



Australia Council Act 1975

Act No. 11 of 1975 as amended

This compilation was prepared on 6 November 2001
taking into account amendments up to Act No. 159 of 2001)

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

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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An Act to establish a Council for Purposes connected with the Promotion of the Arts, and to make Provision for related Matters

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Australia Council Act 1975*.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

In this Act, unless the contrary intention appears:

arts includes creative and interpretative expression through theatre, literature, music, visual arts, film and crafts.

Board means a Board established under this Act and includes a co-ordinating Board.

Committee means a Committee appointed under section 17A.

community interest representative means a person who:

- (a) in the Minister's opinion, understands the interests of the general community in relation to the arts; and
- (b) is not a professional artist.

Council means the Council established by this Act.

General Manager means the General Manager of the Council appointed under section 19A.

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

Part II—Establishment, functions and powers of the Council

4 Establishment of Council

There is established by this Act a Council by the name of the Australia Council.

5 Functions of Council

The functions of the Council are:

- (a) to formulate and carry out policies designed:
 - (i) to promote excellence in the arts;
 - (ii) to provide, and encourage the provision of, opportunities for persons to practise the arts;
 - (iii) to promote the appreciation, understanding and enjoyment of the arts;
 - (iv) to promote the general application of the arts in the community;
 - (v) to foster the expression of a national identity by means of the arts;
 - (vi) to uphold and promote the right of persons to freedom in the practice of the arts;
 - (vii) to promote the knowledge and appreciation of Australian arts by persons in other countries;
 - (viii) to promote incentives for, and recognition of, achievement in the practice of the arts; and
 - (ix) to encourage the support of the arts by the States, local governing bodies and other persons and organizations;
- (c) to furnish advice to the Government of the Commonwealth, either of its own motion or upon request made to it by the Minister, on matters connected with the promotion of the arts or otherwise relating to the performance of its functions; and
- (d) to do anything incidental or conducive to the performance of any of the foregoing functions.

6 Powers of Council

- (1) Subject to this Act, the Council has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, has power:
 - (a) to enter into contracts;
 - (b) to erect buildings;
 - (c) to occupy, use and control any land or building owned or held under lease by Australia and made available for the purposes of the Council;
 - (d) to acquire, hold and dispose of real or personal property;
 - (e) to accept gifts, devises and bequests made to the Council, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Council upon trust;
 - (f) to make grants or loans of money, and to provide scholarships or other benefits, on such conditions as it thinks fit;
 - (g) to co-operate with the States and local governing bodies and with other persons and organizations concerned with the arts; and
 - (h) to do anything incidental to any of its powers.
- (2) Notwithstanding anything contained in this Act, any moneys or property vested in the Council upon trust shall be dealt with in accordance with the powers and duties of the Council as trustee.
- (3) The Council may perform its functions and exercise its powers outside Australia for the benefit of Australia or Australians.

6A Matters to be taken into account by Council

The Council must, in the performance of its functions and the exercise of its powers, have regard to:

- (a) the policies of the Commonwealth Government in relation to the arts;
- (b) the policies of State Governments, and of local governing bodies, in relation to the arts, so far as it is practicable to do so; and
- (c) such other matters, if any, as the Minister specifies by notice in writing to the Chairperson.

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6B Directions by Minister

- (1) Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Chairperson, give directions to the Council with respect to the performance of its functions or the exercise of its powers.
- (2) The Council must comply with a direction under subsection (1).
- (3) The Minister must cause a copy of each direction to be laid before each House of the Parliament within 21 sitting days of the House after the direction is given.
- (4) Nothing in this section authorises the Minister to give a direction to the Council in relation to the making of a decision by the Council in a particular case, being a decision relating to the making of a grant, the lending of money or the provision of a scholarship or other benefit.

7 Delegation

- (1) Subject to any direction of the Minister, the Council may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate any of its functions and any of its powers under this Act (other than this power of delegation or the power to appoint Committees) to:
 - (a) a Board;
 - (b) the Chairperson of the Council;
 - (c) the Deputy Chairperson of the Council;
 - (d) a Committee;
 - (e) the General Manager; or
 - (f) an officer or employee appointed or engaged, as the case may be, under section 41.
- (2) Where the Council delegates a function or power to a Committee, the Council shall from time to time give such general directions to the Committee with respect to the performance of the function or the exercise of the power as the Council thinks necessary to ensure the carrying out of the policies of the Council, and the Committee shall comply with those directions.

- (3) A function or power delegated under this section, when performed or exercised by the delegate, shall, for the purposes of this Act, be deemed to have been performed or exercised by the Council.
- (4) A delegation under this section does not prevent the performance of a function or the exercise of a power by the Council.

Part III—Constitution and meetings of the Council

8 Incorporation of Council

- (1) The Council:
 - (a) is a body corporate, with perpetual succession;
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.

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

- (2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to a document and assume that it was duly affixed.

9 Membership of Council

- (1) The number of members of the Council shall be not less than 10 nor more than 14.
- (2) Subject to subsection (4B), the Council shall consist of:
 - (a) the Chairperson;
 - (b) the Chairperson of each Board;
 - (e) subject to subsections (1) and (4), such number of persons who practise or have practised the arts or are otherwise associated with the arts as the Minister thinks fit; and
 - (f) subject to subsections (1) and (3B), such number of community interest representatives as the Minister thinks fit.
- (2A) The members of the Council, other than the Chairperson and the members referred to in paragraph (2)(b), are to be appointed by the Minister.
- (3) The Chairperson is to be appointed by the Governor-General.
- (3A) Subject to subsection (4A), the members of the Council hold office on a part-time basis.

- (3B) At least one of the members of the Council must be a community interest representative.
- (4) In appointing members of the Council referred to in paragraph (2)(e), the Minister shall endeavour to ensure that:
- (a) a majority of the members holding office pursuant to that paragraph are persons who practise or have practised the arts; and
 - (b) the membership of the Council includes a reasonable balance of persons who practise or have practised the various arts.
- (4A) The Chairperson may be appointed either as a full-time member or as a part-time member.
- (4B) In the event that the Chairperson is a part-time member, the person from time to time holding, or performing the duties of, the office of General Manager is, *ex officio*, a member of the Council.
- (5) The performance of the functions or the exercise of the powers of the Council is not affected by reason only of:
- (a) there being a vacancy or vacancies in the membership of the Council; or
 - (b) the number of members of the Council falling below 10 for a period of not more than 6 months.

10 Deputy Chairperson

- (1) The Minister may appoint a member of the Council, other than the Chairperson or the General Manager, to be the Deputy Chairperson of the Council.
- (2) A person appointed under this section holds office as Deputy Chairperson until the expiration of the person's period of appointment as a member or until the person sooner ceases to be a member.
- (3) Where a member appointed as Deputy Chairperson is, upon ceasing to be Deputy Chairperson by virtue of the expiration of the period of his or her appointment as a member, re-appointed as a member, he or she is eligible for re-appointment as Deputy Chairperson.

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- (4) The Deputy Chairperson may resign the office of Deputy Chairperson by writing signed and delivered to the Minister.

11 Term of office

- (1) Subject to this Act, a member of the Council appointed under paragraph 9(2)(a), (e) or (f) holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A person shall not hold office under one or more of the provisions referred to in subsection (1) for a continuous period exceeding 6 years.
- (3) A person who has held office under one or more of the provisions referred to in subsection (1) for a continuous period of 6 years is not eligible to be again appointed under any of those provisions for a term of office commencing within 2 years after the expiration of that period.
- (4) For the purposes of the application of subsection (3) in relation to the eligibility of a person for appointment or re-appointment as the Chairperson of the Council, any period of service by that person as a member of the Council otherwise than as Chairperson shall be disregarded.
- (4B) A member of the Council holding office under paragraph 9(2)(b) holds office until he or she ceases to be the Chairperson of the relevant Board.

12 Leave of absence

- (1) A full-time Chairperson has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time Chairperson leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

13 Resignation

- (1) The Chairperson may resign by giving a written notice of resignation to the Governor-General.

- (2) Any other member of the Council (other than a member referred to in paragraph 9(2)(b)) may resign by giving a written notice of resignation to the Minister.

14 Termination of appointment

- (1) The appropriate authority may terminate the appointment of a member of the Council by reason of misbehaviour or physical or mental incapacity.
- (2) If:
- (a) a member of the Council:
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (ii) fails without reasonable excuse to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;
 - (b) a full-time Chairperson of the Council:
 - (i) engages, without the consent of the Minister, in any paid employment outside the duties of his or her office; or
 - (ii) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or
 - (c) a part-time member of the Council is, except with the permission of the Council, absent from 3 consecutive meetings of the Council;

the appropriate authority shall terminate the appointment of that member.

- (2A) The Governor-General is the appropriate authority in the case of the Chairperson.
- (2B) The Minister is the appropriate authority in the case of any other member of the Council.
- (3) In this section:

member of the Council does not include:

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- (a) a member referred to in paragraph 9(2)(b); or
- (b) the General Manager.

15 Acting Chairperson

- (1) Subject to subsection (2), the Minister may appoint a person (who may be a member of the Council) to act as Chairperson of the Council during a vacancy in the office of Chairperson.
- (2) A person appointed under subsection (1) to act as Chairperson shall not continue so to act for more than 12 months.
- (3) During any period when there is neither a Chairperson nor a person appointed under subsection (1) or when the Chairperson or the person appointed under subsection (1) is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office of Chairperson:
 - (a) the Deputy Chairperson shall act as Chairperson; or
 - (b) if there is no Deputy Chairperson or the Deputy Chairperson is not available to act as Chairperson, the Minister may appoint a member of the Council to act as Chairperson, but any such appointment ceases to have effect when the circumstances giving rise to that appointment cease.
- (4) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and
 - (b) at any time terminate such an appointment.
- (5) 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.
- (6) At any time when a person is acting as Chairperson in accordance with this section, the person has, and may exercise, all the powers and shall perform all the functions of the Chairperson and, if the person is not a member of the Council, shall be deemed to be a member of the Council for the purposes of subsections 17(4) and (7) of this Act and sections 27F to 27L of the *Commonwealth Authorities and Companies Act 1997*.

- (7) The validity of anything done by a person acting as Chairperson in accordance with this section shall not be called in question on the grounds that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

16 Deputies

- (1) A member of the Council, being the Chairperson of a Board, may, with the approval of the Minister, appoint a member of the board to be his or her deputy.
- (3) A member of the Council referred to in subsection (1) may revoke the appointment of a person as his or her deputy, but the revocation is not effective until the member has given notice of it by writing signed by the member and delivered to the Minister.
- (4) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Council, to attend that meeting and, when so attending, shall be deemed to be the member of whom he or she is the deputy.
- (5) A person appointed under this section, other than a person appointed or engaged under the *Public Service Act 1999* or an officer or member of an authority of Australia, shall be paid such remuneration and allowances as are determined by the Minister.

17 Meetings

- (1) The Council shall hold such meetings as are necessary for the performance of its functions.
- (2) The meetings shall be convened by the Chairperson.
- (3) Where the Minister requests the Chairperson to do so, the Chairperson shall forthwith convene a meeting.
- (4) At a meeting a quorum is constituted by a majority of the members of the Council for the time being holding office.
- (5) The Chairperson shall preside at all meetings at which he or she is present.
- (6) If the Chairperson is not present at a meeting, the members present shall elect one of their number to preside at the meeting.

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- (7) Questions arising at a meeting shall be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) In relation to a time when a person is acting as Chairperson, references in this section to the Chairperson shall be read as references to that person.
- (10) If the Council so determines, a member of the Council may participate in, and form part of a quorum at, a meeting of the Council by means of any of the following methods of communication:
 - (a) telephone;
 - (b) closed circuit television;
 - (c) another method of communication determined by the Council.
- (11) A determination of the Council under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Council.
- (12) A member of the Council who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting.
- (13) If the Council so determines, a resolution must be taken to have been passed at a meeting of the Council if, without meeting, a majority of the number of members who would, if present at a meeting of the Council and entitled to vote on the resolution at that meeting, have constituted a quorum of the Council indicate agreement with the resolution in accordance with the method determined by the Council.

17A Committees

- (1) The Council may appoint Committees to assist the Council in the performance of its functions or the exercise of its powers.
- (2) The Council may appoint Committees to assist a Board in the performance of the Board's functions or the exercise of the Board's powers.

- (3) A Committee consists of such persons as the Council thinks fit.
- (4) The Council may from time to time give directions to a Committee that has been appointed to assist a Board in relation to the assistance to be given to the Board.
- (5) A Board may from time to time give directions to a Committee that has been appointed to assist it in relation to the assistance to be given to the Board.
- (6) Where inconsistent directions are given to a Committee by the Council and a Board in relation to a particular matter, the Committee must act in accordance with the directions of the Council.
- (7) If a Committee so determines, a member of the Committee may participate in, and form part of a quorum at, a meeting of the Committee by means of any of the following methods of communication:
 - (a) telephone;
 - (b) closed circuit television;
 - (c) another method of communication determined by the Committee.
- (8) A determination by a Committee under subsection (7) may be made in respect of a particular meeting, or in respect of all meetings, of the Committee.
- (9) If a Committee so determines, a resolution must be taken to have been passed at a meeting of the Committee if, without meeting, a majority of the number of members who would, if present at a meeting of the Committee and entitled to vote on the resolution at that meeting, have constituted a quorum of the Committee indicate agreement with the resolution in accordance with the method determined by the Committee.

Part IIIA—The General Manager of the Council

19A General Manager

- (1) There shall be a General Manager of the Council who shall be appointed by the Minister.
- (2) The General Manager shall, subject to and in accordance with the directions of the Council, conduct the affairs of the Council.
- (3) The General Manager holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Minister.

19B Period of appointment of General Manager

- (1) The General Manager shall be appointed for such period not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

19C Leave of absence

- (1) The General Manager has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Council may grant to the General Manager leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Council determines.

19D Resignation of General Manager

The General Manager may resign the office of General Manager by writing signed by the General Manager and delivered to the Minister, but the resignation does not have effect until accepted by the Minister.

19E Acting General Manager

- (1) The Minister may appoint a person to act as General Manager:

- (a) during a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the General Manager is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of General Manager;
- but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of an acting General Manager; and
 - (b) at any time terminate such an appointment.
 - (3) Where a person is acting as General Manager in accordance with paragraph (1)(b) and the office of General Manager becomes vacant while that person is so acting, that 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 happens.
 - (4) The appointment of an acting General Manager ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
 - (5) At any time when a person is acting as General Manager in accordance with this section, the person has, and may exercise, all the powers and shall perform all the functions of the General Manager.
 - (6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

19F Termination of office

- (1) The Minister may terminate the appointment of the General Manager for misbehaviour or physical or mental incapacity.
 - (2) If the General Manager:
-

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- (a) engages in paid employment outside the duties of the office of General Manager without the approval of the Minister;
- (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;
- (c) is absent, except on leave granted by the Council or with the approval of the Council, from 3 consecutive meetings of the Council;
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) 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 Minister shall terminate the appointment of the General Manager.

Part IV—Boards

20 Establishment of Boards

- (1) For the purposes of this Act, the Minister may, by notice published in the *Gazette*, establish:
 - (a) a single co-ordinating Board; and
 - (b) such number of other Boards as he or she thinks fit;and name those Boards as he or she thinks fit.
- (2) The Minister may, by notice published in the *Gazette*, revoke the notice under subsection (1) by which a Board was established.
- (3) A notice under subsection (2) shall take effect on a date specified in the notice, not being a date earlier than the date of publication of the notice.
- (4) Where a notice under subsection (2) is published in the *Gazette*, then, on the day on which the notice takes effect:
 - (a) the Board to which the notice relates ceases to exist; and
 - (b) the members of the Board cease to hold office as such members.

21 Functions and powers of Boards

- (1) A Board shall make such inquiries, and furnish to the Council such reports, in connexion with any matter referred to it by the Council as the Council directs.
- (2) A Board shall also have such functions and powers as are delegated to it under section 7.
- (3) The Council may, by writing under its common seal, give directions to a Board with respect to the exercise of its powers or the performance of its functions under subsection (1) or (2), including a direction requiring a Board to act, or refrain from acting, as specified in the direction with respect to a particular matter specified in the direction.

22 Membership of Boards

- (1) The co-ordinating Board must consist of a Chairperson and not fewer than 4, nor more than 12, other members.
- (2) A Board, other than the co-ordinating Board, must consist of a Chairperson and not fewer than 4, nor more than 8, other members.
- (2A) Subject to this section, the membership of the co-ordinating Board must comprise:
 - (a) such number as the Minister thinks fit of persons who practise or have practised the arts or are otherwise associated with the arts; and
 - (b) such number as the Minister thinks fit of community interest representatives.
- (3) A majority of the members of a Board for the time being shall be persons who practise the arts or are otherwise associated with the arts.
- (3A) At least one of the members of each Board must be a community interest representative.
- (3B) A member of the Council, or of a Board established under paragraph 20(1)(b), may be appointed as a member of the co-ordinating Board.
- (4) The members of a Board shall be appointed by the Minister, and shall be part-time members.
- (5) A Board shall from time to time publicly advertise, in such manner as it determines, for persons who wish to be appointed as members of the Board to submit their names for consideration, and shall at all times maintain a list of names so submitted.
- (6) In selecting persons to be appointed as members of a Board, the Minister must give consideration to:
 - (a) any recommendations made by the Council;
 - (b) the list of names maintained by the Board; and
 - (c) any recommendations from that list made by the Board.
- (7) Paragraphs (6)(b) and (c) do not apply in relation to the first appointment after the establishment of a Board of the minimum

number of members required by subsection (1) or (2), as the case may be.

- (8) The performance of the functions or the exercise of the powers of a Board is not affected by reason only of:
- (a) there being a vacancy in the office of Chairperson of the Board; or
 - (b) the number of members of the Board falling below the minimum number required by subsection (1) or (2), as the case may be, for a period of not more than 6 months.

23 Term of office

- (1) Subject to this Act, a member of a Board holds office for such period, not exceeding 4 years, as the Minister specifies in the instrument of appointment, but is eligible for re-appointment.
- (2) A member of a Board shall not hold office as a member of that Board for a continuous period exceeding 6 years.
- (3) A member of a Board who has held office as a member of that Board for a continuous period of 6 years is not eligible for re-appointment for a term of office commencing within 2 years after the expiration of that period.
- (4) For the purposes of the application of subsection (3) in relation to the eligibility of a person for appointment or re-appointment as the Chairperson of a Board, any period of service by that person as a member of that Board otherwise than as Chairperson shall be disregarded.

26 Resignation

A member of a Board may resign the office of a member by writing signed by the member and delivered to the Minister.

27 Termination of office

- (1) The Minister may remove a member of a Board from office:
 - (a) for misbehaviour or physical or mental incapacity;
 - (b) if the member is absent, without the approval of the Board, from 3 consecutive meetings of the Board; or

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- (c) where the member of the Board is the Chairperson of the Board—if the member is absent, without the approval of the Council, from 3 consecutive meetings of the Council.
- (2) If a member of a Board fails without reasonable excuse to comply with section 31 of this Act or with section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*, the Minister shall terminate the appointment of the member.

28 Acting Chairperson

- (1) The Minister may appoint a person to act as Chairperson of a Board:
 - (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or, for any reason, unable to perform the functions of the office of Chairperson;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of an Acting Chairperson; and
 - (b) at any time terminate such an appointment.
- (3) Where a person is acting as Chairperson in accordance with paragraph (1)(b) and the office of Chairperson becomes vacant while that person is so acting, that 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 happens.
- (4) The appointment of an acting Chairperson ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
- (5) At any time when a person is acting as Chairperson of a Board:
 - (a) the person has, and may exercise, all the powers and shall perform all the functions of the Chairperson;

- (b) if the person is not a member of that Board, the person shall be deemed to be a member of that Board for the purposes of subsections 29(4) and (7) and section 31; and
 - (c) if the Chairperson is a member of the Council by virtue of an appointment under paragraph 9(2)(b)—the person acting as Chairperson shall be deemed to be such a member.
- (7) The validity of anything done by the Acting Chairperson shall not be called in question on the grounds that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

29 Meetings

- (1) A Board shall hold such meetings as are necessary for the performance of its functions.
- (2) The meetings of a Board shall be convened by the Chairperson of the Board.
- (3) Where the Council requests the Chairperson of a Board to do so, the Chairperson shall forthwith convene a meeting of the Board.
- (4) At a meeting of a Board a quorum is constituted by a majority of the members of the Board for the time being holding office.
- (5) The Chairperson of a Board shall preside at all meetings of the Board at which he or she is present.
- (6) If the Chairperson of a Board is not present at a meeting of the Board, the members present shall elect one of their number to preside at the meeting.
- (7) Questions arising at a meeting of a Board shall be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting of a Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) In relation to a time when a person is acting as Chairperson of a Board, references in this section to the Chairperson of that Board shall be read as references to that person.

Section 31

- (10) If a Board so determines, a member of the Board may participate in, and form part of a quorum at, a meeting of the Board by means of any of the following methods of communication:
 - (a) telephone;
 - (b) closed circuit television;
 - (c) another method of communication determined by the Board.
- (11) A determination by a Board under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Board.
- (12) A member of a Board who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting.
- (13) If a Board so determines, a resolution must be taken to have been passed at a meeting of the Board if, without meeting, a majority of the number of members who would, if present at a meeting of the Board and entitled to vote on the resolution at that meeting, have constituted a quorum of the Board indicate agreement with the resolution in accordance with the method determined by the Board.

31 Disclosure of interest

- (1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not:
 - (a) be present during any deliberation of the Board with respect to that matter; or
 - (b) take part in any decision of the Board with respect to that matter.

31A Delegation

The Minister may, in writing, delegate any of the Minister's powers or functions under subsection 22(4) or subsection 27(1) or (2) to the Council.

Part V—Finance

32 Moneys payable to Council

- (1) There are payable to the Council such moneys as are appropriated by the Parliament for the purposes of the Council.
- (2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Council.

33 Application of moneys

- (1) The moneys of the Council shall be applied only:
 - (a) in payment of amounts properly payable in the performance of its functions; and
 - (b) in payment of any remuneration and allowances payable to members of the Council or of a Board.
- (1A) Subsection (1) does not prevent investment of surplus money of the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (2) Notwithstanding anything contained in this Act, where a gift or bequest made to the Council is subject to conditions in relation to the purposes for which it is to be applied, the moneys paid to the Council as a result of the gift or bequest, and any income derived from the investment of those moneys, may be applied for those purposes and subject to those conditions, but not otherwise.

34 Contracts and borrowing

- (1) The Council shall not, without the approval of the Minister:
 - (a) enter into a contract involving the payment or receipt of an amount exceeding \$250,000; or
 - (b) enter into a lease of land for a period exceeding 10 years.
- (2) In subsection (1), “contract” does not include a contract entered into by the Council in the course of the exercise of its powers under paragraph 6(1)(f).

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- (2A) Paragraph (1)(a) does not apply to the investment of money by the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (3) The Council shall not borrow moneys from any person.

36A Investment

- (1) The Council may invest moneys in the course of the direct performance of its functions. The Council may also invest surplus money under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (3) The Council shall not invest moneys otherwise than as mentioned in subsection (1).

38 Extra reporting requirements

- (1) The annual report on the Council under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:
 - (a) particulars of all matters specified by the Minister under paragraph 6A(c) during the year to which the report relates; and
 - (b) the text of all directions under sections 6B and 7 during the year to which the report relates.
- (2) The Minister must cause any report or financial statements given by the members of the Council to the Minister under paragraph 16(1)(b) of the *Commonwealth Authorities and Companies Act 1997* to be tabled in each House of the Parliament as soon as practicable.

40 Taxation

The Council is not subject to taxation under any law of Australia or of a State or Territory.

Part VI—Miscellaneous

41 Staff

- (1) The Council may appoint such officers or engage such employees as it thinks necessary for the purposes of this Act.
- (2) The terms and conditions of service or employment of persons so appointed or engaged (in respect of matters not provided for by this Act) shall be as determined from time to time by the Council.

41AA Remuneration for person holding more than one office

- (1) Where a person (other than the General Manager) holds more than one specified office, that person is entitled to remuneration in respect of each of those offices.
- (2) In this section:
specified office means:
 - (a) the office of a member of the Council; or
 - (b) the office of a member of a Board.

41A Remuneration

- (1) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed.
- (2) A person to whom this section applies shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) In this section, *person to whom this section applies* means:
 - (a) a member of the Council;
 - (b) a member of a Board;
 - (c) a member of a Committee; or

Section 44

(d) the General Manager.

44 Regulations

- (1) 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.

Table of Acts**Notes to the *Australia Council Act 1975*****Note 1**

The *Australia Council Act 1975* as shown in this compilation comprises Act No. 11, 1975 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 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>Australia Council Act 1975</i>	11, 1975	13 Mar 1975	13 Mar 1975	
<i>Australia Council Amendment Act 1976</i>	113, 1976	27 Oct 1976	27 Oct 1976	S. 21
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Australia Council Amendment Act 1980</i>	114, 1980	8 Sept 1980	Ss. 25, 27 and 28: 1 Oct 1980 (<i>see Gazette</i> 1980, No. G39) (a) S. 26: 27 July 1981 (<i>see Gazette</i> 1981, No. S150) (a) Remainder: Royal Assent	Ss. 6(a), (c), (e) and (f), 25(1), 25(2), 26(1)-(3), 26(4), 27(1), 27(2), 28(1), and 28(2)(a)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (b)	—
<i>Arts, Territories and Environment Legislation Amendment Act 1989</i>	60, 1989	19 June 1989	Ss. 11 and 13: 7 Dec 1988 Part 5 (ss. 14, 15): 11 May 1989 (<i>see</i> s. 2(3) and <i>Gazette</i> 1989, No. S164) Remainder: Royal Assent	—
<i>Australia Council Amendment Act 1991</i>	24, 1991	22 Feb 1991	22 Mar 1991	Ss. 10(2), 11(2)
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i>	179, 1991	25 Nov 1991	25 Nov 1991	S. 3(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Arts, Environment and Territories Legislation Amendment Act 1992</i>	130, 1992	24 Oct 1992	24 Oct 1992	S. 6
<i>Arts, Environment and Territories Legislation Amendment Act 1993</i>	6, 1994	18 Jan 1994	S. 5: Royal Assent (c)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (item 12): Royal Assent (d)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 160-174): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49 (e))	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 107-109): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (f)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (items 13-16): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (g)	—
<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]

Act Notes

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- (a) Subsections 2(2)-(4) of the *Australia Council Amendment Act 1980* provide as follows:
- (2) An amendment made by this Act shall not take effect until such date as is fixed by Proclamation with respect to that amendment.
 - (3) A Proclamation under subsection (2) may relate to 2 or more, or to all, of the amendments made by this Act.
 - (4) Sections 25, 26, 27 and 28 shall come into operation as provided in those sections.
- The date fixed under subsection 2(2) of the *Australia Council Amendment Act 1980*, for the amendments to take effect (other than the amendment set out in paragraph 6(c)) was 1 October 1980 (see *Gazette* 1980, No. G39).
- The date fixed under subsection 2(2) for the amendment made by paragraph 6(c) of the *Australia Council Amendment Act 1980* to take effect was 27 July 1981 (see *Gazette* 1981, No. S150).
- (b) The *Australia Council Act 1975* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Australia Council Act 1975* was amended by section 5 only of the *Arts, Environment and Territories Legislation Amendment Act 1993*, 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.
- (d) The *Australia Council Act 1975* was amended by Schedule 4 (item 12) 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.
- (e) The *Australia Council Act 1975* was amended by Schedule 2 (items 160-174) 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*.
- (f) The *Australia Council Act 1975* was amended by Schedule 1 (items 107-109) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provides 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.
- (g) The *Australia Council Act 1975* was amended by Schedule 10 (items 13-16) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2) of 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.
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Table of Amendments**Table of Amendments**

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

Provision affected	How affected
S. 3.....	am. No. 113, 1976; No. 24, 1991
S. 5.....	am. No. 113, 1976; No. 114, 1980
S. 5A	ad. No. 113, 1976 rep. No. 114, 1980
Ss. 6A, 6B	ad. No. 24, 1991
S. 7.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991
Note to s. 8(1)	ad. No. 152, 1997
S. 9.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991; No. 130, 1992
S. 10.....	rs. No. 113, 1976 am. No. 24, 1991; No. 130, 1992
S. 11.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991; No. 130, 1992; No. 159, 2001
S. 12.....	rs. No. 114, 1980 am. No. 24, 1991 rs. No. 179, 1991 am. No. 146, 1999
S. 13.....	am. No. 24, 1991 rs. No. 130, 1992
S. 14.....	rs. No. 114, 1980 am. Nos. 24 and 179, 1991; No. 130, 1992; No. 152, 1997; No. 156, 1999
S. 15.....	rs. No. 113, 1976 am. No. 24, 1991; No. 152, 1997; No. 156, 1999
S. 16.....	am. No. 113, 1976; No. 24, 1991; No. 146, 1999
S. 17.....	am. No. 24, 1991
S. 17A	ad. No. 113, 1976 rs. No. 24, 1991
S. 18.....	rep. No. 113, 1976
S. 19.....	rs. No. 114, 1980 am. No. 24, 1991 rep. No. 152, 1997
Part IIIA	ad. No. 113, 1976 (ss. 19A-19F)
S. 19A	ad. No. 113, 1976 am. No. 130, 1992
S. 19B	ad. No. 113, 1976 am. No. 24, 1991; No. 159, 2001
S. 19C	ad. No. 113, 1976 rs. No. 179, 1991 am. No. 146, 1999

Table of Amendments

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

Provision affected	How affected
S. 19D	ad. No. 113, 1976 am. No. 24, 1991; No. 130, 1992
S. 19E	ad. No. 113, 1976 am. No. 114, 1980; No. 24, 1991
S. 19F	ad. No. 113, 1976 am. No. 114, 1980; Nos. 24 and 179, 1991; No. 130, 1992; No. 152, 1997; No. 156, 1999
S. 20	am. No. 114, 1980; No. 24, 1991
S. 21	rs. No. 113, 1976 am. No. 114, 1980
S. 22	am. No. 113, 1976; No. 114, 1980; No. 24, 1991
S. 23	am. No. 113, 1976; No. 24, 1991
S. 24	rep. No. 113, 1976
S. 25	rep. No. 114, 1980
S. 26	am. No. 24, 1991
S. 27	am. No. 114, 1980; No. 24, 1991; No. 152, 1997; No. 156, 1999
S. 28	am. No. 113, 1976; No. 114, 1980; No. 24, 1991
S. 29	am. No. 24, 1991; No. 6, 1994
S. 30	rep. No. 113, 1976
S. 31	rs. No. 114, 1980 am. No. 24, 1991
S. 31A	ad. No. 130, 1992
S. 32	am. No. 36, 1978
S. 33	am. No. 152, 1997
S. 34	am. No. 114, 1980; No. 60, 1989; Nos. 24 and 179, 1991; No. 152, 1997
Ss. 35, 36	rep. No. 152, 1997
S. 36A	ad. No. 114, 1980 am. No. 152, 1997
S. 37	rep. No. 152, 1997
S. 38	am. No. 36, 1978; No. 24, 1991 rs. No. 152, 1997
S. 39	am. No. 24, 1991 rep. No. 152, 1997
S. 40	am. No. 114, 1980
S. 41	am. No. 199, 1991
S. 41AA	ad. No. 114, 1980 rs. No. 24, 1991
S. 41A	ad. No. 113, 1976 am. No. 24, 1991; No. 43, 1996
S. 42	am. No. 113, 1976 rep. No. 65, 1985
S. 43	rep. No. 113, 1976
S. 44	am. No. 113, 1976; No. 114, 1980

Table A

Table A

Application, saving or transitional provisions

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.
