

EXPLANATORY STATEMENT

Federal Financial Relations (General Purpose Financial Assistance) Determination No. 126 (August 2019)

Background

The *Intergovernmental Agreement on Federal Financial Relations* (the IGA) provides a foundation for collaboration on policy development and service delivery between the Commonwealth and the States and Territories (the States).

Consultation

The IGA was subject to extensive consultation with the States before it was agreed by the Council of Australian Governments on 29 November 2008. The IGA is publicly available on the Council for Federal Financial Relations website.

General purpose financial assistance

All money raised or received by the Commonwealth forms part of the Consolidated Revenue Fund. Legislative authority is required for the Commonwealth to spend money from the Consolidated Revenue Fund. The *Public Governance, Performance and Accountability Act 2013* (s 80) provides that, if another Act establishes a special account and identifies the purposes of the account, the Consolidated Revenue Fund is appropriated up to the balance of the account at any point in time for expenditure for the purposes of the account.

In this context, the relevant Act is the *COAG Reform Fund Act 2008* which establishes the COAG Reform Fund, a special account which has the purpose of making grants and financial assistance to States and Territories.

The *Federal Financial Relations Act 2009* then allows for the Minister (who can be any Treasury portfolio Minister) to credit funds to the COAG Reform Fund for the purpose of providing general purpose financial assistance to the States. Once the funds are credited to the COAG Reform Fund they are debited from the Fund to make the grants to the States.

The Treasurer's determinations in respect of general purpose financial assistance are legislative instruments and are registered on the Federal Register of Legislation, but are not disallowable. The Commonwealth has an obligation under the IGA to make payments of general purpose financial assistance in a prescribed manner. Exemption from the disallowance provisions of the *Legislation Act 2003* allows the Treasurer to ensure that this obligation is met.

Payment conditions

Subsection 7(2) of the COAG Act requires that the terms and conditions on which financial assistance is granted through the COAG Reform Fund are to be set out in a written agreement between the Commonwealth and the States. The terms and conditions for general purpose financial assistance are set out in Schedule D to the IGA.

Debit limits

Under subsection 9(3) of the *Federal Financial Relations Act 2009*, the total amount credited to the COAG Reform Fund for the purpose of making a grant of general purpose financial assistance in the financial year starting on 1 July 2019 must not exceed \$2,083,333,334. This amount is set out in *Supply Act (No. 2) 2019-20* and is an interim provision for general purpose financial assistance expenditure until the Appropriation Bills for 2019-20 are passed.

The total amount determined for general purpose financial assistance payments to date in the 2019-20 financial year does not exceed the debit limit.

Commencement

The determination commenced on the day it was made.

Summary of relevant agreements for general purpose financial assistance

Payment title	Purpose	Relevant agreement
Compensation for impact on royalties of excise amendment	The Commonwealth provides general purpose financial assistance to compensate Western Australia for the loss of royalty revenue resulting from the removal in the 2008-09 Budget of the exemption of condensate from crude oil excise.	Schedule D – Payment arrangements of the Intergovernmental Agreement
ACT Municipal Services	The Commonwealth provides general purpose financial assistance to the Australian Capital Territory to: - assist in meeting the additional municipal costs which arise from Canberra's role as the national capital; and - compensate the Australian Capital Territory for additional costs resulting from the national capital planning influences on the provision of water and sewerage services.	Schedule D – Payment arrangements of the Intergovernmental Agreement
Royalty payment — <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>	The Commonwealth provides general purpose financial assistance to Western Australia from royalties payable under the <i>Offshore Petroleum (Royalty) Act 2006</i> in respect of the North West Shelf oil and gas project off the coast of Western Australia. The Commonwealth collects these royalties because it has jurisdiction over off-shore areas. These royalties will be shared between the Commonwealth (approximately one third) and Western Australia (approximately two thirds). These payment arrangements are in accordance with section 75 of the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>.	Schedule D – Payment arrangements of the Intergovernmental Agreement
Transitional GST top-up payments	To assist the states in transitioning to the new horizontal fiscal equalisation system, the Commonwealth is providing short-term top-up payments, until 2021-22, to ensure that no state has an effective GST relativity below 0.7 (or 4.66024 for the Northern Territory). The Commonwealth provided Western Australia with \$434 million of its 2019-20 top-up payment in 2018-19. The payment in this determination constitutes the remainder of the top-up payment, in accordance with the bilateral agreement between the Australian Government and Western Australia.	Western Australia Goods and Services Tax Top-up Agreement

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

It is difficult to assess the human rights compatibility of either the determination or the making of payments of general purpose financial assistance, as the amounts paid to each State can be used for any purpose. Generally, payments will promote multiple human rights by supporting service delivery in a range of policy areas, at the discretion of each State. Consequently, neither this determination nor the making of general purpose financial assistance payments more generally could be said to have a detrimental impact on any human right.