



Governance Review Implementation (Science Research Agencies) Act 2007

No. 84, 2007

**An Act to amend the law relating to statutory
agencies in the field of science research, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
	Schedule 1—Australian Institute of Marine Science Act 1972	3
	Schedule 2—Australian Nuclear Science and Technology Organisation Act 1987	6
	Schedule 3—Science and Industry Research Act 1949	10



Governance Review Implementation (Science Research Agencies) Act 2007

No. 84, 2007

**An Act to amend the law relating to statutory
agencies in the field of science research, and for
related purposes**

[Assented to 21 June 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Governance Review Implementation
(Science Research Agencies) Act 2007*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	21 June 2007
2. Schedules 1, 2 and 3	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	10 September 2007 (see F2007L03555)

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Australian Institute of Marine Science Act 1972

1 Paragraph 20A(a)

Omit “the grant of leave to him or her by the Council”, substitute “him or her”.

2 Section 21

Omit “the Governor-General on the recommendation of”.

3 Subsection 22(1)

Omit “(1)”.

4 Subsection 22(1)

Omit “7”, substitute “5”.

5 Subsection 22(1)

Omit “Governor-General”, substitute “Council”.

6 Subsection 25(2)

Omit “Minister”, substitute “Council”.

7 Section 26

Omit “Governor-General”, substitute “Council”.

8 Sections 27 and 28

Repeal the sections, substitute:

27 Termination of appointment

- (1) The Council may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.
- (2) The Council may terminate the appointment of the Chief Executive Officer if:
 - (a) the Chief Executive Officer 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; or

- (b) the Chief Executive Officer is absent, except on leave of absence granted by the Council, from 3 consecutive meetings of the Council; or
- (c) the Chief Executive Officer is absent from duty, except on leave of absence granted by the Council, for 14 consecutive days or for 28 days in any 12 months; or
- (d) the Chief Executive Officer fails, without reasonable excuse, to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or
- (e) the Council is satisfied that the performance of the Chief Executive Officer has been unsatisfactory for a significant period.

9 Section 29

Omit “Minister” (wherever occurring), substitute “Council”.

10 Subsections 30(1), (3), (4) and (5)

Omit “Minister”, substitute “Council”.

11 Section 42

Repeal the section.

12 Application of amendments—Chief Executive Officer

- (1) The amendments and repeals made by this Schedule apply to a person appointed after commencement as Chief Executive Officer.
- (2) The instrument of appointment of the current Chief Executive Officer continues in effect after commencement, despite the amendments and repeals made by this Schedule.
- (3) Subject to subitem (4), the old Act continues to apply, in relation to the current Chief Executive Officer, as if the amendments and repeals made by this Schedule had not happened.
- (4) Subsection 25(2) of the *Australian Institute of Marine Science Act 1972*, as amended by this Schedule, has effect after commencement in relation to the current Chief Executive Officer.

(5) In this item:

commencement means the commencement of this item.

current Chief Executive Officer means the person who, immediately before commencement, held the office of Chief Executive Officer of the Australian Institute of Marine Science under section 21 of the old Act.

old Act means the *Australian Institute of Marine Science Act 1972*, as in force immediately before commencement.

Schedule 2—Australian Nuclear Science and Technology Organisation Act 1987

1 Subsection 3(1) (definition of *appointed member*)

Omit “Executive Director”, substitute “Chief Executive Officer”.

2 Subsection 3(1)

Insert:

Chief Executive Officer means the Chief Executive Officer of the Organisation.

3 Subsection 3(1) (definition of *Executive Director*)

Repeal the definition.

4 Subsection 3(1) (paragraph (a) of the definition of *member of the staff of the Organisation*)

Omit “Executive Director”, substitute “Chief Executive Officer”.

5 Subsection 9(1)

Repeal the subsection, substitute:

- (1) The Board consists of:
 - (a) the Chief Executive Officer; and
 - (b) at least 5, but not more than 8, other members.

6 Subsections 9(2), (7), (10), (11) and (12)

Omit “Executive Director”, substitute “Chief Executive Officer”.

7 Subsection 9(12)

Omit “is only one appointed member”, substitute “are fewer than 5 appointed members”.

8 After section 16

Insert:

16A Chief Executive Officer not to take part in certain deliberations of Board

The Chief Executive Officer:

- (a) must not take part in any deliberation or decision of the Board with respect to him or her; and
- (b) is to be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

9 Part IV (heading)

Repeal the heading, substitute:

Part IV—Chief Executive Officer

10 Subsection 18(1)

Omit “an Executive Director”, substitute “a Chief Executive Officer”.

Note: The heading to section 18 is replaced by the heading “**Chief Executive Officer**”.

11 Paragraph 18(3)(a)

Omit “Executive Director”, substitute “Chief Executive Officer”.

12 Section 19

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

Note: The heading to section 19 is altered by omitting “**Executive Director**” and substituting “**Chief Executive Officer**”.

13 Section 20

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

Note: The heading to section 20 is altered by omitting “**Executive Director**” and substituting “**Chief Executive Officer**”.

14 Section 21

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

15 Subsection 21A(1)

Omit “Executive Director”, substitute “Chief Executive Officer”.

16 Subsection 21A(2)

Omit all the words from and including “Executive” to and including “Minister”, substitute “Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Board”.

17 Section 21B

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

18 Section 21C

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

19 At the end of section 21C

Add:

- (3) The Board may terminate the appointment of the Chief Executive Officer if the Board is satisfied that the performance of the Chief Executive Officer has been unsatisfactory for a significant period.

20 Section 22

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

21 Section 22

Omit “Minister”, substitute “Board”.

22 Section 23

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

Note: The heading to section 23 is altered by omitting “**Executive Director**” and substituting “**Chief Executive Officer**”.

23 Section 24

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

24 Section 31

Repeal the section.

25 Paragraph 42(1)(b)

Omit “, sections 11 and 17, subsections 26(1), (2), (9), (11), (15) and (16) and sections 28, 31”, substitute “and sections 11, 17”.

26 Section 45

Omit “Executive Director” (wherever occurring), substitute “Chief Executive Officer”.

Note: The heading to section 45 is altered by omitting “**Executive Director**” and substituting “**Chief Executive Officer**”.

Schedule 3—Science and Industry Research Act 1949

1 Section 7

Insert:

Deputy Chairperson means the Deputy Chairperson of the Board.

2 Section 7 (definition of *member*)

After “Chairperson”, insert “, the Deputy Chairperson”.

3 Subsections 8(2), (3) and (4)

Repeal the subsections, substitute:

(2) The Organisation:

- (a) is a body corporate with perpetual succession; and
- (b) must have a seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Organisation. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment and conduct of officers.

(3) All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the Organisation’s seal appearing on a document; and
- (b) presume that the document was duly sealed.

(4) The seal of the Organisation must be kept in such custody as the Board directs and must not be used except as authorised by the Board.

4 Paragraph 9AA(1)(b)

Repeal the paragraph, substitute:

- (b) form, or participate in the formation of, a partnership or company;

5 Paragraph 9AA(1)(c)

After “improvement”, insert “that is”.

6 Paragraph 9AA(1)(d)

Omit “Minister”, substitute “Board”.

7 Subsection 9A(1)

Omit “Subject to the approval of the Minister and subject to any regulations that are applicable, the”, substitute “The”.

8 Subsection 9A(1A)

Repeal the subsection.

9 Subsection 10B(1)

Omit “Governor-General”, substitute “Board”.

10 Subsection 10B(2)

Repeal the subsection, substitute:

- (2) The Board must consult with the Minister before appointing a person as Chief Executive.

11 Subsection 10B(4)

Omit “Minister”, substitute “Board”.

12 Subsection 10C(2)

Omit “Minister” (wherever occurring), substitute “Board”.

13 Section 10D

Omit “Governor-General”, substitute “Board”.

14 Subsection 10E(1)

Omit “Governor-General”, substitute “Board”.

15 Paragraph 10E(2)(d)

Omit “Minister”, substitute “Board”.

16 Paragraph 10E(2)(e)

Omit “Minister”, substitute “Board”.

17 Subsection 10E(2)

Omit “Governor-General”, substitute “Board”.

18 At the end of section 10E

Add:

- (3) The Board may terminate the appointment of the Chief Executive if the Board is satisfied that the performance of the Chief Executive has been unsatisfactory for a significant period.
- (4) The Board must consult with the Minister before terminating the appointment of the Chief Executive.

19 Section 10F

Omit “Minister”, substitute “Board”.

20 Subsections 10G(1), (4), (6) and (7)

Omit “Minister”, substitute “Board”.

21 Section 12

Before “The”, insert “(1)”.

22 At the end of section 12

Add:

- (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.

23 Subsection 14A(4)

After “Chairperson of the Board”, insert “and another of the part-time members to be the Deputy Chairperson of the Board”.

24 Subsection 14A(5)

After “appointed as Chairperson”, insert “or as Deputy Chairperson”.

25 Paragraph 14A(5)(a)

After “Chairperson”, insert “or as Deputy Chairperson”.

26 Paragraph 14A(5)(b)

After “Chairperson”, insert “or of Deputy Chairperson”.

27 Paragraph 14A(5)(c)

After “Chairperson”, insert “or Deputy Chairperson”.

28 Paragraph 14A(5)(d)

After “Chairperson”, insert “or of Deputy Chairperson”.

29 Paragraph 14A(7)(b)

Omit “or in the office of Chief Executive”, substitute “, of Deputy Chairperson or of Chief Executive”.

30 Subsection 14A(7)(note)

After “Chairperson”, insert “and the Deputy Chairperson”.

31 Subsection 15(5)

Repeal the subsection, substitute:

- (5) If the Chairperson is not present at a meeting of the Board:
 - (a) the Deputy Chairperson must preside at the meeting; or
 - (b) if the Deputy Chairperson is not present at the meeting—the members present must elect one of their number to preside at the meeting.

32 After section 15

Insert:

15A Chief Executive not to take part in certain deliberations of Board

The Chief Executive:

- (a) must not take part in any deliberation or decision of the Board with respect to him or her; and
- (b) is to be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

33 Subsection 17(1)

After “Chairperson” (wherever occurring), insert “and the Deputy Chairperson”.

Note: The heading to section 17 is altered by inserting “**and Deputy Chairperson**” after “**Chairperson**”.

34 Subsection 17(2)

After “Chairperson”, insert “and the Deputy Chairperson”.

35 Subsection 19(4)

After “Chairperson”, insert “or the Deputy Chairperson”.

36 At the end of Part III

Add:

22A Delegation by Board

- (1) The Board may, by resolution, delegate to an eligible person, or to a committee of eligible persons, all or any of the Board’s powers under this Act or the regulations.
- (2) A delegate is, in the exercise of a power so delegated, subject to the directions of the Board.
- (3) If the Board delegates a power to a committee of eligible persons, the Board:
 - (a) must appoint one of the members of the committee to be the Chairperson of the committee; and
 - (b) may determine the procedure to be followed in relation to meetings of the committee, including matters with respect to the following:
 - (i) the convening of meetings of the committee;
 - (ii) the number of members of the committee who are to constitute a quorum;
 - (iii) the selection of a member of the committee to preside at meetings of the committee at which the Chairperson of the committee is not present;
 - (iv) the manner in which questions arising at a meeting of the committee are to be decided.

- (4) In this section:

eligible person means:

- (a) a member of the Board, other than the Chief Executive; or
- (b) an officer of the Organisation who is concerned in, or takes part in, the management of the Organisation;

but does not include a person who is a member of the Consultative Council established under section 56.

37 Section 50

Repeal the section.

38 Application of amendments—Chief Executive

- (1) The amendments and repeals made by this Schedule apply to a person appointed after commencement as Chief Executive.
- (2) The instrument of appointment of the current Chief Executive continues in effect after commencement, despite the amendments and repeals made by this Schedule.
- (3) Subject to subitem (4), the old Act continues to apply, in relation to the current Chief Executive, as if the amendments and repeals made by this Schedule had not happened.
- (4) Subsection 10C(2) of the *Science and Industry Research Act 1949*, as amended by this Schedule, has effect after commencement in relation to the current Chief Executive.

- (5) In this item:

commencement means the commencement of this item.

current Chief Executive means the person who, immediately before commencement, held the office of Chief Executive of the Organisation under section 10A of the old Act.

old Act means the *Science and Industry Research Act 1949*, as in force immediately before commencement.

*[Minister's second reading speech made in—
House of Representatives on 28 March 2007
Senate on 12 June 2007]*

(52/07)

16 *Governance Review Implementation (Science Research Agencies) Act 2007* No. 84,
2007