

ACT OF GRACE PAYMENTS

POLICY

The authority for Act of Grace payments is provided by section 130 of the *Financial Management Act 1996* under which the Treasurer may authorise a payment if it is considered appropriate to do so because of special circumstances.

This power has been delegated to officials within Treasury.

Administrative, legal and other means of settling claims against the Territory should be pursued prior to contemplating use of Act of Grace payments.

PROCEDURES

The following procedures are addressed by these guidelines:

- what is an Act of Grace payment;
- process for approval and payment; and
- records for reporting.

What is an Act of Grace Payment?

The Act of Grace power is a unique discretion given to the Treasurer to make payments to persons who may have been unintentionally disadvantaged by the effects of ACT Government legislation, actions or omissions and who have no other viable means of redress.

Act of Grace payments are not specifically sanctioned by the Legislative Assembly in an Appropriation Act. For this reason, the Act of Grace power should not be seen as an alternative to other viable avenues of redress but rather as a remedy that may only be applied in special circumstances to ensure consistency and equity in the impact of Government activities.

Act of Grace Payments can arise from any sphere of Territory administration. As implied by the *Financial Management Act 1996*, the Treasurer has an unfettered discretion to determine each Act of Grace request on a case-by-case basis and as such, it is not appropriate to specifically define special circumstances.

However, the conditions under which Act of Grace claims are determined can broadly be characterised as where the Territory considers it has a moral obligation, as opposed to a legal obligation, to provide redress because:

- the Territory's direct role, acts or omissions in relation to the particular case has caused an unintended or inequitable result for the individual or entity concerned;
- the application of Territory legislation has produced a result that is unintended, anomalous, inequitable or otherwise unacceptable in a particular case; or
- the matter is not covered by legislation or specific policy, but it is intended to introduce such legislation or policy and it is considered desirable in a particular case to apply the benefits of the relevant provisions.

Equity is an important element in consideration of Act of Grace requests. While an individual's private circumstances may impact on whether the application of a Territory law or policy has produced an inequitable result in his or her case, Act of Grace payments are not provided where a request has arisen from circumstances outside the sphere of Territory administration or application of Territory law.

The Act of Grace arrangements should not be seen as a means of circumventing legislative or policy provisions that are operating as intended, or establishing a payments scheme to remedy major legislative or major program deficiencies.

Process for Approval and Payment

When an application for an Act of Grace payment is received the line area seeking the payment should prepare a brief / minute justifying why an Act of Grace payment is appropriate. This should outline why there is no alternative means of redress. It must be signed by the relevant executive and endorsed by the Director-General.

It must then be forwarded to Treasury, Finance and Budget Division for consideration and a recommendation on whether the application should be granted.

Recommended Act of Grace payments are usually forwarded to the Treasurer for his / her signature rather than Treasury officials exercising their sub-delegation.

Once the Treasurer, or delegate, has given approval it is provided to EPD Finance to arrange payment.

Records for Reporting

EPD Finance will keep records of all payments for reporting in the financial report.

Non-Compliance

Non-compliance will be taken as a serious matter and may result in disciplinary action or be reflected in performance reviews.

REFERENCES

Source	Description
FMA	s130
FMA Regs/FMOs	n/a
Other legislation/regs	n/a
Related DGFIs	n/a
Related Guidelines	n/a