



Australian Nuclear Science and Technology Organisation Act 1987

Act No. 3 of 1987 as amended

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The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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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 [see Note 1]

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

2 Commencement [see Note 1]

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.

Bureau means the Nuclear Safety Bureau established by section 37.

Chairperson means Chairperson of the Board.

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

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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.

Director means the Director of the Bureau.

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

Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.

law enforcement agency means:

- (a) the Australian Federal Police; or
- (b) a police force of a State or Territory; or
- (c) Customs; 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.

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).

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 *Commonwealth Authorities and Companies Act 1997* applies to the Organisation. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (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
 - (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

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- (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, 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
 - (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
 - (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.
- (5) The Organisation may perform its functions to the extent only that they are not in excess of the functions that may be conferred on it

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by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:

- (a) in so far as it is appropriate for those functions to be performed by the Organisation on behalf of the Government of the Commonwealth as the national Government of Australia; and
- (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Organisation to perform functions; and
- (c) by way of expenditure of money that is available for the purposes of the Organisation in accordance with an appropriation made by the Parliament; and
- (d) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; and
- (e) for purposes related to external affairs; and
- (f) for purposes in or in relation to a Territory; and
- (g) for purposes related to the defence of the Commonwealth.

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.
- (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).

7 Disclosure of the Organisation's interests in companies

- (3) If the Organisation subscribes for or purchases shares in, or 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.

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
 - (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.

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- (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.

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- (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.
- (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;
 - (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; or

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- (c) fails, without reasonable excuse, to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;
- the Governor-General shall terminate the appointment of the member.

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.
- (6) Where, by reason of section 27J of the *Commonwealth Authorities and Companies Act 1997*, 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.
- (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;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (3) While a person is acting in an office under this section, the person may exercise all the powers, and shall perform all the functions, of the holder of the office.

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- (4) An appointment of a person under this section may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (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.
- (6) Where a person is acting in the office of Deputy Chairperson under paragraph (2)(b) and the office becomes vacant while the person is so acting, then, subject to subsection (4), the person may continue so to act until the Minister otherwise directs, the vacancy is filled, or a period of 12 months from the date on which the vacancy occurred expires, whichever first occurs.
- (7) The appointment of a person under this section ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
- (8) The validity of anything done by or in relation to a person purporting to act in an office under this section shall not be called in question on the ground that:
 - (a) in the case of a person purporting to act under subsection (1)—the occasion for the person to act had not arisen or had ceased; or
 - (b) in the case of a person purporting to act pursuant to an appointment under subsection (2)—the occasion for the appointment had not arisen, there was a defect or irregularity in or in connection with the appointment, the appointment had ceased to have effect or the occasion for the person to act had not arisen or had ceased.

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.

Section 21A

- (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
 - (d) fails, without reasonable excuse, to comply with his or her obligations under section 22 of this Act or section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*.
- (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

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.

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;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (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.

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- (5) Where a person is acting as Chief Executive Officer in accordance with paragraph (1)(b) and the office of Chief Executive Officer becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Board otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (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.
- (7) While a person is acting as Chief Executive Officer, the person may exercise all the powers, and shall perform all the functions and duties, of the Chief Executive Officer under this Act.
- (8) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

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 of surplus money of the Organisation under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

29 Extra matters to be included in annual report

- (3) The members of the Board must, in each annual report they prepare under section 9 of the *Commonwealth Authorities and Companies Act 1997*, include particulars of each direction given by the Minister to the Board under section 11 that is applicable in relation to the financial year to which the report relates.

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.

Section 35

- (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 *Financial Management and Accountability Act 1997*).
- (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 maintained under subsection 18(2) of the *Commonwealth Authorities and Companies Act 1997* 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;

Section 47

- (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.

Table of Acts

Notes to the *Australian Nuclear Science and Technology Organisation Act 1987*

Note 1

The *Australian Nuclear Science and Technology Organisation Act 1987* as shown in this compilation comprises Act No. 3, 1987 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 December 1998 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Nuclear Science and Technology Organisation Act 1987</i>	3, 1987	13 Mar 1987	27 Apr 1987 (see <i>Gazette</i> 1987, No S68)	
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15–20: 1 Dec 1988 Ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Australian Nuclear Science and Technology Organisation Amendment Act 1992</i>	83, 1992	30 June 1992	30 June 1992	Ss. 4(2), (3) and 5(2)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 34–37): Royal Assent (a)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 423–446): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (b)	—

Notes to the *Australian Nuclear Science and Technology Organisation Act 1987*

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Act 1998</i>	135, 1998	24 Dec 1998	Schedule 1 (items 1–4, 6–8): 5 Feb 1999 (see s. 2(1) and <i>Gazette</i> 1999, No. S50) (c)	Sch. 1 (items 6–8) [see Table A]
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 227–232): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (d)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (items 46–48): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (e)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch. 1 (item 97) [see Table A]
<i>Research Agencies Legislation Amendment Act 2002</i>	98, 2002	10 Nov 2002	10 Nov 2002	Sch. 2 (item 15) [see Table A]
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	Schedule 2 (items 58–67, 174): Royal Assent	Sch. 2 (item 174) [see Table A]
<i>Australian Nuclear Science and Technology Organisation Amendment Act 2006</i>	145, 2006	6 Dec 2006	6 Dec 2006	—
<i>Governance Review Implementation (Science Research Agencies) Act 2007</i>	84, 2007	21 June 2007	Schedules 1–3: 10 Sept 2007 (see F2007L03555) Remainder: Royal Assent	—
<i>Customs Legislation Amendment (Name Change) Act 2009</i>	33, 2009	22 May 2009	Schedule 2 (item 8): 23 May 2009	—

Act Notes

- (a) The *Australian Nuclear Science and Technology Organisation Act 1987* was amended by Schedule 4 (items 34–37) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (b) The *Australian Nuclear Science and Technology Organisation Act 1987* was amended by Schedule 2 (items 423–446) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (c) The *Australian Nuclear Science and Technology Organisation Act 1987* was amended by Schedule 1 (items 1–4) only of the *Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Act 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the same day as the *Australian Radiation Protection and Nuclear Safety Act 1998*.
- (d) The *Australian Nuclear Science and Technology Organisation Act 1987* was amended by Schedule 1 (items 227–232) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (e) The *Australian Nuclear Science and Technology Organisation Act 1987* was amended by Schedule 10 (items 46–48) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2) which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (a) section 3;
 - (b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);
 - (c) the items in Schedules 10, 11 and 12.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

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
Part II	
Note to s. 4(1)	ad. No. 152, 1997
S. 5.....	am. No. 83, 1992; No. 98, 2002; No. 145, 2006
S. 6.....	am. No. 98, 2002
Heading to s. 7	rs. No. 152, 1997
S. 7.....	am. No. 152, 1997
S. 7A	ad. No. 83, 1992
Part III	
S. 9.....	am. No. 152, 1997; No. 159, 2001; No. 84, 2007
Note to s. 9.....	ad. No. 152, 1997
S. 12.....	am. No. 43, 1996
S. 14.....	am. No. 152, 1997; No. 156, 1999
S. 15.....	rep. No. 152, 1997
S. 16.....	am. No. 152, 1997; No. 156, 1999
S. 16A	ad. No. 84, 2007
Part IV	
Heading to Part IV.....	rs. No. 84, 2007
Heading to s. 18.....	rs. No. 84, 2007
S. 18	am. No. 159, 2001; No. 84, 2007
Heading to s. 19.....	am. No. 84, 2007
S. 19.....	am. No. 84, 2007
Heading to s. 20.....	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
S. 21C	ad. No. 83, 1992 am. No. 152, 1997; No. 156, 1999; No. 84, 2007
S. 22.....	am. No. 84, 2007
Heading to s. 23.....	am. No. 84, 2007
S. 23.....	am. No. 84, 2007
Part V	
S. 24.....	am. No. 199, 1991; No. 146, 1999; No. 84, 2007
Heading to Part VI.....	am. No. 83, 1992 rep. No. 135, 1998

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
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
S. 28.....	rep. No. 152, 1997
Heading to s. 29.....	rs. No. 152, 1997
S. 29.....	am. No. 152, 1997
S. 31.....	am. No. 83, 1992; No. 135, 1998; No. 98, 2002 rep. No. 84, 2007
Ss. 32–34	am. No. 8, 2005
S. 36A	ad. No. 8, 2005
S. 37.....	rep. No. 83, 1992
Note to s. 37.....	ad. No. 152, 1997
Part VIIA	ad. No. 83, 1992 rep. No. 135, 1998
S. 37.....	ad. No. 83, 1992 rep. No. 135, 1998
Ss. 37A–37P	ad. No. 83, 1992 rep. No. 135, 1998
S. 37Q.....	ad. No. 83, 1992; am. No. 152, 1997 rep. No. 135, 1998
S. 37R	ad. No. 83, 1992 rs. No. 152, 1997 rep. No. 135, 1998
Ss. 37S, 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
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
Heading to s. 45.....	am. No. 84, 2007
S. 45.....	am. No. 84, 2007

Table A

Table A

Application, saving or transitional provisions

Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Act 1998 (No. 135, 1998)

Schedule 1

6 Transfer of assets and liabilities of the Nuclear Safety Bureau

- (1) At the commencement time:
 - (a) the assets and liabilities of the Nuclear Safety Bureau are transferred to the Commonwealth; and
 - (b) the Commonwealth becomes the Nuclear Safety Bureau's successor in law in relation to an asset or liability transferred under paragraph (a); and
- (2) Any instrument or document relating to a transferred asset or liability continues to have effect after the commencement time as if a reference in the instrument or document to the Nuclear Safety Bureau were a reference to the Commonwealth.
- (3) In this item:

asset means:

 - (a) any legal or equitable estate or interest in real or personal property, including a contingent or prospective one; or
 - (b) any right, privilege or immunity, including a contingent or prospective one.

commencement time means the time at which section 1 of this Act commenced.

liability means a liability, duty or obligation, including a contingent or prospective one.

Table A

7 Powers of the CEO during the transition period

(1) Despite the repeal of Part VIIA of the *Australian Nuclear Science and Technology Organisation Act 1987* by this Act, the CEO is to be treated, throughout the ANSTO transition period, as having all the powers and functions conferred by that Part on the Director of the Nuclear Safety Bureau in relation to ANSTO.

(2) In this item:

ANSTO means the Organisation within the meaning of subsection 3(1) of the *Australian Nuclear Science and Technology Organisation Act 1987*.

ANSTO transition period means the period:

- (a) beginning on the day on which the *Australian Radiation Protection and Nuclear Safety Act 1998* commenced; and
- (b) ending on the day on which ANSTO is granted or refused any licence under section 32 or 33 of the *Australian Radiation Protection and Nuclear Safety Act 1998*.

CEO has the same meaning as in the *Australian Radiation Protection and Nuclear Safety Act 1998*.

8 Prohibitions not to apply to certain activities and persons

(1) If a person lodges an application during the transition period under section 32 or 33 of the *Australian Radiation Protection and Nuclear Safety Act 1998* for a licence to authorise specified activities by specified persons, then the prohibitions contained in sections 30 and 31 of that Act do not apply to those persons in respect of those activities until:

- (a) the application is granted; or
- (b) the application is refused.

(2) In this item:

transition period means the period of 6 months beginning on the day on which the *Australian Radiation Protection and Nuclear Safety Act 1998* commenced.

Table A

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

Research Agencies Legislation Amendment Act 2002 (No. 98, 2002)

Schedule 2

15 Transitional—pre-commencement functions and powers

In determining the functions and powers that the Organisation had before the commencement of this item, the amendments made by this Part are to be disregarded.

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

Schedule 2

174 Saving provision—provisions that formerly referred to the Treasurer

- (1) Any thing that:
- (a) was done by the Treasurer, or by a delegate of the Treasurer, before the commencing time under an affected provision; and
 - (b) was in effect immediately before the commencing time;
- continues to have effect after the commencing time as if it had been done by the Finance Minister under the affected provision.
- (2) In this item:
- affected provision*** means a provision that is amended by an item in this Schedule so as to replace references to the Treasurer with references to the Finance Minister.

Table A

commencing time means the day this Act receives the Royal Assent.

Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.