



**Australian Research Council
(Consequential and Transitional
Provisions) Act 2001**

No. 9, 2001



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**An Act to repeal or amend certain Acts as a
consequence of the enactment of the *Australian
Research Council Act 2001*, and for other purposes**

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No. 9, 2001

**An Act to repeal or amend certain Acts as a
consequence of the enactment of the *Australian
Research Council Act 2001*, and for other purposes**

[Assented to 22 March 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Research Council
(Consequential and Transitional Provisions) Act 2001*.

2 Commencement

This Act commences on the commencement of the *Australian
Research Council Act 2001*.

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repealed as set out in the applicable items in the Schedule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—Repeals and amendments

Employment, Education and Training Act 1988

1 The whole of the Act

Repeal the Act.

Higher Education Funding Act 1988

2 Paragraph 17(m)

Omit “\$3,437,721,000”, substitute “\$2,719,957,000”.

3 Paragraph 17(n)

Omit “\$3,413,312,000”, substitute “\$2,695,386,000”.

4 After subsection 23(1A)

Insert:

- (1B) A proposal for expenditure by an institution or body cannot be approved under subsection (1) or (1A) in relation to the year starting on 1 January 2001 or a later year unless:
- (a) there is an approved research and research training management plan for the institution or body and the year (see subsection (1C)); and
 - (b) the institution or body is an accredited higher education institution or body (see subsection (1D)); and
 - (c) the institution or body is listed in Schedule 1.
- (1C) For the purposes of paragraph (1B)(a), there is an approved research and research training management plan for an institution or body and a year if (and only if):
- (a) the institution or body has, in writing, submitted a plan to the Minister that covers the year; and
 - (b) the Minister has, in writing, declared that he or she is satisfied that the plan meets the requirements in force under paragraph (1E)(a).

(1D) For the purposes of paragraph (1B)(b), an institution or body is an accredited higher education institution or body if (and only if) the institution or body is included as a higher education institution on both of the following registers (as in force when the relevant expenditure proposal is being considered by the Minister):

- (a) the Australian Qualifications Framework Register of Authorities empowered by Government to Accredite Post-Compulsory Education and Training Courses;
- (b) the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications.

(1E) The Minister may, by instrument in writing, determine requirements to be satisfied for a plan to be approved under paragraph (1C)(b).

Note: A determination under this subsection is a disallowable instrument—see paragraph 110(b).

4A Paragraph 23C(2)(h)

Omit “\$476,320,000”, substitute “\$472,820,000”.

5 Paragraph 23C(2)(i)

Omit “\$488,085,000”, substitute “\$961,519,000”.

6 Paragraph 23C(2)(j)

Omit “\$468,562,000”, substitute “\$942,676,000”.

7 At the end of paragraph 110(b)

Add “or under subsection 23(1E)”.

8 At the end of the Act

Add:

Schedule 1—Institutions or bodies eligible for special research assistance

Note: See section 23.

Institutions or bodies eligible for special research assistance	
Item	Name of institution or body
1	Australian Catholic University

Institutions or bodies eligible for special research assistance	
Item	Name of institution or body
2	Charles Sturt University
3	Southern Cross University
4	Macquarie University
5	The University of New England
6	The University of New South Wales
7	The University of Newcastle
8	The University of Sydney
9	University of Technology, Sydney
10	University of Western Sydney
11	University of Wollongong
12	Deakin University
13	La Trobe University
14	Monash University
15	Royal Melbourne Institute of Technology
16	Swinburne University of Technology
17	The University of Melbourne
18	University of Ballarat
19	Victoria University of Technology
20	Melbourne College of Divinity
21	Central Queensland University
22	Griffith University
23	James Cook University
24	Queensland University of Technology
25	The University of Queensland
26	University of Southern Queensland
27	University of the Sunshine Coast
28	Bond University
29	Curtin University of Technology
30	Edith Cowan University
31	Murdoch University
32	The University of Western Australia

Schedule 1 Repeals and amendments

Institutions or bodies eligible for special research assistance	
Item	Name of institution or body
33	The Flinders University of South Australia
34	The University of Adelaide
35	University of South Australia
36	University of Tasmania
37	Batchelor College
38	Northern Territory University
39	Australian Maritime College
40	The Australian National University
41	University of Canberra
42	The University of Notre Dame Australia

Schedule 2—Transitional provisions

1 Definitions

In this Schedule:

commencement means the commencement of this Schedule.

new Act means the *Australian Research Council Act 2001*.

new ARC means the body established by section 5 of the new Act.

old ARC means the body established by section 23 of the old EET Act.

old ARC-administered scheme means a research scheme in relation to which a reference under paragraph 27(1)(a) of the old EET Act was in force immediately before the commencement.

old EET Act means the *Employment, Education and Training Act 1988* as in force immediately before the commencement.

old HEF Act means the *Higher Education Funding Act 1988* as in force immediately before the commencement.

2 Matters referred to old ARC by Minister

If, before the commencement, the Minister referred a matter to the old ARC under paragraph 27(1)(b) of the old EET Act and the old ARC had not finished dealing with that reference by the commencement, the new ARC is to continue dealing with that reference after the commencement as if it were a request for advice in relation to the matter under subsection 6(2) of the new Act.

3 Continued effect of Ministerial directions and guidelines

A direction or guideline in force under subsection 29(1) of the old EET Act immediately before the commencement has effect after the commencement as if it were a direction under subsection 7(1) of the new Act.

4 Continued effect of funding approvals given in relation to old ARC-administered schemes

If, in relation to an old ARC-administered scheme, an approval under subsection 23(1) or (1A) of the old HEF Act was in force immediately before the commencement in respect of a year to which Division 1 of Part 7 of the new Act applies, that approval has effect after the commencement as if it were an approval under section 51 of the new Act that was made in accordance with the requirements of that Act.

5 Continued effect of funding recommendations made in relation to old ARC-administered schemes

- (1) If:
- (a) in relation to an old ARC-administered scheme, the old ARC made a recommendation to the Minister before the commencement in relation to whether a particular approval under subsection 23(1) or (1A) of the old HEF Act should be given in respect of a year to which Division 1 of Part 7 of the new Act applies; and
 - (b) the Minister has not given the approval, or refused to give the approval, before the commencement;
- the Minister must deal with the recommendation after the commencement as if the old HEF Act (and instruments made under it) were still in force.
- (2) If, after the commencement, the Minister decides to give the approval, that approval has effect as if it were an approval under section 51 of the new Act that was made in accordance with the requirements of that Act.

6 Funding rules for 2001

- (1) If, in relation to an old ARC-administered scheme, guidelines developed by the old ARC and approved by the Minister for the year 2001 (whether those guidelines also cover a later year or years) were in force immediately before the commencement, those guidelines have effect after the commencement as if they were funding rules made by the Board and approved by the Minister under and in accordance with Subdivision D of Division 1 of Part 7 of the new Act.
- (2) Subsection 59(1) does not apply to require the new ARC to make guidelines under that section for the year 2001.

7 Funding split determination for 2001

The Minister's obligation under section 50 of the new Act applies in relation to the year 2001 as if subsection (2) of that section required the determination for that year to be made as soon as practicable after the start of that year.

8 Final report on operations of old ARC

- (1) The first report under section 46 of the new Act must include a report on the operations of the old ARC during the period:
 - (a) starting at the beginning of the financial year after the last financial year for which a report has been given to the Minister under subsection 30(1) of the old EET Act; and
 - (b) ending on the commencement.
- (2) The report required by subitem (1) must include the information that would have been required for that period by subsections 30(1) and (2) of the old EET Act.

9 References in other Commonwealth laws to kinds of institution defined in the old EET Act

If a law of the Commonwealth in force immediately before the commencement refers to a kind of institution and defines that kind of institution by reference to a definition in the *Employment, Education and Training Act 1988*, then, despite its repeal, Part 1 of that Act is taken to continue in force after the commencement for the purposes of that law of the Commonwealth.

[*Minister's second reading speech made in—
House of Representatives on 7 September 2000
Senate on 9 November 2000*]

(162/00)
