

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the provisions of the Australian Research Council Amendment Bill 2006**

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**Submission to the Senate Employment, Workplace Relations  
and Education Legislation Committee Inquiry into the  
Australian Research Council Amendment Bill 2006**

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April 2006

## **Introduction**

The purpose of this submission is to provide information on some of the provisions of the *Australian Research Council Amendment Bill 2006* (the Bill).

## **Overview of the Bill**

The Bill amends the *Australian Research Council Act 2001* (the Act) to implement changes to the governance arrangements of the Australian Research Council (ARC) in response to the Government's endorsement of the recommendations of the *Review of the Corporate Governance of Statutory Authorities and Office Holders* (the Uhrig Review).

The Bill provides for the:

- (a) retirement of the ARC Board;
- (b) establishment of other new governance arrangements; and,
- (c) update of annual funding caps to reflect revised forward estimates and the transfer of the Commercialisation Training Scheme to the Department of Education, Science and Training.

The Bill allows for the creation of, and appointments to, designated committees by the Minister for Education, Science and Training. Designated committees will provide advice to the Chief Executive Officer (CEO). The College of Experts will be maintained as a designated committee and will continue to play a key role in the ARC's peer review processes.

An ARC Advisory Committee will also be established, as a designated committee, to provide strategic advice to the CEO.

The ARC's accountability framework will be maintained by requiring the ARC to formulate a Strategic Plan and provide an Annual Report to the Minister. Following the recommendations of the Uhrig Review, the Minister will also issue a Statement of Expectations to the ARC, who will in turn respond with a Statement of Intent. These documents will be updated at least annually.

The Bill increases the overall appropriation by \$572.250 million due to the indexation of existing grant funding and the extension of the funding cap to include the last year of the 2005-06 forward estimates period (2008-09). This increase was announced as part of the Government's 10-year commitment to Science and Innovation as announced in *Backing Australia's Ability: Building our Future through Science and Innovation* in May 2004.

## **Amendments under the Australian Research Council Act 2001**

### **Retirement of the Board**

Following the announcement of the assessment of the ARC's governance arrangements in response to the Uhrig Review, the Bill will amend the Act to retire the ARC Board.

In removing the provision for the ARC Board from the Act, the Bill also removes the provision allowing the ARC Board to conduct inquiries on its own motion into matters related to research. The Bill does not preclude the CEO from asking that the Minister request the CEO's advice on a specific research matter. This is considered an appropriate means for the ARC to bring pressing matters to Government's attention. The ARC Board has previously indicated to the Minister its aim of carrying out inquiries into matters related to research through the development of its strategic plan.

### **Roles of the Minister**

#### *Powers of Direction*

The Act gives the Minister the power to direct the ARC or the ARC Board about the performance of its functions. Particulars of any direction must be tabled in each House of the Parliament within 15 sitting days of that house after the direction is given. These directions must also be included in the annual report for the ARC for the financial year. This will continue to be the case under the Bill.

The Minister is and will continue to be restricted from directing the CEO to recommend that a particular proposal should, or should not, be approved as deserving financial assistance. The Minister will also be restricted from directing the CEO in relation to the CEO's performance of functions or exercise of powers under the FMA Act or as an Agency Head under the PS Act.

The Bill allows the Minister to direct the CEO about the performance of the CEO's functions, which reflects the transfer of responsibility for the ARC's operations to a CEO. This is consistent with the whole of government approach to governance arrangements of Australian Government bodies. In particular, it ensures a strong alignment with governance arrangements for bodies enabled by the *Public Service Act 1999* (PS Act) and *Financial Management and Accountability Act 1997* (FMA Act).

#### *Appointment of Designated Committees*

The Bill allows the Minister to establish a committee or committees, known as designated committees, to assist in carrying out the functions of the CEO. The Minister will also approve the functions and membership of a designated committee.

The Minister presently approves the membership and functions of designated committees of the Board. In 2005 these committees included the College of Experts, the ARC Centres of Excellence Selection Advisory Committee, the Federation Fellowships Selection Advisory Committee and the Quality and Scrutiny Committee. The committees are created based on recommendations from the Board. Under the proposed arrangements, the Minister would approve the membership and functions of

designated committees based on advice from the CEO and, as required, the Department. 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.

In her second reading speech introducing the Bill, the Minister indicated that this provision of the Bill would be used to create an ARC Advisory Committee which will have a broad membership and will focus on providing strategic advice about the ARC's operations. Under this provision the College of Experts will continue to carry out its role in the ARC's peer review processes.

Under the Act, the College of Experts makes recommendations to the Board. Under the Bill, the College of Experts makes recommendations to the CEO on the programmes under the *National Competitive Grants Programme*. In keeping with the statements of the Uhrig Review, these recommendations are non binding.

## **Roles of the CEO**

Under the Bill, responsibility for the operation of the ARC has been placed with the CEO. The role of the ARC is assist the CEO in carrying out the CEO's functions. This will ensure clear lines of accountability, and stronger alignment with the PS Act and the FMA Act.

The Bill gives the following functions to the CEO:

- to make recommendations to the Minister in relation to which proposals should be approved as deserving financial assistance;
- to administer the regimes of financial assistance, which includes the major programmes under the National Competitive Grants Programme – *Discovery*, *Linkage* and *Centres*;
- to provide advice to the Minister on research matters; and
- any other functions conferred on the CEO by the ARC Act or any other Act.

The Act requires the Board to make funding rules, and allows the Board to vary these rules with the approval of the Minister. The Bill amends the Act to transfer this obligation to the CEO.

As is currently the case, the Minister is prevented from approving applications that have not been considered according to approved funding rules. Only those applications which have been through the ARC assessment process, as set out in the funding rules for specific ARC programmes, can be approved for funding. These funding rules will continue to be public documents and legislative instruments.

The CEO is required to make recommendations to the Minister about which funding proposals should and should not be approved. As noted in the Department's submission to the 2000 Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, litigation questioned the ability of the Minister under the administrative framework of the *Administrative Decisions (Judicial Review) Act 1977* to rely solely on ARC advice in deciding which proposals to approve for

funding without examining the details of each application or making other independent inquiries.

As the Minister's role in the decision-making process has not changed, the sections of the Act that were introduced in the ARC Bill 2000 to address this issue remain unchanged in the present Bill. The Minister's decision may take other factors into account when considering the recommendations of the CEO. As is currently the case this includes allowing the Minister to seek additional advice from the ARC before making a decision to approve a funding proposal.

## **Accountability Framework**

In her second reading speech for the Bill, the Minister stated that the ARC's current accountability framework would be maintained.

The Act presently requires the Board to prepare an annual report for the ARC. The Bill removes references to the Board and substitutes references to the CEO. This has the effect of requiring the CEO to prepare the annual report.

In keeping with the Government's commitment in *Knowledge and Innovation*, the CEO will be required to prepare a strategic plan at least once a year and give it to the Minister for approval. The strategic plan will continue to cover a rolling triennium. It is anticipated that the ARC Advisory Committee would contribute to the development of the strategic plan.

Following the recommendations of the Uhrig Review, the Minister will also issue a Statement of Expectations to the ARC, who will in turn respond with a Statement of Intent.

The Statement of Expectations will be a public document and will outline the Minister's expectations for the operation of the ARC. The Statement of Expectations will include those values central to the success of ARC, including those concerning the ARC's relationships with its stakeholders.

There is expected to be a Memorandum of Understanding between the ARC and the Department, which will build on the current working relationship between the two agencies.

Department of Education, Science and Training  
April 2006