

# Australian Institute of Marine Science

No. 55 of 1972

An Act relating to the Australian Institute of Marine Science.

[Assented to 9 June 1972]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Australian Institute of Marine Science Act 1972*. Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. This Act is divided into Parts, as follows:— Parts.

Part I.—Preliminary (Sections 1–6).

Part II.—Australian Institute of Marine Science (Sections 7–10).

Part III.—Council of the Institute (Sections 11–20).

Part IV.—Director of the Institute (Sections 21–32).

Part V.—Staff (Sections 33–35).

Part VI.—Finance (Sections 36–43).

Part VII.—Miscellaneous (Sections 44–51).

4. The *Australian Institute of Marine Science Act 1970* is repealed. Repeal.

5. In this Act, unless the contrary intention appears— Definitions.

“ Acting Director ” means an acting Director of the Institute appointed under section 30 of this Act;

“ acting member ” means an acting Chairman or other acting member appointed under section 17 of this Act;

“ appointed ” includes re-appointed, and re-appointment has a corresponding meaning;

“ hire ” includes charter;

“ institution ” includes any university or other body, whether corporate or unincorporate;

“ member ” means a member of the Council, and includes the Chairman;

“ the Chairman ” means the Chairman of the Council;

“ the Council ” means the Council of the Institute;

“ the Director ” means the Director of the Institute appointed under section 21 of this Act;

“ the Institute ” means the Australian Institute of Marine Science referred to in section 7 of this Act;

“ vessel ” includes ship, boat or other craft.

Application  
of Act outside  
Australia.

6. The Institute is not limited, in the performance of its functions and the exercise of its powers, to Australia and the territorial waters of Australia and this Act applies both within and outside Australia and extends to all the Territories of the Commonwealth not forming part of the Commonwealth.

#### PART II.—AUSTRALIAN INSTITUTE OF MARINE SCIENCE.

The Institute.

7.—(1.) Notwithstanding the repeal effected by section 4 of this Act, the institute established by the *Australian Institute of Marine Science Act 1970* under the name of the Australian Institute of Marine Science is continued in existence by this Act under that name.

(2.) The Institute—

(a) is a body corporate;

(b) shall have a seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3.) The seal of the Institute shall be kept in such custody as the Council directs and shall not be used except as authorized by the Council.

(4.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Institute affixed to a document and shall presume that it was duly affixed.

Seat of  
Institute.

8. The seat of the Institute shall be at or in the vicinity of Townsville in the State of Queensland.

Functions of  
Institute.

9. The functions of the Institute are—

(a) to carry out research in marine science;

(b) to arrange for the carrying out of research in marine science by any other institution or person;

(c) to co-operate with other institutions and persons in carrying out research in marine science;

(d) to provide any other institution or person with facilities for carrying out research in marine science or otherwise assist any other institution or person in carrying out research in marine science;

- (e) to collect and disseminate information relating to marine science and, in particular, to publish reports, periodicals and other papers relating to marine science; and
- (f) to do anything incidental or conducive to the performance of any of the foregoing functions.

**10.**—(1.) Subject to any directions of the Minister, whether general or with respect to a particular matter, the Institute has power to do all things necessary or convenient to be done for or in connexion with the performance of its functions.

Powers of  
Institute.

(2.) Without limiting the generality of the last preceding sub-section, the powers of the Institute referred in that sub-section include power—

- (a) to purchase or take on hire, or to accept on loan, equipment (including vessels) or other goods needed for the purposes of the Institute;
- (b) to dispose of, lend or hire out equipment (including vessels) or other goods the property of the Institute;
- (c) to purchase or take on lease land or buildings, and to erect buildings, necessary for the purposes of the Institute;
- (d) to dispose of, or grant leases of, land or buildings vested in the Institute;
- (e) 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 Institute;
- (f) to accept gifts, devises, bequests and assignments made to the Institute, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Institute upon trust; and
- (g) to arrange for the display of material, and for the giving of lectures, either to the public or otherwise, in respect of matters relating to marine science.

(3.) Notwithstanding anything contained in this Act, any money or property held by the Institute upon trust shall be dealt with in accordance with the powers and duties of the Institute as trustee.

(4.) The Governor-General may make available, for the purposes of the Institute, any land or buildings owned or held under lease by the Commonwealth.

### PART III.—COUNCIL OF THE INSTITUTE.

**11.** The Institute shall be governed by a council to be known as the Council of the Institute of Marine Science.

Institute to  
be governed  
by Council.

**12.**—(1.) The Council shall consist of a Chairman and four other members.

Constitution  
of Council.

(2.) The members shall be appointed by the Governor-General.

(3.) At least three members shall be persons possessing scientific qualifications.

(4.) Subject to this Act, each member holds office for such period, not exceeding five years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

(5.) An act or decision of the Council is not invalid by reason only of a vacancy or vacancies in the membership of the Council.

Leave of  
absence.

13. The Minister may grant leave of absence to a member upon such terms and conditions as the Minister determines.

Resignation  
of members.

14. A member may resign his office by writing under his hand addressed to the Governor-General, but the resignation does not have effect until it is accepted by the Governor-General.

Termination of  
appointment.

15. The Governor-General may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

Vacation<sup>2</sup> of  
office.

16. If a member—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) is absent, except on leave granted by the Minister, from three consecutive meetings of the Council; or

(c) fails to comply with his obligations under section 18 of this Act, the Governor-General shall, by notice published in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

Acting  
members.

17.—(1.) In the event of an inability, whether on account of illness or otherwise, of the Chairman to attend meetings of the Council, the Minister may appoint a person to be the acting Chairman of the Council during that inability and, while so acting, the person has all the powers and functions of the Chairman and, when attending a meeting of the Council, shall be deemed to be the Chairman.

(2.) In the event of the inability, whether on account of illness or otherwise, of a member, other than the Chairman, to attend meetings of the Council, the Minister may appoint a person to be an acting member of the Council during that inability, and while so acting, the person has all the powers and functions of a member, other than the Chairman, of the Council and, when attending a meeting of the Council, shall be deemed to be a member, other than the Chairman, of the Council.

(3.) An appointment under this section may be terminated at any time by the Minister.

18.—(1.) A member or acting member who is directly or indirectly interested in a contract made or proposed to be made by the Council, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

Disclosure of interests in contracts.

(2.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Council, and the member or acting member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Council with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

19. A member or acting member shall be paid such fees and allowances, other than annual allowances, as are prescribed.

Remuneration.

20.—(1.) The Council shall hold such meetings as are necessary for the performance of its functions.

Meetings of Council.

(2.) The Chairman may, at any time, convene a meeting of the Council and shall, if so directed by the Minister, convene a meeting of the Council.

(3.) The Chairman shall preside at all meetings of the Council at which he is present.

(4.) In the absence of the Chairman from a meeting of the Council, the members present shall appoint one of their number to preside at the meeting.

(5.) At a meeting of the Council, a quorum is constituted by not less than three members.

(6.) Questions arising at a meeting of the Council shall be determined by a majority of the votes of the members present.

(7.) The member presiding at a meeting of the Council has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

#### PART IV.—DIRECTOR OF THE INSTITUTE.

21. There shall be a Director of the Institute, who shall be appointed by the Governor-General on the recommendation of the Council.

Director of Institute.

Tenure of office.

**22.—**(1.) Subject to this Act, the Director holds office for such period, not exceeding seven years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

(2.) A person who has attained the age of sixty-five years shall not be appointed as the Director, and a person shall not be appointed as the Director for a period that extends beyond the date on which he will attain the age of sixty-five years.

Functions of Director.

**23.** Subject to the general direction of the Council, the Director shall manage the affairs of the Institute.

Salary and allowances of Director.

**24.—**(1.) The Director shall be paid salary at such rate as the Parliament fixes but, until the first day of July, One thousand nine hundred and seventy-three, the rate of that salary shall be such rate as is prescribed.

(2.) The Director shall be paid such allowances, other than annual allowances, as are prescribed.

Leave of absence.

**25.** The Council may grant leave of absence to the Director upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation.

**26.** The Director may resign his office by writing under his hand delivered to the Governor-General, but the resignation does not have effect until it is accepted by the Governor-General.

Termination of appointment.

**27.** The Governor-General may retire the Director on the ground of invalidity.

Vacation of office of Director.

**28.** If the Director—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) is guilty of misbehaviour; or

(c) is absent from duty, except on leave granted by the Council, for fourteen consecutive days or for twenty-eight days in any twelve months,

the Governor-General shall remove him from office.

Director not to undertake any other work.

**29.—**(1.) The Director shall not engage in paid employment outside the duties of his office except with the approval of the Minister.

(2.) The Minister shall not give an approval for the purposes of the last preceding sub-section unless he is satisfied that the paid employment will not interfere with the performance of the duties of the Director under this Act.

## 30.—(1.) Where—

- (a) there is a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or
- (b) the Director is, or is about to be, absent or, for any reason, unable to perform the functions of his office,

Acting  
Director.

the Minister may appoint a person who has not attained the age of sixty-five years to act as the Director until the filling of the vacancy or during the absence or inability.

## (2.) The Minister may—

- (a) subject to this Act, determine the terms and conditions of appointment of an Acting Director; and
- (b) at any time terminate such an appointment.

(3.) The appointment of an Acting Director made in anticipation of the absence or inability of the Director has effect from and including the day on which the absence or inability commences.

## (4.) The appointment of an Acting Director ceases to have effect if—

- (a) he attains the age of sixty-five years; or
- (b) he resigns the appointment by writing under his hand addressed to the Minister and the resignation is accepted by the Minister.

(5.) While the appointment of an Acting Director remains in force, he has, and may exercise, all the powers and shall perform all the functions of the Director.

31. The Director or an Acting Director shall not perform the duties of his office unless he has made and subscribed, before a justice of the peace or a commissioner for taking affidavits, an oath or affirmation of allegiance in accordance with the form of oath or affirmation in the Schedule to this Act.

Oath or  
affirmation.

32. For the purposes of sub-sections (3A.) and (4.) of section 4 of the *Superannuation Act* 1922–1971, the Director shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

Application of  
Superannuation  
Act to  
Director.

## PART V.—STAFF.

33.—(1.) Subject to this Part, the Council may appoint such officers of the Institute as it thinks necessary for the purposes of this Act.

Appointment  
of officers.

(2.) Except with the approval of the Minister, a person shall not be appointed under this section unless—

- (a) he is a British subject;
- (b) the Institute is satisfied, upon medical examination, as to his health and physical fitness; and

- (c) he makes and subscribes, before a justice of the peace or a commissioner for taking affidavits, an oath or affirmation of allegiance in accordance with the form of oath or affirmation in the Schedule to this Act.

Terms and conditions of appointment of officers.

34. Officers are not subject to the *Public Service Act* 1922–1972 but hold office on such terms and conditions as are, subject to the approval of the Public Service Board, determined by the Council.

Temporary and casual employees.

35.—(1.) Subject to this Part, the Council may employ such temporary or casual employees of the Institute as the Council thinks necessary for the purposes of this Act.

(2.) The selection of persons for engagement as employees under this section shall be made in accordance with such requirements as the Public Service Board determines.

(3.) A person shall not be employed under this section unless, if he is required by the Council to do so, he makes and subscribes, before a justice of the peace or a commissioner for taking affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to this Act.

(4.) The terms and conditions of employment of employees shall be such as are, subject to the approval of the Public Service Board, determined by the Council.

#### PART VI.—FINANCE.

Moneys payable to Institute.

36.—(1.) There are payable to the Institute such moneys as are appropriated by the Parliament for the purposes of the Institute.

(2.) The Treasurer may give directions as to the amounts in which, and the times at which, moneys referred to in the last preceding sub-section are to be paid to the Institute.

Bank accounts.

37.—(1.) The Institute may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2.) The Institute shall pay all moneys of the Institute into an account referred to in this section.

(3.) In this section, “approved bank” means the Reserve Bank of Australia or another bank approved by the Treasurer.

Application of moneys.

38.—(1.) The moneys of the Institute shall be applied only—

- (a) in payment or discharge of the costs and expenditure of the Institute under this Act; and
- (b) in payment of any remuneration (including fees) and allowances payable under this Act.



(2.) The moneys of the Institute shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister and the Treasurer.

39. The Council shall cause to be kept proper accounts and records of the transactions and affairs of the Institute and shall do all things necessary to ensure that all payments out of the moneys of the Institute are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Institute and over the incurring of liabilities by the Institute.

Proper  
accounts to  
be kept.

40. The Council shall, not later than the thirty-first day of March in each year, submit to the Minister particulars of proposed expenditure of the Institute for the financial year commencing on the following first day of July and shall, at any time when so requested by the Minister, submit to the Minister particulars of proposed expenditure of the Institute for any other period specified by the Minister.

Particulars of  
proposed  
expenditure.

41.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Institute and the records relating to assets of, or in the custody of, the Institute, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.

(2.) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in the last preceding sub-section.

(3.) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under sub-section (1.) of this section.

(4.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Institute relating directly or indirectly to the receipt or payment of moneys by the Institute or to the acquisition, receipt, custody or disposal of assets by the Institute.

(5.) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6.) The Auditor-General or an officer authorized by him may require a person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon conviction, by a fine not exceeding Two hundred dollars.

Limit on  
contracts.

42. The Institute shall not, except with the approval of the Minister, enter into a contract involving the payment by the Institute of an amount exceeding Fifty thousand dollars.

Exemption  
from taxation.

43. The Institute is not subject to taxation under any law of the Commonwealth or of a State or Territory of the Commonwealth.

#### PART VII.—MISCELLANEOUS.

Annual  
reports of  
Institute.

44.—(1.) The Council shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Institute during that year, together with financial statements in respect of that year in such form as the Treasurer approves.

(2.) Before furnishing financial statements to the Minister, the Council shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Institute during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3.) The Minister shall cause the report and financial statements of the Council, together with the report of the Auditor-General, to be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(4.) The first report and financial statements of the Council under this section shall be furnished as soon as practicable after the thirtieth day of June, One thousand nine hundred and seventy-three, and shall relate to the operations of the Institute during the period that commenced at the commencement of this Act and ended on that date.

Committees.

45.—(1.) The Minister may, at the request of the Council, appoint a Committee to assist the Council in relation to a matter specified in the request.

(2.) A Committee appointed under this section shall consist of such persons, whether members of the Council or not, as the Council with the approval of the Minister thinks fit.

(3.) A member of a Committee shall be paid such fees and allowances, other than annual allowances, as are prescribed, and shall hold office on such terms and conditions as the Council with the approval of the Minister determines.

(4.) A Committee shall make such enquiries, and furnish to the Council such reports, in connexion with the matter in relation to which it has been appointed as the Council directs.

46. The Institute is—

- (a) an approved authority for the purposes of the *Superannuation Act 1922–1971*;
- (b) a Commonwealth authority for the purposes of the *Air Accidents (Commonwealth Liability) Act 1963–1971*; and
- (c) an authority of the Commonwealth for the purposes of the *Commonwealth Employees' Furlough Act 1943–1968*.

Application of certain Acts.

47. If a person appointed to the office of Director or a person appointed as an officer under section 33 of this Act, was, immediately before his appointment, an officer of the Public Service of the Commonwealth—

Rights of public servant appointed as officer of Institute.

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act 1928–1969* applies as if this Act and this section had been specified in the Schedule to that Act.

48.—(1.) Any discovery, invention or improvement of or in any process, apparatus or machine made by an officer or employee of the Institute in the course of his official duties is the property of the Institute and may be made available by the Institute on such conditions and on payment of such fees or royalties, or otherwise, as the Institute, with the approval of the Minister, determines.

Inventions, &c., of officers and employees.

(2.) An officer or employee of the Institute shall not, except with the consent in writing of the Council, make application for a patent for an invention that is made by him in the course of his official duties or that relates to any matter or work connected with his official duties.

49. The Council may pay to officers and employees, or to persons working on behalf of the Institute, such bonuses as the Council, with the approval of the Minister, determines in respect of useful discoveries or inventions made by those officers, employees or persons.

Bonuses for discoveries by officers and employees.

50. The Council may charge such fees, and may agree to such conditions, as it thinks fit for investigations carried out by the Institute at the request of any person.

Fees and agreements for investigations.

Regulations.

**51.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, providing for penalties not exceeding a fine of One hundred dollars for offences against the regulations.

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**THE SCHEDULE**

Sections 31, 33(2.) and 35(3.).

**OATH**

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.

**SO HELP ME GOD!**

**AFFIRMATION**

I, A. B., do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law.

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