



Australian Research Council Act 2001

Act No. 8 of 2001 as amended

This compilation was prepared on 6 July 2006
taking into account amendments up to Act No. 87 of 2006

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to establish an Australian Research Council and to provide for the funding of research programs, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Australian Research Council Act 2001*.

2 Commencement [see Note 1]

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Objects of Act

The objects of this Act are:

- (a) to establish a body for the following purposes:
 - (i) the making of high quality recommendations to the Minister in relation to which research programs should receive financial assistance under Division 1 of Part 7;
 - (ii) the administration of the regimes of financial assistance provided for in Divisions 1 and 2 of Part 7;
 - (iii) the provision of high quality advice to the Minister about matters related to research; and
- (b) to provide for the funding of research programs.

4 Definitions

In this Act:

Account means the ARC Research Endowment Account established by section 62.

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ARC means the Australian Research Council established by section 5.

CEO means the Chief Executive Officer of the ARC referred to in section 33A.

designated committee has the meaning given by subsection 30(1).

interest means any direct or indirect, pecuniary or non-pecuniary interest.

research program means:

- (a) a program of research; or
- (b) a program that supports the conduct of a program of research.

staff of the ARC means the staff referred to in section 41.

Part 2—Australian Research Council

5 Establishment of the ARC

- (1) The Australian Research Council is established by this section.
- (2) The ARC consists of:
 - (a) the CEO; and
 - (b) the designated committees; and
 - (c) the staff of the ARC.

6 Function of the ARC

The function of the ARC (other than the CEO) is to assist the CEO in the performance of his or her functions.

Part 4—Designated committees

30 Minister may establish designated committees

- (1) The Minister may establish a committee or committees (*designated committees*) to assist in carrying out the functions of the CEO.
- (2) The Minister may dissolve a designated committee at any time.

31 Functions of a designated committee

- (1) A designated committee has the functions determined in writing by the Minister.
- (2) In performing its functions, the committee must comply with any directions given to the committee by the Minister.

Instruments not legislative instruments

- (3) An instrument under this section is not a legislative instrument.

32 Appointment of designated committee members

- (1) A designated committee consists of the members appointed by the Minister.
- (2) The Minister must, in appointing members to a designated committee, try to ensure that the composition of the committee reflects the diversity of the interests in the matter or matters that the committee will be dealing with.
- (3) The Minister may designate a member of a designated committee as the Chair of the committee.

33 Terms and conditions of designated committee members

- (1) A member of a designated committee holds office for the period determined by the Minister.

- (2) A member of a designated committee holds office on the terms and conditions (in relation to matters not otherwise covered by this Act) determined by the Minister.
- (3) A designated committee member may resign by giving the Minister a written resignation.
- (4) The Minister may at any time terminate the appointment of a designated committee member.

Part 5—Chief Executive Officer and staff of the ARC

Division 1—Chief Executive Officer

Subdivision A—Establishment and functions

33A Establishment of the CEO

There is to be a Chief Executive Officer of the ARC.

33B Functions of the CEO

The CEO has the following functions:

- (a) to make recommendations to the Minister under section 52 in relation to which proposals should be approved as deserving financial assistance under Division 1 of Part 7;
- (b) to administer the regimes of financial assistance provided for in Divisions 1 and 2 of Part 7;
- (c) to provide advice to the Minister on research matters;
- (d) any other functions conferred on the CEO by this or any other Act.

33C Minister may direct CEO about performance of CEO's functions

- (1) The Minister may, in writing, direct the CEO about the performance of the CEO's functions.
- (2) The Minister must not direct the CEO:
 - (a) to recommend that a particular proposal should, or should not, be approved as deserving financial assistance under Division 1 of Part 7; or
 - (b) in relation to the CEO's performance of functions, or exercise of powers, under the *Financial Management and Accountability Act 1997* or as an Agency Head under the *Public Service Act 1999*.

- (3) Particulars of any directions given by the Minister under subsection (1) in a financial year must be:
- (a) tabled in each House of the Parliament within 15 sitting days of that House after the direction is given; and
 - (b) included in the annual report for the ARC for the financial year.

Note: For more information about the ARC's annual report, see section 46.

- (4) The CEO must comply with a direction under subsection (1).

Directions are not legislative instruments

- (5) A direction under subsection (1) is not a legislative instrument.

Subdivision B—Appointment, terms and conditions

34 Appointment of the CEO

- (1) The CEO is to be appointed by the Minister by written instrument for the period specified in the instrument. That period must not exceed 5 years.
- (2) The Minister must not appoint a person as CEO unless the Minister has considered the person's record in research and management.

35 Acting CEO

- (1) The Minister may appoint a person to act as the CEO:
 - (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the CEO is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by a person purporting to act under an appointment under subsection (1) is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

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Note: For more information about acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

36 CEO holds office on full-time basis

The CEO holds office on a full-time basis.

37 Remuneration and allowances of CEO

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is prescribed by the regulations.
- (2) The CEO is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

38 Other terms and conditions of CEO

- (1) The CEO must not engage in paid employment outside the duties of the CEO's office without the Minister's approval.
- (2) The CEO holds office on the terms and conditions (in relation to matters not covered by this Act) that are determined by the Minister in writing.
- (3) The Minister may at any time, in writing, terminate the appointment of the CEO.

39 Disclosure of interests

Disclosure on appointment

- (1) Before starting to hold office, the CEO must give to the Minister a written statement of any interest the CEO has that may relate to the functions of the CEO.

Disclosures during term of appointment

- (2) If the CEO has, or acquires, an interest that could conflict with the proper performance of his or her functions, he or she must disclose the nature of the interest to the Minister.
- (3) The disclosure must be made as soon as possible after the relevant facts come to the CEO's knowledge.

40 Resignation of CEO

The CEO may resign his or her appointment by giving the Minister a written resignation.

Division 2—Staff of the ARC

41 Staff to be engaged under Public Service Act etc.

- (1) The staff of the ARC are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the staff referred to in subsection (1) together constitute a Statutory Agency; and
 - (b) the CEO is the Head of that Statutory Agency.

Part 6—Planning and reporting

Division 1—Strategic plans

42 CEO to prepare strategic plans

- (1) The CEO must prepare a strategic plan at least once a year and give it to the Minister for approval under section 43. The plan must comply with the requirements of this section.
- (2) The plan must be in writing.
- (3) The plan must cover a period of at least 3 years.
- (4) The plan must:
 - (a) set out the goals, priorities, policies and strategies to be adopted by the CEO in performing his or her functions; and
 - (b) set out performance indicators for the assessment of the CEO's performance of his or her functions; and
 - (c) deal with any other matters that the Minister, by notice in writing to the CEO, requires to be dealt with in the plan.

43 Ministerial approval of strategic plans

- (1) After receiving a strategic plan (or a revised strategic plan) from the CEO, the Minister must either:
 - (a) approve the plan; or
 - (b) give the plan back to the CEO with a written request for the CEO to give the Minister a strategic plan (prepared in accordance with section 42) for the same period, revised to take account of specified concerns of the Minister.
- (2) If the Minister requests the CEO to give him or her a revised strategic plan, the CEO must do so as soon as reasonably practicable.
- (3) The Minister must cause a copy of a strategic plan that he or she has approved to be laid before each House of the Parliament within 15 sitting days of that House after that approval.

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- (4) A strategic plan is of no effect unless it has been approved by the Minister.

44 Variation of strategic plans

- (1) If the CEO considers that a variation of a strategic plan is necessary or desirable, the CEO may, with the approval of the Minister, vary the strategic plan.
- (2) The Minister must cause a copy of a variation that he or she has approved to be laid before each House of the Parliament within 15 sitting days of that House after that approval.
- (3) A variation of a strategic plan is of no effect unless the variation has been approved by the Minister.

45 Annual report to include assessment of CEO's performance using performance indicators in strategic plan

The annual report for the ARC for a financial year must include an assessment of the CEO's performance of his or her functions during that year. The performance indicators set out in the strategic plan as required by paragraph 42(4)(b) must be used in making that assessment.

Note: For more information about the ARC's annual report, see section 46.

Division 2—Annual report

46 Annual report

- (1) The CEO must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report of the operations of the ARC during the year that ended on that 30 June. The report must also deal with:
 - (a) any matters required by other provisions of this Act to be dealt with in the report; and
 - (b) any other matters that the Minister, by notice in writing to the CEO, requires to be dealt with in the report.

Note: Other provisions of this Act that require matters to be dealt with in the report are subsection 33C(3) and section 45.

- (2) The report must be prepared in accordance with the guidelines referred to in subsection 63(2) of the *Public Service Act 1999* (as if the report were a report to which those guidelines applied).
- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Part 7—Funding of research

Division 1—Financial assistance for approved research programs

Subdivision A—Preliminary

47 Definitions

In this Division:

approved amount, in relation to a funding approval and a year to which the approval relates, means the amount determined under paragraph 51(2)(b) for the year and the funding proposal concerned.

approved funding rules for a year to which this Division applies means the set of rules prepared by the CEO for that year under section 59 and approved by the Minister under section 60.

funding approval means an instrument of approval under subsection 51(1).

funding cap for a year to which this Division applies means the amount set out in section 49 for that year.

funding proposal means a proposal that expenditure by an organisation on a research program be approved under subsection 51(1) as a proposal deserving financial assistance under this Division. A funding proposal may relate to a single year to which this Division applies or to 2 or more such years.

funding split determination means a determination by the Minister under subsection 50(1) dividing the funding cap for a year to which this Division applies between 2 or more categories of research programs.

governing funding rules, in relation to a funding approval, means the approved funding rules referred to in paragraph 53(1)(c).

year to which this Division applies means a year specified in section 48.

48 Years to which Division applies

- (1) This Division applies to the following years:
 - (a) the calendar year 2001;
 - (b) the calendar year 2002;
 - (c) the calendar year 2003.

- (2) This Division also applies to the following years:
 - (a) the financial year starting on 1 July 2004;
 - (b) the financial year starting on 1 July 2005;
 - (c) the financial year starting on 1 July 2006;
 - (d) the financial year starting on 1 July 2007;
 - (e) the financial year starting on 1 July 2008.

First half of 2004 calendar year treated as a year

- (3) This Division also applies in relation to the period starting at the start of 1 January 2004 and ending at the end of 30 June 2004 as if the period were a year.

Subdivision B—Capping of funding

49 Annual cap on funding

The total of all the approved amounts determined in respect of a year to which this Division applies must not exceed:

- (a) for the calendar year 2001—\$247,830,000; and
- (b) for the calendar year 2002—\$272,423,000; and
- (c) for the calendar year 2003—\$356,760,000; and
- (d) for the period treated by subsection 48(3) as a year—\$206,929,000; and
- (e) for the financial year starting on 1 July 2004—\$481,406,000; and
- (f) for the financial year starting on 1 July 2005—\$546,151,000; and
- (g) for the financial year starting on 1 July 2006—\$560,569,000; and
- (h) for the financial year starting on 1 July 2007—\$550,583,000; and
- (i) for the financial year starting on 1 July 2008—\$552,945,000.

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50 Minister must divide funding caps between different categories of research programs

- (1) The Minister must, in writing, determine that the funding cap for a year to which this Division applies is to be divided, in such proportions as the Minister specifies in the determination, between such categories of research programs as the Minister specifies in the determination.
- (1A) The Minister may specify in a determination under subsection (1) proportions in a specified range for each of 2 or more categories of research programs specified in the determination. A range specified for a category must be specified as a range of percentages of the funding cap with reference to a single percentage (the *specified percentage*) of the cap, so the lower end of the range is not more than 5% (of the cap) less than the specified percentage and the higher end of the range is not more than 5% (of the cap) greater than the specified percentage. If one of the following things is consistent with one proportion in the range specified for the relevant category, the thing is taken to be consistent with the determination for the purposes of this Division:
 - (a) approval of a funding proposal;
 - (b) variation of a funding approval;
 - (c) rules prepared under section 59.
- (2) The determination for a year must be made before the start of that year.
- (3) The Minister may, in writing, vary a determination for a year (but only in a way so that the varied determination will still comply with subsection(1)).
- (4) The Minister may, in a single instrument, make a determination covering 2 or more years to which this Division applies.

Subdivision C—Provision of financial assistance

51 Approval of expenditure on research programs

- (1) Subject to section 53, the Minister may, in writing, approve a proposal for expenditure by an organisation (the *approved organisation*) on a research program (the *approved program*) as a proposal deserving financial assistance under this Division in

respect of a year to which this Division applies, or in respect of each of 2 or more such years.

- (2) If the Minister approves the proposal, the Minister must, in writing, for the year, or each of the years, in respect of which the proposal is approved, determine:
- (a) an amount as the estimated total expenditure on the proposal for the year; and
 - (b) an amount of approved expenditure in relation to the proposal for the year.

The amount of approved expenditure on the proposal for a year must not be greater than the amount of estimated total expenditure on the proposal for the year.

Note: If the proposal is approved in respect of 2 or more years, different amounts may be determined in respect of different years.

- (3) The Minister must cause a copy of the determination under paragraph (2)(b) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the determination is made.
- (4) The instrument of approval under subsection (1) must include the following information:
- (a) the name of the approved organisation;
 - (b) a description of the approved research program;
 - (c) the name and title of the person leading the approved research program;
 - (d) the amount determined under paragraph (2)(b) in relation to the year, or each of the years, for which the approved program is approved.

52 Recommendations by CEO in relation to approval of proposals

- (1) Subject to section 53, the CEO must make recommendations to the Minister in relation to the following matters in respect of each year to which this Division applies:
- (a) what proposals should be approved under subsection 51(1) and what proposals should not be approved;
 - (b) what amounts should be determined under paragraphs 51(2)(a) and (b) in respect of proposals recommended by the CEO for approval.

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- (3) The recommendation that the CEO makes in relation to a particular proposal for expenditure on a research program (whether it is a recommendation that the proposal should be approved under subsection 51(1) or should not be so approved) must include the following information:
- (a) the name of the organisation seeking financial assistance for the proposal;
 - (b) a description of the research program;
 - (c) the name and title of the person leading the research program;
 - (d) a statement of the reasons why the proposal is, or is not, recommended for approval under subsection 51(1).
- (4) In deciding what proposals to approve under subsection 51(1), the Minister may (but is not required to) rely solely on recommendations made by the CEO under subsection (1) of this section.

Note: Decisions by the CEO to make recommendations to the Minister are reviewable under the *Administrative Decisions (Judicial Review) Act 1977*, and the CEO may be requested to give a statement of reasons under section 13 of that Act.

53 Requirements for approval or recommendation of proposals

- (1) Subject to subsection (2), a funding proposal must not be approved under subsection 51(1), or recommended by the CEO under subsection 52(1) for such approval, as deserving financial assistance under this Division in respect of a year to which this Division applies unless:
- (a) the approval of the proposal would be consistent with the funding cap for the year, or each of the years, to which the proposal relates; and
 - (b) the Minister has made a funding split determination in relation to the year, or each of the years, to which the proposal relates and the approval of the proposal would be consistent with that determination; and
 - (c) a set of approved funding rules for the year, or the first of the years, to which the proposal relates is in force; and
 - (d) the eligibility criteria set out in those approved funding rules are satisfied in relation to the proposal; and

- (e) the application for financial assistance for the proposal satisfies the requirements set out in those approved funding rules; and
 - (f) the assessment process set out in those approved funding rules has been complied with in relation to the proposal.
- (2) If, after a recommendation is made in relation to a proposal and before the Minister decides whether to approve the proposal, there is a variation of:
- (a) the funding split determination for the year, or any of the years, to which the proposal relates; or
 - (b) the governing funding rules in relation to the recommendation;
- the Minister must, in making that decision, disregard that variation and have regard to the funding split determination, or the funding rules, (as the case requires) as in force when the recommendation was made.
- (3) If an approval or recommendation relating to a proposal is, when given, in accordance with this section, the validity or effectiveness of the approval or recommendation is not affected by:
- (a) any subsequent variation of:
 - (i) the funding split determination for the year, or any of the years, to which the proposal relates; or
 - (ii) the governing funding rules; or
 - (b) if the proposal relates to 2 or more years—the subsequent making and approval of a set of funding rules for the second or a later one of those years.

54 Variation of funding approvals

- (1) Subject to subsection (2), the Minister may, in writing, vary a funding approval as provided for in the governing funding rules.
- (2) A variation of a funding approval:
 - (a) must be consistent with:
 - (i) the funding cap for the year, or each of the years, to which the approval relates; and
 - (ii) the funding split determination for the year, or each of the years, to which the approval relates; and

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- (b) cannot vary the approved amount for a year to which the approval relates to make it less than the amount of financial assistance (including advances) that has already been paid under this Division pursuant to the approval in respect of that year.

55 Payment of financial assistance for approved research programs

- (1) This section applies if, under section 51, the Minister approves a proposal for expenditure by an organisation on a research program in respect of a year, or each of 2 or more years, to which this Division applies.
- (2) Subject to subsections (3) and (4), there is payable to the organisation, for the purpose of financial assistance in respect of expenditure incurred or to be incurred by the organisation in connection with the proposal in respect of the year, or each of the years, an amount equal to the approved amount in relation to the proposal and the year, or each of the years.
- (3) The financial assistance is not payable at a time after any of the following things happen:
 - (a) the organisation's involvement with the research program ends;
 - (b) the research program changes so that it is no longer consistent with the description in the funding approval;
 - (c) the person named in the funding approval as the person leading the research program ceases to lead the program.

Note: It may be possible to vary the funding approval to accommodate a change that would otherwise result in the financial assistance ceasing to be payable because of this subsection (see section 54).

- (4) The financial assistance is to be paid in such amounts, and at such times, as the Minister determines.

56 Advances

- (1) The Minister may make arrangements for the making of advances by the Minister to an organisation, by way of financial assistance to the organisation, on account of an amount that is expected to become payable under section 55 in respect of a research program and a year to which this Division applies.

- (2) An advance so paid to the organisation is paid:
- (a) subject to the conditions specified in paragraphs 58(1)(a) to (e), which apply to the advance as if it were an actual payment of financial assistance under section 55 in respect of the research program and the year; and
 - (b) such other conditions as the Minister imposes by notice in writing to the organisation.

57 Source of payments

The Consolidated Revenue Fund is appropriated for the purpose of paying financial assistance under section 55 and advances under section 56.

58 Conditions of payment of financial assistance

- (1) Financial assistance under section 55 in relation to a proposal for expenditure by an organisation on a research program in respect of a year to which this Division applies is paid to the organisation subject to the following conditions:
- (a) the sum of the amounts spent by the organisation in connection with the proposal in respect of the year (being amounts spent before the end of the year or spent after the year in respect of commitments entered into before the end of the year) must not be less than the sum of the amounts of financial assistance paid to the organisation under section 55 in relation to the proposal in respect of the year;
 - (b) the organisation must give the Minister, not more than 6 months after the end of an accounting period of the organisation that includes part or all of the year, a statement by a qualified auditor in an approved form as to the amounts spent as described in paragraph (a) in respect of so much of the year as is included in the accounting period;
 - (c) if the Minister informs the organisation that the Minister is satisfied that the organisation has failed to fulfil a condition applicable to the financial assistance, the organisation will pay to the Commonwealth the amount (if any) specified by the Minister, not exceeding the amount of the financial assistance;
 - (d) if the amount of the financial assistance paid to the organisation exceeds the amount of the financial assistance

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that is properly payable to the organisation, the organisation will pay an amount equal to the excess to the Commonwealth;

(e) despite paragraph (d), if:

(i) the organisation fails to spend all of that financial assistance as required by this Division (including the other conditions) in respect of the year; and

(ii) the Minister determines that this paragraph is to apply in relation to the organisation in respect of the year;

so much of the unspent amount as the Minister specifies will be taken to have been paid to the organisation under section 55 in respect of the next following year under similar conditions to the conditions of the original payment or under other conditions determined by the Minister;

(f) the organisation will comply with any applicable additional accountability requirements specified in the governing funding rules;

(g) such other conditions as the Minister imposes by notice in writing to the applicant.

(2) In this section:

approved form means a form approved in writing by the Minister for the purposes of paragraph (1)(b).

qualified auditor means:

(a) the Auditor-General of a State, of the Australian Capital Territory or of the Northern Territory; or

(b) a person registered as a company auditor or a public accountant under a law in force in a State, the Australian Capital Territory or the Northern Territory; or

(c) a member of the Institute of Chartered Accountants in Australia, or of the Australian Society of Certified Practising Accountants; or

(d) a person approved by the Minister in writing as a qualified auditor for the purposes of this Act.

Subdivision D—Funding rules

59 CEO to prepare rules

- (1) The CEO must, before the start of each year to which this Division applies, prepare a set of rules dealing with the matters set out in subsection (2) for funding proposals that relate to that year, or that relate to that year and to one or more later years to which this Division applies, and give it to the Minister for approval under section 60.
- (2) The matters that must be dealt with in the rules are as follows:
 - (a) the eligibility criteria to be met in order for a proposal to be approved for financial assistance (including criteria relating to the kinds of organisation that may receive assistance and the kinds of research program in respect of which assistance may be provided);
 - (b) how to apply for financial assistance;
 - (c) the assessment process for deciding which proposals will be recommended for approval;
 - (d) the ways in which, and circumstances in which, a funding approval may be varied;
 - (e) any additional accountability requirements that the CEO thinks desirable.

The rules may also deal with such other matters as the CEO considers appropriate.
- (3) The rules must be in writing.
- (4) The rules must take account of, and be consistent with:
 - (a) the funding cap for the year, or each of the years, to which the rules apply; and
 - (b) the funding split determination for the year, or each of the years, to which the rules apply.
- (5) The rules take effect from the time determined by the CEO, which must not be a time before the rules have been approved by the Minister.

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60 Ministerial approval of rules

- (1) After receiving a set of rules (or a revised set of rules) from the CEO, the Minister must either:
 - (a) approve the set of rules; or
 - (b) give the set of rules back to the CEO with a written request for the CEO to give the Minister a set of rules (prepared in accordance with section 59), revised to take account of specified concerns of the Minister.
- (2) If the Minister requests the CEO to give him or her a revised set of rules, the CEO must do so as soon as reasonably practicable.
- (3) A set of rules is of no effect unless it has been approved by the Minister.

Approved rules are legislative instruments

- (4) A set of rules made by the Minister on the day on which it is approved is a legislative instrument.

Note: The rules are not subject to disallowance: see subsection 44(2) of the *Legislative Instruments Act 2003*.

61 Variation of rules

- (1) If the CEO considers that a variation of a set of approved funding rules is necessary or desirable, the CEO may, with the approval of the Minister, vary the set of rules.
- (2) The circumstances in which a variation of a set of approved funding rules is necessary include (but are not limited to) the following:
 - (a) there is a change in the amount of the funding cap for the year, or any of the years, to which the rules apply and the rules are not consistent with the changed funding cap;
 - (b) the funding split determination for the year, or any of the years, to which the rules apply is varied and the rules are not consistent with the varied determination.
- (3) A variation of a set of rules is of no effect unless the variation has been approved by the Minister.

Division 2—The ARC Research Endowment Account

62 Establishment of ARC Research Endowment Account

- (1) The ARC Research Endowment Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

63 Credits to Account

Amounts that are given or bequeathed for the purposes of the Account must be credited to the Account.

Note: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

64 Purposes of Account

- (1) Amounts standing to the credit of the Account may be expended by the CEO on providing financial assistance to organisations for eligible research programs if the following conditions are satisfied:
 - (a) if a funding proposal for that financial assistance were proposed under Division 1, that proposal would satisfy the eligibility criteria set out in the approved funding rules for the year in which expenditure occurs; and
 - (b) the Minister has, in writing, approved the expenditure.
- (2) In this section, *approved funding rules* and *funding proposal* have the same meanings as they have in Division 1.

65 Terms and conditions of financial assistance

Financial assistance under section 64 is provided on such terms and conditions (if any) as are determined by the CEO, with the written approval of the Minister, by notice in writing to the organisation to which the assistance is provided.

Part 8—Miscellaneous

66 Delegation

- (1) The Minister may, in writing, delegate all or any of the Minister's powers or functions under Division 1 of Part 7 (except sections 50 and 51 and Subdivision D) to the CEO or a member of the staff referred to in section 41.
- (2) The CEO may, in writing, delegate all or any of the CEO's powers or functions (including powers or functions delegated to the CEO by the Minister) to a member of the staff of the ARC who:
 - (a) is an SES employee or acting SES employee; or
 - (b) holds, or is acting in, an Executive Level 2, or equivalent, position.
- (3) A delegate must exercise a power delegated by the Minister or the CEO in accordance with any directions of the Minister or the CEO, as the case requires.

67 Regulations

The Governor-General may make regulations prescribing matters:

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

Table of Acts**Notes to the *Australian Research Council Act 2001*****Note 1**

The *Australian Research Council Act 2001* as shown in this compilation comprises Act No. 8, 2001 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Research Council Act 2001</i>	8, 2001	22 Mar 2001	1 July 2001 (see <i>Gazette</i> 2001, No. GN25)	
<i>Higher Education Funding Amendment Act 2001</i>	86, 2001	18 July 2001	Schedule 1 (items 1–3): Royal Assent (a)	—
<i>Higher Education Legislation Amendment Act (No. 2) 2002</i>	78, 2002	8 Oct 2002	8 Oct 2002	—
<i>Higher Education Funding Amendment Act 2002</i>	87, 2002	21 Oct 2002	Schedule 2: Royal Assent	—
<i>Higher Education Legislation Amendment Act 2003</i>	87, 2003	23 Sept 2003	23 Sept 2003	Sch. 2 (items 4, 12, 19, 21)
<i>Higher Education Legislation Amendment Act (No. 3) 2004</i>	157, 2004	17 Dec 2004	Schedule 4: Royal Assent	—
<i>Financial Framework Legislation Amendment Act (No. 1) 2006</i>	30, 2006	6 Apr 2006	Schedule 1 (item 21): 7 Apr 2006	—
<i>Australian Research Council Amendment Act 2006</i>	87, 2006	30 June 2006	Schedules 1 and 2: 1 July 2006 Remainder: Royal Assent	Sch. 1 (items 43–51)

Act Notes

- (a) The *Australian Research Council Act 2001* was amended by Schedule 1 (items 1–3) only of the *Higher Education Funding Amendment Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 3.....	am. No. 87, 2006
S. 4.....	am. No. 78, 2002 rs. No. 87, 2006
Part 2	
Part 2.....	rs. No. 87, 2006
Ss. 5, 6.....	rs. No. 87, 2006
S. 7.....	rep. No. 87, 2006
Part 3.....	rep. No. 87, 2006
Ss. 8–11.....	rep. No. 87, 2006
S. 12.....	am. No. 87, 2003 rep. No. 87, 2006
Ss. 13–26.....	rep. No. 87, 2006
S. 27.....	am. No. 87, 2003 rep. No. 87, 2006
S. 28.....	rep. No. 87, 2006
S. 29.....	am. No. 87, 2003 rep. No. 87, 2006
Part 4	
Part 4.....	rs. No. 87, 2006
S. 30.....	am. No. 78, 2002 rs. No. 87, 2006
S. 31.....	rs. No. 87, 2006
S. 32.....	am. No. 78, 2002; No. 87, 2003 rs. No. 87, 2006
S. 33.....	am. No. 78, 2002 rs. No. 87, 2006
Part 5	
Heading to Part 5.....	rs. No. 87, 2006
Division 1	
Subdivision A	
Subdivision A of Division 1..... of Part 5	ad. No. 87, 2006
Ss. 33A–33C.....	ad. No. 87, 2006
Subdivision B	
Subdivision B of Division 1..... of Part 5	ad. No. 87, 2006
S. 34.....	rs. No. 87, 2006
S. 38.....	am. No. 87, 2006
S. 39.....	rs. No. 87, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 2	
Heading to Division 2 of Part 5	rs. No. 87, 2006
S. 41	am. No 87, 2006
Part 6	
Division 1	
Heading to s. 42	am. No 87, 2006
Ss. 42, 43	am. No 87, 2006
Heading to s. 45	am. No 87, 2006
S. 45	am. No 87, 2006
Note to s. 45	ad. No 87, 2006
Division 2	
S. 46	am. No 87, 2006
Note to s. 46(1)	am. No 87, 2006
Part 7	
Division 1	
Subdivision A	
S. 47	am. No 87, 2006
S. 48	am. No. 86, 2001; Nos. 78 and 87, 2002; No. 87, 2003; No. 157, 2004; No. 87, 2006
Subdivision B	
S. 49	am. No. 86, 2001; Nos. 78 and 87, 2002; No. 87, 2003; No. 157, 2004; No. 87, 2006
S. 50	am. No. 87, 2003
Subdivision C	
Heading to s. 52	am. No 87, 2006
S. 52	am. No 87, 2006
Note to s. 52(4)	am. No 87, 2006
S. 53	am. No 87, 2006
Examples 1 and 2 to s. 53(3)	rep. No. 87, 2003
S. 58	am. No. 87, 2003
Heading to s. 59	am. No 87, 2006
S. 59	am. No 87, 2006
Ss. 60, 61	am. No 87, 2006
S. 63	rs. No. 30, 2006
Ss. 64, 65	am. No 87, 2006
Heading to s. 66	rs. No 87, 2006
S. 66	am. No. 87, 2003; No. 87, 2006

Table A

Application, saving or transitional provisions

Higher Education Legislation Amendment Act 2003 (No. 87, 2003)

Schedule 2

4 Application of amendments of section 27

The amendments of section 27 of the *Australian Research Council Act 2001* made by this Schedule apply in relation to matters that the Board starts to consider after the commencement of this Schedule.

12 Transitional provision for funding approvals etc.

- (1) This item applies if, before the commencement of this Schedule, the Minister had approved under subsection 51(1) of the *Australian Research Council Act 2001* a proposal as deserving financial assistance in respect of one or more of the following years:
 - (a) the calendar year 2004;
 - (b) the calendar year 2005;
 - (c) the calendar year 2006.

- (2) Division 1 of Part 7 of that Act as in force after that commencement has effect as if:
 - (a) the Minister had approved the proposal as deserving financial assistance in respect of each year (the *new year*) to which that Division (as in force after that commencement) applies that falls partly or wholly within a calendar year (the *old year*) in respect of which the Minister had approved the proposal before that commencement; and
 - (b) the approved amount for the funding approval in respect of each of the new years for the proposal equalled the sum of 50% of the approved amount for the funding approval in respect of each old year within which part or all of the new year falls; and
 - (c) the funding approval reflected the effect of paragraphs (a) and (b).

Table A

- (3) Subitem (2) does not prevent variation of the funding approval or approved amount under that Division after the commencement of this Schedule.
- (4) Subitem (2) does not affect the operation of that Division in relation to a year to which that Division applies that ends before 1 January 2004.

19 Application of amendments of section 58

The amendments of section 58 of the *Australian Research Council Act 2001* made by this Schedule apply in relation to periods that:

- (a) are years to which Division 1 of Part 7 of that Act (as amended by this Schedule) applies; and
- (b) start after 31 December 2003.

21 Saving of delegations and directions to delegates

- (1) A delegation that was in force under section 66 of the *Australian Research Council Act 2001* immediately before the commencement of this Schedule has effect after that commencement as if the delegation had been made immediately after that commencement under that section as amended by this Schedule.
- (2) A direction to a delegate that had effect for the purposes of section 66 of the *Australian Research Council Act 2001* immediately before the commencement of this Schedule has effect after that commencement as if the direction had been given for the purposes of a delegation under that section as amended by this Schedule.
- (3) This item does not prevent the revocation or amendment of a delegation or direction described in subitem (1) or (2).

Australian Research Council Amendment Act 2006 (No. 87, 2006)

Schedule 1

43 Definitions

- (1) In this Part:
 - acquisition of property* has the same meaning as in paragraph 51(xxix) of the Constitution.
 - amend* includes repeal and remake.

Table A

Board has the same meaning as in the old law.

commencement time means the time when this Part commences.

instrument:

- (a) includes:
 - (i) a contract, deed, undertaking or agreement; and
 - (ii) a notice, authority, order or instruction; and
 - (iii) an instrument made under an Act or regulations; and
 - (iv) regulations; but
- (b) does not include an Act.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

new law means the *Australian Research Council Act 2001* as in force immediately after the commencement time.

old ARC means the Australian Research Council established by the old law.

old law means the *Australian Research Council Act 2001* as in force immediately before the commencement time.

- (2) Subject to subitem (1), an expression used in this Part that is also used in the new law has the same meaning in this Part as it has in the new law.

44 References in instruments

References to old ARC taken to be references to CEO

- (1) If:
 - (a) an instrument is in force immediately before the commencement time; and
 - (b) the instrument contains a reference to the old ARC;
 the instrument has effect from the commencement time as if the reference to the old ARC were a reference to the CEO.

Minister and regulations may provide otherwise

- (2) The Minister may, by writing, determine that subitem (1):
 - (a) does not apply in relation to a specified reference; or
 - (b) applies as if the reference in that subitem to the CEO were a reference to the Commonwealth.

Table A

A determination under this subitem has effect accordingly.

- (3) The regulations may provide that an instrument containing a reference specified in a determination under paragraph (2)(a) has effect from the commencement time as if the reference were a reference to a specified person or body other than the Commonwealth or the CEO.

Determinations are not legislative instruments

- (4) A determination under subitem (2) is not a legislative instrument.

45 Operation of laws

Things done by old ARC or Board taken to be done by CEO

- (1) Subject to Division 3, if, before the commencement time, a thing was done by, or in relation to, the old ARC or the Board, then, for the purposes of the operation of any law of the Commonwealth after the commencement time, the thing is taken to have been done by, or in relation to, the CEO.
- (2) For the purposes of subitem (1), a thing done before the commencement time under a provision that is amended by this Schedule has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.

Minister and regulations may provide otherwise

- (3) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified thing done by, or in relation to, the old ARC or the Board; or
 - (b) applies as if the reference in that subitem to the CEO were a reference to the Commonwealth.

A determination under this subitem has effect accordingly.

- (4) The regulations may provide for a thing specified in a determination under paragraph (3)(a) to be taken to have been done by, or in relation to, a specified person or body other than the Commonwealth or the CEO.

Table A*Meaning of **doing***

- (5) To avoid doubt, for the purposes of this item, **doing** a thing includes making an instrument.

Determinations are not legislative instruments

- (6) A determination under subitem (3) is not a legislative instrument.

46 Continued effect of certain instruments made under the old law

- (1) The amendment of the *Australian Research Council Act 2001* by this Schedule does not affect the continuity of the following instruments as in force immediately before the commencement time:
- (a) a notice under paragraph 42(4)(c) of that Act;
 - (b) a strategic plan under Division 1 of Part 6 of that Act;
 - (c) a recommendation under subsection 52(1) of that Act;
 - (d) approved funding rules under Division 1 of Part 7 of that Act.
- (2) A direction under subsection 66(2) of the old law in force immediately before the commencement time continues to have effect from that time as if it were a direction under subsection 66(3) of the new law.

47 CEO*Appointment, terms and conditions*

- (1) The person holding office as CEO under section 34 of the old law immediately before the commencement time:
- (a) is taken to have been duly appointed by the Minister under subsection 34(1) of the new law for the balance of the term of appointment under subsection 34(2) of the old law; and
 - (b) is taken to have been so appointed on the same terms and conditions as applied to the person immediately before the commencement time.

Directions

- (2) A direction:
- (a) under subsection 7(1) of the old law given to the Board about the performance of the ARC's functions; and
 - (b) in force immediately before the commencement time;

Table A

continues to have effect from the commencement time as if it were a direction under subsection 33C(1) of the new law given to the CEO about the performance of the CEO's functions.

48 Designated committees

Designated committees continue in existence

- (1) A designated committee:
- (a) established under section 30 of the old law; and
 - (b) in existence immediately before the commencement time;
- continues in existence, from the commencement time, as if it were established under section 30 of the new law.

Members

- (2) A person holding office as a member of a designated committee under subsection 32(1) of the old law immediately before the commencement time:
- (a) is taken to have been duly appointed by the Minister under subsection 32(1) of the new law for the balance of the term of appointment under subsection 33(1) of the old law; and
 - (b) is taken to have been so appointed on the same terms and conditions as applied to the person immediately before the commencement time.

Chairs

- (3) The person designated as the Chair of a designated committee immediately before the commencement time is taken to have been so designated, on the commencement time, under subsection 32(3) of the new law.

49 Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

Table A

50 Delegation by Minister

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Part to the CEO.
- (2) In exercising or performing powers or functions under a delegation under subitem (1), the CEO must comply with any directions of the Minister.
- (3) A power or function delegated to the CEO under subitem (1) must not be sub-delegated under subsection 66(2) of the new law.

51 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Part to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.