

NATIONAL CAPITAL DEVELOPMENT COMMISSION.

No. 42 of 1957.

An Act to establish a Commission for the Development of the City of Canberra as the National Capital of the Commonwealth, and for related purposes.

[Assented to 12th September, 1957.]

[Date of commencement, 10th October, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *National Capital Development Commission Act 1957.* Short title.

2. In this Act, "the Commission" means the National Capital Development Commission. Definition.

3.—(1.) For the purposes of this Act there shall be a National Capital Development Commission. National Capital Development Commission.

(2.) The Commission shall be constituted by a Commissioner, who shall be appointed by the Governor-General.

(3.) The Commission—

- (a) is a body corporate, with perpetual succession;
- (b) shall have an official seal; and
- (c) is capable of acquiring, holding and disposing of real and personal property and of suing and being sued.

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

Associate
Commissioners.

4.—(1.) The Commissioner shall be assisted by two Associate Commissioners, each of whom shall be appointed by the Governor-General.

(2.) An Associate Commissioner shall give such advice and assistance to the Commissioner as the Commissioner requires and shall perform such duties as the Commissioner directs.

Period of
appointment of
Commissioner
and Associate
Commissioners.

5. The Commissioner or an Associate Commissioner shall be appointed for such period, not exceeding seven years, as the Governor-General specifies in the instrument of appointment but is eligible for re-appointment.

Remuneration
of
Commissioner
and Associate
Commissioners.

6. The Commissioner and each Associate Commissioner shall be paid such remuneration and allowances as the Governor-General determines.

Leave of
absence.

7. The Minister may grant leave of absence to the Commissioner or an Associate Commissioner on such terms and conditions as to remuneration or otherwise as the Minister determines.

Termination of
appointment.

8.—(1.) The Governor-General may terminate the appointment of the Commissioner or an Associate Commissioner for inability, inefficiency or misbehaviour.

(2.) If the Commissioner or an Associate Commissioner—

(a) engages in paid employment outside the duties of his office;

(b) 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;

(c) resigns his office by writing under his hand addressed to the Governor-General;

(d) is absent from duty, except on leave of absence granted by the Minister, for fourteen consecutive days or for twenty-eight days in any twelve months; or

(e) in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons—

(i) becomes concerned or interested in a contract entered into by or on behalf of the Commission; or

- (ii) participates or claims to participate in the profit of any such contract or in any benefit or emolument arising from any such contract,

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

9.—(1.) In the event of the office of Commissioner becoming vacant at any time, or in the event of the illness or absence of the Commissioner, the Governor-General may appoint a person to be Acting Commissioner.

(2.) An Acting Commissioner appointed in the event of the office of Commissioner becoming vacant holds office during the pleasure of the Governor-General but shall not in any event continue in office after the expiration of twelve months from the occurrence of the vacancy in the office of Commissioner.

(3.) An Acting Commissioner appointed in the event of the illness or absence of the Commissioner holds office during that illness or absence but his appointment may at any time be terminated by the Governor-General.

(4.) An Acting Commissioner has all the powers and shall perform all the duties of the Commissioner.

(5.) An Acting Commissioner shall be paid salary and allowances at such rates (if any) as the Governor-General determines.

10.—(1.) The Commission may, either generally or in relation to a matter or class of matters, by writing under its seal, delegate to an Associate Commissioner or an officer any of its powers under this Act (except this power of delegation).

(2.) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and no delegation prevents the exercise of any power by the Commission.

11.—(1.) The functions of the Commission are to undertake and carry out the planning, development and construction of the City of Canberra as the National Capital of the Commonwealth.

(2.) For that purpose, the Commission is empowered to provide, or arrange for the provision of, within the Australian Capital Territory, buildings, roads, bridges, works for the supply of water or electricity, sewerage or drainage works and other matters and things for, or incidental to, that purpose.

(3.) The Commission has power to do all things necessary or convenient to be done for or in connexion with, or incidental to, the performance of its functions and the exercise of its powers.

(4.) The functions of the Commission do not include the undertaking or carrying out (except as incidental to its other functions and with lawful authority) of development or construction upon land owned, or held under lease, by a person other than the Commonwealth.

(5.) The Commission shall not depart from, or do anything inconsistent with, the plan of lay-out of the City of Canberra and its environs published in the *Gazette* on the nineteenth day of November, One thousand nine hundred and twenty-five, as modified or varied, whether before or after the commencement of this Act, in accordance with law.

**Determination
of policy.**

12.—(1.) The Commission shall keep the Minister informed of the decisions of the Commission with respect to matters of policy in relation to the performance of its functions.

(2.) In the event of a difference of opinion between the Minister and the Commission as to the policy which should be followed by the Commission in relation to any matter, the Minister and the Commission shall endeavour to reach agreement.

(3.) If the Minister and the Commission are unable to reach agreement, the Governor-General may, by order, determine the policy to be adopted by the Commission in relation to the matter.

(4.) The Commission shall thereupon give effect to the policy determined by the order and shall, if the order so requires, continue to give effect to that policy while the order remains in operation.

**Transfer of
matters to
Commission.**

13.—(1.) The Minister of State for the Interior or the Minister of State for Works may arrange, in consultation with the Commission, for the undertaking by the Commission of any matter, being a matter within the functions of the Commission that is, at the date of commencement of this Act, being dealt with by the Department of the Interior or the Department of Works, as the case may be, and, until such a matter is undertaken by the Commission in accordance with such an arrangement—

(a) the Commission is not required to undertake that matter;
and

(b) the Department of the Interior or the Department of Works, as the case may be, may continue to deal with that matter.

(2.) The Minister administering a Department referred to in the last preceding sub-section may transfer to the Commission the ownership of, or may make available to the Commission, any vehicles, machinery, plant or other assets owned by the Commonwealth and used by that Department, being assets required by the Commission for the performance of its functions.

(3.) Where the Commonwealth, or a person acting on behalf of the Commonwealth, is a party to a contract with respect to a matter within the functions of the Commission, the Minister may, by instrument in writing, direct that the Commission shall be substituted for the Commonwealth or that person as a party to that contract and thereupon the Commission shall be deemed to be so substituted.

14.—(1.) The Minister may, by instrument under his hand, place under the control of the Commission any land in the Australian Capital Territory that is the property of the Commonwealth and is not comprised in a lease granted to any person.

Placing of
land under
control of
Commission.

(2.) In relation to any land under the control of the Commission by reason of the last preceding sub-section—

(a) the Commission is, subject to this section, empowered to manage the land on behalf of the Commonwealth and may—

(i) authorize the entry of persons on the land; and

(ii) carry out such works on, and make such use of, the land in the performance of its functions as it thinks fit; and

(b) the Commission shall not grant a lease of, or licence to occupy, the land, but such a lease or licence on behalf of the Commonwealth shall not be granted without the consent of the Commission.

(3.) When the management or use of any land that has been placed under the control of the Commission is no longer required by the Commission, the Commission shall, by instrument under its seal, surrender the control of the land to the Commonwealth.

(4.) The Minister may revoke, in whole or in part, an instrument under sub-section (1.) of this section.

15.—(1.) The Commission may appoint such officers or engage such employees as it thinks necessary for the purposes of this Act.

Officers and
employees.

(2.) The terms and conditions of service or employment of persons so appointed or engaged are such as are, subject to the approval of the Public Service Board, determined by the Commission.

(3.) The Commission may arrange with the Permanent Head of any Department of State of the Commonwealth for the services of officers or employees of the Department to be made available to the Commission.

Application of
Commonwealth
Employees'
Compensation
Act.

16. The *Commonwealth Employees' Compensation Act* 1930–1956 applies to the Commissioner and the Associate Commissioners and to the officers and employees of the Commission as if they were employees within the meaning of that Act and as if—

- (a) references in that Act to the Commonwealth were references to the Commission; and
- (b) the Commissioner and the Associate Commissioners were employed by the Commission.

Rights of
public servants
appointed or
employed
under this Act.

17. Where the Commissioner, an Associate Commissioner or an officer or employee of the Commission was, immediately before his appointment or engagement, an officer of the Public Service of the Commonwealth—

- (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* 1928–1953 applies as if this Act and this section had been specified in the Schedule to that Act.

Moneys
payable to
Commission.

18.—(1.) There are payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission.

(2.) Moneys payable to the Commission under this section shall be paid in such amounts and at such times as the Treasurer determines.

Commission to
have bank
accounts.

19. The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia or with such other bank or banks as the Treasurer approves and shall pay all moneys received by it into an account so opened.

Application of
moneys of
Commission.

20. The moneys of the Commission shall be applied only—

- (a) in payment or discharge of the costs and expenses of the Commission under this Act; and
- (b) in payment of the remuneration and allowances of the Commissioner and the Associate Commissioners.

Particulars of
proposed
expenditure.

21.—(1.) The Commission shall, not later than the thirty-first day of March in each year, submit to the Minister particulars of proposed expenditure for the financial year commencing on the following first day of July.

(2.) The Commission shall not expend any of its moneys except in accordance with particulars of proposed expenditure approved by the Minister.

22. The Commission shall keep proper accounts and records and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Commission and the incurring of liabilities by the Commission.

Proper accounts
to be kept.

23.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.

(2.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets of the Commission.

(3.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(4.) The Auditor-General or an officer authorized by him may require a person being the Commissioner or an Associate Commissioner or an officer or employee of the Commission to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and that person shall comply with the requirement.

24.—(1.) The Commission shall, during the first month of each quarter, furnish to the Minister a report in writing—

Reports.

- (a) setting out the receipts and expenditure of the Commission during the preceding quarter; and
- (b) as to the operations of the Commission during the preceding quarter.

(2.) The Commission shall furnish to the Minister such other reports relating to the operations of the Commission as the Minister requires.

(3.) The Commission shall, as soon as practicable after each thirtieth day of June, furnish to the Minister, for presentation to each House of the Parliament, a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister approves.

(4.) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General for the Commonwealth, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Commission;
- (c) whether the receipt and expenditure of moneys by the Commission during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(5.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(6.) In this section, “quarter” means a period of three months commencing on the first day of January, April, July or October.

National
Capital
Planning
Committee.

25.—(1.) There shall be a National Capital Planning Committee to advise the Commission as to the planning, development and construction of the City of Canberra.

(2.) The Committee shall consist of—

- (a) the Commissioner;
- (b) two architects, who may be selected from a list of architects submitted to the Minister by The Royal Australian Institute of Architects;
- (c) two engineers, who may be selected from a list of engineers submitted to the Minister by The Institution of Engineers, Australia;
- (d) two town planners, who may be selected from a list of town planners submitted to the Minister by The Town Planning Institute of Australia; and
- (e) two other persons with special knowledge and experience in artistic or cultural matters.

(3.) The Commissioner shall be the chairman of the Committee.

(4.) The members of the Committee other than the chairman shall be appointed by the Governor-General and shall hold office, subject to good behaviour, for a period of three years, but a retiring member is eligible for re-appointment.

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(5.) In the event of a member of the Committee other than the chairman ceasing to hold office before the end of the period of his appointment, the Governor-General may appoint another member for the remainder of that period.

(6.) A vacancy in the membership of the Committee does not affect the exercise of the powers of the Committee.

(7.) Members of the Committee other than the chairman shall be paid such fees and allowances as the Minister determines.

26. For the purpose of assisting the Committee in the consideration of any matter under this Act—

Attendance
of public
servants, &c.

(a) the Committee may request the attendance of any officer or employee of the Commission or of the Commonwealth; or

(b) the Committee may request the Commission, the Permanent Head of a Department of State of the Commonwealth, or the officer in charge of a Branch of such a Department that is concerned with the administration of the Australian Capital Territory, to furnish to the Committee sketches, drawings, plans, models or information.

27. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, making provision for or in relation to meetings of the National Capital Planning Committee, including the procedure to be followed at those meetings.

Regulations.