

**NORTHERN TERRITORY OF AUSTRALIA**

**LOCAL GOVERNMENT GRANTS COMMISSION ACT**

As in force at 1 July 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2008

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## LOCAL GOVERNMENT GRANTS COMMISSION ACT

**An Act to establish a Local Government Grants Commission to make recommendations concerning the distribution of financial assistance to local government bodies and for related purposes**

### **Part I Preliminary**

#### **1 Short title**

This Act may be cited as the *Local Government Grants Commission Act*.

#### **2 Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3 Definitions**

In this Act, unless the contrary intention appears:

**Chairman** means the Chairman of the Commission appointed under section 6 and includes a deputy of the Chairman appointed under section 9(1) when acting as Chairman.

**Commission** means the Northern Territory Grants Commission established by this Act.

**committee** means a committee of the Commission established under section 14.

**local governing body** means a council constituted under the *Local Government Act* or a body declared by the Minister under section 19 to be a local governing body.

**member** means a member of the Commission.

**municipal council** has the same meaning as in the *Local Government Act*.

**report** means a report of the Commission under section 16.

## **Part II                    Establishment of Local Government Grants Commission**

### **4                    Establishment of Commission**

- (1) There is established by this Act a commission to be known as the Northern Territory Grants Commission.
- (2) The Commission:
  - (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall assume that it was duly affixed.

### **5                    Composition of Commission and appointment of members**

- (1) The Commission shall consist of 4 members, of whom:
  - (a) subject to subsection (2), 3 shall be appointed by the Minister; and
  - (b) one shall be the Chief Executive Officer of the Agency, within the meaning of the *Public Sector Employment and Management Act*, primarily responsible to the Minister for the administration of this Act, or his or her nominee.
- (2) Of the members appointed under subsection (1)(a):
  - (a) one shall be a person who, in the opinion of the Minister, is capable of representing the interests of municipal councils; and
  - (b) one shall be a person who, in the opinion of the Minister, is capable of representing the interests of shire councils.
- (3) The Minister shall, before making an appointment under subsection (2), request the Local Government Association of the Northern Territory to nominate 3 persons from whom may be appointed a member to represent the interests of municipal councils

and 3 other persons from whom may be appointed a member to represent the interests of shire councils.

- (4) Nominations under subsection (3) shall be made to the Minister on or before a date specified by him.

## **6 Chairman**

- (1) The Minister shall appoint one member appointed under section 5(1)(a) to be the Chairman.
- (2) The Chairman holds office for 5 years or such lesser term as is specified by the Minister but is eligible for re-appointment.

## **7 Period of appointment of members**

A member appointed under section 5(1)(a) holds office for 5 years or such lesser term as is specified by the Minister but is eligible for re-appointment.

## **8 Termination of appointment of member**

- (1) The Minister may terminate the appointment of the Chairman or a member appointed under section 5(1)(a):
- (a) for misbehaviour or incompetence; or
  - (b) if he becomes incapable of performing his duties and the Minister is of the opinion that it is reasonable in the circumstances to terminate his appointment.
- (2) The Minister shall terminate the appointment of the Chairman or a member appointed under section 5(1)(a) where he:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupts or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (b) is convicted of an offence involving dishonesty;
  - (c) absents himself without leave granted by the Commission from 3 consecutive meetings of the Commission; or
  - (d) becomes of unsound mind.
- (3) The Chairman or a member appointed under section 5(1)(a) may resign his office by writing signed by him and delivered to the Minister.

**9 Appointment of deputy members**

- (1) The Minister may appoint a person to be a deputy of the Chairman or of a member appointed under section 5(1)(a).
- (2) A person appointed as a deputy under subsection (1) shall have qualifications and experience similar to that of the Chairman or the member for whom he is appointed as a deputy.
- (4) A deputy may exercise the powers and perform the functions and duties of the Chairman or the member, as the case may be, for whom he is appointed as a deputy.
- (5) An act done or omitted to be done by a deputy shall be deemed to have been done or omitted to have been done by the Chairman or the member, as the case may be, for whom he is appointed as a deputy.

**10 Validity of action of Commission**

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

**11 Proceedings of Commission**

- (1) The Commission shall meet as often as is necessary to carry out its functions and shall meet when required to do so by the Minister.
- (2) The Commission shall have the power to devise such rules as it considers necessary to allow it to organize its affairs in an efficient manner.
- (3) The Chairman or a deputy of the Chairman shall preside at all meetings of the Commission.
- (4) At a meeting of the Commission the Chairman and 2 members constitute a quorum.
- (5) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the Chairman and members present.
- (6) The Chairman at a meeting of the Commission shall have a deliberative vote and in the event of an equality of votes shall also have a casting vote.

## **Part III                      Functions and powers of Commission**

### **12                      Functions of Commission**

- (1) The functions of the Commission are to make recommendations to the Minister in a report in respect of:
  - (a) the amounts of money to be allocated to local governing bodies from the money provided to the Territory under the *Local Government (Financial Assistance) Act 1995 (Cth)*; and
  - (b) such other matters relating to the finances of local governing bodies as the Minister from time to time, refers to the Commission.
- (2) In making a recommendation to the Minister under subsection (1)(a), the Commission shall ensure that:
  - (a) the total amount of all money recommended to be allocated in a financial year is equal to the amount of money provided to the Territory under the *Local Government (Financial Assistance) Act 1995 (Cth)* for that year; and
  - (b) as far as possible, the amount of money recommended to be allocated to a local governing body is sufficient to enable it, by reasonable effort, to function at a standard not appreciably below that of other local governing bodies which are, in the opinion of the Commission, similar to that body in relation to those matters the Commission considers relevant.
- (3) In respect of money which is not provided to the Territory under the *Local Government (Financial Assistance) Act 1995 (Cth)*, the Commission in making a recommendation to the Minister under subsection (1) in respect of a local governing body may take into account the special needs or disabilities of that body.

### **13                      Powers of Commission**

- (1) The Commission has power to do all things necessary or convenient to be done in connection with or incidental to the performance of its functions.
- (2) Without limiting the generality of subsection (1), but subject to subsection (3) and to section 12(1), the Commission has the power to:
  - (a) conduct such inquiries and carry out such investigations as it considers necessary in order to perform its functions;

- (b) recommend special grants to local governing bodies; and
  - (c) recommend that a proposed recipient of a special grant be not obliged to apply that grant for any specific purpose.
- (3) Notwithstanding subsection (2), the Commission shall not in respect of a matter referred to it under section 12(1)(b) make a recommendation to the Minister which is inconsistent with a principle, if any, which the Minister specifies in referring the matter to the Commission.

#### **14 Committee of Commission**

- (1) The Chairman may, by notice in writing, establish a committee of the Commission.
- (2) A committee shall consist of such member or members as the Chairman appoints.
- (3) Subject to such limitations, if any, as the Chairman may determine, a committee may exercise such of the powers of the Commission to hold an inquiry or to carry out an investigation as the Chairman determines and specifies in the notice under subsection (1) establishing the committee.
- (4) Nothing in this section shall prevent:
- (a) the Chairman from appointing more than one committee at any one time; or
  - (b) where more than one committee is appointed at any one time, a committee from exercising its powers under this Act.
- (5) An inquiry held, investigation carried out or other thing done by a committee under this section shall be deemed to be an inquiry held, investigation carried out or thing done by the Commission.

#### **15 Conduct of inquiry**

Where under this Act the Commission or a committee holds an inquiry, the Inquiries Act (other than the requirement to report under that Act) shall apply to and in relation to that inquiry as if:

- (a) the Commission or committee were a Board appointed; and
- (b) the subject of the inquiry were a matter specified in an instrument of appointment of a Board,

under section 4 of that Act.



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**Part IV                      Miscellaneous****16                      Report of Commission**

- (1) The Commission shall, as soon as practicable after 31 August but not later than 30 September in each year, forward to the Minister a report on the activities of the Commission during the year ended on that first-mentioned date.
- (2) Without limiting the generality of subsection (1), a report of the Commission under that subsection shall contain:
  - (a) all recommendations of the Commission under section 12 made in the year to which the report relates;
  - (b) a summary of the methodology used and the amounts last recommended by the Commission to be allocated; and
  - (c) a summary of all inquiries held or investigations carried out by the Commission during the year.

**17                      Consideration of recommendations of Commission**

- (1) The Minister on receipt of a report may:
  - (a) accept the recommendations contained in the report; or
  - (b) return the report to the Commission with a request that it reconsider a recommendation in relation to a particular matter.
- (2) Where under subsection (1)(b) the Minister returns a report to the Commission with a request that it reconsider a recommendation, the Commission shall reconsider the recommendation and take into account any matter referred to by the Minister and shall forward the report to the Minister with such further recommendation as it thinks fit.
- (3) The Minister shall, on receipt of a recommendation of the Commission under subsection (2), where the recommendation relates to money provided to the Territory under the *Local Government (Financial Assistance) Act 1995* (Cth), approve that recommendation.
- (4) The Minister shall within 6 sitting days of the Legislative Assembly after:
  - (a) accepting the recommendations in a report in accordance with section 17(1)(a); or

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- (b) receiving a report under section 17(2),  
table that report in the Legislative Assembly.

### **18 Commission may require information**

- (1) The Commission shall in respect of each financial year, by notice in writing to each local governing body, require each body, within the time specified in the notice, to provide the Commission with such information as to its affairs, in such form, as the Commission specifies in the notice.
- (2) The Commission may, by notice in writing, require a local governing body to provide the Commission within the time specified in the notice, such further or other information in relation to its affairs, in such form, as the Commission specifies in the notice.
- (3) Where a local governing body fails to comply with a notice under subsection (1) or (2), the Commission is not bound, in respect of the financial year to which the notice relates, to make a recommendation in relation to the payment of a special grant to that body.

### **19 Declaration of local governing body**

The Minister may, for the purposes of this Act, by notice in the *Gazette* declare a body to be a local governing body.

### **20 Notification of amount of funds**

The Minister shall, as soon as practicable in each financial year, notify the Commission of the total amounts of money proposed to be made available for allocation to local governing bodies in that financial year, for the purpose of enabling the Commission to perform its functions under this Act.

### **21 Audit, &c., provisions**

- (1) Section 10 of the *Financial Management Act* applies to and in relation to the Commission as if its activities were a Government Business Division within the meaning of that Act.
- (2) For the purposes of the application of section 10 of the *Financial Management Act* as referred to in subsection (1), the Commission shall, in writing, nominate an employee, within the meaning of the *Public Sector Employment and Management Act*, to be its Accountable Officer.

**22        Staff**

- (1) Subject to subsection (2), the Commission may employ, on such terms and conditions as it thinks fit, such persons as it thinks necessary for the purposes of the Commission.
- (2) The Commission may, by agreement with the Public Service Commissioner, employ an employee within the meaning of the *Public Sector Employment and Management Act* to assist the Commission in the carrying out of its functions.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Local Government Grants Commission Act 1986 (Act No. 22, 1986)***

Assent date	30 June 1986
Commenced	1 July 1986 ( <i>Gaz S37</i> , 1 July 1986)

***Local Government Grants Commission Amendment Act 1988 (Act No. 56, 1988)***

Assent date	17 November 1988
Commenced	1 December 1988 (s 2)

***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993 (Act No. 11, 1993)</i> and <i>Gaz S53</i> , 29 June 1993)

***Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)***

Assent date	31 December 1993
Commenced	1 June 1994 (s 2, s 2 <i>Local Government Act 1993 (Act No. 83, 1993)</i> and <i>Gaz S35</i> , 20 May 1994)

***Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)***

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 <i>Financial Management 1995 (Act No. 4, 1995)</i> and <i>Gaz S13</i> , 31 March 1995)

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date	8 March 2007
Commenced	8 March 2007

***Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)***

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

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**LIST OF AMENDMENTS**

s 3	amd No. 84, 1993, s 4; No. 28, 2008, s 3
s 5	sub No. 56, 1988, s 4
	amd No. 28, 1993, s 3; No. 84, 1993, s 4; No. 28, 2008, s 3
s 9	amd No. 56, 1988, s 5; No. 28, 1993, s 3
s 11	amd No. 56, 1988, s 6
s 12	amd No. 4, 2007, s 7
s 17	amd No. 4, 2007, s 7
s 21	sub No. 5, 1995, s 19
s 22	amd No. 28, 1993, s 3