



Australian Nuclear Science and Technology Organisation Act 1987

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About this compilation

This compilation

This is a compilation of the *Australian Nuclear Science and Technology Organisation Act 1987* that shows the text of the law as amended and in force on 19 September 2017 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to the Australian Nuclear Science and Technology Organisation, and for other purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Australian Nuclear Science and Technology Organisation Act 1987*.

2 Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

ANSTO spent nuclear fuel means spent nuclear fuel that has been irradiated in, and permanently removed from, a nuclear reactor operated by the Organisation.

application and use means:

- (a) nuclear application and use; or
- (b) non-nuclear application and use.

appoint includes re-appoint.

appointed member means a member of the Board other than the Chief Executive Officer.

Board means the Board of Directors of the Organisation.

Chairperson means Chairperson of the Board.

Chief Executive Officer means the Chief Executive Officer of the Organisation.

commencing day means the day of commencement of this Act.

Commonwealth contractor means:

- (a) a person who is a party to a contract with the Commonwealth or a Commonwealth entity; or
- (b) a person who is a subcontractor for a contract with the Commonwealth or a Commonwealth entity.

Commonwealth entity means:

- (a) a body corporate established for a public purpose by or under an Act; or
- (b) a company in which a controlling interest is held by any one of the following persons, or any 2 or more of the following persons together:
 - (i) the Commonwealth;
 - (ii) a body covered by paragraph (a).

Deputy Chairperson means Deputy Chairperson of the Board.

employee means an employee referred to in subsection 24(1).

Finance Minister means the Minister who administers the *Public Governance, Performance and Accountability Act 2013*.

Immigration and Border Protection Department means the Department administered by the Minister administering Part XII of the *Customs Act 1901*.

law enforcement agency means:

- (a) the Australian Federal Police; or
- (b) a police force of a State or Territory; or
- (c) the Immigration and Border Protection Department; or
- (d) any other authority or person responsible for the enforcement of the laws of the Commonwealth, a State or a Territory.

member of the staff of the Organisation means:

- (a) the Chief Executive Officer; or
- (b) an officer or employee.

non-staff member means a member of the Board who is not a member of the staff of the Organisation.

officer means an officer referred to in subsection 24(1).

Organisation means the Australian Nuclear Science and Technology Organisation constituted under this Act.

scientific research, innovation and training includes the following, whether or not related to nuclear science and nuclear technology:

- (a) any activities in the fields of natural or applied science (including engineering and technology) for the extension or application of knowledge;
- (b) any activities that involve innovation or high levels of technical risk for the purposes of creating new or improved materials, products, devices or processes;
- (c) the education and training of persons in matters related to activities mentioned in paragraph (a) or (b).

securities includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.

share, in relation to a company, means a share in the capital of the company and includes stock.

spent nuclear fuel means material that:

- (a) is or was capable of producing energy by a self-sustaining chain process of nuclear fission; and
- (b) has been irradiated in, and permanently removed from, a nuclear reactor (which is a structure containing material to which paragraph (a) applies in such an arrangement that a self-sustaining chain process of nuclear fission can occur in the structure without an additional source of neutrons).

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subcontractor, for a contract, means a person who is a party to:

- (a) a contract with a Commonwealth contractor (within the meaning of paragraph (a) of the definition of **Commonwealth contractor**); or
 - (b) a contract with another subcontractor (under a previous application of this definition).
- (3) A reference in this Act to dealing with securities includes a reference to:
- (a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing or reselling securities;
 - (b) creating, selling, purchasing or reselling rights or options in respect of securities; and
 - (c) entering into agreements or other arrangements relating to securities.

Part II—Australian Nuclear Science and Technology Organisation

4 Establishment of Organisation

- (1) The body corporate that was, immediately before the commencing day in existence by virtue of section 8 of the *Atomic Energy Act 1953* under the name Australian Atomic Energy Commission continues in existence by force of this subsection as a body corporate, under and subject to the provisions of this Act, under the name Australian Nuclear Science and Technology Organisation.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Organisation. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (2) The Organisation:
- (a) shall have a seal; and
 - (b) may sue and be sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Organisation appearing on a document and shall presume that the document was duly sealed.

5 Functions of Organisation

- (1) The functions of the Organisation are:
- (a) to undertake research and development in relation to:
 - (i) nuclear science and nuclear technology; and
 - (ia) the application and use of nuclear science and nuclear technology; and
 - (ii) the production and use of radioisotopes, and the use of isotopic techniques and nuclear radiation, for medicine, science, industry, commerce and agriculture; and
 - (iii) such other matters as the Minister directs; and

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- (b) to encourage and facilitate the application and use of the results of such research and development; and
- (ba) to condition, manage and store radioactive materials and radioactive waste, arising from:
 - (i) the Organisation's activities (including the production of radioactive materials for other persons); or
 - (ii) the activities of companies in which the Organisation holds a controlling interest (including the production of radioactive materials for other persons); or
 - (iii) the use by other persons of radioactive materials produced by the Organisation or such companies; or
 - (iv) the activities of other persons who are specified in the regulations; and
- (bb) to condition, manage and store radioactive materials and radioactive waste generated, possessed or controlled by the Commonwealth or a Commonwealth entity; and
- (bc) to condition, manage and store radioactive materials and radioactive waste at the request of:
 - (i) a law enforcement agency; or
 - (ii) a Commonwealth, State or Territory agency responsible for the management of emergencies or disasters;including, but not limited to, radioactive materials or radioactive waste involved in, or arising out of, a radiological incident or a radiological emergency; and
- (bd) to condition, manage and store radioactive waste that has been, or is to be, sent to Australia under contractual arrangements relating to the conditioning or reprocessing of ANSTO spent nuclear fuel; and
- (c) to produce, acquire, provide and sell goods, and to provide services, that are:
 - (i) in connection with the production and use of radioisotopes, and the use of isotopic techniques and nuclear radiation, for medicine, science, industry, commerce and agriculture; or
 - (ia) in connection with the conditioning, management and storage of radioactive materials or radioactive waste; or

- (ib) in connection with nuclear science and nuclear technology; or
- (ic) in connection with the application and use of nuclear science and nuclear technology; or
- (ii) otherwise in connection with matters related to its activities; and
- (d) to act as a means of liaison between Australia and other countries in matters related to its activities; and
- (e) to provide advice on aspects of:
 - (i) nuclear science and nuclear technology; and
 - (ii) the application and use of nuclear science and nuclear technology; and
 - (iii) other matters related to its activities; and
- (ea) to make available to other persons, whether or not on a commercial basis, the knowledge, expertise, equipment, facilities, resources and property of the Organisation by:
 - (i) providing training and management expertise; or
 - (ii) selling or leasing equipment; or
 - (iii) leasing land, buildings and facilities; or
 - (iv) taking any other action that the Organisation thinks appropriate; and

Note: See also subsection (4A) of this section and subsection 6(3).

- (f) to co-operate with appropriate authorities of the Commonwealth, the States and the Territories, and with other organisations and institutions in Australia or elsewhere, in matters related to its activities; and
- (g) to publish scientific and technical reports, periodicals and papers on matters related to its activities; and
- (h) to collect and sell or distribute, as appropriate, information and advice on matters related to its activities; and
- (j) to arrange for training, and the establishment and award of scientific research studentships and fellowships, in matters related to its activities; and
- (k) to make grants in aid of research into matters related to its activities; and

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- (m) to make arrangements with universities and other educational research institutions, professional bodies and other persons for the conduct of research or of other activities in matters related to its activities.
- (1A) A regulation made for the purposes of subparagraph (1)(ba)(iv) must not have the effect of authorising the premises on which the Lucas Heights Research Laboratories are situated to become a national nuclear waste repository.
- (1B) In subsection (1A):
- national nuclear waste repository* means a site chosen by the Commonwealth, after the commencement of this subsection, for the storage of nuclear waste with a view to it never being moved to another site.
- (1C) Without limiting paragraph 5(1)(bb):
- (a) radioactive materials and radioactive waste generated by a Commonwealth contractor under a contract between the Commonwealth contractor and the Commonwealth or a Commonwealth entity are taken to be generated by the Commonwealth or the Commonwealth entity, as the case requires; and
- (b) radioactive materials and radioactive waste possessed or controlled by a Commonwealth contractor under a contract between the Commonwealth contractor and the Commonwealth or a Commonwealth entity are taken to be possessed or controlled by the Commonwealth or the Commonwealth entity, as the case requires.
- (2) The Organisation shall not undertake research or development into the design or production of nuclear weapons or other nuclear explosive devices.
- (3) In undertaking its functions, the Organisation is to have regard to:
- (a) the Commonwealth Government's national science, technology and energy policy objectives; and

- (b) the Commonwealth Government's commercialisation objectives for public research institutions.
- (4) The Minister shall not give a direction under subparagraph (1)(a)(iii) to the Organisation to undertake research or development in relation to a matter unless the Minister is satisfied that research or development by the Organisation in relation to that matter would be an effective use of the staff of the Organisation, and would not duplicate unnecessarily any activity being carried on, or proposed to be carried on, by any other agency or authority of the Commonwealth.
- (4A) Without limiting paragraph (1)(ea), the Organisation may perform its function under that paragraph for the purposes of scientific research, innovation and training.

6 General powers of Organisation

- (1) Subject to this Act, the Organisation has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power:
 - (a) to enter into contracts;
 - (b) to acquire, hold and dispose of real or personal property;
 - (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Organisation;
 - (d) to erect buildings and structures and carry out works;
 - (e) to form, or participate in the formation of, a company or partnership;
 - (f) to appoint agents and attorneys, and to act as an agent for other persons;
 - (g) to engage persons to perform services for the Organisation;
 - (h) to design, produce, construct and operate equipment and facilities; and
 - (j) to do anything incidental to any of its powers.
- (2) The powers of the Organisation may be exercised within or outside Australia.

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- (3) To avoid doubt, the Organisation has the power to construct buildings and facilities for the sole purpose of performing the function referred to in paragraph 5(1)(ea).

6A Constitutional limits

- (1) The Organisation may perform its functions only:
- (a) for purposes relating to activities that are peculiarly adapted to the government of a nation and cannot otherwise be carried on for the benefit of the nation; or
 - (b) for purposes relating to trade and commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) among the States; or
 - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
 - (c) for purposes relating to postal, telegraphic, telephonic or other like services; or
 - (d) for purposes relating to the security or defence of Australia; or
 - (e) for purposes relating to astronomical and meteorological observations; or
 - (f) for purposes relating to statistics; or
 - (g) for purposes relating to weights and measures; or
 - (h) for purposes relating to copyrights, patents of inventions and designs, and trade marks; or
 - (i) for purposes relating to the provision of medical and dental services; or
 - (j) for purposes related to external affairs, including:
 - (i) giving effect to any international agreement to which Australia is a party; and
 - (ii) addressing matters of international concern; and
 - (iii) by way of the performance of its functions in a place outside Australia; or
 - (k) for purposes relating to the relations of the Commonwealth with the islands of the Pacific; or

- (l) in, or for purposes relating to, a Territory; or
 - (m) in, or for purposes relating to, a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or
 - (n) for purposes relating to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.
- (2) A term used in subsection (1) and the Constitution has the same meaning in that subsection as it has in the Constitution.

7 Disclosure of the Organisation's interests in companies

- (3) If the Organisation subscribes for or purchases debentures, or other securities, of a company, the Minister shall:
- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the subscription or purchase; and
 - (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after:
 - (i) subject to subparagraph (ii), the subscription or purchase took place; or
 - (ii) if the Minister is of the opinion that the disclosure of the subscription or purchase would affect adversely the commercial interests of the Organisation, the Minister ceases to be of that opinion.
- (4) This section does not apply in relation to a matter that gives rise to an obligation under section 72 of the *Public Governance, Performance and Accountability Act 2013* (which deals with tabling of notices relating to matters such as acquisition of shares).

7A Immunity of Organisation etc. from certain State and Territory laws

- (1) Subject to subsection (4), a law to which this section applies does not apply, and is taken never to have applied, in relation to:
- (a) the Organisation; or

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- (b) the Organisation's property or transactions; or
 - (c) anything done by or on behalf of the Organisation.
- (2) Subject to subsections (4) and (5), at all times during which the Organisation holds, or has held, a controlling interest in a particular company, a law to which this section applies does not apply, or is taken not to have applied, as the case requires, in relation to:
 - (a) the company; or
 - (b) the company's property or transactions; or
 - (c) anything done by or on behalf of the company.
- (3) This section applies to a law of a State or Territory so far as the law relates to:
 - (a) the use or proposed use of land or premises; or
 - (b) the environmental consequences of the use of land or premises; or
 - (c) radioactive materials or dangerous goods; or
 - (d) licensing in relation to:
 - (i) employment; or
 - (ii) carrying on a particular kind of business or undertaking; or
 - (iii) conducting a particular kind of operation.
- (4) This section does not apply to a law of a kind referred to in subsection (3) if the law is specified in regulations made for the purposes of this subsection.
- (5) Subsection (2) does not apply in relation to any property or transaction of a company of a kind referred to in that subsection, or to anything done by such a company, if the property, transaction or thing is wholly unconnected with any matter that is within the scope of the Organisation's functions or powers.
- (6) Nothing in this section implies that a law to which this section does not apply, applies in relation to:
 - (a) the Organisation; or
 - (b) the property or transactions of the Organisation; or

(c) any act or thing done by or on behalf of the Organisation.

(7) In this section:

law means a written law, and includes:

- (a) subordinate legislation; and
- (b) a provision of a law.

Part III—The Board

8 Establishment of Board

There is established by this section a Board of Directors of the Organisation, which shall be constituted as provided by section 9.

9 Composition of Board

- (1) The Board consists of:
 - (a) the Chief Executive Officer; and
 - (b) at least 5, but not more than 8, other members.
- (2) The members other than the Chief Executive Officer shall be appointed by the Governor-General.
- (3) The appointed members may be appointed either as full-time members or as part-time members.
- (5) The Governor-General shall appoint one of the members to be the Chairperson of the Board and another of the members to be the Deputy Chairperson of the Board.
- (7) A member of the staff of the Organisation other than the Chief Executive Officer shall not be appointed as a member of the Board if:
 - (a) the number of non-staff members does not constitute a majority of the members of the Board; or
 - (b) as a result of the appointment, the number of non-staff members would not constitute such a majority.
- (8) An appointed member holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment of the member but he or she is eligible for re-appointment.

- (9) The member who is the Chairperson or the Deputy Chairperson ceases to be the Chairperson or Deputy Chairperson, as the case may be, if he or she ceases to be a member.
- (10) The Minister may appoint a person to be a deputy of a specified member other than the Chairperson, the Deputy Chairperson or the Chief Executive Officer.
- (11) If a member other than the Chairperson, the Deputy Chairperson or the Chief Executive Officer is absent from a meeting of the Board, the deputy of that member may attend the meeting in place of that member and, when so attending, shall be deemed to be a member.
- (12) The performance of the functions, or the exercise of the powers, of the Board is not affected because of a vacancy in the office of Chief Executive Officer or because there are fewer than 5 appointed members for a period of not more than 3 months.

Note: For the manner in which the Chairperson and Deputy Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

10 Functions of Board

- (1) The functions of the Board are to ensure the proper and efficient performance of the functions of the Organisation and, subject to section 11, to determine the policy of the Organisation with respect to any matter.
- (2) In performing its functions, the Board shall have regard to the current policies of the Commonwealth Government in relation to matters within the functions of the Organisation.

11 Directions to Board

- (1) Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Chairperson, give directions to the Board with respect to the performance of the functions, or the exercise of the powers, of the Organisation.

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- (2) The Board shall ensure that any directions given to it by the Minister under subsection (1) are complied with.

12 Remuneration and allowances

- (1) The non-staff members shall be paid:
- (a) such remuneration as is determined by the Remuneration Tribunal; and
 - (b) such allowances as are prescribed.
- (2) The deputy of a member of the Board shall be paid, in respect of the deputy's attendance at a meeting of the Board:
- (a) such fee as is determined by the Remuneration Tribunal; and
 - (b) such allowance as is prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

13 Resignation

An appointed member may resign from office by writing signed by the member and delivered to the Governor-General.

14 Termination of appointment

- (1) The Governor-General may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.
- (2) If an appointed member:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent:
 - (i) in the case of the Chairperson, except on leave of absence granted by the Minister; or

(ii) in any other case, except on leave of absence granted by the Chairperson;
from 3 consecutive meetings of the Board;
the Governor-General shall terminate the appointment of the member.

Note: The appointment of an appointed member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

16 Meetings of Board

- (1) The Chairperson:
 - (a) shall convene such meetings of the Board as the Chairperson considers necessary for the efficient performance of the functions of the Board; and
 - (b) shall convene a meeting of the Board on receipt of a written request signed by not fewer than 2 other members.
- (2) The Minister may convene such meetings of the Board as the Minister considers necessary.
- (3) The Chairperson shall preside at all meetings of the Board at which he or she is present.
- (4) Where the Chairperson is not present at a meeting of the Board:
 - (a) the Deputy Chairperson shall preside at the meeting; or
 - (b) if the Deputy Chairperson is not present at the meeting—the members present shall appoint one of their number to preside at the meeting.
- (5) Subject to subsection (6) and to subsection 18(3), at a meeting of the Board, a quorum is constituted if:
 - (a) the number of members present constitute a majority of the members for the time being holding office; and
 - (b) a majority of the members present are non-staff members.

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- (6) If, because of rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests), a member is not present at a meeting of the Board during a deliberation of the Board with respect to a matter but:
- (a) there would be a quorum if that member were present; and
 - (b) a majority of the remaining members are non-staff members;
- the remaining members present constitute a quorum for the purpose of any deliberation or decision of the Board at that meeting with respect to that matter.
- (7) Questions arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

16A Chief Executive Officer not to take part in certain deliberations of Board

The Chief Executive Officer:

- (a) must not take part in any deliberation or decision of the Board with respect to him or her; and
- (b) is to be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

17 Acting appointments

- (1) At any time when there is a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office) or the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the functions of Chairperson, the Deputy Chairperson or a person acting as Deputy Chairperson under subsection (2) shall act as Chairperson.

Note: For rules that apply to persons acting as the Chairperson, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a member to act as Deputy Chairperson:
- (a) during a vacancy in the office of Deputy Chairperson (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any other reason (including the reason that the Deputy Chairperson is acting as Chairperson) unable to perform the duties of the office of Deputy Chairperson.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (5) The Minister may:
- (a) determine the terms and conditions, including remuneration and allowances, if any, on which a person is to act under this section; and
 - (b) terminate an appointment under this section at any time.

Part IV—Chief Executive Officer

18 Chief Executive Officer

- (1) There shall be a Chief Executive Officer of the Organisation, who shall be appointed by the Board.
- (3) A member of the staff of the Organisation shall not:
 - (a) be present during a deliberation of the Board with respect to the appointment of the Chief Executive Officer; or
 - (b) take part in the making of a decision with respect to such an appointment;and a quorum for the purposes of such a deliberation or decision is a majority of the non-staff members for the time being holding office.

19 Duties of Chief Executive Officer

- (1) The Chief Executive Officer shall manage the affairs of the Organisation subject to the directions of, and in accordance with policies determined by, the Board.
- (2) All acts and things done in the name of, or on behalf of, the Organisation by the Chief Executive Officer shall be deemed to have been done by the Organisation.

20 Tenure of Chief Executive Officer

- (1) The Chief Executive Officer shall hold office for such period, not exceeding 5 years, as is specified in the instrument of his or her appointment, but is eligible for re-appointment.
- (2) The Chief Executive Officer holds office, subject to this Part, on such terms and conditions as are determined by the Board.

21 Remuneration and allowances

- (1) The Chief Executive Officer shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) Subject to the *Remuneration Tribunal Act 1973*, the Chief Executive Officer shall be paid such allowances as are determined by the Board.

21A Leave of absence

- (1) The Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Board may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Board determines.

21B Resignation

The Chief Executive Officer may resign from office by writing signed by the Chief Executive Officer and delivered to the Board.

21C Termination of appointment

- (1) The Board may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.
- (2) The Board may terminate the appointment of the Chief Executive Officer if the Chief Executive Officer:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent, except on leave of absence granted by the Board, from 3 consecutive meetings of the Board; or
 - (c) is absent from duty, except on leave of absence granted by the Board, for 14 consecutive days or for 28 days in any 12 months; or

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- (d) fails, without reasonable excuse, to comply with his or her obligations under section 22.

Note: The appointment of the Chief Executive Officer may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

- (3) The Board may terminate the appointment of the Chief Executive Officer if the Board is satisfied that the performance of the Chief Executive Officer has been unsatisfactory for a significant period.

22 Disclosure of interests

- (1) The Chief Executive Officer shall give written notice to the Board of all direct or indirect pecuniary interests that the Chief Executive Officer has or acquires in any business.
- (2) Subsection (1) applies in addition to section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests).

23 Acting Chief Executive Officer

- (1) The Board may appoint a person to act as Chief Executive Officer:
- (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) The Board may:
- (a) determine the terms and conditions of appointment, excluding remuneration and allowances, of a person acting as Chief Executive Officer; and

- (b) terminate such an appointment at any time.
- (4) An officer who is acting as Chief Executive Officer shall continue to be paid the remuneration and allowances payable to the officer as such an officer but shall also be paid:
 - (a) so much of any remuneration payable to the Chief Executive Officer as exceeds the remuneration that so continues to be paid to the officer;
 - (b) so much of any allowance payable to the Chief Executive Officer as exceeds the corresponding allowance that so continues to be paid to the officer; and
 - (c) if an allowance is payable to the Chief Executive Officer in respect of which there is no corresponding allowance payable to the officer—that allowance.
- (6) The appointment of a person to act as Chief Executive Officer ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Chairperson.

Part V—The Staff of the Organisation

24 Staff of Organisation

- (1) The Chief Executive Officer may appoint such officers and engage such employees as the Board thinks necessary for the purposes of this Act.
- (2) The Chief Executive Officer may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*), or with a body established by an Act, for the services of officers or employees of that Agency or of that body to be made available to the Organisation.
- (3) The terms and conditions of service or employment of persons appointed or engaged under subsection (1) are such as are determined by the Board.

Part VII—Finance

27 Money of Organisation

- (1) There is payable to the Organisation such money as is appropriated by the Parliament for the purposes of the Organisation.
- (2) The Finance Minister may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Organisation.
- (3) The money of the Organisation shall be applied only:
 - (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Organisation in the performance of its functions and the exercise of its powers;
 - (b) in payment of remuneration and allowances payable under this Act (other than Part VIIA); and
 - (c) in making any other payments required or permitted to be made by the Organisation.
- (4) Subsection (3) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of the Organisation.

29 Extra matters to be included in annual report

The report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars of each direction, given by the Minister to the Board under section 11 of this Act, that is applicable in relation to the period.

30 Exemption from taxation

- (1) The Organisation is not subject to taxation under any law of the Commonwealth, of a State or of a Territory.
- (2) Stamp duty or any similar tax is not payable under a law of the Commonwealth, of a State or of a Territory in respect of:
 - (a) a security issued by the Organisation;
 - (b) the issue, redemption, transfer, sale or purchase of such a security, not including a transaction entered into without consideration or for an inadequate consideration; or
 - (c) a document executed by or on behalf of the Organisation, or any transaction, in relation to the borrowing of money by the Organisation.

32 Borrowing from the Commonwealth

The Finance Minister may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Organisation at such rates of interest and on such other terms and conditions as that Minister determines in writing.

33 Borrowing otherwise than from the Commonwealth

- (1) The Organisation may, with the approval of the Finance Minister, borrow money otherwise than from the Commonwealth on terms and conditions that are specified in, or are consistent with, the approval.
- (2) Approvals for the purposes of subsection (1) may be in respect of particular borrowings or in respect of borrowings included within a specified class, or specified classes, of borrowings.
- (3) The Finance Minister may, on behalf of the Commonwealth, guarantee the repayment by the Organisation of amounts borrowed under this section and the payment of interest on amounts so borrowed.
- (4) An approval under subsection (1) shall be given in writing.

34 Dealings with securities

- (1) The Organisation may, with the approval of the Finance Minister but not otherwise, deal with securities.
- (2) Where the Organisation borrows or otherwise raises money by dealing with securities, the Finance Minister may determine that the repayment by the Organisation of the amounts borrowed or raised, and the payment by the Organisation of interest (if any) on those amounts, are, by force of this subsection, guaranteed by the Commonwealth.
- (3) The power of the Finance Minister to make a determination for the purposes of subsection (2) extends to the making of a determination in respect of:
 - (a) securities included in a specified class, or specified classes, of securities; and
 - (b) transactions included in a specified class, or specified classes, of transactions.
- (4) An approval under subsection (1) shall be given in writing.

35 Organisation may give security

The Organisation may give security over the whole or any part of its assets:

- (a) for the repayment of money borrowed under section 33 and the payment of any money that the Organisation is otherwise liable to pay in respect of those borrowings; and
 - (b) for the payment of any money that the Organisation is liable to pay in respect of dealings with securities under section 34;
- including, but without limiting the generality of the foregoing, security for the payment of interest (if any) on money borrowed or otherwise raised by the Organisation.

36 Borrowings not otherwise permitted

The Organisation shall not borrow, or otherwise raise, money except in accordance with sections 32, 33 and 34.

36A Delegation by Finance Minister

- (1) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under section 33 or 34 to an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of a non-corporate Commonwealth entity (within the meaning of that Act).
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

Part VIII—Miscellaneous

38 Gifts, grants etc.

The Organisation may accept gifts, grants, bequests and devises made to the Organisation (whether on trust or otherwise) and may act as trustee of money or other property vested in the Organisation on trust.

39 Trust money

- (1) The Organisation shall ensure that any money received or held by the Organisation on trust is paid into an account that does not contain any money of the Organisation not held on trust.
- (2) Notwithstanding section 27:
 - (a) money or other property held by the Organisation on trust shall be applied or dealt with only in accordance with the powers and duties of the Organisation as trustee; and
 - (b) money held by the Organisation on trust may be invested:
 - (i) in any manner in which the Organisation is authorised to invest that money by the terms of the trust; or
 - (ii) in any manner in which trust money may, for the time being, be invested under law;but not otherwise.

41 Advisory committees

- (1) Subject to this section, the Minister may establish such advisory committees as the Minister considers necessary for the purpose of giving advice to the Board on particular matters or classes of matters relating to the functions of the Organisation.
- (2) An advisory committee shall consist of such persons as the Minister from time to time appoints.

Section 42

- (3) A member of an advisory committee holds office for such period as is specified in the instrument of appointment of the member, but is eligible for re-appointment.
- (4) A member of an advisory committee may resign from office by writing signed by the member and delivered to the Chairperson of the Board.
- (5) The number of members of an advisory committee required to constitute a quorum at a meeting of that advisory committee shall be as determined by the Board.
- (6) If the Minister decides that a member of an advisory committee should be remunerated, that member shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (7) A member of an advisory committee shall be paid such allowances as are prescribed.
- (8) Subsections (6) and (7) have effect subject to the *Remuneration Tribunal Act 1973*.

42 Delegation by Minister

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person all or any of the Minister's powers under this Act, other than:
 - (a) this power of delegation; and
 - (b) the Minister's powers under subparagraph 5(1)(a)(iii), subsection 9(10) and sections 11, 17 and 46.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.
- (3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Minister.

- (4) A delegation under this section does not prevent the exercise of a power by the Minister.

44 Delegation by Board

- (1) The Board may, by resolution, delegate to a member of the Board or to an officer or employee, either generally or as otherwise provided by the resolution, all or any of the powers of the Board under this Act other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.
- (3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Board.
- (4) A delegation under this section does not prevent the exercise of a power by the Board.

45 Delegation by Chief Executive Officer

- (1) The Chief Executive Officer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Chief Executive Officer, delegate to an officer or employee all or any of the powers of the Chief Executive Officer under this Act other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Chief Executive Officer.
- (3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Chief Executive Officer.
- (4) A delegation under this section does not prevent the exercise of a power by the Chief Executive Officer.

46 Joint Consultative Committee

- (1) There is hereby established a Joint Consultative Committee comprising:
 - (a) representatives of the Organisation; and
 - (b) either or both of the following:
 - (i) representatives of organisations of officers and full-time employees of the Organisation;
 - (ii) representatives of officers and full-time employees of the Organisation.
- (2) The manner in which the Joint Consultative Committee is to be constituted, the functions of that Committee and the manner in which that Committee is to carry out its functions shall be as determined by the Minister.

47 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed by regulations; or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled

Endnotes

Endnote 1—About the endnotes

law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Nuclear Science and Technology Organisation Act 1987	3, 1987	13 Mar 1987	27 Apr 1987 (s 2)	
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 31(2) and Sch: 10 Dec 1991 (s 2(3))	s 31(2)
Prime Minister and Cabinet Legislation Amendment Act 1991	199, 1991	18 Dec 1991	Sch 2: 18 Dec 1991 (s 2)	—
Australian Nuclear Science and Technology Organisation Amendment Act 1992	83, 1992	30 June 1992	30 June 1992 (s 2)	s 4(2), (3) and 5(2)
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 4 (items 1, 34–37): 25 Oct 1996 (s 2(1))	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 423–446): 1 Jan 1998 (s 2(2))	—
Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Act 1998	135, 1998	24 Dec 1998	Sch 1 (items 1–4, 6–8): 5 Feb 1999 (s 2(1))	Sch 1 (items 6–8)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 227–232): 5 Dec 1999 (s 2(1), (2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (items 46–48): 13 Mar 2000 (s 2(2)(c))	—

Endnote 3—Legislation history

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	Sch 1 (items 21, 22, 97): 29 Oct 2001 (s 2(1))	Sch 1 (item 97)
Research Agencies Legislation Amendment Act 2002	98, 2002	10 Nov 2002	Sch 2: 10 Nov 2002 (s 2)	Sch 2 (item 15)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	Sch 2 (items 58–67, 174): 22 Feb 2005 (s 2(1) item 12)	Sch 2 (item 174)
Australian Nuclear Science and Technology Organisation Amendment Act 2006	145, 2006	6 Dec 2006	6 Dec 2006 (s 2)	—
Governance Review Implementation (Science Research Agencies) Act 2007	84, 2007	21 June 2007	Sch 2: 10 Sept 2007 (s 2(1) item 2)	—
Customs Legislation Amendment (Name Change) Act 2009	33, 2009	22 May 2009	Sch 2 (item 8): 23 May 2009 (s 2)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 208–216) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 7 (items 340–356) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Customs and Other Legislation Amendment (Australian Border Force) Act 2015	41, 2015	20 May 2015	Sch 5 (items 9, 10) and Sch 9: 1 July 2015 (s 2(1) items 2, 7)	Sch 9
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 1 (items 11, 12): 10 Mar (s 2(1) item 2)	—
Australian Nuclear Science and Technology Organisation Amendment Act 2017	109, 2017	18 Sept 2017	19 Sept 2017 (s 2(1) item 1)	—

Endnote 4—Amendment history

Provision affected	How affected
Part I	
s 3	am No 83, 1992, No 152, 1997; No 98, 2002; No 8, 2005; No 145, 2006; No 84, 2007; No 33, 2009; No 62, 2014; No 41, 2015; No 4, 2016; No 109, 2017
Part II	
s 4	am No 152, 1997; No 62, 2014
s 5	am No 83, 1992; No 98, 2002; No 145, 2006; No 109, 2017
s 6	am No 98, 2002
s 6A.....	ad No 109, 2017
s 7	am No 152, 1997; No 62, 2014
s 7A.....	ad No 83, 1992
Part III	
s 9	am No 152, 1997; No 159, 2001; No 84, 2007
s 12	am No 43, 1996
s 14	am No 152, 1997; No 156, 1999; No 62, 2014
s 15	rep No 152, 1997
s 16	am No 152, 1997; No 156, 1999; No 62, 2014
s 16A.....	ad No 84, 2007
s 17	am No 46, 2011
Part IV	
Part IV heading	rs No 84, 2007
s 18	am No 159, 2001; No 84, 2007
s 19	am No 84, 2007
s 20	am No 84, 2007
s 21	am No 43, 1996; No 84, 2007
s 21A.....	ad No 122, 1991
	am No 146, 1999; No 84, 2007
s 21B.....	ad No 83, 1992
	am No 84, 2007

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Endnote 4—Amendment history

Provision affected	How affected
s 21C.....	ad No 83, 1992 am No 152, 1997; No 156, 1999; No 84, 2007; No 62, 2014
s 22	am No 84, 2007; No 62, 2014
s 23	am No 84, 2007; No 46, 2011
Part V	
s 24	am No 199, 1991; No 146, 1999; No 84, 2007
Part VI heading	am No 83, 1992 rep No 135, 1998
Part VI	rep No 135, 1998
s 25	rep No 83, 1992
s 26	am No 43, 1996; No 152, 1997 rep No 135, 1998
Note to s 26.....	ad No 152, 1997 rep No 135, 1998
Part VII	
s 27	am No 83, 1992; No 152, 1997; No 8, 2005; No 62, 2014
s 28	rep No 152, 1997
s 29	am No 152, 1997 rs No 62, 2014
s 31	am No 83, 1992; No 135, 1998; No 98, 2002 rep No 84, 2007
s 32	am No 8, 2005
s 33	am No 8, 2005
s 34	am No 8, 2005
s 36A.....	ad No 8, 2005 am No 62, 2014
s 37	rep No 83, 1992
Part VIIA	ad No 83, 1992 rep No 135, 1998
s 37	ad No 83, 1992 am No 152, 1997

Endnote 4—Amendment history

Provision affected	How affected
	rep No 135, 1998
s 37A.....	ad No 83, 1992
	rep No 135, 1998
s 37B.....	ad No 83, 1992
	rep No 135, 1998
s 37C.....	ad No 83, 1992
	rep No 135, 1998
s 37D.....	ad No 83, 1992
	rep No 135, 1998
s 37E.....	ad No 83, 1992
	rep No 135, 1998
s 37F.....	ad No 83, 1992
	rep No 135, 1998
s 37G.....	ad No 83, 1992
	rep No 135, 1998
s 37H.....	ad No 83, 1992
	rep No 135, 1998
s 37J.....	ad No 83, 1992
	rep No 135, 1998
s 37K.....	ad No 83, 1992
	rep No 135, 1998
s 37L.....	ad No 83, 1992
	rep No 135, 1998
s 37M.....	ad No 83, 1992
	rep No 135, 1998
s 37N.....	ad No 83, 1992
	rep No 135, 1998
s 37P.....	ad No 83, 1992
	rep No 135, 1998
s 37Q.....	ad No 83, 1992
	am No 152, 1997

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep No 135, 1998
s 37R.....	ad No 83, 1992
	rs No 152, 1997
	rep No 135, 1998
s 37S.....	ad No 83, 1992
	rep No 135, 1998
s 37T.....	ad No 83, 1992
	rep No 135, 1998
s 37U.....	ad No 83, 1992
	rs No 152, 1997
	rep No 135, 1998
s 37V.....	ad No 83, 1992
	rep No 135, 1998
Part VIII	
s 38.....	am No 83, 1992
s 39.....	am No 152, 1997; No 62, 2014
s 40.....	rep No 83, 1992
s 41.....	am No 43, 1996
s 42.....	am No 83, 1992; No 135, 1998; No 84, 2007
s 43.....	rep No 8, 2005
s 45.....	am No 84, 2007
