

Grants Commission Act 1973

No. 54 of 1973

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Grants Commission Act 1973

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AN ACT

To establish a Grants Commission to make Recommendations concerning the Granting of Financial Assistance to the States in certain circumstances.

[Assented to 18 June 1973]

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

- Short title.** 1. This Act may be cited as the *Grants Commission Act 1973*.
- Commencement.** 2. This Act shall come into operation on a date to be fixed by Proclamation.
- Repeal.** 3. The following Acts are repealed:—
Commonwealth Grants Commission Act 1933
Commonwealth Grants Commission Act 1951
Commonwealth Grants Commission Act 1957.
- Definitions.** 4. In this Act, unless the contrary intention appears—
“appropriate Minister”, in relation to a State, means such Minister of the Crown of that State as is determined by the Premier of that State by instrument in writing, and includes any Minister of the Crown for the time being acting for and on behalf of that Minister;

“approved regional organization” means an organization or body that is, under the regulations or an approval under section 17 that is in force, an approved regional organization for the purpose of this Act;

“Chairman” means the Chairman of the Commission;

“Commission” means the Grants Commission established by this Act;

“local governing body” means a local governing body established by or under a law of a State;

“member” means the Chairman or another member of the Commission.

5. References in this Act to the grant of special assistance to a State are references to the grant of financial assistance to a State for the purpose of making it possible for the State, by reasonable effort, to function at a standard not appreciably below the standards of other States.

Meaning of special assistance for a State.

6. References in this Act to the grant of assistance to a State for local government purposes are references to the grant of financial assistance to a State to enable—

Meaning of assistance to a State for local government purposes.

- (a) all the local governing bodies in a region to function, by reasonable effort, at a standard not appreciably below the standards of the local governing bodies in other regions;
- (b) a local governing body in a region to function, by reasonable effort, at a standard not appreciably below the standards of the other local governing bodies in that region or of the local governing bodies in other regions; or
- (c) an approved regional organization to function, by reasonable effort, at a standard not appreciably below the standards of other approved regional organizations or of the local governing bodies in other regions.

7. (1) For the purposes of this Act, there is hereby established a body by the name of the Grants Commission.

Establishment of Grants Commission.

(2) The Commission has such functions as are conferred on it by this Act.

8. (1) The Commission shall consist of a Chairman and not less than four or more than six other members.

Membership of Commission.

(2) The members shall be appointed by the Governor-General.

(3) A member holds office, subject to this Act, for such period, being not less than one year or more than five years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(4) The Chairman shall be appointed as a full-time member.

(5) A member other than the Chairman may be appointed as a full-time member or as a part-time member.

(6) The performance of the functions or the exercise of the powers of the Commission is not affected by reason only of—

(a) there being a vacancy in the office of Chairman; or

(b) the number of members falling below four for a period of not more than six months.

(7) Where the Chairman or another full-time member of the Commission was, immediately before his appointment, an officer of the Public Service of the Commonwealth (including an unattached officer)—

(a) he retains his existing and accruing rights;

(b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Public Service of the Commonwealth; and

(c) the *Officers' Rights Declaration Act 1928-1969* applies as if this Act and this section had been specified in the Schedule to that Act.

(8) For the purposes of sub-sections 4 (3A) and (4) of the *Superannuation Act 1922-1973*, the Chairman or any other full-time member shall be deemed to be required, by the terms of his employment, to give the whole of his time to the duties of his office.

Remuneration of members.

9. (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.

(2) A full-time member, other than the Chairman, and a part-time member shall be paid remuneration at such respective rates as the Parliament fixes, but, until 1st January, 1974, those rates shall be as prescribed.

(3) A member shall be paid such allowances (not including an annual allowance) as are prescribed.

Leave of absence.

10. The Minister may grant leave of absence to a full-time member upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation and retirement.

11. (1) A member may resign his office by writing under his hand delivered to the Governor-General.

(2) The Governor-General may, with the consent of the member, retire a member from office on the ground of invalidity.

Suspension of member.

12. (1) The Governor-General may suspend a member from office for misbehaviour or physical or mental incapacity.

(2) Where the Governor-General suspends a member from office, the Minister shall cause a statement of the grounds of the suspension to be laid before each House of the Parliament within seven sitting days of the House after the suspension.

(3) Where such a statement has been laid before a House of the Parliament, that House may, within fifteen sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the member ought to be restored to office and, if each House so passes such a resolution, the Governor-General shall terminate the suspension.

(4) If, at the expiration of fifteen sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the Governor-General may remove the member from office.

(5) A member shall not be removed from office except as provided by this section.

(6) Where a full-time member who is contributing to the Superannuation Fund under the *Superannuation Act 1922-1973* is removed from office under sub-section (4) by reason of physical or mental incapacity, he shall be deemed, for the purposes of that Act, to have been retired on the ground of invalidity on the day on which he was suspended from office.

(7) A member who is suspended from office under this section is not entitled to be paid any remuneration or allowances in respect of the period of his suspension unless he is restored to office.

13. (1) Where—

- (a) the Governor-General suspends the Chairman from office; or
- (b) the Chairman is, or is expected to be, absent from duty or from Australia,

Acting
members.

the Minister may appoint one of the other members to act as Chairman on such terms and conditions as the Minister determines, and may also appoint another person to be an acting member, during the suspension, absence or inability, as the case requires.

(2) Where—

- (a) the Governor-General suspends a member other than the Chairman from office;
- (b) a full-time member other than the Chairman is, or is expected to be, absent from duty or from Australia; or
- (c) a part-time member is, or is expected to be, unable (whether on account of illness or otherwise) to perform the functions of his office,

the Minister may appoint a person to be an acting member during the suspension, absence or inability, as the case requires.

(3) An acting member may be appointed as an acting full-time member or as an acting part-time member.

(4) An acting member has all the powers, and shall perform all the duties, of a member.

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

(6) A person appointed an acting member under sub-section (1) or (2) holds office on such terms and conditions as the Minister determines.

(7) Sections 10 and 11 apply in relation to an acting member appointed under this section in like manner as they apply in relation to a member.

(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.

Meetings.

14. (1) The Commission shall hold such meetings as are necessary for the performance of its functions.

(2) The meetings of the Commission shall be convened by the Chairman.

(3) Where the Minister requests the Chairman to do so, the Chairman shall forthwith convene a meeting of the Commission.

(4) At a meeting of the Commission, a quorum is constituted by a majority of the members holding office.

(5) The Chairman shall preside at all meetings of the Commission at which he is present.

(6) If the Chairman is not present at a meeting of the Commission, the members present shall elect one of their number to preside at the meeting.

(7) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

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

(9) In this section, a reference to the Chairman includes an acting Chairman.

**Duties of
Chairman.**

15. (1) It is the duty of the Chairman to ensure the efficient and orderly conduct of the business of the Commission and, for that purpose, he has, in addition to any other power, duty or function under this Act, power—

- (a) to determine the form of the records of meetings of the Commission to be kept in accordance with this Act and the procedure to be adopted at such a meeting;

- (b) to determine which members shall take part in a particular inquiry by the Commission; and
- (c) to direct and control travel by members in connexion with their duties.

(2) Where the services of officers or employees employed under the *Public Service Act 1922-1973* are made available to the Commission, the use of those services by members of the Commission is subject to the control of the Chairman.

16. The Commission shall inquire into and report to the Minister upon— Assistance to States.

- (a) any application made by a State for the grant, under section 96 of the Constitution, of special assistance to the State;
- (b) any matters, being matters relating to a grant of assistance made under that section to a State either before or after the commencement of this Act, that are referred to the Commission by the Minister; and
- (c) any matters, being matters relating to the making of a grant of assistance under that section to a State, that are referred to the Commission by the Minister.

17. The Minister for Urban and Regional Development may, after consultation with the appropriate Minister of the State concerned, approve an organization or body that represents, or acts on behalf of, the local governing bodies established in a region as an approved regional organization for the purposes of this Act or revoke or alter such an approval. Approved regional organisations.

18. (1) An approved regional organization may apply in accordance with this section for the grant, under section 96 of the Constitution, of financial assistance to a State for the purposes of the organization or of all or any of the local governing bodies that the organization is representing or on behalf of which the organization is acting. Applications by local governing bodies for financial assistance.

(2) An application under sub-section (1) shall be lodged with the Minister and a copy of the application shall be lodged with the appropriate Minister of the State concerned.

(3) The Minister may, in his discretion, after consultation with the appropriate Minister of the State concerned, refer to the Commission for inquiry and report.

- (a) an application lodged with him under sub-section (2);
- (b) a matter relating to a grant of financial assistance made to a State for local government purposes; and
- (c) a matter relating to the making of a grant of financial assistance to a State for local government purposes.

(4) Where the Minister refers an application under sub-section (1), or a matter referred to in paragraph (3) (b) or (c), to the Commission—

- (a) the Commission shall afford the Treasurer, the Minister for Urban and Regional Development and the appropriate Minister of the State concerned an opportunity to make submissions to it in relation to the application or matter, and shall consider any submission made to it by such a Minister; and
- (b) subject to paragraph (a), the Commission shall inquire into the application or matter in such manner as it sees fit and report to the Minister on the application or matter.

**Inquiries by
Commission.**

19. (1) Where the Commission is required by section 16 or 18 to inquire into and report upon an application or matter, the Chairman may, by writing under his hand, determine that the powers of the Commission under this Act may, for the purposes of the inquiry and report on that application or matter or on such part of that application or matter as is specified in the determination, be exercised by a Division of the Commission constituted, subject to sub-section (3), by such members as are specified in the determination.

(2) Where the Chairman has made a determination under sub-section (1), he may, by writing under his hand, at any time before the Division of the Commission specified in the determination has completed the inquiry and report, revoke the determination or, subject to sub-section (3), amend the determination in relation to the membership of the Division or in any other respect, and, where the membership of the Division of the Commission is changed, the Division as constituted after the change may complete the inquiry and report.

(3) A Division of the Commission exercising the powers of the Commission in respect of an application or matter referred to in section 16 shall consist of the Chairman and two other members.

(4) For the purposes of an inquiry and report on an application or matter, or on a part of an application or matter, specified in a determination under sub-section (1), the Commission shall be deemed to consist of the Division of the Commission specified in the determination.

(5) At a meeting of a Division of the Commission—

- (a) if the Chairman, being a member of the Division, is present—the Chairman shall preside; or
- (b) in any other case—a member of the Division appointed for the purpose by the Chairman shall preside.

(6) At a meeting of a Division of the Commission, a majority of the members constituting the Division form a quorum.

(7) The Chairman has, at a meeting of a Division of the Commission of which he is a member, a deliberative vote and, in the event of an equality of votes, also a casting vote.

(8) A meeting of a Division of the Commission may be held notwithstanding that a meeting of another Division of the Commission is being held at the same time.

20. (1) Where an application or matter is referred to the Commission under this Act, the Commission may, for the purpose of inquiring into the application or matter, take evidence from persons who appear as witnesses before the Commission. Commission may take evidence.

(2) Sub-section (1) does not prevent the Commission from inquiring into an application or matter in such other manner as it sees fit.

(3) The Chairman may, by writing under his hand, determine that, for the purposes of the inquiry and report on an application or matter that has been referred to the Commission under section 18 or on such part of such an application or matter as is specified in the determination, the powers of the Commission to take evidence may be exercised by such member as is, or members as are, specified in the determination.

(4) Where the Chairman has made a determination under sub-section (3), he may, by writing under his hand, at any time before the taking of evidence has been completed by the member or members specified in the determination, revoke the determination, or amend the determination in relation to the member who is, or the members who are, to exercise the powers of the Commission or in any other respect, and, where he changes the member who is, or the members who are, to exercise those powers, the taking of evidence may be completed by the member or members provided for in the determination as so amended.

(5) In this section, a reference to the Commission includes a reference to a Division of the Commission.

21. The evidence given by a witness appearing before the Commission shall be given on oath or affirmation. Evidence to be on oath.

22. A member may administer an oath or affirmation to a person appearing as a witness before the Commission. Administration of oath.

23. (1) Where the Commission takes evidence in the course of inquiry into a matter, a person appearing as a witness before the Commission shall not, without lawful excuse, refuse or fail to answer a question, being a question relevant to the inquiry, that is put to him by the Commission. Penalty for refusing to give evidence.

Penalty: One thousand dollars.

(2) For the purpose of sub-section (1), a question shall be deemed to have been put to a witness by the Commission—

- (a) if it is put by the member who is, or any of the members who are, exercising the powers of the Commission to take evidence in relation to the matter; or

- (b) if, with the approval of that member, or of a majority of those members, it is put by a person authorized by that member or a majority of those members to appear in connexion with the taking of the evidence.

Giving false testimony.

24. A person shall not, in the course of giving evidence before the member who is, or the members who are, exercising the powers of the Commission to take evidence in relation to a matter, make a statement that he knows to be false or misleading in a material particular.

Penalty: Imprisonment for five years.

Reports to be laid before Parliament.

25. (1) The Minister may cause a report made by the Commission under section 16 or 18 to be laid before each House of the Parliament.

(2) Before a proposed law relating to the subject of a report made by the Commission under section 16 or 18 is introduced into the Parliament, the Minister shall cause the report to be laid before each House of the Parliament.

(3) The Minister may cause to be attached to a report of the Commission that is laid before the Houses of the Parliament under this section such statement, recommendation or comment by him as he thinks proper.

Savings.

26. (1) In this section—

“ former Commission ” means the Commonwealth Grants Commission constituted under the repealed Acts;

“ repealed Acts ” means the Acts repealed by sub-section 3 (1).

(2) The person holding office immediately before the commencement of this Act as Chairman of the former Commission shall be deemed to have been appointed to the office of Chairman of the Commission under sub-section 8 (1) of this Act, and holds office as a full-time member of the Commission, subject to the provisions of this Act, for the remainder of the period of his appointment under the repealed Acts.

(3) A person holding office immediately before the commencement of this Act as a member of the former Commission, not being the person holding the office of Chairman of the former Commission, shall be deemed to have been appointed to an office of member of the Commission under sub-section 8 (1) of this Act and holds office as a part-time member of the Commission, subject to the provisions of this Act, for the remainder of the period of his appointment under the repealed Acts.

(4) Where the former Commission had not, before the commencement of this Act, reported to the Governor-General upon an application or matter upon which it was, under the repealed Acts, required so to report, the Commission shall inquire into, or inquire further into, the application or matter to the extent, if any, to which it is necessary for the Commission

to do so, and shall report to the Minister upon the application or matter in accordance with this Act as if it were required to report upon the application or matter under section 16 of this Act, and this Act applies in relation to the application or matter as if it were an application or matter to which that section applies.

(5) For the purpose of reporting on an application or matter in accordance with sub-section (4), the Commission may have regard to any evidence taken, before the commencement of this Act, by the former Commission in relation to the application or matter.

27. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for— Regulations.

(a) prescribing—

(i) a local governing body that is the only local governing body established in a region; or

(ii) if he is satisfied that there are special reasons for doing so—any other local governing body,

as an approved regional organization for the purpose of this Act;

(b) regulating the practice and procedure of the Commission; and

(c) prescribing the form in which applications for financial assistance shall be made.

(2) Before making regulations under this section prescribing an organization or body as an approved regional organization for the purpose of this Act, the Governor-General shall take into consideration any recommendations with respect to the organizations or bodies to be so prescribed made to the Minister by the Minister for Urban and Regional Development after consultation with the appropriate Minister of the State concerned, and regulations shall not be made prescribing an organization or body other than an organization or body so recommended.
