



# **Australian Astronomical Observatory Act 2010**

## **Act No. 11 of 2010 as amended**

This compilation was prepared on 27 December 2011  
taking into account amendments up to Act No. 46 of 2011

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



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## Contents

<b>Part 1—Preliminary</b>	1
1 Short title [ <i>see</i> Note 1].....	1
2 Commencement.....	1
3 Simplified outline.....	1
4 Definitions.....	1
5 Crown to be bound.....	2
6 Extension to external Territories.....	2
7 Extra-territorial application.....	2
<b>Part 2—Australian Astronomical Observatory</b>	3
8 Australian Astronomical Observatory.....	3
9 Director.....	3
10 Acting Director.....	3
<b>Part 3—Astronomical functions</b>	4
11 Astronomical functions.....	4
12 Fees.....	5
<b>Part 4—Australian Astronomical Observatory Advisory Committee</b>	6
13 Australian Astronomical Observatory Advisory Committee.....	6
14 Function of Advisory Committee.....	6
15 Appointment of Advisory Committee members etc. ....	6
16 Procedure of Advisory Committee.....	6
17 Remuneration and allowances.....	7
18 Leave of absence.....	7
19 Resignation.....	7
20 Disclosure of interests to the Secretary.....	7
21 Disclosure of interests to Advisory Committee.....	8
22 Other terms and conditions.....	8
<b>Part 5—Miscellaneous</b>	9
23 Delegation by the Secretary.....	9
24 Executive power of the Commonwealth.....	9
25 Concurrent operation of State and Territory laws.....	9
26 Regulations.....	9
<b>Notes</b>	11



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# An Act to establish the Australian Astronomical Observatory, and for other purposes

## Part 1—Preliminary

### 1 Short title [see Note 1]

This Act may be cited as the *Australian Astronomical Observatory Act 2010*.

### 2 Commencement

This Act commences on 1 July 2010.

### 3 Simplified outline

The following is a simplified outline of this Act:

- This Act establishes the Australian Astronomical Observatory within the Department.
- There is to be a Director of the Australian Astronomical Observatory.
- The Secretary has functions relating to optical astronomy, but may delegate those functions to the Director or the staff of the Australian Astronomical Observatory.
- There is to be an Australian Astronomical Observatory Advisory Committee.

### 4 Definitions

In this Act:

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

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

Section 5

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

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

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

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

*Secretary* means the Secretary of the Department.

**5 Crown to be bound**

This Act binds the Crown in each of its capacities.

**6 Extension to external Territories**

This Act extends to every external Territory.

**7 Extra-territorial application**

This Act applies both within and outside Australia.

## Part 2—Australian Astronomical Observatory

### 8 Australian Astronomical Observatory

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

### 9 Director

- (1) There is to be a Director of the Australian Astronomical Observatory.
- (2) The Director is to be an SES employee.

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

Note 2: *SES employee* is defined in section 2B of the *Acts Interpretation Act 1901*.

### 10 Acting Director

The Secretary may appoint an APS employee to act as the Director:

- (a) during a vacancy in the position of Director (whether or not an appointment has previously been made to the position); or
- (b) during any period, or during all periods, when the Director:
  - (i) is absent from duty or from Australia; or
  - (ii) is, for any reason, unable to perform the duties of the position.

Note 1: *APS employee* is defined in section 2B of the *Acts Interpretation Act 1901*.

Note 2: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

## Part 3—Astronomical functions

### 11 Astronomical functions

- (1) The Secretary has functions relating to optical astronomy.
- (2) Those functions include the following:
  - (a) to operate, construct, develop and maintain national optical astronomy facilities;
  - (b) to support optical astronomy facilities;
  - (c) to consult and co-operate with other persons, organisations and governments on matters relating to optical astronomy;
  - (d) to facilitate access to optical astronomy facilities;
  - (e) to develop, manufacture and provide instrumentation for optical astronomy facilities;
  - (f) to support the development, manufacture and provision of instrumentation for optical astronomy facilities;
  - (g) to support, encourage, conduct and evaluate research about matters relating to optical astronomy;
  - (h) to support, encourage, conduct and evaluate educational, promotional and community awareness programs that are relevant to optical astronomy;
  - (i) to publish (whether on the internet or otherwise) reports, papers and information relating to optical astronomy;
  - (j) to advise the Minister about matters relating to optical astronomy;
  - (k) to implement Australia's international obligations in relation to optical astronomy;
  - (l) such other functions (if any) as are specified in the regulations;
  - (m) to do anything incidental to or conducive to the performance of any of the above functions.
- (3) Subsection (2) does not limit subsection (1).

Note: For delegation of functions, see section 23.



## **12 Fees**

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

## **Part 4—Australian Astronomical Observatory Advisory Committee**

### **13 Australian Astronomical Observatory Advisory Committee**

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

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

### **14 Function of Advisory Committee**

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

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

- (1) Each Advisory Committee member is to be appointed by the Secretary by written instrument.
- (2) An Advisory Committee member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: An Advisory Committee member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (3) An Advisory Committee member holds office on a part-time basis.
- (4) The Secretary may terminate the appointment of an Advisory Committee member.

### **16 Procedure of Advisory Committee**

- (1) The Secretary may give the Advisory Committee written directions about:
  - (a) the way in which the Advisory Committee is to carry out its function; and

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

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

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

### **17 Remuneration and allowances**

- (1) An Advisory Committee 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 by the regulations.
- (2) An Advisory Committee member is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **18 Leave of absence**

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

### **19 Resignation**

- (1) An Advisory Committee member may resign his or her appointment by giving the Secretary a written resignation.
- (2) The resignation takes effect on the day it is received by the Secretary or, if a later day is specified in the resignation, on that later day.

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

An Advisory Committee member must give written notice to the Secretary of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

Section 21

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**21 Disclosure of interests to Advisory Committee**

- (1) A person who:
  - (a) is an Advisory Committee member; and
  - (b) has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Advisory Committee;must disclose the nature of the interest to a meeting of the committee.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the Advisory Committee member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the Advisory Committee.
- (4) Unless the Advisory Committee otherwise determines, the Advisory Committee member:
  - (a) must not be present during any deliberation by the Advisory Committee on the matter; and
  - (b) must not take part in any decision of the Advisory Committee with respect to the matter.
- (5) For the purposes of making a determination under subsection (4), the Advisory Committee member:
  - (a) must not be present during any deliberation of the Advisory Committee for the purpose of making the determination; and
  - (b) must not take part in making the determination.
- (6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Advisory Committee.
- (7) The Secretary may terminate the appointment of an Advisory Committee member if the member fails, without reasonable excuse, to comply with this section.
- (8) Subsection (7) does not limit subsection 15(4).

**22 Other terms and conditions**

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

## **Part 5—Miscellaneous**

### **23 Delegation by the Secretary**

- (1) The Secretary may, by writing, delegate all or any of his or her functions or powers under this Act to a person.
- (2) The delegate must be:
  - (a) the Director; or
  - (b) an APS employee within the Australian Astronomical Observatory who has the expertise appropriate to the function or power delegated.
- (3) In exercising functions or powers under a delegation, the delegate must comply with any directions of the Secretary.

### **24 Executive power of the Commonwealth**

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

### **25 Concurrent operation of State and Territory laws**

This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.

### **26 Regulations**

The Governor-General may make regulations prescribing matters:

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



**Table of Acts****Notes to the *Australian Astronomical Observatory Act 2010*****Note 1**

The *Australian Astronomical Observatory Act 2010* as shown in this compilation comprises Act No. 11, 2010 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Astronomical Observatory Act 2010</i>	11, 2010	11 Mar 2010	1 July 2010	
<i>Acts Interpretation Amendment Act 2011</i>	46, 2011	27 June 2011	Schedule 2 (items 100–106) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)





**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part 2</b>	
Note 2 to s. 9(2).....	am. No. 46, 2011
S. 10 .....	am. No. 46, 2011
Note to s. 10	
Renumbered Note 1 .....	No. 46, 2011
Note 1 to s. 10.....	am. No. 46, 2011
Note 2 to s. 10.....	ad. No. 46, 2011
<b>Part 4</b>	
Note to s. 15(2) .....	rs. No. 46, 2011

**Table A**

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**Table A**

**Application, saving or transitional provisions**

*Acts Interpretation Amendment Act 2011* (No. 46, 2011)

**Schedule 3**

**10 Saving—appointments**

The amendments made by Schedule 2 do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.

**11 Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by Schedules 1 and 2.