



# **Research Agencies Legislation Amendment Act 2002**

**No. 98, 2002**

**An Act to amend legislation relating to the  
Australian Institute of Marine Science and the  
Australian Nuclear Science and Technology  
Organisation, and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# **Research Agencies Legislation Amendment Act 2002**

**No. 98, 2002**

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# **An Act to amend legislation relating to the Australian Institute of Marine Science and the Australian Nuclear Science and Technology Organisation, and for other purposes**

[Assented to 10 November 2002]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Research Agencies Legislation Amendment Act 2002*.

## **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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Australian Institute of Marine Science Act 1972**

### **Part 1—Functions and powers**

#### **1 Section 5**

Insert:

*application and use* means:

- (a) marine application and use; or
- (b) non-marine application and use.

#### **2 Paragraph 9(1)(a)**

Repeal the paragraph, substitute:

- (a) to carry out research and development in relation to:
  - (i) marine science and marine technology; and
  - (ii) the application and use of marine science and marine technology; and

#### **3 Paragraph 9(1)(f)**

Repeal the paragraph, substitute:

- (f) to collect and disseminate information relating to:
  - (i) marine science and marine technology; and
  - (ii) the application and use of marine science and marine technology;and, in particular, to publish reports and other papers; and

#### **4 Paragraph 9(1)(g)**

Repeal the paragraph, substitute:

- (g) to produce, acquire, provide and sell goods, and to provide services, in connection with:
  - (i) marine science and marine technology; and
  - (ii) the application and use of marine science and marine technology; and

#### **5 Paragraph 9(1)(h)**

Omit “and facilities”, substitute “, facilities, resources and property”.

#### **6 Subsection 9(2)**

Omit “only”, substitute “to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament and, in particular, may perform its functions”.

#### **7 Paragraph 9(2)(f)**

Omit “Territory.”, substitute “Territory; or”.

#### **8 At the end of subsection 9(2)**

Add:

- (g) for purposes in relation to quarantine; or
- (h) for purposes in relation to fisheries in Australian waters beyond territorial limits; or
- (i) for purposes in relation to telecommunications.

#### **9 At the end of section 9**

Add:

(3) In this section:

*communications* includes any communication whether:

- (a) between persons and persons, things and things or persons and things; and
- (b) in the form of speech, music or other sounds; and
- (c) in the form of data; and
- (d) in the form of text; and
- (e) in the form of visual images (animated or otherwise); and
- (f) in the form of signals; and
- (g) in any other form; and
- (h) in any combination of forms.

*telecommunications* means the carriage of communications by means of guided and/or unguided electromagnetic energy.

#### **10 Paragraph 10(2)(k)**

Repeal the paragraph, substitute:

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- (k) to arrange for displaying material and giving lectures, to the public or otherwise, about:
  - (i) marine science and marine technology; and
  - (ii) the application and use of marine science and marine technology.

## **11 Transitional—pre-commencement functions and powers**

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

## Part 2—Finance

### 12 Section 5

Insert:

*associated company*, in relation to the Institute, means a company where the Institute is in a position to cast, or control the casting of, 15% or more of the maximum number of votes that might be cast at a general meeting of the company.

### 13 Section 5

Insert:

*borrowing* includes raising money or obtaining credit, whether by dealing in securities or otherwise, but does not include obtaining credit in a transaction forming part of the day-to-day operations of the Institute.

### 14 Section 5

Insert:

*Finance Minister* means the Minister administering the *Commonwealth Authorities and Companies Act 1997*.

### 15 After paragraph 10(2)(h)

Insert:

- (ha) to lend money to associated companies of the Institute;
- (hb) with the written approval of the Finance Minister, to provide guarantees for the benefit of associated companies of the Institute;

### 16 Subsection 36(2)

Omit “Minister for Finance”, substitute “Finance Minister”.

### 17 Paragraph 38(1)(a)

Repeal the paragraph, substitute:

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Institute in the performance of its functions or the exercise of its powers; and

**18 Paragraph 38(1)(b)**

Omit “this Act.”, substitute “this Act; and”.

**19 At the end of subsection 38(1)**

Add:

- (c) in making any other payments which the Institute is authorised or required to make under this Act or any other law.

**20 Section 42**

Omit “exceeding \$100,000.”, substitute:

exceeding:

- (a) \$1 million; or
- (b) if a higher amount is specified in the regulations—that higher amount.

**21 After section 42**

Insert:

**42A Borrowing from Commonwealth**

The Finance Minister may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Institute on such terms and conditions as he or she determines in writing.

**42B Borrowing from persons other than the Commonwealth**

- (1) The Institute may, with the Finance Minister’s written approval, borrow money from persons other than the Commonwealth on terms and conditions specified in, or consistent with, the approval.
- (2) Money may be borrowed wholly or partly in foreign currency.

#### **42C Guarantee of borrowings by Institute**

- (1) The Finance Minister may, on behalf of the Commonwealth, enter into a contract guaranteeing the performance by the Institute of obligations incurred by it under section 42B.
- (2) If the Finance Minister determines in writing that obligations incurred by the Institute under section 42B are guaranteed by the Commonwealth, the obligations become so guaranteed.
- (3) A contract under subsection (1) may include:
  - (a) a provision agreeing that proceedings under the contract may be taken in courts of a foreign country; or
  - (b) a provision waiving the immunity of the Commonwealth from suit in courts of a foreign country.

#### **42D Borrowing not otherwise permitted**

The Institute must not borrow money except under section 42A or 42B.

#### **42E Institute may give security**

The Institute may give security over the whole or part of its assets for:

- (a) the performance by the Institute of any obligation incurred under section 42A or 42B; or
- (b) the payment to the Commonwealth of amounts equal to amounts paid by the Commonwealth under a guarantee under section 42C.

#### **22 At the end of section 43**

Add:

- (2) Stamp duty or a similar tax under a law of the Commonwealth or of a State or Territory is not payable by the Institute or any other person in respect of:
  - (a) a transaction done for the purposes of a borrowing by the Institute; or

- (b) a document executed by or on behalf of the Institute for the purposes of a borrowing by the Institute.

## **Part 3—Miscellaneous**

### **23 Section 10A**

Omit “section 18 and”.

### **24 Section 31**

Repeal the section.

### **25 Subsection 33(1)**

Omit “Subject to this Part, the”, substitute “The”.

### **26 Subsection 33(2)**

Repeal the subsection.

### **27 Subsection 35(1)**

Omit “Subject to this Part, the”, substitute “The”.

### **28 Subsection 35(3)**

Repeal the subsection.

### **29 Subsection 48(1)**

Omit “, with the approval of the Minister”.

### **30 Section 49**

Omit “, with the approval of the Minister”.

### **31 The Schedule**

Repeal the Schedule.

## **Schedule 2—Amendment of the Australian Nuclear Science and Technology Organisation Act 1987**

### **Part 1—Functions and powers**

#### **1 Subsection 3(1)**

Insert:

*application and use* means:

- (a) nuclear application and use; or
- (b) non-nuclear application and use.

#### **2 At the end of subparagraph 5(1)(a)(i)**

Add “and”.

#### **3 After subparagraph 5(1)(a)(i)**

Insert:

- (ia) the application and use of nuclear science and nuclear technology; and

#### **4 At the end of paragraph 5(1)(a)**

Add “and”.

#### **5 Paragraph 5(1)(b)**

Omit “utilisation”, substitute “use”.

#### **6 At the end of paragraphs 5(1)(b) and (ba)**

Add “and”.

#### **7 Paragraph 5(1)(c)**

Omit “provide and sell goods (whether produced by the Organisation or purchased or otherwise acquired by the Organisation) and services”, substitute “produce, acquire, provide and sell goods, and to provide services, that are”.

**8 After subparagraph 5(1)(c)(ia)**

Insert:

- (ib) in connection with nuclear science and nuclear technology; or
- (ic) in connection with the application and use of nuclear science and nuclear technology; or

**9 At the end of paragraphs 5(1)(c) and (d)**

Add “and”.

**10 Paragraph 5(1)(e)**

Repeal the paragraph, substitute:

- (e) to provide advice on aspects of:
  - (i) nuclear science and nuclear technology; and
  - (ii) the application and use of nuclear science and nuclear technology; and
  - (iii) other matters related to its activities; and

**11 Paragraph 5(1)(ea)**

Omit “and facilities” (first occurring), substitute “, facilities, resources and property”.

**12 Subparagraph 5(1)(ea)(iii)**

After “land”, insert “, buildings”.

**13 At the end of paragraphs 5(1)(ea), (f), (g), (h) and (j)**

Add “and”.

**14 At the end of section 6**

Add:

- (3) To avoid doubt, the Organisation has the power to construct buildings and facilities for the sole purpose of performing the function referred to in paragraph 5(1)(ea).

**15 Transitional—pre-commencement functions and powers**

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

## **Part 2—Contracts**

### **16 Section 31**

Omit “exceeding \$5,000,000.”, substitute:

exceeding:

- (a) \$5 million; or
- (b) if a higher amount is specified in the regulations—that higher amount.

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*[Minister’s second reading speech made in—  
House of Representatives on 21 March 2002  
Senate on 19 August 2002]*

(83/02)