



# Advisory Council for Inter-government Relations Amendment Act 1981

No. 7 of 1981

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## An Act to amend the *Advisory Council for Inter-government Relations Act 1976*

[Assented to 13 March 1981]

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

### Short title, &c.

1. (1) This Act may be cited as the *Advisory Council for Inter-government Relations Amendment Act 1981*.

(2) The *Advisory Council for Inter-government Relations Act 1976*<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

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**Heading—Part I**

3. Before section 1 of the Principal Act the following heading is inserted:

**“PART I—PRELIMINARY”.**

**Interpretation**

4. Section 2 of the Principal Act is amended by inserting after the definition of “acting Chairman” in sub-section (1) the following definitions:

“ ‘appoint’ includes re-appoint;

“ ‘approved bank’ means—

- (a) the Reserve Bank of Australia;
- (b) a trading bank within the meaning of the *Banking Act 1959*; or
- (c) a bank incorporated under a law of a State;

“ ‘auditor’ means the person who is the auditor of the Council by virtue of an appointment under sub-section 16K (1);”.

**Heading—Part II**

5. After section 2 of the Principal Act the following heading is inserted:

**“PART II—ESTABLISHMENT, OBJECT AND FUNCTION  
OF THE ADVISORY COUNCIL FOR INTER-GOVERNMENT  
RELATIONS”.**

**Object and function of the Council**

6. Section 4 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) In the performance of its function, the Council shall not be subject to any directions other than directions referred to in sub-section (1).”.

7. After section 4 of the Principal Act the following section is inserted:

**Powers of Council**

“4A. Subject to this Act, the Council has power to do all things necessary or convenient to be done for or in connection with the performance of its function.”.

8. After section 7 of the Principal Act the following heading and section is inserted:

**“PART III—CONSTITUTION AND MEETINGS OF  
THE COUNCIL**

**Nature of Council**

“7A. (1) After the commencement of this section, the Council—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

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“(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to a document and shall presume it was duly affixed.”.

9. Section 12 of the Principal Act is repealed and the following section substituted:

**Acting Chairman**

“12. (1) The Council may, by resolution, appoint a member, being one of the members referred to in paragraph 8 (2) (k), to act as Chairman of the Council—

- (a) during a vacancy in the office of Chairman; or
- (b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office,

but a member appointed to act during a vacancy shall not continue so to act for more than 6 months.

“(2) An appointment of a member under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the resolution.

“(3) The Council may, by resolution, terminate the appointment of a member to act as Chairman.

“(4) Where a member is acting as Chairman in accordance with paragraph (1) (b) and the office of Chairman becomes vacant while that member is so acting, then, subject to sub-section (2), that member may continue so to act until the Council, by resolution, otherwise directs, the vacancy is filled or a period of 6 months from the date on which the vacancy occurred expires, whichever first happens.

“(5) The appointment of a person to act as Chairman ceases to have effect if he ceases to be one of the members referred to in paragraph 8 (2) (k) or he resigns his appointment by writing signed by him and delivered to the Prime Minister.

“(6) While a member is acting as Chairman, he has and may exercise all the powers, and shall perform all the functions, of the Chairman under this Act or any other law.

“(7) The validity of anything done by a member purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.”.

**Meetings**

10. Section 15 of the Principal Act is amended—

- (a) by inserting in sub-section (2) “, or, if there is no Chairman, the Prime Minister,” after “Chairman of the Council”; and

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(b) by inserting after sub-section (8) the following sub-section:

“(8A) Subject to this Act, the Council may, by resolution, determine procedures to be observed at meetings of the Council or procedures to be followed in the administration of the affairs of the Council and may, by resolution, revoke or vary those determinations.”.

### **Observers**

**11.** Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Legislative Assembly” and substituting “House of Assembly”;
- (b) by omitting from sub-section (2) “for” and substituting “of”; and
- (c) by omitting from sub-sections (5) and (6) “Legislative Assembly” (wherever occurring) and substituting “body”.

**12.** After section 16 of the Principal Act the following headings and sections are inserted:

## **“PART IV—STAFF**

### **Employees**

“16A. The Council may engage such employees as it thinks necessary for the performance of its function under this Act.

### **Terms and conditions of employment**

“16B. (1) The terms and conditions of employment (in respect of matters not provided for by this Act) of employees engaged in accordance with section 16A are such as are determined by the Council.

“(2) In sub-section (1), ‘terms and conditions’ include conditions with respect to the duration of employment or with respect to dismissal from employment.

### **Arrangements relating to staff**

“16C. (1) The Council may arrange with the Permanent Head of any Department of the Australian Public Service, or with a body established by an Act, for the services of officers or employees of the Department or of the body to be made available to the Council.

“(2) The Council may enter into an arrangement with the Government of a State or of the Northern Territory for the services of officers or employees of the Public Service of the State or Territory or of an authority of the State or Territory (including a local government body) to be made available to the Council.

“(3) The Council may enter into an arrangement with an organization (including a body corporate) for the services of officers or employees of the organization to be made available to the Council.

**“PART V—FINANCE**

**Moneys payable to Council**

“16D. (1) There are payable to the Council such moneys as are appropriated, from time to time, by the Parliament for the purposes of the Council.

“(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Council.

**Grants to Council**

“16E. The Council may receive financial assistance granted to it by a State or by the Council of Local Government Associations.

**Bank accounts**

“16F. (1) The Council may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

“(2) The Council shall pay all moneys received by it into an account referred to in this section.

**Application of moneys**

“16G. (1) The moneys of the Council may be applied only—

- (a) in payment or discharge of the costs, expenses and other obligations of the Council; and
- (b) in payment of any remuneration, allowances and expenses payable to any person under this Act.

“(2) Moneys of the Council not immediately required for the purposes of the Council may be invested—

- (a) on deposit with an approved bank; or
- (b) in securities of, or guaranteed by, the Commonwealth or a State.

**Estimates**

“16H. (1) The Council shall prepare estimates of its receipts and expenditure for each financial year.

“(2) The moneys of the Council shall not be expended otherwise than in accordance with estimates of expenditure approved by the Council.

**Proper accounts to be kept**

“16J. The Council shall cause to be kept proper accounts and records of the transactions and affairs of the Council and shall do all things necessary to ensure that all payments out of the moneys of the Council are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Council and over the incurring of liabilities by the Council.

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**Audit**

“16K. (1) The Council shall, by writing under its common seal, appoint the Auditor-General of the Commonwealth or the Auditor-General of a State as auditor of the Council.

“(2) The Council shall not appoint the Auditor-General of a State as auditor of the Council except with the consent of the Premier of that State.

“(3) The auditor shall inspect and audit the accounts and records of financial transactions of the Council and the records relating to assets of, or in the custody of, the Council and shall forthwith draw the attention of the Prime Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the auditor, is of sufficient importance to justify his so doing.

“(4) The auditor may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (3).

“(5) The auditor shall, at least once in each financial year, report to the Prime Minister and the Council the results of the inspection and audit carried out under sub-section (3).

“(6) The Prime Minister shall cause a copy of a report furnished to him under sub-section (5) to be given to the Premier of each of the participating States and, unless there are no members of the Council appointed on the nomination of the Council of Local Government Associations, to that Council.

“(7) The auditor or a person authorized by him is entitled at all reasonable times to full and free access to all accounts and records of the Council relating directly or indirectly to the receipt or payment of moneys by the Council, or to the acquisition, receipt, custody or disposal of assets by the Council.

“(8) The auditor or a person authorized by him may make copies of, or take extracts from, any such accounts and records.

“(9) The auditor or a person authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the auditor or authorized person considers necessary for the purposes of the functions of the auditor under this Act, and the person shall comply with the requirement.

“(10) A person who contravenes sub-section (9) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

**Exemption from taxation**

“16L. The Council is not subject to taxation under any law of the Commonwealth or of a State or Territory.

**Financial statements**

“16M. (1) Where, in accordance with section 6, the Council prepares a report with respect to the activities of the Council during a year, the Council

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shall also prepare financial statements in respect of that year in such form as the Council, after consultation with the auditor, approves and shall furnish those statements to the Prime Minister when furnishing a copy of that report to him under that section.

“(2) Before furnishing financial statements to the Prime Minister under sub-section (1), the Council shall submit them to the auditor, who shall report to the Prime Minister—

- (a) whether, in his opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether, in his opinion, the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Council 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 considers should be reported to the Prime Minister.

“(3) The Prime Minister shall cause copies of the financial statements of the Council together with a copy of the report of the auditor to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Prime Minister.

**“PART VI—MISCELLANEOUS”.**

**Transitional**

**13. (1)** The incorporation of the Advisory Council for Inter-government Relations by section 7A of the Principal Act as amended by this Act shall not be taken—

- (a) to terminate the appointment of, or to affect the tenure of office of, a person as the Chairman, a member, or a deputy member, of the Council who was so appointed before that incorporation;
- (b) to affect a direction given to the Council at a Premiers’ Conference before that incorporation; or
- (c) to affect a request made to the Council in accordance with section 5 of the Principal Act before that incorporation.

**(2)** Upon the incorporation of the Council, any property held by a person, in trust or otherwise, for or on behalf of the members of the Council vests, subject to any trust, covenant, contract or liability affecting the property (other than a trust for the members), in the Council.

**(3)** Any agreement or instrument subsisting immediately before the incorporation of the Council to which the members of the Council acting as such members were, or to which a person acting for or on behalf of the members of the Council was, a party has effect on and after that incorporation as if the Council were substituted for those members or that person as a party to the agreement or instrument.

**(4)** A person who, immediately before the incorporation of the Council, was employed by the members of the Council or by a person for or on behalf of the

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Council shall, by virtue of this sub-section, be deemed to have been engaged, upon that incorporation, as an employee of the Council under section 16A of the Principal Act as amended by this Act.

(5) The terms and conditions of employment (in respect of matters not provided for by the Principal Act as amended by this Act) of a person deemed to have been engaged under sub-section (4) shall, until those terms and conditions are determined under section 16B of the Principal Act as amended by this Act, be the terms and conditions of his employment on the date immediately preceding the incorporation of the Council.

**Application**

14. Section 16M of the Principal Act as amended by this Act applies in respect of the year ending on 31 August 1981 and each subsequent year.

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**NOTE**

1. No. 105, 1976.