

**LOCAL GOVERNMENT (GRANTS COMMISSION)
AMENDMENT ACT 1987 No. 169**

NEW SOUTH WALES



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**LOCAL GOVERNMENT (GRANTS COMMISSION) AMENDMENT
ACT 1987 No. 169**

NEW SOUTH WALES



Act No. 169, 1987

An Act to amend the Local Government Act 1919 with respect to the constitution and functions of the Local Government Grants Commission.
[Assented to 26 November 1987]

*Local Government (Grants Commission) Amendment 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Local Government (Grants Commission) Amendment Act 1987.

Commencement

2. This Act shall commence on 1 July 1988.

Amendment of Act No. 41, 1919

3. The Local Government Act 1919 is amended as set out in Schedule 1.

Savings and validation

4. Schedule 2 has effect.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Division into Parts**)—

From the matter relating to Part VIIA, omit “218Q”, insert instead “218I”.

(2) Part VIIA—

Omit the Part, insert instead:

**PART VIIA—LOCAL GOVERNMENT GRANTS
COMMISSION**

Definitions

218A. (1) In this Part—

“Commonwealth Act” means the Local Government (Financial Assistance) Act 1986 of the Commonwealth;

“financial year” means the year commencing 1 July.

(2) In this Part—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) In this Part, a reference to a council includes a reference to the Lord Howe Island Board constituted under the Lord Howe Island Act 1953.

SCHEDULE 1—AMENDMENTS—*continued***Constitution of the Grants Commission**

218B. (1) There shall be a Local Government Grants Commission.

(2) The Grants Commission has the functions conferred or imposed on it by or under this or any other Act.

Members of the Grants Commission

218C. (1) The Grants Commission shall consist of 4 members.

(2) Of the members—

- (a) 1 shall be appointed by the Governor on the nomination of the Minister and shall, in and by the instrument by which the member is appointed, be appointed as the chairperson of the Grants Commission;
- (b) 1 shall be the person holding or acting in the office of Director, Local Government Grants Commission, Department of Local Government, who shall be deputy chairperson of the Grants Commission; and
- (c) 2 shall be appointed by the Governor on the nomination of the Minister.

(3) Of the members, at least 2 shall be persons who are or have been associated with local government in New South Wales, whether as members of a council or otherwise.

Acting members

218D. (1) The Minister may, from time to time, appoint—

- (a) a person to act in the office of the member who is the chairperson of the Grants Commission during the illness or absence of that member, and the person, while so acting, shall be deemed to be a member (but not the chairperson); and
- (b) a person to act in the office of a member referred to in section 218C (2) (c) during the illness or absence of that member, and the person, while so acting, shall be deemed to be a member.

(2) For the purposes of this section, a vacancy in the office of a member shall be regarded as an absence from office of the member.

Provisions relating to members and acting members of Grants Commission

218E. (1) In this section—

“member” includes an acting member, but does not include the deputy chairperson.

Local Government (Grants Commission) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(2) Subject to this Part, a member shall hold office for such period, not exceeding 5 years, as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(3) A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine in respect of the member.

(4) The office of a member becomes vacant if the member—

- (a) dies;
- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by instrument in writing addressed to the Minister;
- (d) is removed from office under subsection (5);
- (e) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(5) The Governor may remove a member (other than an acting member) from office at any time, and the Minister may remove an acting member from office at any time.

(6) If the office of any member (other than an acting member) becomes vacant, a person shall, subject to this Part, be appointed to fill the vacancy.

(7) The Public Service Act 1979 does not apply to the appointment of a member and a member is not, as a member, subject to that Act.

(8) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Meetings of Grants Commission

218F. (1) The procedure for the calling of meetings of the Grants Commission and for the conduct of business at those meetings shall, subject to this Act and ordinances, be as determined by the Grants Commission.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The Grants Commission shall meet at least once in each year and at such other times as the Minister may request or as the Grants Commission may think necessary.

(3) At any meeting of the Grants Commission—

(a) the chairperson; or

(b) in the absence of the chairperson, the deputy chairperson, shall preside.

(4) The person presiding at any meeting of the Grants Commission has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5) The quorum for a meeting of the Grants Commission is 3 members.

(6) A decision supported by a majority of the votes cast at a meeting of the Grants Commission at which a quorum is present is the decision of the Grants Commission.

Financial Assistance Fund

218G. There shall be established in the Special Deposits Account in the Treasury a Local Government Financial Assistance Fund—

(a) into which shall be deposited all money paid to the State under the Commonwealth Act; and

(b) from which shall be paid the amounts determined by the Minister to be paid to councils under this Part.

Recommendations of Grants Commission and allocation of Commonwealth funds among councils

218H. (1) The Grants Commission shall, as soon as practicable in respect of each financial year, make recommendations to the Minister with respect to the allocation among councils of the total amount proposed to be paid to the State under the Commonwealth Act in respect of that financial year.

(2) The recommendations made by the Grants Commission shall be made in accordance with the requirements of the Commonwealth Act and any relevant principles of allocation approved under that Act.

(3) The Minister may adopt the recommendations made by the Grants Commission, or request that the Grants Commission reconsider its recommendations.

*Local Government (Grants Commission) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

(4) The Grants Commission, if requested by the Minister to reconsider its recommendation on any matter, shall make a further recommendation on that matter as soon as practicable after being requested to do so.

(5) The Minister, having regard to or having adopted the recommendations of the Grants Commission, shall determine the allocation among councils of the total amount proposed to be paid to the State under the Commonwealth Act in respect of the financial year concerned.

(6) A council is entitled to receive, without undue delay, from the Local Government Financial Assistance Fund an unconditional payment of the amount determined to be allocated to it.

Hearings etc. by Grants Commission

218I. (1) For the purpose of and in connection with the making of recommendations by the Grants Commission under section 218H—

- (a) the Grants Commission shall hold such hearings and make such inspections, investigations and inquiries as it thinks necessary;
- (b) the Grants Commission may require a council to furnish any information which may, in the opinion of the Grants Commission, assist it; and
- (c) a council, or an association of councils, may make submissions to the Grants Commission.

(2) Any requirement to furnish information may specify the form in which, and the person to whom, the information is to be furnished.

Statements of payments to councils to be furnished

218J. As soon as practicable after the end of each financial year, the Minister shall furnish to the Treasurer of the Commonwealth—

- (a) a statement, in accordance with a form approved by the Treasurer of the Commonwealth, specifying—
 - (i) the payments to councils made under this Part during that financial year in accordance with the Commonwealth Act; and
 - (ii) the dates of those payments; and
- (b) a certificate by the Auditor-General that, in the Auditor-General's opinion, the contents of the statement are correct.

*Local Government (Grants Commission) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued***Furnishing of additional advice to Minister**

218κ. (1) The Minister may, from time to time, request the Grants Commission to report on any matter referred to it by the Minister.

(2) The Grants Commission shall comply with such a request as soon as practicable after it is made.

(3) If the Grants Commission receives such a request it may require a council to furnish any information which may, in the opinion of the Grants Commission, assist it in complying with the request.

(4) Any requirement to furnish information may specify the form in which, and the person to whom, the information is to be furnished.

Annual report

218L. (1) As soon as practicable after the end of each financial year, the Grants Commission shall prepare and furnish to the Minister a report on its work and activities during that financial year.

(2) The report shall include—

- (a) a copy of the recommendations made by it under this Part in respect of the following financial year; and
- (b) details of the methods used by it in making those recommendations.

(3) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

(4) Nothing in this section prevents the report from being included in the annual report of the Department of Local Government for the relevant period.

(3) Section 573 (**Ordinances**)—

Section 573 (3)—

Omit “Division 3 of”.

SCHEDULE 2—SAVINGS AND VALIDATION

(Sec. 4)

Continuation in office of existing members of Grants Commission

1. (1) A person who, immediately before 1 July 1988, held office as the chairman of the Local Government Grants Commission, shall be deemed to be appointed on that date as a member and the chairperson of the Local Government Grants Commission for the remainder of the person's term of office.

Local Government (Grants Commission) Amendment 1987

SCHEDULE 2—SAVINGS AND VALIDATION—*continued*

(2) A person who, immediately before 1 July 1988, held office as a member of the Local Government Grants Commission (other than the chairman or the deputy chairman), shall be deemed to be appointed on that date as a member referred to in section 218c (2) (c) of the Local Government Act 1919, as amended by this Act, for the remainder of the person's term of office.

Validation

2. Anything done before 1 July 1988 by the Local Government Grants Commission in accordance with the Local Government (Financial Assistance) Act 1986 of the Commonwealth is valid notwithstanding anything to the contrary in Part VIIA of the Local Government Act 1919 as in force before that date.