



Land Commissions (Financial Assistance) Act 1973

Act No. 192 of 1973 as amended

This compilation was prepared on 10 July 2008
taking into account amendments up to Act No. 73 of 2008

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

1	Short title [see Note 1].....	1
2	Commencement [see Note 1].....	1
3	Interpretation	1
4	Approved programs	2
5	Financial assistance to States.....	2
6	Evidence of expenditure	2
7	Advances	3
8	Financial statements	3
9	Conditions of payments under this Act.....	3
10	Payment for certain purposes to be loans	4
11	Payments for certain purposes to be grants.....	6
12	Moneys to be paid by State to approved authorities	6
13	Supply of information.....	6
14	Use of land	6
15	Agreements to be tabled in Parliament	7
16	Appropriation	7
	Notes	9

An Act to provide Financial Assistance to the States, in addition to that provided under the *Growth Centres (Financial Assistance) Act 1973*, in connexion with the Acquisition of Land in or near Urban Areas

1 Short title [see Note 1]

This Act may be cited as the *Land Commissions (Financial Assistance) Act 1973*.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

In this Act, unless the contrary intention appears:

appropriate Minister, in relation to a State, means a Minister of the Crown of that State having functions relating to urban development, and includes any other Minister of the Crown of that State for the time being acting for and on behalf of such a Minister.

approved authority, in relation to a State, means:

- (a) the Land Commission of that State; or
- (b) if there is no Land Commission of that State—an authority of that State approved by the Minister, with the concurrence of the Minister for Finance.

approved program means a program referred to in section 4.

urban expansion includes:

- (a) the re-development of existing urban areas; and
- (b) the setting aside of land, whether in its natural state or otherwise, in or near urban areas for purposes of public recreation or of conservation.

4 Approved programs

- (1) The Minister may:
 - (a) in consultation with an appropriate Minister of a State, approve programs of land acquisition by an approved authority of that State for purposes connected with urban expansion; and
 - (b) with the concurrence of the Minister for Finance, agree with that Minister upon the financial assistance to be provided under this Act in respect of expenditure by an approved authority of that State under any such program.
- (2) A program approved under paragraph (1)(a) shall clearly identify the land to be acquired and specify whether it is:
 - (a) land intended for urban use, including the provision of urban facilities; or
 - (b) land not falling within paragraph (a).

5 Financial assistance to States

Subject to this Act, where, in accordance with an approved program, moneys have been expended during the year ending on 30 June 1974 by an approved authority of a State, there is payable to that State, by way of financial assistance in respect of that expenditure, an amount or amounts determined as agreed in accordance with paragraph 4(1)(b).

6 Evidence of expenditure

A State is not entitled to a payment under section 5 in respect of any expenditure unless the State has furnished the Minister for Finance with:

- (a) a statement of that expenditure in accordance with a form approved by the Minister for Finance, accompanied by a certificate by the duly appointed auditor of the relevant approved authority certifying that the expenditure was incurred in accordance with the relevant approved program; and
- (b) such further information, if any, in respect of that expenditure as the Minister for Finance requires.

7 Advances

- (1) The Minister for Finance may, at such times and in such amounts as he or she thinks fit, make advances on account of payments that may become payable under section 5.
- (2) An amount, or part of an amount, advanced to a State under this section may be deducted from an amount that subsequently becomes payable to that State under section 5.
- (3) If the total amount of the payments under section 5, and the advances under this section, made to a State exceeds the total amount payable under section 5 to that State, the amount of the excess shall be repaid by the State to Australia at the request of the Minister for Finance.
- (4) A State shall ensure that an amount, or any part of an amount, advanced to the State and not repaid under subsection (3) is not used or applied except for the purpose of reimbursing the expenditure to which the advance relates.

8 Financial statements

A State shall furnish the Minister for Finance with such documents and other evidence to justify the making of an advance to the State under section 7 or to show how an amount, or any part of an amount, advanced to the State under that section has been used or applied, as the Minister for Finance requests, whether the request by the Minister for Finance is made before or after the relevant advance is made.

9 Conditions of payments under this Act

- (1) A payment or advance to a State under this Act is subject to:
 - (a) such conditions, not inconsistent with this Act, as are agreed between Australia and the State; and
 - (b) such of the other conditions provided for by this Act as are applicable.
- (2) A condition agreed between Australia and a State providing for terms to be applicable in the event of a breach of a condition by the State shall not be taken to be inconsistent with this Act.

- (3) For the purposes of paragraph (1)(b), such of the provisions of this Act as are applicable to a State shall be regarded as conditions.

10 Payment for certain purposes to be loans

- (1) Where a payment or advance under this Act is made to a State in respect of expenditure for the purposes of acquiring land referred to in paragraph 4(2)(a), the payment or advance shall be made by way of a loan, and the succeeding provisions of this section apply.
- (2) Subject to subsections (3) and (5A), the loan is subject to the following conditions:
- (a) interest shall accrue in respect of each payment or advance, calculated from the date on which the payment or advance was made, on so much of the payment or advance as for the time being has not been repaid by the State;
 - (b) the rate at which interest shall accrue under paragraph (a) shall be the long-term bond rate or such lower rate as the Minister for Finance, with the concurrence of the Minister, determines;
 - (c) interest so accrued shall be paid by the State to Australia on 15 June and 15 December in each year;
 - (d) the State shall repay to Australia each payment or advance (not being an advance repaid under section 7) by instalments in such manner, and within such period, not exceeding 30 years, after the date on which the payment or advance is made to the State, as is agreed between Australia and the State, the first instalment in each case to be paid on 15 June or 15 December next occurring after the expiration of 12 months after that date.
- (3) Commencement of repayments of principal, and payments of interest, by a State in respect of payments and advances made to the State in relation to an approved program may be deferred for such period, not exceeding 10 years (in this section referred to as *the period of deferment*), as is agreed between Australia and the State and, in that event, subsection (2) does not apply, but, subject to subsection (5A), the loan is subject to the following conditions:
- (a) interest shall accrue in respect of each payment or advance, calculated from the date on which the payment or advance was made, on so much of the payment or advance as for the time being has not been repaid by the State;

- (b) the amount of interest that has accrued under paragraph (a), together with interest that has accrued under paragraph (c), shall be calculated as at 15 June and 15 December in each year;
 - (c) each amount calculated under paragraph (b) as at a date before the expiration of the period of deferment shall be payable by the State to Australia in accordance with paragraph (f) as if that amount had been a payment made to the State under section 5 on the date on which the payment or advance was made, and interest shall accrue in respect of that amount, calculated from the date as at which that amount was calculated, on so much of that amount as for the time being has not been paid by the State;
 - (d) an amount calculated under paragraph (b) as at a date after the expiration of the period of deferment shall be paid by the State to Australia upon that date;
 - (e) the rate at which interest shall accrue under paragraphs (a) and (c) shall be the long-term bond rate or such lower rate as the Minister for Finance, with the concurrence of the Minister, determines;
 - (f) the State shall repay to Australia each payment or advance (not being an advance repaid under section 7) by instalments in such manner, and within such period, not exceeding 30 years, after the date on which the payment or advance is made to the State, as is agreed between Australia and the State.
- (4) An agreement fixing a period in accordance with this section may include provision for the variation of that period before the expiration of that period and for the consequential variation of other matters.
- (5) A reference in this section to the long-term bond rate, in relation to interest in respect of a payment or advance made to a State or in respect of an amount referred to in paragraph (3)(c), is a reference to the rate that is equivalent to the rate of yield to maturity of the long-term loan of the last loan-raising by the Australian Government in Australia for public subscription prior to the date on which that payment or advance was made or that amount was calculated, as the case may be.

- (5A) An agreement between Australia and a State relating to a loan referred to in this section may vary any conditions provided for by subsection (2) or (3).
- (6) The preceding provisions of this section shall not be taken to prevent the inclusion of additional conditions in an agreement relating to a loan referred to in this section.

11 Payments for certain purposes to be grants

- (1) A payment under section 5 made to a State in respect of expenditure for the purposes of acquiring land referred to in paragraph 4(2)(b) shall be made by way of a grant, repayable only in the event of a breach of a condition of the payment.
- (2) A payment made to a State in accordance with subsection (1) is subject to the condition that the State shall, out of moneys other than moneys paid to the State under this Act, make a grant to the approved authority that incurred the expenditure in respect of which the payment was made of an amount bearing such proportion to the amount of that expenditure as the Minister, with the concurrence of the Minister for Finance, determines.

12 Moneys to be paid by State to approved authorities

Where a payment or advance has been made to a State under this Act, the State shall pay the amount of that payment or advance to the approved authority that incurred the expenditure in respect of which the payment or advance was made.

13 Supply of information

A State shall, at the request of the Minister, furnish him or her with such information as he or she requires in relation to the carrying out of an approved program.

14 Use of land

A State shall ensure that land acquired in pursuance of an approved program shall be used only in accordance with that program or for such other purpose as the Minister, with the concurrence of the Minister for Finance, approves.

15 Agreements to be tabled in Parliament

The Minister shall cause a copy of every agreement made under this Act, including every amending agreement, to be laid before each House of the Parliament within 15 sitting days of that House after the date on which the agreement was made.

16 Appropriation

Payments (including advances) to the States under this Act:

- (a) shall not exceed an aggregate amount of \$30,000,000; and
- (b) shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Table of Acts**Notes to the *Land Commissions (Financial Assistance) Act 1973*****Note 1**

The *Land Commissions (Financial Assistance) Act 1973* as shown in this compilation comprises Act No. 192, 1973 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Land Commissions (Financial Assistance) Act 1973</i>	192, 1973	17 Dec 1973	17 Dec 1973	
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1983</i>	91, 1983	22 Nov 1983	S. 3: 20 Dec 1983 (a)	S. 6(1)
<i>Statute Law Revision Act 2008</i>	73, 2008	3 July 2008	Schedule 4 (items 378–380): 4 July 2008	—

Act Notes

- (a) The *Land Commissions (Financial Assistance) Act 1973* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 3, 4.....	am. No. 36, 1978
S. 6	am. No. 36, 1978
S. 7	am. No. 36, 1978; No. 73, 2008
S. 8	am. No. 36, 1978
S. 10	am. No. 36, 1978; No. 91, 1983
S. 11	am. No. 36, 1978
S. 13	am. No. 73, 2008
S. 14	am. No. 36, 1978