

States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1989 No 168

[1989-168]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2011 No 62](#) with effect from 6.1.2012.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1989 No 168



New South Wales

An Act to approve, ratify and confirm an Agreement between the Commonwealth and the State of New South Wales in relation to rural adjustment; to validate certain matters; and for other related purposes.

1 Name of Act

This Act may be cited as the *States and Northern Territory Grants (Rural Adjustment) Agreement Ratification Act 1989*.

2 Commencement

This Act commences on the date of assent.

3 Interpretation

- (1) In this Act, **the Agreement** means the Agreement, a copy of which is set out in Schedule 1.
- (2) For the purposes of this Act and the Agreement, **the Authority** is the State of New South Wales or an instrumentality designated by the Minister to be the Authority for those purposes.

4 Ratification

The Agreement is hereby approved, ratified and confirmed.

5 Implementation

- (1) The Agreement may be carried into effect notwithstanding the provisions of any other Act.
- (2) All acts, matters and things for or with respect to which provision is made in the Agreement, or which by the Agreement are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of the Minister, the Treasurer, the

Auditor-General or the Authority are hereby sanctioned, authorised and confirmed.

6 Validation

Any act, matter or thing:

- (a) which by the Agreement is agreed, directed, authorised or permitted to be made, done or executed, and
- (b) which was made, done or executed before the date of assent to this Act, and
- (c) which would have been lawful if this Act and the Agreement had been in force at the time the act, matter or thing was made, done or executed,

is validated.

7 Acquisition of certain land

- (1) Any land to be acquired for the purposes of the Agreement by the Authority may be so acquired, notwithstanding:
 - (a) that any consent or permission required under the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts or the *Returned Soldiers Settlement Act 1916* has not been obtained or granted, or
 - (b) that the Authority may not be qualified under the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts or the *Returned Soldiers Settlement Act 1916* to hold land of the tenure to be so acquired by the Authority.
- (2) For the purposes only of this section:
 - (a) the provisions of the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts and the *Returned Soldiers Settlement Act 1916* and any regulations under any of those Acts, and
 - (b) any condition attaching to any land in pursuance of any of those provisions,is to be taken to be amended so as to give force and effect to any of the provisions of this section.

Schedule 1

(Section 3 (1))

AN AGREEMENT made between:

THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the first part,

THE STATE OF NEW SOUTH WALES of the second part,

THE STATE OF VICTORIA of the third part,

THE STATE OF QUEENSLAND of the fourth part,

THE STATE OF WESTERN AUSTRALIA of the fifth part,

THE STATE OF SOUTH AUSTRALIA of the sixth part,

THE STATE OF TASMANIA of the seventh part,

THE NORTHERN TERRITORY OF AUSTRALIA of the eighth part,

WHEREAS:

- (A) The Commonwealth, the States and the Northern Territory of Australia entered into an Agreement dated 26 September 1985 and an Amending Agreement dated 8 December 1986 relating to rural adjustment (“the amended Agreement”);
- (B) The recommendations of a review, undertaken on behalf of those governments, of the amended Agreement are that the scheme for which it provides be redirected towards enabling rural industries to better contribute to the national economy by an increased efficiency and consequent international competitiveness and to this end to enhance the role and thereby the responsibility of the States and the Northern Territory in relation to the scheme;
- (C) It has been decided to adopt these recommendations by continuing the payment of financial assistance to the States and the Northern Territory under this agreement; and
- (D) The Parliament of the Commonwealth has authorized the execution of this agreement by and on behalf of the Commonwealth and the provision of financial assistance to the States and the Northern Territory of Australia as provided in this agreement.

NOW IT IS HEREBY AGREED as follows:

I INTRODUCTION

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1. *Operation of Agreement*

(1)

In this agreement, each State and the Northern Territory of Australia in respect of which the agreement has come into force is referred to as a “State”, and the expression “the States” means, except where the context otherwise requires, all of the States and the Northern Territory of Australia in respect of which for the time being the agreement is in force.

(2)

This agreement shall, as between the Commonwealth and a State executing this agreement on or before 1 January 1989, come into force on that date, or if executed thereafter, on that later date and the amended Agreement shall thereupon cease as between the Commonwealth and that State.

(3)

Notwithstanding that in this agreement all the States of New South Wales, Victoria, Queensland,

South Australia, Western Australia and Tasmania and the Northern Territory of Australia are named as parties, this agreement shall operate as an agreement between the Commonwealth and the party or parties in respect of which it comes into force as fully and effectually as if the party or parties in respect of which it comes into force were the only party or parties so named other than the Commonwealth.

(4)

In the event that a State ceases to be a party this agreement shall nevertheless continue in force with respect to the Commonwealth and the States which are parties when the cessation takes effect.

2. Performance of Agreement

The Commonwealth will provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this agreement and each of the States will provide for or secure the performance by the State and its authorities and instrumentalities of the obligations of the State under this agreement.

3. Interpretation

(1)

In this agreement, unless the contrary intention appears:

“aquaculture” means industries which conduct systematic farming of plants and animals in water involving the use of man-made infrastructure on or adjacent to land, but excludes harvesting-type industries where farming or cultivating is not an integral part of the operation;

“authority” means an authority of a State which has from time to time the administration of the Scheme on behalf of the State;

“farm enterprise” means an enterprise carried on by a primary producer within any rural industry in a State or in the Northern Territory;

“farmer” means a person engaged in a rural industry in a State or in the Northern Territory;

“financial year” means:

- (a) where the agreement does not come into force with a State on 1 July, in relation to that State the period from the date it comes into force up to and including 30 June which next occurs after this agreement comes into force and thereafter each succeeding period of twelve months; and
- (b) where this agreement does so come into force, a period of twelve months ending on 30 June;

“the Minister” means the Minister for Primary Industries and Energy;

“rural industry” means any of the agricultural, horticultural, pastoral, apicultural and aquacultural industries; and

“the Scheme” means the scheme of assistance to be established and operated by a State in accordance with clause 9.

(2)

A reference in this agreement to a Minister of the Commonwealth or of a State shall include a reference to a Minister for the time being acting for or on behalf of the Minister referred to or to a Minister who has taken over the responsibilities of the Minister under this agreement.

(3)

A reference in this agreement to a State shall include a reference to an authority or authorities of a State that has or have the administration of the Scheme on behalf of the State.

(4)

In this agreement, except where the context otherwise requires:

- (a) a reference to a clause refers to the relevant clause of this agreement; and
- (b) a reference to a sub-clause refers to the relevant sub-clause of the clause in which the reference appears.

II THE SCHEME

4. *Purpose of Scheme*

(1)

The purpose of the Scheme is to assist in maintaining and improving the efficiency of Australian rural industry and so better place the industry to meet international competition and contribute to the national economy.

(2)

In this context the Scheme is to contribute to the process of promoting an efficient and competitive rural sector through providing assistance and services to help farmers adjust to changing technical, economic and institutional circumstances by:

- (a) promoting, facilitating and encouraging better financial and technical performance and structure of rural industry to meet emerging needs;
- (b) assisting those farmers whose farm enterprises have the capacity to become profitable in the long-term but which are experiencing financial problems arising from circumstances beyond their control;
- (c) assisting farmers without prospects in the rural industry to leave it.

(3)

In pursuit of this purpose, it is recognised that:

- (a) structural adjustment encompasses the longer-term and more permanent ways in which farmers respond to change in the economic, technical and institutional environment;
- (b) the appropriate response for assistance from the Scheme will vary from time to time according to the particular circumstances facing rural industries; and
- (c) the Authorities administering the Scheme will need to identify problems and trends in rural

industry, regions and on individual farms to provide the appropriate assistance measures so that farmers become financially independent of the assistance within a reasonable period.

5. Objectives

The objectives of the Scheme are to provide incentives, in the form of funds and services, in an efficient and effective manner, to enable farmers to:

- (a) overcome financial difficulties arising from causes beyond their control;
- (b) improve their performance by changing the size of their farms, improving managerial and financial skills, or by the adoption of improved practices and technology;
- (c) make an orderly exit if, after all options have been considered, the farmers are without prospects in the rural industry.

6. Strategies

(1)

The strategies to be adopted to overcome financial difficulties arising from causes beyond a farmer's control shall be to facilitate:

- (a) carry-on finance; and
- (b) capital restructuring.

(2)

The strategies to be adopted to improve farm performance shall be to facilitate:

- (a) the acquisition of improved skill levels;
- (b) the adoption of technological developments;
- (c) increase in farm size or capital intensity;
- (d) farm program changes; and
- (e) access to information on technological developments and their application, training needs and opportunities and appropriate farm programs.

(3)

The strategies to be adopted to permit farmers to make an orderly exit from rural industry if, after all options have been considered, the farmers are without prospects in the rural industry, shall be to:

- (a) alleviate personal hardship prior to departure;
- (b) assist farmers to realise farm assets in an orderly manner; and
- (c) assist farmers to re-establish post-farming.

(4)

For the purposes of sub-clauses 6 (2) and 6 (3) trading in land by a State is permissible only where:

- (a) the trading does not distort the market for land;
- (b) large land stocks are not accumulated by the State; and
- (c) proceeds of transactions are retained for use in the operation of the Scheme.

(5)

From time to time it may be necessary to develop other strategies to meet changing circumstances.

7. Operations

(1)

Given the nature of the assistance to be provided and that the application of funds provided under the Scheme will be most effective when the operations of States are responsive to the specific circumstances pertaining to the recipient, decisions on the form of assistance to be provided to an applicant will be taken at the State level, with full knowledge of local and regional situations.

(2)

To achieve this the Commonwealth's role will be to:

- (a) provide clear policy guidelines within which the Scheme is to operate; and
- (b) establish an appropriate reporting mechanism to permit the monitoring and assessment of the efficiency and effectiveness with which the Scheme is operating.

(3)

The Commonwealth in consultation with the State will, where appropriate, establish policy guidelines concerning:

- (a) criteria to be adopted in assessing eligibility for assistance;
- (b) outcomes expected from assistance under the Scheme;
- (c) requirements for review of assisted farmers; and
- (d) determination of funding.

(4)

The State's role will be to:

- (a) manage funds provided under the Scheme;
- (b) be responsible and accountable for the achievement of the objectives of the Scheme.

(5)

With a view to achieving the purposes and objectives of the Scheme the principal functions of the State authorities in administering the Scheme will be to:

- (a) assess the eligibility of farmers for assistance;

- (b) determine, after full consideration of each individual case, the form of assistance, or combination of forms of assistance, if any, most appropriate to the particular circumstances facing the farmer;
- (c) deliver funds and services in accordance with policy guidelines established by the Commonwealth from time to time;
- (d) review the effectiveness of assistance provided to farmers on a periodic basis;
- (e) account to the Commonwealth at a frequency, and in a manner, determined from time to time by the Commonwealth in consultation with the States, as to the:
 - (i) disbursement of funds in compliance with the purpose for which they were voted;
 - (ii) effectiveness with which the funds have been used to achieve the objectives of the Scheme;
 - (iii) efficiency with which Commonwealth funds have been administered;
- (f) promote the purpose and scope of the Scheme to the farming and financial communities and other interested persons.

8. Eligibility

(1)

A person is engaged in a rural industry if under normal circumstances the principal source of income of that person is from a farm enterprise to which the person contributes a significant part of his or her labour and capital.

(2)

The State may decide that in respect of the same farm enterprise more than one member of a family or group is to be considered as being engaged in a rural industry.

III ADMINISTRATION OF SCHEME

9. State to Operate Scheme

(1)

Each State will use the financial assistance provided by the Commonwealth in accordance with this agreement, to establish and operate a scheme of assistance to persons engaged in a rural industry in that State.

(2)

The Scheme shall consist of the forms of assistance referred to in clause 10 and shall be operated in conformity with the objectives and other provisions set out in Part II.

10. Forms of assistance to those engaged in rural industries

(1)

For the purposes of paragraph (b) of sub-clause 6 (1), sub-clause 6 (2) and paragraph (b) of sub-

clause 6 (3), assistance under the Scheme, to be known as Part A assistance, shall be by way of:

- (a) grants by the State for the purpose of interest subsidies both of interest payable on, and associated costs of, loans, whether the loan is provided by the State or others; and
- (b) grants or loans by the State for the above purposes other than those of paragraph (a).

(2)

For the purposes of paragraph (a) of sub-clause 6 (1) assistance under the Scheme, to be known as Part B assistance, shall be by way of grants by the State for the purpose of interest subsidies both of interest payable on, and associated costs of, loans, whether by the State or others. Subsidies paid under this sub-clause shall not exceed 50% of the interest payable on, and associated costs of, such loans and the State shall bear half the cost of the subsidies out of its own funds.

(3)

For the purposes of paragraphs (a), (b) and (c) of sub-clause 6 (3), assistance under the Scheme, to be known as Part C assistance, shall be by way of grants or loans by the State.

(4)

Part A assistance may also be used, subject to sub-clause 6 (4), for transactions involving the land of farmers.

11. Conditions

The Minister may from time to time subject to this agreement, and after consultation with the Minister or Ministers of the relevant State or States, determine policy guidelines applying to forms of assistance under the Scheme.

12. Terms of loans by a State

(1)

The rates of interest at which money is advanced by the State under the Scheme in providing Part A, Part B and Part C assistance, whether from financial assistance provided under this agreement or otherwise shall be as determined by the State authority.

(2)

The length of loans and the period during which an interest subsidy applies in respect of loans shall be as determined by the State authority.

(3)

The State authority shall have the right to review the terms of repayment, including interest rates of individual accounts, at any time and shall exercise this right at regular intervals with the objective of the borrower being encouraged to move to commercial credit as soon as circumstances permit.

IV FINANCIAL ASSISTANCE

13. Provision of Financial Assistance

Subject to, and to the performance by a State of, the provisions of this agreement, the Commonwealth will make financial assistance available to the States for the purposes of the Scheme.

14. Amount of Financial Assistance

(1)

Subject to this agreement, the amounts of financial assistance to be made available by the Commonwealth to each State for Part C assistance and, except as to amounts provided for by paragraph 2 (a), Part A assistance during a financial year shall be separately determined for each of those Parts by the Commonwealth after consultation with the States. Before the commencement of the financial year the Minister and State Ministers will consult taking into account such matters as are set out in clauses 4 and 5.

(2)

The amount payable by the Commonwealth in relation to Part A assistance in respect of any financial year shall not be less than:

- (a) in respect of each of the first seven financial years of this agreement as is a financial year within the first six financial years:
 - (i) after the first financial year of the amended Agreement, the amount of any Determination or Determinations of Part A Assistance made in that first financial year under the amended Agreement;
 - (ii) after the second financial year of the amended Agreement, the incremental part of any Determination or Determinations of Part A assistance made in that second financial year under the amended Agreement; and
 - (iii) after the third or any subsequent financial year of the amended Agreement, the incremental part of any Determination or Determinations of Part A assistance made in that third or subsequent financial year as the case may be under the amended Agreement;
- (b) in respect of each of the first seven financial years of this agreement the amount of Part A assistance determined under this agreement by the Minister as payable in respect of an immediately preceding financial year of this agreement; and
- (c) in respect of each succeeding period of seven financial years of this agreement:
 - (i) as to the first year, the sum of the increments of amounts of Part A assistance determined under this agreement in respect of the second to the seventh inclusive of the immediately preceding seven financial years; and
 - (ii) as to the remaining six years, the sum of the increments of those amounts so determined in respect of the immediately preceding six financial years of this agreement.

(3)

The amount to be made available to a State during a financial year determined under sub-clause (1) may, at any time the Commonwealth so considers fit, after consultation with the other States, be increased by the addition of a supplementary amount determined by the Commonwealth at that time.

(4)

The amount of financial assistance to be made available by the Commonwealth to a State for Part B

assistance shall be determined at the time the Commonwealth and the State agree that the provision of such assistance is warranted.

15. Administration Expenses

The Commonwealth will make monthly payments in advance to a State towards administration expenses of the State in providing assistance under the Scheme as agreed, between the Minister and the Minister of each State.

16. Provision for losses

The Commonwealth shall not be liable to reimburse a State for any losses of that State which result from the operation under this agreement of this Scheme but financial assistance made available by the Commonwealth, or income earned on that assistance, may be used by the State to make provision for any losses likely to result from the operation by it of the Scheme.

17. Payments of Financial Assistance

(1)

The Commonwealth shall, subject to this agreement, make monthly payments to the State of the financial assistance to be provided to it under this agreement.

(2)

The Commonwealth may, at such time and in such amounts as the Minister thinks fit, make advances on account of the payment that may be made by the Commonwealth under sub-clause (1).

(3)

An amount or part of an amount advanced by the Commonwealth under this clause may be deducted by the Commonwealth from an amount that subsequently becomes payable under sub-clause (1) or, if no further amounts will become payable under that sub-clause, shall be refunded by the State to the Commonwealth at the request of the Minister.

18. Use of Advances and Other Moneys

(1)

A State shall ensure that an amount or any part of an amount advanced to the State and not refunded under the last preceding clause is used or applied for the operation of the Scheme.

(2)

A State shall ensure that:

- (a) any financial assistance paid by the Commonwealth under the Scheme is used or applied for the operation of the Scheme;
- (b) any money earned by it under the Scheme on financial assistance provided by the Commonwealth to the State under this agreement is used or applied for the operation of the Scheme; and
- (c) any repayment of, or payment of interest on, loans made by the State funded from paragraph (a) or (b) are used or applied in the operation of the Scheme.

19. Pre-commitment of Assistance

(1)

Where the Minister has, upon the State establishing to the Minister's satisfaction that the circumstances so warrant, authorized the State during a financial year to commit to the Scheme financial assistance to be received under this agreement during the next succeeding financial year, the State may approve the provision of assistance under the Scheme to the extent of the amount or amounts that have been so authorized by the Minister.

(2)

Any amounts that are approved by the State under sub-clause (1) shall be included in the amount of financial assistance to be made available by the Commonwealth to the State for the purposes of the Scheme as determined under clause 14 in respect of that next financial year.

20. Supporting Financial Evidence

(1)

A State shall furnish to the Minister such documents and other evidence to justify payment of any moneys to the State under the Scheme as the Minister may from time to time reasonably request, whether the request by the Minister is made before or after the Commonwealth has made the advance or a payment pursuant to the request by the State.

(2)

Information furnished by a State pursuant to sub-clause (1) shall include details of accounts of borrowers from the State or otherwise under the Scheme, but not so as to identify borrowers, in a format agreed from time to time by Commonwealth and State Ministers.

21. Repayments of Part C Assistance

Each State shall, by way of repayment of Part C assistance, pay to the Commonwealth so much of that assistance and interest thereon as is recouped by the State in any year from the recipients of that assistance, such payments to be made on each 15th day of January and July next succeeding the receipt of those moneys by the State.

22. Audit

(1)

The accounts, books, vouchers, documents and other records of a State relating to the operation of the Scheme shall be subject to audit carried out in accordance with Australian auditing standards by a registered company auditor or, if required by the State, the Auditor-General of the State or his or her appointee.

(2)

A report on the audits in respect of each financial year shall be furnished to the Minister by that auditor or Auditor General of the State, as the case may be, as soon as possible after the completion of the financial year and no later than 31 December of the succeeding financial year.

23. Other Financial Arrangements

Financial arrangements in connection with the Scheme, other than those provided for in this agreement, shall be carried out as agreed from time to time between the relevant Commonwealth and

State Ministers responsible for such financial arrangements.

V FINANCIAL ASSISTANCE FOR RELATED PURPOSES

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24. Conditions

Subject to clause 25, the Commonwealth will provide, on conditions determined by the Commonwealth Minister but outside the Scheme, financial assistance to the States for expenditure by them in causing the Scheme to be the more effective.

25. Provisions Applicable

(1)

The amount of financial assistance to be made available by the Commonwealth to each State for expenditure under clause 24 during a financial year shall be determined by the Commonwealth after consultation with the States.

(2)

Clauses 17, 18, 20, 22, 27, 28 and 29 shall apply in relation to this Part as if it formed part of the Scheme.

VI TRANSITIONAL

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26.

(1)

Funds provided to the State by the Commonwealth under the amended Agreement which:

- (a) are held by the State on the date on which this agreement comes into force; or
- (b) become subsequently available to it

together with interest earned on the funds referred to in paragraphs (a) and (b) whether before or after that date and not disbursed are to be used by the State for the purposes of this agreement.

(2)

The State hereby foregoes any accrued right existing at the date at which this agreement comes into force

- (a) to a contribution from the Commonwealth for any losses; and
- (b) to a payment by the Commonwealth of administration expenses

in relation to the Scheme established under the amended Agreement but the Commonwealth shall pay those administration expenses as if they arose under this agreement.

(3)

Where the amended Agreement ceases prior to 30 June, action taken under the provisions of this agreement equivalent to clauses 19 and 25 and sub-clause 20 (2) of the amended Agreement shall be considered to satisfy also those clauses and that sub-clause if that action is taken in relation to the financial year ending on the date which, otherwise than for its cessation, would be the date on

which a financial year of the amended Agreement would end.

VII GENERAL

27. Review

(1)

The operation of the Scheme in relation to all of the States will be reviewed from time to time as appropriate by the Commonwealth and the States in the light of experience in its administration.

(2)

Where on a review of the operation of the Scheme the Ministers of the Commonwealth and of the States consider an amendment to the agreement should be made the Commonwealth Minister will seek to have the agreement so amended.

28. Exchange of Information

State and Commonwealth Officers associated with the Scheme will meet together as appropriate and at least once in each year and exchange information on any matters pertinent to the Scheme, including trends in adjustment assistance being provided to persons in rural industries having regard to the outlook for those industries.

29. Provision of Information and Review

The State will supply to the Commonwealth from time to time such information regarding the operation of the Scheme by the State for purposes of monitoring and accountability as agreed by the Commonwealth and the State.

30. Report to Parliament

The Minister shall on the basis of the information supplied by the States no later than 31 December of each financial year submit an annual report to the Parliament of the Commonwealth relating to the operation and effectiveness of the Scheme.

31. Loan Council

In the event that the Loan Council decides to include borrowings by the State for the purposes of Parts A and B assistance in borrowings subject to Loan Council control or oversight on terms which a State considered unacceptable, the Commonwealth and the States shall consult to determine whether any amendments should be made to this agreement.

32. Cessation of Agreement by a State

A State may, on giving at least a period of sixty days notice in writing to the Commonwealth, cease, subject to its performance thereafter of any outstanding obligation, to be a party to this agreement at the expiry of that period of notice.

IN WITNESS WHEREOF this agreement has been respectively signed for and on behalf of the parties hereto.

SIGNED by the Honourable JOHN CHARLES KERIN, Minister for Primary Industries and Energy, for the Commonwealth of Australia on the 22nd day of December 1988 in the presence of -

A. B. TURNER

} JOHN KERIN

SIGNED by the Honourable IAN MORTON ARMSTRONG, Minister for Agriculture and Rural Affairs, for the State of New South Wales on the 25th day of January 1989 in the presence of -

D. P. BELL

} IAN ARMSTRONG