



Australia Council Act 2013

No. 71, 2013

**An Act to provide for a Council for purposes
connected with the support and promotion of the
arts, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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[Assented to 27 June 2013]

The Parliament of Australia enacts:

Australia Council Act 2013 No. 71, 2013 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australia Council Act 2013*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 June 2013
2. Sections 3 to 52	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 July 2013 (<i>see</i> F2013L01254)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline

The following is a simplified outline of this Act:

This Act continues the existence of the Australia Council established by the *Australia Council Act 1975*. The Council has functions relating to supporting and promoting the arts.

Part 1 deals with introductory matters and the constitutional basis for the Act.

Part 2 provides for the Council to continue in existence under this Act. It also sets out the functions and powers of the Council.

Part 3 deals with the establishment, membership and procedures of the Board of the Council.

Part 4 provides for the Board to establish committees to advise and assist the Board and the Council.

Part 5 deals with the Chief Executive Officer and the staff of the Council.

Part 6 requires the Board to prepare a corporate plan for the Council.

Part 7 deals with financial matters.

Part 8 deals with miscellaneous matters.

4 Definitions

In this Act:

Aboriginal and Torres Strait Islander arts practice means the creation or performance, wholly or partly by artists who are Aboriginal persons or Torres Strait Islanders, of arts.

appointed Board member means a Board member other than the CEO.

arts means the creation or performance of works of interpretative expression through any medium.

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Australian artist means an artist who is an Australian citizen or an Australian resident.

Australian arts practice means the creation or performance, wholly or partly by Australian artists, of arts.

Australian resident means an individual who resides in Australia and is the holder (within the meaning of the *Migration Act 1958*) of a permanent visa (within the meaning of that Act).

Board means the Board of the Council.

Board member means a member of the Board, and includes the Chair, the Deputy Chair and the CEO.

CEO means the Chief Executive Officer of the Council.

Chair means the Chair of the Board.

committee means a committee established under section 31.

Council means the body corporate continued in existence by section 7 under the name the Australia Council.

Deputy Chair means the Deputy Chair of the Board.

Finance Minister means the Minister administering the *Financial Management and Accountability Act 1997*.

rules means rules made by the Minister under section 52.

5 Extended geographic application of this Act

- (1) This Act extends to every external Territory.
- (2) Subject to subsection (3), this Act applies both within and outside Australia.
- (3) The Council may only perform its functions or exercise its powers outside Australia if it does so for the benefit of Australia or Australians.

6 Constitutional basis

Without limiting its effect apart from this section, this Act also has the effect it would have if the powers and functions of the Council were confined to powers and functions that were to be exercised and performed:

- (a) in so far as it is appropriate for those powers and functions to be exercised and performed by the Council on behalf of the Government of the Commonwealth as the national Government of Australia; and
- (b) for purposes for which it is appropriate for the Parliament, as the national Parliament of Australia, to authorise the Council to exercise powers and perform functions; and
- (c) in relation to a corporation to which paragraph 51(xx) of the Constitution applies; and
- (d) in relation to trade and commerce with other countries, among the States, between Territories or between a Territory and a State; and
- (e) in relation to the collection of statistics; and
- (f) in relation to external affairs; and
- (g) in relation to a Territory; and
- (h) in relation to copyrights, patents, designs and trademarks; and
- (i) for purposes relating to any race for whom it is deemed necessary to make special laws; and
- (j) in relation to the executive power of the Commonwealth; and
- (k) in relation to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

Part 2—The Australia Council

7 Establishment

- (1) This section applies to the body corporate that was established by section 4 of the *Australia Council Act 1975* (as in force before the commencement of this section).
- (2) That body corporate continues in existence by force of this section as a body corporate, under and subject to the provisions of this Act, under the name the Australia Council.

8 Constitution of the Council

- (1) The Council:
 - (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Council. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) The Council's seal is to be kept in such custody as the Board directs and must not be used except as authorised by the Board.

9 Functions

- (1) The Council has the following functions:
 - (a) to support Australian arts practice that is recognised for excellence;
 - (b) to foster excellence in Australian arts practice by supporting a diverse range of activities;
 - (ba) to support Aboriginal and Torres Strait Islander arts practice;
 - (bb) to support Australian arts practice that reflects the diversity of Australia;

- (bc) to uphold and promote freedom of expression in the arts;
- (bd) to promote community participation in the arts;
- (c) to recognise and reward significant contributions made by artists and other persons to the arts in Australia;
- (d) to promote the appreciation, knowledge and understanding of the arts;
- (e) to support and promote the development of markets and audiences for the arts;
- (f) to provide information and advice to the Commonwealth Government on matters connected with the arts or the performance of the Council's functions;
- (g) to conduct and commission research into, and publish information about, the arts;
- (h) to evaluate, and publish information about, the impact of the support the Council provides;
- (i) to undertake any other function conferred on it by this Act or any other law of the Commonwealth;
- (j) to do anything incidental or conducive to the performance of any of the above functions.

Council may charge fees

- (2) The Council may charge fees for things done in performing its functions.

Council may cooperate with others

- (3) The Council may perform its functions alone or together with other persons.

10 Powers

- (1) The Council has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The Council's powers include, but are not limited to, the following powers:
 - (a) the power to enter into contracts;
 - (b) the power to erect buildings;

Section 11

- (c) the power to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Council;
 - (d) the power to acquire, hold and dispose of real or personal property;
 - (e) the power to accept gifts, devises, bequests and assignments (whether on trust or otherwise);
 - (f) the power to act as trustee of money or other property vested in the Council on trust;
 - (g) the power to provide financial assistance (whether by way of loan, grant, investment, award or otherwise and whether on commercial terms or otherwise);
 - (h) the power to provide guarantees;
 - (i) the power to commission or sponsor arts projects or other activities;
 - (j) the power to provide or administer services, facilities, programs or equipment;
 - (k) the power to do anything incidental to any of its powers.
- (3) Despite anything contained in this Act, any money or other property held by the Council on trust, or accepted by the Council subject to a condition, must be dealt with in accordance with the obligations of the Council as trustee of the trust, or as the person who has accepted the money or other property subject to the condition.

11 Matters to be taken into account by Council

The Council must, in the performance of its functions and the exercise of its powers, have regard to:

- (a) the policies of the Commonwealth Government in relation to the arts; and
- (c) any matters specified in directions given under subsection 12(1).

12 Ministerial directions

- (1) The Minister may, by legislative instrument, give directions to the Board:

Section 13

- (a) in relation to the performance of functions, and the exercise of powers, of the Council; or
- (b) requiring the provision of a report or advice on a matter that relates to any of the Council's functions or powers.

Note 1: Section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to a direction—see section 44 of that Act.

Note 2: Part 6 (sunsetting) of the *Legislative Instruments Act 2003* does not apply to a direction—see section 54 of that Act.

- (2) The Minister must not give a direction in relation to the making of a decision by the Council, in a particular case, relating to the provision of support (including by the provision of financial assistance or a guarantee).
- (3) The Board must ensure that any direction given by the Minister under subsection (1) is complied with.
- (4) This section does not limit the operation of section 16 of the *Commonwealth Authorities and Companies Act 1997*.

13 Council does not have privileges and immunities of the Crown

The Council does not have the privileges and immunities of the Crown in right of the Commonwealth.

Part 3—The Board of the Australia Council

Division 1—The Board

14 Establishment

The Board of the Council is established by this section.

15 Role

- (1) The Board is responsible for ensuring the proper and efficient performance of the Council's functions.
- (2) The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its duties.
- (3) Anything done in the name of, or on behalf of, the Council by the Board, or with the authority of the Board, is taken to have been done by the Council.
- (4) If a function or power of the Council is dependent on the opinion, belief or state of mind of the Council in relation to a matter, the function or power may be performed or exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (3) in relation to that matter.

16 Membership

- (1) The Board consists of the following members:
 - (a) the Chair of the Board;
 - (b) the Deputy Chair of the Board;
 - (c) the CEO;
 - (d) not fewer than 5, and not more than 9, other members.
- (2) The performance of the functions, or the exercise of the powers, of the Board is not affected by reason only of the number of Board members falling below 8 (but not below 6) for a period of not more than 6 months.

Division 2—Terms and conditions of appointed Board members

17 Appointment of Board members

- (1) The appointed Board members are to be appointed by the Minister by written instrument.

Note: The *appointed Board members* are the Board members other than the CEO (see section 4).

- (2) The Minister must consult the Chair before appointing an appointed Board member other than the Chair.
- (3) A person must not be appointed as an appointed Board member unless the Minister is satisfied that the person has appropriate qualifications, knowledge, skills or experience.
- (4) In making appointments, the Minister must have regard to the desirability of the Board including members who have skills, experience or involvement in the arts.
- (5) An appointed Board member holds office on a part-time basis.
- (6) An appointed Board member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901*.

- (7) A person must not be appointed as an appointed Board member for a period if the sum of the following exceeds 9 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as an appointed Board member.

18 Acting Board members

Acting by operation of law

- (1) The Deputy Chair is to act as the Chair:

Section 18

- (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:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

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

Acting appointments

- (2) The Minister may, by written instrument, appoint an appointed Board member to act as the Deputy Chair:
 - (a) during a vacancy in the office of Deputy Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Deputy Chair:
 - (i) is acting as the Chair; or
 - (ii) is absent from duty; or
 - (iii) is, for any reason, unable to perform the duties of the office.

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

- (3) The Minister may, by written instrument, appoint a person to act as an appointed Board member (other than the Chair or the Deputy Chair):
 - (a) during a vacancy in the office of an appointed Board member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when an appointed Board member:
 - (i) is acting as the Deputy Chair; or
 - (ii) is absent from duty; or
 - (iii) is, for any reason, unable to perform the duties of the office.

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

Qualifications etc. of acting Board members

- (4) Subsections 17(3) and (4) apply to an appointment under this section in the same way as they apply to an appointment under section 17.

19 Remuneration

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

20 Leave

- (1) The Minister may grant the Chair leave of absence on the terms and conditions that the Minister determines.
- (2) The Chair may grant leave of absence to any other appointed Board member on the terms and conditions that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants an appointed Board member leave of absence for a period that exceeds 6 months.

21 Resignation

- (1) An appointed Board member may resign his or her appointment by giving the Minister a written resignation.

Section 22

- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

22 Termination

- (1) The Minister may terminate the appointment of an appointed Board member:
- (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity.
- (2) The Minister must terminate the appointment of an appointed Board member if:
- (a) the 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
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member fails, without reasonable excuse, to comply with an obligation imposed on him or her by section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or
 - (c) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board.

23 Other terms and conditions

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

Division 3—Procedures of the Board

24 Convening of meetings

- (1) The Chair must convene such meetings of the Board as are, in his or her opinion, necessary for the efficient conduct of its affairs.
- (2) The Chair must convene at least 4 meetings of the Board each calendar year.
- (3) The Chair must convene a meeting of the Board if directed to do so by the Minister.
- (4) The Chair must, on receipt of a written request signed by a majority of the current appointed Board members, convene a meeting of the Board.
- (5) If a direction or request under subsection (3) or (4) is in writing, the direction or request is not a legislative instrument.

25 Quorum

- (1) The quorum for a meeting of the Board is a majority of the current appointed Board members.
- (2) However, if:
 - (a) an appointed Board member is required by section 27J of the *Commonwealth Authorities and Companies Act 1997* not to be present during the deliberations, or to take part in any decision, of the Board with respect to a particular matter; and
 - (b) when the appointed Board member leaves the meeting concerned there is no longer a quorum present;then those remaining appointed Board members constitute a quorum for the purposes of any deliberation or decision at that meeting with respect to that matter.

26 Presiding at meetings

- (1) The Chair must preside at all meetings of the Board at which he or she is present.
-

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- (2) If the Chair is not present at a meeting of the Board, the Deputy Chair, if present, must preside at the meeting.
- (3) If neither the Chair nor the Deputy Chair is present at a meeting of the Board, the appointed Board members present must elect one of their number to preside at the meeting.

27 Voting at meetings

- (1) At a meeting of the Board, a question is decided by a majority of the votes of appointed Board members present and voting.
- (2) The Board member presiding at the meeting has:
 - (a) a deliberative vote; and
 - (b) in the event of an equality of votes, a casting vote.

28 Minutes

The Board must keep minutes of its meetings.

29 Conduct of meetings

Subject to this Act and the *Commonwealth Authorities and Companies Act 1997*, the Board may regulate the conduct of its meetings as it thinks fit.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which Board members may participate in meetings.

30 Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the current appointed Board members entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
 - (c) all the current appointed Board members were informed of the proposed decision, or reasonable efforts were made to

inform all the current appointed Board members of the proposed decision.

- (2) Subsection (1) does not apply unless the Board:
 - (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which appointed Board members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), an appointed Board member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

Part 4—Committees

31 Committees

- (1) The Board may establish committees to advise or assist in the performance of the Council's functions or the Board's functions.
- (1A) If the terms of reference of a committee include providing advice, or making recommendations, about policy, or the provision of financial assistance or guarantees, in relation to the arts (or any of the arts), the Board must ensure that the members of the committee include at least one person who has relevant experience in the arts.
- (2) A committee may be constituted:
 - (a) wholly by Board members; or
 - (b) wholly by persons who are not Board members; or
 - (c) partly by Board members and partly by other persons.
- (3) The Board may determine, in relation to a committee established under this section:
 - (a) the committee's terms of reference; and
 - (b) the terms and conditions of appointment of the members of the committee; and
 - (c) the procedures to be followed by the committee.
- (4) The Board may give directions to a committee in relation to the advice or assistance that the committee is to provide to the Board. The committee must comply with those directions.
- (5) If a direction given to a committee under subsection (4) is in writing, the direction is not a legislative instrument.

32 Remuneration and allowances

- (1) This section applies if a committee is established under section 31.
- (2) A committee member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of

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that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the rules.

- (3) A committee member is to be paid the allowances that are prescribed by the rules.
- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Part 5—CEO, staff and consultants

Division 1—Chief Executive Officer

33 Establishment

There is to be a Chief Executive Officer of the Council.

34 Role

- (1) The CEO is responsible for the day-to-day administration of the Council.

Note: The CEO is also a member of the Board (see section 16), but is not entitled to vote at meetings of the Board (see section 27 and the definition of *appointed Board member* in section 4).

- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.
- (3) The CEO is to act in accordance with any policies determined, and any directions given, by the Board.
- (4) All acts and things done in the name of, or on behalf of, the Council by the CEO, or with the authority of the CEO, are taken to have been done by the Council.
- (5) If a function or power of the Council is dependent on the opinion, belief or state of mind of the Council in relation to a matter, the function or power may be performed or exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (4) in relation to that matter.
- (6) If a policy or direction under subsection (3) is in writing, the policy or direction is not a legislative instrument.

35 Appointment

- (1) The CEO is to be appointed by the Board after consultation with the Minister.

- (2) An appointment is to be by written instrument.
- (3) The CEO holds office on a full-time basis.
- (4) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901*.

36 Acting CEO

The Board may, after consultation with the Minister, appoint a person to act as the CEO:

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

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

37 Other employment

- (1) The CEO must not engage in paid employment outside the duties of the CEO's office without the Chair's approval.
- (2) The Chair must notify the Minister of any approval given under subsection (1).

38 Remuneration

- (1) The CEO 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 CEO is to be paid the remuneration that is prescribed by the rules.
- (2) The CEO is to be paid the allowances that are prescribed by the rules.

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

39 Leave

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Chair may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants the CEO leave for a period that exceeds one month.

40 Resignation

- (1) The CEO may resign his or her appointment by giving the Chair a written resignation.
- (2) The resignation takes effect on the day it is received by the Chair or, if a later day is specified in the resignation, on that later day.
- (3) If the CEO resigns under this section, the Chair must notify the Minister of the resignation.

41 Termination

- (1) The Board may terminate the appointment of the CEO:
- (a) for misbehaviour; or
 - (b) if the CEO is unable to perform the duties of his or her office because of physical or mental incapacity; or
 - (c) if the Board is satisfied that the performance of the CEO has been unsatisfactory for a significant period; or
 - (d) if the CEO:
 - (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
 - (e) if the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (f) if the CEO fails, without reasonable excuse, to comply with an obligation imposed on him or her by section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or
 - (g) if the CEO engages, except with the Chair's approval, in paid employment outside the duties of his or her office.
- (2) If the Board terminates the appointment of the CEO, the Board must notify the Minister of the termination.

42 Other terms and conditions

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

Division 2—Staff and consultants

43 Staff

- (1) The Council may employ such persons as it considers necessary for the performance of its functions and the exercise of its powers.
- (2) An employee is to be employed on the terms and conditions that the Council determines in writing.

44 Consultants

The Council may engage consultants to assist in the performance of its functions.

Part 6—Planning

45 Corporate plan

- (1) The Board must prepare a corporate plan for the Council at least once a year.
- (2) The plan must cover a period of at least 3 years.
- (3) The plan must include details of the following matters:
 - (a) a statement of the objectives that the Council will pursue;
 - (b) the strategies and policies that the Council will adopt to achieve those objectives;
 - (c) performance indicators for the assessment of the Council's performance of its functions;
 - (d) the investment and financing programs of the Council, including strategies for managing financial risk;
 - (e) the financial targets and projections for the Council;
 - (f) an analysis of factors likely to affect achievement of targets or create significant financial risk for the Council or for the Commonwealth;
 - (g) a review of the Council's performance since the start of the year previous to the year in which the plan is prepared, measured against the most recent plan for any part of that period;
 - (h) such other matters (if any) as the Minister directs.

The plan may include other matters.

- (4) If a direction under paragraph (3)(h) is in writing, the direction is not a legislative instrument.
- (5) The Board may vary the plan.

Endorsement by Minister

- (6) The plan, or a variation of the plan, does not take effect unless it has been endorsed by the Minister.

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- (7) If an endorsement under subsection (6) is in writing, the endorsement is not a legislative instrument.

Part 7—Finance

46 Money payable to the Council

- (1) There is payable to the Council such money as is appropriated by the Parliament for the purposes of the Council.
- (2) The Finance Minister may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the Council.
- (3) If a direction under subsection (2) is given in writing, the direction is not a legislative instrument.

47 Application of money by the Council

- (1) The money of the Council is to be applied only:
 - (a) in payment or discharge of the costs, expenses and other obligations incurred or undertaken by the Council in the performance of its functions and the exercise of its powers; and
 - (b) in payment of any remuneration or allowances payable under this Act.

Note: Subsection (1) is subject to subsection 10(3) (which deals with property held by the Council on trust, or accepted by the Council subject to a condition).

- (2) Subsection (1) does not prevent investment of surplus money of the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

48 Restrictions on financial transactions

- (1) The Council must not, without the written approval of the Minister:
 - (a) acquire any property, right or privilege for a consideration exceeding in amount or value the amount prescribed by the rules for the purposes of this paragraph; or

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- (b) dispose of any property, right or privilege if the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds the amount prescribed by the rules for the purposes of this paragraph; or
 - (c) enter into a contract for the construction of a building for the Council, being a contract under which the Council is to pay an amount exceeding the amount prescribed by the rules for the purposes of this paragraph; or
 - (d) enter into a lease of land for a period exceeding 10 years.
- (2) Paragraphs (1)(a) and (b) do not apply to:
- (a) transactions in the course of the exercise of the Council's powers under paragraph 10(2)(g) or (h); or
 - (b) the investment of money by the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (3) The Council must not borrow money from any person.
- (4) Nothing in subsection (3) affects the Corporation's ability to obtain goods or services on credit in accordance with section 28A of the *Commonwealth Authorities and Companies Act 1997*.
- (5) An approval under subsection (1) is not a legislative instrument.

49 Investment

- (1) The Council may invest money, under paragraph 10(2)(g), in the course of the direct performance of its functions. The Council may also invest surplus money under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

Note: Paragraph 10(2)(g) gives the Council power to make investments, but only as a means of providing financial assistance. It does not give the Council a general power to make investments.

- (2) The Council must not invest money otherwise than as mentioned in subsection (1).

50 Taxation

The Council is not subject to taxation under any law of the Commonwealth or of a State or Territory.

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Note: Despite this section, the Council may be subject to taxation under certain laws (see, for example, section 177-5 of the *A New Tax System (Goods and Services Tax) Act 1999* and section 66 of the *Fringe Benefits Tax Assessment Act 1986*).

Part 8—Other matters

51 Extra reporting requirements

- (1) The annual report on the Council under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:
 - (a) the text of any directions given under any of the following provisions during the year to which the report relates:
 - (i) subsection 12(1);
 - (ii) subsection 24(3);
 - (iii) paragraph 45(3)(h); and
 - (b) details of any guarantees given by the Council during the year to which the report relates.
- (2) The Minister must cause any report or financial statements that the Board gives the Minister under paragraph 16(1)(b) of the *Commonwealth Authorities and Companies Act 1997* to be tabled in each House of the Parliament as soon as practicable.

52 Rules

The Minister may, by legislative instrument, make rules prescribing matters:

- (a) required or permitted by this Act to be prescribed by the rules; 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 20 March 2013
Senate on 17 June 2013]*

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