



Australian National University Act 1991

No. 131, 1991

Compilation No. 9

Compilation date: 17 December 2004

Includes amendments: Act No. 157, 2004

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This is a compilation of the *Australian National University Act 1991* that shows the text of the law as amended and in force on 17 December 2004 (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 Register (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 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.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

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 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 amend the constitution of the Australian National University and create within it a new institute to replace the Canberra Institute of the Arts, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian National University Act 1991*.

2 Commencement

This Act commences on 1 January 1992.

3 Interpretation

In this Act, unless the contrary intention appears:

academic staff of The Faculties means the persons who are to be regarded as members of the academic staff of The Faculties because of Statutes made under paragraph 50(2)(d).

academic staff of the Institute means the persons who are to be regarded as members of the academic staff of the Institute because of Statutes made under paragraph 50(2)(d).

Arts Institute means the Canberra Institute of the Arts established by the Arts Institute Ordinance.

Arts Institute Ordinance means the *Canberra Institute of the Arts Ordinance 1988*.

certificate holder, in relation to an institution, means a person who has been awarded a certificate by the institution.

Section 3

Chancellor means the Chancellor of the University appointed under section 32.

commencement means the commencement of this Act.

Council means the Council referred to in section 8.

dean means the head, by whatever name called, of any faculty.

Deputy Vice-Chancellor means a Deputy Vice-Chancellor of the University appointed under section 35.

elect includes re-elect.

executive office means:

- (a) the office of Vice-Chancellor; or
- (b) the office or offices of Deputy Vice-Chancellor.

ex officio member, in relation to the Council, means:

- (a) the Chancellor; or
- (c) the Vice-Chancellor.

general staff means members of the staff of the University other than:

- (a) the holders of the executive offices;
- (b) the academic staff of the Institute; and
- (c) the academic staff of The Faculties.

Institute means the Institute of Advanced Studies referred to in paragraph 7(1)(a).

Nominations Committee of Council means the persons referred to in subsection 10(2).

original Act means the *Australian National University Act 1946*.

Pro-Chancellor means the Pro-Chancellor of the University appointed under section 33.

professor does not include an assistant professor or an associate professor.

Section 3

Statute means a Statute of the University made by the Council under Part 4.

The Faculties means the group of faculties and other bodies referred to in paragraph 7(1)(b).

University means the Australian National University continued in existence under subsection 4(1).

University body means:

- (a) the Council; or
- (b) Convocation.

Vice-Chancellor means the Vice-Chancellor of the University appointed under section 34.

Part 2—The Australian National University

Division 1—Establishment of the University

4 Establishment of the University

- (1) The Australian National University that was, immediately before the commencement of this Act, in existence by virtue of the original Act is continued in existence under the same name.
 - (2) The University:
 - (a) continues to be a body corporate; and
 - (b) has a seal; and
 - (c) may acquire, hold and dispose of real and personal property.
- Note: Subject to section 4A, the *Commonwealth Authorities and Companies Act 1997* applies to the University. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking, and conduct of officers.
- (3) The seal of the University must be kept in such custody as the Council directs and may be used only as authorised by the Council.
 - (4) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the University appearing on a document and must presume that it was duly affixed.

4A Modification of the *Commonwealth Authorities and Companies Act 1997*

- (1) Section 14, subsection 18(3), and sections 28 and 29, of the *Commonwealth Authorities and Companies Act 1997* do not apply in relation to the University.
- (2) Nothing in section 16 of the *Commonwealth Authorities and Companies Act 1997* requires the members of the Council to do anything that will or might affect the academic independence or integrity of the University.

4B University's financial year starts on 1 January

For the purposes of the *Commonwealth Authorities and Companies Act 1997*, the University's financial year is a period of 12 months starting on 1 January.

5 Functions of the University

- (1) The functions of the University include the following:
 - (a) advancing and transmitting knowledge, by undertaking research and teaching of the highest quality;
 - (b) encouraging, and providing facilities for, research and postgraduate study, both generally and in relation to subjects of national importance to Australia;
 - (c) providing facilities and courses for higher education generally, including education appropriate to professional and other occupations, for students from within Australia and overseas;
 - (d) providing facilities and courses at higher education level and other levels in the visual and performing arts, and, in so doing, promoting the highest standards of practice in those fields;
 - (e) awarding and conferring degrees, diplomas and certificates in its own right or jointly with other institutions, as determined by the Council;
 - (f) providing opportunities for persons, including those who already have post-secondary qualifications, to obtain higher education qualifications;
 - (g) engaging in extension activities.
- (2) In the performance of its functions, the University must pay attention to its national and international roles and to the needs of the Australian Capital Territory and the surrounding regions.

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6 Powers of the University

- (1) Subject to Division 2 of Part 3, the University has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) The powers of the University under subsection (1) include, but are not limited to, the following powers:
 - (a) to buy, take on lease or otherwise acquire real and personal property, and to sell, grant leases of, or otherwise dispose of, such property;
 - (b) to develop commercially any discovery, invention or property;
 - (c) to make charges for work done, services rendered and goods and information supplied by it;
 - (d) to form, and participate in the formation of, companies;
 - (e) to subscribe for and buy shares in, and debentures and other securities of, companies;
 - (f) to enter into partnerships;
 - (g) to participate in joint ventures and arrangements for the sharing of profits;
 - (h) to enter into contracts;
 - (i) to erect buildings;
 - (j) to occupy, use and control any land or building made available to the University by the Commonwealth for the purposes of the University;
 - (k) to employ staff;
 - (l) to invest money of the University, and to dispose of investments;
 - (m) to make astronomical, seismological, meteorological and other scientific observations;
 - (n) to make loans and grants to students;
 - (o) to accept gifts, grants, bequests and devises made to it;
 - (p) to act as trustee of money and other property vested in it on trust;

- (q) to do such other things as it is authorised to do by or under this Act or any other Act;
 - (r) to do anything incidental to any of its powers.
- (3) In spite of anything contained in this Act or the *Commonwealth Authorities and Companies Act 1997*, any money or other property held by the University on trust must be dealt with in accordance with the powers and duties of the University as trustee.
- (4) The powers of the University may be exercised within or outside Australia.

7 Organisation of the University

- (1) There are, within the University:
- (a) an Institute of Advanced Studies constituted in accordance with section 19; and
 - (b) a group of faculties and other bodies determined by the Council, to be known as the “The Faculties”.
- (2) Nothing in this Act prevents the Council from establishing, within the University, for academic or administrative purposes, an organisational structure that:
- (a) includes bodies, or members of staff, from the Institute and The Faculties; or
 - (b) in any other way draws its resources from the Institute and The Faculties.

Division 2—The Council

8 The Council

The governing authority of the University is the Council.

9 Powers of Council

- (1) Subject to this Act and the Statutes, the Council has the entire control and management of the University.
- (2) The Council is to act in all matters concerning the University in the way it thinks will best promote the interests of the University.
- (3) The powers of the Council include, but are not limited to, the power to appoint persons (whether members of the staff of the University or not) to positions of responsibility within the University.

10 Constitution of Council

- (1) The Council consists of the following members:
 - (a) the Chancellor;
 - (c) the Vice-Chancellor;
 - (k) one person who is either a dean or the head of a research school and is elected, in either case, by the deans and the heads of the research schools voting together;
 - (l) one member of the academic staff of the Institute of Advanced Studies elected by members of that staff;
 - (m) one member of the academic staff of The Faculties elected by members of that staff;
 - (n) one member of the general staff of the University elected by members of that staff;
 - (o) one postgraduate student of the University elected by the postgraduate students of the University;

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- (p) one undergraduate student of the University elected by the undergraduate students of the University;
 - (q) 7 members appointed by the Minister on the recommendation of the Nominations Committee of Council.
- (2) The Nominations Committee of Council consists of:
 - (a) the Chancellor; and
 - (b) 6 other persons appointed by the Chancellor in accordance with guidelines determined by the Council.
- (3) In making recommendations to the Minister under paragraph (1)(q), the Nominations Committee of Council must have regard to the desirability of ensuring that there is a balance of skills, expertise and gender among members of the Council.
- (4) At least 2 of the members appointed under paragraph 10(1)(q) must have a high level of relevant financial expertise.
- (5) At least one member appointed under paragraph 10(1)(q) must have a high level of relevant commercial expertise.
- (6) The Nominations Committee of Council must not recommend under paragraph 10(1)(q) a person who is:
 - (a) a current member of:
 - (i) the Commonwealth Parliament; or
 - (ii) a State Parliament; or
 - (iii) the legislature of a Territory; or
 - (b) a current member of the academic or general staff of the University; or
 - (c) a student of the university; or
 - (d) a member of the Nominations Committee of Council.
- (7) The Minister must, within 60 days after receiving written advice from the Nominations Committee of Council recommending that a person be appointed to the Council:
 - (a) appoint the person specified to the Council for a period not exceeding 4 years; or

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- (b) decide not to appoint the person specified if, in the Minister's opinion, the appointment is not in the best interests of the University.
- (8) If the Minister decides under paragraph (7)(b) not to appoint a person, the Minister must:
 - (a) notify the Council, in writing, of the refusal; and
 - (b) give reasons for the refusal.
- (9) In deciding under paragraph (7)(b) not to appoint a person, the Minister must only consider the balance of skills, expertise and gender, and the periods of appointment (or proposed periods of appointment) of proposed and continuing members of the Council.
- (10) Subject to this Act, the members of the Council referred to in paragraphs (1)(k), (l), (m), (n), (o) and (p) hold office for such periods as the Statutes provide.

11 Qualifications for membership of Council

A person is not qualified to become or remain a member of the Council (other than an *ex officio* member) if:

- (a) the person is under 18;
- (b) the person is an undischarged bankrupt or a person in respect of whom there is in operation a personal insolvency agreement with the person's creditors under the law relating to bankruptcy;
- (c) the person has been convicted and is serving a sentence of imprisonment for an offence against the law of the Commonwealth or of a State or Territory; or
- (d) in accordance with the law of a State or Territory, all or any of the person's property is, because of his or her mental incapacity, under the control of another person.

12 Meetings of Council

- (1) The Chancellor is to preside at all meetings of the Council at which he or she is present.

- (2) If:
 - (a) the Chancellor is not present at a meeting of the Council; and
 - (b) if the Pro-Chancellor is a member of the Council—he or she is present;the Pro-Chancellor is to preside at the meeting.
- (3) If neither the Chancellor nor the Pro-Chancellor (if he or she is a member of the Council) is present at a meeting of the Council, the members present must elect one of their number to preside at the meeting.
- (4) At a meeting of the Council, a quorum is constituted by a majority of the persons for the time being holding office as members of the Council.

13 Resolutions without meetings

- (1) The Chancellor or Pro-Chancellor (if he or she is a member of the Council) may, in writing, request members to pass a resolution without a meeting.
- (2) A copy of the request and the text of the proposed resolution, must be sent to each member of the Council.
- (3) Subject to subsection (4), the resolution is passed if each of a majority of the members of the Council eligible to vote on that resolution signs a document containing the text of the resolution and returns it to the Chancellor or Pro-Chancellor (if he or she is a member of the Council).
- (4) If the proposed resolution deals with whether a member of the Council has breached his or her duties under section 18A, 18B, 18C, 18D, 18E or 18F as a member of the Council, the resolution is passed if each of at least a two-thirds majority of the members of the Council eligible to vote on that resolution:
 - (a) signs a document containing the text of the resolution; and
 - (b) returns it to the Chancellor or Pro-Chancellor (if he or she is a member of the Council).

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- (5) For the purposes of this section, a member of the Council is not eligible to vote on a resolution if:
- (a) the resolution relates to a matter in which the member has a direct or indirect pecuniary interest; or
 - (b) if the resolution deals with whether a member of the Council has breached his or her duties under section 18A, 18B, 18C, 18D, 18E or 18F as a member of the Council—he or she is the member to whom the resolution relates.

15 Vacation of office

- (1) If a member of the Council (other than an *ex officio* member):
- (a) becomes disqualified under section 11 from remaining a member of the Council; or
 - (b) dies; or
 - (c) resigns from membership of the Council; or
 - (d) is absent without leave of the Council from 3 consecutive meetings of the Council; or
 - (g) in the case of a member referred to in paragraph 10(1)(k), (l), (m), (n), (o) or (p)—ceases to be qualified to be elected as mentioned in the paragraph concerned; or
 - (i) becomes a Deputy Vice-Chancellor of the University under section 35; or
 - (j) is or becomes disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*; or
 - (k) has, in the Council's opinion formed by resolution passed as mentioned in subsection (1A) or subsection 13(4), breached his or her duties under section 18A, 18B, 18C, 18D, 18E or 18F as a member of the Council; or
 - (l) is, in the Council's opinion, incapable (other than on a temporary basis) of performing his or her duties;
- the member's office becomes vacant.
- (1A) For the purposes of paragraph (1)(k), the Council forms its opinion by resolution passed at a meeting of the Council if the resolution is passed at the meeting by at least a two-thirds majority of the members of the Council.

Section 16

- (2) If a person holding office as a member of the Council referred to in one of the paragraphs of subsection 10(1), other than paragraph (a) or (c), is, before otherwise ceasing to hold that office, appointed to the office of:
- (a) Chancellor; or
 - (c) Vice-Chancellor;
- that person ceases, upon being so appointed, to hold that first-mentioned office.

16 Casual vacancies

- (1) Where a vacancy in the membership of the Council occurs under section 15, that vacancy must be filled:
- (a) where the Statutes make provision for the filling of that casual vacancy—in the manner provided by the Statutes; or
 - (b) in any other case—in the manner provided in subsection 10(1) for the appointment of a person to the vacant office.
- (2) A person appointed to fill such a vacancy holds office for the remainder of the term of office of the person's predecessor.
- (3) Subsection (2) does not apply, and does not prevent paragraph 10(7)(a) applying, to the filling of a vacancy in the membership of the Council if the vacancy is one to which paragraph 10(1)(q) relates.

17 Delegation to member of Council etc.

- (1) Subject to this section, the Council may delegate all or any of its functions and powers under this Act (except its powers in relation to the making of Statutes) to:
- (a) a member of the Council; or
 - (b) a member of the staff of the University.
- (2) The Council may revoke a delegation under this section.
- (3) The Council must not delegate its power to:

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- (a) appoint the Chancellor, Pro-Chancellor or Vice-Chancellor;
or
- (b) approve the University's annual budget or its business plan;
or
- (c) approve the annual report of the University; or
- (d) monitor its commercial activities, and its subsidiaries and any other entities that it controls, to the extent required to ensure they do not have any significant adverse impact on, or pose an unreasonable risk to, the University's finances and operations; or
- (e) review and monitor the management of the University as a whole or the University's performance as a university (as defined by the *Higher Education Support Act 2003*).

18 Delegation to committee of Council

- (1) Subject to this section, the Council may delegate all or any of its functions and powers under this Act (except its powers in relation to the making of Statutes) to the members of a committee consisting of:
 - (a) members of the Council; or
 - (b) members of the Council and other persons.
- (2) A function or power so delegated may be performed or exercised by a majority of the members of the committee, acting jointly, and may not otherwise be performed or exercised under the delegation.
- (3) The Council may revoke a delegation under this section.
- (4) The Council must not delegate its power to:
 - (a) appoint the Chancellor, Pro-Chancellor or Vice-Chancellor;
or
 - (b) approve the University's annual budget or its business plan;
or
 - (c) approve the annual report of the University; or
 - (d) monitor its commercial activities, and its subsidiaries and any other entities that it controls, to the extent required to ensure

Section 18A

they do not have any significant adverse impact on, or pose any reasonable risk to, the University's finances and operations; or

- (e) review and monitor the management of the University as a whole or the University's performance as a university (as defined by the *Higher Education Support Act 2003*).

18A Member to act solely in interest of University

A member of the Council must act solely in the interests of the University taken as a whole, having regard to its functions.

18B Member to exercise care and diligence

- (1) A member of the Council must exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if he or she:
 - (a) were a member of the Council in the Council's circumstances; and
 - (b) occupied the office held by, and had the same responsibilities within the Council as, the member.
- (2) A member of the Council who makes a business judgment is taken to meet the requirements of subsection (1), and their equivalent duties at common law and in equity, in respect of the judgment if he or she:
 - (a) makes the judgment in good faith for a proper purpose; and
 - (b) does not have a material personal interest in the subject matter of the judgment; and
 - (c) informs himself or herself about the subject matter of the judgment to the extent he or she reasonably believes to be appropriate; and
 - (d) rationally believes that the judgment is in the best interests of the University.

The member's belief that the judgment is in the best interests of the University is a rational one unless the belief is one that no reasonable person in his or her position would hold.

Section 18C

Note: This subsection only operates in relation to duties under this section and their equivalents at common law or in equity (including the duty of care that arises under the common law principles governing liability for negligence)—it does not operate in relation to duties under any other provision of this Act or under any other laws.

18C Member to act in good faith

A member of the Council must exercise his or her powers and discharge his or her duties:

- (a) in good faith in the best interests of the University; and
- (b) for a proper purpose.

18D Member not to use position improperly

A member of the Council must not improperly use his or her position to:

- (a) gain an advantage for him or her or someone else; or
- (b) cause detriment to the University or to another person.

18E Member not to use information improperly

A member of the Council who obtains information because of his or her position must not improperly use the information to:

- (a) gain an advantage for himself or herself or someone else; or
- (b) cause detriment to the University or to another person.

18F Material personal interest

- (1) A member of the Council who has a material personal interest in a matter that relates to the affairs of the University must give the other members of the Council notice of the interest.
- (2) Subsection (1) does not apply if the member of the Council is not, because of subsection 27F(2) of the *Commonwealth Authorities and Companies Act 1997*, required to give such a notice under subsection 27F(1) of that Act.

Section 18G

- (3) A member of the Council who has an interest in a matter may give the other members of the Council standing notice of the nature and extent of the interest in the matter in accordance with section 27G of the *Commonwealth Authorities and Companies Act 1997*.
- (4) A member of the Council who has a material personal interest in a matter that is being considered at a meeting of the Council must not:
 - (a) be present while the matter is being considered at the meeting; or
 - (b) vote on the matter;except as allowed under section 27J of the *Commonwealth Authorities and Companies Act 1997*.

18G Application of *Commonwealth Authorities and Companies Act 1997*

Nothing in sections 18A to 18F affects the application of the *Commonwealth Authorities and Companies Act 1997* to members of the Council.

Division 3—The Institute of Advanced Studies

19 Constitution of the Institute

- (1) The Institute consists of such research schools and other bodies as are established by the Council for the purposes of this section.
- (2) A research school or another body is to be established in relation to each of the following fields of learning:
 - (a) medical science;
 - (b) the physical sciences;
 - (c) the social sciences;
 - (d) Pacific studies.
- (3) Research schools or other bodies may be established in relation to such other fields of learning as are determined by the Council.
- (4) The research school in relation to medical science is to be known as “The John Curtin School of Medical Research”.
- (5) The names of the other research schools and other bodies are as determined by the Council.

Division 4—The Board of The Faculties

Division 5—Convocation

30 Constitution of Convocation

- (1) Convocation consists of the following:
 - (a) all members and former members of the Council;
 - (b) all former members of the Board of the Arts Institute;
 - (c) all graduates and diplomates of the University, the Arts Institute and the former Schools of Art and Music;
 - (d) such certificate holders of the University, the Arts Institute and the former Schools of Art and Music as are, in accordance with the Statutes, admitted as members of Convocation;
 - (e) such graduates of other universities, or other persons, as are, in accordance with the Statutes, admitted as members of Convocation.
- (2) The Council must cause a roll to be kept of all members of Convocation.
- (3) Meetings of Convocation may be convened by the Vice-Chancellor or as provided in the Statutes.

31 Quorum at meetings of Convocation

At a meeting of Convocation a quorum is constituted by 50 members of Convocation.

Division 6—Senior officers of the University

32 Chancellor

- (1) The Council must appoint the Chancellor of the University. The appointee must not be a student or an employee of the University.
- (1A) The Chancellor ceases to hold office as Chancellor if he or she becomes a student or an employee of the University.
- (2) Subject to subsection (1A) and the Statutes, the Chancellor holds office for such period, and on such conditions, as the Council determines.

33 Pro-Chancellor

- (1) The Council may appoint a Pro-Chancellor of the University. The appointee must be a member of the Council appointed by the Minister under paragraph 10(1)(q).
- (1A) The Pro-Chancellor may hold that office for a period that is shorter than the period of his or her office as a member of the Council. However, if:
 - (a) the period of his or her office as a member of the Council ends at a particular time; or
 - (b) his or her office as a member of the Council becomes vacant under section 15 at a particular time;he or she also ceases to hold office as Pro-Chancellor at that time.
- (2) Subject to subsection (1A) and the Statutes, the Pro-Chancellor holds office for such period, and on such conditions, as the Council determines.

34 Vice-Chancellor

- (1) The Council must appoint the Vice-Chancellor of the University.
- (2) The Vice-Chancellor:

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- (a) is the chief executive officer of the University; and
 - (b) has such powers and duties as the Statutes prescribe or, subject to the Statutes, as the Council determines.
- (3) Subject to the Statutes, the Vice-Chancellor holds office for such period, and on such conditions, as the Council determines.

35 Deputy Vice-Chancellor

- (1) The Council must appoint a Deputy Vice-Chancellor of the University, or more than one.
- (2) A Deputy Vice-Chancellor has such powers and duties as the Statutes prescribe or, subject to the Statutes, as the Council determines.
- (3) A Deputy Vice-Chancellor holds office for such period, and on such conditions, subject to the Statutes, as the Council determines.

37 Acting appointments

- (1) The Council may appoint a person to act in an executive office:
 - (a) during a vacancy in the executive office, whether or not an appointment has previously been made to the executive office; or
 - (b) during any period, or during all periods, when the holder of the executive office is absent from duty or from Australia, is acting in another executive office or is, for any reason, unable to perform the duties of the office;but a person appointed to act during a vacancy may not continue so to act for more than 12 months.
- (2) Anything done by or in relation to a person purporting to act pursuant to an appointment made under this section is not invalid merely because:
 - (a) the occasion for the appointment had not arisen;
 - (b) there was a defect or irregularity in connection with the appointment;

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- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

Division 7—Miscellaneous

38 Execution of contracts

- (1) Any contract that, if made between private persons, would be by law required to be in writing under seal may be made on behalf of the University in writing under the seal of the University.
- (2) Any contract to which subsection (1) does not apply may be made on behalf of the University by any person acting with the authority of the Council, express or implied, and, where such a contract is made in writing, it may be executed on behalf of the University by that person.

39 Validity of acts and proceedings

- (1) This section applies to the following acts and proceedings:
 - (a) an act or proceeding of a University body;
 - (b) an act or proceeding of the members, or a committee, of a University body;
 - (c) an act done by the Chancellor, the Pro-Chancellor or a person holding an executive office.
- (2) An act or proceeding is not invalid merely because of:
 - (a) a defect in the appointment, election, choosing or admission of:
 - (i) the Chancellor, the Pro-Chancellor or a person holding an executive office; or
 - (ii) any other member of a University body or of a committee of a University body;
 - (b) the disqualification of a member of a University body or committee of a University body from membership of the University body or committee;
 - (c) a defect in the convening of a meeting; or
 - (d) any vacancy in the membership of the Council or a committee of the Council.

40 Religious test not to be administered

The University may not administer any religious test in relation to:

- (a) the admission of any person to the University; or
- (b) the award of any degree, diploma, certificate or honour; or
- (c) the holding of any office.

Part 3—Financial matters

Division 1—Fees

41 Fees

- (2) Fees that are payable to the University, including student contribution amounts and tuition fees within the meaning of the *Higher Education Support Act 2003*, are payable in accordance with the Statutes.

Division 2—Finances of the University

43 Application of fees and other money

The Council must apply the following solely for the purposes of the University:

- (a) all financial assistance paid to the University under the *Higher Education Support Act 2003*;
- (b) student contribution amounts within the meaning of the *Higher Education Support Act 2003*;
- (c) tuition fees within the meaning of the *Higher Education Support Act 2003*;
- (d) other money received by the University under this Act or otherwise.

44 Borrowing

- (1) Subject to subsection (2), the University may borrow money.
- (2) The University's power to borrow is subject to such limits as the Treasurer determines as to:
 - (a) the total amount of money (other than interest) that may be owed by the University at any time as a result of borrowings; and
 - (b) the periods for which money may be borrowed.

48 Taxation

- (1) Subject to subsection (2), the University is not subject to taxation under the laws of the Commonwealth or of a State or Territory.
- (2) The University is subject to payroll tax under the law of a State or Territory.

Part 4—Statutes

50 Statutes

- (1) The Council may make Statutes, not inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997*, prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the Statutes; or
 - (b) necessary or convenient to be prescribed by the Statutes for carrying out or giving effect to this Act.
- (2) The powers of the Council under subsection (1) include, but are not limited to, the power to make Statutes with respect to the following matters:
 - (a) the management, good government and discipline of the University;
 - (b) the imposition, by or on behalf of the University, of penalties upon:
 - (i) students of the University; or
 - (ii) persons employed by the University;for contravention of, or failure to comply with, a Statute made under paragraph (a);
 - (c) the method of any election provided for by this Act, and the determination of questions raised in relation to the conduct or result of any such election;
 - (d) the persons who are to be regarded, for the purposes of this Act, as members of the academic staff of the Institute or as members of the academic staff of The Faculties;
 - (e) the persons who are to be regarded, for the purposes of this Act, as undergraduate students, or postgraduate students, of the University;
 - (f) in relation to each University body:

- (i) the manner and time of convening, holding and adjourning its meetings;
- (ii) voting at such meetings (including postal or proxy voting);
- (iii) disclosure of pecuniary interests at meetings of the Convocation; and
- (iv) the appointment, powers and duties of chairpersons at such meetings;
- (v) the conduct and recording of business at such meetings;
- (vi) the appointment of committees of the University body; and
- (vii) the quorums for meetings of committees mentioned in subparagraph (vi), and the powers and duties of such committees;
- (g) the resignation of the following persons:
 - (i) the Chancellor;
 - (ii) the Pro-Chancellor;
 - (iii) any person holding an executive office;
- (h) the exercise and performance by a Deputy Vice-Chancellor, in specified circumstances, of the powers and duties of the Vice-Chancellor;
- (i) the tenure of the holder of any office or place established by or under this Act in respect of which this Act does not:
 - (i) specify a term of office; or
 - (ii) provide for the fixing of the term of office otherwise than by the Statutes;
- (j) the employment of members of staff of the University, including the terms and conditions of such employment and the termination of such employment;
- (k) the appointment of persons to positions of responsibility within the University, the terms and conditions of such appointments and the termination of such appointments;
- (l) the admission and enrolment of students;

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- (m) the times, places and manner of holding lectures, classes and examinations, and the number and character of such lectures, classes and examinations;
- (n) the promotion and extension of University teaching;
- (o) the granting of degrees, diplomas, certificates and honours;
- (p) the granting of fellowships, scholarships, exhibitions and bursaries;
- (q) the conferring, on persons who hold degrees, diplomas or other awards granted by other institutions, of any corresponding degree, diploma or other award of the University without examination;
- (r) the exemption of persons undertaking a course leading to a degree, diploma or other award from the requirement to undertake particular work that would otherwise be required to be undertaken for the purposes of that course and the grant of status in respect of that work, whether or not on condition that other work be undertaken instead of the work the subject of the exemption;
- (s) the admission of members of Convocation;
- (t) the admission of persons who are undertaking or have undertaken studies at another institution to a corresponding status within the University;
- (u) the payment to the University of fees, including student contribution amounts and tuition fees within the meaning of the *Higher Education Support Act 2003*;
- (v) the establishment, management and control of libraries, laboratories and museums in connection with the University;
- (w) the establishment or affiliation of residential colleges;
- (x) the affiliation or admission to the University of any education or research establishment;
- (y) the control and investment of the property of the University;
- (z) the provision of superannuation or similar benefits for, and for the families of, persons holding executive office and other persons employed by the University.

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- (3) The Statutes may empower any authority (including the Council) or officer of the University to make rules or orders, not inconsistent with this Act or with any Statute:
 - (a) regulating, or providing for the regulation of, any specified matter (being a matter with respect to which Statutes may be made); or
 - (b) for carrying out or giving effect to the Statutes.
- (4) A rule or order so made has the same force as a Statute.
- (5) Subsection (3) does not permit the making of rules or orders:
 - (a) regulating, or providing for the regulation of, a matter referred to in subsection 51(1); or
 - (b) for carrying out or giving effect to a Statute dealing with a matter referred to in subsection 51(1) except to the extent that the rules or orders are made with respect to the discipline of the University and provide for the enforcement of such a Statute.

51 Statutes relating to traffic

- (1) The Council may make Statutes:
 - (a) for or in relation to the regulation or control of traffic, or of the parking, stopping, standing or leaving of vehicles, on land occupied by the University in the Australian Capital Territory, including Statutes authorising, and providing for the effect of, signs and markings; and
 - (b) providing for the punishment, upon summary conviction, by a fine, of offences against such a Statute.
- (2) A Statute made under this section is not to be inconsistent with a law of the Australian Capital Territory (including an enactment as defined in section 3 of the *Australian Capital Territory (Self-Government) Act 1988*), but a Statute is not to be treated as inconsistent with such a law merely because it makes provisions with respect to a matter dealt with by that law, if the provisions can be obeyed without contravening that law.

52 Statutes to be published

- (1) When a Statute has been made by the Council:
 - (a) it must be sealed with the seal of the University; and
 - (b) the Council must cause the Statute to be notified in the *Gazette*; and
 - (c) the Statute has the force of law from the day on which it is so notified.
- (3) The notification of a Statute in the *Gazette* must specify the place at which copies of the Statute may be bought.
- (5) The production of:
 - (a) a copy of a Statute under the seal of the University; or
 - (b) a document purporting to be a copy of a Statute and to have been printed by the Government Printer;is, in all proceedings, sufficient evidence of the Statute.
- (6) The Statutes are to be numbered consecutively in the order in which they are notified in the *Gazette*.
- (7) A notice in the *Gazette* of the fact that a Statute has been made that specifies the number of the Statute is sufficient compliance with the requirement of subsection (2) that the Statute be notified in the *Gazette*.

Part 5—Consequential and transitional provisions

Division 1—Preliminary

53 Interpretation

In this Part, unless the contrary intention appears:

Appropriation Act means an Act appropriating money for expenditure in respect of a financial year and includes an Act appropriating money, by way of interim provision, for such expenditure.

Arts Institute instrument means an instrument (including a legislative instrument) or any other document:

- (a) to which the Arts Institute was a party; or
- (b) that was given to or in favour of the Arts Institute; or
- (c) in which a reference is made to the Arts Institute; or
- (d) under which money is, or may become, payable, or any other property is to be, or may become liable to be, transferred to or by the Arts Institute;

being an instrument or document subsisting immediately before the commencement.

assets means property of every kind, and includes, but is not limited to:

- (a) choses in action; and
- (b) rights, interests and claims of every kind in or to property, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

liabilities means liabilities of every kind, and includes, but is not limited to, obligations of every kind, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

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repealed enactment means an enactment repealed by section 54.

Division 2—Repeal

54 Repeal

- (1) The original Act is repealed.
- (2) The Arts Institute Ordinance is repealed.

Division 3—General

55 Senior officers to continue in office

- (1) A person who, immediately before the commencement, held under the original Act the office of Chancellor, Pro-Chancellor, Vice-Chancellor or Deputy Vice-Chancellor (in this section called the *previous office*) is taken to have been, on the commencement, duly appointed under Part 2 to:
 - (a) the office of Chancellor; or
 - (b) the office of Pro-Chancellor; or
 - (c) the office of Vice-Chancellor; or
 - (d) an office of Deputy Vice-Chancellor;(as the case may be).
- (2) A person is taken to have been so appointed:
 - (a) for a period equal to the remainder of the term of his or her appointment to the previous office; and
 - (b) subject to the terms and conditions that were, immediately before the commencement, applicable to that appointment.

56 University successor in law of the Arts Institute

The University is the successor in law of the Arts Institute, and the succeeding provisions of this Division do not limit the generality of this section.

57 Preservation of Statutes etc.

- (1) This section applies to:
 - (a) a Statute made by the Council of the University under section 27 or 27A of the original Act; and
 - (b) a Statute made by the Board of the Arts Institute under section 16 of the Arts Institute Ordinance;that was in force immediately before the commencement (in this section called a *continued statute*).

- (2) A continued statute has effect after the commencement as if:
 - (a) it were a Statute of the University duly made by the Council under Part 4; and
 - (b) the requirements of section 52 had been complied with in relation to it;and may accordingly be amended or repealed by the Council.
- (3) Any rules or orders made under the continued statute that were in force immediately before the commencement have effect on and after the commencement as if they had been made under a Statute, and may be amended or repealed accordingly.
- (4) Where any difficulty arises in the application to a particular matter of:
 - (a) a continued statute; or
 - (b) any rules or orders referred to in subsection (3);the Council may make such decision as it thinks proper to resolve the difficulty.
- (5) A reference in subsection (4) to a difficulty arising includes a reference to a difficulty arising because of a conflict or inconsistency between 2 or more continued statutes or between rules or orders made under 2 or more continued statutes.
- (6) A decision made under subsection (4) has effect in spite of anything contained in a continued statute or in any rules or orders referred to in subsection (3).

58 Transfer of assets and liabilities of the Arts Institute

- (1) At the commencement, the assets and liabilities of the Arts Institute become assets and liabilities of the University.
- (2) The following provisions apply to assets and liabilities that have become assets and liabilities of the University because of subsection (1):
 - (a) an asset that was, immediately before the commencement, held by the Arts Institute on trust must, after the

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commencement, be held by the University on trust and subject to the terms of the trust on which the asset was so held by the Arts Institute;

- (b) liabilities of the Arts Institute to make payments must, after the commencement, be taken to be liabilities incurred by the University in the performance of its functions and the exercise of its powers.

59 Arts Institute instruments

An Arts Institute instrument continues to have effect after the commencement but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring after the commencement, has effect as if a reference in the instrument to the Arts Institute were a reference to the University.

60 State or Territory officer may act on certificate

Where:

- (a) under this Division an estate or interest in land becomes an asset of the University; and
- (b) a certificate that:
 - (i) identifies the land and the estate or interest;
 - (ii) states that the estate or interest has, because of this Division, become an asset of the University; and
 - (iii) is signed by an officer of the Attorney-General's Department authorised by the Secretary to that Department to give such certificates;is lodged with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory in which the land is situated;

the officer with whom the certificate is lodged may deal with and give effect to the certificate as if it were a grant, conveyance, memorandum or instrument of transfer of the estate or interest to the University duly executed under the laws in force in that State or Territory.

61 Pending proceedings

Where, immediately before the commencement, proceedings to which the Arts Institute was a party were pending in any court, then, after the commencement, the University is substituted for the Arts Institute as a party to the proceedings and has the same rights in the proceedings as the Arts Institute had.

62 Staff of the Arts Institute

- (1) A person who, immediately before the commencement, was employed as a member of the staff of the Arts Institute:
 - (a) is taken to have been employed, with effect from the commencement, as a member of the staff of the University;
 - (b) is taken to have been so employed on the same terms and conditions as those on which the person was employed as a member of the staff of the old institution; and
 - (c) is taken to have accrued an entitlement to benefits in connection with that employment that is equivalent to the entitlement that the person had accrued in connection with employment as a member of the staff of the Arts Institute immediately before the commencement.
- (2) Where, because of subsection (1), a person is taken to have been employed as a member of the staff of the University with effect from the commencement, that employment is taken for all purposes to have been continuous with the employment of the person immediately before the commencement as a member of the staff of the Arts Institute.

63 Students of the Arts Institute

- (1) A person who, immediately before the commencement, was enrolled, or entitled to be enrolled, as a student in a course of study offered by the Arts Institute is entitled to enrol, not later than 31 December 1992, as a student of the University in a course of study that is the same as, or substantially similar to, the first-mentioned course of study.

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- (2) Where:
- (a) before the commencement, a person had, with the permission of the Arts Institute, deferred the person's enrolment in a course of study offered by the Arts Institute; and
 - (b) immediately before the commencement, that permission had not expired or been revoked;
- the person is, in the academic year in which the person would, by the terms of that permission, have been required to enrol in that course of study, entitled to enrol as a student of the University in a course of study that is the same as, or substantially similar to, the first-mentioned course of study.
- (3) This section does not apply to a person who, immediately before the commencement, had completed the requirements of the course of study concerned.
- (4) This section has effect subject to the Statutes and to any rules and orders made under Statutes made under subsection 50(3).
- (5) The University must offer appropriate courses of study for the purposes of this section.

64 Granting of Arts Institute awards

The University may grant a degree, diploma or certificate of the Arts Institute to a student who has, in the circumstances specified in the Statutes, completed the requirements of a course in which the student was enrolled at the Arts Institute before the commencement, being a course that led to the granting of that degree, diploma or certificate.

65 Transfer of appropriated money

For the purposes of the operation of an Appropriation Act after the commencement:

- (a) references to the Arts Institute are to be read as references to the University; and

- (b) references to a repealed enactment are to be read as references to this Act.

66 Annual report and financial statements

Sections 47 and 49 apply in relation to the year ending on 31 December 1992, subject to the following qualifications:

- (a) the accounts and records to which section 47 applies are the accounts and records of the University and such of the accounts and records of the Arts Institute as are in the possession of the University;
- (b) the Council and the Auditor-General may, in discharging their obligations under section 49, rely on accounts and records of the Arts Institute that are in the possession of the University or to which the Council is allowed access and on any other information provided to the Council by any person who held an office established by a repealed enactment or who was a member of the staff of the Arts Institute;
- (c) for the purposes of paragraph 49(2)(c), *this Act* includes the original Act and the Arts Institute Ordinance.

Endnotes

Endnote 1—About the endnotes

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 how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian National University Act 1991	131, 1991	2 Sept 1991	1 Jan 1992 (s 2)	
Higher Education Funding Amendment Act (No. 2) 1992	158, 1992	11 Dec 1992	s 38(3) and Sch: 1 Jan 1993 (s 2(2))	s 38(3)
Industrial Relations and other Legislation Amendment Act 1995	168, 1995	16 Dec 1995	Sch 7: 16 Dec 1995 (s 2(1))	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 3 (item 5): 2 Sept 1991 (s 2(3))	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 415-422): 1 Jan 1998 (s 2(2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (item 45): 13 Mar 2000 (s 2(2)(c) and gaz 2000, No S114)	—
Higher Education Funding Amendment Act 2001	86, 2001	18 July 2001	Sch 3: 18 July 2001 (s 2(1))	—
Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003	150, 2003	19 Dec 2003	Sch 2 (items 20-63): 1 July 2004 (s 2(1) item 5)	Sch 2 (item 37)
Bankruptcy Legislation Amendment Act 2004	80, 2004	23 June 2004	Sch 1 (items 191, 212, 213, 215): 1 Dec 2004 (s 2(1) item 2 and gaz 2004, No GN34)	Sch 1 (items 212, 213, 215)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Higher Education Legislation Amendment Act (No. 2) 2004	114, 2004	13 July 2004	Sch 4: 13 July 2004 (s 2(1) item 9(a))	Sch 4 (items 20-22)
Higher Education Legislation Amendment Act (No. 3) 2004	157, 2004	17 Dec 2004	Sch 3: 17 Dec 2004 (s 2(1) item 7)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 2	
Division 1	
s 3.....	am No 86, 2001; No 150, 2003; No 114, 2004
s 4.....	am No 152, 1997
s 4A.....	ad No 152, 1997
s 4B.....	ad No 152, 1997
s 6.....	am No 152, 1997
s 7.....	am No 150, 2003
Division 2	
s 10.....	am No 86, 2001; No 150, 2003; No 114, 2004; No 157, 2004
s 11.....	am No 80, 2004
s 12.....	am No 114, 2004
s 13.....	am No 114, 2004
s 14.....	rep No 152, 1997
s 15.....	am No 152, 1997; No 156, 1999; No 86, 2001; No 150, 2003; No 114, 2004
s 16.....	am No 150, 2003
s 17.....	am No 150, 2003
s 18.....	am No 150, 2003
s 18A.....	ad No 150, 2003
s 18B.....	ad No 150, 2003
s 18C.....	ad No 150, 2003
s 18D.....	ad No 150, 2003
s 18E.....	ad No 150, 2003
s 18F.....	ad No 150, 2003
s 18G.....	ad No 150, 2003
Division 3	
s 20.....	am No 86, 2001

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep No 150, 2003
s 21.....	rep No 150, 2003
s 22.....	rep No 150, 2003
s 23.....	rep No 150, 2003
Division 4	
s 24.....	rep No 150, 2003
s 25.....	am No 86, 2001
	rep No 150, 2003
s 26.....	rep No 150, 2003
s 27.....	rep No 150, 2003
s 28.....	rep No 150, 2003
s 29.....	rep No 150, 2003
Division 6	
s 32.....	am No 114, 2004
s 33.....	am No 114, 2004
s 36.....	rep No 168, 1995
Division 7	
s 39.....	am No 150, 2003
Part 3	
Division 1	
s 41.....	rs No 158, 1992
	am No 150, 2003
Division 2	
s 42.....	rep No 158, 1992
s 43.....	am No 158, 1992
	rs No 150, 2003
s 45.....	rep No 152, 1997
s 46.....	rep No 152, 1997
s 47.....	rep No 152, 1997
s 49.....	rep No 152, 1997

Endnote 4—Amendment history

Provision affected	How affected
Part 4	
s 50.....	am No 158, 1992; No 152, 1997; No 150, 2003
s 51.....	am No 150, 2003
s 52.....	am No 150, 2003
Part 5	
Division 4	rep No 150, 2003
s 67.....	rep No 150, 2003
s 68.....	rep No 150, 2003
s 69.....	rep No 150, 2003
s 70.....	rep No 150, 2003
s 71.....	rep No 150, 2003
s 72.....	rep No 150, 2003
s 73.....	rep No 150, 2003
s 74.....	rep No 150, 2003
s 75.....	rep No 150, 2003
Division 5	rep No 43, 1996
s 76.....	rep No 43, 1996
s 77.....	rep No 43, 1996