

1986

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SCIENCE AND INDUSTRY RESEARCH LEGISLATION  
AMENDMENT BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Science, the  
Hon Barry O Jones, MP)



## OUTLINE

The purpose of this Bill is to amend the Science and Industry Research Act 1949 and the Science and Industry Endowment Act 1926. The Bill will implement the Government's response to recommendations contained in the Australian Science and Technology Council report on Future Directions for the Commonwealth Scientific and Industrial Research Organization.

Major features of the Bill provide for the role and structure of the Organization. The Bill provides for the Organization's primary function to be applications oriented research in support of major industry sectors and selected areas of community interest, with a commitment to the effective transfer of its results to users. The Bill also extends the Organization's functions to include encouraging the application of the results of scientific research wherever conducted and making the Organization's facilities and services available to other bodies or persons.

The powers of the Organization will also be extended to enable it, with the Minister's approval, to hold controlling interests in companies.

The Bill replaces the current Executive of the Organization by a Board comprising the Chief Executive of the Organization, a part-time Chairman and 6-8 other part-time members. The Board will be responsible for determining the policy of the Organization and ensuring the efficient performance of the Organization's functions.

To ensure that the Organization is responsive to government views, the Minister will be empowered to give directions and guidelines to the Board with respect to its functions or the functions of the Organization.

The Bill will also require the Board to submit to the Minister strategic plans setting out the Organization's objectives and an outline of the policies to be followed to reach those objectives. In addition, the Chief Executive will prepare annual operational plans providing details of the Organization's strategies, activities and resources that will be used to give effect to a strategic plan.

#### FINANCIAL IMPACT STATEMENT

The provisions of this Bill have no direct financial implications.

## NOTES ON CLAUSES

### PART I-PRELIMINARY

#### Clause 1 - Short Title

Formal. Provides for citation.

#### Clause 2 - Commencement

Provides that the Bill will come into operation on a day to be fixed by Proclamation.

### PART II -AMENDMENTS OF THE SCIENCE AND INDUSTRY RESEARCH ACT 1949

#### Clause 3 - Principal Act

Identifies the Science and Industry Research Act 1949 as the Principal Act referred to in Part II.

#### Clause 4 - Repeal of sections 4, 5 and 6

Machinery clause repealing repeal and savings provisions relating to legislation which preceded the Principal Act and the Commonwealth Council for Scientific and Industrial Research which preceded the Commonwealth Scientific and Industrial Research Organization.

Clause 5 - Interpretation

Substitutes a new interpretative provision which is self-explanatory.

Clause 6 - Commonwealth Scientific and Industrial Research Organisation

Formally amends section 8 of the Principal Act by substituting a reference to the "Executive" by the "Board".

Clause 7 - Functions of the Organisation

Amends section 9 of the Principal Act by extending the Organisation's functions to include encouraging the application of the results of scientific research wherever conducted and making the Organisation's facilities and services available to others.

This clause also provides that the Organisation's primary functions are to concentrate on carrying out research in support of Australian industry and national objectives, and to encourage the application of the results of such research.

Clause 8 - Powers of the Organisation

Formally amends section 9AA of the Principal Act following the abolition of the Executive by empowering the Chief Executive to make determinations about the payment of royalties and bonuses for inventions and the charging of fees by the Organisation for requested research or access to its facilities.

Sub-clause 8(e) adds new sub-sections 9AA(2)-(6) which will enable the Organisation, with the Minister's approval, to hold a controlling interest in a company. Where the Organisation acquires a controlling interest the Minister is to notify both Houses of Parliament of particulars of the holding. The Organisation is to ensure that a company in which it holds a controlling interest does nothing which would be outside the Organisation's functions.

Clause 9 - Institutes to be established

Section 9AB is formally amended to give the Board power to establish Institutes into which research officers of the Organisation shall be organized. The Chief Executive is to have a discretionary power to direct an Institute to carry out other work of the Organisation.

Clause 10 - Inserts, after section 10 of the Principal Act, a new Part IIA entitled "The Chief Executive of the Organisation".

"Chief Executive of the Organisation

New section 10A provides for a Chief Executive of the Organisation who shall, in accordance with any policies and directions of the Board, conduct the affairs of the Organisation.

"Appointment of Chief Executive,

New section 10B gives the Governor-General power to appoint the Chief Executive on a full-time basis for up to 5 years. Prior to such an appointment, the Minister shall consult with the Board.

"Leave of Absence

New section 10C empowers the Minister to give leave of absence to the Chief Executive upon such terms and conditions as the Minister determines.

"Resignation

New section 10D enables the Chief Executive to resign by notifying the Governor-General in writing.

"Termination of appointment

New section 10E defines the basis on which the Governor-General may terminate the appointment of the Chief Executive including bankruptcy, failure to disclose pecuniary interests, unauthorised absence from duty or from 3 consecutive meetings of the Board and engaging in other paid employment without the Minister's consent.

"Disclosure of interests

New section 10F requires the Chief Executive to declare any pecuniary interest in any business to the Minister.

"Acting Chief Executive

New section 10G provides for the appointment by the Minister of an acting Chief Executive during certain specified circumstances. The Minister may determine the terms and conditions of such an appointment.



"Remuneration of Chief Executive

New section 10H provides for remuneration of the Chief Executive to be in accordance with a Remuneration Tribunal determination or, if no such determination is in operation, such remuneration as is prescribed. This section also covers the payment of prescribed allowances to the Director.

"Delegation

New section 10J allows the Chief Executive to delegate to any person, or committee of persons, all or any of his powers except the power of delegation.

Where the Chief Executive delegates a power to a committee of persons he shall appoint one of the members to be Chairperson of the Committee and may determine the procedure to be followed at Committee meetings.

Clause 11 - Heading to Part III

This is a machinery amendment omitting "EXECUTIVE" from the heading to Part III of the Principal Act and substituting "BOARD".

Clause 12

Repeals sections 11, 12, 13 and 14 of the Principal Act which relate to the Executive and substitutes new sections about the Board.

"Establishment of Board

New section 11 establishes the Board of the Organisation.

"Functions of Board

New section 12 gives the Board responsibility for ensuring the efficient performance of the Organisation's functions, determining the Organisation's policy and directing the Chief Executive in the conduct of the Organisation's affairs.

"Directions and guidelines given by Minister

New section 13 enables the Minister to give written directions and guidelines to the Board on the performance of the Board's or the Organisation's functions and the Board must ensure that any such directions are complied with.

"Board to have regard to Government policy

New section 14 provides that the Board is to have regard to any Government policies when performing its functions.

"Constitution of Board

New section 14A provides that the Board shall consist of the Chief Executive and between 7 and 9 other members who shall be part-time. The Governor-General shall appoint the part-time members and shall appoint one of them to be the Chairperson of the Board.

Clause 13 - Meetings

Makes machinery amendments to section 15 of the Principal Act by substituting "Board" for "Executive" and "Chairperson" for "Chairman". Also substitutes a new sub-section (3) on the constitution of a quorum for a meeting.

Clause 14

Repeals sections 16, 17, 18 and the heading to Part IV of the Principal Act relating to the Executive and substitutes new sections 16 and 17.

"Terms and conditions of appointment &c, of part-time members

New section 16 provides for part-time members to be appointed for up to 5 years upon such terms and conditions as are determined by the Governor-General.

"Remuneration of Chairperson

New section 17 provides for remuneration of the Chairperson to be in accordance with a Remuneration Tribunal determination or, if no such determination is in operation, such remuneration as is prescribed. This section also covers the payment of prescribed allowances to the Chairperson.

Clause 15 - Remuneration of other part-time members

Amends section 19 of the Principal Act to refer to part-time members other than the Chairperson.

Clause 16

Repeals sections 20 and 21 of the Principal Act which cover leave of absence for, and resignation of, full-time members of the Executive. Also substitutes new section 20.

"Resignation of part-time members

New section 20 allows part-time members to resign by notifying the Governor-General in writing.

Clause 17 - Termination of appointment

Makes machinery amendments to section 19 of the Principal Act by referring only to part-time members since there will be no full time members of the Board other than the Chief Executive who will be covered in Part IIA of the Act.

Clause 18

Repeals section 23 of the Principal Act, relating to pecuniary interests of members of the Executive, and Part V relating to the Chairman of the Organisation. Substitutes new section 23 and Part IV.

"Disclosure of interests of members of the Board

New section 23 provides for members of the Board to disclose any financial interest in matters before the Board and disqualifies them from being involved in such matters unless the Minister or the Board otherwise determines.

"Part IV - ADVISORY COMMITTEES"Advisory Committees

New section 24 allows the Board to appoint committees to advise it on particular matters relating to the Organisation's functions. The Board shall appoint the chairperson of a committee and may determine how the committee is to perform its functions and the procedure to be followed at committee meetings. The Board may, or may not, decide committee members should be paid.

Clause 19 - Staff

Makes machinery amendments to section 32 of the Principal Act by substituting "Chief Executive" for "Executive".

Clause 20

Repeals Part VII of Principal Act relating to the Advisory Council and State Committees which will be replaced by advisory committees and substitutes new Part VII concerning strategic and annual operational plans.

"PART VII - STRATEGIC PLANS AND ANNUAL OPERATIONAL PLANS

"Planning Periods

New section 33 empowers the Board to declare a period of up to 5 years to be a planning period.

"Strategic plans

New section 34 requires the Board to prepare a strategic plan for each planning period setting out the Organisation's objectives for the period and the strategies to be pursued to reach those objectives.

"Annual Operational plans

New section 35 requires the Chief Executive to prepare an annual operational plan for each financial year included in a planning period. The plan should set out the strategies, activities and resources available to give effect to the strategic plan relating to that financial year.

"Compliance with plans

New section 36 requires the Organisation to perform its functions in accordance with a strategic plan or an annual operational plan but ensures that contracts and other arrangements entered into cannot be called into question on the ground that they may not be covered by a plan.

Clause 21 - Repeal of section 47

Repeals section 47 of the Principal Act relating to the opening of bank accounts by the Executive. Clause 24 inserts a new section which applies Division 3 of Part XI of the Audit Act 1901 to the Organisation. That legislation will give the Organisation power to operate bank accounts.

Clause 22 - Estimates

Makes machinery amendments to section 49 of the Principal Act by substituting "Chief Executive" for "Executive".

Clause 23 - Contracts

Currently section 50 requires the Organisation to obtain the Minister's approval before entering into a contract which exceeds \$100 000. This clause increases the amount to \$250 000.

Clause 24

Repeals sections 51 and 52, relating to accounts and audit, which will be replaced by provisions of the Audit Act 1901 and substitutes a new section 51.

"Application of Division 3 of Part XI of Audit Act

New section 51 subjects the Organisation to the provisions of Division 3 of Part XI of the Audit Act requiring it, inter alia, to provide annual reports and financial statements on its activities to the Minister for tabling in Parliament.

The new section also requires the Organisation to include in its annual report details of its policies and any directions or guidelines given by the Minister to the Board in respect of the Board's or the Organisation's functions.

Clause 25 - Inventions, &c, by officers

Removes sexist language from section 54 of the Principal Act by substituting "the officer's" for "his".

Clause 26 - Consultative Council

Amends section 56 of the Principal Act to provide that the Consultative Council, which reports to the Board on matters affecting the Organisation's officers, shall include union representatives.

Clause 27 - Repeal of section 57

Repeals section 57 of the Principal Act relating to the Organisation's annual report which is replaced by similar provisions in the Audit Act applied to the Organisation by clause 24.



Clause 28 - Repeal of Schedule 1

Machinery clause consequential to the repeal of section 4.

Clause 29 - Amendments relating to the name of the Organisation

Changes the spelling of the word "Organization" in the Principal Act to "Organisation".

Clause 30 - Transitional, &c.

Provides that acts done before the commencement of this section by the Executive or the Chairman have the same effect as if done by the Chief Executive or the Board, as appropriate, after the commencement of the section.

PART III - AMENDMENTS OF THE SCIENCE AND INDUSTRY ENDOWMENT ACT 1926

Clause 31 - Principal Act

The clause identifies the Science and Industry Endowment Act 1926 as the Principal Act referred to in Part III.

Clause 32 - Control of Fund

Consequential amendment to section 5 of the Principal Act following the substitution of section 6 under clause 33.

Clause 33

Repeals section 6 of the Principal Act and substitutes a new section.

"Trustee of Science and Industry Endowment Fund

New section 6 provides that the trustee of the Fund is the Chief Executive. Currently, all members of the Executive are trustees, however, this has proved administratively unwieldy.

Clauses 34, 35, 36 - Further Amendments

These clauses make consequential amendments to sections 7, 8 and 9 of the Principal Act following the substitution of section 6.

Clause 37 - Transitional

Provides that acts done before the commencement of this section by the trustees, that is, the members of the Executive, shall have the same effect after the commencement as if done by the Chief Executive as sole trustee.

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