



# **Tourism Australia Act 2004**

**No. 74, 2004**

## **Compilation No. 5**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Tourism Australia Act 2004* that shows the text of the law as amended and in force on 5 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to establish Tourism Australia, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Tourism Australia Act 2004*.

### 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 on which this Act receives the Royal Assent.	23 June 2004
2. Sections 3 to 64	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 July 2004 (s 2(1); <i>Gazette</i> 2004, GN26)
Note:	This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.	

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- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Definitions

In this Act, unless the contrary intention appears:

*appointed member* means a member other than the Managing Director.

*Australia*, when used in a geographical sense, includes the external Territories.

*Board* means the Board of Directors of Tourism Australia.

*Chair* means the Chair of the Board.

*Deputy Chair* means the Deputy Chair of the Board.

*Managing Director* means the Managing Director of Tourism Australia.

*member* means a member of the Board (including the Chair and Deputy Chair).

### 4 Extended geographical application of this Act

- (1) This Act extends to every external Territory.  
(2) This Act applies both within and outside Australia.

## **Part 2—Tourism Australia**

### **5 Establishment**

- (1) Tourism Australia is established by this section.
- (2) Tourism Australia:
  - (a) is a body corporate; and
  - (b) must have a seal; and
  - (c) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to Tourism Australia. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) The seal of Tourism Australia is to be kept in such custody as the Board directs, and is not to be used except as authorised by the Board.
- (4) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the imprint of the seal of Tourism Australia appearing on a document; and
  - (b) presume that the document was duly sealed.

### **6 Objects**

Tourism Australia's objects are:

- (a) to influence people to travel to Australia, including for events; and
- (b) to influence people travelling to Australia to also travel throughout Australia; and
- (c) to influence Australians to travel throughout Australia, including for events; and
- (d) to help foster a sustainable tourism industry in Australia; and
- (e) to help increase the economic benefits to Australia from tourism.

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**7 Functions**

- (1) Tourism Australia's functions are:
  - (a) to increase the awareness of potential international travellers of Australia as a destination; and
  - (b) to increase the awareness of potential domestic travellers of Australia as a place to travel; and
  - (c) to increase the knowledge of potential travellers, both international and domestic, of Australia; and
  - (d) to increase the desire of potential international travellers to travel to Australia; and
  - (e) to increase the desire of potential travellers, both international and domestic, to travel throughout Australia; and
  - (f) to conduct research into, and analysis of, international and domestic travel; and
  - (g) to report on trends in international and domestic travel; and
  - (h) to communicate effectively with the Australian tourism industry on issues that may affect it; and
  - (i) to increase awareness throughout Australia of the contribution of tourism to Australia's economy, society and environment.
- (2) In performing its functions, Tourism Australia must have regard to the needs of the Australian tourism industry and government.
- (3) Tourism Australia may perform its functions:
  - (a) in cooperation with the tourism industry; and
  - (b) in cooperation with Australian governments and agencies, and foreign governments.
- (4) Tourism Australia may perform its functions to the extent only that they are not in excess of the functions that may be conferred on it by virtue of any of the legislative powers of the Parliament, and, in particular, may perform its functions:
  - (a) for purposes related to external affairs; and

- (b) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; and
- (c) for purposes related to a Territory; and
- (d) by means of a communication using a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; and
- (e) for purposes related to the collection, compilation, analysis, use and dissemination of statistics; and
- (f) for purposes related to a corporation to which paragraph 51(xx) of the Constitution applies; and
- (g) for purposes related to lighthouses, lightships, beacons and buoys; and
- (h) for purposes related to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth; and
- (i) for purposes related to a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*; and
- (j) for purposes related to the executive power of the Commonwealth; and
- (k) for purposes related to money appropriated for the purposes of the Commonwealth; and
- (l) for purposes related to the granting of financial assistance to a State on such terms and conditions as the Parliament thinks fit; and
- (m) in so far as it is appropriate for those functions to be performed by Tourism Australia on behalf of the Government of the Commonwealth as the national Government of Australia; and
- (n) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise Tourism Australia to perform functions; and
- (o) by way of providing a service, if the provision of the service utilises Tourism Australia's spare capacity and does not

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impede Tourism Australia's capacity to perform its other functions.

**8 Powers**

- (1) Subject to subsection (3), Tourism Australia has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Tourism Australia's powers include, but are not limited to, the following powers:
  - (a) to enter into contracts, agreements or arrangements; and
  - (b) to establish offices; and
  - (c) to acquire, hold and dispose of real and personal property; and
  - (d) to lease the whole or any part of any land or building; and
  - (e) to occupy, use and control any land or building owned, or held under lease, by the Commonwealth and made available to Tourism Australia; and
  - (f) to arrange for the manufacture, and distribution (whether by sale or otherwise) of anything bearing a mark, symbol or writing associated with Tourism Australia; and
  - (g) to accept gifts, grants, bequests and devises made to it; and
  - (h) to act as trustee of money and other property vested in it on trust; and
  - (i) to enter into cooperative arrangements with other persons; and
  - (j) to appoint agents and attorneys, and act as an agent for other persons; and
  - (k) to obtain commercial sponsorship; and
  - (l) to charge for work done, services provided, and products and information supplied, by or on behalf of Tourism Australia; and
  - (m) to provide financial assistance; and
  - (n) to do such other things as it is authorised to do by or under this Act; and

- (o) to do anything incidental to any of its powers.
- (3) Tourism Australia must not carry on business as a travel agent.

## **Part 3—The Board of Directors of Tourism Australia**

### **Division 1—The Board**

#### **9 Establishment**

The Board of Directors of Tourism Australia is established by this section.

#### **10 Functions**

The Board has the following functions:

- (a) to ensure the proper and efficient performance of Tourism Australia's functions;
- (b) to determine Tourism Australia's policy in relation to any matter.

#### **11 Powers**

The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

#### **12 Membership**

The Board consists of the following members:

- (a) the Chair;
- (b) the Deputy Chair;
- (d) the Managing Director;
- (e) 6 other members.

Note: Section 18B of the *Acts Interpretation Act 1901* deals with the title of the Chair.

### **13 Appointing members**

- (1) The members of the Board (except the Managing Director) are to be appointed by the Minister by written instrument.
- (2) The appointment of a member is not invalid because of a defect or irregularity in connection with the appointment.

### **14 Qualifications for appointment**

The Minister may appoint a person as a member only if the Minister is satisfied that the person has high level expertise in one or more of the following areas:

- (a) international tourism;
- (b) domestic tourism;
- (c) corporate governance;
- (d) financial management;
- (e) marketing and promotion;
- (f) business;
- (g) investment strategies;
- (h) infrastructure in Australia that supports tourism, including events;
- (i) transport networks;
- (j) economic analysis;
- (k) current and emerging technologies;
- (l) regional development;
- (m) environmental management;
- (n) Australian indigenous tourism or culture.

### **15 Term and basis of appointment**

- (1) An appointed member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (3) An appointed member holds office on a part-time basis.

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## 16 Acting appointments

- (1) The Deputy Chair is to act as the Chair:
- (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 is absent from duty or from Australia, or 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*.

- (2) The Minister may appoint an appointed 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 is acting as the Chair, or is, for any reason, unable to attend meetings of the Board.

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

- (3) The Minister may appoint a person to act as an appointed member (other than as Chair or Deputy Chair):
- (a) during a vacancy in the office of an appointed member (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when a member is acting as the Deputy Chair, or is, for any reason, unable to attend meetings of the Board.

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

## 17 Members' remuneration and allowances

- (1) An appointed 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 appointed member is to be paid the remuneration that is prescribed.

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

## **18 Leave of absence**

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.
- (2) The Chair may grant leave of absence to any other appointed member on the terms and conditions that the Chair determines.

## **19 Resignation**

An appointed member may resign his or her appointment by giving the Minister a written resignation.

## **20 General provision for termination of appointment**

- (2) The Minister may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.
- (3) The Minister must terminate the appointment of an appointed member if:
  - (a) the appointed 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 appointed member is absent, except on leave of absence, from 3 consecutive meetings of the Board.

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Note: The appointment of an appointed member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

**20A Termination of appointment at instance of Board or for non-performance etc.**

- (1) The Minister may terminate the appointment of an appointed member if:
  - (a) the Board has resolved that the appointment of the appointed member be terminated; and
  - (b) the resolution was passed at a meeting of the Board convened for the purpose of considering a motion that the appointment of the appointed member be terminated; and
  - (c) the resolution was passed by not less than two-thirds of the members present, excluding the appointed member to whom the resolution relates.
- (2) The Minister may terminate the appointment of an appointed member if the Minister is satisfied:
  - (a) that it is not in the best interests of Tourism Australia that the appointed member continue in office; or
  - (b) that the performance of the appointed member has been unsatisfactory for a significant period.

**21 Other terms and conditions**

An appointed 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 in writing.

## **Division 2—Board procedures**

### **22 Convening meetings**

- (1) The Board must hold the meetings that are necessary for the efficient performance of its role.
- (2) Meetings are to be held at the times and places that the Board determines.
- (3) The Chair:
  - (a) may convene a meeting; and
  - (b) must convene a meeting if requested in writing by 3 or more other members.
- (4) The Minister may, at any time, convene a meeting of the Board.

### **23 Presiding at meetings**

- (1) The Chair must preside at all meetings at which he or she is present.
- (2) If the Chair is not present at a meeting but the Deputy Chair is present, the Deputy Chair must preside.
- (3) If neither the Chair nor the Deputy Chair is present at a meeting, the other members present must appoint one of their number (other than the Managing Director) to preside.

### **24 Quorum**

- (1) At a meeting of the Board a quorum is constituted by 5 members.
- (2) However, if:
  - (a) a member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the

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deliberations, or to take part in any decision, of the Board with respect to a particular matter; and

- (b) when the member leaves the meeting concerned there is no longer a quorum present;

those remaining members constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

**25 Voting at meetings**

- (1) A question arising at a meeting is to be determined by a majority of the votes of the members present and voting.
- (2) The person presiding at a meeting has:
  - (a) a deliberative vote; and
  - (b) if necessary, also a casting vote.

**26 Resolutions**

- (1) The Board may pass a resolution without a Board meeting being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (2) Separate copies of a document may be used for signing by the members if the wording of the resolution and statement is identical in each copy.
- (3) The resolution is passed when the last of the members signs.

**27 Other procedural matters**

- (1) Subject to this Part, the Board may regulate the conduct of proceedings at its meetings as it thinks fit.

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

- (2) The Board must:
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- (a) keep minutes of its meetings; and
- (b) keep a record of resolutions passed in accordance with section 26.

## Division 3—Advisory panels

### 28 Advisory panels

- (1) The Board may, in writing, establish advisory panels to assist with the performance of Tourism Australia's functions.

Note 1: The Board may, for example, establish advisory panels to assist with the performance of Tourism Australia's functions in relation to international tourism, domestic tourism, events and research.

Note 2: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (2) An advisory panel consists of such persons as the Board appoints to the panel in writing.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (3) The office of member of an advisory panel is not a public office within the meaning of the *Remuneration Tribunal Act 1973*.

### 29 Procedures of advisory panels etc.

An advisory panel may determine the way in which it is to carry out its task (including when and where it meets and procedures to be followed in relation to its meetings).

### 30 Disclosure of interests at meetings

- (1) A member of an advisory panel who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the panel must disclose the nature of the interest at a meeting of the panel as soon as possible after the relevant facts have come to the member's knowledge.
- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting of the panel.

- (3) The Board must terminate the appointment of a member of an advisory panel if the member fails, without reasonable excuse, to comply with subsection (1).

### **31 Resignation**

A member of an advisory panel may resign by giving the Board a written resignation.

### **32 Other terms and conditions**

A member of an advisory panel holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Board in writing with the Minister's written approval.

## **Part 4—Corporate planning and accountability**

### **Division 1—Corporate plan and annual operational plan**

#### **33 Corporate plan**

- (1) The Board must prepare a corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013* by 1 May each reporting period (within the meaning of that Act) or by such later day as the Minister in a particular reporting period allows.
- (4) In preparing a plan, the Board must consult:
  - (a) State and Territory tourism authorities; and
  - (b) anyone else concerned with tourism that the Board considers appropriate; and
  - (c) anyone else specified by the Minister in writing.
- (5) The Board may revise the corporate plan on its own initiative at any other time.
- (6) This Division applies to a revised corporate plan in the same way it applies to a corporate plan.

#### **34 Matters to be covered by plan**

The corporate plan must include details of an assessment of the outlook for the Australian tourism industry.

#### **35 Minister's response to corporate plan**

- (1) For each corporate plan given to the Minister by the Board under section 35 of the *Public Governance, Performance and Accountability Act 2013*, the Minister must consider whether or not to endorse the plan.

- (3) After receiving the corporate plan, the Minister may request the Board, in writing, to give to the Minister, by a time, and in a manner, specified by the Minister:
  - (a) an explanation of matters included in the plan and specified in the request; and
  - (b) an explanation of other matters specified in the request and related to the plan.
- (4) The Board:
  - (a) must comply with the request to give an explanation of the specified matters; and
  - (b) may give to the Minister a corporate plan to replace the corporate plan in relation to which the Minister sought an explanation.
- (5) In deciding whether or not to endorse the corporate plan, the Minister must take into account any inconsistencies between the plan and government policies. If the Minister considers that there are any such inconsistencies, the Minister may give written notice of them to the Board before deciding whether or not to endorse the plan.
- (6) The Minister must give written notice to the Board of his or her decision to endorse, or not to endorse, the corporate plan.
- (7) The corporate plan comes into force on the day on which the Board receives written notice of the Minister's endorsement.

### **36 Annual operational plan**

- (1) When the Board is preparing or revising a corporate plan, the Board must:
  - (a) prepare an annual operational plan for the first financial year to which the corporate plan or revised corporate plan will relate; and
  - (b) give the plan to the Minister for his or her endorsement.

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- (2) The Minister may ask the Board, in writing, to give the annual operational plan to the Minister by a time, and in a manner, specified by the Minister. The Board must comply with the request.
- (3) The annual operational plan for a financial year must:
  - (a) contain an estimate of Tourism Australia's receipts and expenditure for the financial year; and
  - (b) specify:
    - (i) the programs that the Board proposes Tourism Australia to carry out; and
    - (ii) the resources that the Board proposes to allocate to each program;in giving effect to the corporate plan during the financial year.
- (4) The Board may revise the annual operational plan on its own initiative at any time.
- (5) The Board must give a revised plan to the Minister for his or her endorsement.
- (6) This Division applies to a revised annual operational plan in the same way it applies to an annual operational plan.

**37 Minister's response to annual operational plan**

- (1) After receiving the annual operational plan, the Minister may request the Board, in writing, to give to the Minister, by a time, and in a manner, specified by the Minister:
  - (a) an explanation of matters included in the plan and specified in the request; and
  - (b) an explanation of other matters specified in the request and related to the plan.
- (2) The Board:
  - (a) must comply with the request to give an explanation of the specified matters; and

- (b) may give to the Minister an annual operational plan to replace the annual operational plan in relation to which the Minister sought an explanation.
- (3) In deciding whether or not to endorse the annual operational plan, the Minister must take into account any inconsistencies between:
- (a) the annual operational plan and the corporate plan; and
  - (b) the annual operational plan and government policies.
- If the Minister considers that there are any such inconsistencies, the Minister may give written notice of them to the Board before deciding whether or not to endorse the annual operational plan.
- (4) The Minister must give written notice to the Board of his or her decision to endorse, or not to endorse, the annual operational plan.
- (5) An annual operational plan comes into force on the day on which the Board receives written notice of the Minister's endorsement.

### **38 Board to comply with corporate and annual operational plans**

So far as is practicable, the Board must ensure that the performance of Tourism Australia's functions, and the exercise of Tourism Australia's powers, are consistent with, and designed to give effect to, the current corporate plan and the current annual operational plan.

## Division 2—Accountability

### 39 Annual report

The annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must also include details of:

- (a) an assessment of the extent to which Tourism Australia's operations during the period have implemented each annual operational plan applicable to the period; and
- (b) significant activities undertaken jointly during the period; and
- (c) significant capital works programs undertaken by Tourism Australia during the period; and
- (d) significant acquisitions and dispositions of real property by Tourism Australia during the period; and
- (e) revisions of the annual operational plan approved by the Minister during the period.

### 40 Ministerial direction

- (1) The Minister may give a written direction to the Board in relation to the performance of the functions, and the exercise of the powers, of Tourism Australia.
- (2) The Minister must not give a direction to the Board under subsection (1) unless he or she:
  - (a) has notified the Board in writing that he or she is considering giving the direction; and
  - (b) has given the Chair an adequate opportunity to discuss with the Minister the need for the proposed direction; and
  - (c) is satisfied that, because of exceptional circumstances, it is necessary to give the direction to the Board to ensure that the performance of the functions, or the exercise of the powers, of Tourism Australia does not conflict with government policies.

- (3) The Board must comply with a direction under subsection (1).
- (4) The Minister must cause a copy of a direction under subsection (1):
  - (a) to be published in the *Gazette* as soon as practicable after giving the direction; and
  - (b) to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.
- (5) The annual reports of Tourism Australia applicable to periods in which the direction has effect must include:
  - (a) details of the direction; and
  - (b) an assessment of the impact that the direction has had on the operations of Tourism Australia during the period.
- (6) This section does not affect the application of section 22 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the application of government policy to corporate Commonwealth entities) in relation to Tourism Australia.

## **Division 3—Tourism Australia Values and Code of Conduct**

### **41 Tourism Australia Values**

- (1) The Board must determine, in writing, the Tourism Australia Values.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (2) The Board must uphold and promote the Tourism Australia Values.
- (3) To avoid doubt, an instrument under subsection (1) is not a legislative instrument.

### **42 Tourism Australia Code of Conduct**

- (1) The Board must determine, in writing, the Tourism Australia Code of Conduct.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (2) The Tourism Australia Code of Conduct applies to the Managing Director and to each employee of Tourism Australia.
- (3) To avoid doubt, an instrument under subsection (1) is not a legislative instrument.

## **Part 5—Managing Director, employees and consultants**

### **Division 1—Managing Director**

#### **43 Managing Director**

There is to be a Managing Director of Tourism Australia.

#### **44 Duties**

- (1) The Managing Director is to conduct the affairs of Tourism Australia subject to the directions of, and in accordance with policies determined by, the Board.
- (2) Anything done by the Managing Director in Tourism Australia's name, or on its behalf is taken to have been done by Tourism Australia.

#### **45 Appointment**

- (1) The Managing Director is to be appointed by the Board by written instrument.
- (2) The Board must not appoint an appointed member as the Managing Director.
- (3) The appointment of a person as Managing Director is not invalid because of a defect or irregularity in connection with the person's appointment.

#### **46 Term of appointment**

A person appointed as Managing Director holds office for the period specified in the instrument of appointment.

Section 47

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### 47 Acting Managing Director

The Board may appoint a person (other than a member) to act as the Managing Director:

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

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

### 48 Remuneration and allowances

- (1) The Managing Director 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 Managing Director is to be paid the remuneration that is prescribed.
- (2) The Managing Director is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### 49 Outside employment

The Managing Director must not engage in paid employment outside the duties of the Managing Director's office without the Board's approval.

### 50 Recreation leave

The Managing Director has the recreation leave entitlements that are determined by the Remuneration Tribunal.

## **51 Resignation**

The Managing Director may resign his or her appointment by giving the Chair a written resignation.

## **53 Termination of appointment**

- (1) The Board may at any time, in writing, terminate the appointment of the Managing Director.
- (2) Section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials) does not apply in relation to the Managing Director despite subsection 30(6) of that Act.

## **54 Other terms and conditions**

The Managing Director holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Board with the Minister's written approval.

## Division 2—Employees and consultants

### 55 Employees

- (1) The Board may, on behalf of Tourism Australia, employ such persons as the Board considers necessary for the performance of Tourism Australia's functions and the exercise of Tourism Australia's powers.
- (2) An employee is to be employed on the terms and conditions that the Board determines in writing.

### 56 Consultants

- (1) The Board may, on behalf of Tourism Australia, engage persons having suitable qualifications and experience as consultants to the Board.
- (2) A consultant is to be engaged on the terms and conditions that the Board determines in writing.
- (3) A person does not hold a public office within the meaning of the *Remuneration Tribunal Act 1973* if the person is engaged as a consultant.

## Part 6—Finance

### 57 Payments to Tourism Australia by Commonwealth

- (1) There is payable to Tourism Australia such money as is appropriated by the Parliament for the purposes of Tourism Australia.
- (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 Tourism Australia.
- (3) In this section:

**Finance Minister** means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

### 58 Money of Tourism Australia

- (1) The money of Tourism Australia consists of:
  - (a) money paid to Tourism Australia under section 57; and
  - (b) any other money paid to Tourism Australia.
- (2) The money of Tourism Australia (other than money vested in Tourism Australia on trust) is to be applied only:
  - (a) to pay or discharge the costs, expenses and other obligations incurred by Tourism Australia in the performance of its functions and the exercise of its powers; and
  - (b) to pay any remuneration or allowances payable under this Act.
- (3) Subsection (2) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of Tourism Australia.

### **59 Limits on contracts and leases**

Except with the written approval of the Minister, the Board must not:

- (a) enter into a contract under which Tourism Australia is to pay or receive an amount exceeding \$3,000,000 or, if a higher amount is prescribed, that higher amount; or
- (b) enter into a lease of land for a period of 10 years or more.

### **60 Liability to taxation**

- (1) Tourism Australia is subject to taxation under the laws of the Commonwealth.
- (2) Subject to subsection (3), Tourism Australia is not subject to taxation under a law of a State or Territory.
- (3) The regulations may provide that subsection (2) does not apply in relation to a specified law of a State or Territory.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

### **61 Trust property**

Despite the other provisions of this Act, the Board must deal with any money or property vested in Tourism Australia on trust in accordance with the powers and functions of the Board as trustee.

## **Part 7—Other matters**

### **62 Delegation by Board**

- (1) The Board may, by resolution of a majority of its members, delegate all or any of its functions or powers to:
  - (a) a member of the Board; or
  - (b) a member of staff of Tourism Australia who has the expertise appropriate to the function or power delegated.
- (2) In exercising a delegated function or power, the delegate must comply with any written directions of the Board.
- (3) The delegation continues in force despite a change in the membership of the Board.
- (4) The delegation may be varied or revoked by resolution of the Board (whether or not there has been a change in the membership of the Board).
- (5) A certificate signed by the Chair stating any matter with respect to the delegation is prima facie evidence of the matter.
- (6) A document purporting to be a certificate mentioned in subsection (5) is taken to be such a certificate and to have been duly given unless the contrary is established.

### **63 Delegation by Managing Director**

- (1) The Managing Director may, in writing, delegate all or any of his or her functions or powers to a member of the Tourism Australia staff who has the expertise appropriate to the function or power delegated.
- (2) In performing a delegated function or exercising a delegated power, a delegate must comply with any written directions of the Managing Director.

## 64 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

## Endnotes

### Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Tourism Australia Act 2004	74, 2004	23 Jun 2004	ss. 3–64: 1 July 2004 (see <i>Gazette</i> 2004, No. GN26) Remainder: Royal Assent	
Tourism Australia Amendment Act 2007	47, 2007	10 Apr 2007	11 Apr 2007	Sch. 1 (item 17)
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 1157–1162) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (items 232–249) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b> Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 652, 653): 5 Mar 2016 (s 2(1) item 2)	—

## Endnotes

### Endnote 4—Amendment history

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#### Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s. 3 .....	am. No. 47, 2007
<b>Pt 2</b>	
Note to s 5(2).....	rs No 62, 2014
<b>Part 3</b>	
<b>Division 1</b>	
s. 12 .....	am. No. 47, 2007
s. 14 .....	am. No. 47, 2007
s. 15 .....	am. No. 47, 2007
s. 16 .....	am. No. 47, 2007; No. 46, 2011
Note to s. 16(1) .....	rs. No. 46, 2011
Notes to s. 16(2), (3) .....	ad. No. 46, 2011
Heading to s. 20.....	rs. No. 47, 2007
s. 20 .....	am. No. 47, 2007; No 62, 2014
Note to s 20(3).....	ad No 62, 2014
s. 20A .....	ad. No. 47, 2007
<b>Division 2</b>	
s. 23 .....	am. No. 47, 2007
s 24 .....	am No 62, 2014
Note to s 25(2).....	rep No 62, 2014
<b>Part 4</b>	
<b>Division 1</b>	
s 33 .....	am No 62, 2014
s 34 .....	rs No 62, 2014
s. 35 .....	rs. No. 47, 2007 am No 62, 2014
s. 36 .....	am. No. 47, 2007
s. 37 .....	rs. No. 47, 2007

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Div 2</b>	
s 39 .....	rs No 62, 2014
s 40 .....	am No 62, 2014
<b>Division 3</b>	
s 41 .....	am No 126, 2015
s 42 .....	am No 126, 2015
<b>Part 5</b>	
<b>Division 1</b>	
s. 47 .....	am. No. 46, 2011
Note to s. 47.....	rs. No. 46, 2011
s 52 .....	rep No 62, 2014
s 53 .....	am No 62, 2014
<b>Part 6</b>	
s 57 .....	am No 62, 2014
s 58 .....	am No 62, 2014
s. 59 .....	am. No. 47, 2007; No 62, 2014
s 60 .....	am. No. 47, 2007; No 126, 2015