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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Australian Astronomical Observatory
Bill 2009**

No. , 2009

(Innovation, Industry, Science and Research)

**A Bill for an Act to establish the Australian
Astronomical Observatory, and for other purposes**

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1 **A Bill for an Act to establish the Australian**
2 **Astronomical Observatory, and for other purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

7 This Act may be cited as the *Australian Astronomical Observatory*
8 *Act 2009*.

9 **2 Commencement**

10 This Act commences on 1 July 2010.

Section 3

1 **3 Simplified outline**

2 The following is a simplified outline of this Act:

- | |
|--|
| <p>3 • This Act establishes the Australian Astronomical Observatory
4 within the Department.</p> <p>5 • There is to be a Director of the Australian Astronomical
6 Observatory.</p> <p>7 • The Secretary has functions relating to optical astronomy, but
8 may delegate those functions to the Director or the staff of the
9 Australian Astronomical Observatory.</p> <p>10 • There is to be an Australian Astronomical Observatory
11 Advisory Committee.</p> |
|--|

12 **4 Definitions**

13 In this Act:

14 **Advisory Committee** means the Australian Astronomical
15 Observatory Advisory Committee.

16 **Advisory Committee member** means a member of the Advisory
17 Committee, and includes the Chair of the Advisory Committee.

18 **constitutional corporation** means a corporation to which
19 paragraph 51(xx) of the Constitution applies.

20 **Director** means the Director of the Australian Astronomical
21 Observatory.

22 **optical** includes radiation in the near-ultraviolet, visible and
23 infrared portions of the electromagnetic spectrum.

24 **optical astronomy facility** means a telescope, or other facility, for
25 making optical astronomical observations, and includes any
26 associated equipment, buildings or infrastructure.

27 **Secretary** means the Secretary of the Department.

1 **5 Crown to be bound**

2 This Act binds the Crown in each of its capacities.

3 **6 Extension to external Territories**

4 This Act extends to every external Territory.

5 **7 Extra-territorial application**

6 This Act applies both within and outside Australia.

Section 8

1

2 **Part 2—Australian Astronomical Observatory**

3

4 **8 Australian Astronomical Observatory**

5 There is to be an Australian Astronomical Observatory within the
6 Department.

7 **9 Director**

8 (1) There is to be a Director of the Australian Astronomical
9 Observatory.

10 (2) The Director is to be an SES employee.

11 Note 1: The Secretary may delegate functions to the Director—see section 23.

12 Note 2: *SES employee* is defined in section 17AA of the *Acts Interpretation*
13 *Act 1901*.

14 **10 Acting Director**

15 (1) The Secretary may appoint an APS employee to act as the
16 Director:

17 (a) during a vacancy in the position of Director (whether or not
18 an appointment has previously been made to the position); or

19 (b) during any period, or during all periods, when the Director:

20 (i) is absent from duty or from Australia; or

21 (ii) is, for any reason, unable to perform the duties of the
22 position.

23 Note: *APS employee* is defined in section 17AA of the *Acts Interpretation*
24 *Act 1901*.

25 (2) Anything done by or in relation to a person purporting to act under
26 an appointment is not invalid merely because:

27 (a) the occasion for the appointment had not arisen; or

28 (b) there was a defect or irregularity in connection with the
29 appointment; or

30 (c) the appointment had ceased to have effect; or

Section 10

1 (d) the occasion to act had not arisen or had ceased.

2 Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

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2 **Part 3—Astronomical functions**

3

4 **11 Astronomical functions**

5

(1) The Secretary has functions relating to optical astronomy.

6

(2) Those functions include the following:

7

(a) to operate, construct, develop and maintain national optical astronomy facilities;

8

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(b) to support optical astronomy facilities;

10

(c) to consult and co-operate with other persons, organisations and governments on matters relating to optical astronomy;

11

12

(d) to facilitate access to optical astronomy facilities;

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14

(e) to develop, manufacture and provide instrumentation for optical astronomy facilities;

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16

(f) to support the development, manufacture and provision of instrumentation for optical astronomy facilities;

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18

(g) to support, encourage, conduct and evaluate research about matters relating to optical astronomy;

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(h) to support, encourage, conduct and evaluate educational, promotional and community awareness programs that are relevant to optical astronomy;

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22

(i) to publish (whether on the internet or otherwise) reports, papers and information relating to optical astronomy;

23

24

(j) to advise the Minister about matters relating to optical astronomy;

25

26

(k) to implement Australia's international obligations in relation to optical astronomy;

27

28

(l) such other functions (if any) as are specified in the regulations;

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30

(m) to do anything incidental to or conducive to the performance of any of the above functions.

31

32

(3) Subsection (2) does not limit subsection (1).

33

Note: For delegation of functions, see section 23.

1 **12 Fees**

2 The Commonwealth may charge fees for things done in the
3 performance of the functions conferred by section 11.

Section 13

1

2 **Part 4—Australian Astronomical Observatory**
3 **Advisory Committee**
4

5 **13 Australian Astronomical Observatory Advisory Committee**

6 The Australian Astronomical Observatory Advisory Committee is
7 established by this section.

8 Note: In this Act, *Advisory Committee* means the Australian Astronomical
9 Observatory Advisory Committee—see section 4.

10 **14 Function of Advisory Committee**

11 The Advisory Committee has the function of advising the
12 Secretary about the performance of the functions conferred on the
13 Secretary by section 11.

14 **15 Appointment of Advisory Committee members etc.**

15 (1) Each Advisory Committee member is to be appointed by the
16 Secretary by written instrument.

17 (2) An Advisory Committee member holds office for the period
18 specified in the instrument of appointment. The period must not
19 exceed 3 years.

20 Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation*
21 *Act 1901*.

22 (3) An Advisory Committee member holds office on a part-time basis.

23 (4) The Secretary may terminate the appointment of an Advisory
24 Committee member.

25 **16 Procedure of Advisory Committee**

26 (1) The Secretary may give the Advisory Committee written directions
27 about:

28 (a) the way in which the Advisory Committee is to carry out its
29 function; and

1 (b) procedures to be followed in relation to meetings.

2 Note: For variation and revocation, see subsection 33(3) of the *Acts*
3 *Interpretation Act 1901*.

4 (2) A direction given under subsection (1) is not a legislative
5 instrument.

6 **17 Remuneration and allowances**

7 (1) An Advisory Committee member is to be paid the remuneration
8 that is determined by the Remuneration Tribunal. If no
9 determination of that remuneration by the Tribunal is in operation,
10 the member is to be paid the remuneration that is prescribed by the
11 regulations.

12 (2) An Advisory Committee member is to be paid the allowances that
13 are prescribed by the regulations.

14 (3) This section has effect subject to the *Remuneration Tribunal Act*
15 *1973*.

16 **18 Leave of absence**

17 The Secretary may grant leave of absence to an Advisory
18 Committee member on the terms and conditions that the Secretary
19 determines.

20 **19 Resignation**

21 (1) An Advisory Committee member may resign his or her
22 appointment by giving the Secretary a written resignation.

23 (2) The resignation takes effect on the day it is received by the
24 Secretary or, if a later day is specified in the resignation, on that
25 later day.

26 **20 Disclosure of interests to the Secretary**

27 An Advisory Committee member must give written notice to the
28 Secretary of all interests, pecuniary or otherwise, that the member

Section 21

1 has or acquires and that conflict or could conflict with the proper
2 performance of the member's functions.

3 **21 Disclosure of interests to Advisory Committee**

4 (1) A person who:

- 5 (a) is an Advisory Committee member; and
6 (b) has an interest, pecuniary or otherwise, in a matter being
7 considered or about to be considered by the Advisory
8 Committee;

9 must disclose the nature of the interest to a meeting of the
10 committee.

11 (2) The disclosure must be made as soon as possible after the relevant
12 facts have come to the Advisory Committee member's knowledge.

13 (3) The disclosure must be recorded in the minutes of the meeting of
14 the Advisory Committee.

15 (4) Unless the Advisory Committee otherwise determines, the
16 Advisory Committee member:

- 17 (a) must not be present during any deliberation by the Advisory
18 Committee on the matter; and
19 (b) must not take part in any decision of the Advisory Committee
20 with respect to the matter.

21 (5) For the purposes of making a determination under subsection (4),
22 the Advisory Committee member:

- 23 (a) must not be present during any deliberation of the Advisory
24 Committee for the purpose of making the determination; and
25 (b) must not take part in making the determination.

26 (6) A determination under subsection (4) must be recorded in the
27 minutes of the meeting of the Advisory Committee.

28 (7) The Secretary may terminate the appointment of an Advisory
29 Committee member if the member fails, without reasonable
30 excuse, to comply with this section.

31 (8) Subsection (7) does not limit subsection 15(4).

1 **22 Other terms and conditions**

2 An Advisory Committee member holds office on the terms and
3 conditions (if any) in relation to matters not covered by this Act
4 that are determined by the Secretary.

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2 **Part 5—Miscellaneous**

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4 **23 Delegation by the Secretary**

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(1) The Secretary may, by writing, delegate all or any of his or her functions or powers under this Act to a person.

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7

(2) The delegate must be:

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(a) the Director; or

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(b) an APS employee within the Australian Astronomical

10

Observatory who has the expertise appropriate to the function

11

or power delegated.

12

(3) In exercising functions or powers under a delegation, the delegate

13

must comply with any directions of the Secretary.

14

24 Executive power of the Commonwealth

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This Act does not limit the executive power of the Commonwealth.

16

25 Concurrent operation of State and Territory laws

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This Act is not intended to exclude or limit the operation of a law

18

of a State or Territory that is capable of operating concurrently

19

with this Act.

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26 Regulations

21

The Governor-General may make regulations prescribing matters:

22

(a) required or permitted to be prescribed by this Act; or

23

(b) necessary or convenient to be prescribed for carrying out or

24

giving effect to this Act.