

Version No. 023
Victoria Grants Commission Act 1976
No. 8887 of 1976

Version incorporating amendments as at 1 July 2007

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Version No. 023

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An Act to establish a Victoria Grants Commission to determine the Allocation of Financial Assistance to Municipalities in Victoria and for other purposes.

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 Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. Short title and commencement

- (1) This Act may be cited as the **Victoria Grants Commission Act 1976**.
- (2) The several provisions of this Act shall come into operation on a day or on the respective days to be fixed by proclamation or by successive proclamations of the Governor in Council published in the Government Gazette.

2. Definitions

- (1) In this Act, unless inconsistent with the context or subject-matter—

S. 2
amended by
No. 86/1998
s. 25 (ILA
s. 39B(1)).

Victoria Grants Commission Act 1976
No. 8887 of 1976

s. 2

S. 2(1) def. of "As-of-Right Entitlement" substituted by No. 38/1987 s. 4(a), amended by Nos 12/1989 s. 4(1)(Sch. 2 item 127.1), 74/2000 s. 3(Sch. 1 item 137.1).

"As-of-Right Entitlement" in relation to a council means the amount to which the council is entitled, being an amount in a year not less than the amount that would be allocated to that council if 30 per cent of the amount to which the State is entitled in respect of the financial year were allocated amongst councils in the State on a per capita basis;

S. 2(1) def. of "chairman" amended by No. 38/1987 s. 5(a).

"chairperson" means the chairperson of the Commission and includes an acting chairperson;

"Commission" means the Victoria Grants Commission established by this Act;

S. 2(1) def. of "Council" inserted by No. 12/1989 s. 4(1)(Sch. 2 item 127.2).

"Council" has the same meaning as in the **Local Government Act 1989**;

S. 2(1) def. of "member" amended by No. 38/1987 s. 5(a).

"member" means the chairperson or another member of the Commission and includes chairperson or member;

S. 2(1) def. of "Minister" inserted by No. 38/1987 s. 4(b).

"Minister" means the Minister administering this Act.

S. 2(1) def. of "municipality" repealed by No. 12/1989 s. 4(1)(Sch. 2 item 127.3).

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S. 2(2)
inserted by
No. 86/1998
s. 25,
substituted by
No. 59/2003
s. 126,
repealed by
No. 74/2006
s. 30.

3. Establishment of Victoria Grants Commission

(1) For the purpose of this Act there shall be a body by the name of the Victoria Grants Commission.

(2) The Commission shall consist of a chairperson and two other members appointed by the Governor in Council.

S. 3(2)
amended by
No. 38/1987
s. 5(a).

(3) At least two members of the Commission shall have had an association with local government.

S. 3(3)
amended by
No. 38/1987
s. 6.

(4) Subject to this Act each member shall be appointed and hold office for such period of not more than five years as is specified in the instrument of that member's appointment and shall be eligible for re-appointment.

S. 3(4)
amended by
No. 38/1987
s. 5(b).

(5) The **Public Administration Act 2004** (other than Part 5 of that Act) does not apply to a member of the Commission in respect of the office of member.

S. 3(5)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
No. 108/2004
s. 117(1)
(Sch. 3
item 216.1).

4. Meetings of the Commission

(1) The chairperson shall preside at meetings of the Commission at which the chairperson is present and, if the chairperson is not present at a meeting, the member present at the meeting who was first appointed to the Commission shall preside at the meeting.

S. 4(1)
amended by
No. 38/1987
s. 5(a)(c).

S. 4(3)
amended by
No. 38/1987
s. 5(a).

(2) A question arising at a meeting of the Commission may be determined by a majority of votes.

(3) The chairperson shall have a deliberative vote only.

S. 4(4)
amended by
No. 38/1987
s. 5(a).

(4) A substantive question shall not be determined at a meeting unless at least the chairperson and one other member are present.

(5) The Commission may act notwithstanding a vacancy in its membership so long as two members are present.

(6) Subject to this Act and the regulations the procedure of the Commission shall be in its discretion.

(7) An act or decision of the Commission shall not be invalid by reason only of a vacancy in the office of a member or a defect or irregularity in the appointment of a member.

S. 5
amended by
No. 38/1987
s. 5(b).

5. Illness or suspension of members

In the case of the illness suspension or absence of any member, the Governor in Council may appoint a person to act as the deputy of the member during that member's illness suspension or absence, and the deputy shall, whilst so acting, have all the powers and perform all the duties of a member.

6. Remuneration of members

S. 6(1)
amended by
No. 38/1987
s. 5(a).

(1) The chairperson and each of the other members of the Commission shall each receive such remuneration and travelling and other allowances as are determined by the Governor in Council.

(2) Subject to this Act, members of the Commission shall hold office on such terms and conditions as are determined by the Governor in Council.

(3) Any person who at the date of that person's appointment as a member of the Commission is an officer within the meaning of the **State Superannuation Act 1988** shall, notwithstanding that person's appointment, be deemed to continue subject to that Act to be an officer within the meaning of that Act.

S. 6(3)
amended by
Nos 38/1987
s. 5(d),
50/1988
s. 93(2)(Sch. 2
Pt 2 item 64).

(4) Any person who at the date of that person's appointment as a member of the Commission is an employee within the meaning of the **Local Authorities Superannuation Act 1988** shall, notwithstanding that person's appointment as a member, be deemed to continue subject to that Act to be an employee within the meaning of that Act and in relation to any such employee the Commission shall be deemed to be an authority within the meaning of that Act.

S. 6(4)
amended by
Nos 38/1987
s. 5(d),
23/1988
s. 61(10)
(a)-(c).

7. Removal and suspension of members

- (1) The Governor in Council may suspend any member from office, but no member shall be removed from office except as hereinafter provided.
- (2) The Minister shall cause to be laid before both Houses of Parliament a full statement of the grounds of suspension of any member within seven days after the suspension if Parliament is then sitting or if Parliament is not then sitting then within seven days after the next meeting of Parliament.

- (3) Any member so suspended shall be removed from office by the Governor in Council if each House of Parliament within seven sitting days after the day when the statement is laid before it declares by resolution that the member ought to be removed from office, and unless each House within the said time so declares the Governor in Council shall remove the suspension and restore the member to office.

S. 8
amended by
No. 38/1987
s. 5(b).

8. Vacation of office of members

A member shall be deemed to have vacated that member's office if—

S. 8(a)
amended by
No. 38/1987
s. 5(b)(e).

- (a) that member becomes bankrupt or that member's property becomes subject to control under the law relating to bankruptcy, or that member compounds with that member's creditors or makes an assignment of the whole or any part of any remuneration to which that member is or may be entitled pursuant to this Act for their benefit;

S. 8(b)
amended by
No. 38/1987
s. 5(e).

- (b) except with the leave of the Minister, that member absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months;

S. 8(c)
amended by
No. 38/1987
s. 5(b)(e).

- (c) that member becomes permanently incapable of performing that member's duties; or

S. 8(d)
amended by
No. 38/1987
s. 5(b).

- (d) resigns that member's office by writing under that member's hand addressed to the Governor in Council.

9. Staff

A secretary and any other employees that are necessary to assist the Commission in carrying out its functions under this Act are to be employed under Part 3 of the **Public Administration Act 2004**.

S. 9 substituted by No. 46/1998 s. 7(Sch. 1), amended by No. 108/2004 s. 117(1) (Sch. 3 item 216.2).

10. Information to be supplied to Commission by councils

Each council shall supply the prescribed information to the Commission—

S. 10 amended by Nos 38/1987 s. 7(a), 12/1989 s. 4(1)(Sch. 2 item 127.4).

- (a) on or before the day fixed by the Commission by notice published in the Government Gazette; or
- (b) in the case of a particular council, on or before such later date as is fixed by the Commission for that council.

S. 10(b) amended by No. 12/1989 s. 4(1)(Sch. 2 item 127.4).

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S. 10(2) repealed by No. 38/1987 s. 7(b).

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S. 11 repealed by No. 38/1987 s. 8.

12. Allocation of funds by the Commission

- (1) The Commission shall on or before the 31st day of August in each year determine the amount to be allocated to each council in that year.

S. 12(1) amended by No. 12/1989 s. 4(1)(Sch. 2 item 127.6).

s. 13

S. 12(2)
substituted by
No. 38/1987
s. 9,
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 127.6).

(2) The amount to be allocated to each council must not be less than the "As-of-Right Entitlement" of the council.

S. 12(3)
substituted by
No. 38/1987
s. 10(1),
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 127.6),
74/2000
s. 3(Sch. 1
item 137.2).

(3) In making a determination the Commission must have regard to the objective of ensuring that the allocation of funds for local government purposes is made, as far as practicable, on a full horizontal equalization basis, being a basis that ensures that each council in the State is able to function, by reasonable effort, at a standard not lower than the average standard of other councils in the State, and that takes account of differences in the expenditure required by those councils in the performance of their functions and in the capacity of those councils to raise revenue.

S. 12(4)
amended by
Nos 38/1987
s. 10(2),
12/1989
s. 4(1)(Sch. 2
item 127.6).

(4) After the relevant Commonwealth Minister has been informed of the details of a determination, the determination of the Commission shall forthwith be delivered to the Minister for transmission to the Treasurer to each member of the Parliament and to each council.

S. 13
amended by
No. 38/1987
s. 11(a)(b).

13. Powers of Commission

The Commission or any member thereof may carry out such inspections, conduct such hearings, take such evidence and generally make such investigations as are necessary for the purpose of properly carrying out its functions relating to financial assistance for local government purposes.

14. Power to Minister to make special submission to Commission

- (1) The Minister may on the Minister's own motion or at the request of the Commission make written submissions to the Commission as to any factors which appear to the Minister to be of special significance in relation to all or any councils in the relevant financial year. **S. 14(1) amended by Nos 38/1987 s. 5(f), 12/1989 s. 4(1)(Sch. 2 item 127.7).**
- (2) Notice of the making of a submission by the Minister shall be published in the Government Gazette and a copy of the submission shall be laid before both Houses of the Parliament within 30 days of the making of the submission if Parliament is then sitting and if Parliament is not then sitting within 30 days after the next meeting of Parliament, and the Minister shall make a further copy of the submission available for inspection by members of the public at the Minister's office. **S. 14(2) amended by No. 38/1987 s. 5(f).**

15. Representation by councils before the Commission

A council of a municipal district may only be represented in proceedings before the Commission by councillors or by a member of the council's staff. **S. 15 amended by No. 12/1989 s. 4(1)(Sch. 2 items 127.8, 127.9), substituted by No. 125/1993 s. 20(13).**

16. References by Minister to Commission

The Commission shall enquire into and report upon any matter relating to local government finances which is referred to it by the Minister.

17. Annual Report

- (1) The Commission shall on or before the 30th day of November in each year furnish the Minister with a report on the activities of the Commission during the preceding year ending on the 31st day of August.

(2) Without limiting the generality of sub-section (1) the report of the Commission shall—

S. 17(2)(a)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 127.10).

(a) contain a summary of the amounts last determined by the Commission to be allocated to councils; and

S. 17(2)(b)
amended by
No. 38/1987
s. 12.

(b) report on any inquiries conducted by the Commission pursuant to the powers conferred by section 16; and

S. 17(2)(c)
inserted by
No. 38/1987
s. 12,
amended by
No. 74/2000
s. 3(Sch. 1
item 137.3).

(c) at least once in every three years, contain details of the methods used by the Commission in determining the amounts allocated to each council over the years since the last such details were contained in such a report.

S. 17(3)
amended by
No. 38/1987
s. 5(g).

(3) The Minister shall cause every report furnished to the Minister under this section to be laid before both Houses of Parliament within 30 days of receiving the report if Parliament is then sitting or if Parliament is not then sitting within 30 days after the next meeting of Parliament.

18. Power of Commission to take evidence

Without affecting any other powers of the Commission to take and receive evidence the provisions of sections 14, 15, 16, 20 and 20A of the **Evidence Act 1958** and of rules and orders made under sub-section (4) of section 20 of that Act apply to and in relation to the Commission and proceedings of the Commission as if the Commission were a Board appointed by the Governor in Council.

19. Regulations

The Governor in Council may make regulations prescribing all matters which are required or permitted to be prescribed or which are necessary to be prescribed for carrying out or giving effect to this Act and in particular regulating the practice and procedure of the Commission.

ENDNOTES

1. General Information

The **Victoria Grants Commission Act 1976** was assented to on 26 October 1976 and came into operation on 16 February 1977: Government Gazette 9 February 1977 page 319.

2. Table of Amendments

This Version incorporates amendments made to the **Victoria Grants Commission Act 1976** by Acts and subordinate instruments.

Victoria Grants Commission (Amendment) Act 1987, No. 38/1987

Assent Date: 12.5.87
Commencement Date: 24.2.88—see **Interpretation of Legislation Act 1984**:
Government Gazette 24.2.88 p. 410
Current State: All of Act in operation

Local Authorities Superannuation Act 1988, No. 23/1988

Assent Date: 17.5.88
Commencement Date: Pts 1, 7 on 1.9.87: s. 2(2); rest of Act on 25.5.88:
Government Gazette 25.5.88 p. 1458
Current State: All of Act in operation

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(2)(Sch. 2 Pt 2 item 64) on 1.7.88: Government
Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s
amending the **Victoria Grants Commission Act
1976**

Local Government (Consequential Amendments) Act 1989, No. 12/1989 (as amended by No. 13/1990)

Assent Date: 9.5.89
Commencement Date: S. 4(Sch. 2 items 127.1–127.4, 127.6–127.10) on
1.11.89: Government Gazette 1.11.89 p. 2798
Current State: This information relates only to the provision/s
amending the **Victoria Grants Commission Act
1976**

Local Government (Miscellaneous Amendments) Act 1993, No. 125/1993

Assent Date: 7.12.93
Commencement Date: S. 20(13) on 7.12.93: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Victoria Grants Commission Act
1976**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Victoria Grants Commission Act
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Local Government (Governance and Melton) Act 1998, No. 86/1998

Assent Date: 17.11.98
Commencement Date: S. 25 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s amending the **Victoria Grants Commission Act 1976**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 137) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Victoria Grants Commission Act 1976**

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 126 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s amending the **Victoria Grants Commission Act 1976**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 216) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Victoria Grants Commission Act 1976**

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006

Assent Date: 10.10.06
Commencement Date: S. 30 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s amending the **Victoria Grants Commission Act 1976**

3. Explanatory Details

No entries at date of publication.