

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

AUSTRALIA COUNCIL AMENDMENT BILL 1990

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FURTHER AMENDMENTS OF THE AUSTRALIA COUNCIL ACT 1975

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 12 September 1990

(Minister for the Arts, Tourism and Territories)

A BILL

FOR

An Act to amend the *Australia Council Act 1975*, and for related purposes

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

Short title etc.

5 1. (1) This Act may be cited as the *Australia Council Amendment Act 1990*.

 (2) In this Act, "Principal Act" means the *Australia Council Act 1975*¹.

Interpretation

2. Section 3 of the Principal Act is amended:

10 (a) by inserting "and includes a co-ordinating Board" after "Act" in the definition of "Board";

 (b) by inserting the following definitions:

 " 'community interest representative' means a person who:

(a) in the Minister's opinion, understands the interests of the general community in relation to the arts; and

(b) is not a professional artist;

'professional artist' means a person who practises one or more of the arts as a profession;". 5

3. After section 6 of the Principal Act the following sections are inserted:

Matters to be taken into account by Council

"6A. The Council must, in the performance of its functions and the exercise of its powers, have regard to: 10

(a) the policies of the Commonwealth Government in relation to the arts;

(b) the policies of State Governments, and of local governing bodies, in relation to the arts, so far as it is practicable to do so; and 15

(c) such other matters, if any, as the Minister specifies by notice in writing to the Chairperson.

Directions by Minister

"6B. (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 Council with respect to the performance of its functions or the exercise of its powers. 20

"(2) The Council must comply with a direction under subsection (1).

"(3) The Minister must cause a copy of each direction to be laid before each House of the Parliament within 21 sitting days of the House after the direction is given. 25

"(4) Nothing in this section authorises the Minister to give a direction to the Council in relation to the making of a decision by the Council in a particular case, being a decision relating to the making of a grant, the lending of money or the provision of a scholarship or other benefit." 30

Membership of Council

4. Section 9 of the Principal Act is amended:

(a) by omitting paragraph (2) (b) and substituting the following paragraph: 35

"(b) the Chairperson of each Board;";

(b) by omitting paragraph (2) (c);

(c) by omitting from paragraph (2) (e) "other";

(d) by adding at the end of subsection (2) the following word and paragraph: 40

“and (f) subject to subsections (1) and (3B), such number of community interest representatives as the Governor-General thinks fit.”;

5 (e) by omitting subsection (3) and substituting the following subsections:

“(3) The members of the Council, other than the members referred to in paragraph (2) (b), are to be appointed by the Governor-General.

10 “(3A) Subject to subsection (4A), the members of the Council hold office on a part-time basis.

“(3B) At least one of the members of the Council must be a community interest representative.”.

Term of office

5. Section 11 of the Principal Act is amended:

15 (a) by omitting from subsection (1) “or (e) holds office for such period, being not less than 1 year nor more than” and substituting “, (e) or (f) holds office for such period, not exceeding”;

(b) by omitting from subsection (2) “both” and substituting “more”;

20 (c) by omitting from subsection (3) “both” and “either” and substituting “more” and “any”, respectively;

(d) by omitting from subsection (4B) “appointed” and substituting “holding office”;

(e) by omitting subsection (5).

25 **Resignation**

6. Section 13 of the Principal Act is amended by inserting “(other than a member referred to in paragraph 9 (2) (b))” after “Council”.

Termination of appointment

30 7. Section 14 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

“(3) In this section:

‘**member of the Council**’ does not include:

(a) a member referred to in paragraph 9 (2) (b); or

(b) the General Manager.”.

35 **Deputies**

8. Section 16 of the Principal Act is amended:

(a) by omitting subsection (2);

(b) by omitting from subsection (3) “or (2)”.

Meetings

9. Section 17 of the Principal Act is amended by adding at the end the following subsections:

“(10) If the Council so determines, a member of the Council may participate in, and form part of a quorum at, a meeting of the Council by means of any of the following methods of communication: 5

- (a) telephone;
- (b) closed circuit television;
- (c) another method of communication determined by the Council.

“(11) A determination of the Council under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Council. 10

“(12) A member of the Council who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting. 15

“(13) If the Council so determines, a resolution must be taken to have been passed at a meeting of the Council if, without meeting, a majority of the number of members who would, if present at a meeting of the Council and entitled to vote on the resolution at that meeting, have constituted a quorum of the Council indicate agreement with the resolution in accordance with the method determined by the Council.”. 20

10. (1) Section 17A of the Principal Act is repealed and the following section is substituted:

Committees

“17A. (1) The Council may appoint Committees to assist the Council in the performance of its functions or the exercise of its powers. 25

“(2) The Council may appoint Committees to assist a Board in the performance of the Board’s functions or the exercise of the Board’s powers. 30

“(3) A Committee consists of such persons as the Council thinks fit.

“(4) The Council may from time to time give directions to a Committee that has been appointed to assist a Board in relation to the assistance to be given to the Board. 35

“(5) A Board may from time to time give directions to a Committee that has been appointed to assist it in relation to the assistance to be given to the Board.

“(6) Where inconsistent directions are given to a Committee by the Council and a Board in relation to a particular matter, the Committee must act in accordance with the directions of the Council. 40

“(7) If a Committee so determines, a member of the Committee may participate in, and form part of a quorum at, a meeting of the Committee by means of any of the following methods of communication:

- (a) telephone;
- 5 (b) closed circuit television;
- (c) another method of communication determined by the Committee.

“(8) A determination by a Committee under subsection (7) may be made in respect of a particular meeting, or in respect of all meetings, of the Committee.

“(9) If a Committee so determines, a resolution must be taken to have been passed at a meeting of the Committee if, without meeting, a majority of the number of members who would, if present at a meeting of the Committee and entitled to vote on the resolution at that meeting, have constituted a quorum of the Committee indicate agreement with the resolution in accordance with the method determined by the Committee.”.

(2) A Committee appointed and in existence under section 17A of the Principal Act as in force immediately before the commencement of this Act is, on and after that day, taken to have been appointed under section 17A as in force on that day.

Establishment of Boards

11. (1) Section 20 of the Principal Act is amended by omitting from subsection (1) all the words after “Minister” and substituting the following:

“may, by notice published in the *Gazette*, establish:

- (a) a single co-ordinating Board; and
 - (b) such number of other Boards as he or she thinks fit;
- and name those Boards as he or she thinks fit.”.

(2) A Board established and in existence under section 20 of the Principal Act as in force immediately before the commencement of this Act is, on and after that day, taken to have been established under that section as amended by this Act.

Membership of Boards

12. Section 22 of the Principal Act is amended:

- (a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) The co-ordinating Board must consist of a Chairperson and not fewer than 4, nor more than 12, other members.

“(2) A Board, other than the co-ordinating Board, must consist of a Chairperson and not fewer than 4, nor more than 8, other members.

“(2A) Subject to this section, the membership of the co-ordinating Board must comprise:

(a) such number as the Minister thinks fit of persons who practise or have practised the arts or are otherwise associated with the arts; and

(b) such number as the Minister thinks fit of community interest representatives.”;

(b) by inserting after subsection (3) the following subsections:

“(3A) At least one of the members of each Board must be a community interest representative.

“(3B) A member of the Council, or of a Board established under paragraph 20 (1) (b), may be appointed as a member of the co-ordinating Board.”;

(c) by omitting subsection (6) and substituting the following subsection:

“(6) In selecting persons to be appointed as members of a Board, the Minister must give consideration to:

(a) any recommendations made by the Council;

(b) the list of names maintained by the Board; and

(c) any recommendations from that list made by the Board.”;

(d) by omitting from subsection (7) “Subsection (6) does” and substituting “Paragraphs (6) (b) and (c) do”.

Term of office

13. Section 23 of the Principal Act is amended by omitting from subsection (1) “being not less than 1 year nor more than” and substituting “not exceeding”.

Termination of office

14. Section 27 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) The Minister may remove a member of a Board from office:

(a) for misbehaviour or physical or mental incapacity;

(b) if the member is absent, without the approval of the Board, from 3 consecutive meetings of the Board; or

(c) where the member of the Board is the Chairperson of the Board—if the member is absent, without the approval of the Council, from 3 consecutive meetings of the Council.”.

Meetings

15. Section 29 of the Principal Act is amended by adding at the end the following subsections:

5 “(10) If a Board so determines, a member of the Board may participate in, and form part of a quorum at, a meeting of the Board by means of any of the following methods of communication:

- (a) telephone;
- (b) closed circuit television;
- (c) another method of communication determined by the Board.

10 “(11) A determination by a Board under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Board.

15 “(12) A member of a Board who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting.

20 “(13) If a Board so determines, a resolution must be taken to have been passed at a meeting of the Board if, without meeting, a majority of the number of members who would, if present at a meeting of the Board and entitled to vote on the resolution at that meeting, have constituted a quorum of the Board indicate agreement with the resolution in accordance with the method determined by the Board.”.

Contracts and borrowing

16. Section 34 of the Principal Act is amended by omitting from paragraph (1) (a) “\$50,000” and substituting “\$100,000”.

25 **Annual reports**

17. Section 38 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

“(2) The Council must include in each report:

30 (a) particulars of all matters specified by the Minister under paragraph 6A (c); and

(b) the text of all directions under sections 6B and 7; during the year to which the report relates.

“(2A) The Council may set out in the report any comments it wishes to make in relation to:

35 (a) matters specified under paragraph 6A (c); or

(b) directions under section 6B.”.

18. Section 41AA of the Principal Act is repealed and the following section is substituted:

Remuneration for person holding more than one office

“41AA. (1) Where a person (other than the General Manager) holds more than one specified office, that person is entitled to remuneration in respect of each of those offices. 5

“(2) In this section:

‘specified office’ means:

- (a) the office of a member of the Council; or
- (b) the office of a member of a Board.”. 10

Further amendments

19. The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 19

**FURTHER AMENDMENTS OF THE AUSTRALIA COUNCIL ACT
1975**

Paragraph 7 (1) (b):

Omit "Chairman", substitute "Chairperson".

Paragraph 7 (1) (c):

Omit "Chairman", substitute "Chairperson".

Paragraph 9 (2) (a):

Omit "Chairman", substitute "Chairperson".

Subsection 9 (4A):

Omit "Chairman", substitute "Chairperson".

Subsection 9 (4B):

Omit "Chairman", substitute "Chairperson".

Subsection 10 (1):

Omit "Chairman" (wherever occurring), substitute "Chairperson".

Subsection 10 (2):

- (a) Omit "Chairman", substitute "Chairperson".
- (b) Omit "his", substitute "the person's".
- (c) Omit "he", substitute "the person".

Subsection 10 (3):

- (a) Omit "Chairman" (wherever occurring), substitute "Chairperson".
- (b) Omit "his", substitute "his or her".
- (c) Omit "he", substitute "he or she".

Subsection 10 (4):

- (a) Omit "Chairman" (wherever occurring), substitute "Chairperson".
- (b) Omit "his", substitute "the".
- (c) Omit "by him".

Subsection 11 (1):

Omit "his".

Subsection 11 (4):

Omit "Chairman" (wherever occurring), substitute "Chairperson".

SCHEDULE—continued**Subsection 11 (4A):**

- (a) Omit “Chairman” (wherever occurring), substitute “Chairperson”.
- (b) Omit “he”, substitute “the person”.

Subsection 11 (4B):

- (a) Omit “he”, substitute “he or she”.
- (b) Omit “Chairman”, substitute “Chairperson”.

Section 12:

Omit “Chairman”, substitute “Chairperson”.

Section 13:

- (a) Omit “his office”, substitute “the office of member”.
- (b) Omit “him”, substitute “the member”.

Paragraph 14 (2) (a):

After “his” (wherever occurring) insert “or her”.

Paragraph 14 (2) (b):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) After “his” insert “or her”.

Subsection 15 (1):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 15 (2):

Omit “Chairman”, substitute “Chairperson”.

Subsection 15 (3):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 15 (5):

- (a) Omit “he”, substitute “the person”.
- (b) Omit “him”, substitute “the person”.

Subsection 15 (6):

- (a) Omit “Chairman” (wherever occurring), substitute “Chairperson”.
- (b) Omit “he” (wherever occurring), substitute “the person”.

Subsection 15 (7):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Omit “his”, substitute “the person’s”.

SCHEDULE—continued

Subsection 16 (1):

- (a) Omit “Chairman, substitute “Chairperson”.
- (b) After “his” insert “or her”.

Subsection 16 (3):

- (a) After “his” insert “or her”.
- (b) Omit “him”, substitute “the member”.

Subsection 16 (4):

After “he” insert “or she”.

Subsection 17 (2):

Omit “Chairman”, substitute “Chairperson”.

Subsection 17 (3):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 17 (5):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) After “he” insert “or she”.

Subsection 17 (6):

Omit “Chairman”, substitute “Chairperson”.

Subsection 17 (9):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 19 (1):

- (a) Omit “his”, substitute “the member’s”.
- (b) Omit “his”, substitute “the”.

Subsection 19B (2):

Omit “he”, substitute “the person”.

Section 19D:

- (a) Omit “his office”, substitute “the office of General Manager”.
- (b) Omit “him”, substitute “the General Manager”.

Subsection 19E (1):

Omit “his office”, substitute “the office of General Manager”.

Subsection 19E (4):

- (a) Omit “he”, substitute “the person”.
- (b) Omit “him”, substitute “the person”.

Subsection 19E (5):

Omit “he”, substitute “the person”.

SCHEDULE—continued**Subsection 19E (6):**

Omit “his”, substitute “the person’s”.

Paragraph 19F (2) (a):

Omit “his office”, substitute “the office of General Manager”.

Paragraph 19F (2) (d):

After “his” (wherever occurring) insert “or her”.

Paragraph 19F (2) (e):

After “his” insert “or her”.

Subsection 19F (2):

Omit “his appointment”, substitute “the appointment of the General Manager”.

Subsection 22 (6):

Omit “him”, substitute “the Minister”.

Subsection 22 (8):

Omit “Chairman”, substitute “Chairperson”.

Subsection 23 (1):

Omit “his”.

Subsection 23 (4):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Section 26:

(a) Omit “his office”, substitute “the office of a member”.

(b) Omit “him”, substitute “the member”.

Subsection 27 (2):

Omit “his obligations under”.

Subsection 28 (1):

(a) Omit “Chairman” (wherever occurring), substitute “Chairperson”.

(b) Omit “his office”, substitute “the office of Chairperson”.

Paragraph 28 (2) (a):

Omit “Chairman”, substitute “Chairperson”.

Subsection 28 (3):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Subsection 28 (4):

(a) Omit “Chairman”, substitute “Chairperson”.

SCHEDULE—continued

- (b) Omit “he”, substitute “the person”.
- (c) Omit “him”, substitute “the person”.

Subsection 28 (5):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Paragraph 28 (5) (a):

Omit “he”, substitute “the person”.

Paragraph 28 (5) (b):

Omit “he” (wherever occurring), substitute “the person”.

Subsection 28 (7):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Omit “his”, substitute “the person’s”.

Subsection 29 (2):

Omit “Chairman”, substitute “Chairperson”.

Subsection 29 (3):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Omit “he”, substitute “the Chairperson”.

Subsection 29 (5):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Omit “he”, insert “or she”.

Subsection 29 (6):

Omit “Chairman”, substitute “Chairperson”.

Subsection 29 (9):

Omit “Chairman”, substitute “Chairperson”.

Subsection 31 (1):

- (a) Omit “his”, substitute “his or her”.
- (b) Omit “his”, substitute “the”.

Subsection 38 (6):

After “him” (wherever occurring) insert “or her”.

Subsection 39 (1):

Omit “his”, substitute “the Auditor-General”.

Subsection 39 (2):

After “his” insert “or her”.

Subsection 39 (4):

Omit “him”, substitute “the Auditor-General”.

SCHEDULE—continued**Subsection 39 (5):**

Omit “him”, substitute “the Auditor-General”.

Subsection 39 (6):

(a) Omit “him”, substitute “the Auditor-General”.

(b) After “him” insert “or her”.

Subsection 41A (1):

Omit “he”, substitute “the person”.

NOTE

1. No. 11, 1975, as amended. For previous amendments, see No. 113, 1976; No. 36, 1978; No. 114, 1980; and No. 65, 1985.

FURTHER NOTE

1. On the day on which this Act commences, the headings to sections 10, 15 and 28 of the *Australia Council Act 1975* are altered by omitting “Chairman” and substituting “Chairperson”.

