



Employment, Education and Training Amendment Act 2000

No. 10, 2000



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***An Act to amend the *Employment, Education and
Training Act 1988*, and for related purposes***

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An Act to amend the *Employment, Education and Training Act 1988*, and for related purposes

[Assented to 15 March 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Employment, Education and Training Amendment Act 2000*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Employment, Education and Training Act 1988

Part 1—Amendments

1 Subsection 3(1) (definition of *Board*)

Repeal the definition.

2 Subsection 3(1) (definition of *Council*)

Omit “a Council”, substitute “the Australian Research Council”.

3 Subsection 3(1) (definition of *higher education institution*)

Omit “Schedule 1”, substitute “a Table in subsection 4(1) of the *Higher Education Funding Act 1988*”.

4 Subsection 3(1) (definition of *parent body*)

Repeal the definition.

5 Subsection 3(1) (definition of *school system*)

Repeal the definition.

6 Section 4

Repeal the section.

7 Part II

Repeal the Part.

8 Part III (heading)

Repeal the heading, substitute:

Part III—The Australian Research Council

9 Division 1 of Part III (heading)

Repeal the heading, substitute:

Division 1—Establishment, functions and powers of the Council

10 Section 23

Repeal the section, substitute:

23 Establishment

The Australian Research Council is established.

11 Sections 24, 25 and 26

Repeal the sections.

12 Paragraph 27(1)(a)

After “recommendations”, insert “, in writing,”.

13 At the end of subparagraph 27(1)(a)(ii)

Add “and”.

14 Paragraph 27(1)(b)

Omit “to the Board”, substitute “to the Minister”.

15 Paragraph 27(1)(b)

Omit “or the Board” (wherever occurring).

16 At the end of subparagraph 27(1)(b)(ii)

Add “and”.

17 Paragraph 27(1)(c)

Omit “Board”, substitute “Minister”.

18 At the end of subsection 27(1)

Add:

; and (d) to prepare and give reports to the Minister under section 30.

19 Subsection 27(2)

Repeal the subsection.

20 Sections 27A and 28

Repeal the sections.

21 Subsection 29(1)

Omit “Board”, substitute “Minister”.

22 Subsection 29(1)

Omit “a Council”, substitute “the Council”.

Note: The heading to section 29 is amended by omitting “**Councils**” and substituting “**Council**”.

23 Subsection 29(1)

Omit “that Council”, substitute “the Council”.

24 Subsection 29(2)

Repeal the subsection.

25 Subsection 29(3)

Omit “A Council”, substitute “The Council”.

26 After subsection 29(3)

Insert:

- (3A) The Minister must cause a copy of any direction or guideline given under subsection (1) to be laid as soon as practicable before each House of the Parliament.

27 Subsection 29(4)

Omit “a Council”, substitute “the Council”.

28 Section 30

Repeal the section, substitute:

30 Reports

- (1) As soon as practicable after the end of each financial year, the Council must prepare and give to the Minister a report on the operations of the Council during that year.
- (2) Without limiting the matters that may be included in a report under subsection (1), the report must include information about:

- (a) the matters referred by the Minister to the Council, the reports prepared by the Council on those matters and the persons, bodies and authorities (if any) consulted by the Council in preparing those reports; and
 - (b) the matters in relation to which the Council gave information and advice to the Minister on its own motion.
- (3) In addition to the report referred to in subsection (1), the Council must give to the Minister such reports relating to the performance of its functions as the Minister requires and may give such other reports as the Council thinks fit.
- (4) Without limiting subsection (3), the Council must, at such times and in respect of such periods as the Minister directs, give to the Minister reports on the matters referred to it by the Minister.
- (5) The Minister must cause a copy of each report given under this section to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister received the report.
- (6) If a report under subsection (1) relates to the financial year in which the *Employment, Education and Training Amendment Act 2000* commenced, it need not deal with the part of the financial year preceding that commencement.

29 Subsection 31(1)

Omit “A Council”, substitute “The Council”.

30 Subsection 31(2)

Omit “a Council”, substitute “the Council”.

31 Paragraph 31(2)(a)

Omit “the Board or”.

32 Division 2 of Part III (heading)

Repeal the heading, substitute:

Division 2—Constitution and meetings of the Council

33 Subsection 32(1)

Omit “A Council”, substitute “The Council”.

34 Subsection 32(3)

Repeal the subsection, substitute:

- (3) The Minister may appoint an officer or employee of the Australian Public Service to be a member of the Council if the Minister is of the opinion that it will be to the advantage of the Council to have as a member such an officer or employee.

35 Subsection 32(4)

Omit “each Council”, substitute “the Council”.

36 Sections 32, 33, 33A and 33B

Omit “a Council” (wherever occurring), substitute “the Council”.

37 Subsection 33B(11)

Omit “A Council”, substitute “The Council”.

38 Section 34

Repeal the section.

39 Sections 35, 35A, 35B, 35C, 35D, 35E, 35F and 35G

Omit “a Council” (wherever occurring), substitute “the Council”.

40 Subsection 35C(1)

Omit “a Chairperson”, substitute “the Chairperson”.

41 Subsection 35F(2)

Omit “a Chairperson”, substitute “the Chairperson”.

42 Section 36

Repeal the section, substitute:

36 Establishment etc. of committees

- (1) The Minister may establish a committee to assist the Council in carrying out its functions in relation to such matters as are approved by the Minister.

(2) The Minister may at any time dissolve a committee.

43 Subsection 37(1)

Repeal the subsection, substitute:

(1) Subject to the approval of the Minister, a committee is to consist of such members as are appointed by the Council.

44 Paragraph 37(2)(a)

Repeal the paragraph, substitute:

(a) consist wholly of persons who are members of the Council;
or

45 Subsections 37(4) and (5)

Omit “Board”, substitute “Council”.

46 Section 38

Repeal the section, substitute:

38 Functions

- (1) The functions of a committee established to assist the Council in connection with any matter are to make such enquiries and give such reports, with respect to that matter, as the Council directs.
- (2) The Minister may specify the other functions of a committee after consulting with the Chairperson of the Council.

47 Subsection 55(1)

Omit “the Board and the Councils in the performance of their”, substitute “the Council in the performance of its”.

48 Subsection 55(2)

Omit “Board”, substitute “Council”.

49 Subsection 55(3)

Omit “Board”, substitute “Council”.

50 At the end of section 55

Add:

- (4) The Minister may resolve any conflict between any of the policies determined, and the directions given to the Director, by the Council under subsection (3).

51 Subsection 57(1)

Repeal the subsection, substitute:

- (1) The Minister may, after consultation with the Chairperson of the Council, appoint such Counsellors as the Minister thinks necessary for the purpose of giving advice to the Council on matters relating to the functions of the Council.

52 Subsection 57(2)

Omit “Board”, substitute “Council”.

53 Subsection 60(1)

Omit “prescribed body”, substitute “the Council or a committee established under section 36 (the *body*)”.

54 Subsection 60(2)

Repeal the subsection, substitute:

- (2) The disclosure is to be recorded in the minutes of the meeting of the body and, subject to subsection (2A), the member must not:
- (a) be present during any deliberation of the body with respect to the matter; or
 - (b) take any part in any decision of the body with respect to the matter.
- (2A) A determination that paragraphs (2)(a) and (b) do not apply in relation to the member may be made by:
- (a) the body; or
 - (b) if the body is the Council—the Minister; or
 - (c) if the body is a committee—the Council.

55 Subsection 60(3)

Omit “a prescribed body under subsection (2)”, substitute “the body under subsection (2A)”.

56 Subsection 60(4)

Repeal the subsection.

57 Subsection 61(1)

Omit “Board or a”.

58 Subsection 61(1)

Omit “the Board or”.

59 Paragraph 61(2)(a)

Omit “Board or a”.

60 Subsection 61(2)

Omit “Board or the” (wherever occurring).

61 Subsection 62(1)

Omit “the Board” (first occurring), substitute “the Council”.

62 Subsection 62(1)

Omit “Board” (second occurring), substitute “Council”.

63 Paragraph 62(2)(a)

Omit “the Board”, substitute “the Council”.

64 At the end of section 62

Add:

- (3) The Minister may delegate his or her power under subsection 55(4) to the Secretary of the Department.

65 Subsection 63(1)

Omit “the Board and of the Councils”, substitute “the Council”.

66 Schedule 1

Repeal the Schedule.

Part 2—Transitional provisions

67 Definitions

In this Part, unless the contrary intention appears:

amended Act means the *Employment, Education and Training Act 1988* as amended by Part 1 of this Schedule.

Board has the same meaning as in the *Employment, Education and Training Act 1988* immediately before the commencement.

commencement means the commencement of this Part.

68 Continuation of the Australian Research Council

The Australian Research Council referred to in paragraph 23(d) of the *Employment, Education and Training Act 1988* immediately before the commencement continues to be the Australian Research Council referred to in section 23 of the amended Act.

69 Existing matters referred to the Australian Research Council

A matter that was referred to the Australian Research Council by the Board under subsection 27(1) of the *Employment, Education and Training Act 1988* before the commencement is taken, after the commencement, to have been referred to the Council by the Minister under that subsection of the amended Act.

70 Existing appointments in relation to the Australian Research Council

- (1) Subject to subitem (2), a person who, immediately before the commencement, held an appointment to, or in relation to, the Australian Research Council under a particular provision of the *Employment, Education and Training Act 1988*:
- (a) continues to hold that appointment:
 - (i) for the remainder of the period for which he or she was appointed; and
 - (ii) on the same terms and conditions on which he or she was appointed; and

- (b) is taken to hold that appointment under the same provision of the amended Act.
- (2) If, immediately before the commencement, a person was the Chairperson of the Australian Research Council on a part-time basis and at the same time was a member of the Board appointed on a full-time basis, the person's appointment as the Chairperson of the Council:
- (a) continues in force as if the appointment had been on a full-time basis; and
 - (b) so continues in force on the same terms and conditions as the terms and conditions of the person's appointment as a member of the Board.

71 Existing committees to assist Australian Research Council

A committee established to assist the Australian Research Council and that existed immediately before the commencement continues to be a committee to assist the Council as if it had been established under subsection 36(1) of the amended Act.

72 Existing members of the committee for the Australian Research Council

A person who, immediately before the commencement, was a member of a committee that had been established to assist the Australian Research Council:

- (a) continues to be a member of that committee:
 - (i) for the remainder of the period for which he or she was appointed a member; and
 - (ii) on the same terms and conditions on which he or she was holding office immediately before the commencement; and
- (b) is taken to have been appointed under subsection 37(1) of the amended Act.

73 Existing Counsellors for the Australian Research Council

A person who, immediately before the commencement, was a Counsellor who had been appointed to give advice to the Australian Research Council:

- (a) continues to be a Counsellor for the Council:

- (i) for the remainder of the period for which he or she was appointed a Counsellor; and
 - (ii) on the same terms and conditions on which he or she was holding office immediately before the commencement; and
- (b) is taken to have been appointed under subsection 57(1) of the amended Act.

74 Directions and guidelines under subsection 29(1)

A direction or guideline in relation to the Australian Research Council in force under subsection 29(1) of the *Employment, Education and Training Act 1988* immediately before the commencement has effect after the commencement as if the direction or guideline were in force under subsection 29(1) of the amended Act and had been made by the Minister.

75 Determinations under subsection 60(2)

A determination (the *original determination*) in relation to the Australian Research Council, or in relation to a committee established to assist that Council, in force under subsection 60(2) of the *Employment, Education and Training Act 1988* immediately before the commencement has effect after the commencement as if the determination were in force under subsection 60(2A) of the amended Act, and had been made by:

- (a) if the original determination was made by the Board—the Minister; or
- (b) in any other case—the person or body that made the original determination.

[*Minister's second reading speech made in—
House of Representatives on 30 March 1999
Senate on 12 August 1999*]

(67/99)
