

SOUTH AUSTRALIA

SOUTH AUSTRALIAN LOCAL GOVERNMENT GRANTS COMMISSION ACT, 1976

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South Australian Local Government Grants Commission Act, 1976
No. 38 of 1976 [Assented to 21 October 1976]¹

¹ Came into operation 19 May 1977: *Gaz.* 19 May 1977, p. 1415.

An Act to establish a South Australian Local Government Grants Commission, to provide for the exercise and performance by it of its powers and functions, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *South Australian Local Government Grants Commission Act, 1976*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Division of Act

3. This Act is divided as follows:—

PART I—PRELIMINARY
PART II—THE ACCOUNT
PART III—THE COMMISSION
PART IV—COUNCILS
PART V—MISCELLANEOUS

Interpretation

4. In this Act—

"the Account" means the South Australian Local Government Grants Commission Account established pursuant to section 5 of this Act:

"area" in relation to a Council means a municipality or district, as the case may be, of that Council:

"the Chairman" means the chairman of the Commission and includes a deputy of the Chairman while acting as such:

"the Commission" means the South Australian Local Government Grants Commission established under section 9 of this Act:

"Council" means a council as defined for the purpose of the *Local Government Act, 1934-1976*, and includes any person or body (not being a person or body exercising any powers within the area of a council as defined for the purposes of that Act) prescribed as a Council for the purposes of this Act:

"financial year" means a year ending on the thirtieth day of June:

"Member" means a member of the Commission and includes the Chairman and a deputy of a Member while acting as such:

3.

"special grant" means a grant payable from the Account as a special grant.

PART II

THE ACCOUNT

The Account

5. (1) There shall be established at the Treasury an Account to be known as the "South Australian Local Government Grants Commission Account".

(2) To the credit of the Account shall be paid in each financial year such moneys received or receivable from the Government of the Commonwealth for the purposes of this Act and such moneys as are appropriated by Parliament for the purposes of this Act.

(3) There shall be payable from the Account such moneys as are pursuant to this Act authorized to be so paid.

Available moneys

6. The Minister shall, after consultation with the Commission, as soon as practicable after the commencement of each financial year by notice in the *Gazette* specify—

- (a) the total amount that is available from the Account for payment of all grants pursuant to this Act;
- (b) the amount that is available from the Account for the payment of *per capita* grants pursuant to this Act;
- (c) the amount that is available from the Account for the payment of special grants pursuant to this Act.

Payment of *per capita* grants

7. (1) As soon as practicable after the publication of a notice referred to in section 6 of this Act, the Treasurer shall from the Account pay to each Council in the State a sum ascertained by reference to the following formula:—

$$G = \frac{A \times PC}{TP}$$

where—

- G = the amount to be paid
- A = the amount specified under section 6 of this Act that is available from the Account for the payment of *per capita* grants pursuant to this Act.
- PC = a number adopted by the Commission as an estimate of the population of the area of the relevant Council on the thirtieth day of June, immediately preceding the financial year in respect of which the payment is to be made.
- TP = a number adopted by the Commission as an estimate of the total population of the areas of all the Councils in the State on that thirtieth day of June.

5.

(2) In this section "area" in relation to a person or body referred to in the definition of "Council" in section 4 of this Act means an area prescribed as being the area in relation to that person or body.

Payment of special grants

8. As soon as practicable after the Minister has, pursuant to section 19 of this Act, approved a recommendation in relation to a special grant to a Council the Treasurer shall from the Account pay to the Council the amount of that grant.

PART III

THE COMMISSION

Establishment of Commission, etc.

9. (1) There is hereby established a commission under the name of the "South Australian Local Government Grants Commission".

(2) The Commission shall be constituted of three Members appointed by the Governor of whom—

(a) one shall be a person nominated by the Minister and who shall be appointed Chairman of the Commission;

(b) one shall be a person nominated by the Minister;

and

(c) one shall be a person nominated by the Minister after consultation with the Local Government Association of South Australia, who in the opinion of the Minister is capable of representing the interests of local government in this State.

Conditions of membership of the Commission

10. (1) Subject to this section, a Member of the Commission shall hold office for a term of five years, except in the case of the Members of the Commission first appointed after the commencement of this Act who shall hold office for such terms (not exceeding 5 years) as are respectively specified in the instruments of their appointment.

(2) Upon the expiration of his term of office a Member shall, subject to this Act, be eligible for re-appointment.

(3) A person appointed to fill a casual vacancy before the expiration of the term of his predecessor shall hold office for the balance of the term of his predecessor.

(4) The Governor may remove a Member from office for—

(a) physical or mental incapacity;

(b) dishonest or dishonourable conduct;

or

(c) neglect of duty.

(5) A Member shall be deemed to be guilty of neglect of duty when he has, without leave of the Commission, been absent for three consecutive meetings of the Commission.

(6) The office of a member of the Commission shall become vacant if—

(a) he dies;

7.

- (b) his term of office expires;
- (c) he resigns by written notice addressed to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (4) of this section.

Deputies

11. (1) The Governor may on the recommendation of the Minister appoint a person to be the deputy of a Member and a deputy so appointed may act in the place of the Member in relation to whom he was so appointed in the case of any absence or inability to act of the Member.

(2) The Governor may at any time on the recommendation of the Minister revoke any appointment made under subsection (1) of this section.

(3) An act of a deputy shall not be questioned in any proceedings on the ground that the occasion for his acting had not arisen or had ceased.

Remuneration

12. The Chairman, deputy of the Chairman and the Members and deputies of the Members shall be paid respectively such fees and allowances (if any) as the Governor may from time to time approve.

Quorum, etc.

13. (1) A decision carried by a majority of votes of the Members of the Commission present at a meeting of the Commission shall be a decision of the Commission.

(2) A quorum of the Commission shall consist of the Chairman and one other Member.

(3) The Chairman shall in the event of an equality of votes have a second or casting vote.

(4) Subject to this Act, the business of the Commission shall be conducted in such manner as the Commission shall determine.

Validation of acts of Commission

14. An act or decision of the Commission shall not be invalid by reason only of any vacancy in the office of a Member or on the ground of any defect in the appointment of a Member.

Officers

15. There shall be appointed under and subject to the *Public Service Act, 1967-1975*, such officers as are necessary for the purposes of this Act.

Functions of Commission

16. (1) The functions of the Commission are to recommend to the Minister—

(a) the Councils in respect of which he should approve special grants;

and

8.

(b) the amounts of those grants,

and such other functions as are conferred on it by this Act.

(2) The Commission shall have power to do all things necessary or incidental to the performance of its functions.

Inquiries and investigations

17. (1) In the exercise of its functions the Commission may hold such inquiries and make such investigations as it considers necessary.

(2) For the purpose of an inquiry the Commission shall have and may exercise the powers of a commission as defined in the *Royal Commissions Act, 1917*, and that Act shall apply and have effect in all respects, as if—

(a) the Commission were a commission as so defined;

and

(b) the subject matter of the inquiry were set out in a commission of inquiry issued by the Governor under his hand and the public seal of the State.

(3) Subsection (2) of this section does not prevent the Commission from inquiring into any matter in such other manner as it sees fit.

Moneys available to the Commission

18. (1) As soon as practicable after the commencement of each financial year the Minister shall inform the Commission of the amount of moneys he has specified pursuant to paragraph (c) of section 6 of this Act in relation to that financial year.

(2) In making a recommendation to the Minister under section 16 of this Act the Commission shall ensure—

(a) that the total of the amount of special grants recommended in any financial year is equal to the amount of moneys specified pursuant to paragraph (c) of section 6 of this Act in relation to that year;

and

(b) that as far as is possible the amount of the grant will be sufficient to enable the Council by reasonable effort to function at a standard not appreciably below that of other Councils that are in the opinion of the Commission similar to the first mentioned Council in relation to such factors as the Commission considers relevant.

(3) Without derogating from the generality of subsection (2) of this section the Commission may in relation to a particular Council take into account any special needs or disabilities of that Council.

(4) In the exercise of its powers under this section the Commission—

(a) may recommend special grants in different amounts for different Councils;

9.

(b) shall not recommend that the proposed recipient of any special grant be obliged to apply the grant for any specific purpose;

and

(c) need not recommend any special grant to a Council if it considers that, in all the circumstances, such a grant should not be recommended.

(5) The Commission shall forthwith after completing its recommendations forward them to the Minister.

Consideration of report

19. (1) On receipt of the recommendations referred to in subsection (5) of section 18 of this Act, the Minister may—

(a) approve the recommendations;

or

(b) refer those recommendations back to the Commission with a request to the Commission to consider such matters and take such other steps as are specified in the direction either in relation to the whole or any part of the recommendations.

(2) A request under paragraph (b) of subsection (1) of this section shall contain a statement of the reasons for the request.

(3) The Commission shall after considering the request under paragraph (b) of subsection (1) of this section reconsider its recommendations in the light of that request and make such amendments, if any, to its recommendations as to it seem necessary or desirable.

(4) The Commission shall thereupon resubmit its recommendations with or without amendment to the Minister and the Minister shall thereupon approve those recommendations.

10.

PART IV

COUNCILS

Information to be supplied to Commission

20. (1) The Commission shall in respect of each financial year by notice in writing to each Council require that Council within the time specified in the notice, to provide the Commission with such information as to the affairs of the Council in such form as is specified in the notice.

(2) The Commission may from time to time by notice in writing require a Council within the time specified in the notice to provide the Commission with such further or other information as to the affairs of the Council in such form as is specified in the notice.

(3) Where a Council fails to comply with a requirement under subsection (1) or subsection (2) of this section in relation to a financial year the Commission shall not be bound to make a recommendation as to the payment of a special grant to that Council.

11.

PART V

MISCELLANEOUS

Financial report

21. The Commission shall consider and report to the Minister on any matter relating to the financial aspects of Councils which is referred to it by the Minister.

Reports

22. (1) The Commission shall as soon as practicable after the end of each financial year submit a report to the Minister on the activities of the Commission in respect of that financial year.

(2) The Minister shall as soon as practicable after the receipt of a report referred to in subsection (1) of this section cause copies of that report to be laid before each House of Parliament.

Regulations

23. The Governor may make such regulations as are necessary or expedient for the purposes of this Act.