

COMMONWEALTH GRANTS COMMISSION AMENDMENT ACT 1978

No. 86 of 1978

An Act to amend the *Commonwealth Grants Commission Act 1973*.

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

Short title,
&c.

1. (1) This Act may be cited as the *Commonwealth Grants Commission Amendment Act 1978*.¹

(2) The *Commonwealth Grants Commission Act 1973*² is in this Act referred to as the Principal Act.

Commence-
ment

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.¹

(2) Sections 3, 5, 9 and 15 shall come into operation on 1 July 1978.

Long title

3. The long title of the Principal Act is amended by inserting “and to the Northern Territory” after “the States”.

Definitions

4. Section 4 of the Principal Act is amended—

(a) by inserting before the definition of “Chairman” the following definition:

“ ‘associate member’ means an associate member of the Commission appointed under section 19A; ”; and

(b) by adding “appointed under section 8” at the end of the definition of “member”.

Meaning of
special
assistance

5. Section 5 of the Principal Act is amended—

(a) by omitting “are references” and substituting “shall be read as references”; and

(b) by adding at the end thereof the following sub-section:

“(2) References in this Act to the grant of special assistance to the Northern Territory shall be read as references to the grant of financial assistance to the Northern Territory for the purpose of making it possible for the Northern Territory, by reasonable effort, to function, in respect of matters for which the Ministers of that Territory have executive authority, at standards not appreciably below the standards of the States.”.

6. Section 8 of the Principal Act is amended—Membership
of
Commission

- (a) by omitting from sub-section (1) “The Commission” and substituting “Subject to section 19A, the Commission”;
- (b) by inserting after sub-section (5) the following sub-section:
 - “(5A) A person who is employed by the Commonwealth or by a State in a full-time capacity is not eligible for appointment as a part-time member.”; and
- (c) by omitting sub-section (8).

7. Section 12 of the Principal Act is amended—Termination
of
appointments

- (a) by inserting after sub-section (4) the following sub-section:
 - “(4A) If a part-time member becomes employed by the Commonwealth or by a State in a full-time capacity, the Governor-General shall remove the member from office.”; and
- (b) by omitting sub-section (6).

8. Section 15 of the Principal Act is amended—Duties of
Chairman

- (a) by inserting in paragraph (c) of sub-section (1) “and associate members” after “members”; and
- (b) by inserting in sub-section (2) “and associate members” after “members”.

9. After section 16 of the Principal Act the following section is inserted:

“16A. The Commission shall inquire into and report to the Minister upon—

Assistance to
the Northern
Territory

- (a) any application made by the Northern Territory for a grant of special assistance to that Territory;
- (b) any matters, being matters relating to a grant of financial assistance made by the Commonwealth to the Northern Territory, that are referred to the Commission by the Minister; and
- (c) any matters, being matters relating to the making of a grant of financial assistance by the Commonwealth to the Northern Territory, that are referred to the Commission by the Minister.”.

10. Section 19 of the Principal Act is amended—Inquires by
Commission

- (a) by inserting in sub-section (3) “not less than” after “Chairman and”;
- (b) by omitting from paragraph (a) of sub-section (5) “, being a member of the Division,”;
- (c) by omitting from sub-section (7) “of which he is a member”; and

(d) by adding at the end thereof the following sub-section:

“(9) This section does not apply to or in relation to an inquiry into, and report on, the matter referred to in sub-section 19A (1) by a Division of the Commission constituted in accordance with section 19A.”

11. After section 19 of the Principal Act the following section is inserted:

Inquiry and
report
concerning
grants under
States
(Personal
Income Tax
Sharing) Act

“19A. (1) Where the matter referred to in sub-section 13 (3) of the *States (Personal Income Tax Sharing) Act 1976* is referred to the Commission under paragraph 16 (c) of this Act, this section applies to and in relation to the inquiry into the matter by the Commission.

“(2) As soon as practicable after the matter referred to in sub-section 13 (3) of the *States (Personal Income Tax Sharing) Act 1976* is referred to the Commission, the Minister shall arrange for the Premiers of the States to be informed, in writing, that the matter has been referred to the Commission and to be invited to nominate persons for appointment, in accordance with sub-section (3) of this section, as associate members of the Commission for the purposes of the inquiry into the matter.

“(3) Subject to this section, for the purposes of an inquiry to which this section applies, the powers of the Commission shall, notwithstanding sections 8 and 19, be exercised by a Division of the Commission consisting of—

- (a) the Chairman and two other members of the Commission; and
- (b) three part-time associate members of the Commission appointed by the Governor-General for the purposes of the inquiry, being one associate member appointed on the nomination of the Premier of New South Wales and the Premier of Victoria and two associate members appointed on the nomination of the Premier of Queensland, the Premier of South Australia, the Premier of Western Australia and the Premier of Tasmania.

“(4) Where the Commission is required to hold an inquiry to which this section applies, the Chairman shall, if the Commission consists of the Chairman and more than two other members, by writing under his hand, determine that two of those other members specified in the determination shall be members of the Division of the Commission constituted under this section for the purposes of the inquiry.

“(5) Where the Chairman has made a determination under sub-section (4) in relation to an inquiry to which this section applies, he may, by writing under his hand, at any time before the Division of the Commission constituted for the purposes of the inquiry has completed the inquiry and made its report, amend the determination in relation to the

other members of the Commission who are to be members of the Division of the Commission constituted under this section for the purposes of the inquiry.

“(6) If the Premiers of the States have not nominated three persons for appointment, in accordance with sub-section (3), as associate members of the Commission for the purposes of an inquiry to which this section applies within three months after they have been invited to do so, the Commission shall, upon being requested by the Minister to do so, inquire into, and report on, the matter notwithstanding a vacancy or vacancies in the number of associate members of the Commission for the purposes of the inquiry, and the Division of the Commission required to exercise the powers of the Commission for the purposes of the inquiry shall then be deemed to consist of the Chairman and two other members of the Commission and such associate members (if any) as have been appointed in accordance with sub-section (3) for the purposes of the inquiry.

“(7) A person is not eligible to be appointed as an associate member of the Commission if he is employed by the Commonwealth or by a State in a full-time capacity.

“(8) An associate member of the Commission holds office for such period as is specified in the instrument of his appointment, but is eligible for re-appointment.

“(9) Subject to sub-section (10), sections 9A, 11, 12 and 13 apply to and in relation to an associate member of the Commission as if references in those sections to a member were references to an associate member.

“(10) The Minister—

- (a) shall not appoint a person to be an acting associate member of the Commission except on the nomination of the Premiers of the States who nominated the associate member in whose place he is being appointed; and
- (b) shall not appoint a person to be an acting full-time associate member.

“(11) For the purposes of an inquiry to which this section applies—

- (a) the Commission shall be deemed to consist of the Division of the Commission constituted, in respect of the inquiry, in accordance with this section; and
- (b) at a meeting of the Division of the Commission so constituted—
 - (i) if the Chairman is present—the Chairman shall preside;
 - (ii) if the Chairman is not present—a member of the Division (other than an associate member of the Commission) appointed for the purpose by the Chairman shall preside;

- (iii) a majority of the members and associate members constituting the Division form a quorum; and
- (iv) the Chairman, or the member presiding at the meeting, has a deliberative vote, but does not have a casting vote.

“(12) The appointment of an associate member of the Commission is not invalidated, and shall not be called in question, by reason of a defect or irregularity in connexion with his nomination.

“(13) Without limiting the application of sub-section 8 (6) in relation to an inquiry to which this section applies, the exercise of the powers of the Commission for the purposes of the inquiry is not affected by reason only of there being a vacancy in an office, or vacancies in the offices, of associate member.

“(14) Where the membership of the Division of the Commission constituted in accordance with this section for the purposes of an inquiry to which this section applies is changed before the Division has completed the inquiry and made its report, the Division as constituted after the change may complete the inquiry and report.

“(15) A meeting of a Division of the Commission constituted in accordance with this section may be held notwithstanding that a meeting of another Division of the Commission constituted under section 19 is being held at the same time.”

Adminis-
tration of
oath

12. Section 22 of the Principal Act is amended by inserting “or associate member” after “member”.

Penalty for
refusing to
give
evidence

13. Section 23 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) For the purposes 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 any of the members, or members and associate members, who are exercising the powers of the Commission in relation to the matter; or
- (b) if, with the approval of a majority of the members, or members and associate members, who are exercising the powers of the Commission in relation to the matter, it is put by a person authorized by a majority of those members, or members and associate members, to appear in connexion with the taking of the evidence.”

Giving false
evidence

14. Section 24 of the Principal Act is amended by inserting “, or members and associate members,” after “members”.

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15. Section 25 of the Principal Act is amended by omitting “section 16 or 17” (wherever occurring) and substituting “section 16, 16A or 17”. Reports to be laid before Parliament

16. Section 26 of the Principal Act is repealed.

Savings

NOTES

1. Act No. 86, 1978; assented to 22 June 1978.
2. Act No. 54, 1973, as amended. For previous amendments *see* Acts No. 216, 1973 (as amended by No. 20, 1974); No. 59, 1975; No. 47, 1976; and Nos. 111 and 143, 1977.