

EDUCATION, SCIENCE AND TRAINING

SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE 2006-2007 BUDGET ESTIMATES HEARING

Outcome: 3
Output Group: 3.1 – Research Infrastructure

DEST Question No. E512_07

Senator Wong provided in writing.

Question:

The ARC Bill also prevents the Minister's decisions in selecting committee members and the CEO from being regarded as a legislative instrument. Is this the case? Why was this included? How does it assist transparency if the Minister's decisions are to be exempt from parliamentary scrutiny?

Answer:

Australian Research Council

The Minister's powers of determination and direction under section 31 and section 33C, respectively, of the *Australian Research Council Act 2001* are not legislative instruments for the purpose of section 5 of the *Legislative Instruments Act 2003* (the LI Act). Legislative Instruments are defined to be an instrument in writing that is of a legislative character and that is or was made in the exercise of a power delegated by the Parliament.

The Minister's powers of determination and direction are not legislative instruments because they are not of a legislative character, nor do they determine or alter the law. They are administrative documents. This is made clear by the inclusion of a specific statement in the Act.

The requirement under the Act to table the Annual Report and the Strategic Plan in each House of Parliament provides for transparency and allows for Parliamentary scrutiny of the documents and the Minister's decisions which relate to them.