



Australian Nuclear Science and Technology Organisation Act 1987

No. 3 of 1987

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Australian Nuclear Science and Technology Organisation Act 1987

No. 3 of 1987

An Act relating to the Australian Nuclear Science and Technology Organisation, and for other purposes

[Assented to 13 March 1987]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Australian Nuclear Science and
Technology Organisation Act 1987*.

Commencement

2. This Act shall come into operation on a day to be fixed by
Proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“appoint” includes re-appoint;

“appointed member” means a member of the Board other than the Executive Director;

“Board” means the Board of Directors of the Organisation;

“Chairperson” means Chairperson of the Board;

“commencing day” means the day of commencement of this Act;

“Deputy Chairperson” means Deputy Chairperson of the Board;

“employee” means an employee referred to in sub-section 24 (1);

“Executive Director” means the Executive Director of the Organisation;

“member of the staff of the Organisation” means—

(a) the Executive Director; or

(b) an officer or employee;

“non-staff member” means a member of the Board who is not a member of the staff of the Organisation;

“officer” means an officer referred to in sub-section 24 (1);

“Organisation” means the Australian Nuclear Science and Technology Organisation constituted under this Act;

“securities” includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents;

“share”, in relation to a company, means a share in the capital of the company and includes stock.

(2) The question whether a company is a subsidiary of the Organisation shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981*.

(3) A reference in this Act to dealing with securities includes a reference to—

(a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing or reselling securities;

(b) creating, selling, purchasing or reselling rights or options in respect of securities; and

(c) entering into agreements or other arrangements relating to securities.

PART II—AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION

Establishment of Organisation

4. (1) The body corporate that was, immediately before the commencing day in existence by virtue of section 8 of the *Atomic Energy Act 1953* under the name Australian Atomic Energy Commission continues in existence by force of this sub-section as a body corporate, under and subject to the

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provisions of this Act, under the name Australian Nuclear Science and Technology Organisation.

- (2) The Organisation—
- (a) shall have a seal; and
 - (b) may sue and be sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Organisation appearing on a document and shall presume that the document was duly sealed.

Functions of Organisation

5. (1) The functions of the Organisation are—
- (a) to undertake research and development in relation to—
 - (i) nuclear science and nuclear technology;
 - (ii) the production and use of radioisotopes, and the use of isotopic techniques and nuclear radiation, for medicine, science, industry, commerce and agriculture; and
 - (iii) such other matters as the Minister directs;
 - (b) to encourage and facilitate the application and utilisation of the results of such research and development;
 - (c) to provide and sell goods (whether produced by the Organisation or purchased or otherwise acquired by the Organisation) and services—
 - (i) in connection with the production and use of radioisotopes, and the use of isotopic techniques and nuclear radiation, for medicine, science, industry, commerce and agriculture; or
 - (ii) otherwise in connection with matters related to its activities;
 - (d) to act as a means of liaison between Australia and other countries in matters related to its activities;
 - (e) to provide advice on aspects of nuclear science and nuclear technology and other matters related to its activities;
 - (f) to co-operate with appropriate authorities of the Commonwealth, the States and the Territories, and with other organisations and institutions in Australia or elsewhere, in matters related to its activities;
 - (g) to publish scientific and technical reports, periodicals and papers on matters related to its activities;
 - (h) to collect and sell or distribute, as appropriate, information and advice on matters related to its activities;
 - (j) to arrange for the training of scientific and research workers, and the establishment and award of scientific research studentships and fellowships, in matters related to its activities;
 - (k) to make grants in aid of research into matters related to its activities; and

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(m) to make arrangements with universities and other educational research institutions, professional bodies and other persons for the conduct of research or of other activities in matters related to its activities.

(2) The Organisation shall not undertake research or development into the design or production of nuclear weapons or other nuclear explosive devices.

(3) In undertaking its functions the Organisation shall have regard to the national science and energy policy objectives of the Commonwealth Government.

(4) The Minister shall not give a direction under sub-paragraph (1) (a) (iii) to the Organisation to undertake research or development in relation to a matter unless the Minister is satisfied that research or development by the Organisation in relation to that matter would be an effective use of the staff of the Organisation, and would not duplicate unnecessarily any activity being carried on, or proposed to be carried on, by any other agency or authority of the Commonwealth.

(5) The Organisation may perform its functions 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—

- (a) in so far as it is appropriate for those functions to be performed by the Organisation on behalf of the Government of the Commonwealth as the national Government of Australia;
- (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Organisation to perform functions;
- (c) by way of expenditure of money that is available for the purposes of the Organisation in accordance with an appropriation made by the Parliament;
- (d) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State;
- (e) for purposes related to external affairs; and
- (f) for purposes in or in relation to a Territory.

General powers of Organisation

6. (1) Subject to this Act, the Organisation has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power—

- (a) to enter into contracts;
- (b) to acquire, hold and dispose of real or personal property;

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- (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Organisation;
- (d) to erect buildings and structures and carry out works;
- (e) to form, or participate in the formation of, a company or partnership;
- (f) to appoint agents and attorneys, and to act as an agent for other persons;
- (g) to engage persons to perform services for the Organisation;
- (h) to design, produce, construct and operate equipment and facilities; and
- (j) to do anything incidental to any of its powers.

(2) The powers of the Organisation may be exercised within or outside Australia.

Limitations on formation of companies, &c.

7. (1) The Organisation shall not, without the written approval of the Minister—

- (a) subscribe for, or purchase, shares in, or debentures or other securities of, a company; or
- (b) form, or participate in the formation of, a company that would, upon its formation, be a subsidiary of the Organisation.

(2) An approval under sub-section (1)—

- (a) may be of general application or may relate to a particular company or proposed company; and
- (b) may be given subject to conditions or restrictions set out in the instrument of approval.

(3) Subject to sub-section (4), where the Organisation subscribes for or purchases shares in, or debentures or other securities of, a company, the Minister shall—

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the subscription or purchase; and
- (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after—
 - (i) subject to sub-paragraph (ii), the subscription or purchase took place; or
 - (ii) if the Minister is of the opinion that the disclosure of the subscription or purchase would affect adversely the commercial interests of the Organisation, the Minister ceases to be of that opinion.

(4) Where the Organisation holds a controlling interest in a company, the Organisation shall ensure that the company does not do any act or thing that the Organisation is not itself empowered to do.

PART III—THE BOARD

Establishment of Board

8. There is established by this section a Board of Directors of the Organisation, which shall be constituted as provided by section 9.

Composition of Board

9. (1) The Board shall consist of the Executive Director and not fewer than 2 nor more than 6 other members.

(2) The members other than the Executive Director shall be appointed by the Governor-General.

(3) The appointed members may be appointed either as full-time members or as part-time members.

(4) A person who has attained the age of 65 years shall not be appointed as a full-time member and a member shall not be appointed as a full-time member for a period that extends beyond the day on which the person will attain the age of 65 years.

(5) The Governor-General shall appoint one of the members to be the Chairperson of the Board and another of the members to be the Deputy Chairperson of the Board.

(6) The Chairperson may be referred to as the Chairman or the Chairwoman, and the Deputy Chairperson may be referred to as the Deputy Chairman or the Deputy Chairwoman, as the case requires.

(7) A member of the staff of the Organisation other than the Executive Director shall not be appointed as a member of the Board if—

- (a) the number of non-staff members does not constitute a majority of the members of the Board; or
- (b) as a result of the appointment, the number of non-staff members would not constitute such a majority.

(8) An appointed member holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment of the member but he or she is eligible for re-appointment.

(9) The member who is the Chairperson or the Deputy Chairperson ceases to be the Chairperson or Deputy Chairperson, as the case may be, if he or she ceases to be a member.

(10) The Minister may appoint a person to be a deputy of a specified member other than the Chairperson, the Deputy Chairperson or the Executive Director.

(11) If a member other than the Chairperson, the Deputy Chairperson or the Executive Director is absent from a meeting of the Board, the deputy

of that member may attend the meeting in place of that member and, when so attending, shall be deemed to be a member.

(12) The performance of the functions, or the exercise of the powers, of the Board is not affected because of a vacancy in the office of Executive Director or because there is only one appointed member for a period of not more than 3 months.

Functions of Board

10. (1) The functions of the Board are to ensure the proper and efficient performance of the functions of the Organisation and, subject to section 11, to determine the policy of the Organisation with respect to any matter.

(2) In performing its functions, the Board shall have regard to the current policies of the Commonwealth Government in relation to matters within the functions of the Organisation.

Directions to Board

11. (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 Board with respect to the performance of the functions, or the exercise of the powers, of the Organisation.

(2) The Board shall ensure that any directions given to it by the Minister under sub-section (1) are complied with.

Remuneration and allowances

12. (1) The non-staff members shall be paid—

- (a) such remuneration as is determined by the Remuneration Tribunal; and
- (b) such allowances as are prescribed.

(2) The deputy of a member of the Board shall be paid, in respect of the deputy's attendance at a meeting of the Board—

- (a) such fee as is determined by the Remuneration Tribunal; and
- (b) such allowance as is prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Resignation

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

Termination of appointment

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

- (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 creditors or makes an assignment of remuneration for their benefit;
 - (b) is absent—
 - (i) in the case of the Chairperson, except on leave of absence granted by the Minister; or
 - (ii) in any other case, except on leave of absence granted by the Chairperson,
- from 3 consecutive meetings of the Board; or
- (c) fails, without reasonable excuse, to comply with his or her obligations under section 15,

the Governor-General shall terminate the appointment of the member.

Disclosure of interests

15. (1) A 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 the member's knowledge, disclose the nature of the 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, unless the Minister or the Board otherwise determines, 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.

(3) For the purpose 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.

Meetings of Board

16. (1) The Chairperson—

- (a) shall convene such meetings of the Board as the Chairperson considers necessary for the efficient performance of the functions of the Board; and
- (b) shall convene a meeting of the Board on receipt of a written request signed by not fewer than 2 other members.

(2) The Minister may convene such meetings of the Board as the Minister considers necessary.

(3) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(4) Where the Chairperson is not present at a meeting of the Board—

- (a) the Deputy Chairperson shall preside at the meeting; or
- (b) if the Deputy Chairperson is not present at the meeting—the members present shall appoint one of their number to preside at the meeting.

(5) Subject to sub-section (6) and to sub-section 18 (3), at a meeting of the Board, a quorum is constituted if—

- (a) the number of members present constitute a majority of the members for the time being holding office; and
- (b) a majority of the members present are non-staff members.

(6) Where, by reason of sub-section 15 (2), a member is not present at a meeting of the Board during a deliberation of the Board with respect to a matter but—

- (a) there would be a quorum if that member were present; and
- (b) a majority of the remaining members are non-staff members,

the remaining members present constitute a quorum for the purpose of any deliberation or decision of the Board at that meeting with respect to that matter.

(7) Questions arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

(8) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Acting appointments

17. (1) At any time when there is a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office) or the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the functions of Chairperson, the Deputy Chairperson or a person acting as Deputy Chairperson under sub-section (2) shall act as Chairperson.

- (2) The Minister may appoint a member to act as Deputy Chairperson—
 - (a) during a vacancy in the office of Deputy Chairperson (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia or is, for any other reason (including the reason that the Deputy Chairperson is acting as Chairperson) unable to perform the duties of the office of Deputy Chairperson,

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

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(3) While a person is acting in an office under this section, the person may exercise all the powers, and shall perform all the functions, of the holder of the office.

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

(5) The Minister may—

(a) determine the terms and conditions, including remuneration and allowances, if any, on which a person is to act under this section; and

(b) terminate an appointment under this section at any time.

(6) Where a person is acting in the office of Deputy Chairperson under paragraph (2) (b) and the office becomes vacant while the person is so acting, then, subject to sub-section (4), the 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 occurs.

(7) 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.

(8) The validity of anything done by or in relation to a person purporting to act in an office under this section shall not be called in question on the ground that—

(a) in the case of a person purporting to act under sub-section (1)—the occasion for the person to act had not arisen or had ceased; or

(b) in the case of a person purporting to act pursuant to an appointment under sub-section (2)—the occasion for the appointment had not arisen, there was a defect or irregularity in or in connection with the appointment, the appointment had ceased to have effect or the occasion for the person to act had not arisen or had ceased.

PART IV—EXECUTIVE DIRECTOR

Executive Director

18. (1) There shall be an Executive Director of the Organisation, who shall be appointed by the Board.

(2) A person who has attained the age of 65 years shall not be appointed as Executive Director and a person shall not be appointed as Executive Director for a period that extends beyond the day on which the person will attain the age of 65 years.

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- (3) A member of the staff of the Organisation shall not—
- (a) be present during a deliberation of the Board with respect to the appointment of the Executive Director; or
 - (b) take part in the making of a decision with respect to such an appointment,

and a quorum for the purposes of such a deliberation or decision is a majority of the non-staff members for the time being holding office.

Duties of Executive Director

19. (1) The Executive Director shall manage the affairs of the Organisation subject to the directions of, and in accordance with policies determined by, the Board.

(2) All acts and things done in the name of, or on behalf of, the Organisation by the Executive Director shall be deemed to have been done by the Organisation.

Tenure of Executive Director

20. (1) The Executive Director shall hold office for such period, not exceeding 5 years, as is specified in the instrument of his or her appointment, but is eligible for re-appointment.

(2) The Executive Director holds office, subject to this Part, on such terms and conditions as are determined by the Board.

Remuneration and allowances

21. (1) The Executive Director shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) Subject to the *Remuneration Tribunals Act 1973*, the Executive Director shall be paid such allowances as are determined by the Board.

Disclosure of interests

22. The Executive Director shall give written notice to the Minister of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business.

Acting Executive Director

23. (1) The Board may appoint a person to act as Executive Director—
- (a) during a vacancy in the office of Executive Director, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the 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) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Board may—

- (a) determine the terms and conditions of appointment, excluding remuneration and allowances, of a person acting as Executive Director; and
- (b) terminate such an appointment at any time.

(4) An officer who is acting as Executive Director shall continue to be paid the remuneration and allowances payable to the officer as such an officer but shall also be paid—

- (a) so much of any remuneration payable to the Executive Director as exceeds the remuneration that so continues to be paid to the officer;
- (b) so much of any allowance payable to the Executive Director as exceeds the corresponding allowance that so continues to be paid to the officer; and
- (c) if an allowance is payable to the Executive Director in respect of which there is no corresponding allowance payable to the officer—that allowance.

(5) Where a person is acting as Executive Director in accordance with paragraph (1) (b) and the office of Executive Director becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Board otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(6) The appointment of a person to act as Executive Director ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Chairperson.

(7) While a person is acting as Executive Director, the person may exercise all the powers, and shall perform all the functions and duties, of the Executive Director under this Act.

(8) The validity of anything done by or in relation to a person purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

PART V—THE STAFF OF THE ORGANISATION

Staff of Organisation

24. (1) The Executive Director may appoint such officers and engage such employees as the Board thinks necessary for the purposes of this Act.

(2) The Executive Director may arrange with the Secretary of any Department of the Australian Public Service, or with a body established by an Act, for the services of officers or employees of that Department or of that body to be made available to the Organisation.

(3) The terms and conditions of service or employment of persons appointed or engaged under sub-section (1) are such as are determined by the Board with the approval of the Public Service Board.

PART VI—SAFETY REVIEW

Establishment and functions of Nuclear Safety Bureau

25. (1) The Board shall appoint such members of the staff of the Organisation as the Board determines to constitute a Nuclear Safety Bureau.

(2) The Nuclear Safety Bureau is responsible to the Minister for monitoring and reviewing the safety of any nuclear plant operated by the Organisation.

(3) The Nuclear Safety Bureau is responsible to the Board for the performance of such other functions (if any) as are assigned to the Bureau by the Board.

(4) In this section—

“nuclear plant” means a nuclear reactor or assembly of fissionable material in respect of which criticality is contemplated or possible;

“nuclear reactor” means a facility or device, including any plant associated with such a facility or device, in which a controlled nuclear chain reaction can be maintained without an additional source of neutrons.

Safety Review Committee

26. (1) The Minister shall establish a Committee under the name Safety Review Committee.

(2) The functions of the Committee are—

(a) from time to time as the Committee considers appropriate, to review and assess the effectiveness of the standards, practices and procedures adopted by the Organisation to ensure the safety of its operations;

(b) either on its own initiative or at the request of the Minister or of the Board, to investigate any matter arising out of the operations of the Organisation that may have adverse consequences or implications in relation to the safety of those operations;

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- (c) either on its own initiative or at the request of the Minister, to furnish advice to the Minister on matters referred to in paragraphs (a) and (b); and
- (d) either on its own initiative or at the request of the Board, to furnish advice to the Board on matters referred to in paragraphs (a) and (b).

(3) A reference in this section to the safety of the operations of the Organisation is a reference to the safety of the members of the staff of the Organisation and of the public in relation to those operations.

(4) The Committee shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister and to the Board a report of its operations during the year that ended on that date.

(5) The Committee may submit to the Minister and to the Board such other reports relating to the operations of the Committee as the Committee considers appropriate.

(6) The Minister shall cause a copy of each report received by the Minister under sub-section (4) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by the Minister.

(7) The Minister may cause a copy of a report received by the Minister under sub-section (5) to be laid before each House of the Parliament if the Minister considers that the report is of sufficient importance to justify the report being brought to the attention of the Parliament.

(8) For the purpose of the performance of its functions, the Committee may obtain advice or assistance from any member of the staff of the Organisation.

(9) The Committee shall consist of such persons (not being fewer than 2, nor more than 6, in number) as the Minister from time to time appoints.

(10) In making appointments to the Committee the Minister shall ensure that a majority of the members of the Committee are persons who are not members of the staff of the Organisation.

(11) The Minister shall appoint one of the members of the Committee to be the Chairperson of the Committee and another of the members of the Committee to be the Deputy Chairperson of the Committee.

(12) The Chairperson of the Committee may be referred to as the Chairman of the Committee or the Chairwoman of the Committee, and the Deputy Chairperson of the Committee may be referred to as the Deputy Chairman of the Committee or the Deputy Chairwoman of the Committee, as the case requires.

(13) A member of the Committee may resign from office by writing signed by the member and delivered to the Chairperson of the Board.

(14) At a meeting of the Committee—

- (a) if the Chairperson of the Committee is present—he or she shall preside;

(b) if the Chairperson of the Committee is not present but the Deputy Chairperson of the Committee is present—he or she shall preside;
or

(c) in any other case—the members of the Committee present shall elect one of their number to preside.

(15) Subject to sub-section (14), the Minister may determine the procedure to be followed at or in relation to meetings of the Committee, including matters with respect to—

(a) the convening of meetings of the Committee;

(b) the number of members of the Committee who are to constitute a quorum; and

(c) the manner in which questions arising at a meeting of the Committee are to be decided,

and the Minister shall cause the Committee to be notified in writing of any determination under this sub-section.

(16) If the Minister decides that the members of the Committee should be remunerated, those members shall be paid such remuneration as is determined by the Remuneration Tribunal.

(17) Members of the Committee shall be paid such allowances as are prescribed.

(18) Sub-sections (16) and (17) have effect subject to the *Remuneration Tribunals Act 1973*.

PART VII—FINANCE

Money of Organisation

27. (1) There is payable to the Organisation such money as is appropriated by the Parliament for the purposes of the Organisation.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in sub-section (1) is to be paid to the Organisation.

(3) The money of the Organisation shall be applied only—

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Organisation in the performance of its functions and the exercise of its powers;

(b) in payment of remuneration and allowances payable under this Act;
and

(c) in making any other payments required or permitted to be made by the Organisation.

(4) Money of the Organisation not immediately required for the purposes of the Organisation may be invested—

(a) on deposit with the Reserve Bank of Australia or any other bank approved by the Treasurer;

- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer.

Estimates

28. (1) The Board shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Organisation for each financial year and, if the Minister so directs, for any other period specified by the Minister, and the Board shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

(2) The money of the Organisation shall not be expended otherwise than in accordance with estimates of expenditure approved by the Minister.

Application to Organisation of Division 3 of Part XI of Audit Act

29. (1) It is hereby declared that the Organisation is a public authority to which Division 3 of Part XI of the *Audit Act 1901* applies.

(2) For the purposes of the application in relation to the Organisation of Division 3 of Part XI of the *Audit Act 1901* by virtue of sub-section (1), a reference in that Division to the appropriate Minister shall be read as a reference to the Minister administering this Act.

(3) The Organisation shall, in each report prepared pursuant to section 63M of the *Audit Act 1901* (as that section applies in relation to the Organisation by virtue of sub-section (1)) include particulars of each direction given by the Minister to the Board under section 11 that is applicable in relation to the financial year to which the report relates.

Exemption from taxation

30. (1) The Organisation is not subject to taxation under any law of the Commonwealth, of a State or of a Territory.

(2) Stamp duty or any similar tax is not payable under a law of the Commonwealth, of a State or of a Territory in respect of—

- (a) a security issued by the Organisation;
- (b) the issue, redemption, transfer, sale or purchase of such a security, not including a transaction entered into without consideration or for an inadequate consideration; or
- (c) a document executed by or on behalf of the Organisation, or any transaction, in relation to the borrowing of money by the Organisation.

Contracts

31. The Organisation shall not, except with the approval of the Minister, enter into a contract involving the payment or receipt by the Organisation of an amount exceeding \$200,000.

Borrowing from the Commonwealth

32. The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the Organisation at such rates of interest and on such other terms and conditions as that Minister determines in writing.

Borrowing otherwise than from the Commonwealth

33. (1) The Organisation may, with the approval of the Treasurer, borrow money otherwise than from the Commonwealth on terms and conditions that are specified in, or are consistent with, the approval.

(2) Approvals for the purposes of sub-section (1) may be in respect of particular borrowings or in respect of borrowings included within a specified class, or specified classes, of borrowings.

(3) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment by the Organisation of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(4) An approval under sub-section (1) shall be given in writing.

Dealings with securities

34. (1) The Organisation may, with the approval of the Treasurer but not otherwise, deal with securities.

(2) Where the Organisation borrows or otherwise raises money by dealing with securities, the Treasurer may determine that the repayment by the Organisation of the amounts borrowed or raised, and the payment by the Organisation of interest (if any) on those amounts, are, by force of this sub-section, guaranteed by the Commonwealth.

(3) The power of the Treasurer to make a determination for the purposes of sub-section (2) extends to the making of a determination in respect of—

- (a) securities included in a specified class, or specified classes, of securities; and
- (b) transactions included in a specified class, or specified classes, of transactions.

(4) An approval under sub-section (1) shall be given in writing.

Organisation may give security

35. The Organisation may give security over the whole or any part of its assets—

- (a) for the repayment of money borrowed under section 33 and the payment of any money that the Organisation is otherwise liable to pay in respect of those borrowings; and
- (b) for the payment of any money that the Organisation is liable to pay in respect of dealings with securities under section 34,

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including, but without limiting the generality of the foregoing, security for the payment of interest (if any) on money borrowed or otherwise raised by the Organisation.

Borrowings not otherwise permitted

36. The Organisation shall not borrow, or otherwise raise, money except in accordance with sections 32, 33 and 34.

Commercial revenue

37. (1) In this section, a reference to the commercial revenue received by the Organisation shall be construed as a reference to amounts of a revenue nature received by the Organisation in the course of the performance of its functions.

(2) Subject to sub-section (3), any commercial revenue received by the Organisation shall be paid into the Consolidated Revenue Fund.

(3) If the Minister and the Minister for Finance approve, the Organisation may retain the whole or a part of the commercial revenue received by the Organisation in a financial year but any commercial revenue so retained shall be applied in such manner as the Minister determines.

PART VIII—MISCELLANEOUS

Gifts, grants, &c.

38. Subject to the approval of the Minister, the Organisation may accept gifts, grants, bequests and devises made to the Organisation (whether on trust or otherwise) and may act as trustee of money or other property vested in the Organisation on trust.

Trust money

39. (1) The Organisation shall ensure that any money received or held by the Organisation on trust is paid into an account opened and maintained pursuant to section 63J of the *Audit Act 1901* (as that section applies in relation to the Organisation by virtue of section 29 of this Act) that does not, or accounts referred to in that section that do not, contain any money of the Organisation not held on trust.

(2) Notwithstanding sections 27, 28 and 29—

(a) money or other property held by the Organisation on trust shall be applied or dealt with only in accordance with the powers and duties of the Organisation as trustee; and

(b) money held by the Organisation on trust may be invested—

(i) in any manner in which the Organisation is authorised to invest that money by the terms of the trust; or

(ii) in any manner in which trust money may, for the time being, be invested under law,

but not otherwise.

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(3) Section 63K of the *Audit Act 1901* (as that section applies in relation to the Organisation by virtue of section 29 of this Act) has effect as if—

- (a) the reference in that section to the transactions and affairs of the Organisation included a reference to transactions and affairs relating to money or property received or held by the Organisation on trust; and
- (b) the reference in that section to payments out of the money of the Organisation included a reference to payments out of money held by the Organisation on trust.

(4) Section 63L of the *Audit Act 1901* (as that section applies in relation to the Organisation by virtue of section 29 of this Act) has effect as if—

- (a) the reference in sub-section 63L (1) to financial transactions of the Organisation included a reference to transactions relating to money received or held by the Organisation on trust;
- (b) the reference in sub-section 63L (4) to the receipt or payment of money by the Organisation included a reference to the receipt or payment by the Organisation of money received or held by the Organisation on trust; and
- (c) the reference in sub-section 63L (4) to the acquisition, receipt, custody or disposal of assets by the Organisation included a reference to the acquisition, receipt, custody or disposal by the Organisation of assets received or held by the Organisation on trust.

(5) Estimates referred to in sub-section 28 (1) shall not include estimates of receipts by the Organisation of money to be held on trust or of expenditure by the Organisation of money held on trust.

Advisory Council

40. (1) The Minister shall establish an Advisory Council under the name Australian Nuclear Science and Technology Advisory Council.

- (2) The functions of the Advisory Council are—
 - (a) either on its own initiative or at the request of the Minister, to furnish advice to the Minister on matters relating to, or to the performance of, the functions of the Organisation; or
 - (b) either on its own initiative or at the request of the Board, to furnish advice to the Board on matters relating to, or to the performance of, the functions of the Organisation.

(3) The Advisory Council shall consist of such persons (not exceeding 11 in number and including at least one member of the staff of the Organisation elected by the members of the staff of the Organisation in such manner as the Minister approves) as the Minister from time to time appoints.

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(4) In making appointments to the Advisory Council, the Minister shall ensure that a majority of the members of the Advisory Council are persons who are not members of the staff of the Organisation.

(5) A member of the Advisory Council holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment of the member, but is eligible for re-appointment.

(6) The Minister shall appoint one of the members of the Advisory Council to be the Chairperson of the Advisory Council and another of the members of the Advisory Council to be the Deputy Chairperson of the Advisory Council.

(7) The Chairperson of the Advisory Council may be referred to as the Chairman of the Advisory Council or the Chairwoman of the Advisory Council, and the Deputy Chairperson of the Advisory Council may be referred to as the Deputy Chairman of the Advisory Council or the Deputy Chairwoman of the Advisory Council, as the case requires.

(8) A member of the Advisory Council may resign from office by writing signed by the member and delivered to the Chairperson of the Board.

(9) At a meeting of the Advisory Council—

- (a) if the Chairperson of the Advisory Council is present—he or she shall preside;
- (b) if the Chairperson of the Advisory Council is not present but the Deputy Chairperson of the Advisory Council is present—he or she shall preside; or
- (c) in any other case—the members of the Advisory Council present shall elect one of their number to preside.

(10) Subject to sub-section (9), the Minister may determine the procedure to be followed at or in relation to meetings of the Advisory Council, including matters with respect to—

- (a) the convening of meetings of the Advisory Council;
- (b) the number of members of the Advisory Council who are to constitute a quorum; and
- (c) the manner in which questions arising at a meeting of the Advisory Council are to be decided,

and the Minister shall cause the Advisory Council to be notified in writing of any determination under this sub-section.

(11) If the Minister decides that the members of the Advisory Council should be remunerated, those members shall be paid such remuneration as is determined by the Remuneration Tribunal.

(12) Members of the Advisory Council shall be paid such allowances as are prescribed.

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(13) Sub-sections (11) and (12) have effect subject to the *Remuneration Tribunals Act 1973*.

Advisory committees

41. (1) Subject to this section, the Minister may establish such advisory committees as the Minister considers necessary for the purpose of giving advice to the Board on particular matters or classes of matters relating to the functions of the Organisation.

(2) An advisory committee shall consist of such persons as the Minister from time to time appoints.

(3) A member of an advisory committee holds office for such period as is specified in the instrument of appointment of the member, but is eligible for re-appointment.

(4) A member of an advisory committee may resign from office by writing signed by the member and delivered to the Chairperson of the Board.

(5) The number of members of an advisory committee required to constitute a quorum at a meeting of that advisory committee shall be as determined by the Board.

(6) If the Minister decides that a member of an advisory committee should be remunerated, that member shall be paid such remuneration as is determined by the Remuneration Tribunal.

(7) A member of an advisory committee shall be paid such allowances as are prescribed.

(8) Sub-sections (6) and (7) have effect subject to the *Remuneration Tribunals Act 1973*.

Delegation by Minister

42. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person all or any of the Minister's powers under this Act, other than—

- (a) this power of delegation; and
- (b) the Minister's powers under sub-paragraph 5 (1) (a) (iii), sub-section 9 (10), sections 11 and 17, sub-sections 26 (1), (2), (9), (11), (15) and (16) and sections 28, 31, 40 and 46.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Minister.

(4) A delegation under this section does not prevent the exercise of a power by the Minister.

Delegation by Treasurer

43. (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Treasurer, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the Treasurer's powers under sections 33 and 34.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Treasurer.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Treasurer.

(4) A delegation under this section does not prevent the exercise of a power by the Treasurer.

Delegation by Board

44. (1) The Board may, by resolution, delegate to a member of the Board or to an officer or employee, either generally or as otherwise provided by the resolution, all or any of the powers of the Board under this Act other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Board.

(4) A delegation under this section does not prevent the exercise of a power by the Board.

Delegation by Executive Director

45. (1) The Executive Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Executive Director, delegate to an officer or employee all or any of the powers of the Executive Director under this Act other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Executive Director.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Executive Director.

(4) A delegation under this section does not prevent the exercise of a power by the Executive Director.

Joint Consultative Committee

46. (1) There is hereby established a Joint Consultative Committee comprising—

- (a)** representatives of the Organisation; and

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- (b) either or both of the following:
 - (i) representatives of organisations of officers and full-time employees of the Organisation;
 - (ii) representatives of officers and full-time employees of the Organisation.

(2) The manner in which the Joint Consultative Committee is to be constituted, the functions of that Committee and the manner in which that Committee is to carry out its functions shall be as determined by the Minister.

Regulations

47. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed by regulations;
or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
Senate on 6 November 1985
House of Representatives on 19 February 1987]*