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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

AUSTRALIAN NATIONAL UNIVERSITY BILL 1991

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1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 15 May 1991

(*Minister for Higher Education and Employment Services*)

A BILL

FOR

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

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

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

Commencement

2. This Act commences on 1 January 1992.

o

Interpretation

3. 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); 5

"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; 10

"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;

"Chancellor" means the Chancellor of the University appointed under section 32; 15

"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:

(a) the Institute of the Arts; or 20

(b) any faculty;

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

"elect" includes re-elect;

"executive office" means: 25

(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

(b) the Pro-Chancellor; 30

(c) the Vice-Chancellor; or

(d) the Chairperson of the Board of the Institute; or

(e) the Chairperson of the Board of The Faculties; or

(f) the president of the postgraduate students' association; or

(g) the president of the undergraduate students' association; 35

"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); 40

"Institute of the Arts" means the Institute of the Arts referred to in subparagraph 7 (1) (b) (i);

"original Act" means the *Australian National University Act 1946*;

"president of the postgraduate students' association" means the head (by whatever name called) of the body recognised by the Council as representing postgraduate students of the University;

5 **"president of the undergraduate students' association"** means the head (by whatever name called) of the body recognised by the Council as representing undergraduate students of the University;

"Pro-Chancellor" means the Pro-Chancellor of the University appointed under section 33;

10 **"professor"** does not include an assistant professor or an associate professor;

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

"statutory Board" means the Board of the Institute or the Board of The 15 Faculties;

"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);

20 **"University body"** means:

(a) the Council; or

(b) Convocation; or

(c) a statutory Board;

"Vice-Chancellor" means the Vice-Chancellor of the University 25 appointed under section 34.

PART 2—THE AUSTRALIAN NATIONAL UNIVERSITY

Division 1—Establishment of the University

Establishment of the University

4. (1) The Australian National University that was, immediately 30 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

35 (c) may acquire, hold and dispose of real and personal property.

(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 40 document and must presume that it was duly affixed.

Functions of the University

5. (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.

Powers of the University

6. (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;

5 (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;

10 (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.

15 **(3)** In spite of anything contained in this Act, 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.

20 **Organisation of the University**

7. (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, being:

25 (i) an Institute of the Arts, that includes a school of music and a school of art, to be known respectively as the Canberra School of Music and the Canberra School of Art; and

(ii) such faculties and other bodies as are determined by the 30 Council;

to be known as "The Faculties".

(2) Nothing in this Act prevents the Council from establishing, within the University, for academic or administrative purposes, a school or other organisational structure that:

35 (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

40 **The Council**

8. The governing authority of the University is the Council.

Powers of Council

9. (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. 5

(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.

Constitution of Council

10. (1) The Council consists of the following members: 10

(a) the Chancellor;

(b) the Pro-Chancellor;

(c) the Vice-Chancellor;

(d) the Chairperson of the Board of the Institute;

(e) the Chairperson of the Board of The Faculties; 15

(f) 4 persons appointed by the Governor-General;

(g) one person (being a Senator or a member of the House of Representatives) appointed by the Governor-General on the nomination of the Prime Minister;

(h) one person (being a Senator or a member of the House of Representatives) appointed by the Governor-General on the nomination of the Leader of the Opposition in the House of Representatives; 20

(i) 2 persons (not being members of the Legislative Assembly for the Australian Capital Territory) appointed by the Chief Minister of the Australian Capital Territory; 25

(j) 2 persons (not being employees or students of the University) elected by Convocation;

(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; 30

(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; 35

(n) one member of the general staff of the University elected by members of that staff;

(o) the president of the postgraduate students' association;

(p) the president of the undergraduate students' association;

(q) if a person is appointed under subsection (2)—that person. 40

(2) Where the Council considers that it is necessary to appoint an extra member of the Council to enable the Council to perform its functions efficiently, the Council may appoint a person (not being an employee or student of the University) as a member of the Council.

(3) Subject to this Act, a member of the Council referred to in paragraph (1) (f), (g), (h), (i) or (q) holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment.

(4) Subject to this Act, the members of the Council referred to in paragraphs (1) (j), (k), (l), (m) and (n) hold office for such periods as the Statutes provide.

Qualifications for membership of Council

11. 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 composition, deed of arrangement or deed of assignment 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.

Meetings of Council

12. (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) the Pro-Chancellor is present;

the Pro-Chancellor is to preside at the meeting.

(3) If neither the Chancellor nor the Pro-Chancellor 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.

Resolutions without meetings

13. (1) The Chancellor or Pro-Chancellor 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) 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.

(4) For the purposes of this section, a member of the Council is not eligible to vote on a resolution if the resolution relates to a matter in which the member has a direct or indirect pecuniary interest. 5

Disclosure of interests of members

14. (1) A member of the Council who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at 10 a meeting of the Council.

(2) A disclosure under subsection (1) must be recorded in the minutes of the meeting of the Council and the member must not, unless the Council otherwise determines:

(a) be present during any deliberation of the Council with respect 15 to that matter; or

(b) take part in any decision of the Council with respect to that matter.

(3) For the purpose of making a determination under subsection (2), a member of the Council who has a direct or indirect pecuniary 20 interest in the matter concerned must not:

(a) be present during any deliberation of the Council for the purpose of making the determination; or

(b) take part in making the determination.

Vacation of office 25

15. (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 30

(d) is absent without leave of the Council from 3 consecutive meetings of the Council; or

(e) without reasonable excuse, fails to comply with his or her obligations under subsection 14 (1); or

(f) in the case of a member referred to in paragraph 10 (1) (g), (h) 35 or (i)—ceases to be qualified to be appointed as mentioned in the paragraph concerned; or

(g) in the case of a member referred to in paragraph 10 (1) (j), (k), (l), (m) or (n)—ceases to be qualified to be elected as mentioned in the paragraph concerned; or 40

(h) in the case of a member referred to in paragraph 10 (1) (q)—becomes an employee or student of the University; or

(i) becomes a Deputy Vice-Chancellor of the University under section 35;

5 the member's office becomes vacant.

(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), (b), (c), (d), (e), (o) or (p), is, before otherwise ceasing to hold that office, appointed to the office of:

10 (a) Chancellor; or

(b) Pro-Chancellor; or

(c) Vice-Chancellor; or

(d) Chairperson of the Board of the Institute; or

(e) Chairperson of the Board of The Faculties; or

15 (f) the president of the postgraduate students' association; or

(g) the president of the undergraduate students' association;

that person ceases, upon being so appointed, to hold that first-mentioned office.

(3) If the office of a member referred to in paragraph 10 (1) (f), (g) 20 or (h) becomes vacant, the Council must, in writing, notify the Governor-General of that fact.

Casual vacancies

16. (1) Where a vacancy in the membership of the Council occurs under section 15, that vacancy must be filled:

25 (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 30 remainder of the term of office of the person's predecessor.

Delegation to member of Council etc.

17. (1) 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:

35 (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.

Delegation to committee of Council

18. (1) The Council may delegate all or any of its functions and 40 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. 5

(3) The Council may revoke a delegation under this section.

Division 3—The Institute of Advanced Studies

Constitution of the Institute

19. (1) The Institute consists of such research schools and other bodies as are established by the Council for the purposes of this section. 10

(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; 15

(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". 20

(5) The names of the other research schools and other bodies are as determined by the Council.

Board of the Institute

20. (1) There is to be a Board of the Institute.

(2) The Board: 25

(a) is responsible under the Council for all academic matters relating to the Institute; and

(b) may advise the Council on any matter relating to education, learning or research or the academic work of the University.

Constitution of Board 30

21. The Board of the Institute consists of the following members:

(a) the Vice-Chancellor or his or her nominee;

(b) the Deputy Vice-Chancellor or Deputy Vice-Chancellors or their nominees;

(c) a Chairperson appointed in accordance with section 22; 35

(d) the head of each research school within the Institute;

(e) such heads of the other bodies referred to in subsection 19 (1) as are designated by the Council for the purposes of this section;

(f) such other members of the academic staff of the Institute as are specified in, or chosen in the manner provided by, the Statutes to be members of the Board;

(g) the Chairperson of the Board of The Faculties;

(h) such other members of the academic staff of The Faculties as are specified in, or chosen in the manner provided by, the Statutes to be members of the Board;

(i) such students of the University as are elected by students in accordance with the Statutes;

(j) such other persons (if any) as the Council appoints after receiving the advice of the Board itself.

Chairperson of Board

22. (1) The Council must from time to time appoint a professor in the Institute to be the Chairperson of the Board of the Institute for such period as is specified in the instrument of appointment.

(2) Before making an appointment under subsection (1), the Council must give the Board of the Institute an opportunity to give advice to the Council in relation to the appointment.

Terms of office of Board members

23. (1) A member of the Board of the Institute referred to in paragraph 21 (f), (h) or (i) holds office, subject to this Act and to the Statutes, for such period as is specified in the Statutes.

(2) A member of the Board referred to in paragraph 21 (j) holds office, subject to this Act and to the Statutes, for such period as is specified in the instrument appointing that member.

(3) If a person holding office as a member referred to in one of the paragraphs of section 21 becomes, before otherwise ceasing to hold that office, a member referred to in another of those paragraphs, that person ceases, upon becoming such a member, to hold that first-mentioned office.

(4) Where a person becomes a member of the Board because of the filling of a casual vacancy in the office of a member referred to in paragraph 21 (f), (h) or (i) (including a casual vacancy occurring because of subsection (3)), that person holds office, subject to this Act and to the Statutes, for the remainder of the term of office of the person's predecessor.

Meetings of Board

24. (1) Subject to subsection (2), the Chairperson of the Board of the Institute is to preside at all meetings of the Board at which he or she is present

(2) If the Chairperson:

(a) is not present; or

(b) declines to preside;

at a meeting of the Board, the members present must elect one of their number to preside at the meeting. 5

(3) At a meeting of the Board, a quorum is constituted as provided by the Statutes.

Division 4—The Board of The Faculties

Board of The Faculties

25. (1) There is to be a Board of The Faculties. 10

(2) The Board:

(a) subject to the Statutes, is responsible under the Council for all academic matters relating to The Faculties; and

(b) may advise the Council on any matter relating to education, learning or research or the academic work of the University. 15

Constitution of Board

26. The Board of The Faculties consists of the following members:

(a) the Vice-Chancellor or his or her nominee;

(b) the Deputy Vice-Chancellor or Deputy Vice-Chancellors or their nominees; 20

(c) a Chairperson appointed under section 27;

(d) the deans;

(e) such heads of the other bodies referred to in subparagraph 7 (1) (b) (ii) as are designated by the Council for the purposes of this section; 25

(f) such other members of the academic staff of The Faculties as are specified in, or chosen in the manner provided by, the Statutes to be members of the Board;

(g) the Chairperson of the Board of the Institute;

(h) such other members of the academic staff of the Institute as are specified in, or chosen in the manner provided by, the Statutes to be members of the Board; 30

(i) the president of the undergraduate students' association;

(j) such students of the University as are elected by students in accordance with the Statutes; 35

(k) such other persons (if any) as the Council appoints after receiving the advice of the Board itself.

Chairperson of Board

27. (1) The Council must from time to time appoint a qualified person to be the Chairperson of the Board of The Faculties for such period as is specified in the instrument of appointment. 40

(2) Before making an appointment under subsection (1), the Council must give to the Board an opportunity to give advice to the Council in relation to the appointment.

(3) In this section:

5 **"qualified person"** means a member of the academic staff of The Faculties who:

(a) is a professor in The Faculties; or

(b) is a dean; or

(c) is a former dean; or

10 (d) immediately before the commencement was a Director of a School within the meaning of the Arts Institute Ordinance.

Terms of office of Board members

28. (1) A member of the Board of The Faculties referred to in paragraph 26 (f), (h) or (j) holds office, subject to this Act and to the 15 Statutes, for such period as is specified in the Statutes.

(2) A member of the Board referred to in paragraph 26 (m) holds office, subject to this Act and to the Statutes, for such period as is specified in the instrument appointing that member.

(3) If a person holding office as a member referred to in one of the 20 paragraphs of section 26 becomes, before otherwise ceasing to hold that office, a member referred to in another of those paragraphs, that person ceases, upon becoming such a member, to hold that first-mentioned office.

(4) Where a person becomes a member of the Board because of the 25 filling of a casual vacancy in the office of a member referred to in paragraph 26 (f), (h) or (j) (including a casual vacancy occurring because of subsection (3)), that person holds office, subject to this Act and to the Statutes, for the remainder of the term of office of the person's predecessor.

30 **Meetings of Board**

29. (1) Subject to subsection (2), the Chairperson of the Board of The Faculties is to preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson:

35 (a) is not present; or

(b) declines to preside;

at a meeting of the Board, the members present must elect one of their number to preside at the meeting.

(3) At a meeting of the Board, a quorum is constituted as provided 40 by the Statutes.

Division 5—Convocation

Constitution of Convocation

30. (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.

Quorum at meetings of Convocation

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

Division 6—Senior officers of the University

Chancellor

32. (1) The Council must appoint the Chancellor of the University.

(2) Subject to the Statutes, the Chancellor holds office for such period, and on such conditions, as the Council determines.

Pro-Chancellor

33. (1) The Council may appoint a Pro-Chancellor of the University.

(2) Subject to the Statutes, the Pro-Chancellor holds office for such period, and on such conditions, as the Council determines.

Vice-Chancellor

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

(2) The Vice-Chancellor:

(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.

Deputy Vice-Chancellor

35. (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.

Remuneration and allowances

36. This Division has effect subject to the *Remuneration Tribunal Act 1973.*

Acting appointments

37. (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;

(c) the appointment had ceased to have effect; or

(d) the occasion to act had not arisen or had ceased.

Division 7—Miscellaneous

Execution of contracts

38. (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.

Validity of acts and proceedings

39. (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, a statutory Board or a committee of the Council or such a Board.

Religious test not to be administered

40. 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

Fees

41. (1) Fees are not payable to the University except as provided by the Statutes made under paragraph 50 (2) (u).

(2) The Minister may issue, in writing, guidelines for the purposes of subparagraphs 50 (2) (u) (iv), (vi) and (viii).

(3) Guidelines must be published in the *Gazette*.

Division 2—Finances of the University

Money payable to University

42. (1) There is payable to the University such money as is appropriated from time to time by the Parliament for the purposes of the University.

(2) The Minister may give directions as to the amounts in which, and the times at which, money so appropriated is to be paid to the University.

(3) The Minister may, in writing, delegate his or her powers under subsection (2) to an officer of the Department.

Application of fees and other money

43. All fees and other money received by the University under this Act or otherwise must be applied by the Council solely for the purposes of the University.

Borrowing

44. (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.

Proper accounts to be kept etc.

45. (1) The Council must cause to be kept proper accounts and records of the transactions and affairs of the University.

(2) The Council must do all things necessary to ensure:

(a) that all payments out of money of the University are correctly made and properly authorised; and

(b) that adequate control is maintained over:

(i) the assets of, or in the custody of, the University; and

(ii) the incurring of liabilities by the University.

Bank accounts

46. (1) The Council must open and maintain an account in the name of the University with an approved bank and may open and maintain as many other accounts with approved banks as the Council thinks necessary.

(2) The Council must pay all money received by the University into an account kept under subsection (1).

(3) In this section:

"approved bank" means:

(a) the Reserve Bank of Australia; or

(b) a bank as defined in subsection 5 (1) of the *Banking Act 1959*; or

(c) another bank for the time being declared, in writing, by the Treasurer to be an approved bank for the purposes of this section.

Audit

47. (1) The Auditor-General must inspect and audit:

(a) the accounts and records of financial transactions of the University; and

(b) records relating to assets of, or in the custody of, the University.

(2) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(3) If the detailed inspection and audit of any accounts or records referred to in subsection (1) discloses an irregularity that is, in the Auditor-General's opinion, of sufficient importance to justify his or her so doing, the Auditor-General:

(a) must forthwith draw the attention of the Council to the irregularity; and

(b) may draw the attention of the Minister to the irregularity.

(4) The Auditor-General must, at least once in each year, report to the Minister the results of the inspection and audit carried out under subsection (1).

(5) The Auditor-General or an authorised person is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the University relating directly or indirectly to the receipt or payment of money by the University or to the acquisition, receipt, custody or disposal of assets by the University.

(6) The Auditor-General or an authorised person may make copies of, or take extracts from, any such accounts, records, documents or papers.

(7) The Auditor-General or an authorised person may require any person to give to the Auditor-General or the authorised person such information in the person's possession, or to which the person has access, as the Auditor-General or authorised person considers necessary for the purpose of the functions of the Auditor-General under this Act.

(8) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (7) to the extent that the person is capable of complying with it.

Penalty: $1,000 or imprisonment for 6 months, or both.

(9) A person must not, in purported compliance with a requirement under subsection (7), knowingly furnish information that is false or misleading in a material particular.

Penalty: $2,000 or imprisonment for 12 months, or both.

5 **(10)** A person is not excused from giving information in compliance with subsection (7) on the ground that the information may tend to incriminate the person, but any information so given is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (8) or (9).

10 **(11)** In this section:

"authorised person" means a person authorised in writing by the Auditor-General to act under this section.

Taxation

48. (1) Subject to subsection (3), the University is not subject to 15 taxation under the laws of the Commonwealth or of a State or Territory.

(2) Without limiting the generality of subsection (1) but subject to subsection (3), the University is not subject to taxation imposed by the *Debits Tax Act 1982* or sales tax.

(3) The Governor-General may make regulations providing that this 20 section does not apply in relation to taxation under a specified law.

Annual report and financial statements

49. (1) The Council must, as soon as practicable after the end of each calendar year, prepare and submit to the Minister a report of the operations of the University during that year, together with financial 25 statements in respect of that year in such form as the Minister for Finance approves.

(2) Before submitting financial statements to the Minister under subsection (1), the Council must submit them to the Auditor-General, who must report to the Minister and to the Council:

30 (a) whether, in the Auditor-General's opinion, the statements are based on proper accounts and records;

(b) whether the statements are in agreement with the accounts and records;

(c) whether, in the Auditor-General's opinion, the receipt, 35 expenditure and investment of moneys, and the acquisition and disposal of assets, by the University during the year have been in accordance with this Act; and

(d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister must cause copies of the report and financial statements together with a copy of the report of the Auditor-General to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

PART 4—STATUTES

Statutes

50. (1) The Council may make Statutes, not inconsistent with this Act, 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 such meetings;

(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;

(iv) a member of a statutory Board;

(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;

(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:

(i) fees the payment of which is voluntary;

(ii) fees payable in respect of an organisation of students, or of students and other persons, or in respect of the provision to students of amenities or services that are not of an academic nature;

(iii) fees payable in respect of residential accommodation;

(iv) fees imposed in accordance with guidelines issued by the Minister under section 41 for the imposition of fees in respect of overseas students;

(v) fees payable in respect of studies (other than a course of instruction provided by the University for the purpose of enabling persons to undertake a course of study provided by the University) that are not required or permitted to be undertaken for the purpose of obtaining a degree, diploma, associate diploma or other award of the University;

(vi) fees payable, in accordance with guidelines issued by the Minister under section 41, by persons who attend or otherwise participate in courses of study but do not enrol for those courses, other than persons whose attendance at, or participation in, those courses is, or is to be, credited towards a degree, diploma, associate diploma or other award of another institution of higher education by arrangement between the University and the other institution;

(vii) fees of a kind that are incidental to studies that may be undertaken at the University and that, by notice in writing, the Minister has determined to be fees of a kind to which this subparagraph applies;

(viii) fees payable, by a person who possesses educational qualifications and has earned a living at any time, in respect of undertaking, for the purposes of acquiring further qualifications, a postgraduate course provided in accordance with guidelines issued by the Minister under section 41; or

(ix) contributions payable under Chapter 4 of the *Higher Education Funding Act 1988*;

(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.

(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.

Statutes relating to traffic

51. (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 not exceeding $200, 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.

Statutes to be approved by Governor-General and published

52. (1) When a Statute has been made by the Council:

(a) it must be sealed with the seal of the University; and

(b) the Chancellor must transmit the Statute to the Governor-General for approval.

(2) Where a Statute has been approved by the Governor-General:

(a) the Council must cause the Statute to be notified in the *Gazette*; and

(b) 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.

(4) A copy of a Statute must be laid before each House of the Parliament within 15 sitting days of that House after the Statute is notified in the *Gazette.*

(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

Interpretation

53. 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;

"repealed enactment" means an enactment repealed by section 54.

Division 2—Repeal

Repeal

54. (1) The original Act is repealed.

(2) The Arts Institute Ordinance is repealed.

Division 3—General

Senior officers to continue in office

55. (1) A person who, immediately before the commencement, held under the original Act the office of 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 Vice-Chancellor; or

(c) 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.

University successor in law of the Arts Institute

56. 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.

Preservation of Statutes etc.

57. (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; 5

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. 10

(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 15 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. 20

(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).

Transfer of assets and liabilities of the Arts Institute

58. (1) At the commencement, the assets and liabilities of the Arts 25 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 30 by the Arts Institute on trust must, after the 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 35 University in the performance of its functions and the exercise of its powers.

Arts Institute instruments

59. An Arts Institute instrument continues to have effect after the commencement but, in its operation in relation to acts, transactions, 40 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.

State or Territory officer may act on certificate

60. Where:

5 (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
10 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
15 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
20 executed under the laws in force in that State or Territory.

Pending proceedings

61. 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
25 Institute as a party to the proceedings and has the same rights in the proceedings as the Arts Institute had.

Staff of the Arts Institute

62. (1) A person who, immediately before the commencement, was employed as a member of the staff of the Arts Institute:

30 (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

35 (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.

40 **(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.

Students of the Arts Institute

63. (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.

(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.

Granting of Arts Institute awards

64. 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.

Transfer of appropriated money

65. 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.

Annual report and financial statements

66. 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.

Division 4—Membership of Council immediately after commencement

Application of Division

67. This Division applies in spite of anything in Part 2.

Chairperson of the Arts Institute

68. The person who, immediately before the commencement, was the Executive Chairperson of the Arts Institute holds office as a member of Council from the commencement until 31 December 1992.

Chairperson of Board of the Institute

69. The person who, immediately before the commencement, was the Chairman of the Board of the Institute of Advanced Studies established under the original Act holds office as a member of the Council from the commencement until the appointment of a Chairperson of the Institute under section 22 of this Act.

Chairperson of Board of The Faculties

70. The person who, immediately before the commencement, was the Chairman of the Board of The Faculties established under the original Act holds office as a member of the Council from the commencement until the appointment of a Chairperson of the Board of The Faculties under section 27 of this Act.

Council members elected by Convocation

71. (1) The Minister may, after receiving the advice of the Vice-Chancellor, appoint 2 qualified persons to hold office as members of the Council until the election of members of the Council under paragraph 10 (1) (j).

(2) In this section:

"qualified person" means a person who, immediately before the commencement, held office as a member of the Council of the University under paragraph 11 (1) (m) of the original Act.

Council member elected by deans and heads of research schools

72. (1) The Minister may, after receiving the advice of the Vice-Chancellor, appoint a qualified person to hold office as a member of the Council until the election of a member of the Council under paragraph 10 (1) (k).

(2) In this section:

"qualified person" means a person who, immediately before the commencement, held office as a member of the Council of the University under paragraph 11 (1) (e) or (f) of the original Act.

Council member elected by academic staff of the Institute

73. (1) The Minister may, after receiving the advice of the Vice-Chancellor, appoint a qualified person to hold office as a member of the Council until the election of a member of the Council under paragraph 10 (1) (l).

(2) In this section:

"qualified person" means a person who, immediately before the commencement, held office as a member of the Council of the University under paragraph 11 (1) (e), (g) or (i) of the original Act.

Council member representing academic staff of The Faculties

74. (1) The Minister may, after receiving the advice of the Vice-Chancellor, appoint a qualified person to hold office as a member of the Council until the election of a member of Council under paragraph 10 (1) (m).

(2) In this section:

"qualified person" means a person who, immediately before the commencement, held office as a member of the Council of the University under paragraph 11 (1) (f), (h) or (j) of the original Act.

Council member representing general staff

75. (1) The Minister may, after receiving the advice of the Vice-Chancellor, appoint a qualified person to hold office as a member of the Council until the election of a member of Council under paragraph 10 (1) (n).

(2) In this section:

"qualified person" means a person who, immediately before the commencement, held office as a member of the Council of the University under paragraph 11 (1) (jaa) of the original Act.

Division 5—Amendment of the Employment, Education and Training Act 1988

Principal Act

76. In this Division, **"Principal Act"** means the *Employment, Education and Training Act 1988*[1].

Schedule 1

77. Schedule 1 of the Principal Act is amended by omitting from Part VIII "Canberra Institute of the Arts".

NOTE

1. No. 80, 1988, as amended. For previous amendments, see Nos. 1, 2, 13, 170 and 179, 1989.

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