

THE AUSTRALIAN NATIONAL UNIVERSITY

Australian National University (Legislation) Statute 2023

The Council of the University makes the following statute.

Dated 28 JULY 2023

The Hon Julie Bishop
Chancellor

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Part 1—Preliminary

1 Name

This is the *Australian National University (Legislation) Statute 2023*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Australian National University Act 1991*, section 50 (Statutes).

4 Objects

- (1) The main object of this instrument is to make University legislation as simple, succinct and accessible as possible.
- (2) This is to be achieved particularly in the following ways:
 - (a) facilitating the shortening and simplifying of University legislation;
 - (b) promoting consistency in the form and language of University legislation;
 - (c) providing interpretative, administrative and machinery provisions for University legislation.

5 Application of this instrument

This instrument applies to all University legislation (including this instrument).

[Note: For the displacement of this instrument, see section 7 (Provisions of this instrument must be applied).]

6 Meaning of *University legislation*

In this instrument:

University legislation means any of the following:

- (a) a statute made under the ANU Act (an ***ANU statute***);
- (b) a rule made under an ANU statute (an ***ANU rule***);
- (c) an order made under an ANU statute or rule (an ***ANU order***);
- (d) any other legislative instrument, or any notifiable or other instrument, made under the ANU Act or an ANU statute, rule or order.

[Note: For definitions applying to University legislation generally, see the dictionary in Schedule 1.]

7 Provisions of this instrument must be applied

- (1) A provision of this instrument must be applied to all University legislation, in accordance with the terms of the provision, except so far as it is displaced.
- (2) The application of a provision of this instrument to any University legislation may be displaced expressly by, or by a contrary intention in, the University legislation or any other University legislation.
- (3) To remove any doubt, in this section:

displaced includes modified.

[Note 1: Commonwealth legislation also applies to University legislation, including the following:

- the ANU Act
- the Acts Interpretation Act (as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments)
- the Legislation Act.]

[Note 2: The provisions of the Acts Interpretation Act apply to University legislation subject to any ‘contrary intention’ in University legislation, including this instrument (see Acts Interpretation Act, section 2(2) (Application of Act) and Legislation Act, section 13(1)(a)).]

Part 2—Interpretation

8 Application of definitions in dictionary in Schedule 1

A definition in the dictionary in Schedule 1 applies to all University legislation.

9 Terms used in authorising legislation etc.

- (1) Terms used in University legislation have the same meanings as they have, from time to time, in the Act or University legislation (the **authorising legislation**), or the relevant provisions of the authorising legislation, under which the University legislation is made.
- (2) However, if University legislation (the **first legislation**) makes provision for other University legislation (the **other legislation**), terms used in first legislation have the same meanings as they have, from time to time, in the other legislation or the relevant provisions of the other legislation.
- (3) Subsection (1) is additional to, and does not limit, the Legislation Act, section 13(1)(b) (Construction of legislative instruments and notifiable instruments).

10 Application of general references to University entities etc.

- (1) In University legislation or another document of the University:
 - (a) a reference to an entity or position by name or description is a reference to:
 - (i) the entity or position of that name or description in or for the University; and
 - (ii) if there are 2 or more such entities or positions—the entity or position with responsibility for the matter to which the reference applies; and
 - (b) a reference to anything else by name or description is a reference to the thing of that name or description in or for the University.

Example for paragraph (a)(i)

A reference in University legislation to the Academic Board is a reference to the Academic Board of the University.

Examples for paragraph (a)(ii)

A reference in University legislation relating to research awards (or to a particular research award or a particular aspect of research awards) to the Deputy Vice-Chancellor is a reference to the Deputy Vice-Chancellor of the University with responsibility for research awards (or that particular research award or that particular aspect of research awards).

Examples for paragraph (b)

A reference in University legislation to a coursework award is a reference to a coursework award of the University.

- (2) If the name of an entity, position, or anything else, in or for the University includes the words ‘Australian National University’, the abbreviation ‘ANU’, or any other reference to the University, a reference in University legislation or another document of the University to the entity, position or other thing need not include the words, abbreviation or other reference to the University.
- (3) If the name of an entity, position, or anything else, in or for the University changes, a reference in University legislation or another document of the University to the entity,

position or other thing by its previous name is taken, after the change, to be a reference to the entity, position or other thing by its new name.

11 Examples in University legislation

- (1) An example in University legislation:
 - (a) is not exhaustive; and
 - (b) may extend, but does not limit, the meaning of the University legislation, or the particular provision to which it relates.
- (2) An example in University legislation is part of the University legislation.
- (3) An example in University legislation may take either of the following forms:
 - (a) a statement at the end of the provision it illustrates (or at the end of a provision containing the provision it illustrates); or
 - (b) a statement forming part of the text of a provision that illustrates the operation of the provision, whether or not the words ‘for example’ are used.

Examples for paragraph (a)

1 the examples to section 16(2) (Referring to particular University legislation)

2 the example to section 20(3) (Power to make instrument includes power to amend or repeal)

Examples for paragraph (b)

the words in brackets in section 23(7)(b), (d) and (e) (Approved forms)

- (4) Subsection (3) does not limit the form that an example may take.

12 Notes in or to University legislation

- (1) A note in or to University legislation, whether or not in square brackets, is not part of the legislation.
- (2) This section has effect despite the Acts Interpretation Act, section 13(1) (Material that is part of an Act).

Part 3—Referring to University legislation

13 Reference to University legislation includes the legislation containing reference

In University legislation, a reference in general terms to University legislation of the same kind includes a reference to the legislation itself.

14 Reference to University legislation includes provision of the legislation

In University legislation or another document of the University, a reference (either generally or specifically) to University legislation includes a reference to a provision of the legislation.

15 Reference to *the statute* or *the rule* etc.

- (1) In a rule, order or other instrument (other than a statute), a reference to ***statute*** or ***the statute***, without mentioning a particular statute, is a reference to the statute under or for which the instrument is made.
- (2) In an order or other instrument (other than a statute or rule), a reference to ***rule*** or ***the rule***, without mentioning a particular rule, is a reference to the rule under or for which the instrument is made.

16 Referring to particular University legislation

- (1) In University legislation or another document of the University, particular University legislation may be referred to by any name the legislation gives itself.
- (2) For subsection (1), it is sufficient if the particular University legislation is referred without any of the following:
 - (a) the year of its making;
 - (b) if name of the legislation includes a number—that number;
 - (c) if the name of the legislation includes the words ‘Australian National University’ or ‘The Australian National University’—those words (and any then unnecessary punctuation).

Examples for subsection (2)

1 The *Academic Progress Rule 2019* may be referred to as the ‘Academic Progress Rule’.

2 The *Australian National University (Parking and Traffic) Statute 2019* may be referred to as the ‘Parking and Traffic Statute’.

- (3) This section is additional to, and does not limit, the Acts Interpretation Act, section 40(1A) (Citation of Acts and instruments).

17 Reference to University legislation includes the legislation as in force from time to time

- (1) In University legislation or another document of the University, a reference to University legislation includes a reference to the following:
 - (a) the legislation as originally made, and as amended from time to time since it was originally made;

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- (b) if the legislation has been repealed and remade (with or without changes) since the reference was made—the legislation as remade (or last remade), and as amended from time to time since it was remade (or last remade);
 - (c) if a relevant provision of the legislation has been omitted and remade (with or without changes) in other University legislation since the reference was made—the legislation in which the provision was remade (or last remade), as in force when the provision was remade (or last remade), and as amended from time to time since the provision was remade (or last remade).
 - (2) In University legislation or another document of the University, a reference to a provision of University legislation includes a reference to the following:
 - (a) the provision as originally made, and as amended from time to time since it was originally made;
 - (b) if the provision has been omitted and remade (with or without changes and whether in the same University legislation or other University legislation) since the reference was made—the provision as remade (or last remade), and as amended from time to time since it was remade (or last remade).
 - (3) To remove any doubt, if the name of University legislation is amended or University legislation is repealed and remade with a changed name, a reference in University legislation, or another document of the University, to that legislation using its name before it was amended or remade includes a reference to the legislation using its amended or changed name.

18 Reference to University legislation includes instruments under the legislation

- (1) In University legislation, a reference (either generally or specifically) to University legislation includes a reference to the instruments (if any) made under the legislation.
- (2) In subsection (1), a reference to the instruments made under the University legislation includes a reference to any provisions or other matter applied, adopted or incorporated (with or without modification) under the legislation.

Part 4—Facilitative provisions

19 Power to make instruments

If University legislation gives a power that can be exercised by making an instrument, the legislation gives power to make the instrument.

20 Power to make instrument includes power to amend or repeal

- (1) Power given under University legislation to make an instrument includes power to amend or repeal the instrument.
- (2) The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.
- (3) However, if a condition of the power to make the instrument ceases to be satisfied after the instrument is made, subsection (2) has effect as if the reference to the same conditions were, to the extent that the reference relates to that condition, a reference to the condition ceasing to be satisfied.

Example

A rule authorises the Registrar to permit a person with a serious medical condition to re-enrol in a program if, among other things, the Registrar is satisfied that the person will continue to take and follow medical advice. Based on the person's undertaking, the Registrar gives the person written permission to re-enrol.

If the Registrar ceases to be satisfied that the person is continuing to take and follow medical advice, the Registrar may, in writing, revoke the permission.

- (4) This section is additional to, and does not limit, the Acts Interpretation Act, section 33(3) and (3AA) (Power to make instrument includes power to vary or revoke etc. instrument).

21 Functions of University bodies

- (1) In this section:

University body means the Council or any other body established under University legislation or by decision of the Council.

- (2) If a University body as constituted for the time being does something in exercise of a function given to the body, the effect of the thing done by the body does not end only because the membership of the body changes.

Examples of things done by a body

1 appointments (including acting appointments) made by the body

2 delegations made by the body

- (3) This section does not prevent the thing done by the body being ended or changed by the body as subsequently constituted for the time being.

22 Power to extend time

- (1) This section applies if, under University legislation:
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- (a) something must or may be done on a particular day or within a particular period of time; but
 - (b) an entity has power, on application by a person, to extend the time (the **relevant time**) for doing the thing.
- (2) The person may apply to the entity for the relevant time to be extended, and the entity may extend the time, even though the relevant time has ended.

23 Approved forms

- (1) The Vice-Chancellor may, in writing, approve forms for University legislation.
- (2) If the Vice-Chancellor approves a form to be used for a particular purpose under or in connection with University legislation, the form must be used for that purpose. If an instrument that is not the approved form is used for that purpose, the instrument is not effective for the purpose and the instrument may be dealt with by or on behalf of the University, if at all, in accordance with the University's policies and procedures or otherwise at the University's discretion.

Examples of action by the University at the University's discretion

Subject to the University's policies and procedures, the University may reject the instrument or decline to take any action on it.

- (3) Substantial compliance with an approved form is sufficient.
- (4) However, an approved form is properly completed only if each mandatory requirement applying to the form is complied with.
- (5) If an approved form is not properly completed, the form is not effective for the purpose for which it was approved and the form may be dealt with by or on behalf of the University, if at all, in accordance with the University's policies and procedures or otherwise at the University's discretion.

Examples of action by the University at the University's discretion

Subject to the University's policies and procedures, the University may reject the form, decline to take any action on the form, or allow action to be taken within a specified time to ensure that the form is properly completed.

- (6) For this section, a **mandatory requirement** is any requirement that the form states is a mandatory requirement.
- (7) Without limiting subsection (6), an approved form may state that any of the following requirements is a mandatory requirement:
- (a) that the form or a related document, or information in the form or a related document, be signed or witnessed, or signed and witnessed in a particular way;
 - (b) that the form, or a related document, be in a particular format (for example, in writing or a particular electronic format);
 - (c) that particular information be included in the form or a related document;
 - (d) that the form or a related document, or information in the form or a related document, be verified in a particular way (for example, by statutory declaration) or by a particular entity;
 - (e) that the form, or a related document, be provided in a particular way (for example, using a particular electronic process);
 - (f) that the form, or a related document, be provided by or through a particular entity.

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- (8) Without limiting the electronic processes that may be specified for subsection (7)(e), an electronic process mentioned in that paragraph may do all or any of the following:
- (a) require information to be provided in a particular order;
 - (b) prevent the user from further completing the form unless particular information, or a particular related document, has already been provided for the form;
 - (c) prevent the user from providing the form or a related document unless the form or related document has been properly completed.
- (9) To remove any doubt, if an approved form is provided to the University using an electronic process in accordance with a mandatory requirement applying to the form, the form is taken to be in writing.
- (10) The Vice-Chancellor must ensure that approved forms are available on the University's website or another way that the Vice-Chancellor considers appropriate.
- (11) In this section:

related document, in relation to a form, includes a document given with, attached to, or otherwise provided in connection with, the form.

24 Service of notices etc.

- (1) This section applies to a notice or other document that is required or permitted to be served on an individual under University legislation (whether the word 'give', 'notify', 'send', 'tell' or another word is used).
- (2) The document may be served on an individual:
- (a) by giving it to the individual; or
 - (b) by sending it by prepaid post, addressed to the individual, to an address shown in the University's records as an address of the individual (including, for example, any semester, work or permanent home address); or
 - (c) by emailing it to:
 - (i) if the individual has an email address provided by the University—that email address; or
 - (ii) in any case—an email address shown in the University's records as an email address of the individual (including, for example, any personal or work email address).
- (3) A document served by post on an individual under subsection (2)(b) is taken to have been served on the day it would have been delivered in the ordinary course of post.
- (4) A document served by email on an individual under subsection (2)(c) is taken to have been served on the day it would have been received in the ordinary course of email transmission.
- (5) This section does not affect the operation of any other University legislation, or any other law, that authorises or requires service of a document otherwise than as provided under this section.

[Note: See e.g. the Acts Interpretation Act, section 28A (Service of documents).]

25 Exercise of Associate Dean's functions by College Dean

- (1) The College Dean of an ANU College may exercise any function given to an Associate Dean of the ANU College under University legislation or a decision of the Council or Vice-Chancellor.
- (2) However, the College Dean may not exercise a function if University legislation, or a decision of the Council or Vice-Chancellor, requires the Associate Dean to exercise the function personally.
- (3) University legislation, and decisions of the Council and Vice-Chancellor, apply to the College Dean in the exercise of a function under subsection (1) as if a reference to the Associate Dean were a reference to the College Dean.
- (4) Without limiting subsection (3), if the exercise of the function by the Associate Dean is dependent on the Associate Dean's state of mind, the function may be exercised by the College Dean on the College Dean's state of mind.
- (5) Anything done by or in relation to the College Dean in the exercise of a function under subsection (1) is taken to have been done by or in relation to the Associate Dean.
- (6) In this section:

state of mind includes knowledge, intention, opinion, belief and purpose.

Part 5—Repeal of University legislation

26 Effect of repeal of University legislation

- (1) This section applies if:
 - (a) University legislation (the *repealing legislation*) repeals other University legislation (the *repealed legislation*); and
 - (b) the repealing legislation or other University legislation (the *declaring legislation*) declares that this section applies to the repeal.
- (2) The repealed legislation is taken, for all purposes, to have been amended by the repealing legislation as if the repealing legislation amended, and did not repeal, the repealed legislation.
- (3) Without limiting subsection (2), subsection (4) applies if:
 - (a) the repealed legislation expressly or impliedly authorised or required:
 - (i) the making (however described) of an appointment, decision or instrument; or
 - (ii) the delegation or subdelegation of a function; or
 - (iii) the giving or issue (however described) of an approval, authority, exemption, permission, permit, recommendation or anything else; or
 - (iv) the doing (however described) of anything else; and
 - (b) under the declaring legislation:
 - (i) the appointment, decision or instrument may be made (however described); or
 - (ii) the function may be delegated or subdelegated; or
 - (iii) the approval, authority, exemption, permission, permit, recommendation or other thing may be given or issued (however described); or
 - (iv) the thing may be done (however described);whether by the same or a different entity.
- (4) If this subsection applies (see subsection (3)), and immediately before the commencement of the repealing legislation anything mentioned in subsection (3) was in force under the repealed legislation, the thing continues to have effect (and may be dealt with) as if it had been made, delegated, subdelegated, given, issued, or done, (however described) under the declaring legislation.
- (5) Also, if the repealed legislation included a transitional provision, the continuing operation of the provision is not affected only because of the repeal of the repealed legislation.
- (6) This section applies to the repeal of the repealed legislation with any modifications prescribed by any other University legislation.
- (7) This section is additional to, and does not limit, the Acts Interpretation Act, section 7 (Effect of repeal or amendment of Act), as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments).
- (8) In this section:

transitional includes application or savings.

transitional provision means:

- (a) a provision declared by University legislation to be a transitional provision; or
- (b) a provision expressed to be a transitional provision (for example, a provision that includes the word ‘Transitional’ in its heading); or
- (c) a provision made for a transitional purpose; or
- (d) a provision that makes provision consequential on a provision mentioned in paragraphs (a) to (c).

Examples of transitional provisions for paragraphs (c) and (d)

1 a provision providing that an existing approval under repealed University legislation is taken to be a particular kind of approval under replacement University legislation (paragraph (c) example)

2 a provision authorising the variation of conditions applying to a provision mentioned in example 1 (paragraph (d) example)

Part 6—Repeal, transitional provisions and expiry

Division 6.1—Repeal of existing instrument

27 Repeal of Legislation Statute 2020

The *Australian National University (Legislation) Statute 2020* is repealed.

Division 6.2—Transitional provisions

28 Transitional rules

- (1) Rules made under the Governance Statute, section 68(1) (General power to make rules and orders) may prescribe matters of a transitional nature (including prescribing any savings or application provisions) relating to:
 - (a) the repeal of the *Australian National University (Legislation) Statute 2020*; or
 - (b) the making of this instrument.
- (2) This instrument (other than this section) does not limit the matters that may be prescribed by rules made for subsection (1).
- (3) Rules made for subsection (1) have effect despite anything in this instrument (other than this section).

29 Application of section 26

- (1) Section 26 (Effect of repeal of University legislation) applies to the repeal of the *Australian National University (Legislation) Statute 2020*.
- (2) For section 26, the provisions of this Division are transitional provisions.

30 Transitional provisions additional

This Division is additional to, and does not limit:

- (a) section 26 (Effect of repeal of University legislation); or
- (b) the Acts Interpretation Act, section 7 (Effect of repeal or amendment of Act), as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments).

Division 6.3—Expiry

31 Expiry of instrument

This instrument expires 10 years after the day it commences.

Schedule 1—Dictionary

[Note: See section 8.]

ACT means the Australian Capital Territory.

Acts Interpretation Act means the *Acts Interpretation Act 1901*.

affiliated college means a residential college that is affiliated with the University.

amend includes change and alter.

ANU Act means the *Australian National University Act 1991*.

ANU College means a college established by the Council as a college of the University.

[Note: At the commencement of this instrument, the ANU Colleges were listed on the following web page:

<http://www.anu.edu.au/about/academic-colleges>.]

ANUSA means The Australian National University Students' Association Incorporated, an association incorporated under the *Associations Incorporation Act 1991* (ACT).

appoint includes reappoint.

[Note: See the Acts Interpretation Act, section 33AA (Power to appoint includes power to reappoint).]

approved form means:

- (a) a form approved under section 23 (Approved forms); and
- (b) in relation to a particular University legislation—a form approved under that section for the University legislation.

[Note: See section 14 (Reference to University legislation includes provision of the legislation).]

Associate Dean means:

- (a) an Associate Dean of an ANU College; and
- (b) in relation to a particular ANU College—a person appointed as an Associate Dean of the ANU College.

body includes a committee.

breach includes fail to comply with.

[Note: See also definition of **fail**.]

by an instrument includes under the instrument.

[Note: See also definitions of **instrument** and **under**.]

calendar month: see the Acts Interpretation Act, section 2B (Definitions).

[Note: Section 2B defines **calendar month** as 'one of the 12 months of the year'.]

calendar year: see the Acts Interpretation Act, section 2B (Definitions).

[Note: Section 2B defines **calendar year** as 'a period of 12 months starting on 1 January'.]

Chancellor means the Chancellor of the University appointed under the ANU Act.

College Dean means:

- (a) the College Dean of an ANU College; and

(b) in relation to a particular ANU College—the person appointed as the College Dean of the ANU College.

contravene includes fail to comply with.

[Note: See also definition of **fail**.]

Council means the Council of the University established under the ANU Act.

decision includes any decision (however described).

document, of the University, includes any appointment, delegation or subdelegation made in writing under the ANU Act, another Act as it applies in relation to the University, or University legislation.

[Note: See also definitions of **under** and **writing**.]

entity includes an unincorporated body and a person (including a person occupying a position).

[Note: See also definitions of **body**, **occupy** and **person**.]

establish includes constitute, continue in existence, or confirm the existence of.

exercise a function includes perform the function.

fail includes refuse.

for an Act or instrument includes for the purposes of the Act or instrument.

[Note 1: See also definition of **instrument**.]

[Note 2: See section 14 (Reference to University legislation includes provision of the legislation).]

function includes authority, duty and power.

[Note: See also definition of **exercise** a function.]

hall of residence means a hall of residence established by the Council.

individual: see the Acts Interpretation Act, section 2B (Definitions).

[Note: Section 2B defines an **individual** as ‘a natural person’.]

instrument: see the Legislation Act, section 4 (The Dictionary), and, to remove any doubt, includes any University legislation.

[Note: Section 4 defines **instrument** as ‘any writing or other document’, and as including ‘an instrument in electronic form’.]

Legislation Act means the *Legislation Act 2003*.

legislative instrument: see the Legislation Act, section 8 (Definition of *legislative instrument*).

made under the ANU Act or another Act, or under University legislation or another instrument, includes in force under the Act or instrument (or the relevant provisions of the Act or instrument).

[Note: See also definition of **under**.]

modification includes modification by alteration, omission, substitution and addition.

month: see the Acts Interpretation Act, section 2G (Months).

Nominations Committee means the Nominations Committee of Council established under the ANU Act.

notifiable instrument: see the Legislation Act, section 11 (Definition of *notifiable instrument*).

occupy a position (however expressed) includes hold the position for the time being, act in the position, or exercise a function of the position (including under a delegation or subdelegation).

office includes position.

order means:

- (a) an order made under the Governance Statute, section 68 (General power to make rules and orders) or another provision of a statute or a rule; and
- (b) in relation to a particular statute or rule—an order made for the statute or rule.

[Note: See also definitions of *for*, *made* and *under*.]

person: see the Acts Interpretation Act, section 2C (References to persons).

position includes office.

power includes authority.

prescribed by instrument (however expressed) includes worked out under the instrument.

[Note: See also definitions of *instrument* and *under*.]

President, of the University, means the Vice-Chancellor.

Pro-Chancellor means the Pro-Chancellor of the University appointed under the ANU Act.

repeal includes revoke, rescind, replace, cancel, or otherwise cease to have effect.

rule means:

- (a) a rule made under the Governance Statute, section 68 (General power to make rules and orders) or another provision of a statute; and
- (b) in relation to a particular statute—a rule made for the statute.

[Note: See also definitions of *for*, *made* and *under*.]

statute means a statute made under the ANU Act.

[Note: See also definition of *made*.]

student association means The Australian National University Students' Association Incorporated, an association incorporated under the *Associations Incorporation Act 1991* (ACT).

under an Act or instrument includes the following:

- (a) by the Act or instrument;
- (b) for or for the purposes of the Act or instrument;
- (c) in accordance with the Act or instrument;
- (d) within the meaning of the Act or instrument.

[Note: See section 14 (Reference to University legislation includes provision of the legislation) and the definition of *instrument* in this dictionary.]

University means the Australian National University established under the ANU Act.

University legislation: see section 6 (Meaning of *University legislation*).

Vice-Chancellor means the Vice-Chancellor of the University appointed under the ANU Act.

working day means a day of the week that is not a Saturday, a Sunday, a public holiday in the ACT, or a University holiday.

writing: see the Acts Interpretation Act, section 2B (Definitions).

[Note: Section 2B defines **writing** to include 'any mode of representing or reproducing words, figures, drawings or symbols in a visible form'.]

year, without specifying the kind of year, means calendar year.

[Note: See also definition of **calendar year**.]