



States Grants (General Purposes) Amendment Act 1997

No. 131, 1997

An Act to amend the *States Grants (General Purposes) Act 1994*, and for related purposes

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No. 131, 1997

An Act to amend the *States Grants (General Purposes) Act 1994*, and for related purposes

[Assented to 19 September 1997]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *States Grants (General Purposes) Amendment Act 1997*.

2 Commencement

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the States Grants (General Purposes) Act 1994

1 Subsection 4(1)

Insert:

Competition Agreement means the Agreement to Implement the National Competition Policy and Related Reforms executed at the Council of Australian Governments on 11 April 1995.

Commonwealth surcharge means the variation effected by a Surcharge Act in the rate of duty of customs or excise payable on specified goods or in the rate of sales tax applicable to specified taxable dealings (as the case may be).

Sales Tax (Surcharge) Acts means the following Acts:

- (a) the *Sales Tax (Customs) (Alcoholic Beverages) Act 1997*;
- (b) the *Sales Tax (Excise) (Alcoholic Beverages) Act 1997*;
- (c) the *Sales Tax (General) (Alcoholic Beverages) Act 1997*.

Note: These Acts increase the rates of tax that apply to taxable dealings with the following goods:

- (a) goods covered by Item 1 of Schedule 7 to the *Sales Tax (Exemptions and Classifications) Act 1992*;
- (b) beer, spirits, liqueurs or spirituous liquors;
- (c) beverages that contain beer, spirits (other than spirits for fortifying wine or other beverages), liqueurs or spirituous liquors.

Secretary means the Secretary of the Department.

Surcharge Acts means the following Acts:

- (a) the *Customs Tariff Amendment Act (No. 3) 1997*;
- (b) the *Excise Tariff Amendment Act (No. 3) 1997*;
- (c) the Sales Tax (Surcharge) Acts;
- (d) any Act that varies:
 - (i) the rate of the duty of customs payable on goods falling to subheadings of Chapter 24 or 27 of the *Customs Tariff Act 1995*; or
 - (ii) the rate of the duty of excise payable on goods falling to items 6, 7, 8 or 11 of the Schedule to the *Excise Tariff Act 1921*; or
 - (iii) the rate of sales tax applicable to any of the taxable dealings to which the Sales Tax (Surcharge) Acts relate;

and is prescribed for the purposes of this definition.

Note 1: The *Customs Tariff Amendment Act (No. 3) 1997* increases the rate of the duty of customs payable on goods falling to certain subheadings of Chapters 24 and 27 of Schedule 3 to the *Customs Tariff Act 1995*. The relevant subheadings of Chapter 24 deal with tobacco and manufactured tobacco substitutes. The relevant subheadings of Chapter 27 deal with petroleum products.

Note 2: The *Excise Tariff Amendment Act (No. 3) 1997* increases the rate of the duty of excise payable on goods falling to items 6, 7, 8 and 11 in the Schedule to the *Excise Tariff Act 1921*. Items 6, 7 and 8 in that Schedule deal with tobacco, cigars and cigarettes. Item 11 deals with petroleum products.

2 Subsection 5(1) (definition of SDA)

Repeal the definition, substitute:

SDA (sum of deductible amounts) means the amount determined by the Minister before 10 June in the grant year to be the estimate of such part of TAP as is the sum of the amounts payable to the State, during the grant year, under the hospital funding arrangements for that year that relate to payments made in accordance with all schedules of the 1993-98 Medicare Agreements with the exception of payments made under subclause 2.1 of Schedule C, Base Hospital Funding Grant Formula.

3 Sections 10 and 11

Repeal the sections, substitute:

10 Competition Agreement: per capita growth deductions—1997-98

The Treasurer may deduct from the amount of financial assistance grant payable to a State under section 9 in relation to the grant year commencing 1 July 1997:

- (a) an amount that does not exceed; or
- (b) amounts that in total do not exceed;

the amount that may be deducted under the applicable Schedule.

Note: This provision is enacted pursuant to the Competition Agreement. Under that Agreement, the per capita component of growth in the pool of financial assistance grants is payable subject to the States complying with the conditions set out in the Agreement.

Note: The heading to section 12A is altered by omitting "Competition" and substituting "Competition Agreement: competition".

11 Payments in relation to excess State fiscal contributions

- (1) This section applies if the amounts (*fiscal contribution payment*) paid, or taken (under this Act or any other Acts) to have been paid, by a State in the grant year commencing on 1 July 1997 in satisfaction of the State's 1997-98 fiscal contribution (within the meaning of section 15B) exceed the amount of the State's 1997-98 fiscal contribution.
- (2) The Treasurer may pay an amount of financial assistance to the State in the grant year commencing on 1 July 1997 or 1 July 1998 which is equal to the amount by which the State's fiscal contribution payments exceed the amount of the State's 1997-1998 fiscal contribution.

11A Revenue replacement payments

Subject to this Act, each State is to be paid by way of financial assistance, in relation to a grant year, a revenue replacement payment worked out in accordance with the applicable Schedule.

11B Franchise fees windfall tax reimbursement payments

Subject to this Act, each State is to be paid by way of financial assistance, in relation to a grant year, a franchise fees windfall tax reimbursement payment worked out in accordance with the applicable Schedule.

4 Section 12A (note)

Omit "Agreement to implement the National Competition Policy and Related Reforms executed at the Council of Australian Government on 11 April 1995", substitute "Competition Agreement".

5 After section 12A

Insert:

12B Overpayment of grant

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 in relation to a grant year, the Treasurer may deduct an amount equal to the excess from any amount that the State is entitled to receive by way of financial assistance in relation to the year immediately following the grant year.

6 After section 15A

Insert:

15B State fiscal contribution—1997-98

- (1) Financial assistance to which a State is entitled under section 9 (*financial assistance grant*) in relation to the grant year commencing on 1 July 1997 is granted on condition that the State will pay to the Commonwealth an amount of fiscal contribution (*1997-98 fiscal contribution*) worked out in accordance with the applicable Schedule.
- (2) The Treasurer may deduct from any amount payable under this Act in respect of the financial assistance grant to the State for the grant year commencing on 1 July 1997 an amount that, together with the amounts (if any) paid, or taken (under this Act or any other Act) to have been paid, by the State in satisfaction of the State's 1997-98 fiscal contribution, does not exceed the amount of that contribution.
- (3) If part of the State's 1997-98 fiscal contribution remains unpaid on 1 July 1998, the Treasurer may deduct from any amount payable under this Act in respect of the financial assistance grant to the State for the grant year commencing on 1 July 1998 an amount that, together with the amounts (if any) paid, or taken (under this Act or any other Act) to have been paid, by the State in satisfaction of the State's 1997-98 fiscal contribution, does not exceed the amount of that contribution.
- (4) An amount deducted under subsection (2) or (3) from the State's financial assistance grant is taken to have been paid by the State to the Commonwealth in satisfaction of the State's 1997-98 fiscal contribution.

7 At the end of section 17

Add:

- (4) In working out:
 - (a) for the purposes of subsection (1), the sum of the amounts payable to a State in relation to the grant year commencing on 1 July 1997; and
 - (b) for the purposes of subsection (2), the total amount payable under this Act in relation to that grant year;

the revenue replacement payment made to a State in relation to that grant year is taken to be the amount worked out by using the formula:

$$\frac{AA \times 12}{11}$$

where:

AA (actual amount) means the amount of the revenue replacement payment worked out in accordance with clause 5 in Schedule 4 in relation to that State.

8 Subsection 20(1)

After "sections", insert "10, 11,".

9 Subsection 20(1)

After "15A", insert ", 15B".

10 After paragraph 21(c)

Insert:

- (ca) the Commissioner of Taxation; or
- (cb) the Chief Executive Officer of Customs; or
- (cc) the Secretary; or

11 After section 21

Insert:

21A 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.

12 Clauses 2 and 3 of Schedule 4

Repeal the clauses, substitute:

2 Interpretation

In this Schedule:

base assistance amount means \$15,828,423,529.

CEO means the Chief Executive Officer of Customs.

Commissioner means the Commissioner of Taxation.

previous year means the financial year commencing on 1 July 1996.

3 Relativities factors

The relativities factor for each State for the grant year is as shown in the following table:

| Relativities factors | |
|------------------------------|---------------------|
| State | Relativities factor |
| New South Wales | 0.87819 |
| Victoria | 0.87835 |
| Queensland | 1.03737 |
| Western Australia | 0.99589 |
| South Australia | 1.19100 |
| Tasmania | 1.54974 |
| Australian Capital Territory | 0.88435 |
| Northern Territory | 4.89353 |

4 Per capita growth deductions

For the purposes of section 10, the maximum amount that may be deducted from the financial assistance grants payable to a State is the amount worked out by using the formula:

$$\left[\left(BA \times IF \times PF \right) - \left(BA \times IF \right) \right] \times \left(\frac{ASP}{ATP} \right)$$

where:

BA (base amount) means \$16,195,064,933.

IF (index factor) means the index factor for the grant year.

PF (population factor) means the population factor for the grant year.

ASP (adjusted state population) means the adjusted population of the State in relation to the grant year.

ATP (adjusted total population) means the sum of the adjusted populations of all the States in relation to the grant year.

5 Revenue replacement payments

- (1) For the purposes of section 11A, the revenue replacement payment to be made to a State is worked out by using the formula:

$$[ABA \times AS] + [TBA \times TS] + [PBA \times PS]$$

where:

ABA (alcohol base amount) means the sum of:

- (a) the amount determined by the Commissioner, before 15 June 1998, to be the additional amount of sales tax on taxable dealings to which the Sales Tax (Surcharge) Acts relate that was collected before 1 June 1998 because of a Commonwealth surcharge (whether under those Acts or any other Surcharge Act); and
- (b) the amount determined by the Commissioner, before 15 June 1998, to be the additional amount of sales tax on taxable dealings to which the Sales Tax (Surcharge) Acts relate that the Commissioner estimates to be likely to be collected during the month of June 1998 because of a Commonwealth surcharge (whether under those Acts or any other Surcharge Act);

less the amount determined by the Commissioner to be the additional administrative costs incurred by the Commonwealth in the grant year because of that surcharge or those surcharges.

AS (alcohol share) means the number set out opposite the name of the State in the following table.

| Alcohol Share | |
|------------------------------|----------------------|
| State | Alcohol Share |
| New South Wales | 0.33796 |
| Victoria | 0.22332 |
| Queensland | 0.19314 |
| Western Australia | 0.11147 |
| South Australia | 0.07857 |
| Tasmania | 0.02415 |
| Australian Capital Territory | 0.01569 |

| Alcohol Share | |
|--------------------|---------------|
| State | Alcohol Share |
| Northern Territory | 0.01569 |

TBA (tobacco base amount) means the sum of:

- (a) the amount determined by the CEO, before 15 June 1998, to be the additional amount of customs duty on goods falling to subheadings of Chapter 24 of Schedule 3 to the *Customs Tariff Act 1995* that was collected before 1 June 1998 because of a Commonwealth surcharge (whether under the *Customs Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and

Note: Chapter 24 of Schedule 3 to the *Customs Tariff Act 1995* deals with tobacco and manufactured tobacco substitutes.

- (b) the amount determined by the CEO, before 15 June 1998, to be the additional amount of customs duty on goods falling to subheadings of Chapter 24 of Schedule 3 to the *Customs Tariff Act 1995* that the CEO estimates to be likely to be collected during the month of June 1998 because of a Commonwealth surcharge (whether under the *Customs Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and

- (c) the amount determined by the CEO, before 15 June 1998, to be the additional amount of excise duty on goods falling to items 6, 7 and 8 of the Schedule to the *Excise Tariff Act 1921* that was collected before 1 June 1998 because of a Commonwealth surcharge (whether under the *Excise Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and

Note: Items 6, 7 and 8 of the Schedule to the *Excise Tariff Act 1921* deal with tobacco, cigars and cigarettes.

- (d) the amount determined by the CEO, before 15 June 1998, to be the additional amount of excise duty on goods falling to items 6, 7 and 8 of the Schedule to the *Excise Tariff Act 1921* that the CEO estimates to be likely to be collected during the month of June 1998 because of a Commonwealth surcharge (whether under the *Excise Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act);

less the amount determined by the CEO to be the amount of the additional administrative costs incurred by the Commonwealth in the grant year because of those surcharges.

TS (tobacco share) means the number set out opposite the name of the State in the following table.

| Tobacco Share | |
|------------------------------|----------------------|
| State | Tobacco Share |
| New South Wales | 0.33319 |
| Victoria | 0.22731 |
| Queensland | 0.19616 |
| Western Australia | 0.10121 |
| South Australia | 0.08180 |
| Tasmania | 0.02940 |
| Australian Capital Territory | 0.01444 |
| Northern Territory | 0.01648 |

PBA (petroleum base amount) means the sum of:

- (a) the amount determined by the CEO, before 15 June 1998, to be the additional amount of customs duty on goods falling to subheadings of Chapter 27 of Schedule 3 to the *Customs Tariff Act 1995* that was collected before 1 June 1998 because of a Commonwealth surcharge (whether under the *Customs Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and

Note: Chapter 27 of Schedule 3 to the *Customs Tariff Act 1995* deals with petroleum products.

- (b) the amount determined by the CEO, before 15 June 1998, to be the additional amount of customs duty on goods falling to subheadings of Chapter 27 of Schedule 3 to the *Customs Tariff Act 1995* that the CEO estimates to be likely to be collected during the month of June 1998 because of a Commonwealth surcharge (whether under the *Customs Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and
- (c) the amount determined by the CEO, before 15 June 1998, to be the additional amount of excise duty on goods falling to item 11 of the Schedule to the *Excise Tariff Act 1921* that was collected before 1 June 1998 because of a Commonwealth surcharge (whether under the *Excise Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act); and

Note: Item 11 of the Schedule to the *Excise Tariff Act 1921* deals with petroleum products.

- (d) the amount determined by the CEO, before 15 June 1998, to be the additional amount of excise duty on goods falling to item 11 of the Schedule to the *Excise Tariff Act 1921* that the CEO estimates to be likely to be collected during the month of June 1998 because of a Commonwealth surcharge (whether under the *Excise Tariff Amendment Act (No. 3) 1997* or any other Surcharge Act);

less the following amounts:

- (e) the amount determined by the CEO to be the amount of the additional administrative costs incurred by the Commonwealth in the grant year because of those surcharges;
- (f) the amount determined by the Secretary to be the amount of public debt interest incurred by the Commonwealth in the grant year because payments of amounts of customs duty that included an amount payable because of a Commonwealth surcharge were deferred in accordance with permissions granted under section 69 of the *Customs Act 1901* for the delivery into home consumption of goods falling to subheadings of Chapter 27 of Schedule 3 to the *Customs Tariff Act 1995*.

PS (petroleum share) means the number set out opposite the name of the State in the following table.

| Petroleum Share | |
|------------------------------|------------------------|
| State | Petroleum Share |
| New South Wales | 0.30039 |
| Victoria | 0.20153 |
| Queensland | 0.19593 |
| Western Australia | 0.17118 |
| South Australia | 0.07549 |
| Tasmania | 0.02453 |
| Australian Capital Territory | 0.01291 |
| Northern Territory | 0.01804 |

- (2) In determining, for the purposes of subsection (1), the additional amount of customs duty or excise duty that was collected, or is likely to be collected, during a particular period because of a

Commonwealth surcharge, the CEO is to take into account the impact of the operation of:

- (a) section 19 of the *Customs Tariff Act 1995*; or
- (b) section 6A of the *Excise Tariff Act 1921*;

as the case requires.

Note: Section 19 of the *Customs Tariff Act 1995* and section 6A of the *Excise Tariff Act 1921* provide for the automatic indexation of certain rates of duty which include rates payable on tobacco etc. and petroleum products.

- (3) In working out, for the purposes of a determination under paragraph (f) of the definition of *PBA* in subsection (1), the total of the amounts of customs duty whose payment was deferred in accordance with a permission granted under section 69 of the *Customs Act 1901*, the Secretary is to disregard any part of those amounts of customs duty collected because of a Commonwealth surcharge.

6 Franchise fees windfall tax reimbursement payments

For the purposes of section 11B, the franchise fees windfall tax reimbursement payment to be made to a State is equal to the sum of:

- (a) the amount determined by the Commissioner, not later than 22 June 1998, to be the total of the amounts of tax collected, and remitted to the Commissioner, by the State under the *Franchise Fees Windfall Tax (Collection) Act 1997* on or before 21 June 1998; and
- (b) the amount determined by the Commissioner, not later than 22 June 1998, to be the total of the amounts of tax likely to be collected, and remitted to the Commissioner, by the State under that Act during the month of June 1998.

7 Special revenue assistance grants

For the purposes of section 12, the *base amount* is the amount set out opposite the name of the State in the following table:

| Special revenue assistance grants | |
|-----------------------------------|----------------|
| State | Base amount \$ |
| New South Wales | 188,096,897 |
| Victoria | 239,658,821 |

| Special revenue assistance grants | |
|--|-----------------------|
| State | Base amount \$ |
| Queensland | Nil |
| Western Australia | Nil |
| South Australia | Nil |
| Tasmania | Nil |
| Australian Capital Territory | Nil |
| Northern Territory | Nil |

8 Competition payments

For the purposes of section 12A, the maximum amount that may be paid to a State is the amount worked out by using the formula:

$$BA \times IF \times \frac{SP}{TP}$$

where:

BA (base amount) means \$213,359,964.

IF (index factor) means the index factor for the grant year.

SP (state population) means the estimated population of the State on 31 December 1997.

TP (total population) means the sum of the estimated populations of all the States on 31 December 1997.

9 State fiscal contribution

- (1) For the purposes of section 15B, the amount of fiscal contribution payable by a State is as follows:
- (a) for a State other than Tasmania or the Australian Capital Territory—the amount worked out by using the formula:

$$BA \times \frac{SP}{TP}$$

- (b) for Tasmania or the Australian Capital Territory—the amount worked out by using the formula:

$$BA \times \frac{SP}{TP} \times 0.5$$

(2) In this clause:

BA (base amount) means \$640,000,000.

SP (state population) means the estimated population of the State on 31 December 1997.

TP (total population) means the sum of the estimated populations of all the States on 31 December 1997.

*[Minister's second reading speech made in—
House of Representatives on 26 June 1997
Senate on 1 September 1997]*