**Schools Commission Act 1973**

No. 213 of 1973

**AN ACT**

To make provision for and in relation to the Establishment
of a Schools Commission.

[Assented to 19 December 1973]

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

**Short title.**

**1.** This Act may be cited as the Schools Commission Act 1973.

**Commencement.**

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

**Definitions.**

**3.** (1) In this Act, unless the contrary intention appears—

“acting Chairman” means an acting Chairman of the Commission appointed under sub-section 6(1);

“acting member” means an acting member of the Commission appointed under sub-section 6(2), (3) or (4);

“Australian Capital Territory” includes the Jervis Bay Territory;

“Chairman” means the Chairman of the Commission;

“Commission” means the Schools Commission established by this Act;

“disadvantaged school” means a school—

(a) the students at which, or a substantial proportion of the students at which, are members of a community which, for social, economic, ethnic, geographic, cultural, lingual or any similar reason, has a lower than average ability to take advantage of educational facilities; and

(b) which requires special facilities (whether in the form of buildings, equipment, teaching staff or in some other form) for the purpose of enabling the school to provide adequate educational opportunities for students at the school;

“financial assistance”, in relation to a school conducted by the Government of Australia, includes assistance by way of expendi­ture of moneys by the Government of Australia for the purposes of the school;

“full-time member” means the Chairman and any other member appointed to be a full-time member of the Commission;

“government school” means a school conducted by or on behalf of the Government of a State or the Government of Australia;

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

“non-government school” means a school other than a government school;

“part-time member” means a member of the Commission other than a full-time member;

“school” means a school or similar institution, being a school or institution at which full-time primary education or full-time secondary education, or both, is or are provided, or at which education is provided that includes full-time primary education or full-time secondary education, or both, but does not include a school or institution conducted for the profit, direct or indirect, of an individual or individuals;

*“*school system” means an educational system that provides education at schools or, if an educational system provides education at schools and also at institutions other than schools, that system in so far as it relates to schools.

(2) Any reference in a provision of this Act to schools shall, unless the contrary intention appears, be read as a reference both to government schools and to non-government schools.

**Establishment of Commission.**

4. (1) There shall be a Commission by the name of the Schools Commission.

(2) The Commission shall consist of—

(a) a Chairman; and

(b) such number of other members, not being less than four nor more than eleven, as is from time to time prescribed.

(3) A member shall be appointed by the Governor-General.

(4) The Chairman and each other full-time member shall be appointed for a term not exceeding seven years, and each part-time member shall be appointed for a term not exceeding three years.

(5) A member is eligible for re-appointment.

(6) The performance of the functions of the Commission is not affected by reason only of there being a vacancy in the office of a member.

**Full-time members.**

5. (1) The Chairman shall be a full-time member of the Commission and, subject to sub-section (2), the Governor-General may appoint any other member to be a full-time member of the Commission.

(2) The number of full-time members, other than the Chairman, shall not at any time exceed three.

(3) For the purposes of sub-section 4(3a) and (4) of the Superannuation Act 1922-1973, a full-time member shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

**Acting appointments.**

**6.** (1) Where there is a vacancy in the office of Chairman, or the Chairman is, or is expected to be, absent from duty or from Australia, the Minister may appoint another member, or an acting member, to be acting Chairman of the Commission until the filling of the vacancy or during the absence, as the case may be.

(2) Where there is a vacancy in the office of a member, other than the Chairman, the Minister may appoint a person to be an acting member of the Commission until the filling of the vacancy.

(3) Where a full-time member, other than the Chairman, is, or is expected to be, absent from duty or from Australia, the Minister may appoint a person to be an acting member of the Commission in the place of that member during the absence.

(4) In the event of the inability (whether on account of illness or otherwise) of a part-time member to attend meetings of the Commission, the Minister may appoint a person to be an acting member of the Commission in the place of that member during that inability.

(5) An appointment under this section may be terminated at any time by the Minister.

**Remuneration.**

7. (1) The Chairman, and a full-time acting Chairman, shall be paid remuneration at such rate, and an annual allowance at such rate, as the Parliament fixes in relation to the Chairman of the Commission, and such other allowances as are prescribed.

(2) A full-time member, other than the Chairman or an acting Chairman, shall be paid remuneration at such rate as the Parliament fixes in relation to full-time members of the Commission, and such allowances, other than an annual allowance, as are prescribed.

(3) A part-time member, other than a part-time member who is a full-time acting Chairman, shall be paid remuneration at such rate as the Parliament fixes in relation to part-time members of the Commission, and such allowances, other than an annual allowance, as are prescribed.

(4) A part-time member who is a part-time acting Chairman shall, in addition to the remuneration and allowances payable to him under sub-section (3), be paid such other allowances, if any, as are prescribed.

(5) Notwithstanding sub-sections (1), (2) and (3)—

(a) the Chairman, and a full-time acting Chairman, shall, until 1 July 1974, be paid remuneration at such rate as is prescribed, and an annual allowance at such rate as is prescribed, in relation to the Chairman of the Commission;

(b) a full-time member, other than the Chairman or an acting Chairman, shall, until 1 July 1974, be paid remuneration at such rate as is prescribed in relation to full-time members of the Commission; and

(c) a part-time member, other than a part-time member who is a full-time acting Chairman, shall, until 1 July 1974, be paid remuneration at such rate as is prescribed in relation to part-time members of the Commission.

(6) In this section, unless the contrary intention appears—

“full-time acting Chairman” means an acting Chairman who is a full-time member or an acting Chairman who, being a part-time member, is, under a term of his appointment as acting Chairman, required to give the whole of his time to the duties of his office as acting Chairman;

“full-time member” includes an acting member who is, under a term of his appointment as an acting member, required to give the whole of his time to the duties of his office as an acting member;

“part-time acting Chairman” means an acting Chairman other than a full-time acting Chairman;

“part-time member” includes an acting member who is not a full-time member.

**Leave of absence.**

8. The Minister may grant leave of absence to a member, or to an acting member, upon such terms and conditions as to remuneration or otherwise as the Minister determines.

9. (1) The Governor-General may terminate the appointment of a member by reason of the misbehaviour, or the physical or mental incapacity, of the member.

**Termination of appointments.**

(2) If a member—

(a) being a full-time member—

(i) engages in paid employment outside the duties of his office without the approval of the Minister; or

(ii) is absent from duty, except on leave of absence granted by the Minister, for fourteen consecutive days, or for twenty-eight days in any twelve months;

(b) being a part-time member—is absent, except on leave of absence granted by the Minister, from three consecutive meetings of the Commission; or

(c) whether a full-time member or a part-time member—becomes bankrupt, applies to take the benefit of any law for the relief or bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Governor-General shall terminate the appointment of the member.

**Resignation.**

**10.** A member, or an acting member, may resign his office by writing; under his hand addressed to the Minister, but the resignation does not have effect until it is accepted by the Minister.

**Rights of public servant appointed as Chairman or full-time member.**

**11.** If a full-time member was, immediately before his appointment, an officer of the Public Service or a person to whom the Officers’ Rights Declaration Act 1928-1969 applied—

(a) he retains his existing and accruing rights;

(b) for the purpose of determining those rights, his service as a full-time member shall be taken into account as if it were service in the Public Service; and

(c) the Officers’ Rights Declaration Act 1928-1969 applies as if this Act and this section had been specified in the Schedule to that Act.

**Meetings.**

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

(2) The Minister or the Chairman may at any time convene a meeting of the Commission.

(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, the members present shall appoint one of their number to preside at the meeting.

(5) At a meeting of the Commission—

(a) if the membership of the Commission does not exceed seven—a quorum is constituted by not less than three members; or

(b) if the membership of the Commission exceeds seven but does not exceed nine—a quorum is constituted by not less than four members; or

(c) in any other case—a quorum is constituted by not less than five members.

(6) For the purposes of sub-section (5), the membership of the Commission shall be deemed not to exceed seven at any time if the number of members, in addition to the Chairman, prescribed for the purposes of sub-section 4(2) at that time does not exceed six.

(7) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present.

(8) The member presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) In this section—

(a) a reference to the Chairman shall, if there is an acting Chairman, be read as a reference to the acting Chairman;

(b) a reference to member shall be read as including a reference to acting member.

**Functions of Commission.**

**13.** (1) In the performance of its functions, the Commission shall consult and co-operate with representatives of the States, with authorities in the Australian Capital Territory and the Northern Territory responsible for primary or secondary education in either or both of those Territories and with persons, bodies and authorities conducting non-government schools in Australia, and may consult with such other persons, bodies and authorities as the Commission thinks necessary.

(2) The functions of the Commission are to inquire into, and to furnish information and advice to the Minister with respect to, the following matters:—

(a) The establishing of acceptable standards for buildings, equipment, teaching and other staff and other facilities at government and non-government primary and secondary schools in Australia, and means of attaining and maintaining those standards;

(b) The needs of such schools in respect of buildings, equipment, staff and other facilities, and the respective priorities to be given to the satisfying of those various needs;

(c) Matters in connexion with the grant by Australia of financial assistance to the States for and in respect of schools and school systems and to schools in the Australian Capital Territory and the Northern Territory, including matters relevant to the necessity for financial assistance to be so granted by Australia, the conditions upon which financial assistance should be so granted and the amount and allocation of any financial assistance so granted; and

(d) Any other matter relating to primary or secondary education in Australia, or to Australian schools, that may be referred to the Commission by the Minister or which the Commission considers to be a matter that should be inquired into by the Commission.

(3) In addition to the functions of the Commission under sub-section (2), the Commission shall have such other functions as are conferred on it, either expressly or by implication, by or under any other Act.

(4) In the exercise of its functions, the Commission shall have regard to such matters as are relevant, including the need for improving primary and secondary educational facilities in Australia and of providing increased and equal opportunities for education in government and non-government schools in Australia and the need for ensuring that the facilities provided in all schools in Australia, whether government or non-government, are of the highest standard, and, in particular, shall have regard to—

(a) the primary obligation, in relation to education, for governments to provide and maintain government school systems that are of the highest standard and are open, without fees or religious tests, to all children;

(b) the prior right of parents to choose whether their children are educated at a government school or at a non-government school;

(c) the educational needs of handicapped children and handicapped young persons;

(d) the needs of disadvantaged schools and of students at disadvantaged schools, and of other students suffering disadvantages in relation to education for social, economic, ethnic, geographic, cultural, lingual or similar reasons;

(e) the need to encourage diversity and innovation in education in schools and in the curricula and teaching methods of schools;

(f) the need to stimulate and encourage public and private interest in, and support for, improvements in primary and secondary education and in schools and school systems;

(g) the desirability of providing special educational opportunities for students who have demonstrated their ability in a particular field of studies, including scientific, literary, artistic or musical studies; and

(h) the need, in relation to primary and secondary education and in schools and school systems, to promote the economic use of resources.

(5) For the purpose of the performance of its functions, the Commission may undertake, or cause to be undertaken, such research as it thinks necessary into matters that relate to the functions of the Commission.

**Reports.**

**14.** (1) The Commission shall, at such times and in respect of such periods as the Minister directs, furnish to the Minister reports containing recommendations with respect to the matters referred to in paragraph 13(2)(c).

(2) The Minister shall, as soon as practicable, cause each report under sub-section (1) to be laid before each House of the Parliament.

(3) In addition to the reports referred to in sub-section (1), the Commission shall furnish to the Minister such reports as the Minister requires and may furnish such other reports as the Commission thinks fit.

**Staff of Commission.**

**15.** (1) The staff necessary to assist the Commission shall be persons employed under the Public Service Act 1922-1973.

(2) The Chairman of the Commission has all the powers of, or exercisable by, a Permanent Head under the Public Service Act 1922-1973 so far as those powers relate to the branch of the Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Public Service.

(3) For the purposes of sub-sections 25(5) and (6) of the Public Service Act 1922-1973, the Chairman shall be deemed to be a Permanent Head. .

(4) In this section, “Chairman” includes acting Chairman.

**State and Territory Schools Commission Advisory Boards.**

**16.** (1) For the purpose of assisting the Commission in the performance of its functions by providing, in each State and in the Australian Capital Territory and in the Northern Territory, means by which suggestions, proposals and information relating to those functions can be communicated to the Commission by, and the Commission can consult with, persons, authorities and associations responsible for, or connected with, primary or secondary education in the State or Territory, including teachers, students and parents of students, the Minister may, in relation to each State and each Territory, establish a Board or Boards to be known as the Schools Commission Advisory Board, or the Schools Commission Advisory Boards, for the State or Territory.

(2) A Board shall consist of such persons, whether members of the Commission or not, as, subject to and in accordance with the regulations, the Minister appoints.

(3) A member of a Board shall be paid such fees and allowances as are prescribed, and shall hold office on such other terms and conditions as the Minister determines.

(4) A Board shall have such functions as are prescribed.

(5) In this section, “Board” means a Schools Commission Advisory Board established under this section.

**Committees.**

**17.** (1) The Minister may, at the request of the Commission, appoint a Committee to assist the Commission in relation to a matter specified in the request.

(2) A Committee appointed under sub-section (1) shall consist of such persons, whether members of the Commission or not, as the Minister thinks fit.

(3) A member of a Committee shall be paid such fees and allowances as are prescribed, and shall hold office on such other terms and conditions as the Minister determines.

(4) A Committee shall make such inquiries, and furnish to the Commission such reports, in connexion with the matter in relation to which it has been appointed as the Commission directs.

**Regulations.**

**18.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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