

LOCAL GOVERNMENT GRANTS.

No. 4 of 1978.

AN ACT to provide for the distribution to municipalities in Western Australia of certain financial assistance provided by the Commonwealth and the establishment of a Western Australian Local Government Grants Commission and for incidental and other purposes.

[Assented to 11th May, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I. —PRELIMINARY.

1. This Act may be cited as the *Local Government Grants Act, 1978.*

Short
title.

Arrange-
ment.

2. This Act is arranged as follows—

PART I.—PRELIMINARY.

PART II.—THE WESTERN AUSTRALIAN LOCAL
GOVERNMENT GRANTS COMMISSION.

PART III.—ALLOCATION AND DISTRIBUTION OF
COMMONWEALTH FUNDS.

PART IV.—MISCELLANEOUS.

Definitions.

3. In this Act, unless the contrary intention appears—

“Chairman” means the chairman of the Commission;

“Commonwealth funds” means the funds made available to the State by the Commonwealth under the Commonwealth Act;

“financial year” means a year ending on the thirtieth day of June;

“member” means a member of the Commission and includes the Chairman;

“municipality” means a municipality constituted under the Local Government Act, 1960;

“section” means a section of this Act;

“subsection” means a subsection of the section in which the term is used;

“the Commission” means the Western Australian Local Government Grants Commission established under section 4;

“the Commonwealth Act” means the Local Government (Personal Income Tax Sharing) Act 1976 of the Parliament of the Commonwealth or, if that Act is amended, that Act as so amended;

“the Minister” means the Minister of the Crown to whom the administration of the Local Government Act, 1960 is for the time being

committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of that Minister.

PART II.—THE WESTERN AUSTRALIAN LOCAL
GOVERNMENT GRANTS COMMISSION.

4. A commission shall be established under the name of the "Western Australian Local Government Grants Commission".

Establishment of Commission.

5. (1) The members of the Commission shall be appointed by the Governor and shall consist of—

Membership of Commission.

(a) a Chairman appointed on the nomination of the Minister;

(b) two members appointed on the nomination of the Minister of whom—

(i) one shall be a person selected by the Minister from a panel of names submitted by the body known as the Local Government Association of Western Australia; and

(ii) one shall be a person selected by the Minister from a panel of names submitted by the body known as the Country Shire Councils' Association of W.A.; and

(c) two other members of whom—

(i) one shall be an officer of the Local Government Department of the State who is nominated by the person holding the office of or duly acting as Secretary for Local Government and is approved by the Minister; and

(ii) one shall be an officer of the Treasury Department of the State who is nominated by the person holding the office of or duly acting as Under Treasurer and is approved by the Minister.

(2) A panel of names referred to in paragraph (b) of subsection (1)—

(a) shall be submitted in writing to the Minister at his request;

(b) shall contain the names of at least three persons each of whom is willing to accept appointment as a member.

(3) The Governor may appoint a person as the deputy of a member other than the Chairman.

(4) The provisions of subsections (1) and (2) that apply to and in relation to the appointment of a member apply, with any necessary modification, to and in relation to the appointment of the deputy of that member.

(5) A person appointed pursuant to subsection (3) is, in the event of the absence from a meeting of the Commission of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions and duties of a member.

(6) If at any time the office of a member becomes vacant before his term of office expires, the person who was at that time the deputy of that member is, until the office of member is filled by the appointment of another member, deemed to be a member and has all the powers, functions and duties of a member.

Conditions
of member-
ship.

6. (1) Subject to this Act, each member shall hold office for such period, not exceeding five years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(2) The office of a member shall become vacant if—

(a) his term of office expires;

(b) he becomes permanently incapable of performing his duties as a member;

- (c) he resigns his office by written notice addressed to the Minister;
- (d) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (e) he is removed from office by the Governor for any cause that appears to the Governor to be sufficient; or
- (f) in the case of a member holding an office referred to in paragraph (c) of subsection (1) of section 5, he ceases to be an officer of the Local Government Department or the Treasury Department, as the case may be.

(3) Acceptance of or acting in the office of a member by any person does not of itself render the provisions of the Public Service Act, 1904, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or acting in that office.

7. (1) Subject to subsection (2) members and their deputies shall be paid such remuneration and travelling and other allowances as are approved by the Minister.

Remuneration.

(2) The Minister shall not approve of the payment of remuneration or allowances to a person to whom the Public Service Act, 1904 applies except with the prior approval in writing of the Chairman of the Public Service Board.

8. (1) The Commission shall hold such meetings as are necessary for the performance of its functions.

Meetings.

(2) At a meeting of the Commission a quorum is constituted by four members other than the Chairman.

(3) The Chairman shall preside at all meetings of the Commission at which he is present.

(4) If the Chairman is not present at a meeting of the Commission the members present shall elect one of their number to preside at the meeting.

(5) Questions arising at a meeting shall be determined by a majority of votes of the members present and voting.

(6) The member presiding at a meeting of the Commission has a deliberative vote only.

(7) To the extent that it is not prescribed the Commission shall determine its own procedure.

PART III.—ALLOCATION AND DISTRIBUTION OF
COMMONWEALTH FUNDS.

Funds
available to
be notified
to Commis-
sion by
Minister.

9. (1) As soon as the State is advised by the Commonwealth of the amount of Commonwealth funds to which the State is entitled in respect of a financial year, the Minister shall advise the Commission as to—

- (a) the amount that is to be allocated amongst municipalities in that financial year on the basis referred to in paragraph (a) of subsection (2) of section 6 of the Commonwealth Act (in this Act referred to as “the Element A funds”); and
- (b) the amount that is to be allocated amongst municipalities in that financial year on the basis referred to in paragraph (b) of subsection (2) of section 6 of the Commonwealth Act (in this Act referred to as “the Element B funds”).

(2) The Element A funds shall comprise eighty per centum of the total amount of Commonwealth funds to which the State is entitled unless the Minister determines that a greater or lesser percentage would be more appropriate.

(3) Nothing in subsection (2) authorises the Minister to determine that the Element A funds shall comprise less than thirty per centum of the total amount of Commonwealth funds to which the State is entitled.

10. (1) The amount of the Element A funds to be allocated to each municipality in respect of a financial year shall be calculated in accordance with a formula approved by the Minister being a formula that takes into account the respective populations of the municipalities and may take into account the respective sizes, and the respective population densities, of the districts of the municipalities and any other matters agreed upon between the Prime Minister of the Commonwealth and the Premier of the State.

Allocation of
Element A
funds.

(2) Before approving a formula for the purposes of subsection (1) the Minister shall consult the Local Government Association of Western Australia, the Country Shire Councils' Association of W.A. and the Country Town Councils' Association.

11. (1) As soon as practicable after the receipt of advice from the Minister under subsection (1) of section 9 in respect of a financial year the Commission shall make recommendations to the Minister with respect to the amount (if any) of the Element B funds that should be allocated to each municipality in respect of that financial year.

Allocation of
Element B
funds.

(2) The recommendations referred to in subsection (1) shall be made with the object of achieving, so far as is practicable, general equalization and, without limiting the generality of the foregoing, the Commission may, in making those recommendations, take into account the special needs of particular municipalities.

12. (1) The Commission or any member thereof may carry out such inspections, conduct such hearings, take such evidence and generally make such investigations as the Commission thinks necessary for the purpose of properly carrying out its functions under this Act.

Powers of
Commission.

(2) Where a member who has been authorised by the Commission to exercise any power under subsection (1) is, for any reason, unable to exercise that power the deputy of that member may exercise that power.

(3) Hearings conducted under subsection (1) shall ordinarily be held in public.

(4) The Commission may require the council of any municipality to supply the Commission with such financial or other information as to the affairs of the municipality as the Commission specifies and the council shall comply with that requirement.

Submissions
to be
received.

13. The Commission shall give the council of each municipality, the Local Government Association of Western Australia, the Country Shire Councils' Association of W.A., the Country Town Councils' Association, and such other persons or bodies as the Commission thinks fit, the opportunity of making written submissions to the Commission in connection with the allocation of the Element B funds in respect of a financial year.

Report.

14. When making the recommendations referred to in subsection (1) of section 11, or as soon as practicable thereafter, the Commission shall provide the Minister with a report on the allocations that it has recommended and on such other matters relating to its activities as it thinks fit.

Consideration
of
recommendations.

15. (1) On receipt of the recommendations referred to in subsection (1) of section 11 the Minister shall—

- (a) approve the recommendations; or
- (b) refer the recommendations back to the Commission with a request to the Commission to review the whole or any part of the recommendations.

(2) Where, under paragraph (b) of subsection (1), the Minister requests the Commission to review the whole or any part of its recommendations the followings provisions shall apply—

- (a) the request shall contain a statement of the reasons for the request;
- (b) on receipt of the request the Commission shall forthwith—
 - (i) consider whether, in the light of the request and the reasons given for the request, any amendment to the recommendations is necessary or desirable; and
 - (ii) resubmit the recommendations, with or without amendment, to the Minister;
- (c) the Minister shall approve of the recommendations as resubmitted to him under subparagraph (ii) of paragraph (b) of this subsection.

16. As soon as the Commonwealth Funds in respect of a financial year are received by the State—

Distribution
of Common-
wealth funds.

- (a) the Element A funds shall be distributed to municipalities in accordance with the calculations made in respect of that financial year under subsection (1) of section 10;
- (b) the Element B funds shall be distributed to municipalities in accordance with the recommendations made by the Commission in respect of that financial year and approved by the Minister under paragraph (a) of subsection (1) of section 15 or paragraph (c) of subsection (2) of that section.

PART IV.—MISCELLANEOUS.

Validity of
acts of
Commission.

17. An act, proceeding or determination of the Commission shall not be invalid by reason only of a vacancy in the office of any member or a defect or irregularity in the appointment of any member or deputy of a member.

Liability.

18. No liability shall attach to a person who is or has been, a member, or the deputy of a member, for any act or omission by him, or by the Commission, in good faith and in the exercise or purported exercise of his or its powers or function under this Act.

Regulations.

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