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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Federal Financial Relations Bill 2009**

**No.     , 2009**

*(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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1     **A Bill for an Act to provide financial assistance to**  
2     **the States, the Australian Capital Territory and the**  
3     **Northern Territory, and for related purposes**

4     The Parliament of Australia enacts:

5     **Part 1—Preliminary**  
6

7     **1 Short title**

8             This Act may be cited as the *Federal Financial Relations Act 2009*.

9     **2 Commencement**

10            This Act commences on 1 April 2009.

Section 3

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1     **3 Object**

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

- 4             (a) general revenue assistance, including the provision of GST  
5                 revenue grants, to be used by the States for any purpose; and  
6             (b) national specific purpose payments, to be spent by the States  
7                 on certain service delivery sectors; and  
8             (c) national partnership payments, to:  
9                 (i) support the delivery by the States of specified outputs or  
10                 projects; or  
11                 (ii) facilitate reforms by the States; or  
12                 (iii) reward the States for nationally significant reforms.

13     **4 Definitions**

14             In this Act:

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

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

19             ***drawing right*** means a drawing right issued under section 27 of the  
20             *Financial Management and Accountability Act 1997*.

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

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

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

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

28             ***GST Imposition Acts*** means the following Acts:

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

## Section 4

- 1 (b) the *A New Tax System (Goods and Services Tax Imposition—*  
 2 *Excise) Act 1999*;
- 3 (c) the *A New Tax System (Goods and Services Tax Imposition—*  
 4 *General) Act 1999*;
- 5 (d) the *A New Tax System (Goods and Services Tax Imposition*  
 6 *(Recipients)—Customs) Act 2005*;
- 7 (e) the *A New Tax System (Goods and Services Tax Imposition*  
 8 *(Recipients)—Excise) Act 2005*;
- 9 (f) the *A New Tax System (Goods and Services Tax Imposition*  
 10 *(Recipients)—General) Act 2005*.

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

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

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

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

19 ***Intergovernmental Agreement*** means the *Intergovernmental*  
 20 *Agreement on Federal Financial Relations* that took effect on  
 21 1 January 2009.

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

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

28 ***payment year*** means:

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

31 These are described by a figure referring to 2 years (for example,  
 32 the 2009-10 payment year is the payment year starting on 1 July  
 33 2009).

**Part 1** Preliminary

Section 4

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- 1                    ***State*** includes the Australian Capital Territory and the Northern  
2                    Territory.
- 3                    ***wine equalisation tax law*** has the meaning given by section 33-1  
4                    of the *A New Tax System (Wine Equalisation Tax) Act 1999*.



1

2 **Part 2—General revenue assistance**

3 **Division 1—GST revenue grants**

4 **5 GST revenue grants**

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

8 
$$\frac{\text{Adjusted State population} \times \text{GST revenue}}{\text{Adjusted total population}}$$

9 where:

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

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

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

18 **6 GST revenue**

- 19 (1) The Minister must make a determination for each of the matters  
20 covered by subsections (3) and (4) stating the amount for the  
21 payment year.
- 22 (2) The *GST revenue* for a payment year is the difference between:  
23 (a) the sum of all of the amounts determined for matters covered  
24 by subsection (3) for the payment year; and  
25 (b) the sum of all of the amounts determined for matters covered  
26 by subsection (4) for the payment year.
- 27 (3) The matters are:

**Part 2** General revenue assistance

**Division 1** GST revenue grants

**Section 6**

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- 1 (a) the amount of GST that was collected; and  
2 (b) the amount of general interest charge that was collected to  
3 the extent that it is attributable to:  
4 (i) unpaid GST; or  
5 (ii) unpaid general interest charge, being general interest  
6 charge payable in respect of unpaid GST; and  
7 (c) the amount of payments made to the Commissioner of  
8 Taxation where the payment represents an amount of GST  
9 that would have been payable if the Constitution did not  
10 prevent tax from being imposed on property of any kind  
11 belonging to a State and if section 5 of the GST Imposition  
12 Acts had not been enacted; and  
13 (d) the amount of additional amounts of GST that would have  
14 been collected if the Commonwealth and Commonwealth  
15 entities could be made subject to taxation by a  
16 Commonwealth law and if section 177-1 of the GST Act  
17 made those entities actually liable rather than notionally  
18 liable; and  
19 (e) the amount, determined in a manner agreed by the  
20 Commonwealth and all of the States, that represents amounts  
21 of voluntary GST payments that should have, but have not,  
22 been paid by local government bodies.
- 23 (4) The matters are:  
24 (a) the amount that was paid under the GST refund provisions;  
25 and  
26 (b) the amount that was payable under the GST refund  
27 provisions and that (rather than being paid directly under  
28 those provisions) was allocated, applied or refunded in  
29 accordance with Part IIB of the *Taxation Administration Act*  
30 *1953*;  
31 to the extent that the amounts are attributable to GST.
- 32 (5) In making determinations for the purposes of this section, the  
33 Minister must make such adjustments as are necessary to ensure  
34 that any effect that the luxury car tax law or wine equalisation tax  
35 law would otherwise have on the amounts of GST, and the  
36 amounts attributable to GST, is removed.

- 1                   (6) A determination made under subsection (1) is not a legislative  
2                   instrument.

### 3       **7 Determination of population of a State**

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

### 8       **8 GST revenue sharing relativity**

- 9                   (1) The Minister may determine that a factor specified in the  
10                  determination is the *GST revenue sharing relativity* for a State for  
11                  a payment year.
- 12                  (2) Before making a determination under subsection (1), the Minister  
13                  must consult each of the States.
- 14                  (3) A determination under subsection (1) is a legislative instrument,  
15                  but section 42 (disallowance) of the *Legislative Instruments Act*  
16                  2003 does not apply to the determination.

Section 9

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

3 **9 General purpose financial assistance**

4 (1) The Minister may determine that an amount specified in the  
5 determination is to be paid to a State specified in the determination  
6 for the purpose of making a grant of general purpose financial  
7 assistance to the State.

8 (2) If the Minister determines an amount under subsection (1):  
9 (a) that amount must be credited to the COAG Reform Fund;  
10 and  
11 (b) the Minister must ensure that, as soon as practicable after the  
12 amount is credited, the COAG Reform Fund is debited for  
13 the purposes of making the grant.

14 (3) Despite subsection (2), the total amount credited to the COAG  
15 Reform Fund under paragraph (2)(a) must not exceed, and the total  
16 amount covered by drawing rights authorising debits from the  
17 COAG Reform Fund for the purposes of making such grants must  
18 not exceed:

19 (a) in the financial year starting on 1 July 2008—\$500,000,000;  
20 or  
21 (b) in a later financial year in relation to which an Appropriation  
22 Act relating to that financial year declares that a specified  
23 amount is the *general drawing rights limit* for the purposes  
24 of this section—that specified amount.

25 (4) Despite subsections (2) and (3), if no Appropriation Act relating to  
26 a financial year starting after 30 June 2009 declares, in relation to  
27 that financial year, that a specified amount is the general drawing  
28 rights limit for the purposes of this section:

29 (a) amounts must not be credited to the COAG Reform Fund  
30 under paragraph (2)(a) during that financial year; and  
31 (b) drawing rights must not be issued authorising debits from the  
32 COAG Reform Fund for the purposes of making such grants  
33 in that financial year.

Section 9

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- 1 (5) A determination under subsection (1) is a legislative instrument,  
2 but section 42 (disallowance) of the *Legislative Instruments Act*  
3 2003 does not apply to the determination.

Section 10

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**Part 3—National specific purpose payments**

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**10 National specific purpose payments for healthcare**

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(1) Financial assistance is payable in accordance with this section to a State, for the financial year starting on 1 July 2009 and for each later financial year, for the purpose of expenditure on healthcare.

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8

(2) The total amount of all financial assistance payable under subsection (1) to the States for a financial year is:

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(a) for the financial year starting on 1 July 2009—  
\$11,224,185,000; or

11

12

(b) for a later financial year—the total amount under this subsection for the preceding financial year, indexed in accordance with subsection (3).

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(3) The Minister may, by legislative instrument, determine the manner in which the total amount under paragraph (2)(b) is to be indexed for a particular financial year. The determination must include a statement of the total amount for that financial year.

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(4) 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.

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(5) Financial assistance is payable to a State under this section on condition that the financial assistance is spent on healthcare.

23

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**11 National specific purpose payments for schools**

25

(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 schools.

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Note: Financial assistance for non-government schools is provided for under the *Schools Assistance Act 2008*.

29

30

(2) The total amount of all financial assistance payable under subsection (1) to the States for a financial year is:

31

## Section 12

- 1 (a) for the financial year starting on 1 July 2008—the amount  
2 determined by the Minister; or
- 3 (b) for the financial year starting on 1 July 2009—  
4 \$3,286,594,000; or
- 5 (c) for a later financial year—the total amount under this  
6 subsection for the preceding financial year, indexed in  
7 accordance with subsection (4).
- 8 (3) A determination under paragraph (2)(a) is a legislative instrument,  
9 but section 42 (disallowance) of the *Legislative Instruments Act*  
10 *2003* does not apply to the determination.
- 11 Note: The total amount of all financial assistance payable to the States under  
12 subsection (1) of this section and subsections 12(1), 13(1) and 14(1),  
13 for the financial year starting on 1 July 2008, is limited by section 15.
- 14 (4) The Minister may, by legislative instrument, determine the manner  
15 in which the total amount under paragraph (2)(c) is to be indexed  
16 for a particular financial year. The determination must include a  
17 statement of the total amount for that financial year.
- 18 (5) The Minister may, by legislative instrument, determine, for each  
19 financial year, the manner in which the total amount under  
20 subsection (2) is to be divided between the States.
- 21 (6) Financial assistance is payable to a State under this section on  
22 condition that the financial assistance is spent on schools.

## 23 **12 National specific purpose payments for skills and workforce** 24 **development**

- 25 (1) Financial assistance is payable in accordance with this section to a  
26 State, for the financial year starting on 1 July 2008 and for each  
27 later financial year, for the purpose of expenditure on skills and  
28 workforce development.
- 29 (2) The total amount of all financial assistance payable under  
30 subsection (1) to the States for a financial year is:
- 31 (a) for the financial year starting on 1 July 2008—the amount  
32 determined by the Minister; or
- 33 (b) for the financial year starting on 1 July 2009—  
34 \$1,317,877,000; or

Section 13

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1 (c) for a later financial year—the total amount under this  
2 subsection for the preceding financial year, indexed in  
3 accordance with subsection (4).

4 (3) A determination under paragraph (2)(a) is a legislative instrument,  
5 but section 42 (disallowance) of the *Legislative Instruments Act*  
6 *2003* does not apply to the determination.

7 Note: The total amount of all financial assistance payable to the States under  
8 subsection (1) of this section and subsections 11(1), 13(1) and 14(1),  
9 for the financial year starting on 1 July 2008, is limited by section 15.

10 (4) The Minister may, by legislative instrument, determine the manner  
11 in which the total amount under paragraph (2)(c) is to be indexed  
12 for a particular financial year. The determination must include a  
13 statement of the total amount for that financial year.

14 (5) The Minister may, by legislative instrument, determine, for each  
15 financial year, the manner in which the total amount under  
16 subsection (2) is to be divided between the States.

17 (6) Financial assistance is payable to a State under this section on  
18 condition that the financial assistance is spent on skills and  
19 workforce development.

20 **13 National specific purpose payments for disability services**

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

25 (2) The total amount of all financial assistance payable under  
26 subsection (1) to the States for a financial year is:  
27 (a) for the financial year starting on 1 July 2008—the amount  
28 determined by the Minister; or  
29 (b) for the financial year starting on 1 July 2009—\$903,686,000;  
30 or  
31 (c) for a later financial year—the total amount under this  
32 subsection for the preceding financial year, indexed in  
33 accordance with subsection (4).



## Section 14

- 1 (3) A determination under paragraph (2)(a) is a legislative instrument,  
2 but section 42 (disallowance) of the *Legislative Instruments Act*  
3 *2003* does not apply to the determination.

4 Note: The amount of all financial assistance payable to the States under  
5 subsection (1) of this section and subsections 11(1), 12(1) and 14(1),  
6 for the financial year starting on 1 July 2008, is limited by section 15.

- 7 (4) The Minister may, by legislative instrument, determine the manner  
8 in which the total amount under paragraph (2)(c) is to be indexed  
9 for a particular financial year. The determination must include a  
10 statement of the total amount for that financial year.
- 11 (5) The Minister may, by legislative instrument, determine, for each  
12 financial year, the manner in which the total amount under  
13 subsection (2) is to be divided between the States.
- 14 (6) Financial assistance is payable to a State under this section on  
15 condition that the financial assistance is spent on disability  
16 services.

#### 17 **14 National specific purpose payments for housing services**

- 18 (1) Financial assistance is payable in accordance with this section to a  
19 State, for the financial year starting on 1 July 2008 and for each  
20 later financial year, for the purpose of expenditure on housing  
21 services.
- 22 (2) The total amount of all financial assistance payable under  
23 subsection (1) to the States for a financial year is:  
24 (a) for the financial year starting on 1 July 2008—the amount  
25 determined by the Minister; or  
26 (b) for the financial year starting on 1 July 2009—  
27 \$1,202,590,000; or  
28 (c) for a later financial year—the total amount under this  
29 subsection for the preceding financial year, indexed in  
30 accordance with subsection (4).
- 31 (3) A determination under paragraph (2)(a) is a legislative instrument,  
32 but section 42 (disallowance) of the *Legislative Instruments Act*  
33 *2003* does not apply to the determination.



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**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), the total amount credited to the COAG Reform Fund under paragraph (2)(a) must not exceed, and the total amount covered by drawing rights authorising debits from the COAG Reform Fund for the purposes of making such grants must not exceed:
- (a) in the financial year starting on 1 July 2008—\$8,000,000,000; or
  - (b) in a later financial year in relation to which an Appropriation Act relating to that financial year declares that a specified amount is the *general drawing rights limit* for the purposes of this section—that specified amount.
- (4) Despite subsections (2) and (3), if no Appropriation Act relating to a financial year starting after 30 June 2009 declares, in relation to that financial year, that a specified amount is the general drawing rights limit for the purposes of this section:
- (a) amounts must not be credited to the COAG Reform Fund under paragraph (2)(a) during that financial year; and

**Part 4** National partnership payments

**Section 16**

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- 1                           (b) drawing rights must not be issued authorising debits from the  
2   COAG Reform Fund for the purposes of making such grants  
3   in that financial year.
- 4                   (5) A determination under subsection (1) is a legislative instrument,  
5   but section 42 (disallowance) of the *Legislative Instruments Act*  
6   2003 does not apply to the determination.

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**Part 5—Payment of grants**

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**17 Advance payments for financial year**

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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:

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7

8

(a) section 5; or

9

(b) a provision of Part 3;

10

for a financial year.

11

**18 Overpayment or underpayment of grant**

12

(1) If a State has been paid an amount in excess of the amount that, under:

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14

(a) section 5; or

15

(b) a provision of Part 3;

16

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.

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(2) If a State has been paid less than the amount that, under:

22

23

(a) section 5; or

24

(b) a provision of Part 3;

25

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.

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27

28

Section 19

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1 **19 Minister may fix amounts, and times of payments, of financial**  
2 **assistance**

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

8 **20 Repayment if condition not fulfilled**

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

1

2 **Part 6—Miscellaneous**

3

4 **21 Minister to have regard to Intergovernmental Agreement and**

5 **other agreements**

6 In making a determination under this Act, the Minister must have

7 regard to:

- 8 (a) the Intergovernmental Agreement; and
- 9 (b) if the determination relates to financial assistance to a
- 10 particular State—any other written agreement between the
- 11 Commonwealth and the State that relates to the financial
- 12 assistance.

13 **22 Appropriation**

14 Payments under Division 1 of Part 2, Part 3 or Part 5 are to be

15 made out of the Consolidated Revenue Fund, which is appropriated

16 accordingly.

17 **23 Delegation**

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

21 Note: The expressions *SES employee* and *acting SES employee* are defined

22 in section 17AA of the *Acts Interpretation Act 1901*.

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

25 **24 Regulations**

26 The Governor-General may make regulations prescribing matters:

- 27 (a) required or permitted by this Act to be prescribed; or
- 28 (b) necessary or convenient to be prescribed for carrying out or
- 29 giving effect to this Act.