

Cities Commission Act 1973

No. 41 of 1973

AN ACT

To amend the *National Urban and Regional Development Authority Act 1972*.

[Assented to 7 June 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Cities Commission Act 1973*.

Short title
and citation.

(2) The *National Urban and Regional Development Authority Act 1972** is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Cities Commission Act 1972–1973*.

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

Commence-
ment.

3. The title to the Principal Act is amended by omitting the words “National Urban and Regional Development Authority” and substituting the words “Cities Commission”.

Title.

* Act No. 117, 1972.

Parts. 4. Section 3 of the Principal Act is amended by omitting the words—
 “ Part II—The National Urban and Regional Development Authority
 (sections 5–14).”

and substituting the words—

“ Part II—The Cities Commission (sections 5–14).”.

5. Section 4 of the Principal Act is repealed and the following section substituted:—

Definitions.

“ 4. In this Act, unless the contrary intention appears—

‘ Associate Commissioner ’ means the Associate Commissioner appointed under section 7;

‘ Commission ’ means the Cities Commission established by this Act;

‘ Chairman ’ means the Chairman of the Commission;

‘ part-time Commissioner ’ means a Commissioner other than the Chairman or the Secretary;

‘ Secretary ’ means the Secretary to the Department of Urban and Regional Development.”.

Heading to Part II.

6. The heading to Part II of the Principal Act is repealed and the following heading substituted:—

“ PART II—THE CITIES COMMISSION ”.

7. Sections 5, 6, 7 and 8 of the Principal Act are repealed and the following sections substituted:—

Establishment of Cities Commission.

“ 5. (1) The body corporate established by the section for which this section was substituted by section 7 of the *Cities Commission Act 1973*—

(a) continues in existence by force of this sub-section as a body corporate, under and subject to the provisions of this Act, under the name ‘ Cities Commission ’, but so that the corporate identity of the body corporate shall not be affected;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

“ (2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

Constitution of the Commission.

“ 6. (1) On and after 15th July, 1973, or an earlier date fixed by Proclamation, the Commission shall consist of five Commissioners, namely—

(a) a Chairman;

(b) the Secretary; and

(c) three other Commissioners.

“(2) The Chairman and the Commissioners referred to in paragraph (c) of sub-section (1) shall be appointed by the Governor-General, the Chairman being appointed as a full-time Commissioner and the other Commissioners being appointed as part-time Commissioners.

“(3) The performance of the functions or the exercise of the powers of the Commission is not affected by reason of there being a vacancy or vacancies in the membership of the Commission.

“(4) Until the Commission is constituted as provided in sub-section (1), the Commission shall be constituted by a Commissioner, who shall be appointed by the Governor-General.

“(5) Where the Commission is constituted as provided in sub-section (4) of this section, section 8, sub-section (5) of section 8A and sections 9, 10, 11 and 14 apply as if references to the Chairman and the office of Chairman were references to the Commissioner constituting the Commission by virtue of sub-section (4) of this section and the office of that Commissioner, respectively, and any references to a part-time Commissioner were omitted.

“7. (1) The Governor-General shall appoint a person to be the Associate Commissioner of the Commission. Associate Commissioner.

“(2) The Associate Commissioner shall give such advice and assistance to the Commission as the Commission requires and shall perform such duties as the Chairman directs.

“8. (1) The Chairman, a part-time Commissioner or the Associate Commissioner shall be appointed for such period, not exceeding— Period of appointment.

(a) in the case of the Chairman or the Associate Commissioner—seven years; or

(b) in the case of a part-time Commissioner—five years,

as the Governor-General specifies in the instrument of appointment, but is eligible for re-appointment.

“(2) A person who has attained the age of sixty-five years shall not be appointed or re-appointed as the Chairman, a part-time Commissioner or the Associate Commissioner and a person shall not be appointed or re-appointed as the Chairman, a part-time Commissioner or the Associate Commissioner for a period that extends beyond the date on which he will attain the age of sixty-five years.

“8A. (1) The Chairman shall be paid remuneration at such rate, and an annual allowance at such rate (if any), as the Parliament fixes, but, until 1st January, 1974, the rate of that remuneration and the rate (if any) of that allowance shall be as prescribed. Remuneration and allowances.

“(2) A part-time Commissioner shall be paid remuneration at such rate as the Parliament fixes, but, until 1st January, 1974, the rate of that remuneration shall be as prescribed.

“ (3) The Associate Commissioner shall be paid remuneration at the rate of Twenty thousand five hundred and two dollars per year.

“ (4) Until the Commission is constituted as provided in sub-section (1) of section 6, the Commissioner constituting the Commission shall be paid remuneration at the rate of Twenty-nine thousand two hundred and fifty dollars per year and an annual allowance at the rate of One thousand seven hundred and fifty dollars per year.

“ (5) The Chairman, the Associate Commissioner and a part-time Commissioner shall be paid such allowances (not including an annual allowance) as are prescribed.”.

Leave of
absence.

8. Section 9 of the Principal Act is amended by omitting the words “ the Commissioner or the Deputy Commissioner ” and substituting the words “ the Chairman, a part-time Commissioner or the Associate Commissioner ”.

Determina-
tion of
appointment.

9. Section 10 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“ (3) If a part-time Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Commission, from three consecutive meetings of the Commission;
- (c) resigns his office by writing under his hand addressed to the Governor-General; or
- (d) fails to comply with his obligations under sub-section (4),

the Governor-General shall, by notice in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

“ (4) A part-time Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“ (5) A disclosure under sub-section (4) shall be recorded in the minutes of the Commission, and the part-time Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to the contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.”.

10. Section 11 of the Principal Act is repealed and the following sections are substituted:—

“ 11. (1) Where the Chairman or Associate Commissioner is, or is expected to be, absent from duty or from Australia or there is a vacancy in the office of Chairman or Associate Commissioner, the Minister may appoint a person to be acting Chairman or acting Associate Commissioner during the absence or until the filling of the vacancy. Acting appointments.

“ (2) An acting Chairman or acting Associate Commissioner appointed in the event of the office of Chairman or Associate Commissioner becoming vacant shall not continue in office after the expiration of twelve months after the occurrence of the vacancy in the office of Chairman or Associate Commissioner.

“ (3) An acting Chairman or acting Associate Commissioner has all the powers and shall perform all the duties of the Chairman or Associate Commissioner, as the case requires.

“ (4) If the Associate Commissioner or a part-time Commissioner is at any time appointed to be acting Chairman, his office shall, during the period of his appointment, be deemed, for the purposes of this section, to be vacant.

“ (5) In the event of the inability of a part-time Commissioner (whether on account of illness or otherwise) to attend meetings of the Commission, the Minister may appoint a person to be an acting Commissioner during that inability, and the person so appointed has all the powers and functions of a part-time Commissioner.

“ (6) The Minister may, at any time, terminate an appointment under this section.

“ (7) Subject to this section, a person appointed under this section holds office on such terms and conditions as the Minister determines.

“ (8) The validity of an act done by the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

“ (9) Where an appointment of a person to act in the place of the Secretary is in force, this Act applies as if references to the Secretary were references to that person.

“ 11A. (1) The Commission shall hold such meetings as are necessary Meetings. for the performance of its functions.

“(2) The Chairman may at any time convene a meeting of the Commission.

“(3) The Chairman shall, upon receipt of a request in writing signed by three Commissioners, convene a meeting of the Commission.

“(4) At a meeting of the Commission, a quorum is constituted by the Chairman and two other Commissioners.

“(5) The Chairman shall preside at all meetings of the Commission.

“(6) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

“(7) The Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(8) In this section, ‘Chairman’ includes an acting Chairman and ‘Commissioner’ includes an acting Commissioner.”.

Cities Commission
Advisory
Committee.

11. Section 14 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:—

“(1) There shall be a Cities Commission Advisory Committee to advise the Commission in connexion with its duties and powers under this Act.”; and

(b) by omitting from sub-section (2) the word “eleven” and substituting the word “thirteen”.

Additional
amendments.

12. The Principal Act is amended as set out in the Schedule.

Continuation
of certain
appoint-
ments.

13. (1) A person holding office as Commissioner or Deputy Commissioner under the Principal Act immediately before the commencement of this Act shall be deemed to have been appointed to the office of Commissioner under sub-section 6 (4), or to the office of Associate Commissioner under sub-section 7 (1), as the case may be, of the Principal Act as amended by this Act and holds office, subject to the provisions of the Principal Act as amended by this Act, for the remainder of the period of his appointment under the Principal Act.

(2) A person holding office immediately before the commencement of this Act by virtue of an appointment of the Prime Minister under sub-section 14 (4) of the Principal Act, shall be deemed to have been appointed by the Minister of State for Urban and Regional Development under sub-section 14 (4) of the Principal Act as amended by this Act to be a member of the Cities Commission Advisory Committee and holds office for the remainder of the term for which he was appointed under the Principal Act.

14. While the Cities Commission is constituted as provided by sub-section 6 (4) of the Principal Act as amended by this Act, the regulations in force under the Principal Act immediately before the commencement of this Act have effect, except to the extent to which they are inconsistent with the Principal Act as amended by this Act and subject to any regulations made under the Principal Act as amended by this Act, as if—

Continuation
of
regulations.

- (a) references to the Commissioner were references to the person holding the office of Commissioner under sub-section 6 (4) of the Principal Act as amended by this Act; and
 - (b) references to the Deputy Commissioner were references to the person holding the office of Associate Commissioner under sub-section 7 (1) of the Principal Act as amended by this Act.
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SCHEDULE

Section 12

ADDITIONAL AMENDMENTS

Provisions amended	Amendments
Section 10 (1)	Omit " the Commissioner or Deputy Commissioner ", substitute " the Chairman or the Associate Commissioner ".
Section 10 (2)	(a) Omit " the Commissioner or the Deputy Commissioner ", substitute " the Chairman or the Associate Commissioner ".
	(b) Omit " of Commissioner or Deputy Commissioner ", substitute " of Chairman or Associate Commissioner ".
Section 12	(a) Omit " Authority " (wherever occurring), substitute " Commission ".
	(b) Omit from sub-section (3) " the thirtieth day of June, One thousand nine hundred and seventy-three," substitute " 30th June, 1973,".
Section 13	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 14 (2), (3) and (4) ..	Omit " Commissioner ", substitute " Chairman ".
Section 14 (5)	Omit " Authority ", substitute " Commission ".
Section 14 (6) and (8)	Omit " Commissioner ", substitute " Chairman ".
Section 14 (9)	Omit the sub-section, substitute— " (9) The Associate Commissioner shall, if the Chairman so requests, attend a meeting of the Committee in place of the Chairman and, while so attending, shall be the chairman of the Committee."
Section 15	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 16 (1)	Omit " Authority ", substitute " Commission ".
Section 16 (2)	Omit " Commissioner and the Deputy ", substitute " Chairman and the Associate ".
Section 17	Omit " Commissioner, the Deputy Commissioner or an officer or employee of the Authority ", substitute " Chairman, the Associate Commissioner or an officer or employee of the Commission ".
Section 18	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 19	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 20	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 21	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 22	Omit " Authority ", substitute " Commission ".
Section 23	(a) Omit " Authority " (wherever occurring), substitute " Commission ".
	(b) Omit from sub-section (1) " thirtieth day of June ", substitute " 30th June ".
Section 24	(a) Omit " Authority " (wherever occurring), substitute " Commission ".
	(b) Omit from sub-section (3) " of this section ".
Section 25	Omit " Authority " (wherever occurring), substitute " Commission ".
Section 26 (1)	(a) Omit " of this Act ".
	(b) Omit " Authority ", substitute " Commission ".
Section 26 (2)	Omit " Commissioner ", substitute " Chairman ".
Section 26 (3)	Omit the sub-section, substitute— " (3) The Associate Commissioner shall, if the Chairman so requests, attend a meeting of a committee in place of the Chairman and, while so attending, shall be the chairman of the committee."