
  - (a) section 5; or
  - (b) a provision of Part 3 or 3A;it was entitled to receive by way of financial assistance for a financial year, the Minister must add an amount equal to the shortfall to any amount that the State is entitled to receive by way of financial assistance under that provision for the first practicable subsequent financial year.

**19 Minister may fix amounts, and times of payments, of financial assistance**

- (1) Financial assistance payable to a State under this Act is to be paid in such amounts, and at such times, as the Minister determines in writing.
- (2) A determination made under subsection (1) is not a legislative instrument.

**20 Repayment if condition not fulfilled**

- (1) It is a condition of a payment of financial assistance under this Act to a State that, if the State does not fulfil a condition in respect of the payment, the State will, if the Minister so determines, repay to the Commonwealth the amount stated in the determination.
- (2) The amount stated in the determination under subsection (1) must not be more than the amount of the payment.
- (3) A determination made under subsection (1) is not a legislative instrument.
- (4) If:
  - (a) a payment of financial assistance has, during a financial year, been made to a State under this Act; and
  - (b) the Minister has determined under subsection (1) that the State must repay an amount in respect of the payment; and
  - (c) the State has not repaid the amount;the Minister may deduct an amount equal to the amount unpaid from any amount that the State is entitled to receive by way of financial assistance under this Act for a subsequent financial year.
- (5) An amount payable by a State to the Commonwealth under this Act is a debt due by the State to the Commonwealth.

## Part 6—Miscellaneous

### 21 Minister to have regard to Intergovernmental Agreement and other agreements

In making a determination under this Act, the Minister must have regard to:

- (a) the Intergovernmental Agreement; and
- (aa) if the determination relates to financial assistance under section 13 or 15A—the National Health Reform Agreement; and
- (b) if the determination relates to financial assistance to a particular State—any other written agreement between the Commonwealth and the State that relates to the financial assistance.

### 22 Appropriation

Payments under Division 1 of Part 2, Part 3, Part 3A or Part 5 are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

### 23 Delegation

- (1) The Minister may, by writing, delegate any or all of his or her powers under section 17 or 19 to an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Minister.

### 24 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes  
Endnote 2—Abbreviation key  
Endnote 3—Legislation history  
Endnote 4—Amendment history  
Endnote 5—Uncommenced amendments  
Endnote 6—Modifications  
Endnote 7—Misdescribed amendments  
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote 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 the compiled law. The information includes commencement information for amending laws and details of 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 level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

**Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

**Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

**Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	



## Endnote 3—Legislation history

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Federal Financial Relations Act 2009	11, 2009	26 Mar 2009	1 Apr 2009	
Financial Assistance Legislation Amendment Act 2009	36, 2009	27 May 2009	Schedule 1 (item 1): Royal Assent	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (item 597) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Federal Financial Relations Amendment (National Health Reform) Act 2012	61, 2012	25 June 2012	Schedule 1 (items 1, 3, 4) and Schedule 3: 26 June 2012 Remainder: Royal Assent	Sch. 1 (item 6), Sch. 2 (item 7) and Sch. 3 (item 2)
Australian Education (Consequential and Transitional Provisions) Act 2013	68, 2013	27 June 2013	Sch 1 (items 1–4): 1 Jan 2014 ( <i>see</i> s. 2(1))	Sch 1 (item 4)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (items 29–32) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 9 (item 32) and Sch 14 (items 1–4)

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s. 3 .....	am. No. 61, 2012
s. 4 .....	am. No. 61, 2012; No 62, 2014
<b>Part 2</b>	
<b>Division 1</b>	
s. 6 .....	am. No. 61, 2012
<b>Division 2</b>	
s. 9 .....	am. No. 36, 2009; No 62, 2014
<b>Part 3</b>	
s. 10 .....	rep. No. 61, 2012
s. 11 .....	rep No 68, 2013
Note to s. 12(3) .....	rep No 68, 2013
s. 13 .....	am. No. 61, 2012
Note to s. 13(3) .....	rep No 68, 2013
Note to s. 14(3) .....	rep No 68, 2013
s. 15 .....	rep No 68, 2013
<b>Part 3A</b>	
Part 3A .....	ad. No. 61, 2012
s. 15A .....	ad. No. 61, 2012
<b>Pt 4</b>	
s. 16 .....	am No 62, 2014
<b>Part 5</b>	
s. 17 .....	am. No. 61, 2012
s. 18 .....	am. No. 61, 2012
<b>Part 6</b>	
s. 21 .....	am. No. 61, 2012
s. 22 .....	am. No. 61, 2012
Note to s. 23(1) .....	am. No. 46, 2011

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Endnote 5—Uncommenced amendments [none]

**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**