

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

Presented and read a first time

(Industry, Technology and Regional Development)

AUSTRALIAN SPACE COUNCIL BILL 1993

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A BILL

FOR

**An Act to establish the Australian Space Council,
and for related purposes**

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Australian Space Council Act 1993*.

Commencement

2. This Act commences on 1 July 1994.

Object of Act

3. The object of this Act is to facilitate the development by the Commonwealth Government of sound, consistent and comprehensive policies concerning the application of space-related science and technology so as to maximise the benefits to Australia of the application of such space-related science and technology. 5

Interpretation

4. In this Act, unless the contrary intention appears:

“**Chairperson**” means the Chairperson of the Council;

“**Commonwealth authority**” means a body established for a public purpose by or under an Act; 10

“**Council**” means the Australian Space Council established by this Act;

“**Deputy Chairperson**” means the Deputy Chairperson of the Council;

“**member**”, in relation to the Council, means a member of the Council and includes the Chairperson and Deputy Chairperson; 15

“**non-government member**” means a member referred to in paragraph 13(1)(a), (b) or (e);

“**plan period**”, in relation to a strategic plan, means the period to which the plan relates.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUSTRALIAN SPACE COUNCIL 20

Establishment

5. The Australian Space Council is established.

Functions

6.(1) The Council’s functions are: 25

(a) to inquire into, and report to the Minister on, such matters affecting the application of space-related science and technology by the Australian public and private sectors as are referred to the Council by the Minister; and

(b) to recommend to the Minister a national space policy (the “**National Space Program**”) that encourages the application of space-related science and technology by the Australian public and private sectors; and 30

(c) to co-ordinate the involvement of representatives of the Australian public and private sectors in developing, and reviewing, the National Space Program; and 35

(d) to keep under review, and report to the Minister on, the outcomes of the National Space Program; and

- (e) to consult and co-operate with persons, organisations and bodies in relation to matters affecting the National Space Program; and
- (f) such other functions as are conferred on the Council by this Act or any other Act.

5 (2) In performing its functions, the Council must comply with any directions given by the Minister under section 8.

(3) The Council may perform its functions in or out of Australia.

Powers

10 7. The Council has power to do whatever is necessary or convenient to be done for, or in connection with, the performance of its functions.

Directions by Minister to the Council

8.(1) The Minister may give written directions to the Council about the policies and practices to be followed by the Council in the performance of its functions and the exercise of its powers.

15 (2) The Council must comply with the Minister's directions.

(3) The Minister may only give a direction if the Minister:

- (a) has given a written notice to the Council stating that the Minister is considering giving the direction; and
- (b) has given the Chairperson an adequate opportunity to discuss with the Minister the need for the proposed direction.

20

(4) Subject to subsection (5), the Council must cause details of a direction to be included in the Council's annual report for the financial year in which the direction was given.

25 (5) Subsection (4) does not apply if the Minister determines, in writing, that compliance with that subsection in relation to a particular direction would be, or would be likely to be, prejudicial to Australia's national interest.

(6) The Minister must give a copy of the determination to the Council.

PART 3—STRATEGIC PLANS

First strategic plan

30 9.(1) The Council must prepare a strategic plan, and give it to the Minister, as soon as practicable after the commencement of this section.

(2) The plan is to relate to the period of 5 years beginning on 1 July 1994.

Subsequent strategic plans

35 10.(1) In each calendar year beginning on or after 1 January 1995, the Council must prepare a strategic plan for the period of 5 years beginning on 1 July in that year.

(2) The Council must give the plan to the Minister before 1 May in that calendar year.

Contents of strategic plans

11. Each strategic plan must:

- (a) set out a statement of the Council's objectives during the plan period; 5
and
- (b) outline the Council's strategies for achieving those objectives; and
- (c) include an estimate of the costs of implementing those strategies; and
- (d) include a statement about the benefits that the Australian public and private sectors can expect from implementing those strategies. 10

Minister may request variation of strategic plan

12.(1) The Minister may request the Council to vary the strategic plan.

(2) The Council must comply with such a request.

PART 4—CONSTITUTION, MEETINGS AND COMMITTEES

Division 1—Constitution of Council

15

Constitution of Council

13.(1) The Council consists of the following members:

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) up to 2 officers of the Department; 20
- (d) up to 6 other members representing other Departments of State of the Commonwealth or Commonwealth authorities;
- (e) up to 7 other members.

(2) Members are to be appointed on a part-time basis by the Minister.

(3) In exercising his or her power of appointment under this section, the Minister must ensure that, as far as practicable, the members referred to in paragraphs (1)(a), (b) and (e) constitute a majority of the membership of the Council. 25

(4) Anything done by the Council is not ineffective merely because of a vacancy or vacancies in the membership of the Council. 30

Qualifications for certain members

14. The Minister may only appoint a person referred to in paragraph 13(1)(e) if the Minister is satisfied that the person is suitably qualified for appointment because the person has substantial experience or expertise in a field of industry or research that is relevant to the Council's functions. 35

Division 2—Administrative provisions

Term of office

5 15.(1) The Chairperson holds office for the period (not longer than 5 years) specified in the document of appointment, but is eligible for re-appointment.

(2) The Deputy Chairperson holds office for the period (not longer than 5 years) specified in the document of appointment, but is eligible for re-appointment.

10 (3) A member referred to in paragraph 13(1)(c) or (d) holds office during the Minister's pleasure.

(4) A member referred to in paragraph 13(1)(e) holds office for the period (not longer than 3 years) specified in the document of appointment, but is eligible for re-appointment.

Remuneration and travel allowance

15 16.(1) A non-government member is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination is in force, the member is to be paid such remuneration as is prescribed.

(2) A non-government member is to be paid such travel allowance as is prescribed.

20 (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Leave to be absent from a meeting or meetings

17.(1) The Minister may grant the Chairperson leave to be absent from a meeting or meetings of the Council.

25 (2) The Chairperson may grant any other member leave to be absent from a meeting or meetings of the Council.

Acting appointments

18.(1) The Deputy Chairperson is to act as Chairperson:

- 30 (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to that office; and
(b) during any period when the Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.

35 (2) The Minister may appoint a person to act in the office of a member (other than the Chairperson):

- (a) during a vacancy in the office of that member, whether or not an appointment has previously been made to that office; or

- (b) during any period, or during all periods, when that member is absent from duty or from Australia or is, for any reason, unable to perform the duties of that office.

(3) The Minister may only appoint a person to act in the office of a member referred to in paragraph 13(1)(e) if, having regard to section 14, the Minister is satisfied that the person is qualified for appointment to the office. 5

(4) Anything done by or in relation to a person purporting to act under this section is not ineffective merely because:

- (a) the occasion for the person's appointment had not arisen; or
- (b) there is a defect or irregularity in connection with the appointment; 10
or
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Disclosure of interests

19.(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council. 15

(2) A disclosure under subsection (1) must be recorded in the minutes of the meeting and the member must not, unless the Minister or the Council otherwise determines: 20

- (a) be present during any deliberation of the Council with respect to that matter; or
- (b) participate in any decision of the Council with respect to that matter.

(3) For the purpose of the making of a determination by the Council under subsection (2), the member must not: 25

- (a) be present during any deliberation of the Council for the purpose of the making of that determination; or
- (b) participate in making that determination.

Resignation—non-government member

20. A non-government member may resign the office of member by giving a signed notice of resignation to the Minister. 30

Termination of appointment—non-government members

21.(1) The Minister may terminate the appointment of a non-government member for misbehaviour or physical or mental incapacity. 35

(2) The Minister must terminate the appointment of a non-government member if the member:

- (a) becomes bankrupt; or
- (b) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or 40

- (c) compounds with his or her creditors; or
- (d) assigns his or her remuneration for the benefit of his or her creditors; or
- (e) is absent from 3 consecutive meetings of the Council except on leave granted under section 17; or
- (f) contravenes section 19 without reasonable excuse.

Other terms and conditions—non-government members

22. A non-government member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as the Minister determines in writing.

Division 3—Council meetings and committees

Meetings

23.(1) Subject to subsection (2), the Council may hold such meetings as it thinks fit.

(2) The Council must meet at least 3 times in each financial year.

(3) The Chairperson may, and at the direction of the Minister must, convene a meeting of the Council.

Procedure at meetings

24.(1) The Chairperson is to preside at all meetings of the Council at which he or she is present.

(2) If the Chairperson is not present at a meeting of the Council and the Deputy Chairperson of the Council is present, the Deputy Chairperson of the Council is to preside.

(3) If neither the Chairperson nor the Deputy Chairperson is present at a meeting of the Council, the members present are to appoint one of their number to preside.

(4) For a meeting of the Council, a majority of the members constitutes a quorum.

(5) At a meeting of the Council:

- (a) questions are to be decided by a majority of the votes of the members present and voting; and
- (b) the Chairperson has a deliberative vote, and, if the votes are equal, also has a casting vote.

(6) The Council must keep minutes of proceedings at its meetings.

(7) Subject to this section, the Council may regulate the conduct of proceedings at its meetings as it thinks fit.

Committees

25.(1) The Council may establish such committees as it thinks fit to assist it in performing its functions or exercising its powers.

(2) A committee may be constituted:

- (a) wholly by members of the Council; or 5
- (b) partly by one or more members of the Council and partly by one or more other persons.

(3) The Council must appoint a member of a committee who is also a member of the Council to be the chairperson of the committee.

(4) The Council may give directions to a committee about: 10

- (a) the way in which the committee is to carry out its functions; and
- (b) procedures to be followed in relation to meetings of the committee.

(5) A person who:

- (a) is a member of a committee; but
- (b) is not a member of the Council; 15

is to be paid such travel allowance as is prescribed in relation to the performance of his or her duties as a member of the committee.

Disclosure of interests by members of committees

26. Section 19 applies in relation to committees and members of committees as if: 20

- (a) a reference in that section to the Council were a reference to a committee; and
- (b) a reference in that section to a member were a reference to a member of the committee (even if the member of the committee is also a member of the Council). 25

PART 5—MISCELLANEOUS

Staff

27. The staff necessary to assist the Council is to consist of persons appointed or employed under the *Public Service Act 1922*.

Delegation by Council 30

28.(1) The Council may, by resolution, either generally or as otherwise provided by the resolution, delegate all or any of its powers under this Act to:

- (a) a member of the Council; or
- (b) a committee established under section 25; or 35
- (c) a member of the staff referred to in section 27.

(2) In the exercise of a power delegated under subsection (1), the delegate is subject to the directions of the Council.

(3) A delegation under subsection (1):

(a) may be revoked by resolution of the Council (whether or not constituted by the persons who constituted the Council at the time the power was delegated); and

(b) continues in force despite a change in the membership of the Council.

(4) A certificate signed by the Chairperson stating any matter with respect to a delegation of a power under this section is *prima facie* evidence of that matter.

(5) A document purporting to be a certificate under subsection (4), unless the contrary is established, is taken to be such a certificate and to have been duly given.

Annual report

29.(1) As soon as practicable after the end of each financial year, the Council must give to the Minister a written report of its operations during that year.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Regulations

30. The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.