

1986

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

THE AUSTRALIAN NUCLEAR SCIENCE
AND TECHNOLOGY ORGANISATION BILL 1985

AMENDMENTS AND NEW CLAUSES

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Resources and Energy,
Senator the Hon Gareth Evans, QC)

OUTLINE

The purpose of these amendments to the Australian Nuclear Science and Technology Organisation Bill 1985 is to:

- (1) introduce a power of delegation for the Treasurer in relation to the Organisation's borrowing arrangements in clauses 31 and 32 of the Bill. This proposal is consistent with proposed changes foreshadowed by the Treasury for the enabling legislation for other statutory authorities;
- (2) make the delegates of the powers of the Minister, the Treasurer, the Executive and the Chief Executive Officer subject to the directions of the Minister, the Treasurer, the Executive and the Chief Executive Officer respectively in the exercise of those powers;
- (3) require approvals for borrowings and dealing with securities to be in writing;
- (4) specify further powers of the Minister which may not be delegated;
- (5) require disclosure of interests by the Chief Executive Officer;
- (6) clarify the wording of sub-clauses 17(5), 17(7) and 17(8); and
- (7) correct two minor drafting errors.

FINANCIAL IMPACT

There would be no financial impact from the inclusion of the above provisions in the ANSTO legislation.

NOTES ON AMENDMENTS

Amendment (1)

This amendment eliminates an ambiguity in sub-clause 17(5)(a) to clarify that the Minister would be able to determine terms and conditions under clause 17 only in respect of actual periods of acting. Sub-clause 17(5)(b) is amended to clarify that this power of termination of appointments also only applies to appointments under clause 17.

Amendment (2)

This amendment inserts a provision in sub-clause 17(7) that a written resignation from an appointment under clause 17 must actually be signed by the person resigning.

Amendment (3)

This amendment replaces sub-clause 17(8) with new provisions which differentiate between a person acting as Chairperson (under sub-clause 17(1)) and a person acting as Deputy Chairperson (under sub-clause 17(2)).

Amendment (4)

This amendment inserts a new clause, 21A, requiring the Chief Executive Officer to give the Minister written notice of pecuniary interests in any businesses.

Amendment (5)

This corrects a minor drafting error in sub-clause 27(3), the reference to "Authority" should be to the "Organisation" as in sub-clauses 27(1) and (2).

Amendment (6)

This amends clause 30 to require that approvals by the Minister for Finance, for borrowings from the Commonwealth to the Organisation, must be in writing.

Amendment (7)

This amends sub-clause 31(1) so that terms and conditions of borrowings otherwise than from the Commonwealth must be specified in the instrument of approval.

Amendment (8)

This amendment inserts a new sub-clause, 31(4), which specifies that an approval of borrowings under the provisions of sub-clause 31(1) must be in writing.

Amendment (9)

This amendment inserts a new sub-clause, 32(4), analogous to that inserted in clause 31, requiring approvals for the Organisation to deal in securities to be made in writing.

Amendment (10)

This amendment broadens the range of powers of the Minister which cannot be delegated under sub-clause 40(1)(b) to include:

- (1) the power to give directions on matters in relation to which the Organisation may undertake research and development (sub-clause 5(1)(iii));
- (2) the power to appoint deputies of members other than the Chairperson, Deputy Chairperson or Chief Executive Officer (sub-clause 9(10)) (this amendment also corrects a drafting error in the Bill, which referred to sub-clause 9(9));

- (3) the power to give directions to the Executive in the performance of the functions or exercise of the powers of the Organisation (clause 11);
- (4) the power to appoint an Acting Deputy Chairperson, to determine the terms and conditions on which a person appointed under the provisions of this clause is to act and to terminate appointments made under this clause (clause 17);
- (5) the power to direct the Executive on the timing of and form in which the Organisation's Estimates are to be prepared, and to approve such Estimates (clause 26);
- (6) the power to approve the Organisation entering into contracts for amounts exceeding \$200,000 (clause 29);
- (7) the power to establish the Australian Nuclear Science and Technology Advisory Council, to appoint members of the Council and determine the manner of election of the staff representative on the Council, to appoint the Chairperson of the Advisory Council, to determine the procedure to be followed at meetings of the Council and to determine whether Council members should be remunerated (clause 38); and
- (8) the power to determine the constitution, functions and the manner of carrying out the functions of a Joint Consultative Committee (clause 43).

Amendment (11)

This amendment inserts a new sub-clause, 40(2A), which specifies that a delegate of a power of the Minister is subject to the directions of the Minister in the exercise of that power.

Amendment (12)

This provides for a new clause, 40A, to allow the Treasurer to delegate to an officer of the Treasury all or any of the Treasurer's powers in relation to the borrowing and securities provisions contained in clauses 31 and 32. This provision is in line with amendments proposed by the Treasury for incorporation into the enabling legislation of other Commonwealth statutory authorities.

Amendment (13)

This amendment inserts a new sub-clause, 41(2A), which specifies that a delegate of a power of the Executive is subject to the directions of the Executive in the exercise of that power.

Amendment (14)

This amendment inserts a new sub-clause, 42(2A), which specifies that a delegate of a power of the Chief Executive Officer is subject to the directions of the Chief Executive Officer in the exercise of that power.