



University of Canberra Act 1989

No. 179 of 1989

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University of Canberra Act 1989

No. 179 of 1989

An Act to establish and incorporate a University of Canberra under the sponsorship of Monash University, to repeal the *Canberra College of Advanced Education Act 1967*, and for related purposes

[Assented to 28 December 1989]

BECAUSE it is desirable to establish a new university in the Australian Capital Territory to replace the Canberra College of Advanced Education:

AND BECAUSE Monash University has agreed to sponsor the new university:

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *University of Canberra Act 1989*.

Commencement

2. This Act commences, or is to be treated as having commenced, as the case requires, on 1 January 1990.

Definitions

3. In this Act, unless the contrary intention appears:

“**academic staff**” means the persons who are to be regarded as members of the academic staff because of Statutes made under paragraph 40 (2) (d);

“**Board**” means the Academic Board established by section 19;

“**Chancellor**” means the Chancellor of the University elected under section 24;

“**College**” means the Canberra College of Advanced Education established by the College Act;

“**College Act**” means the *Canberra College of Advanced Education Act 1967*;

“**commencement**” means the commencement of this Act;

“**Council**” means the Council referred to in section 9;

“**elect**” includes re-elect;

“**general staff**” means members of the staff of the University other than:

(a) the Vice-Chancellor; and

(b) the members of the academic staff;

“**Statute**” means a Statute of the University made by the Council under Part 4;

“**University**” means the University established by section 4;

“**Vice-Chancellor**” means the Vice-Chancellor of the University appointed under section 25 or 50.

PART 2—THE UNIVERSITY OF CANBERRA

Division 1—Establishment of the University

Establishment of the University

4. (1) A University is established.
- (2) The name of the University is the “University of Canberra”.
- (3) The University:
 - (a) is a body corporate; and
 - (b) is to have a seal; and
 - (c) may acquire, hold and dispose of real and personal property.
- (4) The seal of the University must be kept in such custody as the Council directs and must not be used except as authorised by the Council.

(5) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the University appearing on a document and must presume that it was duly fixed.

Sponsorship by Monash University

5. (1) This section ceases to have effect when whichever of the following first happens:

(a) the Minister declares, by notice in the *Gazette*, that Monash University has notified the Minister that it is no longer willing to sponsor the University established by this Act; or

(b) this section is repealed by regulations under subsection (4).

(2) While this section is in force:

(a) in spite of subsection 4 (2), the name of the University is the "University of Canberra sponsored by Monash University"; and

(b) in spite of anything in this Act, the development of graduate programs, and the appointment of professorial staff or equivalent staff, by the University are to be subject to the prior approval of Monash University.

(3) When this section ceases to be in force:

(a) section 11 has effect as if:

(i) "2" were omitted from paragraph (1) (c) and "3" were substituted; and

(ii) paragraph (1) (d) were omitted; and

(iii) ", (d)" were omitted from subsection (4); and

(b) section 15 has effect as if "or (d)" were omitted from paragraph (1) (f); and

(c) section 20 has effect as if paragraph (e) were omitted; and

(d) subsection 22 (2) has effect as if "(e) or" were omitted.

(4) The Governor-General may make regulations repealing this section, but regulations must not be made under this subsection before 1 January 1993.

(5) If regulations under subsection (4) are disallowed under section 48 of the *Acts Interpretation Act 1901*, then, from the date of the disallowance, this section and sections 11, 15, 20 and 22 are revived as if the regulations had not been made.

Functions of the University

6. (1) The functions of the University include:

(a) to transmit and advance knowledge by undertaking teaching and research of the highest quality; and

(b) to encourage, and provide facilities for, postgraduate study and research; and

(c) to provide facilities and courses for higher education generally, including education appropriate to professional and other occupations, for students from within Australia and overseas; and

- (d) to award and confer degrees, diplomas and certificates, whether in its own right, jointly with other institutions or as otherwise determined by the Council; and
- (e) to provide opportunities for persons, including those who already have post-secondary qualifications, to obtain higher education qualifications; and
- (f) to engage in extension activities.

(2) In the performance of its functions, the University must pay special attention to the needs of the Australian Capital Territory and the surrounding regions.

Powers of the University

7. (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 join 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;
- (j) to erect buildings;
- (k) to occupy, use and control any land or buildings owned or leased by the Commonwealth or the Australian Capital Territory and made available for the purposes of the University;
- (m) to employ staff;
- (n) to invest money of the University, and to dispose of investments;
- (o) to make loans and grants to students;
- (p) to accept gifts, grants, bequests and devises made to it;
- (q) to act as trustee of money and other property vested in it on trust;
- (r) to do such other things as it is authorised to do by or under this Act or any other Act;
- (s) to do anything incidental to any of its powers.

(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.

Organisation of the University

8. There are to be, within the University, such faculties and other bodies as are determined by the Council.

Division 2—The Council

The Council

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

Powers of Council

10. (1) Subject to this Act and the Statutes, the Council has the entire management of the University.

(2) The Council is to act in all matters concerning the University in the way it thinks will best promote the interests of the University.

(3) The powers of the Council include, but are not limited to, the power to appoint persons (whether members of the staff of the University or not) to positions of responsibility within the University.

Constitution of Council

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

- (a) the Vice-Chancellor;
- (b) 3 persons appointed by the Governor-General;
- (c) 2 persons appointed by the Governor-General on the nomination of the Minister of the Australian Capital Territory responsible for matters relating to education;
- (d) 2 persons appointed by the Council on the nomination of the Vice-Chancellor of Monash University;
- (e) one person (not being an employee or student of the University) elected by graduates of the University and of the College;
- (f) 3 members of the academic staff elected by members of that staff;
- (g) one member of the general staff elected by members of that staff;
- (h) 2 students of the University elected by students of the University;
- (j) the person or persons (if any) appointed under subsection (2).

(2) Where the Council considers that it is necessary to appoint 1 or 2 extra members of the Council to enable the Council to perform its functions efficiently, the Council may appoint a person or persons as a member or members of the Council.

(3) An employee or student of the University is not to be appointed under subsection (2).

(4) Subject to this Act, a member of the Council referred to in paragraph (1) (b), (c), (d) or (j) holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment.

(5) Subject to this Act, the members of the Council referred to in paragraphs (1) (e), (f), (g) and (h) hold office for such periods as the Statutes provide.

Qualifications for membership of Council

12. (1) A person is not qualified to become or remain a member of the Council (other than the Vice-Chancellor) if the person:

- (a) is under 18; or
- (b) 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; or
- (c) has been convicted of an offence against a Commonwealth, State or Territory law and sentenced to imprisonment for one year or longer.

(2) Disqualification under subsection (1) is to expire 2 years from the date of conviction or the date of release from prison, whichever is the later.

Meetings of Council

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

(2) If the Chancellor is not present at a meeting of the Council, the members present must elect one of their number to preside at the meeting.

(3) At a meeting of the Council, a quorum consists of a majority of the persons for the time being holding office as members of the Council.

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 must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at 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 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 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.

(4) This section has effect subject to the Statutes.

Vacation of office

15. (1) The office of a member of the Council (other than the Vice-Chancellor) becomes vacant if the member:

- (a) becomes disqualified under section 12 from remaining a member of the Council; or
- (b) dies; or
- (c) resigns from the Council; or
- (d) is absent without leave of the Council from 3 consecutive meetings of the Council; or
- (e) without reasonable excuse, contravenes subsection 14 (1); or
- (f) in the case of a member referred to in paragraph 11 (1) (c) or (d)—ceases to be qualified to be appointed as mentioned in that paragraph; or
- (g) in the case of a member referred to in paragraph 11 (1) (e), (f), (g) or (h)—ceases to be qualified to be elected as mentioned in the paragraph concerned; or
- (h) in the case of a member referred to in paragraph 11 (1) (j)—becomes an employee or student of the University.

(2) If a person holding office as a member of the Council referred to in one of the paragraphs of subsection 11 (1) is, before otherwise ceasing to hold that office, appointed to the office of Vice-Chancellor, that person ceases, upon being so appointed, to hold that first-mentioned office.

(3) If the office of a member referred to in paragraph 11 (1) (b) or (c) becomes vacant, the Council must, in writing, notify the Governor-General of that fact.

Casual vacancies

16. (1) A casual vacancy in the membership of the Council is to be filled:

- (a) where the Statutes make provision for the filling of that casual vacancy—as provided by the Statutes; or
- (b) in any other case—as provided in subsection 11 (1) for the appointment or election of a person to the vacant office.

(2) A person appointed or elected to fill a casual vacancy holds office for the 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 to make Statutes) to:

- (a) a member of the Council; or
- (b) the Vice-Chancellor or 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 powers under this Act (except its powers to make Statutes) to the members of a committee consisting of:

- (a) members of the Council; or
- (b) a member or members of the Council and other persons.

(2) A function or power so delegated may be performed or exercised by a majority of the members of the committee, acting jointly, and may not otherwise be performed or exercised under the delegation.

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

Division 3—The Academic Board

Academic Board

19. (1) There is to be an Academic Board.

(2) The Board:

- (a) subject to the Statutes, is responsible under the Council for all academic matters relating to the University; 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

20. The Board consists of the following members:

- (a) the Vice-Chancellor or her or his nominee;
- (b) the Chairperson appointed under section 21;
- (c) the heads of faculties;
- (d) such heads of the other bodies referred to in section 8 as are designated by the Council for the purposes of this section;
- (e) 2 persons appointed by the Council on the nomination of the Vice-Chancellor of Monash University;
- (f) such other members of the academic staff as are specified in, or chosen as provided by, the Statutes;
- (g) such students of the University as are elected by students in accordance with the Statutes;
- (h) such other persons (if any) as the Council appoints after receiving the advice of the Board itself.

Chairperson of Board

21. The Vice-Chancellor or her or his nominee is to be the Chairperson of the Board.

Terms of office of Board members

22. (1) A member of the Board referred to in paragraph 20 (f) or (g) 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 20 (e) or (h) 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 20 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 20 (f) or (g) (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

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

(3) At a meeting of the Board, a quorum consists of a majority of the persons for the time being holding office as members of the Board.

Division 4—Senior officers of the University

Chancellor

24. (1) The Council must elect an eligible member to be the Chancellor of the University.

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

(3) A person elected as Chancellor ceases to be the Chancellor if the person ceases to be an eligible member.

(4) In this section:

“eligible member” means a member of the Council referred to in paragraph 11 (1) (b), (c) or (j).

Vice-Chancellor

25. (1) The Council must appoint a member of the Council or another person to be the Vice-Chancellor of the University.

(2) The Vice-Chancellor:

(a) is the 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) The Vice-Chancellor holds office for such period, and on such conditions, subject to the Statutes, as the Council determines.

Remuneration and allowances

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

Acting appointments

27. (1) The Council may appoint a person to act in the office of Vice-Chancellor:

(a) during a vacancy in the office, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the holder of the office is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy must not continue so to act for more than 12 months.

(2) Anything done by or in relation to a person purporting to act under an appointment made under this section is not invalid merely because:

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in connection with the appointment;
or

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

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

Division 5—Miscellaneous

Execution of contracts

28. (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

- 29. (1)** This section applies to the following acts and proceedings:
- (a) an act or proceeding of the Council or the Board;
 - (b) an act or proceeding of the members, or a committee, of the Council or the Board;
 - (c) an act done by the Chancellor or Vice-Chancellor.
- (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 or Vice-Chancellor; or
 - (ii) any other member of the Council or the Board or of a committee of either; or
 - (b) the disqualification of a member of the Council or the Board or of a committee of the Council or the Board from membership of the Council, Board or committee; or
 - (c) a defect in the convening of a meeting; or
 - (d) a vacancy in the membership of the Council or the Board.

PART 3—FINANCIAL MATTERS

Division 1—Fees

Fees

30. Fees are not payable to the University except as provided by the Statutes made under paragraph 40 (2) (t).

Guidelines relating to certain fees

31. (1) The Minister may issue guidelines for the purposes of paragraph 40 (2) (t).

(2) Guidelines are to be issued in writing and published in the *Gazette*.

Division 2—Finances of the University

Money payable to University

32. (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

33. 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

34. (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.

35. (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

36. (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

37. (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 her or his 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 give information that is false or misleading in a material particular.

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

(10) A person is not excused from giving information in compliance with a requirement under 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).

(11) In this section:

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

Taxation

38. (1) Subject to subsection (3), the University is not subject to 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 section does not apply in relation to taxation under a specified law.

Annual report and financial statements

39. (1) The Council must, as soon as practicable after 31 December in each year, prepare and submit to the Minister a report of the operations of the University during the year ended on that date, together with financial 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:

- (a) whether, in the Auditor-General's opinion, the statements are based on proper accounts and records; and
- (b) whether the statements are in agreement with the accounts and records and, in the Auditor-General's opinion, show fairly the financial transactions and the state of the affairs of the University; and
- (c) whether, in the Auditor-General's opinion, the receipt, 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

40. (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 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;
 - (e) in relation to the Council or the Board:
 - (i) the manner and time of convening, holding and adjourning its meetings; and
 - (ii) voting at such meetings (including postal or proxy voting); and
 - (iii) disclosure of pecuniary interests at such meetings; and
 - (iv) the appointment, powers and duties of chairpersons at such meetings; and
 - (v) the conduct and recording of business at such meetings; and
 - (vi) the appointment of committees; and
 - (vii) the quorums for meetings of committees and the powers and duties of committees;
 - (f) the resignation of members of the Council and the Board;
 - (g) the resignation of the Chancellor and Vice-Chancellor;
 - (h) 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;
 - (m) the admission and enrolment of students;
 - (n) the times, places and manner of holding lectures, classes and examinations, and the number and character of such lectures, classes and examinations;
 - (o) the promotion and extension of University teaching;
 - (p) the granting of degrees, diplomas, certificates and honours;

- (q) the granting of fellowships, scholarships, exhibitions and bursaries;
- (r) the admission:
 - (i) of persons who are undertaking or have undertaken studies at another institution to any corresponding status within the University; or
 - (ii) of persons who hold degrees, diplomas or other awards granted by other institutions to any corresponding degree, diploma or other award of the University without examination;
- (s) 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, whether or not on condition that other work be undertaken instead of the work the subject of the exemption;
- (t) the payment to the University of:
 - (i) fees the payment of which is voluntary; or
 - (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; or
 - (iii) fees payable in respect of residential accommodation; or
 - (iv) fees imposed in accordance with guidelines issued by the Minister under section 31 for the imposition of fees in respect of overseas students; or
 - (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; or
 - (vi) fees payable, in accordance with guidelines issued by the Minister under section 31, 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; or
 - (vii) fees of a kind that are incidental to studies that may be undertaken at the University and that the Minister has notified the University are fees of a kind to which this subparagraph applies; or
 - (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 31; or
- (ix) contributions payable under Chapter 4 of the *Higher Education Funding Act 1988*;
- (u) the establishment, management and control of libraries, laboratories and museums in connection with the University;
- (w) the establishment or affiliation of residential colleges;
- (y) the affiliation or admission to the University of any education or research establishment wherever it is;
- (z) the control and investment of the property of the University;
- (za) the provision of superannuation or similar benefits for, and for the families of, the Vice-Chancellor 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 made under a Statute made under subsection (3) has the same force and effect 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 41 (1); or
- (b) for carrying out or giving effect to a Statute dealing with a matter referred to in subsection 41 (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

- 41. (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 complied with without contravening that law.

Statutes to be approved by Governor-General and published

42. (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) When 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 must 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

Definitions

43. In this Part, unless the contrary intention appears:

“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 an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“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;

“College instrument” means an instrument (including a legislative instrument) or any other document:

- (a) to which the College was a party; or
- (b) that was given to or in favour of the College; or
- (c) in which a reference is made to the College; 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 College;

being an instrument or document subsisting immediately before the commencement;

“College Statute” means a Statute made by the Council of the College under section 21 of the College Act;

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

Division 2—Repeal

Repeal

44. The College Act is repealed.

Division 3—General

University successor in law of the College

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

Transfer of assets and liabilities of College

46. (1) At the commencement, the assets and liabilities of the College become assets and liabilities of the University.

(2) The following provisions apply to those assets and liabilities:

- (a) an asset that was, immediately before the commencement, held by the College on trust is, after the commencement, to be held by the University on trust and subject to the terms of the trust on which the asset was so held by the College;
- (b) liabilities of the College to make payments are, after the commencement, to be taken to be liabilities incurred by the University in the performance of its functions and the exercise of its powers.

College instruments

47. A College instrument continues to have effect after the commencement but, in its operation in relation to anything occurring after the commencement, has effect as if a reference in the instrument to the College were a reference to the University.

State or Territory officer may act on certificate

48. Where:

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

is lodged with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory in which the land is situated; the officer with whom the certificate is lodged may deal with and give effect to the certificate as if it were a grant, conveyance, memorandum or instrument of transfer of the estate or interest to the University duly executed under the laws in force in that State or Territory.

Pending proceedings

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

First Vice-Chancellor

50. (1) This section has effect only if, immediately before the commencement, a person held office as Principal of the College.

(2) In spite of anything in this Act, the person becomes the first Vice-Chancellor of the University by force of this section.

(3) The person holds office, subject to this Act, for such period, and on such conditions, as are determined by the Council, but those conditions must be no less favourable than those on which the person held office as Principal of the College immediately before the commencement.

(4) Until conditions are so determined, the person holds office on the conditions (with the necessary changes) on which the person held office as Principal of the College immediately before the commencement.

Preservation of College Statutes

51. Where a College Statute was in force immediately before the commencement:

- (a) the College Statute is to be regarded as a Statute duly made by the Council under Part 4; and
- (b) the requirements of section 42 are to be regarded as having been complied with in relation to the College Statute; and
- (c) the College Statute may be amended or repealed by the Council accordingly; and
- (d) any rules or orders made under the College Statute that were in force immediately before the commencement continue to have effect as if they had been made under the College Statute.

Staff of the College

52. (1) A person who, immediately before the commencement, was employed as a member of the staff of the College is to be regarded as:

- (a) having been employed, with effect from the commencement, as a member of the staff of the University; and
- (b) having been so employed on the same conditions as those on which the person was employed as a member of the staff of the College; and
- (c) having 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 College immediately before the commencement.

(2) Where, because of subsection (1), a person is regarded as having been employed as a member of the staff of the University with effect from the commencement, that employment is to be regarded for all purposes as having been continuous with the employment of the person immediately before the commencement as a member of the staff of the College.

Transfer of appropriated money

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

- (a) references to the College are to be read as references to the University; and
- (b) references to the College Act are to be read as references to this Act.

Annual report and financial statements

54. Sections 37 and 39 apply to the year ending on 31 December next after the commencement as if the University were a continuation of the College, subject to the following qualifications:

- (a) the accounts and records to which section 37 applies are the accounts and records of the University and such of the accounts and records of the College as are in the possession of the University;
- (b) the Council and the Auditor-General may, in discharging their obligations under section 39, rely on accounts and records of the College 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 the College Act or who was a member of the staff of a College;
- (c) in paragraph 39 (2) (c), the reference to this Act includes a reference to the College Act.

Division 4—Membership of Council

Application of Division

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

Council members elected by graduates

56. (1) One person who, immediately before the commencement, held office as a member of the Council of the College under paragraph 8 (1) (fa) of the College Act, may be appointed by the Minister to hold office as a member of the Council.

(2) A person so appointed ceases to hold office as a member of the Council upon the election of a member of the Council under paragraph 11 (1) (e).

Council members representing academic staff

57. (1) Three persons who, immediately before the commencement, held office as members of the Council of the College under paragraph 8 (1) (c) of the College Act, may be appointed by the Minister to hold office as members of the Council.

(2) Subject to section 60, a person so appointed ceases to hold office as a member of the Council upon the election of a member of the Council under paragraph 11 (1) (f).

Council members representing general staff

58. (1) One person who, immediately before the commencement, held office as a member of the Council of the College under paragraph 8 (1) (ca) of the College Act, may be appointed by the Minister to hold office as a member of the Council.

(2) A person so appointed ceases to hold office as a member of the Council upon the election of a member of the Council under paragraph 11 (1) (g).

Council members representing students

59. (1) Two persons who, immediately before the commencement, held office as members of the Council of the College under paragraph 8 (1) (d) of the College Act, may be appointed by the Minister to hold office as members of the Council.

(2) Subject to section 60, a person so appointed ceases to hold office as a member of the Council upon the election of a member of the Council under paragraph 11 (1) (h).

Order in which appointees go out of office

60. In appointing persons under subsection 57 (1) or 59 (1), the Minister must specify in the instruments of appointment the order in which the persons are to cease to hold office if members of the Council are elected on a rotating basis under subsection 57 (2) or 59 (2), as the case may be.

Division 5—Consequential amendments

Amendments of Acts

61. (1) Subsection 3 (1) of the *Remuneration Tribunal Act 1973* is amended by omitting paragraph (b) of the definition of “executive education office” and substituting the following paragraph:

“(b) the Vice-Chancellor of the University of Canberra; or”.

(2) Part VIII of Schedule 1 to the *Employment, Education and Training Act 1988* is amended:

(a) by omitting “Canberra College of Advanced Education”;

(b) by adding at the end “University of Canberra”.

(3) Subsection 34 (4) of the *Higher Education Funding Act 1988* is amended by omitting paragraph (d) and substituting the following paragraph:

“(d) University of Canberra”.

(4) In relation to anything done before the commencement, the *Employment, Education and Training Act 1988* and the *Higher Education Funding Act 1988*, as amended by this Act, apply as if the University were a continuation in existence of the College.

[Minister's second reading speech made in—
House of Representatives on 26 October 1989
Senate on 21 November 1989]