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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Australian Research Council  
(Consequential and Transitional  
Provisions) Bill 2000**

**No.     , 2000**

*(Education, Training and Youth Affairs)*

**A Bill for an Act to repeal or amend certain Acts as  
a consequence of the enactment of the *Australian  
Research Council Act 2000*, and for other purposes**

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1     **A Bill for an Act to repeal or amend certain Acts as**  
2     **a consequence of the enactment of the *Australian***  
3     ***Research Council Act 2000*, and for other purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Australian Research Council*  
7                     (*Consequential and Transitional Provisions*) Act 2000.

8     **2 Commencement**

9                     This Act commences on the commencement of the *Australian*  
10                     *Research Council Act 2000*.

1 **3 Schedule(s)**

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3                   repealed as set out in the applicable items in the Schedule  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

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1  
2 **Schedule 1—Repeals and amendments**  
3

4 ***Employment, Education and Training Act 1988***

5 **1 The whole of the Act**

6 Repeal the Act.

7 ***Higher Education Funding Act 1988***

8 **2 Paragraph 17(m)**

9 Omit “\$3,437,721,000”, substitute “\$2,719,957,000”.

10 **3 Paragraph 17(n)**

11 Omit “\$3,413,312,000”, substitute “\$2,695,386,000”.

12 **4 After subsection 23(1A)**

13 Insert:

14 (1B) A proposal for expenditure by an institution or body cannot be  
15 approved under subsection (1) or (1A) in relation to the year  
16 starting on 1 January 2001 or a later year unless:

- 17 (a) there is an approved research and research training  
18 management plan for the institution or body and the year (see  
19 subsection (1C)); and  
20 (b) the institution or body is an accredited higher education  
21 institution or body (see subsection (1D)).

22 (1C) For the purposes of paragraph (1B)(a), there is an approved  
23 research and research training management plan for an institution  
24 or body and a year if (and only if):

- 25 (a) the institution or body has, in writing, submitted a plan to the  
26 Minister that covers the year; and  
27 (b) the Minister has, in writing, declared that he or she is  
28 satisfied that the plan meets the requirements in force under  
29 paragraph (1E)(a).

30 (1D) For the purposes of paragraph (1B)(b), an institution or body is an  
31 accredited higher education institution or body if (and only if):

- 1 (a) the institution or body is included as a higher education  
2 institution on both of the following registers (as in force  
3 when the relevant expenditure proposal is being considered  
4 by the Minister):
- 5 (i) the Australian Qualifications Framework Register of  
6 Authorities empowered by Government to Accredite  
7 Post-Compulsory Education and Training Courses;
- 8 (ii) the Australian Qualifications Framework Register of  
9 Bodies with Authority to Issue Qualifications; or
- 10 (b) if a determination of requirements is in force under  
11 paragraph (1E)(b):
- 12 (i) the institution or body has, in writing, submitted a  
13 statement to the Minister setting out how it satisfies  
14 those requirements; and
- 15 (ii) the Minister has, in writing, declared that he or she is  
16 satisfied that the institution or body satisfies those  
17 requirements.

18 (1E) The Minister may, by instrument in writing, determine either or  
19 both of the following:

- 20 (a) requirements to be satisfied for a plan to be approved under  
21 paragraph (1C)(b);
- 22 (b) requirements to be satisfied for an institution or body to be an  
23 accredited higher education institution or body.

24 Note: A determination under this subsection is a disallowable instrument—  
25 see paragraph 110(b).

26 **5 Paragraph 23C(2)(i)**

27 Omit “\$488,085,000”, substitute “\$961,519,000”.

28 **6 Paragraph 23C(2)(j)**

29 Omit “\$468,562,000”, substitute “\$942,676,000”.

30 **7 At the end of paragraph 110(b)**

31 Add “or under subsection 23(1E)”.



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## Schedule 2—Transitional provisions

### 1 Definitions

In this Schedule:

*commencement* means the commencement of this Schedule.

*new Act* means the *Australian Research Council Act 2000*.

*new ARC* means the body established by section 5 of the new Act.

*old ARC* means the body established by section 23 of the old EET Act.

*old ARC-administered scheme* means a research scheme in relation to which a reference under paragraph 27(1)(a) of the old EET Act was in force immediately before the commencement.

*old EET Act* means the *Employment, Education and Training Act 1988* as in force immediately before the commencement.

*old HEF Act* means the *Higher Education Funding Act 1988* as in force immediately before the commencement.

### 2 Matters referred to old ARC by Minister

If, before the commencement, the Minister referred a matter to the old ARC under paragraph 27(1)(b) of the old EET Act and the old ARC had not finished dealing with that reference by the commencement, the new ARC is to continue dealing with that reference after the commencement as if it were a request for advice in relation to the matter under subsection 6(2) of the new Act.

### 3 Continued effect of Ministerial directions and guidelines

A direction or guideline in force under subsection 29(1) of the old EET Act immediately before the commencement has effect after the commencement as if it were a direction under subsection 7(1) of the new Act.

### 4 Continued effect of funding approvals given in relation to old ARC-administered schemes

1 If, in relation to an old ARC-administered scheme, an approval under  
2 subsection 23(1) or (1A) of the old HEF Act was in force immediately  
3 before the commencement in respect of a year to which Division 1 of  
4 Part 7 of the new Act applies, that approval has effect after the  
5 commencement as if it were an approval under section 51 of the new  
6 Act that was made in accordance with the requirements of that Act.

## 7 **5 Continued effect of funding recommendations made in** 8 **relation to old ARC-administered schemes**

9 (1) If:

- 10 (a) in relation to an old ARC-administered scheme, the old ARC  
11 made a recommendation to the Minister before the  
12 commencement in relation to whether a particular approval  
13 under subsection 23(1) or (1A) of the old HEF Act should be  
14 given in respect of a year to which Division 1 of Part 7 of the  
15 new Act applies; and  
16 (b) the Minister has not given the approval, or refused to give the  
17 approval, before the commencement;

18 the Minister must deal with the recommendation after the  
19 commencement as if the old HEF Act (and instruments made under it)  
20 were still in force.

21 (2) If, after the commencement, the Minister decides to give the approval,  
22 that approval has effect as if it were an approval under section 51 of the  
23 new Act that was made in accordance with the requirements of that Act.

## 24 **6 Funding rules for 2001**

25 (1) If, in relation to an old ARC-administered scheme, guidelines  
26 developed by the old ARC and approved by the Minister for the year  
27 2001 (whether those guidelines also cover a later year or years) were in  
28 force immediately before the commencement, those guidelines have  
29 effect after the commencement as if they were funding rules made by  
30 the Board and approved by the Minister under and in accordance with  
31 Subdivision D of Division 1 of Part 7 of the new Act.

32 (2) Subsection 59(1) does not apply to require the new ARC to make  
33 guidelines under that section for the year 2001.

## 34 **7 Funding split determination for 2001**

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1           The Minister's obligation under section 50 of the new Act applies in  
2           relation to the year 2001 as if subsection (2) of that section required the  
3           determination for that year to be made as soon as practicable after the  
4           start of that year.

5           **8 Final report on operations of old ARC**

- 6           (1)     The first report under section 46 of the new Act must include a report  
7           on the operations of the old ARC during the period:  
8                     (a) starting at the beginning of the financial year after the last  
9                     financial year for which a report has been given to the  
10                    Minister under subsection 30(1) of the old EET Act; and  
11                    (b) ending on the commencement.
- 12          (2)     The report required by subitem (1) must include the information that  
13          would have been required for that period by subsections 30(1) and (2)  
14          of the old EET Act.

15          **9 References in other Commonwealth laws to kinds of**  
16          **institution defined in the old EET Act**

17                 If a law of the Commonwealth in force immediately before the  
18                 commencement refers to a kind of institution and defines that kind of  
19                 institution by reference to a definition in the *Employment, Education*  
20                 *and Training Act 1988*, then, despite its repeal, Part 1 of that Act is  
21                 taken to continue in force after the commencement for the purposes of  
22                 that law of the Commonwealth.