

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Minister for Competition, Charities and Treasury**

*Local Government (Financial Assistance) Act 1995*

*Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022*

Subsection 8(1) of the *Local Government (Financial Assistance) Act 1995* (the Act) provides that the Treasurer must, not later than 30 June in each financial year, determine the factor, the final factor, for that financial year. The factor is to be worked out as set out in subsection 8(1) of the Act.

Further, paragraph 7(3)(b) of the Act provides that the Treasurer must, before the start of each financial year, make an estimate of the final factor for that year.

The Act established the current process for the provision of Commonwealth financial assistance to local government through the States and Territories. Each year, the level of financial assistance available to the States and Territories for local government purposes is indexed by a factor which is to be estimated, and then finally determined, by the Treasurer. The *Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022* (the instrument) determines the final factor for the 2021-22 financial year and the estimated factor for the 2022-23 financial year.

There were no conditions that the Treasurer needed be satisfied of before making the instrument.

In accordance with section 19 of the *Acts Interpretation Act 1901*, any Minister in the Treasury portfolio may determine the factors under the *Local Government (Financial Assistance) Act 1995*.

No consultation has been undertaken on this instrument as the instrument is machinery in nature. In accordance with the Act, copies of this instrument will be made available to the Treasurer of each of the States and Territories.

Details of the instrument are set out in Attachment A.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. However, this instrument is not subject to disallowance or sunseting due to the operation of subsections 44(1) and 54(1) of the *Legislation Act 2003*. The enabling legislation facilitates the operation of an intergovernmental scheme involving the Commonwealth providing financial assistance to local government through the States and Territories. The enabling legislation authorises the instrument to be made for the purposes of this arrangement. The factors determined by the instrument are largely mechanical in nature and been derived from statistics published by the Australian Statistician.

A Regulation Impact Statement is not required as the instrument is machinery in nature.

The instrument commenced immediately after it was registered on the Federal Register of Legislation.

A statement of Compatibility with Human Rights is at [Attachment B](#).

## ATTACHMENT A

### Details of the *Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022*

This Attachment sets out further details of the *Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022* (the Determination).

#### Section 1 – Name

This section specifies the name of the Determination is the *Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022*.

#### Section 2 – Commencement

This section prescribes that the Determination commences immediately after the Determination is registered.

#### Section 3 – Authority

This section provides that the Determination is made under the *Local Government (Financial Assistance) Act 1995*.

#### Section 4 – Definitions

This section provides definitions for the purposes of the Determination.

#### Sections 5 and 6 – Final factor for the year 2021-22

Section 5 provides the determined final factor in relation to the 2021-22 financial year.

Section 6 provides the details for how the final factor for the 2021-22 financial year was worked out.

#### Sections 7 and 8 – Estimated factor for the year 2022-23

Section 7 provides the estimated factor for the 2022-23 financial year.

Section 8 provides the details for how the estimated factor for the 2022-23 financial year was worked out.

**Statement of Compatibility with Human Rights**

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

**Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The *Local Government (Financial Assistance) (Final Factor for 2021-22 and Estimated Factor for 2022-23) Determination 2022* (the instrument) determines the final factor for the 2021-22 financial year and the estimated factor for the 2022-23 financial year. The factors are used to determine the amount of Commonwealth financial assistance which is made available to local government for a financial year.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.