



# Industrial Research and Development Incentives Amendment Act 1981

No. 44 of 1981

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## An Act to amend the *Industrial Research and Development Incentives Act 1976* and to repeal certain related Acts

[Assented to 13 May 1981]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title, &c.

1. (1) This Act may be cited as the *Industrial Research and Development Incentives Amendment Act 1981*.

(2) The *Industrial Research and Development Incentives Act 1976*<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. (1) Sections 1, 2 and 4 shall come into operation on the day on which this Act receives the Royal Assent.

(2) Sub-sections 3 (1), 19 (1) and 33 (1) shall be deemed to have come into operation on 6 December 1978.

(3) Sub-sections 3 (2), 19 (2) and 33 (2) shall be deemed to have come into operation on 1 July 1980.

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(4) Sub-section 3 (3), section 6, sub-section 19 (3) and sections 20 to 32 (inclusive) shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.

(5) Sub-section 3 (4), section 5, sections 7 to 18 (inclusive) and section 34 shall come into operation on 1 July 1981.

**Interpretation**

3. (1) Section 4 of the Principal Act is amended—

- (a) by omitting from the definition of “eligible expenditure” in sub-section (1) “in respect of which the company has eligible contract expenditure in excess of \$1,500, or eligible salary expenditure, or both”; and
- (b) by omitting from the definition of “eligible salary expenditure” in sub-section (1) all the words after “engaged in by” (first occurring) and substituting “those employees during that period or those periods”.

(2) Section 4 of the Principal Act is amended—

- (a) by omitting “and” from paragraph (a) of the definition of “Australia” in sub-section (1);
- (b) by adding at the end of the definition of “Australia” in sub-section (1) the following word and paragraph:

“; and (c) in relation to construction operations—includes such areas of the sea or seabed adjacent to Australia as are prescribed;”;

- (c) by inserting after the definition of “concentration” in sub-section (1) the following definition:

“ ‘construction operations’ means operations relating to, and carried out at the site of, the construction of a building;”;

- (d) by omitting from sub-section (1) the definition of “eligible company” and substituting the following definition:

“ ‘eligible company’ means—

- (a) a company (being a body corporate) that carries on, or proposes to carry on, the manufacture of goods, mining operations, construction operations or software production in Australia; or
- (b) a recognized company that carries on, or proposes to carry on, the manufacture of goods, mining operations, construction operations or software production in Australia;”;

- (e) by inserting in the definition of “eligible expenditure” in sub-section (1) “, less any part of that expenditure that is expenditure on ineligible software research and development” after “year” (last occurring);

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- (f) by inserting after the definition of “eligible salary expenditure” in sub-section (1) the following definition:

“‘eligible software research and development’, in relation to a company, means industrial research and development by the company that relates to the production, or proposed production, of software for computers or for similar equipment that are, or is—

- (a) manufactured, or proposed to be manufactured, in Australia by that company or by another company that, by virtue of section 5, is deemed to be related to that company;
- (b) used, or proposed to be used, in the manufacture in Australia of goods by that company or by another company that, by virtue of section 5, is deemed to be related to that company;
- (c) used, or proposed to be used, in mining operations in Australia of that company or of another company that, by virtue of section 5, is deemed to be related to that company; or
- (d) used, or proposed to be used, in construction operations in Australia of that company or of another company that, by virtue of section 5, is deemed to be related to that company;”;

- (g) by adding at the end of the definition of “industrial research and development” in sub-section (1):

“, but does not include experimentation or analysis in relation to software production, or proposed software production, the object of which is—

- (c) to acquire knowledge that may be of use for the purpose of devising or developing improved material products; or
- (d) to apply knowledge for the purpose referred to in paragraph (c);”;

- (h) by inserting after the definition of “industrial research and development” in sub-section (1) the following definitions:

“‘ineligible software research and development’, in relation to a company, means industrial research and development by the company that—

- (a) relates to software production or proposed software production; and
- (b) is not eligible software research and development;

“‘material products’ includes software for computers or for similar equipment;”;

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(j) by inserting after the definition of “prototype” in sub-section (1) the following definition:

“ ‘recognized company’ means a company that, at the relevant time, is a recognized company for the purposes of this Act by virtue of a declaration under paragraph 6 (1) (aa);”;

(k) by inserting after the definition of “salary or wages” in sub-section (1) the following definition:

“ ‘software production’ means the production of software for computers or for similar equipment;”;

(m) by omitting sub-section (5) and substituting the following sub-section:

“(5) A reference in this Act to industrial research and development, in relation to an eligible company, shall be read as a reference to such, and only to such, industrial research and development as is—

(a) performed by or for the company directly in relation to—

- (i) the manufacture, or proposed manufacture, in Australia of goods by the company or by another company that, by virtue of section 5, is deemed to be related to the company;
- (ii) the manufacture, or proposed manufacture, in Australia of goods by another person, being goods that are directly related to the sale or manufacture of goods manufactured, or proposed to be manufactured, in Australia by the company or by another company that, by virtue of section 5, is deemed to be related to the company;
- (iii) mining operations, or proposed mining operations, in Australia of the company or of another company that, by virtue of section 5, is deemed to be related to the company;
- (iv) construction operations, or proposed construction operations, in Australia of the company or of another company that, by virtue of section 5, is deemed to be related to the company; or
- (v) software production, or proposed software production, in Australia by the company or by another company that, by virtue of section 5, is deemed to be related to the company; or

(b) performed by the company, acting as a research organization, directly in relation to—

- (i) the manufacture, or proposed manufacture, in Australia, of goods by another person;
- (ii) mining operations, or proposed mining operations, in Australia of another person;

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- (iii) construction operations, or proposed construction operations, in Australia of another person; or
- (iv) software production, or proposed software production, in Australia by another person.”; and
- (n) by omitting sub-section (9) and substituting the following sub-section:

“(9) A company shall be deemed for the purposes of this Act to have carried on the manufacture of goods, construction operations or software production in a year if, under a contract entered into between the company and any other person, that other person manufactured goods, carried on construction operations or carried on software production, as the case may be, for the company in that year.”.

(3) Section 4 of the Principal Act is amended by omitting “4” from the definition of “grant year” in sub-section (1) and substituting “9”.

(4) Section 4 of the Principal Act is amended—

- (a) by inserting after the definition of “Advisory Committee” in sub-section (1) the following definition:

“‘appointed member’ means the Chairman or a member referred to in paragraph 9 (1) (c);”;
- (b) by inserting after the definition of “technical information” in sub-section (1) the following definition:

“‘Technical Standing Committee’ means the Technical Standing Committee established by section 19A;”.

**Approval of research organizations, &c.**

**4. (1) Section 6 of the Principal Act is amended—**

- (a) by inserting after paragraph (1) (a) the following paragraph:

“(aa) declare that a specified company (being a body or association of persons that is unincorporate) is, or shall be deemed to have been at or from any time (whether before or after the commencement of this paragraph), a recognized company for the purposes of this Act;”;
- (b) by inserting in paragraph (1) (c) “, (aa)” after “(a)”.

**(2) An unincorporated body or association that, immediately before the commencement of this section, was prescribed for the purposes of paragraph (a) of the definition of “eligible company” in sub-section 4 (1) of the Principal Act shall, after the commencement of this section, be deemed to be declared under paragraph 6 (1) (aa) of the *Industrial Research and Development Incentives Act 1976* to be a recognized company for the purposes of the *Industrial Research and Development Incentives Act 1976* unless and until the Board, by notice published in the *Gazette*, declares that that body or association is to cease to be so deemed.**

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**Approved employees**

5. Section 7 of the Principal Act is amended by omitting from sub-sections (1) and (2) "Advisory Committee" and substituting "Technical Standing Committee".

6. After section 8 of the Principal Act the following section is inserted:

**Functions and powers of Board**

"8A. (1) The Board has such functions as are conferred on it by a provision of this Act (other than this section) and, in addition, has the following functions:

- (a) to establish effective communication between the Board and persons or bodies engaged in industry or in industrial research and development so as to encourage industrial research and development in Australia;
- (b) to co-operate with Departments and authorities of the Commonwealth engaged in, or concerned with the provision of financial assistance for, industrial research and development in Australia;
- (c) to advise the Minister on matters relating to incentives for industrial research and development.

"(2) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions."

**Membership of Board**

7. Section 9 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:

"(1) The Board shall consist of—

- (a) the Chairman;
- (b) the officer who, at any time, is performing the duties of the office, being an office in the Department that deals with matters arising under this Act, that is designated by the Minister, by notice published in the *Gazette*, for the purposes of this paragraph; and
- (c) not less than 6 or more than 10 other members.

"(2) The Chairman and the members referred to in paragraph (1) (c) shall be appointed by the Governor-General and shall be so appointed as part-time members.

"(3) An officer or employee of the Australian Public Service or an officer or employee of the Public Service of a State or Territory shall not be appointed as Chairman."

- (b) by omitting from sub-sections (5) and (6) "A member" and substituting "An appointed member"; and

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(c) by omitting sub-sections (7) and (8) and substituting the following sub-section:

“(7) The performance of the functions and the exercise of the powers of the Board are not affected by reason of—

- (a) there being a vacancy in the office of Chairman; or
- (b) the number of members falling below 8 for a period of not more than 6 months.”.

**Chairman**

8. Section 10 of the Principal Act is amended by omitting sub-section (1).

9. Section 11 of the Principal Act is repealed and the following section substituted:

**Remuneration and allowances**

“ 11. (1) This section applies to a person who is—

- (a) an appointed member; or
- (b) a member of the Technical Standing Committee, or of a committee appointed under section 19B, who is not a member of the Board.

“(2) 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, he shall be paid such remuneration as is prescribed.

“(3) A person to whom this section applies shall be paid such allowances as are prescribed.

“(4) This section has effect subject to the *Remuneration Tribunals Act 1973*.”.

**Leave of absence**

10. Section 12 of the Principal Act is amended by omitting “a member” and substituting “an appointed member”.

11. Sections 13, 14 and 15 of the Principal Act are repealed and the following sections substituted:

**Resignation**

“13. An appointed member may resign his office by writing signed by him and delivered to the Governor-General.

**Termination of appointments**

“14. (1) The Governor-General may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.

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**“(2) If an appointed 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 or otherwise with the permission of the Minister, from 3 consecutive meetings of the Board;**
- (c) without reasonable excuse, fails to comply with his obligations under section 14A; or**
- (d) being the Chairman—becomes an officer or employee of the Australian Public Service or an officer or employee of the Public Service of a State or Territory,**

**the Governor-General shall terminate his appointment.**

**Pecuniary interests**

**“14A. (1) A member (including an acting member) 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 knowledge, disclose the nature of his interest at a meeting of the Board.**

**“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, unless the Minister or the Board otherwise determines—**

- (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.**

**“(3) For the purposes of the making of a determination by the Board under sub-section (2) in relation to a member who has made a disclosure under sub-section (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—**

- (a) be present during any deliberation of the Board for the purpose of making the determination; or**
- (b) take part in the making by the Board of the determination.**

**Acting appointments**

**“15. (1) The Minister may appoint a member or other person (other than the member referred to in paragraph 9 (1) (b)) to act as Chairman—**

- (a) during a vacancy in the office of Chairman whether or not an appointment has previously been made to the office; or**
- (b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his office,**

**but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.**



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“(2) Where, by reason that the number of members referred to in paragraph 9 (1) (c) is less than 6, there is a vacancy in an office of a member, the Minister may appoint a person who is not a member to act in that office during the vacancy, but a person so appointed shall not continue so to act for more than 12 months.

“(3) The Minister may appoint a person who is not a member to act in the place of a member referred to in paragraph 9 (1) (c) during any period, or during all periods, when the member is acting as Chairman, is absent from duty or from Australia or, for any other reason, unable to perform the duties of his office.

“(4) An appointment of a person under this section may be expressed to have effect only in such circumstances as are specified in his instrument of appointment.

“(5) 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.

“(6) Where a person is acting as Chairman in accordance with paragraph (1) (b) and the office of Chairman becomes vacant while that person is so acting, then, subject to sub-section (4), 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.

“(7) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

“(8) While a person is acting as Chairman or as a member under this section, he has and may exercise all the powers, and shall perform all the functions, of the Chairman or a member, as the case may be, under this Act.

“(9) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.”.

### **Meetings of Board**

**12.** Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “(including its functions under the previous Act)”;

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- (b) by omitting from sub-section (5) “3” and substituting “5”; and
- (c) by inserting after sub-section (6) the following sub-section:  
“(6A) The Board shall cause minutes of its meetings to be kept.”.

**Delegation**

13. Section 17 of the Principal Act is amended—
- (a) by omitting from sub-section (1) “a member of the staff assisting the Board” and substituting “the member referred to in paragraph 9 (1) (b)”;
  - (b) by omitting from sub-section (1) “or under the previous Act”; and
  - (c) by omitting from sub-section (2) “or the previous Act, as the case may be”.

**Officers’ Rights Declaration Act**

14. Section 18 of the Principal Act is repealed.

15. After section 19 of the Principal Act the following sections are inserted:

**Technical Standing Committee**

“19A. (1) There shall be a committee by the name of the Technical Standing Committee.

“(2) The Technical Standing Committee shall consist of not more than 5 members who shall be appointed by the Minister and shall hold office during the pleasure of the Minister.

“(3) The Technical Standing Committee may be constituted—

- (a) partly by members of the Board and partly by other persons; or
- (b) wholly by other persons,

but the Minister shall ensure that the committee is so constituted that it can give expert technical and commercial advice on any matter that may be referred to it under this section.

“(4) The Technical Standing Committee shall elect one of its members to be Chairman of the committee.

“(5) A member of the Technical Standing Committee shall hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

“(6) A member of the Technical Standing Committee may resign his office by writing signed by him and delivered to the Minister.

“(7) The Board may refer to the Technical Standing Committee—

- (a) any matter of a technical or commercial nature relating to an application by a company under Part III on which the Board desires the advice of the Committee; or

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(b) any matter on which the recommendation of the Committee is desired by the Board for the purposes of section 7.

“(8) The Technical Standing Committee shall cause minutes of its meetings to be kept.

**Other committees**

“19B. (1) The Minister may, from time to time, by notice published in the *Gazette*, appoint such committees as he considers necessary for providing advice in relation to project grants.

“(2) A committee appointed under this section shall consist of not more than 9 members (including at least one member of the Board) who shall be appointed by the Minister and shall hold office during the pleasure of the Minister.

“(3) A committee appointed under this section shall elect one of its members to be Chairman of the committee.

“(4) A member of a committee appointed under this section shall hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

“(5) A member of a committee appointed under this section may resign his office by writing signed by him and delivered to the Minister.

“(6) The Board may refer to a committee appointed under this section for advice any matter in respect of which the committee may provide advice.

“(7) A committee appointed under this section shall cause minutes of its meetings to be kept.

**Directions of Minister to committees**

“19C. (1) The Minister may, from time to time, give directions with respect to the matters to be taken into account by the Technical Standing Committee in giving advice in relation to a matter or in making a recommendation for the purposes of section 7.

“(2) The Minister may, from time to time, give directions with respect to the matters to be taken into account by a committee appointed under section 19B in giving advice in relation to a matter.

“(3) A direction under sub-section (1) or (2) shall be in writing and shall be furnished to the Chairman of the committee to which the direction is given.

“(4) The Minister shall forthwith cause to be published in the *Gazette* particulars of any direction given under sub-section (1) or (2) and of any revocation of any such direction.”.

**Advisory Committee**

**16. Section 21 of the Principal Act is amended—**

(a) by omitting from sub-section (2) “not more than 8 members” and substituting “a Chairman and not more than 8 other members”;

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- (b) by omitting sub-sections (3), (4) and (5) and substituting the following sub-sections:

“(3) A member of the Advisory Committee shall hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

“(4) A member of the Advisory Committee may resign his office by writing signed by him and delivered to the Minister.

“(5) Where the Minister considers it necessary to do so for the purpose of obtaining specialist advice in relation to a matter to be considered by the Advisory Committee, the Minister may appoint a person to assist the Advisory Committee in its consideration of that matter and, for that purpose, the person may be present at, and take part in, the deliberations of the Advisory Committee but does not have any power to vote.

“(5AA) The Minister may determine the terms and conditions (including remuneration and allowances) of appointment of persons appointed under sub-section (5).

“(5AB) The Minister shall not exercise his powers under section 39 in relation to a project unless and until—

- (a) he has referred to the Advisory Committee for advice to be furnished to him within a time specified in the reference the question of the desirability of the Commonwealth undertaking the project; and
- (b) has considered any advice received from the Advisory Committee on that reference.”; and

- (c) by inserting after sub-section (5A) the following sub-sections:

“(5B) The Board may, if it thinks fit, and shall, if required by the Minister, refer to the Advisory Committee for advice any matter relating to the operation of this Act.

“(5C) The Advisory Committee shall cause minutes of its meetings to be kept.”.

- 17. After section 21 of the Principal Act, the following sections are inserted:**

**Directions of Minister to Advisory Committee**

“21A. (1) The Minister may, from time to time, give directions with respect to the matters to be taken into account by the Advisory Committee in giving advice in relation to a project or other matter.

“(2) A direction under sub-section (1) shall be in writing and shall be furnished to the Chairman of the Advisory Committee.

“(3) The Minister shall forthwith cause to be published in the *Gazette* particulars of any direction given under sub-section (1) and of any revocation of any such direction.

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**Board to assist Advisory Committee**

“21B. The Board shall provide any information or reasonable assistance requested by the Chairman of the Advisory Committee for the purposes of the performance of the functions of that Committee.

**Pecuniary interests of members of committees**

“21c. (1) In this section, ‘prescribed committee’ means the Advisory Committee, the Technical Standing Committee or a committee appointed under section 19B.

“(2) A member of a prescribed committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of that committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of that committee.

“(3) A disclosure under sub-section (2) shall be recorded in the minutes of the meeting at which the disclosure is made and the member of the committee shall not, unless the Minister or that committee otherwise determines—

- (a) be present during any deliberation of that committee with respect to that matter; or
- (b) take part in any decision of that committee with respect to that matter.

“(4) For the purpose of the making of a determination by a committee under sub-section (3) in relation to a member of who has made a disclosure under sub-section (2), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of that committee for the purpose of making the determination; or
- (b) take part in the making by that committee of the determination.

“(5) If a member of a prescribed committee, without reasonable excuse, fails to comply with his obligations under this section, the Minister shall terminate his appointment as a member of that committee.”.

**Secrecy**

**18.** Section 22 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) This section applies to every person who is or has been—

- (a) a member or acting member of the Board;
- (b) a member of the Advisory Committee;
- (c) a member of the Technical Standing Committee;
- (d) a member of a committee appointed under section 19B;
- (e) a person appointed under sub-section 21 (5) to assist the Advisory Committee; or
- (f) a member of the staff assisting the Board.”.

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**Commencement grants**

19. (1) Section 23 of the Principal Act is amended by inserting after sub-section (2) the following sub-section—

“(2A) A grant is not payable under this section to a company in respect of eligible expenditure of the company in respect of the grant year that commenced on 1 July 1978, or any succeeding grant year, unless the eligible expenditure of the company in respect of that grant year consists of, or includes, one of the following amounts:

- (a) an amount of eligible contract expenditure that exceeds \$1,500;
- (b) any amount of eligible salary expenditure.”.

(2) Section 23 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (b) “or mining operations” and substituting “, mining operations or construction operations”; and
- (b) by adding at the end thereof the following sub-section:

“(4) The Board shall not authorize a grant of financial assistance under sub-section (1) in respect of expenditure on ineligible software research and development.”.

(3) Section 23 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (d) “or” (last occurring);
- (b) by omitting from paragraph (2) (e) “other grant year” and substituting “of the next 4 succeeding grant years”;
- (c) by adding at the end of sub-section (2) the following paragraphs:

“; (f) in the case of the grant year commencing on 1 July 1981—  
whichever is the lesser of an amount equal to 50 per centum of the eligible expenditure of the company in respect of the grant year or \$40,000; or

“(g) in the case of any other grant year—whichever is the lesser of the following amounts:—

- (i) an amount equal to such percentage of the eligible expenditure of the company in respect of the grant year as is prescribed in relation to that grant year, being a percentage that does not exceed 50 per centum;

- (ii) such amount as is prescribed in relation to that grant year, being an amount that does not exceed \$40,000.”; and

(d) by omitting paragraph (2A) (a) and substituting the following paragraph:

“(a) an amount of eligible contract expenditure that exceeds—

- (i) in the case of the grant year that commenced on 1 July 1978 or any of the next 2 succeeding grant years—\$1,500; or

- (ii) in the case of the grant year commencing on 1 July 1981 or any succeeding grant year—\$2,000;”.

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**Maximum aggregate of grants to a Company**

**20.** Section 24 of the Principal Act is amended—

- (a) by omitting from sub-sections (2) and (3) “\$125,000” (wherever occurring) and substituting “the prescribed amount in relation to that grant year”; and
- (b) by adding at the end thereof the following sub-section:
  - “(4) In this section, ‘prescribed amount’, in relation to a grant year, means—
  - (a) in the case of the grant year that commenced on 1 July 1980 or any preceding grant year—\$125,000; or
  - (b) in the case of any other grant year—\$200,000.”.

**21.** After section 26 of the Principal Act the following section is inserted:

**Effect of reconstruction of companies**

“26A. Where the Board is satisfied that a company that is applying for a commencement grant in respect of a grant year is carrying on business, the whole, or a substantial part, of which was previously carried on by another company that became or will become entitled to a commencement grant in a previous grant year, the Board may, for the purposes of the application, treat the applicant company and the other company as one company.”.

**Adjustment of grant by reason of Commonwealth financial assistance**

**22.** Section 28 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In making a reduction under sub-section (1), the Board shall not take into account any amount of financial assistance that it has taken into account in making a reduction under section 32B.”.

**23.** After section 29 of the Principal Act the following section is inserted in Division 1 of Part III:

**Commencement grants and advances not to exceed moneys available**

“29A. The Board shall not authorize payment of a commencement grant or of an advance in respect of a commencement grant unless moneys appropriated by the Parliament are available for the payment of that grant or advance, as the case may be, together with all other commencement grants, and advances in respect of commencement grants, that have been authorized but not paid.”.

**Agreements with respect to projects**

**24.** Section 30 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, to any regulations referred to in paragraph 42 (aa)” after “Act”; and
- (b) by omitting from sub-section (2) “1981” and substituting “1986”.

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**Restrictions applicable to project grant agreements**

**25. Section 32 of the Principal Act is amended—**

- (a) by omitting from sub-section (3) “1983” and substituting “1988”; and
- (b) by omitting from sub-section (6) “\$500,000” and substituting “\$750,000”.

**26. After section 32 of the Principal Act the following sections are inserted:**

**Company to undertake to exploit results of projects**

“32A. The Board shall not enter into an agreement under sub-section 30 (1) with a company in relation to the making of a grant of financial assistance in respect of expenditure in respect of a project for industrial research and development unless the company has given an undertaking in writing to the Board that the company will exploit, on normal commercial terms, and otherwise in a manner that will be for the benefit of the Australian economy, the results of that industrial research and development.

**Adjustment of project grant by reason of Commonwealth financial assistance**

“32B. (1) Where a company has received (otherwise than under this Act) financial assistance from the Commonwealth, or out of moneys provided by the Commonwealth, and it appears to the Board that that financial assistance has aided the company to carry out a project for industrial research and development, the Board may reduce the amount of any project grant to the company in respect of that project to such extent as it thinks appropriate by reason of that financial assistance.

“(2) In making a reduction under sub-section (1), the Board shall not take into account any amount of financial assistance that it has taken into account in making a reduction under section 28.”.

**Applications**

**27. Section 34 of the Principal Act is amended by adding at the end thereof the following sub-sections:**

“(5) Subject to any direction of the Minister under section 19, the order in which the Board deals with applications for commencement grants, or advances in respect of commencement grants, is in the discretion of the Board.

“(6) Sub-section 19 (3) does not apply in relation to a direction of the Minister referred to in sub-section (5) of this section.”.

**Advances in respect of grants**

**28. Section 35 of the Principal Act is amended—**

- (a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) Subject to sub-section (1B), the Board may, in its discretion, authorize the payment to a company of an advance in respect of a commencement grant that may become payable to the company.



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“(1A) Subject to sub-section (1B) and to any direction of the Minister under section 19, the Board may authorize the payment to a company of an advance in respect of a project grant that may become payable to the company.

“(1B) The Board shall not, under sub-section (1) or (1A), authorize the payment to a company of an advance in respect of a grant unless the company gives adequate security for the repayment to the Commonwealth by the company of any amount repayable under sub-section (2) in relation to the advance.”;

- (b) by inserting in sub-section (2) “or sub-section (1A)” after “sub-section (1)”; and
- (c) by omitting from sub-section (3) “An amount” and substituting “Without limiting the rights of the Commonwealth under a security given in pursuance of sub-section (1B), an amount”.

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**29. Section 40 of the Principal Act is amended—**

- (a) by omitting from sub-paragraph (2) (b) (ii) “and” (last occurring); and
- (b) by adding at the end thereof the following paragraphs:

“(d) shall include—

- (i) statements of the names of persons with which the Board has made arrangements under section 39 during the relevant year for the carrying out of projects;
- (ii) statements of the respective amounts of the payments to those persons provided for under those arrangements; and
- (iii) particulars of the progress of those projects; and

“(e) shall include particulars of any directions given by the Minister under section 19, 19C or 21A during the relevant year.”.

**Regulations**

**30. Section 42 of the Principal Act is amended—**

- (a) by inserting before paragraph (a) the following paragraphs:

“(aa) prescribing matters that are to be taken into account by the Board when determining whether it should enter into an agreement with a company under sub-section 30 (1);

“(ab) prescribing matters relating to the calling of meetings, or to the conduct of meetings, of the Advisory Committee, the Technical Standing Committee or a committee appointed under section 19B;”;

- (b) by omitting from paragraph (a) “for” (first occurring).

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**31.** Part V of the Principal Act is repealed.

**Repeal of certain Acts**

**32.** The following Acts are repealed:

*Industrial Research and Development Grants Act 1967*

*Industrial Research and Development Grants Act 1972*

*Industrial Research and Development Grants Act 1973.*

**Application**

**33. (1)** The amendments of the Principal Act made by sub-section 3 (1) apply, and shall be deemed to have applied, in relation to the grant year that commenced on 1 July 1978 and all subsequent grant years.

**(2)** The amendments of the Principal Act made by sub-section 3 (2) and paragraph 19 (2) (a) do not apply in relation to a grant year earlier than the grant year that commenced on 1 July 1980.

**Saving**

**34.** A person who holds office as a member (other than the Chairman) of the Australian Industrial Research and Development Incentives Board immediately before the commencement of this section continues, after the commencement of this section, to hold office as such a member, subject to the *Industrial Research and Development Incentives Act 1976*, for the remainder of the period of his appointment under the Principal Act.

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**NOTE**

1. No. 85, 1976, as amended. For previous amendments, see No. 36, 1978; and No. 211, 1978.