



**Australian Government**  
**Department of Education,  
Skills and Employment**

# **Australian Research Council Amendment (Ensuring Research Independence) Bill 2018**

Submission from the Department of Education, Skills  
and Employment to the Senate Standing Committees  
on Education and Employment



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# Australian Research Council Amendment (Ensuring Research Independence) Bill 2018

## Introduction

The Department of Education, Skills and Employment (the department) welcomes the opportunity to make a submission to the Education and Employment Legislation Committee's Australian Research Council Amendment (Ensuring Research Independence) Bill 2018 (the bill).

## Higher Education Research

Australia is internationally recognised for its high-quality research and scientific capabilities. It has a high standard of research performance, both in terms of the quantity and quality of its research output. In 2020 Australia produced 3.3 per cent of the world's scholarly output, 5.4 per cent of the top 10 per cent most cited publications and 6.5 per cent of the top 1 per cent of most cited publications.

Australia is strong in several areas of research, particularly the sciences. Disciplines where Australia is rated above world standard include mathematical sciences, physical sciences, chemical sciences, and earth sciences.<sup>1</sup>

In 2021-22, Australia's total investment in research and development (R&D) is nearly \$12 billion, of this, \$3.7 billion, or around 31 per cent, is invested in the higher education sector.<sup>2</sup>

The Australian Government is committed to supporting high quality research in Australia through the Australian Research Council (ARC). Funding is allocated for non-medical research competitive grants through a merit-based, expert assessment process. Competitive grants provide support for individual projects, industry-linkage programs and collaborative centres and fellowships for early career researchers. The ARC's National Competitive Grants Program (NCGP) is comprised of two funding programs – Discovery and Linkage. In 2020-21, total NCGP funding is \$0.8 billion, with \$484 million for Discovery and \$325 million for Linkage.

## Current Legislation

The ARC is a non-corporate Commonwealth entity established under the *Australian Research Council Act 2001* (ARC Act), within the Australian Government's Education portfolio, and reports to the Minister for Education and Youth.

The ARC's role is to make high-quality recommendations to the Minister in relation to which research programs should receive financial assistance under the ARC Act. The Minister may rely on the recommendations of the CEO but is not required to do so (Section 52, subsection 4). ARC grant applications are peer reviewed by detailed assessors and Selection Advisory

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<sup>1</sup> Australian Research Council (ARC) Excellence in Research for Australia (ERA) 2018

<sup>2</sup> Science, Research and Innovation (SRI) Budget Tables 2021-22

Council Committee members against specific assessment criteria specified in the all National Competitive Grants Program scheme-specific Grant Guidelines.

This bill seeks to amend various provisions in the Act to remove the Minister's discretion to approve a research proposal recommended by the ARC by providing that the Minister must approve a research proposal and the associated expenditure recommended by the ARC.

The Department is not aware of any legislation that requires a decision-maker (in this case the relevant Minister) to make an administrative decision in accordance with the views or recommendations of a third party.

The power for the Minister to exercise discretion in decision-making processes subject to the recommendation of the ARC has existed since the ARC Act came into force in 2001.

The effect of such an amendment, as proposed by the bill, would be to remove the Minister's discretionary power to veto research funding proposals and instead bind the Minister to make decisions in accordance with recommendations from the ARC, which as mentioned above would be tenuous from an administrative law perspective.

The inclusion of discretionary veto powers to be exercised by a decision-maker, such as those that exist in the current ARC Act, is common practice in drafting legislation. Another common legislative practice is for legislation to provide for the decision-maker, such as a Minister, to have regard to, or take into account (rather than being bound by), the views and recommendations of a third party (e.g. section 52 of the ARC Act).

### Letter of Expectation

On 6 December 2021, the Hon Stuart Robert MP, Acting Minister for Education and Youth, sent a Letter of Expectation to the ARC setting out a new direction and number of reform initiatives to be undertaken by the ARC during 2022.

One of the priorities outlined for immediate implementation was the strengthening of the National Interest Test to increase transparency in the ARC grants process, to ensure taxpayer-funded Australian Government research grant monies are directed to areas of national importance, and deliver value for money to the Australian public.

The National Interest Test forms part of the Government's broader strategy to boost Australia's research competitiveness and ensure publicly funded research maximises economic, commercial, environmental, social, and cultural benefits to the Australian community. Its purpose is not to preference one type of research discipline over another.

By strengthening the National Interest Test as part of the ARC processes to provide the Minister with advice, there should be less likelihood the Minister would need to intervene to ensure the effectiveness of its application.