



# **Education Legislation Amendment Act 1997**

**No. 66, 1997**

**An Act to effect the transfer of responsibility for  
the University of Canberra from the  
Commonwealth to the Australian Capital  
Territory, to amend the *Maritime College Act 1978*,  
and for related purposes**



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the University of Canberra from the  
Commonwealth to the Australian Capital  
Territory, to amend the *Maritime College Act 1978*,  
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[Assented to 30 May 1997]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Education Legislation Amendment Act 1997*.

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## **2 Commencement**

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Subject to subsection (3), Part 1 of Schedule 1 commences on a day to be fixed by Proclamation.
- (3) If Part 1 of Schedule 1 does not commence under subsection (2) within 6 months after the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (4) Parts 2, 3 and 4 of Schedule 1 commence immediately after the commencement of Part 1 of Schedule 1.

## **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments relating to the transfer of the University of Canberra**

### **Part 1—Amendment of the University of Canberra Act 1989**

#### **1 Title**

Omit “under the sponsorship of Monash University, to repeal the *Canberra College of Advanced Education Act 1967*”.

#### **2 Preamble**

Repeal the first and second paragraphs.

#### **3 Section 3 (definition of *Vice-Chancellor*)**

Omit “or 50”.

#### **4 Paragraph 11(1)(c)**

Omit “2”, substitute “3”.

#### **5 Paragraph 11(1)(d)**

Repeal the paragraph.

#### **6 Subsection 11(4)**

Omit “, (d)”.

#### **7 Paragraph 15(1)(f)**

Omit “or (d)”.

#### **8 Paragraph 20(e)**

Repeal the paragraph.

#### **9 Subsection 22(2)**

Omit “(e) or”.

#### **10 Section 38**

Repeal the section.

**11 Division 2 of Part 5**

Repeal the Division.

**12 Sections 50, 53 and 54**

Repeal the sections.

**13 Divisions 4 and 5 of Part 5**

Repeal the Divisions.



**Part 2—Amendment of the Australian Capital  
Territory (Self-Government) Act 1988**

**14 At the end of Schedule 2**

Add:

*University of Canberra Act 1989*

### **Part 3—Amendment of the Remuneration Tribunal Act 1973**

**15 Subsection 3(1) (definition of *Commonwealth higher education institution*)**

After “other than”, insert “the Australian Capital Territory or”.

**16 Subsection 3(1) (at the end of paragraph (a) of the definition of *executive education office*)**

Add “or”.

**17 Subsection 3(1) (paragraph (b) of the definition of *executive education office*)**

Repeal the paragraph.

**18 Paragraph 5(2)(b)**

Omit “, the University of Canberra”.

## **Part 4—Transitional provisions**

### **19 Purpose of this Part**

This Part sets out transitional provisions relating to the transfer of the responsibility for the University of Canberra from the Commonwealth to the Australian Capital Territory.

### **20 Definitions**

In this Part, unless the contrary intention appears:

*ACT enactment* means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*.

*transfer day* means the day on which Part 1 of this Schedule commences.

*University* means the University of Canberra established by section 4 of the University Act.

*University Act* means the *University of Canberra Act 1989* as in force from time to time before the transfer day.

### **21 Terms and conditions of employment of University employees**

If a person was employed by the University immediately before the transfer day, this Act does not affect the terms and conditions (including any accrued entitlement to benefits) of that employment.

### **22 Audit**

If the transfer day is less than a year after the end of the last period in respect of which a report was made by the Auditor-General under subsection 37(4) of the University Act, that subsection has effect in respect of the period (the *final reporting period*) beginning immediately after the end of that last period and ending immediately before the transfer day as if the reference to a year in that subsection were a reference to the final reporting period.

### **23 Annual report and financial statements**

If the transfer day is less than a year after the end of the last year in respect of which a report was prepared under section 39 of the University Act, that section has effect in respect of the period beginning immediately after the end of that last year and ending immediately before the transfer day as if:

- (a) a reference in that section to a year were a reference to that period; and
- (b) a reference in that section to 31 December were a reference to the transfer day.

#### **24 Application—*Administrative Appeals Tribunal Act 1975***

(1) If:

- (a) immediately before the transfer day, a person had a right to:
  - (i) apply under the *Administrative Appeals Tribunal Act 1975* (the *AAT Act*) for a review of a decision of the University made under the *Freedom of Information Act 1982* concerning an act or practice of the University; or
  - (ii) request under the *AAT Act* a statement of reasons for such a decision; or
- (b) before the transfer day, a person made such an application or request but it had not been finally disposed of under the *AAT Act* by the transfer day;

the *AAT Act* continues to apply in respect of that right, application or request as if the University Act had not become an ACT enactment.

(2) If a person applies to the Administrative Appeals Tribunal for review of a decision under the *Freedom of Information Act 1982* in accordance with item 26 of this Part, the Administrative Appeals Tribunal may deal with that matter as if the *AAT Act* had continued to apply and the University Act had not become an ACT enactment.

#### **25 Application—*Administrative Decisions (Judicial Review) Act 1977***

(1) If:

- (a) immediately before the transfer day, a person had a right:
  - (i) to apply under the *Administrative Decisions (Judicial Review) Act 1977* for a review of a decision of the University; or

- (ii) to request under that Act a statement of reasons for a decision of the University; or
- (b) before the transfer day, a person made such an application or request, but it had not been finally disposed of under that Act by the transfer day;

that Act continues to apply in respect of that right, application or request as if the University Act had not become an ACT enactment.

- (2) In this item, a reference to a decision includes a reference to:
  - (a) a failure to make a decision; or
  - (b) conduct for the purpose of making a decision.

## **26 Application—*Freedom of Information Act 1982***

If:

- (a) before the transfer day, a request was made under the *Freedom of Information Act 1982* for access to a document in the possession of the University; and
- (b) the request had not been finally disposed of under that Act immediately before that day;

that Act continues to apply to the request and the parties concerned as if the University Act had not become an ACT enactment.

## **27 Application—*Long Service Leave (Commonwealth Employees) Act 1976***

If, but for this item:

- (a) an amount would become due on the transfer day under the *Long Service Leave (Commonwealth Employees) Act 1976* to a person employed by the University; and
- (b) the amount would become due solely because the person would cease to be an employee within the meaning of that Act as a result of the University Act becoming an ACT enactment;

the amount does not become due.

## **28 Application—*Occupational Health and Safety (Commonwealth Employment) Act 1991***

- (1) If:
  - (a) before the transfer day:

- (i) a provisional improvement notice was issued to the University under section 29 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*; or
  - (ii) a prohibition notice was issued to the University under section 46 of that Act; or
  - (iii) an improvement notice was issued to the University under section 47 of that Act; or
  - (iv) an investigation concerning the University commenced under section 41 of that Act; and
- (b) the matter had not been finally disposed of under that Act immediately before the transfer day;

that Act continues to apply to the request and the parties concerned as if the University Act had not become an ACT enactment.

- (2) Except as provided in subitem (1), on and after the transfer day the *Occupational Health and Safety (Commonwealth Employment) Act 1991* ceases to apply in relation to an act concerning the University that occurred before the transfer day.

**29 Refund of contribution paid under the *Occupational Health and Safety (Commonwealth Employment) Act 1991***

- (1) If the University has paid a contribution to the cost of the administration of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* under section 67H of that Act in respect of the financial year in which the transfer day occurs, the University is entitled to be paid the amount worked out using the following formula:

$$\text{Contribution} \times \frac{\text{Number of refund days}}{365}$$

where:

**contribution** means the contribution paid by the University in respect of that financial year in which the transfer day occurs.

**number of refund days** means the total number of days in the period beginning on the transfer day and ending on the last day of that financial year.

- (2) An amount to which the University is entitled under subitem (1) is to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

**30 Application—*Ombudsman Act 1976***

- (1) If:
- (a) immediately before the transfer day, a person had a right to make a complaint to the Ombudsman under the *Ombudsman Act 1976* in relation to a particular action that had been taken by the University; or
  - (b) before the transfer day, a person made such a complaint, but it had not been finally disposed of under that Act by the transfer day;

that Act continues to apply in respect of that right or complaint as if the University Act had not become an ACT enactment.

- (2) If:
- (a) immediately before the transfer day, the Ombudsman was entitled to commence an investigation under the *Ombudsman Act 1976* in relation to a particular action that had been taken by the University; or
  - (b) before the transfer day, the Ombudsman commenced such an investigation, but it had not been finally disposed of under that Act by the transfer day;

that Act continues to apply in respect of that entitlement or investigation as if the University Act had not become an ACT enactment.

**31 Application—*Public Service Act 1922***

If, immediately before the transfer day:

- (a) a provision of Part IV of the *Public Service Act 1922* applied to a person employed by the University; and
- (b) the provision applied to the person because the University was a public authority within the meaning of Part IV of that Act;

the provision continues to apply to the person, while the person remains an employee of the University, as if the University were still a public authority within the meaning of Part IV of that Act.

**32 Application—*Safety, Rehabilitation and Compensation Act 1988***

If:

- (a) immediately before the transfer day, a person had a right to make an application under the *Safety, Rehabilitation and Compensation Act 1988* for compensation in respect of:
  - (i) injuries arising out of, or in the course of, a person's employment by the University; or
  - (ii) disease, or loss of or damage to property, suffered by a person in connection with the person's employment by the University; or
- (b) before the transfer day, a person made such an application, but it had not been finally disposed of under that Act by the transfer day;

that Act continues to apply to the right or application and the parties concerned as if the University Act had not become an ACT enactment.

**33 Offsetting amount of premium under the *Safety, Rehabilitation and Compensation Act 1988***

If:

- (a) the University has paid an amount of premium under Division 4A of Part VII of the *Safety, Rehabilitation and Compensation Act 1988* in respect of a part of the financial year in which the transfer day occurs; and
- (b) that part of the financial year occurs on and after the transfer day;

then:

- (c) that amount is taken to be part of the premium of the Australian Capital Territory for that financial year under that Division paid on behalf of the Territory by the University; and
- (d) the University is not entitled to claim a refund of that amount.



## **Schedule 2—Amendment of the Maritime College Act 1978**

### **1 After section 24**

Insert:

#### **24A Statutes relating to traffic**

- (1) The Council may make Statutes for or in relation to the regulation or control of:
  - (a) traffic; or
  - (b) the parking, stopping, standing or leaving of vehicles; on land occupied by the College in the State of Tasmania.
- (2) Without limiting subsection (1), a Statute made under that subsection may:
  - (a) authorise, and provide for the effect of, signs and markings; and
  - (b) provide for the punishment, upon summary conviction, by a fine not exceeding 2 penalty units, of offences against a Statute made under that subsection.

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*[Minister's second reading speech made in—  
House of Representatives on 20 March 1997  
Senate on 26 March 1997]*

(35/97)

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I HEREBY CERTIFY that the above is a fair print of the Education Legislation Amendment Bill 1997 which originated in the House of Representatives and has been finally passed by the Senate and the House of Representatives.

*Clerk of the House of Representatives*

IN THE NAME OF HER MAJESTY, I assent to this Act.

*Governor-General*  
1997