

Australian Food Industry Science Centre Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act which is to establish the Australian Food Industry Science Centre.

Clause 2 is the commencement provision. The preliminary formal provisions of the Act come into operation on Royal Assent, and the remaining provisions on a day or days to be proclaimed. Any provision which is to be proclaimed and which does not come into operation within 12 months from the date of Royal Assent, comes into operation on the first day after the end of that period.

Clause 3 defines various terms used in the Bill.

Clause 4 sets out the objectives of the Act.

PART 2—THE AUSTRALIAN FOOD INDUSTRY SCIENCE CENTRE

Clause 5 establishes the Australian Food Industry Science Centre as a public authority. The Centre is a body corporate with the usual powers. The Centre will not represent the Crown. The common seal of the Centre is to be kept as directed by the Centre and is not to be used except as authorised by the board of directors of the Centre. Courts are to take judicial notice of the seal.

Clause 6 sets out the functions of the Centre. The board of directors may determine which functions are to be performed and their order of priority, subject to any functions and priorities specified in the corporate plan prepared by the Board.

Clause 7 sets out the general and particular powers of the Centre. The Centre is to have the ability to grant a lease of any part of the Centre land subject to the approval of the Minister, and to grant licences or permits to enter and use any part of the Centre land, buildings or facilities.

Clause 8 provides that the Centre is subject to the general direction and control of the Minister. The Minister is able to give specific written directions to the Centre. The Centre is required to publish any such direction in the Government Gazette and to include a copy of the direction in its annual report.

Clause 9 enables the Centre to delegate its functions and powers to a director of the Centre or to the chief executive officer of the Centre.

Clause 10 provides that 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. The Board is responsible for the management of the affairs of the Centre and is empowered to exercise the powers of the Centre.

Clause 11 provides that the directors are to be appointed by 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. The Minister is to nominate the directors having regard to their expertise in specified areas. The Governor in Council is to appoint one of the directors to be the Chairperson of the Board.

Clause 12 provides that a director is to be appointed for not more than 3 years, is eligible for re-appointment and holds office on terms and conditions specified in the instrument of appointment. The **Public Sector Management Act 1992** (except for certain specified provisions) does not apply to a director.

Clause 13 sets out the circumstances in which the office of a director becomes vacant. It also provides that a director may resign from the Board and it enables the Governor in Council to remove or suspend a director from office.

Clause 14 provides that the office of director is not an office of profit.

Clause 15 provides that a director is not personally liable for things done or not done in good faith in exercising a power or performing a function under the Act. Any liability that would attach to a director attaches instead to the Centre.

Clause 16 provides that an act or decision of the Centre is not invalid by reason only of a vacancy in the office of a director or a defect or irregularity in the appointment of a director.

Clause 17 provides that a director who has a pecuniary interest in a matter considered by the Board is required to declare that interest at a meeting of the Board. A declaration is to be recorded in the minutes of the meeting. A director who has made a declaration must not be present during any relevant deliberation nor vote on the matter in respect of which the declaration is made, unless the Board otherwise resolves.

Clause 18 provides that meetings of the Board are to be held at times and places determined by the Board and at least 6 times each year. A meeting is to be presided over by the Chairperson, or in his or her absence, by a director appointed by the directors present. A majority of directors constitutes a quorum of the Board. A question arising at a meeting of the Board is to be determined by a majority of votes, and if voting is equal, the director presiding has a casting as well as a deliberative vote.

Clause 19 provides a mechanism to enable a resolution to be passed without a meeting of the Board. If the directors sign a document in favour of a particular resolution, then the resolution is to be taken to have been passed at a meeting of the Board.

Clause 20 prohibits a director or an officer or employee of the Centre from making improper use of information acquired in the course of duty to obtain any pecuniary or other advantage.

Clause 21 provides that the Board is to appoint a chief executive officer of the Centre for a period not exceeding 5 years, subject to terms and conditions of appointment set by the Board. The chief executive officer has the ability to engage other officers and employees as are necessary on terms and conditions determined by the Board.

Clause 22 enables the Board to establish advisory committees consisting of directors, co-opted members or both.

Clause 23 provides that the Centre has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**, and amends that Act for the purpose of conferring specified powers on the Centre.

Clause 24 requires the Centre to maintain a Fund into which is to be paid all money received by or paid to the Centre. Money in the Fund may be used only to pay debts and liabilities or in connection with the functions and powers of the Centre.

Clause 25 requires the Board to prepare a corporate plan each year and to give a copy of the proposed plan to the Minister. The Board must consider any comments made by the Minister, must consult with the Minister and must make such changes as are agreed between the Minister and the Board. The Board must not act in any manner contrary to the plan except with the prior written approval of the Minister.

PART 3—GENERAL

Clause 26 enables the Governor in Council to appoint a day to be the appointed day for the purposes of the Act.

Clause 27 provides that on the appointed day the reservation of specified land at Werribee is revoked to the extent that it applies to the Centre land as shown in the Schedule to the Bill. On the appointed day the Centre land is deemed to be unalienated land of the Crown and is deemed to be temporarily reserved for the purposes of research and education.

Clause 28 provides that no compensation is payable by the Crown in respect of anything done under or arising out of clause 27.

Clause 29 limits the jurisdiction of the Supreme Court to prevent the awarding of compensation as provided by clause 28.

Clause 30 contains transitional provisions in respect of plant and equipment, intellectual property and rights and liabilities.

Schedule. The Schedule specifies the land which is the “Centre land” for the purposes of the Act.

