

Policy and Legislation

A GUIDE TO THE AUSTRALIAN BUREAU OF STATISTICS ACT 1975

2001/04

The main provisions of the ABS Act:

PART I - PRELIMINARY

Establish the ABS and the office of Statistician (section 5);

PART II - AUSTRALIAN BUREAU OF STATISTICS AND AUSTRALIAN STATISTICIAN

Prescribe the functions of the Bureau (section 6) viz the central statistical authority, coordination of statistics, standards setting, collaboration with State agencies and tabling of new collections.

Require each new proposal for the collection of information for statistical purposes to be laid before both Houses of Parliament (subsection 6(3)) unless the proposal is for the collection of information on a voluntary basis;

Prescribe the various conditions of the Statistician's appointment and employment (sections 7 to 15 inclusive);

Define the staff of the ABS (subsection 16(1));

Enable the Statistician to engage persons under certain terms and conditions (subsections 16(2), 16(2A) and 16(3));

Enable the Statistician to arrange for the secondment of a restricted range of person(s) to assist in the carrying out of the functions of the Statistician (section 16A);

Prescribe that for the purposes of the Public Service Act 1999; the Statistician and the APS employees assisting the Statistician together constitute a Statutory Agency; and the Statistician is the Head of that Statutory Agency (subsection 16(4)). Note: This subsection ensures that for the purposes of the Public Service Act, the Statistician has powers equivalent to a head of a Department of the Australian Public Service.

PART III - AUSTRALIAN STATISTICS ADVISORY COUNCIL

Establish the Australian Statistics Advisory Council (section 17);

Prescribe the functions of the Council (section 18);

Prescribe the membership of the Council and its operations (sections 19 to 22 inclusive).

PART IV - MISCELLANEOUS

Require both the ABS and ASAC to prepare annual reports.



Australian Bureau of Statistics Act 1975

Act No. 60 of 1975 as amended

This compilation was prepared on 3 November 2003
taking into account amendments up to Act No. 106 of 2003

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

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An Act to establish an Australian Bureau of Statistics and for related Purposes

Part I— Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Australian Bureau of Statistics Act 1975*.

2 Commencement [see Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretations

(1) In this Act, unless the contrary intention appears:

Bureau means the Australian Bureau of Statistics established by subsection 5(1).

Chairperson means the Chairperson of the Council holding office under subsection 19(2).

Council means the Australian Statistics Advisory Council established by section 17.

Member means a member of the Council.

Statistician means the Australian Statistician referred to in subsection 5(2).

(2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

4 Australian Statistician to have functions etc. of Commonwealth Statistician

(2) After the commencement of this Act:

(a) the Australian Statistician shall:

(i) have the functions, powers and duties expressed by any Act, or by any regulations or other instrument made under any Act, to be conferred or imposed on the Commonwealth Statistician; and

(ii) have the functions and powers expressed by a law of a Territory, or by any regulations or other instrument made under such a law, to be conferred on the Commonwealth Statistician; and

(b) a reference in any Act, in any law of a Territory, or in an instrument under any Act or law of a Territory, to the Commonwealth Statistician shall have effect as if the office of

Australian Statistician were a continuation of the office of the Commonwealth Statistician.

Part II— Australian Bureau of Statistics and Australian Statistician

5 Establishment of Bureau and office of Statistician

- (1) There is hereby established a Bureau to be known as the Australian Bureau of Statistics.
- (2) There shall be an Australian Statistician.
- (3) The Bureau shall consist of the Statistician and the staff referred to in subsection 16(1).
- (4) The Statistician shall control the operations of the Bureau and shall have such other functions, powers and duties as are conferred or imposed upon the Statistician by or under any Act and such other functions and powers as are conferred upon the Statistician by or under any law of a Territory.

6 Functions of Bureau

- (1) The functions of the Bureau are as follows:
 - (a) to constitute the central statistical authority for the Australian Government and, by arrangements with the Governments of the States, provide statistical services for those Governments;
 - (b) to collect, compile, analyse and disseminate statistics and related information;
 - (c) to ensure co-ordination of the operations of official bodies in the collection, compilation and dissemination of statistics and related information, with particular regard to:
 - (i) the avoidance of duplication in the collection by official bodies of information for statistical purposes;
 - (ii) the attainment of compatibility between, and the integration of, statistics compiled by official bodies; and
 - (iii) the maximum possible utilization, for statistical purposes, of information, and means of collection of information, available to official bodies;
 - (d) to formulate, and ensure compliance with, standards for the carrying out by official bodies of operations for statistical purposes;
 - (e) to provide advice and assistance to official bodies in relation to statistics; and
 - (f) to provide liaison between Australia, on the one hand, and other countries and international organizations, on the other hand, in relation to statistical matters.

(2) For the purpose of the performance of its functions and for the purpose of co-ordinating statistical activities and securing the observance of statistical standards, the Bureau may collaborate with bodies, being Departments and authorities of the States, the Administrations and authorities of the external Territories and local governing bodies, in the collection, compilation, analysis and dissemination of statistics, including statistics obtained from the records of those bodies.

(3) Subject to subsection (4), each new proposal for the collection of information for statistical purposes by the Bureau shall be laid before both Houses of the Parliament before its implementation, unless the proposal is for the collection of information on a voluntary basis.

(4) Where, in relation to a proposal to which subsection (3) is applicable, being a proposal for the collection of information relating to businesses, the Minister considers it necessary to commence implementation of the proposal at a time when it is not practicable to comply with subsection (3) the Minister may authorize the implementation of the proposal without compliance with that subsection but in such a case particulars of the nature of the information to which the authorization relates shall be laid before each House of the Parliament within 5 sitting days of that House after the giving of the authorization.

(5) For the purposes of this section:

(a) a reference to statistical purposes shall be read as including purposes in connexion with the collection, compilation, analysis and dissemination of statistics; and

(b) a reference to an official body shall be read as a reference to:

(i) an Agency within the meaning of the *Public Service Act 1999*; or

(ii) the holder of an office established for a public purpose by or under an Act or a law of an internal Territory; or

(iii) a body corporate, or other body, established for a public purpose by or under an Act or a law of an internal Territory other than such a body corporate, or other body, that is declared by the regulations not to be an official body for the purposes of this Act.

7 Appointment and tenure of office of Statistician

(1) The Statistician shall be appointed by the Governor-General and, subject to this Act, holds office for such period, not exceeding 7 years, as is specified in the instrument of his or her appointment but is eligible for re-appointment.

(3) The Statistician holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor- General.

8 Statistician not to undertake any other work

The Statistician shall not engage in paid employment outside the duties of his or her office except with the approval of the Minister.

9 Remuneration and allowances

(1) The Statistician shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the Statistician shall be paid such remuneration as is prescribed.

(2) The Statistician shall be paid such allowances as are prescribed.

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

10 Leave of absence

The Minister may grant leave of absence to the Statistician upon such terms and conditions as to remuneration or otherwise as the Minister determines.

11 Resignation

The Statistician may resign his or her office by writing signed by the Statistician and delivered to the Governor-General.

12 Removal from office

(1) The Governor-General may remove the Statistician from office on an address praying for his or her removal on the ground of misbehaviour or incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament.

(2) The Governor-General may suspend the Statistician from office on the ground of misbehaviour or incapacity.

(3) Where the Governor-General suspends the Statistician from office, the Minister shall cause a statement of the ground of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

(4) Where such a statement has been laid before a House of the Parliament, that House may, within 15 sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the Statistician should be removed from office and, if each House so passes such a resolution, the Governor-General shall remove the Statistician from office.

(5) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the suspension terminates.

(6) The suspension of the Statistician from office under this section does not affect any entitlement of the Statistician to be paid remuneration and allowances.

(7) If the Statistician becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, the Governor-General shall remove the Statistician from office.

(8) The Governor-General may, with the consent of the Statistician, retire the Statistician from office on the ground of incapacity.

(9) The Statistician shall not be removed or suspended from office except as provided by this section.

15 Acting appointments

(1) The Governor-General may appoint a person to act in the office of Statistician during any period, or during all periods, when the person holding the office is absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office or during a vacancy in that office, but a person so appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Governor-General may:

(a) determine the terms and conditions of appointment of a person appointed under this section; and

(b) at any time terminate such an appointment.

(3) Where a person is acting in the office of Statistician in pursuance of an appointment under this section otherwise than during a vacancy in that office and the office becomes vacant while that person is so acting, that person may continue to act in the office until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) Sections 10 and 11 apply in relation to a person appointed under this section in like manner as they apply in relation to the Statistician.

(5) While a person is acting in the office of Statistician in pursuance of an appointment under this section, the person has all the functions, powers and duties of the Statistician under this Act or any other law.

(6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for the appointment had not arisen or that the appointment had ceased to have effect.

16 Staff

(1) Subject to subsection (2), the staff required for the purposes of the Bureau shall be persons engaged under, or whose services are made available in accordance with arrangements made under, the *Public Service Act 1999*.

(2) Subject to subsection (2A), subsection (1) does not prevent the engaging, in accordance with regulations in force under the *Census and Statistics Act 1905*, of persons (including persons referred to in subsection (1)) to assist in the carrying out of the functions of the Statistician.

(2A) Persons referred to in subsection (1) may be engaged as mentioned in subsection (2) only in relation to:

- (a) the taking of the Census mentioned in the *Census and Statistics Act 1905* ; and
- (b) the collection of other statistics and related information.

(3) The terms and conditions of employment of persons engaged as mentioned in subsection (2) (including persons employed at the commencement of this Act) shall be such as are determined by the Statistician.

(4) For the purposes of the *Public Service Act 1999*:

- (a) the Statistician and the APS employees assisting the Statistician together constitute a Statutory Agency; and
- (b) the Statistician is the Head of that Statutory Agency.

16A Persons seconded to the Bureau

(1) The Statistician may arrange with:

- (a) a governmental agency or governmental authority; or
- (b) an international organisation of an intergovernmental character;

for the services of officers or employees of the agency, authority or organisation to be made available to assist in the carrying out of the functions of the Statistician.

(2) Subsection (1) applies to an agency, authority or organisation, whether in Australia or in a foreign country.

(3) Subsection (1) has effect in addition to, and not in substitution for, a provision of the *Public Service Act 1999* that provides for the making of arrangements under which a person performs services in the Bureau.

Note: Persons whose services are made available in accordance with arrangements made under the *Public Service Act 1999* are covered by subsection 16(1) of this Act.

Part III— Australian Statistics Advisory Council

17 Establishment of Council

There is hereby established a Council to be known as the Australian Statistics Advisory Council.

18 Functions of Council

- (1) The functions of the Council are to advise the Minister and the Statistician in relation to:
 - (a) the improvement, extension and co-ordination of statistical services provided for public purposes in Australia;
 - (b) annual and longer term priorities and programs of work that should be adopted in relation to major aspects of the provision of those statistical services; and
 - (c) any other matters relating generally to those statistical services.
- (2) Either the Minister or the Statistician, or both of them, may refer matters of the kind referred to in subsection (1) to the Council for the purpose of seeking the advice of the Council in relation to those matters.

19 Membership of Council

- (1) The Council shall consist of:
 - (a) the Chairperson;
 - (b) the Statistician; and
 - (c) such other members, being not less than 10 and not more than 22 in number, as the Minister determines.
- (2) The Chairperson and the members referred to in paragraph (1)(c) shall be appointed by the Minister as part-time members, and shall hold office, subject to this Act:
 - (a) in the case of the Chairperson—for a period of 5 years; and
 - (b) in the case of each other member—for such period, not exceeding 3 years, as is specified in his or her instrument of appointment;but are eligible for re-appointment.
- (3) If the Premier of a State or the Chief Minister of the Northern Territory nominates a person for appointment to the Council, the Minister shall appoint that person as one of the members referred to in paragraph (1)(c) unless the Council already includes a member appointed on the nomination of the Premier of that State or the Chief Minister of the Northern Territory, as the case may be.

20 Resignation and removal of members

- (1) A member may resign his or her office by writing signed by the member and delivered to the Minister.

(2) The Minister may remove a member from office for misbehaviour or physical or mental incapacity.

21 Remuneration of members

(1) A member of the Council shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the member shall be paid such remuneration as is prescribed.

(2) A member of the Council shall be paid such allowances as are prescribed.

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

22 Meetings

(1) The Council shall hold such meetings as are necessary for the performance of its functions, and shall meet at least once in every calendar year.

(2) The meetings of the Council may be convened by the Chairperson or by the Minister.

(3) At a meeting of the Council, a quorum is constituted by one-third of the members for the time being holding office.

(4) The Chairperson shall preside at all meetings of the Council at which the Chairperson is present.

(5) If the Chairperson is not present at a meeting of the Council, the members present shall elect one of their numbers to preside at the meeting.

(6) Questions arising at a meeting of the Council shall be determined by a majority of the votes of the members present and voting.

(7) The member presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Part IV— Miscellaneous

24 Annual reports

(1) The Statistician shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister, for presentation to the Parliament, a report on the operations of the Bureau during the period of 12 months that ended on that date.

(2) The Council shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister, for presentation to the Parliament, a report relating to matters connected with the operation of this Act.

(3) The Minister shall cause each of the reports referred to in subsections (1) and (2) to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

25 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Notes to the *Australian Bureau of Statistics Act 1975*

Note 1

The *Australian Bureau of Statistics Act 1975* as shown in this compilation comprises Act No. 60, 1975 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

The *Australian Bureau of Statistics Act 1975* was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations (1989 No. 3 as amended) *see* Table B.

Table of Acts

Act	Number and year	Date of Assent	Date of Commencement	Application, saving or transitional provisions
<i>Australian Bureau of Statistics Act 1975</i>	60, 1975	19 June 1975	3 May 1976 (<i>see Gazette</i> 1976, No. S23)	
<i>Census and Statistics Amendment Act 1977</i>	15, 1977	28 Feb 1977	28 Feb 1977 (<i>see s. 2</i>)	S. 9
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 151(1): 1 July 1984 (<i>see Gazette</i> 1984, No. S245) (<i>a</i>)	S. 151(9)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (<i>b</i>)	—
<i>Statute Law (Miscellaneous Provisions) Act 1987</i>	141, 1987	18 Dec 1987	S. 3: Royal Assent (<i>c</i>)	Ss. 5(1) and (5)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 18, 19): Royal Assent (<i>d</i>)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 113–116): 5 Dec 1999 (<i>see Gazette</i> 1999, No. S584) (<i>e</i>)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97) [<i>see Table A</i>]
<i>Statistics Legislation Amendment Act 2003</i>	106, 2003	21 Oct 2003	21 Oct 2003	—

(a) The *Australian Bureau of Statistics Act 1975* was amended by subsection 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:

(4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(b) The *Australian Bureau of Statistics Act 1975* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty- eighth day after the day on which it receives the Royal Assent.

(c) The *Australian Bureau of Statistics Act 1975* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(d) The *Australian Bureau of Statistics Act 1975* was amended by Schedule 4 (items 18, 19) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(e) The *Australian Bureau of Statistics Act 1975* was amended by Schedule 1 (items 113–116) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:

(1) In this Act, ***commencing time*** means the time when the *Public Service Act 1999* commences.

(2) Subject to this section, this Act commences at the commencing time.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
Part I	
Ss. 3, 4	am. No. 141, 1987
Part II	
S. 5	am. No. 141, 1987
S. 6	am. No. 141, 1987; No. 146, 1999
S. 7	am. No. 141, 1987; No. 159, 2001
S. 8	am. No. 141, 1987
S. 9	am. No. 141, 1987; No. 43, 1996
S. 11	rs. No. 141, 1987
S. 12	am. No. 141, 1987
S. 13	rep. No. 65, 1985
S. 14	rep. No. 141, 1987
S. 15	am. No. 15, 1977; No. 141, 1987
S. 16	am. No. 63, 1984; No. 141, 1987; No. 146, 1999; No. 106, 2003
S. 16A	ad. No. 106, 2003
Part III	
Ss. 19, 20	am. No. 141, 1987
S. 21	am. No. 141, 1987; No. 43, 1996
S. 22	am. No. 141, 1987
S. 23	rep. No. 141, 1987
Part IV	
S. 24	am. No. 141, 1987

Table A

Application, saving or transitional provisions

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001 (No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

Table B

Modifications

A.C.T. Self-Government (Consequential Provisions) Regulations as amended

Subsection 19(3):

- (a) after ‘Chief Minister’ (first occurring) insert ‘of the Australian Capital Territory or’;
- (b) omit ‘the Northern Territory’ (second occurring), substitute ‘ that Territory’.

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