

## Notes

<sup>1</sup> This is a compilation of the *Curtin University of Technology Act 1966* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>Western Australian Institute of Technology Act 1966</i> <sup>11</sup>	94 of 1966	12 Dec 1966	26 May 1967 (see s. 2 and <i>Gazette</i> 26 May 1967 p. 1363)
<i>Western Australian Institute of Technology Act Amendment Act 1968</i>	37 of 1968	4 Nov 1968	4 Nov 1968
<i>Western Australian Institute of Technology Act Amendment Act 1969</i>	57 of 1969	29 Sep 1969	29 Sep 1969
<i>Western Australian Institute of Technology Act Amendment Act 1970</i>	57 of 1970	5 Nov 1970	5 Nov 1970
<i>Western Australian Institute of Technology Act Amendment Act 1971</i>	49 of 1971	10 Dec 1971	10 Dec 1971
<i>Western Australian Institute of Technology Act Amendment Act 1974</i>	31 of 1974	4 Nov 1974	4 Nov 1974
<i>Acts Amendment (Student Guilds and Associations) Act 1977 Pt. III</i>	61 of 1977	23 Nov 1977	1 Jan 1978 (see s. 2)
<i>Western Australian Institute of Technology Act Amendment Act 1981</i>	37 of 1981	25 Aug 1981	1 Nov 1981 (see s. 2 and <i>Gazette</i> 25 Sep 1981 p. 4074)
<i>Western Australian Institute of Technology Act Amendment Act 1982</i>	59 of 1982	28 Sep 1982	1 Jan 1983 (see s. 2)
<i>Acts Amendment (Student Guilds and Associations) Act 1983 Pt. IV</i> <sup>4</sup>	51 of 1983	5 Dec 1983	5 Dec 1983
<i>Acts Amendment (Educational Institutions Superannuation) Act 1985 Pt. II</i> <sup>5, 6</sup>	77 of 1985	20 Nov 1985	16 Dec 1985 (see s. 2 and <i>Gazette</i> 13 Dec 1985 p. 4758)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 June 1986 p. 2255)
<i>Western Australian Institute of Technology Amendment Act 1986</i>	96 of 1986	10 Dec 1986	1 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4861)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Education) Act 1988 Pt. 5</i>	7 of 1988	30 Jun 1988	8 Jul 1988 (see s. 2 and <i>Gazette</i> 8 Jul 1988 p. 2371)
<i>Acts Amendment and Repeal (Post-Secondary Education) Act 1989 Pt. 4</i>	48 of 1989	9 Jan 1990	1 Jan 1990 (see s. 2)
<i>Guardianship and Administration Act 1990 s. 123</i>	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
<i>Acts Amendment (Financial Administration and Audit) Act 1991 Pt. 2</i>	32 of 1991	4 Dec 1991	1 January 1992
<i>Financial Administration Legislation Amendment Act 1993 Pt. 4</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Voluntary Membership of Student Guilds and Associations Act 1994 Pt. 3</i> <sup>7</sup>	91 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 22</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Education Amendment Act 1996 s. 16(3)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see s. 2(1))
<i>Curtin University of Technology Amendment Act 1996</i> <sup>8</sup>	35 of 1996	27 Sep 1996	Part 2: 13 Nov 1996 (see s. 2(2) and <i>Gazette</i> 12 Nov 1996 p.6301) Balance: 27 Sep 1996
<i>Financial Legislation Amendment Act 1996 s. 52 and 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Trustees Amendment Act 1997 s. 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Acts Amendment (Land Administration) Act 1997 Pt. 20</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Curtin University of Technology Amendment Act 1998</i>	43 of 1998	5 Nov 1998	5 Nov 1998 (see s. 2)
<i>School Education Act 1999 s. 247</i>	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Acts Amendment (Student Guilds and Associations) Act 2002 Pt. 2</i>	44 of 2002	3 Jan 2003	25 Jan 2003 (see s. 2 and <i>Gazette</i> 24 Jan 2003 p. 141)
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 16</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Universities Legislation Amendment Act 2005</i> Pt. 2 <sup>10</sup>	8 of 2005	7 Jul 2005	13 Aug 2005 (see s. 2 and <i>Gazette</i> 12 Aug 2005 p. 3651)

- 1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and are not included in this compilation. For the text of the provisions see the endnote referred to after the short title.

#### **Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 38 <sup>9</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))

- 2 Now see the *Industrial Relations Act 1979* (No. 84 of 1979).
- 3 Repealed by the *Land Administration Act 1997* (No. 30 of 1997).
- 4 Section 18 of the *Acts Amendment (Student Guilds and Associations) Act 1983* (No. 51 of 1983) (as amended by No. 96 of 1986 s.13) reads as follows —

“

**18. Transitional — ineligibility for membership of the Student Guild**

- (1) Notwithstanding section 44(5) of the principal Act as substituted by section 16(b) of this Act, the following persons and classes of persons shall not be eligible for any form of membership of the Student Guild, that is to say —
- (a) enrolled students who are members of the full time academic staff of the University;
  - (b) persons who are not enrolled students; and
  - (c) such persons or classes of persons as the Council declares by resolution to be ineligible for membership of the Student Guild.
- (2) The Governor may by proclamation provide that this section shall cease to be in operation on a day fixed by the proclamation.

”

5 Section 6(2) and (3) of the *Acts Amendment (Financial Administration and Audit) Act 1985* (No. 77 of 1985) reads as follows —

“

- (2) Notwithstanding subsection (1), where a member of the staff, officer or employee of the Institute was, immediately before the coming into operation of that subsection, a contributor for pension, superannuation or benefits under an agreement entered into by the Council under section 30 of the principal Act as in force before the coming into operation of that subsection, he shall be entitled to continue to be such a contributor and to retain his accrued rights under the *Superannuation and Family Benefits Act 1938*.
- (3) Nothing in subsection (1) affects any rights or liabilities of the Council under an agreement entered into by the Council under section 30 of the principal Act as in force before the coming into operation of that subsection.

”

6 Section 8 of the *Acts Amendment (Financial Administration and Audit) Act 1985* (No. 77 of 1985) reads as follows —

“

**8. Rights of members of the former Scheme**

- (1) Notwithstanding section 7, where a member of the staff, officer or employee of the Institute was, immediately before the coming into operation of that section, a member of the former Scheme he shall be entitled to continue to be such a member and to retain his accrued rights under the former Scheme and for the purposes of this section the Council shall and is hereby empowered to maintain and continue the former Scheme until the appointed day in order to make financial provision in respect of the retirement, invalidity or death of that person.

- (2) In this section —

“**the appointed day**” means such day as may be fixed by the Minister by notice published in the *Government Gazette* certifying that —

- (a) there is no longer a person who is entitled to be a member of the former Scheme; and
- (b) there is no further need for the Council to administer the former Scheme; and

“**the former Scheme**” means the Western Australian Institute of Technology Superannuation Scheme established under section 30A of the principal Act as in force before the coming into operation of section 7.

”

7 Section 2(2) and (3) of the *Voluntary Membership of Student Guilds and Associations Act 1994* (No. 91 of 1994) reads as follows —

“

- (2) Except as provided in subsection (3), the amendments to each principal Act effected by this Act do not apply in respect of any subscription, fee or amount that became payable under any such principal Act before the commencement of this Act.

- (3) If, before this Act comes into operation, a subscription, fee or amount has been paid under a principal Act that is amended by this Act for membership of a student guild or association in the year commencing 1 January 1995, or any part of that year, the student guild or association shall, upon written application by the person by or on whose behalf the subscription, fee or amount was paid, refund that subscription, fee or amount.

8 Sections 14-26 and 30 of the *Curtin University of Technology Amendment Act 1996* (No. 35 of 1996) read as follows —

“

## Division 2 — Transitional and consequential provisions

### 14. Interpretation

In this Division —

“**asset**” means property, including documents and property held in a fiduciary capacity;

“**commencement day**” means the day on which section 10 of this Act comes into operation;

“**document**” includes any disc, tape or other medium in which information is stored;

“**instrument**” includes a legislative instrument and a judgment, order or process of a court;

“**Kalgoorlie Campus**” means the educational facility established under section 21I of the principal Act as amended by this Act;

“**Kalgoorlie Campus Council**” means the Kalgoorlie Campus Council established under section 21K of the principal Act as amended by this Act;

“**legal proceedings**” includes an arbitration and an administrative proceeding;

“**liability**” means a present, future or contingent liability (arising either at law or in equity) and includes a duty or non-pecuniary obligation;

“**property**” means real or personal property and includes —

- (a) a chose in action; and
- (b) a present, future or contingent right, privilege, interest or power;

“**the College**” means Kalgoorlie College established under section 6(2) of the *Colleges Act 1978*;

“**the University**” means Curtin University of Technology established under the principal Act.

### 15. Western Australian School of Mines

On commencement day —

- (a) the Western Australian School of Mines continued under section 21A(3) of the principal Act —
    - (i) ceases to be a branch of the University under the principal Act; and
    - (ii) continues as part of the Kalgoorlie Campus;
- and

- (b) the members of the Board of the Western Australian School of Mines go out of office.

**16. Kalgoorlie College and Council**

On commencement day —

- (a) the College ceases to be a college for the purposes of the *Colleges Act 1978*; and
- (b) the members of the Council of the College go out of office.

**17. Interim provision for Kalgoorlie Campus Council membership**

- (1) Until an elective office on the Kalgoorlie Campus Council is filled for the first time by the election of a person in the prescribed manner that office is to be filled by a person who has the prescribed qualification for holding that office, and who is appointed by the Minister on the recommendation of the Council.
- (2) For the purposes of Division 2B of Part I of the principal Act as amended by this Act a person appointed under subsection (1) is to be taken to be a member of the Kalgoorlie Campus Council holding an elective office and the day on which that person's appointment took effect is taken to be the day on which that person's election took effect.
- (3) In subsections (1) and (2) —  
“**elective office**” means an office of member referred to in section 21M(1)(f), (g), (h) or (i) of the principal Act as amended by this Act.

**18. Vesting of assets, liabilities, etc.**

- (1) On and from commencement day —
  - (a) all assets that were, immediately before that day, vested in, under the control of, or standing to the credit of, the College, together with all claims, rights and remedies that the College then had in respect of those assets, are vested by force of this section in the University; and
  - (b) the University becomes, by force of this section, liable to pay, bear or discharge all the liabilities of the College that existed immediately before that day.
- (2) Assets vested in the University under subsection (1) are to be held and used for purposes that are purposes of the Kalgoorlie Campus.

**19. Agreements, instruments and proceedings generally**

- (1) On and from commencement day, a reference to the College in any agreement, instrument, licence or other document, is to be read (unless the context otherwise requires) as a reference to the University.
- (2) Any agreement or instrument subsisting immediately before commencement day to which the College was a party has effect on and after that day as if the University were substituted for the College as a party to the agreement or instrument.
- (3) Anything lawfully commenced by or under the authority of the College before commencement day may be carried on and completed by or under the authority of the University.

- (4) Without limiting the generality of subsection (3), any legal proceedings or any remedies that might, but for this Act, have been commenced, continued, discontinued or available by or against or to the College may be commenced, continued, discontinued, and are available, by or against or to the University, as the case requires.

**20. Student association of College**

- (1) In this section —  
“**student association**” means the Kalgoorlie College Student Association established under section 44 of the *Colleges Act 1978*;  
“**Student Guild**” means the Student Guild incorporated under section 44 of the principal Act.
- (2) Subject to subsection (3), on commencement day —
- (a) the student association is, by force of this section, dissolved;
  - (b) sections 18 and 19 apply as if a reference in those sections —
    - (i) to the College were a reference to the student association; and
    - (ii) to the University were a reference to the Student Guild;
- and
- (c) any person who was, on commencement day, a member of the student association becomes, on and from that date a member of the Student Guild.
- (3) Assets vested in the Student Guild under this section are to be used for purposes which are, in the opinion of the Student Guild, for the benefit of students of the Kalgoorlie Campus.

**21. Students**

- (1) On commencement day —
- (a) each person who was, immediately before commencement day, enrolled as a student of the College becomes an enrolled student of the Kalgoorlie Campus;
  - (b) each person who was, immediately before commencement day, eligible to be enrolled as a student of the College is eligible to be enrolled as a student of the Kalgoorlie Campus; and
  - (c) each person who was, immediately before commencement day, entitled to be, but had not been, awarded a degree, diploma, certificate or honorary award by the College is entitled to be awarded an appropriate degree, diploma, certificate or honorary award by the University.
- (2) Without limiting the principal Act, the powers of the Council of the University under section 18 of that Act extend to the conferring of any award to a person who becomes an enrolled student of the University under subsection (1) that the College might have conferred on the person if this Act had not been enacted.

- (3) Subject to the Statutes in force under the principal Act, a person who has completed part of a course of study as an enrolled student at the College is deemed to have completed that part of the course of study at the Kalgoorlie Campus.
- (4) Students enrolled or registered at the Kalgoorlie Campus under subsection (1) are entitled, on satisfactory completion of their courses, to be awarded an appropriate degree, diploma, certificate or honorary award by the University.

**22. Scholarships, prizes and bursaries**

Any scholarship, prize or bursary of a continuing nature administered by the College or its Council existing immediately before commencement day is to be administered by the University as if it were a scholarship, prize or bursary of the University, but otherwise in accordance with the terms and conditions to which it was subject immediately before commencement day.

**23. Transfer of staff of Kalgoorlie College**

- (1) In this section —  
“**staff member**”, in relation to the College, means a person who, immediately before commencement day, was employed by the College.
- (2) On commencement day each staff member of the College becomes a staff member of the University employed at the Kalgoorlie Campus.
- (3) A person who becomes a staff member of the University under subsection (2) is entitled to retain all the employment benefits existing and accruing to that person, whether under any written law, award, determination, contract or agreement and including any rights in relation to retirement benefits, and for the purpose of determining such rights that person’s service with the University is to be regarded as continuous with that person’s service with the College.
- (4) A staff member of the College who, under subsection (2), becomes a staff member of the University becomes such a staff member on terms and conditions of employment, including remuneration and duration of appointment, no less favourable than those on which he or she was employed at the College immediately before commencement day.
- (5) The terms and conditions of employment of a staff member referred to in subsection (4) are capable of variation in the same manner as immediately before commencement day.
- (6) A staff member of the College who, under subsection (2), becomes a staff member of the University is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

**24. Statutes and by-laws of College revoked**

The Statutes of the College and the by-laws made by the College under section 29 of the *Colleges Act 1978* are revoked.



**25. Registration of documents**

The Registrar of Titles, the Registrar of Deeds, the Minister administering the *Land Act 1933*, the Commissioner for Corporate Affairs, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, are to take cognizance of this Act and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this Act.

**26. *Financial Administration and Audit Act 1985* — transitional**

- (1) As soon as practicable after commencement day the Council of the College is to cause sections 66, 67 and 68 of the *Financial Administration and Audit Act 1985* to be complied with in relation to the College in respect of the period commencing 1 January 1996 and ending immediately before commencement day.
- (2) A report prepared under subsection (1) is deemed to be an annual report for the purposes of section 69 of the *Financial Administration and Audit Act 1985*.
- (3) Notwithstanding section 16 the Council of the College as constituted immediately before commencement day is to continue in existence for the purposes of subsection (1).
- (4) The University is to provide such clerical and other assistance as is reasonably required for the purposes of subsection (1).

**30. Regulations**

- (1) If there is no sufficient provision in this Part to give effect to the purposes of this Part the Governor may make regulations prescribing all matters that are required or necessary or convenient to be prescribed for giving effect to them, including matters of a savings or transitional nature consequent on the enactment of this Act.
- (2) Regulations made under subsection (1) may provide that specific provisions of the principal Act, or of by-laws or Statutes made under the principal Act —
  - (a) do not apply; or
  - (b) apply with specified modifications,to or in relation to any matter or thing.
- (3) Regulations made under subsection (1) may be made so as to have effect on commencement day or a later day.
- (4) To the extent that a provision of any regulations made under subsection (1) has effect on a day that is earlier than the day of its publication in the *Gazette*, the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the day of its publication; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of its publication.

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On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 38 had not come into operation. It reads as follows:

“

**38. Curtin University of Technology Act 1966 amended**

The *Curtin University of Technology Act 1966*\* is amended as follows:

- (a) in section 29(1) by deleting “and in particular his rights, if any, under the *Superannuation and Family Benefits Act 1938*;
- (b) by repealing section 29(2);
- (c) in section 30A(3) by deleting “contributor for pension, superannuation or benefits under the *Superannuation and Family Benefits Act 1938*.” and inserting instead —

“

Member of a superannuation scheme continued by section 29(c) or (d) of the *State Superannuation Act 2000*.

”.

The *Universities Legislation Amendment Act 2005* s. 5 reads as follows:

“

**5. Transitional provision**

- (1) In this section —

“**commencement day**” means the day on which the *Universities Legislation Amendment Act 2005* comes into operation;

“**deleted section 9(1)(ia), (j) or (k)**” means the *Curtin University of Technology Act 1966* section 9(1)(ia), (j) or (k) as those provisions were in effect immediately before commencement day;

“**member**” means a member of the Council of the Curtin University of Technology.

- (2) The persons who, immediately before commencement day, were members under deleted section 9(1)(ia), (j) or (k) cease to be members on commencement day.

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Short title subsequently amended (see s. 1).