

# Australian Food Industry Science Centre Bill

No.

## TABLE OF PROVISIONS

*Clause*

### PART 1—PRELIMINARY

1. Purpose
2. Commencement
3. Definitions
4. Objectives of this Act

### PART 2—THE AUSTRALIAN FOOD INDUSTRY SCIENCE CENTRE

5. Establishment of Centre
6. Functions of the Centre
7. Powers of the Centre
8. Directions
9. Delegation
10. Board of directors
11. Appointment of directors
12. Terms and conditions of appointment
13. Vacancies, resignations, removal from office
14. Office of director is not office of profit
15. Immunity
16. Validity of acts or decisions
17. Pecuniary interests of directors
18. Proceedings of the Board
19. Resolutions without meetings
20. Improper use of information
21. Chief executive officer and other staff
22. Advisory committees
23. Borrowing and investment powers
24. Australian Food Industry Science Centre Fund
25. Corporate plan

### PART 3—GENERAL

26. Appointed day
27. Centre land
28. No compensation payable by Crown
29. Supreme Court limitation of jurisdiction
30. Transitional

**SCHEDULE**  
**Centre land**

LEGISLATIVE ASSEMBLY

---

Read 1° 12 April 1995

*(Brought in by Mr McGrath (Wimmera) and Mr McNamara)*

A BILL

to establish the Australian Food Industry Science Centre and for other purposes.

**Australian Food Industry Science  
Centre Act 1995**

The Parliament of Victoria enacts as follows:

**PART 1—PRELIMINARY**

***1. Purpose***

5

The purpose of this Act is to establish the Australian Food Industry Science Centre.

***2. Commencement***

- (1) Part 1 comes into operation on the day on which this Act receives the Royal Assent.

---

Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984.**)

- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 51

### 3. *Definitions*

In this Act— 10

“**appointed day**” means the day appointed under section 26;

“**Board**” means the board of directors of the Centre;

“**Centre**” means the Australian Food Industry Science Centre; 15

“**Centre land**” means the land shown cross-hatched on the plan in the Schedule;

“**director**” means a director of the Board;

“**experimental development**” means systematic work directed to producing new or improved products or processes by using existing knowledge gained from research or practical experience; 20

“**innovation**” means—

(a) a new or improved product or method of production; and 25

(b) the process by which a new or improved product or method of production is developed;

“**research**” means— 30

(a) experimental and theoretical work undertaken to acquire knowledge directed towards specific broad areas in the expectation of useful discoveries; and

- (b) original work undertaken to acquire knowledge directed towards a specific application.

#### **4. Objectives of this Act**

The objectives of this Act are—

- (a) to establish a Centre of excellence in food research and technology for the Australian food industry;
- (b) to facilitate the delivery of high quality education and training programs that meet the needs of the Australian food industry for skilled technical and research personnel;
- (c) to foster the development and growth of the Australian food industry.

### **PART 2—THE AUSTRALIAN FOOD INDUSTRY SCIENCE CENTRE**

#### **5. Establishment of Centre**

- (1) There is established by this Act a public authority by the name of the Australian Food Industry Science Centre.
- (2) The Centre—
  - (a) is a body corporate with perpetual succession;
  - (b) is not to be deemed to represent the Crown in right of the State of Victoria;
  - (c) must have a common seal;
  - (d) may sue and be sued in its corporate name;
  - (e) is, subject to this Act, capable of taking, purchasing, leasing, holding, selling and disposing of real and personal property for the purpose of performing its functions and exercising its powers under this Act;
  - (f) is capable of doing and suffering all such acts and things as bodies corporate may by law do and suffer and which are necessary or expedient

for the purpose of performing its functions and exercising its powers under this Act.

- (3) The common seal of the Centre must be kept in such custody as the Centre directs and must not be used except as authorised by the Board. 5
- (4) All courts and persons acting judicially must take judicial notice of the seal of the Centre fixed to a document and must presume that it is duly affixed.

## **6. *Functions of the Centre***

- (1) The functions of the Centre are to— 10
- (a) conduct research, experimental development and innovation intended for commercial application in connection with the production, manufacturing, preservation, packaging, processing, nutritional value, marketing, sale or export of food or its constituent raw materials; 15
- (b) encourage or facilitate persons or bodies to engage in activities specified in paragraph (a);
- (c) provide on a commercial basis to persons or bodies engaging in activities specified in paragraph (a) the use of staff and services or access to laboratories and other facilities of the Centre; 20
- (d) assist in the establishment and conduct of education and training programs in science, technology and other related areas in co-operation with any educational institution; 25
- (e) enter into agreements and arrangements in respect of education and training programs specified in paragraph (d), including agreements and arrangements relating to the joint supervision of students, the use of and access to staff and facilities of the Centre and the commercial application of research conducted by students; 30 35

- 5
- 10
- 15
- 20
- (f) establish and award fellowships and studentships in connection with activities or programs referred to in paragraph (a), (b) or (d);
  - (g) develop co-operative relationships with corporations, educational institutions and research organisations operating within or outside Australia in connection with activities or programs referred to in paragraph (a), (b) or (d);
  - (h) conduct or host seminars, conferences or courses in connection with activities or programs referred to in paragraph (a), (b) or (d);
  - (i) control and manage the Centre land;
  - (j) undertake any other activity specified in the corporate plan approved under section 25.
- (2) Subject to sub-section (3), the Board may determine which of the functions specified in sub-section (1) the Centre is to perform at any time and the priority in which the functions are to be performed.
- (3) The corporate plan may specify which of the functions specified in sub-section (1) the Centre is to perform in the current year and the priority in which the functions are to be performed.

### ***7. Powers of the Centre***

- 25
- 30
- 35
- (1) Subject to this Act, the Centre has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
  - (2) Without limiting the generality of sub-section (1), the Centre has the power to—
    - (a) in consultation and with prior written approval of the Minister, to participate in the formation of a body corporate, association, partnership, trust or other body or enter into a joint venture with another person or persons;
    - (b) engage consultants;
    - (c) charge fees for the provision of services or the use of facilities;

- (d) accept, hold in trust and invest money or other property given, devised, bequeathed, assigned or otherwise made available to the Centre;
  - (e) apply for, obtain and hold intellectual property rights (including patents, copyrights, trade marks and registered designs); 5
  - (f) enter into agreements or arrangements for the use or commercial exploitation within or outside Victoria of those intellectual property rights and ancillary services on any terms or conditions as to royalties, lump sum payments or otherwise as the Centre may see fit; 10
  - (g) with the approval of the Minister, grant a lease of any part of the Centre land despite anything to the contrary in the **Crown Land (Reserves) Act 1978**; 15
  - (h) grant licences or permits to enter and use any part of the Centre land or any buildings or facilities on the Centre land.
- 8. Directions** 20
- (1) In the performance of its functions, the Centre is subject to the general direction and control of the Minister.
  - (2) The Minister may give specific written directions in relation to a matter or class of matters specified in the directions. 25
  - (3) As soon as possible after giving a direction in writing to the Centre, the Minister must cause a copy of the direction to be published in the Government Gazette.
  - (4) The Centre must include in its annual report under the **Financial Management Act 1994** a copy of each direction given to it in writing by the Minister during the year to which the report relates. 30



### **9. Delegation**

5           The Centre may by an instrument of delegation under its common seal delegate to a director or the chief executive officer any function or power of the Centre under this Act, other than this power of delegation.

### **10. Board of directors**

- 10           (1) There is to be a board of directors of the Centre consisting of not less than 6 and not more than 11 directors as the Minister determines.
- (2) The Board—
- (a) is responsible for the management of the affairs of the Centre;
  - (b) may exercise the powers of the Centre.

### **11. Appointment of directors**

- 15           (1) The directors are to be appointed by the Governor in Council on the nomination of the Minister after consultation with the Minister administering the **Tertiary Education Act 1993** and the Minister administering the **Employment and Training Act 1981**.
- 20           (2) In making the nominations the Minister must have regard to the need to appoint directors having expertise in one or more of the following:
- 25           (a) research and development in connection with the food industry;
  - (b) food processing;
  - (c) food production;
  - (d) management or business administration;
  - (e) public administration;

30           (f) post-graduate education.
- (3) The Governor in Council must appoint one of the directors to be the Chairperson of the Board.

**12. Terms and conditions of appointment**

- (1) Subject to this Act, a director is to be appointed for a term not exceeding 3 years as is specified in the instrument of appointment.
- (2) A director is eligible for re-appointment. 5
- (3) Subject to this Act, a director holds office on such terms and conditions (including as to payment of allowances and expenses) as are specified in the instrument of appointment.
- (4) The **Public Sector Management Act 1992** (except Part 9 or in accordance with Part 8) does not apply to a director in respect of the office of director. 10

**13. Vacancies, resignations, removal from office**

- (1) The office of a director becomes vacant if the director— 15
- (a) becomes bankrupt; or
- (b) is convicted of an indictable offence or of an offence that, if committed in Victoria, would be an indictable offence; or
- (c) is absent from 3 consecutive meetings of the Board without the approval of the Board. 20
- (2) A director may resign in writing delivered to the Governor in Council.
- (3) The Governor in Council may remove a director from office if the director— 25
- (a) becomes incapable of performing his or her duties; or
- (b) is negligent in the performance of those duties; or
- (c) engages in improper conduct; or 30
- (d) fails to disclose a pecuniary interest as required by section 17; or
- (e) is convicted of an offence against this Act. 35
- (4) The Governor in Council may suspend a director from office.

**14. *Office of director is not office of profit***

A director is not to be taken by reason of being a director to hold an office or place of profit under the Crown which would—

- 5
- (a) prevent the director sitting or voting as a member of the Legislative Council or Legislative Assembly; or
  - (b) make void the director's election to the Legislative Council or Legislative Assembly; or
  - 10 (c) prevent the director continuing to be a member of the Legislative Council or Legislative Assembly; or
  - (d) subject the director to liability to a penalty under the **Constitution Act 1975**.

15 **15. *Immunity***

(1) A director is not personally liable for anything necessarily or reasonably done or omitted to be done in good faith—

- 20
- (a) in the exercise of a power or the performance of a function under this Act; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function under this Act.

25 (2) Any liability resulting from an act or omission that, but for sub-section (1), would attach to a director, attaches instead to the Centre.

**16. *Validity of acts or decisions***

An act or decision of the Centre is not invalid by reason only of—

- 30
- (a) any vacancy in the office of a director; or
  - (b) any defect or irregularity in or in connection with the appointment of a director.

**17. *Pecuniary interests of directors***

- (1) A director who has a pecuniary interest in a matter being considered or about to be considered by the Board must as soon as practical after the relevant facts have come to the director's knowledge declare the nature of that interest at a meeting of the Board. 5
- (2) The Chairperson of a meeting at which a declaration is made under this section must cause a record of the declaration to be made in the minutes of the meeting.
- (3) Unless the Board otherwise resolves, a director who has made a declaration under sub-section (1) must not be present during any deliberation with respect to, or vote on, the matter in respect of which the declaration is made. 10

**18. *Proceedings of the Board*** 15

- (1) Subject to sub-section (2), meetings of the Board are to be held at such times and places as the Board determines.
- (2) The Board must meet at least 6 times each year.
- (3) The Chairperson of the Board, or in his or her absence, a director appointed by the directors present at a meeting must preside at the meeting. 20
- (4) A majority of the directors constitutes a quorum of the Board.
- (5) A question arising at a meeting of the Board must be determined by a majority of votes of directors present and voting on the question. 25
- (6) If voting is equal, the director presiding has a casting, as well as a deliberative vote.
- (7) Subject to this Act, the Board may regulate its own proceedings. 30

**19. Resolutions without meetings**

- 5 (1) If the directors for the time being (other than a director who is absent from Australia when the other directors sign) sign a document containing a statement that those directors are in favour of a resolution in terms set out in the document, a resolution in those terms is to be taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director to sign signs the document.
- 10
- (2) If a resolution is, under sub-section (1), taken to have been passed at a meeting of the Board, each director must be advised as soon as practicable and given a copy of the terms of the resolution.
- 15
- (3) For the purposes of sub-section (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, is to be taken to constitute one document.
- 20

**20. Improper use of information**

25 A person who is, or has been, a director, officer or employee of the Centre must not make improper use of any information acquired in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 50 penalty units.

**21. Chief executive officer and other staff**

- 30 (1) The Board must appoint a chief executive officer of the Centre.
- (2) The term of office of the chief executive officer is the term (not exceeding 5 years) specified in the instrument of appointment, and the chief executive officer is eligible for re-appointment.
- 35

- (3) Subject to this section, the terms and conditions of appointment of the chief executive officer are to be set by the Board.
- (4) The chief executive officer may engage such other officers and employees as are necessary for the performance of the functions of the Centre. 5
- (5) The terms and conditions of appointment or employment are as determined by the Board.

## **22. *Advisory committees***

- (1) The Board may establish one or more advisory committees. 10
- (2) An advisory committee may consist of—
  - (a) directors; or
  - (b) co-opted members; or
  - (c) both directors and co-opted members. 15
- (3) The Board may by instrument of delegation delegate any of its functions or powers, other than this power of delegation, to a member of a committee.

## **23. *Borrowing and investment powers***

- (1) The Centre has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**. 20
- (2) At the end of Schedule 1 of the **Borrowing and Investment Powers Act 1987** insert—
  - “36. Australian Food Industry 5, 6, 8, 10, 12, 14,  
Science Centre 20, 20A and 21”. 25

## **24. *Australian Food Industry Science Centre Fund***

- (1) The Centre must maintain a Fund to be called the Australian Food Industry Science Centre Fund. |
- (2) There is to be paid into the Fund all money received by or paid to the Centre. 30

- (3) Money in the Fund may be applied only in payment or discharge of the debts or liabilities of the Centre or in connection with the performance of the functions and exercise of the powers of the Centre.

5        **25. Corporate plan**

- (1) The Board must prepare a corporate plan each year.
- (2) The Board must give a copy of the proposed corporate plan to the Minister on or before the date in each year that is determined by the Minister.

- 10        (3) The proposed corporate plan must—
- (a) be in a form approved by the Minister; and
- (b) include a statement of corporate intent, being information about—
- (i) corporate objectives;
- 15                   (ii) strategic directions;
- (iii) operational programs;
- (iv) accounting policies;
- (v) performance measures;
- (c) include financial statements containing the information required by the Minister;
- 20           (d) include any other matters that the Minister directs.

- 25        (4) The Board must consider any comments on the proposed corporate plan that are made to it by the Minister within 2 months after the corporate plan was submitted to the Minister.

- 30        (5) The Board must—
- (a) consult in good faith with the Minister following communication to it of the comments;
- (b) make such changes to the corporate plan as are agreed between the Minister and the Board;
- (c) deliver the completed corporate plan to the Minister within 3 months after the corporate plan was submitted to the Minister.

- (6) The corporate plan, or any part of the corporate plan, must not be published or made available except for the purposes of this Act without the prior approval of the Board and the Minister.
- (7) Except with the prior written approval of the Minister, the Board must not act in any manner that is contrary to the corporate plan. 5

### PART 3—GENERAL

#### 26. *Appointed day*

The Governor in Council may by notice in the Government Gazette appoint a day as the appointed day for the purposes of this Act. 10

#### 27. *Centre land*

- (1) On the appointed day the Order in Council dated 6 July 1927 and published in the Government Gazette dated 13 July 1927 at page 2142 and relating to land at Tarnait and Deutgam and reserved as a site for State Research Farm (Agricultural) is revoked to the extent that it applies to the land shown cross-hatched on the plan in the Schedule. 15 20
- (2) On the appointed day the Centre land is notwithstanding anything to the contrary in the **Crown Land (Reserves) Act 1978**—
- (a) deemed to be unalienated land of the Crown freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and 25
- (b) deemed to be temporarily reserved under section 4 (1) of the **Crown Land (Reserves) Act 1978** for public purposes being in particular the purposes of research and education. 30



28. *No compensation payable by Crown*

No compensation is payable by the Crown in respect of anything done under or arising out of section 27.

29. *Supreme Court—limitation of jurisdiction*

5 It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation in respect of anything done under or arising out of section 27.

10 30. *Transitional*

(1) On the appointed day—

15 (a) plant and equipment which is used by the Australian Food Research Institute and is designated by the Minister for the purposes of this section is by virtue of this Act vested in the Centre;

(b) intellectual property designated by the Minister for the purposes of this section is by virtue of this Act vested in the Centre;

20 (c) the Centre is by virtue of this section substituted as a party to any arrangement, agreement or contract to which the Australian Food Research Institute or a person acting on behalf of the Australian Food Research Institute was a party immediately before the appointed day;

25 (d) such liabilities as are determined by the Treasurer as relating to the operation of the Australian Food Research Institute (other than in respect of liability for superannuation, recreation leave and long service leave) immediately before the appointed day are by virtue of this Act liabilities of the Centre.

30 (2) On or after the appointed day any reference in any arrangement, agreement or contract to the Australian

s. 30

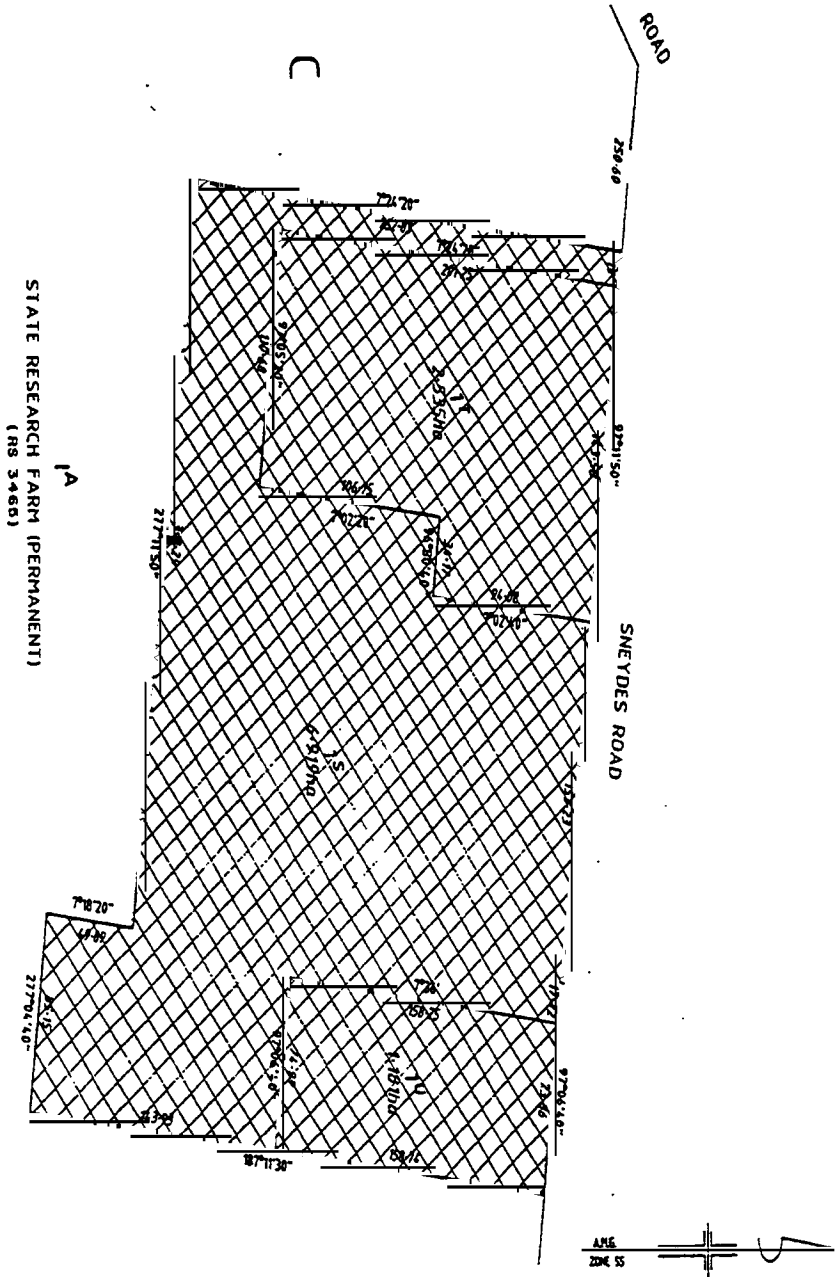
*Australian Food Industry Science Centre*

Food Research Institute is to be construed as a reference to the Australian Food Industry Science Centre.

---

SCHEDULE

Centre land



By Authority L. V. North, Government Printer Melbourne

