



Industry Research and Development Amendment Act 1995

No. 84 of 1995

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SCHEDULE

**AMENDMENTS OF THE INDUSTRY RESEARCH AND DEVELOPMENT
ACT 1986**



Industry Research and Development Amendment Act 1995

No. 84 of 1995

An Act to amend the *Industry Research and Development Act 1986*, and for related purposes

[Assented to 1 July 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Industry Research and Development Amendment Act 1995*.

5 Commencement

2.(1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.

(2) Items 3, 4, 10 and 11 of the Schedule are taken to have commenced on 1 July 1988.

10 (3) Items 5, 6, 12 and 13 of the Schedule are taken to have commenced on 24 December 1992.

(4) Items 7 and 8 of the Schedule are taken to have commenced on 19 December 1994.

Schedule

3. The *Industry Research and Development Act 1986* is amended as set out in the Schedule.

Validation of certain guidelines and criteria

4.(1) This section applies:

(a) to guidelines made under section 39E, 39EA or 39HB of the *Industry Research and Development Act 1986*; and

(b) to criteria made under section 39F of that Act;

at any time before the commencement of this section.

(2) Guidelines and criteria to which this section applies are taken:

(a) to have been, at all times after their making; and

(b) subject to their repeal, replacement, or amendment, by later guidelines or criteria, to continue to be;

valid guidelines and criteria.

(3) For the purposes of subsection (2), later guidelines or criteria include guidelines or criteria to which this section applies whose validity is itself dependent upon the operation of subsection (2).

(4) If guidelines or criteria to which this section applies are taken to have been, and to continue to be, valid guidelines or criteria, either as originally made, or as amended by later guidelines or criteria, any decision of the Industry Research and Development Board:

(a) made in reliance on those guidelines or criteria; or

(b) taking those guidelines or criteria into account;

is taken, to the extent that it is made in reliance on those guidelines or criteria or takes them into account, to have been, and to continue to be, a valid decision of the Board.

(5) Any act or thing done by any person or body:

(a) in reliance on:

(i) guidelines or criteria to which this section applies; or

(ii) a decision referred to in subsection (4) made in reliance on, or taking account of, those guidelines or criteria; or

(b) taking into account such guidelines or criteria or such a decision;

is taken, to the extent that it is an act or thing done in reliance on those guidelines or criteria or that decision, or done taking those guidelines or criteria or that decision into account, to have been validly done.

(6) Nothing in this section is taken:

(a) to affect the power of either House of the Parliament to disallow any guidelines or criteria to which this section applies that have been laid before that House of the Parliament; or

- (b) to validate any guidelines or criteria that have been disallowed by either House of the Parliament.
- (7) In this section:
 - (a) a reference to the making of guidelines or criteria includes a reference to the purported making of those guidelines or criteria; and
 - (b) a reference to a decision of the Industry Research and Development Board made in reliance on guidelines or criteria or taking guidelines or criteria into account includes a reference to a decision of the Board purportedly made in reliance on those guidelines or criteria or purportedly taking those guidelines or criteria into account; and
 - (c) a reference to an act or thing done by a person or body in reliance on guidelines or criteria or on a decision includes a reference to an act or thing purportedly done by that person or body in reliance on those guidelines or criteria or on that decision; and
 - (d) a reference to an act or thing done by a person or body taking account of guidelines or criteria or a decision includes a reference to an act or thing purportedly done by that person or body taking account of those guidelines or criteria or that decision.

Saving of rights of action for adverse decisions or acts etc.

5.(1) In spite of anything in this Act, the validations provided for by this Act do not affect any rights of action of a person in relation to:

- (a) a decision of the Board; or
- (b) an act or thing done by any person or body;

that was adverse to the person in relation to whom the decision was made or the act or thing was done and such rights of action may be pursued as if this Act had never been enacted.

- (2) In this section:
 - (a) a reference to a decision of the Board includes a reference to a purported decision of the Board;
 - (b) a reference to an act or thing done by any person or body includes a reference to an act or thing purportedly done by such person or body.
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SCHEDULE

Section 3

**AMENDMENTS OF THE INDUSTRY RESEARCH AND
DEVELOPMENT ACT 1986**

1. Paragraph 28(2)(a):

Omit “31 December 1995”, substitute “30 June 1996”.

2. Paragraph 31(2)(a):

Omit “31 December 1995”, substitute “30 June 1996”.

3. After subsection 39E(4):

Insert:

“(4A) The Board may, at any time, and whether or not within 90 days after the commencement of this Part, by instrument in writing, repeal, replace or amend guidelines made under subsection (1).”.

4. Subsection 39E(5):

After “subsection (1)” insert “, or repealing, replacing or amending such guidelines,”.

5. After subsection 39EA(5):

Insert:

“(5A) The Board may, at any time, and whether or not within 90 days after the commencement of this section, by writing, repeal, replace or amend guidelines made under subsection (1).”.

6. Subsection 39EA(6):

After “finance scheme guidelines” insert “, or repealing, replacing or amending such guidelines,”.

7. After subsection 39EB(3):

“(3A) The Board may, at any time, and whether or not within 90 days after the commencement of this Part, by writing, repeal, replace or amend guidelines made under subsection (1).”.

8. Subsection 39EB(4):

After “subsection (1)” insert “, or repealing, replacing or amending such guidelines,”.

9. Section 39F:

Omit “a Australian” (wherever occurring), substitute “an Australian”.

SCHEDULE—continued

10. After subsection 39F(10):

Insert:

“(10A) The Board may, in consultation with the Commissioner at any time and whether or not within 90 days after the commencement of this Part, by writing, repeal, replace or amend criteria made under subsection (2).”.

11. Subsection 39F(11):

After “subsection (2)” insert “, or repealing, replacing or amending such criteria,”.

12. After subsection 39HB(4):

Insert:

[Board may repeal, replace or amend guidelines]

“(4A) The Board may, at any time and whether or not within 90 days after the commencement of this section, by writing, repeal, replace or amend guidelines made under this section.”.

13. Subsection 39HB(5):

After “guidelines” insert “, or repealing, replacing or amending such guidelines,”.

*[Minister's second reading speech made in—
Senate on 21 June 1995
House of Representatives on 30 June 1995]*