

# Government Senators' Report

## Conduct of the inquiry

1.1 The Australian Research Council Amendment Bill 2006 (the bill) was introduced in the House of Representatives on 30 March 2006 to amend the *Australian Research Council Act 2001* to implement changes to the governance arrangements of the Australian Research Council (ARC). The provisions of the bill were immediately referred to the committee for inquiry and report by 10 May 2006. On 10 May the Senate agreed to an extension of time to report until 2 June 2006.

1.2 Notice of the inquiry was posted on the committee's website and advertised in the *Australian*. The committee also contacted individuals and organisations to notify them of the inquiry and seek submissions. The committee received 7 submissions, listed at Appendix 1. The committee conducted a public hearing in Melbourne on Thursday, 4 May 2006. A list of the witnesses who gave evidence is at Appendix 2.

## Background

1.3 The bill amends the *Australian Research Council Act 2001*. It implements changes to the governance arrangements of the ARC following the Government's endorsement of the recommendations of the *Review of Corporate Governance of Statutory Authorities and Office Holders* conducted by Mr John Uhrig in 2003. The terms of reference for the Uhrig review were based on the examination of statutory authorities' structures for good governance, focusing on the relationships between statutory authorities and the responsible minister, the parliament and the public, including businesses.<sup>1</sup>

1.4 The review's findings prescribed the development of two governance templates: first, a board template where responsibilities are not solely accountable to the Commonwealth and where there are commercial interests involving other stakeholders; second, an executive management template which involves single line management.<sup>2</sup>

1.5 The Minister's second reading speech stated that the appropriate governance arrangements for the ARC are to be modelled on the executive management template.<sup>3</sup> The Minister also stated that the ARC will remain a prescribed agency under the *Financial Management and Accountability Act 1997*, and a statutory agency as announced in 2001 under the Government's *Knowledge and Innovation* policy.<sup>4</sup>

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1 Uhrig, J., (2003) *Review of Corporate Governance of Statutory Authorities and Office Holders*, p. 1

2 *ibid.*, pp.10-11 and 18

3 Hon. Julie Bishop MP, *Hansard* (House of Representatives), 30 March 2006, p. 7

4 *ibid.*, p. 8

## **Purpose of the bill**

1.6 The purpose of this bill is to amend sections of the ARC Act which will result in the retirement of the ARC Board and the establishment of new governance arrangements to clarify the functions of the Chief Executive Officer. These amendments will remove the potential for confusion between the responsibilities of the Board and the CEO and provide the CEO with full power and responsibility for the ARC.<sup>5</sup>

1.7 The Government took this opportunity to increase the annual funding cap by \$572 million for research funding, due to the indexation arrangements, as part of the Government's ten year commitment to science and innovation under the program named *Backing Australia's Ability*. Also included in this bill is the transfer of the Commercialisation Training Scheme to the Department of Education, Science and Training (DEST), which will maximise the number of research students who benefit from programs administered by the department.<sup>6</sup>

## **Revised governance arrangements and maintaining independence**

1.8 One of the main issues of concern raised in submissions was the ability of the ARC to maintain its independence from ministerial direction with the retirement of the Board.

1.9 The ARC, under direction of the CEO, will maintain its independence within the boundaries drawn up in its legislative framework, and through other governance arrangements recommended by the Uhrig review. The Government recognises the high integrity of the College of Experts peer review process through which research grants are recommended by the ARC. The bill (and currently the Act) also minimises ministerial interference.

1.10 With the whole of government approach to governance arrangements, the ARC has legislative obligations in performing its role as outlined in the FMA Act and Public Service Act. The bill provides clearly stated performance guidelines for the ARC and its CEO, ensuring a clear delineation of roles. Under the executive management template, statutory authorities are not required to maintain a board, especially those authorities which perform largely non-regulatory or non commercial functions, and as such would benefit from another form of governance. Given this, the ARC Board is to be retired under the bill, providing the ARC with more streamlined governance arrangements bringing it wholly in line with the framework that the Uhrig review defined as most appropriate for PS Act and FMA Act agencies.

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5 *ibid.*

6 Department of Education, Science and Training (DEST), *Submission 2*, p. 1 and Proof Committee *Hansard*, 4 May 2006, pp. 22-23

1.11 The role of the CEO is further clarified by the bill, which does not allow the minister to direct the CEO 'to recommend that a particular proposal should or should not be approved as deserving financial assistance under Division 1 of Part 7'.<sup>7</sup>

1.12 The independence of the ARC to develop its strategic planning process and initiation of research inquiries and priorities continues under this bill. The strategic plan will continue to be a public document and published on a rolling triennium. An advisory committee will be created to assist in this process.<sup>8</sup>

1.13 In relation to the power of the Board to conduct inquiries into matters of research, DEST informed the committee that the Board had not utilised this power since the introduction of the 2001 Act. The Government, in retiring the Board, has removed this power because it is already provided for in the PS Act. This does not preclude the CEO from initiating inquiries.<sup>9</sup>

### **The roles of the minister and the CEO**

1.14 The minister, as a representative of the Government, has responsibilities in a governance role, and is accountable for the performance of statutory authorities under Section 64 of the Constitution. Ministers are responsible for the performance of their portfolios and have a duty to execute and maintain the laws of the Commonwealth. But in stating this, the minister is also accountable to the Government through the issue of Administrative Orders by the Governor-General. These orders specify the legislation to be administered by ministers. As such the minister is responsible for the success of the authority and will be held to account by the parliament.<sup>10</sup>

1.15 DEST informed the committee in its evidence that the amendments do not change the power of the minister's decision-making role in appointments to designated committees and the grant approval processes. The amendments maintain the current arrangements under the Act.<sup>11</sup>

1.16 The CEO will be directly responsible to the minister for the operations of the ARC and will not have the added responsibility of having to report to the Board as well as the minister. DEST stated:

Moving from the current ARC arrangements to the executive management template, as the previous minister announced last year, removed that level

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7 *Australian Research Council Amendment Bill 2006*, p. 6

8 Proof Committee *Hansard*, p. 24

9 *ibid.*, p. 24

10 Uhrig review, pp. 17 and 33

11 Proof Committee *Hansard*, 4 May 2006, p. 22

of confusion wherein the CEO served two masters. He now reports directly to the minister.<sup>12</sup>

1.17 DEST stated in its submission that the Act gives the minister the power to direct the ARC or the ARC Board regarding its performance and that these directions are to be tabled in each house of parliament within 15 sittings days and published in the ARC's annual report.<sup>13</sup> The transparency of the minister's directions will still apply after the introduction of the bill and are to be covered in the Statement of Expectations from the minister and the response from the CEO in the Statement of Intent. The Statement of Expectations will be made public.

1.18 With the removal of the Board, the role of the CEO will take on a wider and more diverse level of activity. The CEO will perform the following functions under the bill: administer the regimes of financial assistance under the National Competitive Grants Programmes, *Discovery, Linkage and Centres*; make recommendations to the minister on what proposals should be approved as deserving of financial assistance; and provide advice to the minister on research matters and any other functions conferred on the CEO by the ARC Act or any other act.<sup>14</sup> To assist with the increased workload the CEO will have the support of the ARC and the ability to delegate functions to SES and EL2 level officers within the organisation.<sup>15</sup>

1.19 This bill also transfers from the Board to the CEO the obligation to make funding rules and vary these rules with the approval of the minister. The minister cannot approve funding applications which have not been considered according to the approved funding rules. Only those applications which have been through the assessment process for specific ARC program can be approved for funding. In this process the CEO is required to make recommendations to the minister about which funding proposals should and should not be approved. Currently the minister is allowed to seek additional advice from the ARC before making a decision to approve a funding proposal and this will not change.<sup>16</sup>

### **Designated committees**

1.20 As is currently the case, the minister will be able to establish designated committees to assist in carrying out the functions of the CEO. The minister will also be able to dissolve a designated committee at any time. Under the bill there is no prescribed number of members needed to form a committee, as with the old requirement of five members for each committee. This is to enable the minister to establish advisory committees of whatever size he or she believes is appropriate to

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12 *ibid.*, p. 27

13 DEST, *Submission 2*, p. 2

14 *ibid.*, p. 3

15 Proof Committee *Hansard*, p. 28

16 DEST, *Submission 2*, pp. 3-4

deal with the matter. It will be the minister's responsibility to approve the functions and membership of a designated committee, based on advice from the CEO, and others, as the minister requires.

1.21 The Minister's second reading speech announced the creation of an advisory committee to 'provide high-level, strategic advice' to the ARC. This committee will act in an advisory capacity in support of the CEO's strategic planning. The College of Experts will be maintained as a designated committee and will continue with its role in the ARC's peer review process.<sup>17</sup>

### **Accountability**

1.22 Government Senators note that under this bill the current reporting mechanisms for the ARC remain in place, and ensure a high level of transparency. The preparation of the annual report and strategic plan will continue to demonstrate how the ARC supports the Government's commitment to K&I policy. These are public documents, which enables the parliament and the public to examine them.

1.23 Further accountability and transparency will be maintained through the issuing of a Statement of Expectations by the minister. The statement will ensure the ARC has a clear understanding of the Government's expectations and the importance of linking this to the ARC's strategic direction and performance in carrying out its duties. The statement will include values central to the success of ARC, and also those concerning the ARC's relationships with its stakeholders and the Department. The ARC will outline how they propose to meet the Minister's expectations by replying with a Statement of Intent.

1.24 The Uhrig review mentions that there should be a 'strong working relationship between the portfolio department and the statutory authority'. DEST, in its submission, states that there will be a Memorandum of Understanding between the ARC and the department.<sup>18</sup>

### **Conclusion**

1.25 The Government acknowledges the concerns and issues raised in evidence, but believes that implementing the recommendations of the Uhrig review will not threaten the role that peer review plays in the ARC's operations. This bill creates a simplified line of accountability between the minister and the ARC creating stronger governance which will lead to enhanced performance, consistent with the Government's interpretation of the Uhrig review recommendations.

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17 *ibid.*, pp. 2-3 and Hon. Julie Bishop MP, *Hansard* (House of Representatives), 30 March 2006, p. 8

18 Uhrig review, p. 64 and DEST, *Submission 2*, p. 5

**Recommendation**

**The committee recommends that the bill be passed.**

**Senator Judith Troeth  
Chairman**