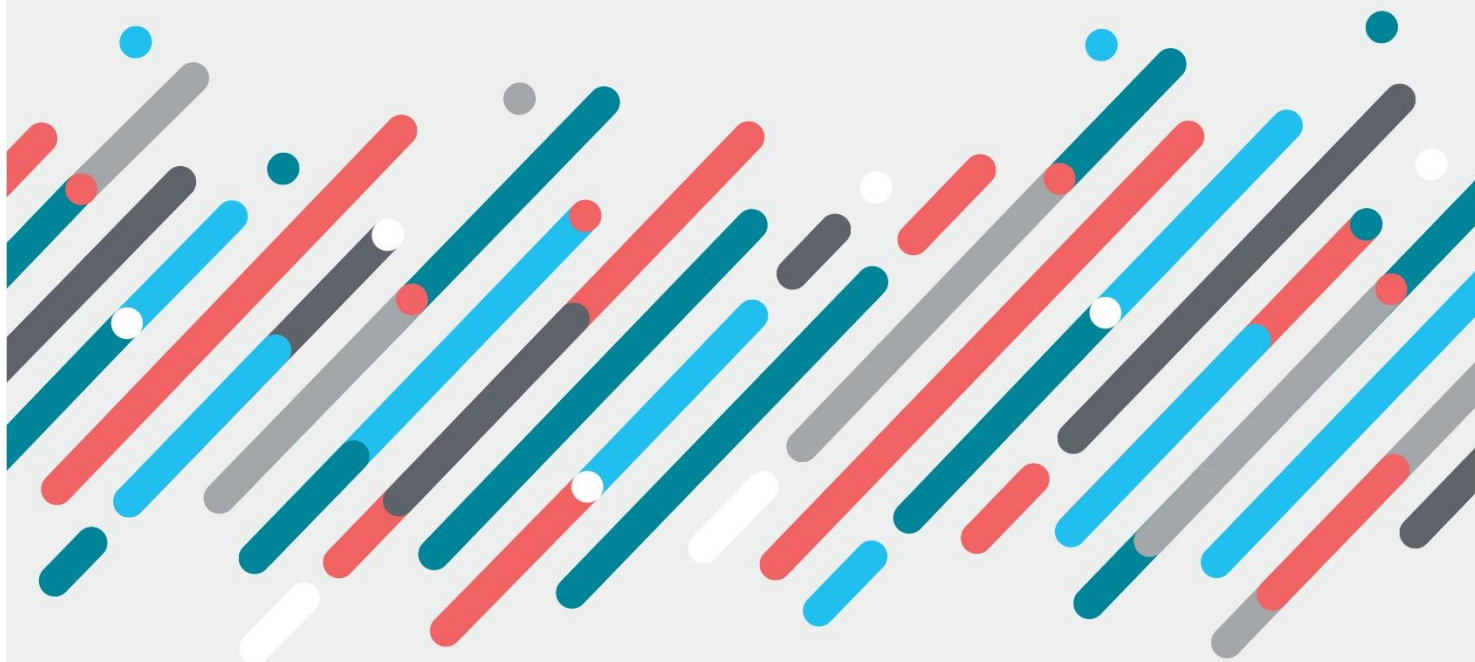




**Australian Government**  
**Department of Education**

# Australian Research Council Act 2001 – Proposed Amendments

Consultation Paper – October 2023





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## Purpose

This consultation paper sets out the proposed changes to the Australian Research Council's enabling legislation, the *Australian Research Council Act 2001* (ARC Act), as part of the Government's response to the recommendations from the independent Review of the *Australian Research Council Act 2001* (ARC Review).

Key higher education research stakeholders are invited to offer their comments on these proposed changes to support the drafting of amendments to the ARC Act prior to Government introducing a Bill to Parliament to affect legislative change.

Comments are limited to **no more than 1000 words** and should be sent by email to **ARCReview@education.gov.au** by **10am (AEDT) Monday 6 November 2023**.

## Context

On 22 August 2023, the Australian Government announced its response to the ARC Review. The Government agreed, or agreed in principle, to all 10 recommendations.

More information on the ARC Review and the Government's response is available at [www.education.gov.au/higher-education-reviews-and-consultations/review-australian-research-council-act-2001](http://www.education.gov.au/higher-education-reviews-and-consultations/review-australian-research-council-act-2001).

The ARC Review proposed major changes to the ARC Act to enhance the organisation's role, purpose, oversight and budgetary arrangements, so that it may best support Australia's dynamic research landscape.

These proposed changes to the ARC Act follow consultation with the Australian higher education research sector for the ARC Review. The ARC Review Panel released a consultation paper on 9 November 2022 and invited public submissions. Submissions closed on 14 December 2022. A total of 223 submissions from stakeholders were received in response to the consultation paper. The Review Panel also held targeted consultations with a range of stakeholders through meetings and focus groups.

The current ARC Act is available at [Australian Research Council Act 2001 \(legislation.gov.au\)](http://legislation.gov.au).

# Proposed amendments to the ARC Act

## Establishing a clear purpose for the ARC

The ARC Review recommended that the ARC Act be amended to provide a legislative basis for those functions through which the ARC actively shapes the research landscape over and above the impact of the administration of the National Competitive Grants Program (NCGP). These include:

- evaluation of the excellence, quality, and impact of research in Australian Universities
- evaluation of the depth and capability of researchers in Australian universities, within and across disciplines
- promoting and upholding research integrity
- promoting ethical conduct of research
- promoting accessibility of publications and research data
- promoting excellence, equity, and diversity in Australian universities
- supporting significant, long term research collaborations
- partnering with other Government agencies that use ARC systems and processes to deliver peer-reviewed and other research grant programs.

The Objects set out in section 3 of the ARC Act establish the ARC as a statutory Commonwealth entity with limited functions. As such, the ARC Review identified a need to establish a clear and contemporary overarching purpose for the ARC – one which clearly defines the role and mission of the organisation in terms of impact across Australia’s research system, as opposed to the current legislation that only highlights grant processing.

This will give the ARC an invigorated strategic mandate to underpin and shape the national research landscape, and drive innovation in the design of programs based on engagement with the research community. It will clarify and confirm a broadening of focus for the organisation – from grants management to impact on economic, social and community outcomes. It will also provide a clear mandate for engagement with researchers and the broader community of interest.

### Role and purpose

- The Government intends to amend the Objects of the ARC Act to establish the ARC to:
- a. promote and conduct activities to shape and foster the Australian research community for the benefit of the nation
  - b. administer funding of excellent pure basic research, strategic basic research, and applied research in all disciplines except medical research.

## Establishment of an ARC Board

Providing clear and empowered governance over the ARC will ensure the independence and integrity of the institution and its decision-making processes. Importantly, it will provide assurance to Government that there is day-to-day scrutiny of decisions and processes, and ensure that specific grant decisions are made by experts based on the peer review process, rather than by Ministers.

A strong, well managed ARC will ensure Australia's world-leading research continues to enhance our reputation as a leading nation in research through our commitment to independence and expertise in the management of investment in basic research.

At the centre of the ARC's peer review process is the appointed College of Experts, made up of highly qualified disciplinary experts with experience and judgement to determine funding recommendations of research proposals. The ARC's trusted peer review process will be upheld as the core process for determining successful outcomes in grant allocations, with the College of Experts providing advice to the ARC Board in achieving quality in research outcomes as part of the grant assessment process.

### ARC Board

The Government intends to amend the ARC Act to establish an ARC Board as the accountable authority responsible for the administration of the ARC.

The Board will have skills-based appointees and have the following functions vested to them:

- a. appoint and direct the Chief Executive Officer (CEO)
- b. operate as the accountable authority to the ARC
- c. provide advice to the Minister for Education on priorities, policies and strategies
- d. approve the appointment of Board committees, including the College of Experts
- e. approve spending on research programs, including for grants within the NCGP, except those specified in the ARC Act requiring approval by the Minister for Education
- f. report matters of national security in funding decisions to the Minister for Education
- g. other functions as requested by the Minister for Education.

The Board will be responsible for individual grant outcomes, with the Minister for Education approving funding rules, setting research priorities in consultation with the Minister for Industry and Science, and identification of key performance measures.

The Board members are significant appointments and will comprise:

- A Chair
- Deputy Chair
- 3 to 5 other members.

A First Nations representative will be appointed to the Board.

The Board will be supported by an ongoing ARC Advisory Committee, with expertise across research, industry, and governance.

## CEO appointment and role

Under section 34 of the ARC Act, the CEO is appointed by the Minister for Education. The ARC Review recommended that appointment of the CEO should become a function of the Board, due to the Board's familiarity with the needs of the organisation at any given point in time, and likelihood of the Board having detailed knowledge of potential applicants, their reputation and trajectory.

The CEO will remain responsible for managing the day-to-day operations of the ARC, including the administration of the ARC Research Endowment Account, and working with the Chair to give support to the Board and to give effect to their directions.

## CEO appointment

The Government intends to amend the ARC Act to devolve the appointment process for the CEO to the Board, in consultation with the Minister for Education and with Cabinet oversight, and consistent with the requirement to comply with the Government policy for the meritorious appointment of statutory office holders.

## Approval of funding rules

The Board will have responsibility for providing advice to the Minister for Education on funding rules (otherwise known as grant guidelines), with the Minister having authority to approve the rules. This will enable the implementation of priorities within the ARC allocations and grant assessment processes, including those identified through the Minister for Education's Statement of Expectations and reflecting ongoing consultation across government on emerging research needs.

It will support the setting of priorities to be promoted through grant allocations and, potentially, through setting specific challenges/missions for Australia's researchers to solve.

To further strengthen the integrity of the ARC grant allocation process, and to protect the system from unwarranted political interference in the future, the funding rules will be disallowable legislative instruments.

## Funding rules

The Government intends to amend the ARC Act to make the Board responsible for providing advice to the Minister for Education on the funding rules, and to subject the making of funding rules to disallowance, open to the scrutiny of Parliament as a regular element of managing the ARC funding.

## Approval of grants

The Board will have responsibility for approving ARC grants, with the exception of three identified key national programs focussed on priorities to build research capability. Grants in the following programs will be approved by the Minister for Education, in recognition of their role in creating research capability:

- ARC Centres of Excellence
- Industrial Transformation Training Centres
- Industrial Transformation Research Hubs.

In addition, under new ARC funding arrangements, the Minister for Education will have the ability to approve funding recommendations for nationally significant program investments outside of the NCGP process, when required. This will enable flexibility for Government to invest in specific research priorities and strengthen overall integrity of the system by drawing on the unique expertise within the College of Experts to help guide discrete strategic investment activity.

### Grant approval

The Government intends to amend the ARC Act to specify that the ARC Board will approve all research grants, with the Minister for Education retaining the ability to approve funding for nationally significant investments, in recognition of their role in creating research capability, rather than programs that award individual research grants.

## Funding arrangements

ARC funding arrangements will be reformed to enable greater funding flexibility and certainty. The ARC is currently funded through Special Appropriation with a funding cap requiring annual amendments to the ARC Act to apply indexation. The Minister for Education is also required to split funding for Discovery and Linkage programs within the NCGP.

The ARC Review recommended reducing legislative burden on the ARC by simplifying its appropriation arrangements through Annual Appropriation and repurposing the existing ARC Research Endowment Account to administer all research grants.

### Funding arrangement

The Government intends to amend the ARC Act by:

- a. updating the purpose of the ARC Research Endowment Account, currently in the ARC Act, to enable it to administer all administered funding for the ARC, including the NCGP and any nationally significant program investments outside of the NCGP
- b. replacing the Special Appropriation arrangements for ARC's administered funding to Annual Appropriation
- c. removing the requirement for the Minister for Education to split funding between different categories of research programs.

## National security reporting

The ARC Review recommended making the obligations of the ARC (Board and CEO) in relation to national security and the NCGP transparent. In addition, if the Minister for Education were to become aware of national security concerns in relation to a grant or proposal, the ARC Review recommended that the Minister may direct the ARC to not fund or to recover funds from grants made under the NCGP.

Australian universities hold a primary role in identifying national security risks associated with grant applications and research, which are subsequently assessed by the ARC. Funding rules and program documentation will clearly articulate university due diligence responsibilities.



## National security reporting

The Government intends to amend the ARC Act to provide for the Minister for Education to retain the right to direct the ARC to not fund or to recover funds from research grants based on national security concerns, including those identified by the National Intelligence Community agencies. If the Minister for Education intervenes in a grant decision outcome, the Minister will write to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) advising of the decision and offering a private briefing. If the Ministerial power to intervene on a grant at award or post award stage has been exercised, the ARC will report the use of that power and the number of occurrences in their annual reporting to Parliament.

Under the ARC's standard assessment process, due diligence will be undertaken based on the University Foreign Interference Taskforce (UFIT) Guidelines in consultation with the national security agencies, including the adoption of risk-based frameworks.