



Cancer Australia Act 2006

No. 35, 2006

**An Act to establish Cancer Australia, and for
related purposes**

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An Act to establish Cancer Australia, and for related purposes

[Assented to 3 May 2006]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Cancer Australia Act 2006*.

Section 2

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Definitions

In this Act:

Advisory Council means the Cancer Australia Advisory Council established by section 24.

Advisory Council member means a member of the Advisory Council (including the Chair).

Chair means the Chair of the Advisory Council.

Chief Executive Officer means the Chief Executive Officer of Cancer Australia.

4 This Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

5 Application to the external Territories

This Act extends to every external Territory.

Part 2—Cancer Australia

6 Establishment

- (1) Cancer Australia is established by this section.
- (2) Cancer Australia consists of the Chief Executive Officer and the staff referred to in section 8.

Note: Cancer Australia does not have a legal identity separate from the Commonwealth.

7 Functions of Cancer Australia

- (1) Cancer Australia has the following functions:
 - (a) to provide national leadership in cancer control;
 - (b) to guide scientific improvements to cancer prevention, treatment and care;
 - (c) to coordinate and liaise between the wide range of groups and health care providers with an interest in cancer;
 - (d) to make recommendations to the Commonwealth Government about cancer policy and priorities;
 - (e) to oversee a dedicated budget for research into cancer;
 - (f) to assist with the implementation of Commonwealth Government policies and programs in cancer control;
 - (g) to provide financial assistance, out of money appropriated by the Parliament, for research mentioned in paragraph (e) and for the implementation of policies and programs mentioned in paragraph (f);
 - (h) any functions that the Minister, by writing, directs Cancer Australia to perform.
- (2) A direction made under paragraph (1)(h) is not a legislative instrument.

Section 8

8 Staff

- (1) The staff of Cancer Australia must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Chief Executive Officer and the staff of Cancer Australia together constitute a Statutory Agency; and
 - (b) the Chief Executive Officer is the Head of that Statutory Agency.

9 Consultants

- (1) The Chief Executive Officer may engage persons having suitable qualifications and experience as consultants to Cancer Australia.
- (2) The consultants are to be engaged on the terms and conditions that the Chief Executive Officer determines in writing.

Part 3—The Chief Executive Officer

Division 1—Role of Chief Executive Officer

10 Chief Executive Officer

There is to be a Chief Executive Officer of Cancer Australia.

11 Responsibility of Chief Executive Officer

The Chief Executive Officer has the responsibility of managing Cancer Australia.

12 Minister may give directions to Chief Executive Officer

- (1) Subject to subsection (2), the Minister may, by legislative instrument, give directions to the Chief Executive Officer as to the performance of Cancer Australia's functions.
- (2) Directions given by the Minister under subsection (1) must be of a general nature only.
- (3) The Chief Executive Officer must comply with any direction given by the Minister under subsection (1).

13 Delegation

- (1) The Chief Executive Officer may, in writing, delegate all or any of his or her functions or powers under this Act to an SES employee, or an acting SES employee, of Cancer Australia. The delegation must be in writing.

Note: For other powers of delegation, see section 53 of the *Financial Management and Accountability Act 1997*.

- (2) In performing a delegated function or exercising a delegated power, a delegate must comply with any written directions of the Chief Executive Officer.

Division 2—Appointment etc. of Chief Executive Officer

14 Appointment of Chief Executive Officer

- (1) The Chief Executive Officer is to be appointed by the Minister by written instrument.
- (2) The Chief Executive Officer is to be appointed on a full-time or part-time basis.

15 Term of appointment

The Chief Executive Officer holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

16 Acting appointments

- (1) The Minister may appoint a person to act as the Chief Executive Officer:
 - (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

17 Chief Executive Officer's remuneration

- (1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of

Section 18

that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed.

- (2) The Chief Executive Officer is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

18 Outside employment

The Chief Executive Officer must not engage in paid employment outside the duties of the Chief Executive Officer's office without the Minister's approval.

19 Leave of absence

- (1) The Chief Executive Officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

20 Disclosure of interests

The Chief Executive Officer must give written notice to the Minister of all interests, pecuniary or otherwise, that the Chief Executive Officer has or acquires and that could conflict with the proper performance of the Chief Executive Officer's functions.

21 Other terms and conditions

The Chief Executive Officer holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

22 Resignation

The Chief Executive Officer may resign his or her appointment by giving the Minister a written resignation.

Section 23

23 Termination of appointment

- (1) The Minister may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of the Chief Executive Officer if:
 - (a) the Chief Executive Officer:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the Chief Executive Officer is absent, except on leave of absence, without reasonable excuse; or
 - (c) the Chief Executive Officer fails, without reasonable excuse, to comply with section 18 (outside employment); or
 - (d) the Chief Executive Officer fails, without reasonable excuse, to comply with section 20 (disclosure of interests).

Part 4—The Advisory Council

Division 1—Role of Advisory Council

24 Establishment

The Cancer Australia Advisory Council is established by this section.

25 Membership

The Advisory Council consists of:

- (a) a Chair; and
- (b) up to 12 other members.

26 Function of Advisory Council

The Advisory Council's function is to give advice to the Chief Executive Officer about the performance of Cancer Australia's functions.

Division 2—Appointment etc. of members of Advisory Council

27 Appointment of members

- (1) Advisory Council members (including the Chair) are to be appointed by the Minister by written instrument.
- (2) An Advisory Council member is to be appointed on a part-time basis.

28 Term of appointment

An Advisory Council member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

29 Acting appointments

- (1) The Minister may appoint an Advisory Council member to act as the Chair:
 - (a) during a vacancy in the office of Chair, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) The Minister may appoint a person to act as an Advisory Council member:
 - (a) during a vacancy in the office of an Advisory Council member, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when an Advisory Council member is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or

- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

30 Members' remuneration

- (1) An Advisory Council member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.
- (2) However, an Advisory Council member is not entitled to be paid this remuneration if he or she holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of:
 - (a) a State; or
 - (b) a corporation (a *public statutory corporation*) established for a public purpose by a State law, other than a tertiary education institution; or
 - (c) a company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by a State; or
 - (d) a company in which all the stock or shares are beneficially owned by a State or by a public statutory corporation.

Note: A similar rule applies to an Advisory Council member who has a similar relationship with the Commonwealth or a Territory. See subsection 7(11) of the *Remuneration Tribunal Act 1973*.

- (3) An Advisory Council member is to be paid the allowances that are prescribed.
- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

31 Leave of absence

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.

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- (2) The Chair may grant leave of absence to any other Advisory Council member on the terms and conditions that the Chair determines.

32 Disclosure of interests

- (1) Each Advisory Council member must give written notice to the Minister of all direct or indirect pecuniary interests that he or she has or acquires in any business relating to Cancer Australia or in any body corporate carrying on any such business.
- (2) An Advisory Council member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Advisory Council must disclose the nature of the interest to the Chief Executive Officer or the Chair of the Advisory Council.

33 Other terms and conditions

The Advisory Council members hold office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

34 Resignation

An Advisory Council member may resign his or her appointment by giving the Minister a written resignation.

35 Termination of appointment

- (1) The Minister may terminate the appointment of an Advisory Council member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of an Advisory Council member if:
 - (a) the Advisory Council member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or

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- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (b) the Advisory Council member is absent, except on leave of absence, from 3 consecutive meetings of the Advisory Council; or
- (c) the Advisory Council member fails, without reasonable excuse, to comply with section 32 (disclosure of interests).

36 Advisory Council procedures

- (1) The Chief Executive Officer may determine in writing matters relating to the operation of the Advisory Council.
- (2) If no determination is in force for the purposes of subsection (1), the Advisory Council may operate in the way it determines.
- (3) A determination made under subsection (1) is not a legislative instrument.

Part 5—Reporting

37 Annual reports

- (1) The Chief Executive Officer must, as soon as practicable after 30 June in each year, prepare and give to the Minister, for presentation to the Parliament, a report on Cancer Australia's operations during the year ending on that 30 June.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) A report under subsection (1) must include a report on the Advisory Council's operations during the year ending on that 30 June.

Part 6—Miscellaneous

38 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 16 February 2006
Senate on 30 March 2006]*

(7/06)
