



Western Australia

Universities Legislation Amendment Act 2016

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No. 32 of 2016

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Universities Legislation Amendment Act 2016

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Western Australia

Universities Legislation Amendment Act 2016

No. 32 of 2016

An Act —

- **to amend the following Acts —**
 - the Curtin University of Technology Act 1966;*
 - the Edith Cowan University Act 1984;*
 - the Murdoch University Act 1973;*
 - the University of Notre Dame Australia Act 1989;*
 - the University of Western Australia Act 1911;*
- **to repeal the following Acts —**
 - the Murdoch University Planning Board Act 1970;*
 - the Reserves (University Lands) Act 1972;*
- **to make consequential amendments to other Acts, and for related purposes.**

[Assented to 19 October 2016]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Universities Legislation Amendment Act 2016*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — *Curtin University of Technology*
Act 1966 amended**

3. Act amended

This Part amends the *Curtin University of Technology Act 1966*.

4. Long title amended

In the long title delete “**the Curtin University of Technology**” and insert:

Curtin University

5. Part IA heading replaced

Delete the heading to Part IA and insert:

Part 1 — Preliminary

6. Section 1 amended

In section 1 delete “*of Technology*”.

7. Section 4 amended

(1) In section 4(1) delete the definitions of:

Board

branch

University

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- (2) In section 4(1) insert in alphabetical order:

residential accommodation —

- (a) means any form of accommodation (including, without limitation, a residential college, hostel, hall of residence or form of independent living); and
- (b) includes facilities that are —
 - (i) ancillary to residential accommodation; and
 - (ii) primarily for the use of staff of the University, or enrolled students, or both;

University means Curtin University established under this Act;

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

- (3) In section 4(1) in the definition of ***casual vacancy*** delete “or a member of a Board”.
- (4) In section 4(1) in the definition of ***prescribed*** delete “by-law or”.
- (5) In section 4(2):
- (a) delete “full-time” (each occurrence);
 - (b) delete “University or a branch,” and insert:

University,

8. Part I heading replaced

Delete the heading to Part I and insert:

Part 2 — Curtin University

9. Section 5 amended

(1) Delete section 5(1) and (1a) and insert:

(1) There continues to be a body corporate, to be called “Curtin University”.

(2A) Curtin University is the same body corporate —

- (a) that was established under this Act and originally called the “Western Australian Institute of Technology”; and
- (b) that was renamed the “Curtin University of Technology” by the amendments made to this Act by the *Western Australian Institute of Technology Amendment Act 1986* section 5.

(2) In section 5(2):

(a) in paragraph (ea) delete “Governor; and” and insert:

Minister; and

(b) after paragraph (ea) insert:

(eb) may enter into business arrangements; and

Note: The heading to amended section 5 is to read:

Establishment of Curtin University

10. Section 7 amended

(1) In section 7(1):

(a) delete paragraph (a) and insert:

(a) to provide courses of study appropriate to a university, and other tertiary courses;

(b) delete paragraph (d) and insert:

(d) to undertake and support scholarship, pure and applied research, invention, innovation, education and consultancy, and to apply those matters to the advancement and application of knowledge —

(i) to the benefit of industry, business and government; and

(ii) to the benefit and wellbeing of the Western Australian, Australian and international communities;

(ea) to commercially develop or commercially use, for the University's benefit, any facility, resource or property (real or personal) of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others;

(eb) to generate revenue for the purpose of funding the carrying out of its functions;

- (c) after paragraph (f) insert:
 - (ga) to serve the Western Australian, Australian and international communities and the public interest by —
 - (i) enriching cultural and community life; and
 - (ii) raising public awareness of educational, scientific and artistic developments; and
 - (iii) promoting critical and free enquiry, informed intellectual discussion and public debate within the University and in the wider society;

- (2) In section 7(1) after each of paragraphs (b), (c), (e) and (f) delete:

and

11. Section 8 amended

In section 8 after “University” insert:

(including the Kalgoorlie Campus)

12. Section 9 amended

- (1) Delete section 9(1) and insert:

- (1) The Council consists of the following members —
 - (a) 3 persons appointed by the Governor on the recommendation of the Minister;

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- (b) the person for the time being holding the office of Vice-Chancellor;
- (c) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
- (d) 2 persons who are enrolled students —
 - (i) one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and
 - (ii) one of whom is a postgraduate student and who is elected by the postgraduate students in the manner prescribed by Statute;
- (e) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;
- (f) 2 persons who are graduates of the University and who are elected by the graduates of the University in the manner prescribed by Statute;
- (g) the person who, not being a member of the Council at the time of their appointment as Chancellor, is appointed Chancellor under section 11;
- (h) not more than 5 persons appointed from time to time by co-option by the Council, but a person whose sole or principal employment is that of a member of the staff of the University may not be so appointed;

- (i) the person for the time being the chairperson of the Academic Board of the University established by Statute.
- (2A) The fact that a person holds an elective office (for example, an elective office of the Student Guild) does not disqualify that person from being appointed or holding office under subsection (1).

(2) Delete section 9(3).

13. Section 9AA inserted

After section 9 insert:

9AA. Nominations Committee

- (1) The Council must establish and maintain a committee of the Council called the Nominations Committee.
- (2) The Nominations Committee is to consist of not more than 6 members appointed by the Council.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
 - (a) the Vice-Chancellor;
 - (b) the member referred to in section 9(1)(c);
 - (c) the members referred to in section 9(1)(d);
 - (d) the member referred to in section 9(1)(e);
 - (e) the members referred to in section 9(1)(f);
 - (f) the chairperson of the Academic Board of the University.

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- (4) The functions of the Nominations Committee are —
- (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of —
 - (i) any member of the Council who is appointed by the Governor or the Council; or
 - (ii) any member of the Kalgoorlie Campus Council who is appointed by the Minister or the Council;
 - (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of —
 - (i) any member of the Council who is appointed under section 9(1)(a); or
 - (ii) any member of the Kalgoorlie Campus Council who is appointed under section 21M(1)(a), (b) or (c);
 - (c) to recommend to the Council suitable candidates for appointment by co-option under section 9(1)(h).
- (5) The fact that the Nominations Committee or the Council has not recommended a person for appointment under section 9(1) or 21M(1) does not prevent the person from being appointed or holding office under section 9(1) or, as the case requires, section 21M(1).
- (6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by the Council.

14. Section 9A replaced

Delete section 9A and insert:

9A. Term of office of members

- (1) Subject to section 10 —
 - (a) a member appointed under section 9(1)(a) or (h) holds office for a period of 3 years, commencing on the day of their appointment, unless a shorter term of office is specified under subsection (4);
 - (b) a member elected under section 9(1)(c), (e) or (f) holds office for a period of 3 years, commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5);
 - (c) a member elected under section 9(1)(d) holds office for a period of one year commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5).
- (2) An appointed (which includes co-opted) or elected member, on the expiry of their term of office —
 - (a) may be again appointed or elected, if they continue to be qualified under section 9; but
 - (b) on the expiry of a third successive term of office (of whatever duration), they are not eligible to hold office as a member until 12 months have elapsed after that expiry.
- (3) However, a member elected under section 9(1)(d) may be re-elected once, but only once, on the expiry of their term of office, if they continue to be qualified under section 9.

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- (4) The Governor or the Council may, when appointing a person as a member, specify a shorter term of office where an appointment for a shorter term is desirable to ensure that —
 - (a) the terms of office of members expire at intervals that will produce reasonable continuity of membership; or
 - (b) the terms of office expire on dates that afford the convenience of uniformity.
- (5) The Council may, before an election is held for the purposes of section 9(1), specify that the election of a person is for a shorter term of office where election for a shorter term is desirable for a reason referred to in subsection (4).

15. Section 10 amended

In section 10:

- (a) delete paragraph (b) and insert:
 - (b) resigns their office by written notice given to the Minister; or
- (b) delete paragraph (g) and insert:
 - (g) ceases to hold the qualification required under section 9 for being a member, and in particular —
 - (i) in the case of a person elected under section 9(1)(c), they cease to be a member of the academic staff; or
 - (ii) in the case of a person elected under section 9(1)(d), they cease to be an enrolled student; or

(iii) in the case of a person elected under section 9(1)(e), they cease to be a member of the non-academic salaried staff,

(c) delete “his office shall become vacant and shall” and insert:

their office becomes vacant and must

16. Section 10AA amended

In section 10AA(3) delete “2/3” and insert:

two-thirds

17. Section 10A replaced

Delete section 10A and insert:

10A. Casual vacancies

If a casual vacancy occurs in the office of a member, the vacancy is to be filled in the same manner as if that member’s term of office had expired.

18. Section 11 amended

In section 11(5) delete “4 members.” and insert:

3 members.

19. Section 14A inserted

After section 13 insert:

14A. Remuneration and allowances for Council members

- (1) A member of the Council is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable —
 - (a) are, for the purposes of section 23(3), expenditure incurred by the Council for the purposes of giving effect to this Act; and
 - (b) are to be paid out of the funds of the University.

20. Sections 14 and 15 replaced

Delete sections 14 and 15 and insert:

14. Vice-Chancellor

- (1) The Council must appoint a Vice-Chancellor.
- (2) The Vice-Chancellor is the chief executive officer of the University.
- (3) The Vice-Chancellor holds office for the period and on the conditions the Council determines.
- (4) The Vice-Chancellor has the powers and duties prescribed by Statute and, unless otherwise expressly provided by Statute, the Vice-Chancellor may delegate any of those powers and duties to any person or committee of persons.

- (5) In addition to or instead of the title of Vice-Chancellor, the Vice-Chancellor may use any other title that is —
 - (a) approved by the Council; or
 - (b) prescribed by Statute.
- (6) The use by the Vice-Chancellor, in accordance with subsection (5), of any title in addition to or instead of the title of Vice-Chancellor does not affect the validity of anything done or omitted to be done by, to or in relation to the Vice-Chancellor.

15. Delegation by Council

- (1) The Council may —
 - (a) in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution delegate all or any of its powers, authorities, duties and functions under this Act, except its powers in relation to the making of Statutes or by-laws, to —
 - (i) any member; or
 - (ii) a committee, council or other body of the University; or
 - (iii) any officer of the University;and
 - (b) in relation to any matter or class of matters affecting the Kalgoorlie Campus, or in relation to any activity or function of the Kalgoorlie Campus, by resolution delegate all or any of its powers, authorities, duties and functions under this Act, except its powers in relation to the making of Statutes or by-laws, to the Kalgoorlie Campus Council.
- (2) The Council may by resolution revoke a delegation given under this section.

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- (3) A resolution delegating a power, authority, duty or function may authorise the delegate to further delegate the delegated power, authority, duty or function to a person or body.
- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

21. Section 17 amended

In section 17 delete “Act and any award or agreement in force under the *Industrial Arbitration Act 1912*,” and insert:

Act, any relevant written law and any relevant industrial award or industrial agreement,

22. Section 17A replaced

Delete section 17A and insert:

17A. Power of University to provide residential accommodation for staff and students

- (1) The University may provide residential accommodation for staff of the University, or enrolled students, or both.
- (2) The restrictions imposed by section 5(2)(ea) do not apply to the lease of any part of the land referred to in section 5(2)(ea) if the purpose of the lease is the provision of residential accommodation in accordance with this section.

23. Section 20 amended

- (1) In section 20(2) delete “Her Majesty.” and insert:

the State.

- (2) Delete section 20(3).

- (3) At the end of section 20 insert:

(4) Section 22D affects subsection (2).

24. Section 20A amended

- (1) Delete section 20A(1) and insert:

- (1) In this section —

authorised person means —

- (a) a police officer; or
- (b) the Vice-Chancellor; or
- (c) a member of the staff of the University, or a contractor, who is authorised under subsection (2A) for the purposes of the provision of this section in which the term is used;

contractor means —

- (a) an individual who works under a contract for services for the University; or
- (b) an employee of a body that provides services to the University under a contract;

University lands means —

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- (a) land described in Schedule 1; and
 - (b) any other land vested in, held by, leased to or under the care, control and management of the University for the purposes of this Act; and
 - (c) all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary standing or being on land referred to in paragraph (a) or (b).
- (2A) The Vice-Chancellor may, in writing —
- (a) designate a member of the staff of the University to be an authorised person for the purposes of either or both of subsection (2)(k) or (4); and
 - (b) authorise a contractor to be an authorised person for the purposes of either or both of subsection (2)(k) or (4); and
 - (c) revoke a designation or authorisation made under this subsection.
- (2B) A designation or authorisation of a person under subsection (2A) ceases to have effect if —
- (a) the designation or authorisation is revoked; or
 - (b) the person ceases to be a member of the staff of the University or a contractor.
- (2) In section 20A(2):
- (a) in paragraph (d) delete “member of the Police Force,” and insert:

police officer,

- (b) in paragraph (m) delete “member of the Police Force” (each occurrence) and insert:

police officer

- (c) in paragraph (n) delete “member of the Police Force,” and insert:

police officer,

- (3) In section 20A(4) delete “\$500” and insert:

\$1 000

- (4) After section 20A(7) insert:

- (8A) By-laws made under this section apply to and in respect of University lands that are leased (whether under an approval given under section 22I or otherwise) except to the extent that the application of the by-laws, or any provision of a by-law, to the leased lands is expressly excluded by the lease.

25. Section 21 amended

In section 21:

- (a) in paragraph (a) delete “not below tertiary level”;
(b) in paragraph (b) delete “Staff” and insert:

staff

- (c) delete paragraph (d).

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26. Part I Division 2A deleted

Delete Part I Division 2A.

27. Section 21H amended

- (1) In section 21H delete the definitions of:

higher education

technical and further education

- (2) In section 21H in the definition of *Kalgoorlie Campus Council* delete “section 21K;” and insert:

section 21K.

28. Section 21I replaced

Delete section 21I and insert:

21I. Kalgoorlie Campus

- (1) The Council is to maintain the educational facility at Kalgoorlie established as part of the University and known as the Curtin University — Kalgoorlie Campus.
- (2) The Kalgoorlie Campus —
- (a) must include a School of Mines known as the Western Australian School of Mines; and
 - (b) may include any other facilities that are for the purposes of the University or a purpose that is incidental to the purposes of the University.
- (3) It is not necessary for all of the facilities or operations of the Western Australian School of Mines to be located on the Kalgoorlie Campus.

29. Section 21J amended

Delete section 21J(a).

30. Sections 21L and 21M replaced

Delete sections 21L and 21M and insert:

21L. Functions of Kalgoorlie Campus Council

- (1) The Kalgoorlie Campus Council must act in all matters concerning the Kalgoorlie Campus in the manner that appears most likely to the Council to promote the objects and interests of the Kalgoorlie Campus and the University.
- (2) The Kalgoorlie Campus Council has the following governance functions —
 - (a) to advise the Council on the promotion, development and coordination of the courses and programmes that are offered or to be offered by the Kalgoorlie Campus and that are, or some of which are, offered or to be offered elsewhere by the University;
 - (b) to develop a strategic plan for the Kalgoorlie Campus for the approval of the Council, and review and monitor the implementation of the approved strategic plan, in accordance with any direction given to it by the Council;
 - (c) to promote the activities carried out on the Kalgoorlie Campus in the communities in which the Campus operates and with relevant government and non-government agencies;
 - (d) to monitor the staffing, infrastructure development and financial management of the Kalgoorlie Campus.

- (3) The Kalgoorlie Campus Council also has the following functions —
- (a) to comply with any direction given to it by the Council, including any direction to prepare and provide to the Council a report;
 - (b) not later than 2 months after each 31 December, to prepare and provide to the Council a report of the operations of the Kalgoorlie Campus during the period of 12 months immediately before that day.

21M. Membership of Kalgoorlie Campus Council

- (1) The Kalgoorlie Campus Council consists of the following members —
- (a) a member of the Council who is appointed by the Minister to be chairperson of the Kalgoorlie Campus Council;
 - (b) 5 persons who are appointed by the Minister and who are representative of education, the professions, or industrial, commercial or community interests;
 - (c) one person who is appointed by the Minister and who is representative of vocational education and training interests;
 - (d) the person appointed to be responsible for the management of higher education at the Kalgoorlie Campus;
 - (e) the member of the staff of the Kalgoorlie Campus who is responsible for academic and administrative leadership at the Kalgoorlie Campus;
 - (f) a member of the higher education academic staff of the Kalgoorlie Campus and who is appointed by the Council of the University;

- (g) a member of the general staff (other than the academic staff) of the Kalgoorlie Campus and who is appointed by the Council of the University;
 - (h) an enrolled student of the Kalgoorlie Campus and who is appointed by the Council of the University;
 - (i) the Vice-Chancellor or a person nominated in writing by the Vice-Chancellor;
 - (j) not more than 3 persons appointed from time to time by co-option by the Kalgoorlie Campus Council, but a person whose sole or principal employment is that of a member of the staff of the University may not be so appointed.
- (2) The Minister must endeavour to ensure that at least one of the persons appointed under subsection (1)(b) is a resident of the Esperance region.

31. Sections 21O and 21P replaced

Delete sections 21O and 21P and insert:

21PA. Remuneration and allowances for Kalgoorlie Campus Council members

- (1) A member of the Kalgoorlie Campus Council is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable —
 - (a) are, for the purposes of section 23(3), expenditure incurred by the Council for the purposes of giving effect to this Act; and

(b) are to be paid out of the funds of the University.

21P. Delegation by Kalgoorlie Campus Council

- (1) The Kalgoorlie Campus Council may by resolution delegate any of its functions to —
 - (a) any member of the Kalgoorlie Campus Council; or
 - (b) a committee of persons appointed by the Kalgoorlie Campus Council; or
 - (c) any other person.
- (2) The Kalgoorlie Campus Council may by resolution revoke a delegation given under this section.
- (3) A resolution delegating a function may authorise the delegate to further delegate the delegated function to a person or body.
- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

32. Part I Division 2C inserted

After Part I Division 2B insert:

**Division 2C — Leasing University land for
commercial purposes**

Subdivision 1 — Preliminary

22A. Terms used

In this Division —

advance determination means an advance determination granted under section 22H;

approval means an approval granted under section 22I;

commercial arrangement means any of the following —

- (a) a company;
- (b) a partnership;
- (c) a trust;
- (d) a joint venture;
- (e) an arrangement for sharing profits;
- (f) an arrangement for sponsorship;

commercial purpose means obtaining income for the University through the leasing of University land, if the land is not leased for the purposes of the University or a purpose that is incidental to the purposes of the University;

lease includes sublease;

limited company has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

participate includes form, promote, establish, enter into, manage, dissolve and wind-up;

participate in a commercial arrangement includes —

- (a) acquire, hold and dispose of shares, units or other interests in, or relating to, a commercial arrangement; and
- (b) exercise any right conferred on the University to appoint a director of, or hold office in, a commercial arrangement; and
- (c) do anything incidental to participating in a commercial arrangement;

payment agreement means an agreement made under section 22L;

University land means land vested in the University under section 20 or 31;

university development proposal means a proposal in respect of which the University intends to seek an approval under section 22I to do either or both of the things set out in section 22D(1).

22B. Object of this Division

The object of this Division is to enable the University to seek and obtain the Minister's approval to lease University land for purposes that would not otherwise be authorised by this Act.

22C. Effect of Division on University functions, powers and obligations

- (1) This Division does not limit —
 - (a) sections 5 and 7; or
 - (b) any function, power, right, privilege, immunity or obligation of the University under —
 - (i) this Act, another written law or a law of the Commonwealth or of another State or a Territory; or
 - (ii) the principles and rules of common law and equity to the extent that they have effect in this State from time to time.
- (2) Nothing in this Division is to be taken to impose any requirement on the University to seek or obtain the Minister's approval to lease any University land.
- (3) Nothing in this Division affects the University's obligation under section 5(2)(ea) to obtain the Minister's approval to the grant of a lease for a term that exceeds 21 years.

Subdivision 2 — Power to lease University land for commercial purposes

22D. University may lease University land for commercial purposes with Ministerial approval

- (1) With the approval of the Minister, the University can —
 - (a) enter into a transaction that has a commercial purpose; or
 - (b) participate, in the State or elsewhere, in any commercial arrangement that has a commercial purpose.
- (2) An approval can authorise the University to enter into a transaction, or participate in a commercial arrangement, either —
 - (a) directly; or
 - (b) through a wholly-owned subsidiary (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the University.
- (3) An approval to lease University land can be granted on the basis that subleases of that land (whether all subleases, or only subleases of a particular class or granted in particular circumstances) can be granted without the need to seek or obtain an approval to the granting of those subleases.
- (4) Subsection (3) is subject to any conditions attached to the approval.
- (5) An approval —
 - (a) confers power, for the purposes of this Act, on the University to do the thing authorised by the approval; but

- (b) does not exempt the University or any other person from compliance with, or authorise the University or any other person to do or omit to do anything contrary to —
 - (i) any other written law or any law of the Commonwealth or of another State or a Territory; or
 - (ii) any obligation of the University or any other person, however that obligation arises.

22E. Effect of approval to lease University land

- (1) To the extent that an approval authorises the University to lease University land, land leased in accordance with the approval is to be taken to be used for the purposes of the University or for purposes incidental to the purposes of the University for the purposes of —
 - (a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of that land in the University or the holding, care, control or management, by the University, of that land; and
 - (b) any provision of any written law (including, without limitation, section 20(2)) that specifies that something is to happen or not to happen, or provides for some other consequence, if that land is not used, or ceases to be used, for the purposes of the University or for purposes incidental to the purposes of the University.
- (2) The *Land Tax Assessment Act 2002* section 33 overrides this section.

22F. Approval in principle of university development proposal

- (1) The University may apply to the Minister for the approval in principle of a university development proposal.
- (2) The university development proposal submitted for approval in principle must describe what the University intends to seek an approval under section 22I for, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased.
- (3) If the University applies for an approval in principle —
 - (a) the application must be made in the manner and form, and contain the information, that the Minister requires; and
 - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application; and
 - (c) the Minister may grant or refuse to grant the approval in principle.
- (4) The Minister must —
 - (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the approval in principle, include in that notification the reasons for the refusal.

22G. Application for advance determination of approval

- (1) The University may apply to the Minister for a determination that, if an application is made for an

approval under section 22I in relation to a university development proposal, the approval will be granted.

- (2) In order to apply for an advance determination, it is not necessary that the University has applied for or obtained an approval in principle under section 22F in relation to the university development proposal.
- (3) The university development proposal submitted for advance determination must describe the transaction or commercial arrangement for which the University intends to seek an approval under section 22I, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased; and
 - (c) the financial details of the proposal, including the amount of the investment to be made by the University, the proposed lessee and any other parties involved.
- (4) If approval in principle was previously obtained under section 22F in relation to the proposal, the application for the advance determination must identify any material difference between the proposal approved in principle and the proposal submitted for advance determination.
- (5) If the University applies for an advance determination —
 - (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;

and

- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.

22H. Advance determination of approval

- (1) If the University applies under section 22G for an advance determination in relation to a university development proposal, the Minister may grant or refuse to grant the advance determination.
- (2) The Minister must grant the advance determination if —
 - (a) approval in principle was previously obtained under section 22F in relation to the proposal; and
 - (b) the Minister is satisfied that, in respect of the matters referred to in section 22F(2)(a) and (b), there is no material difference between the proposal approved in principle and the proposal submitted for advance determination; and
 - (c) the Minister is satisfied with the application submitted in relation to the proposal.
- (3) The Minister must —
 - (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the advance determination, include in that notification the reasons for the refusal.
- (4) In granting an advance determination, the Minister may specify a time after which the advance determination lapses.

- (5) Before the advance determination lapses, the Minister may, at the request of the University, by notice in writing to the University, extend the period for which the advance determination is to be in force.

22I. Approvals

- (1) The University may apply to the Minister for approval to do either or both of the things set out in section 22D(1).
- (2) If the University applies for an approval —
 - (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;and
 - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.
- (3) In order to apply for an approval, it is not necessary that the University has applied for or obtained an approval in principle under section 22F, or an advance determination, in relation to the matter for which the approval is sought.
- (4) The Minister may grant or refuse to grant the approval.
- (5) However, the Minister must grant the approval if the Minister is satisfied that —
 - (a) an advance determination is in force in respect of the matter for which the approval is sought; and

- (b) there is no material deviation from the application for the advance determination.
- (6) For the purposes of subsection (5)(b), there is a material deviation from the application for the advance determination if any of the following changes have occurred —
 - (a) the total area of University land that is to be leased has increased by 20% or more;
 - (b) the amount of the investment to be made by the University has increased or decreased by 20% or more.

22J. Notification of decision on application for approval

- (1) The Minister must —
 - (a) notify the University in writing of the Minister's decision on an application for an approval; and
 - (b) if the decision is to refuse to grant the approval, include in that notification the reasons for the refusal.
- (2) The Minister may attach conditions to an approval, and those conditions must be specified in the approval.

22K. Alteration of approval

- (1) The Minister may, at the request of the University, vary or revoke the conditions attached to an approval or attach new or additional conditions.
- (2) The Minister cannot make changes to the terms of an approval under subsection (1) unless the University agrees to the changes, but —
 - (a) the Minister is not obliged to make any or all of the changes requested by the University; and

- (b) the Minister may propose variations, alternatives or additions to the changes requested by the University; and
- (c) the Minister may refuse to change the terms of an approval unless the University agrees to variations, alternatives or additions proposed by the Minister.

22L. Payment agreements

- (1) If the University intends to apply for an advance determination or an approval, the Minister may enter into a written agreement with the University for the University to reimburse the State for the reasonable costs and expenses incurred by the Minister in considering the application.
- (2) If permitted by the regulations, those costs and expenses may include the reasonable costs and expenses incurred by, or by the Minister on behalf of, any person or body appointed to consider and report to the Minister on the application.
- (3) Regulations may make provision for and in relation to a payment agreement, including in connection with —
 - (a) the ambit of an agreement;
 - (b) the making of an agreement;
 - (c) the costs and expenses to be paid under an agreement, including as to the method of calculating the costs and expenses;
 - (d) the methods for resolving any dispute about the costs and expenses that are to be paid under the agreement.

22M. Minister may delegate functions under this Division

- (1) In this section —

Department means the Department of the Public Service principally assisting the Minister in the administration of this Act.

- (2) The Minister may delegate to the chief executive officer of the Department all or any of the functions that the Minister has under this Division, other than this power of delegation.
- (3) A delegation made under subsection (2) must be in writing signed by the Minister.
- (4) If the chief executive officer performs a function that has been delegated to the chief executive officer under this section, the chief executive officer is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

33. Section 23 amended

- (1) After section 23(1)(b) insert:
 - (ca) moneys received by the Council or the University, where the moneys are derived from something that the University is authorised to do by an approval granted under section 22I; and
- (2) In section 23(2)(b) delete “with the approval of the Treasurer,”.
- (3) In section 23(2a) delete “of Technology”.
- (4) In section 23(3) delete “shall, subject to subsection (4), be charged” and insert:

is to be charged

- (5) Delete section 23(4).

34. Section 24 replaced

Delete section 24 and insert:

24. Borrowing and other ways of raising money

- (1) In this section —
debt paper means inscribed stock, bonds, debentures with coupons annexed, bills of exchange, promissory notes or bearer securities, or other similar instruments evidencing indebtedness.
- (2) The University may do all or any of the following —
- (a) borrow money;
 - (b) obtain credit;
 - (c) issue, acquire, hold or dispose of debt paper;
 - (d) create and issue capital instruments;
 - (e) arrange for financial accommodation to be extended to the University.
- (3) Capital instruments created and issued by the University under subsection (2)(d) —
- (a) may be described in any way determined by the University; and
 - (b) are to be created and issued on whatever terms the University determines.
- (4) The University must keep whatever registers for the purposes of this section as are prescribed by regulations made under this Act.

25A. Notice of borrowing

- (1) If the University intends to borrow money and seek a guarantee under section 25B in respect of that borrowing, the University must —
 - (a) give the Minister reasonable advance notice of its intention to borrow that money and to seek a guarantee; and
 - (b) notify the Minister of the outcome of the University's application to borrow that money.
- (2) A liability of the University is not unenforceable or in any way affected by the University's failure to comply with subsection (1).

25B. Guarantees

- (1) The Treasurer, on the Minister's recommendation, may guarantee the performance by the University in the State or elsewhere, of any financial obligation of the University.
- (2) A guarantee —
 - (a) is given in the name and on behalf of the State; and
 - (b) must be in the form, and contain the terms and conditions, that the Treasurer determines; and
 - (c) without limiting paragraph (b), must be subject to the condition that the person for whose benefit the guarantee is given must not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.
- (3) Before a guarantee is given, the University must —
 - (a) give the Treasurer any security that the Treasurer requires; and

- (b) execute all instruments that are required for that purpose.
- (4) Payments made by the Treasurer under a guarantee are to be charged to the Consolidated Account, and this subsection appropriates that Account accordingly.
- (5) The Treasurer must cause to be credited to the Consolidated Account any amounts received or recovered from the University or otherwise in respect of any payment made by the Treasurer under a guarantee.

25C. Charges for guarantee

- (1) The Treasurer may, from time to time, after consultation with the University, fix charges to be paid by the University in respect of a guarantee under section 25B.
- (2) Payments by the University in respect of charges fixed under subsection (1) —
 - (a) must be made at the times, and in the instalments, that the Treasurer determines and notifies to the University; and
 - (b) must be credited to the Consolidated Account.

35. Section 25 amended

In section 25 delete “of Technology”.

36. Section 27 amended

Delete section 27(1) and insert:

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.

37. Section 28 deleted

Delete section 28.

38. Section 33 replaced

Delete section 33 and insert:

33. Exemption from rate or tax

- (1) No rate may be charged or levied on any property vested in the University.
- (2) Subsection (1) does not operate so as to exempt property that is vested in the University, if it is leased to or occupied by any person —
 - (a) for any private purpose; or
 - (b) for a commercial purpose (as defined in section 22A) under an approval granted under section 22I.
- (3) The *Land Tax Assessment Act 2002* section 33 provides an exemption from land tax in respect of land owned by, vested in or held in trust for the University, in the circumstances set out in that section.

34A. Regulations

- (1) The Governor, on the recommendation of the Minister, may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Before making a recommendation under subsection (1), the Minister must consult with the Council.

39. Section 34 amended

(1) In section 34(1):

(a) delete paragraph (d) and insert:

(d) the staff of the University; and

(b) delete paragraph (ea);

(c) after paragraph (i) insert:

(ja) an annual amenities and services fee in accordance with section 45; and

(jb) the matters required by section 46 to be defined or prescribed by Statute; and

(d) delete paragraphs (l) and (m) and insert:

(la) the establishment by the Council of residential accommodation for staff of the University, or enrolled students, or both, and the management, control and closing of any residential accommodation; and

(l) the affiliation of residential accommodation for staff of the University, or enrolled students, or both, where the residential accommodation is not under the control of the Council; and

(m) the licensing and supervision of residential accommodation for staff of the University, or enrolled students, or both, and for the revocation of the licensing of that accommodation; and

(2) In section 34(1c) in paragraph (b) delete “\$500; and” and insert:

\$1 000; and

(3) In section 34(1d):

(a) delete “chief executive officer of the University” and insert:

Vice-Chancellor

(b) delete “by-law or”;

(c) delete “him” and insert:

the Vice-Chancellor

(d) delete “he” and insert:

the Vice-Chancellor

(4) In section 34(1e) delete “by-law or”.

(5) In section 34(3) delete “by-laws or” (each occurrence).

(6) In section 34(4) delete “by-law or” (each occurrence).

40. Section 35 replaced

Delete section 35 and insert:

35. Approval, publication, disallowance and proof of Statutes

(1) A Statute made by the Council —

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

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- (b) must be submitted to the Governor for approval; and
 - (c) if approved by the Governor, must be published in the *Gazette*; and
 - (d) takes effect on the later of —
 - (i) the day after publication in the *Gazette*; or
 - (ii) if a later day is specified for that purpose in the Statute, that day.
- (2) The *Interpretation Act 1984* section 42 applies to a Statute approved and published under subsection (1) as if the Statute were a regulation.
- (3) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a Statute —
- (a) a copy of the Statute under the common seal of the University;
 - (b) a document purporting to be a copy of the Statute and to have been printed by the Government Printer;
 - (c) a copy of the *Gazette* purporting to contain a copy of the Statute.

36A. Statutes to be made readily available to public

- (1) The Council must ensure that the following are readily available to the public by whatever means the Council considers appropriate —
- (a) all Statutes approved and published under section 35(1);
 - (b) all Statutes that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 40 comes into operation.

- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a Statute once it ceases to be in effect.

41. Part II heading replaced

Delete the heading to Part II and insert:

Part 3 — Student Guild

42. Section 45 replaced

Delete section 45 and insert:

45. Amenities and services fee

- (1) A Statute made under section 34 may provide for an annual amenities and services fee to be payable by enrolled students, and (without limitation) for that purpose may —
 - (a) prescribe the procedures to be followed in setting that fee;
 - (b) prescribe the persons by whom the fee is payable, and exempt or provide for the exemption of persons or classes of persons from payment of the fee;
 - (c) provide for different levels of the fee to be payable by different classes of persons;
 - (d) provide for the reduction, waiver or refund, in whole or in part, of the fee;

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- (e) prescribe terms and conditions on which any amount of the total fees collected is to be paid to the Student Guild, including conditions to be met before some or all of the amount may be paid to the Student Guild;
 - (f) provide for the Council to decide how the amount of the total fees collected (after deducting the amount that is paid to the Student Guild) is to be spent, after consultation by the Council with the Student Guild.
- (2) This section does not limit section 34.
 - (3) The Council must pay to the Student Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.
 - (4) This section overrides sections 23(1)(b) and 32.

43. Section 46 amended

- (1) Delete section 46(1)(b) and insert:
 - (b) processes for determining those areas.
- (2) Delete section 46(3).

44. Part 4 inserted

After section 46 insert:

**Part 4 — Transitional provisions for *Universities
Legislation Amendment Act 2016***

47. Terms used

In this Part —

commencement day means the day on which the *Universities Legislation Amendment Act 2016* section 3 comes into operation;

former name means —

- (a) the Western Australian Institute of Technology;
or
- (b) the Curtin University of Technology.

48. Transitional provisions (change of name)

- (1) Subsection (2) applies to a reference to a former name, whether by use of that name or a similar or abbreviated form of that name —
 - (a) in a written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.
- (2) A reference to a former name is to be read and construed as a reference to Curtin University, unless because of the context it would be incorrect or inappropriate to do so.

- (3) Subsection (4) applies to a reference to the Curtin University of Technology — Kalgoorlie Campus —
 - (a) in a written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.
- (4) A reference to the Curtin University of Technology — Kalgoorlie Campus is to be read and construed as a reference to Curtin University — Kalgoorlie Campus, unless because of the context it would be incorrect or inappropriate to do so.
- (5) On commencement day, each account established for the purposes of section 23(2) and existing immediately before commencement day is renamed the “Curtin University Account”.

49. Transitional provisions (Council)

- (1) This section applies despite the amendments made to section 9, and the replacement of section 9A, by the *Universities Legislation Amendment Act 2016* sections 12 and 14.
- (2) Any person who, immediately before commencement day, holds office under section 9 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Council —
 - (a) continues in office —
 - (i) under and subject to Part I Division 2; and

- (ii) for the balance of the person's term of office remaining immediately before commencement day;
 - but
 - (b) vacates office before then in the circumstances set out in section 10 as that section is in effect immediately before commencement day.
- (3) For the purposes of subsection (2)(a)(ii) —
- (a) any member who holds office under section 9(1)(c) or (j) (as in effect immediately before commencement day) is taken to have a term of office that expires on the 60th day after the day on which the *Universities Legislation Amendment Act 2016* section 12 comes into operation;
 - (b) the member who holds office under section 9(1)(k) (as in effect immediately before commencement day) is taken to have a term of office that expires on the day on which the person would vacate office as a member of the Council in accordance with the Statute establishing the Academic Board of the University.
- (4) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.

50. Transitional provisions (Kalgoorlie Campus Council)

- (1) This section applies despite the replacement of section 21M by the *Universities Legislation Amendment Act 2016* section 30 and the replacement of Schedule 2 clause 2 by section 47 of that Act.

- (2) Any person who, immediately before commencement day, holds office under section 21M (as in effect immediately before commencement day) as an appointed or elected member of the Kalgoorlie Campus Council —
- (a) continues in office —
 - (i) under and subject to Part I Division 2B and Schedule 2; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;
- but
- (b) vacates office before then in the circumstances set out in Schedule 2 clause 4 as that clause is in effect immediately before commencement day.

51. Transitional provisions (Vice-Chancellor)

- (1) The person who, immediately before commencement day, holds office as chief executive officer of the University under section 14 (as in effect immediately before commencement day) continues to hold office as Vice-Chancellor under section 14 (as in effect on and after commencement day).
- (2) Subsection (3) applies to a reference to the chief executive officer of the University —
- (a) in a written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.

- (3) A reference to the chief executive officer of the University is to be read and construed as a reference to the Vice-Chancellor, unless because of the context it would be incorrect or inappropriate to do so.

52. Transitional provisions (guarantees)

A guarantee given under section 24 (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 25B.

53. Transitional provisions (Statutes)

- (1) In this section —
former section 35 means section 35 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 40.
- (2) Section 35(2) does not apply to or in relation to any Statute made and published in the *Gazette* before commencement day, and former section 35(2) and (3) apply instead as if the former section 35 had not been deleted.
- (3) If a Statute has been made but not published in the *Gazette* before commencement day —
- (a) section 35(2) does not apply to and in relation to that Statute; and
 - (b) former section 35(2) and (3) apply instead as if the former section 35 had not been deleted.

45. Schedule 1A clause 5 deleted

Delete Schedule 1A clause 5.

46. Schedule 1A clause 6 amended

In Schedule 1A clause 6(1) delete “or 5 or both of them do” and insert:

does

Note: The heading to amended clause 6 is to read:

Minister may declare clause 3 inapplicable

47. Schedule 2 clauses 2 to 4 replaced

Delete Schedule 2 clauses 2 to 4 and insert:

2. Term of office

- (1) Subject to clause 4, a member —
 - (a) appointed under section 21M(1)(a), (b), (c), (f), (g) or (j) holds office for the term, not exceeding 3 years, that is specified in the instrument of their appointment;
 - (b) appointed under section 21M(1)(h) holds office for the term, not exceeding 1 year, that is specified in the instrument of their appointment.
- (2) All retiring members are, unless otherwise disqualified, eligible for reappointment, but on the expiry of a third successive term of office that member is not eligible to hold office as a member until 12 months after that expiry.
- (3) However, a member appointed under section 21M(1)(h) may be reappointed once, but only once, on the expiry of their term, if they continue to be qualified under section 21M(1)(h).

3. Casual vacancies

If a casual vacancy occurs in the office of a member, the vacancy is to be filled in the same manner as if that member's term of office had expired.

4. Vacation of office

The office of a member becomes vacant if the member —

- (a) resigns the office by written notice addressed to the Minister; or
- (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (c) is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of the member's functions and proved to the satisfaction of the Minister; or
- (d) in the case of a member appointed under section 21M(1)(a), ceases to be a member of the Council; or
- (e) in the case of a member appointed under section 21M(1)(f), ceases to be a member of the higher education academic staff of the Kalgoorlie Campus; or
- (f) in the case of a member appointed under section 21M(1)(g), ceases to be a member of the general staff (other than the academic staff) of the Kalgoorlie Campus; or
- (g) in the case of a member appointed under section 21M(1)(h), ceases to be an enrolled student of the Kalgoorlie Campus.

Part 3 — *Edith Cowan University Act 1984* amended

48. Act amended

This Part amends the *Edith Cowan University Act 1984*.

49. Long title amended

In the long title delete “**the**”.

50. Section 3 amended

- (1) In section 3(1) delete the definitions of:

Board of the Academy
chief executive officer

- (2) In section 3(1) insert in alphabetical order:

Advisory Board means —

- (a) the ECU South West Campus (Bunbury) Advisory Board referred to in section 20(1); or
(b) the Advisory Board of the Academy referred to in section 25(1);

casual vacancy means a vacancy arising in the office of a member of the Council otherwise than by reason of the effluxion of time;

Deputy Chancellor means the Deputy Chancellor of the University;

residential accommodation —

- (a) means any form of accommodation (including, without limitation, a residential college, hostel, hall of residence or form of independent living); and
(b) includes facilities that are —

- (i) ancillary to residential accommodation;
and
- (ii) primarily for the use of members of the staff, or enrolled students, or both;

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

- (3) In section 3(1) in the definition of ***member of staff*** delete “the chief executive officer,” and insert:

the Vice-Chancellor,

- (4) In section 3(1) in the definition of ***prescribed*** delete “by-law or”.

- (5) In section 3(1) in the definition of ***University***:

- (a) delete “the”;
- (b) delete “Act.” and insert:

Act;

51. Part II heading amended

In the heading to Part II delete “**The**”.

52. Section 4 amended

- (1) In section 4(1) delete “called the” and insert:

called

- (2) In section 4(2) delete “the Edith” and insert:

Edith

- (3) In section 4(2) after paragraph (a) insert:

or

53. Section 5 amended

- (1) In section 5(2):
- (a) in paragraph (ea) delete “Governor;” and insert:

Minister; and
 - (b) after paragraph (ea) insert:

(eb) may enter into business arrangements; and
- (2) In section 5(2) after each of paragraphs (a) to (e) insert:

and

54. Section 7 replaced

Delete section 7 and insert:

7. Functions of the University

- (1) The functions of the University include the following —

- (a) to provide, on a full-time or part-time basis, courses of study appropriate to a university, and other tertiary courses;
- (b) to encourage and participate in the development and improvement of tertiary education;
- (c) to provide other courses of study approved by the Council;
- (d) to undertake, aid or support scholarship, pure and applied research, invention, innovation, education and consultancy, and to apply those matters to the advancement and application of knowledge —
 - (i) to the benefit of industry, business and government; and
 - (ii) to the benefit and wellbeing of the Western Australian, Australian and international communities;
- (e) to commercially develop or commercially use, for the University's benefit, any facility, resource or property (real or personal) of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others;
- (f) to generate revenue for the purposes of funding the carrying out of its functions;
- (g) to foster the general welfare and development of all enrolled students;
- (h) to promote and encourage collaboration and consultation between the University and other institutions and authorities to ensure the greatest effectiveness and economy in

expenditure and the most beneficial relationship between the University and other educational institutions within and outside the State;

- (i) to serve the Western Australian, Australian and international communities and the public interest by —
 - (i) enriching cultural and community life; and
 - (ii) raising public awareness of international, scientific and artistic developments; and
 - (iii) promoting critical and free enquiry, informed intellectual discussion and public debate within the University and in the wider society;
 - (j) to provide whatever facilities relating to its functions the Council thinks necessary or conducive to their attainment.
- (2) The University has all the powers, rights and privileges it reasonably needs to enable it to carry out its functions.
 - (3) The University may carry out its functions and exercise its powers, including the power to enter into business arrangements, within or outside the State.

55. Section 9 amended

- (1) Delete section 9(1) and (2) and insert:

- (1) The Council consists of the following members —
 - (a) 3 persons appointed by the Governor on the recommendation of the Minister;

- (b) the person for the time being the chairperson of the Academic Board;
 - (c) the Vice-Chancellor;
 - (d) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
 - (e) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;
 - (f) 2 persons who are enrolled students —
 - (i) one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and
 - (ii) one of whom is a postgraduate student and who is elected by the postgraduate students in the manner prescribed by Statute;
 - (g) 2 persons who are Alumni of the University and who are elected by the Alumni of the University in the manner prescribed by Statute;
 - (h) not more than 5 persons appointed from time to time by co-option by the Council;
 - (i) if they are not already a member under paragraphs (a) to (h), the Chancellor.
- (2) The fact that a person holds an elective office (for example, an elective office of the Student Guild) does not disqualify that person being appointed or holding office under subsection (1).

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- (2) In section 9(3) delete “subsection (1)(a), (aa) or (i) —” and insert:

subsection (1)(a) or (h) —

- (3) In section 9(4) delete “subsection (1)(e) —” and insert:

subsection (1)(f) —

- (4) In section 9(5) delete “subsection (1)(f) —” and insert:

subsection (1)(g) —

56. Section 10 replaced

Delete section 10 and insert:

9A. Nominations Committee

- (1) The Council must establish and maintain a committee of the Council called the Nominations Committee.
- (2) The Nominations Committee is to consist of not more than 6 members of the Council appointed by the Council.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
 - (a) the Vice-Chancellor;
 - (b) the chairperson of the Academic Board;
 - (c) the member referred to in section 9(1)(d);
 - (d) the member referred to in section 9(1)(e);

- (e) the members referred to in section 9(1)(f);
 - (f) the members referred to in section 9(1)(g).
- (4) The functions of the Nominations Committee are —
- (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of —
 - (i) any member of the Council who is appointed by the Governor or the Council; or
 - (ii) any member of an Advisory Board who is appointed by the Council;
 - (b) to recommend to the Minister suitable candidates to a vacancy or casual vacancy in the office of any member who is appointed under section 9(1)(a);
 - (c) to recommend to the Council suitable candidates for appointment by co-option under section 9(1)(h).
- (5) The fact that the Nominations Committee or the Council has not recommended a person for appointment under section 9(1) does not prevent the person from being appointed or holding office under section 9(1).
- (6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by Council.

10. Term of office

- (1) Subject to section 11 —
- (a) a member appointed under section 9(1)(a) or (h) holds office for a period of 3 years, commencing on the day of their appointment,

- unless a shorter term of office is specified under subsection (4);
- (b) a member elected under section 9(1)(d), (e) or (g) holds office for a period of 3 years, commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5);
 - (c) a member elected under section 9(1)(f) holds office for a period of one year commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5).
- (2) All retiring members are, unless otherwise disqualified, eligible for reappointment or re-election.
- (3) However —
- (a) a member elected under section 9(1)(f) is not eligible for re-election more than once;
 - (b) a member other than a member elected under section 9(1)(f) is not eligible to be reappointed or re-elected on the expiry of a third successive term of office until 12 months have elapsed after that expiry;
 - (c) a member who is removed from office by the Council under section 11A is not eligible to be a member again until 5 years have elapsed since the removal.
- (4) The Governor or the Council may, when appointing a person as a member, specify a shorter term of office where an appointment for a shorter term is desirable to ensure that —
- (a) the terms of office of members expire at intervals that will produce reasonable continuity of membership; or

- (b) the terms of office expire on dates that afford the convenience of uniformity.
- (5) The Council may, before an election is held for the purposes of section 9(1), specify that the election of a person is for a shorter term of office where election for a shorter term is desirable for a reason referred to in subsection (4).

57. Section 11 replaced

Delete section 11 and insert:

11. Vacation of office

The office of a member becomes vacant if —

- (a) the member resigns their office by written notice given to the Minister; or
- (b) the member is a person in respect of whom an administration order is in force under the *Guardianship and Administration Act 1990* Part 6; or
- (c) the member is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (d) the member is convicted of an indictable offence; or
- (e) the member is removed from office by the Council under section 11A; or
- (f) the member is, or becomes, disqualified from managing corporations under the *Corporations Act 2001* (Commonwealth) Part 2D.6; or
- (g) the member is absent without leave of the Council from 3 consecutive meetings of the Council; or

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- (h) the member ceases to hold any qualification required for becoming or being a member; or
- (i) the member dies.

58. Section 11A amended

In section 11A(3) delete “2/3” and insert:

two-thirds

59. Section 11B inserted

After section 11A insert:

11B. Casual vacancies

If a casual vacancy occurs in the office of a member, the vacancy is to be filled in the same way as if that member’s term of office had expired.

60. Section 12 amended

- (1) In section 12(1)(b), (2) and (4) delete “Pro-Chancellor” (each occurrence) and insert:

Deputy Chancellor

- (2) In section 12(6) delete “4 members.” and insert:

3 members.

61. Section 15A inserted

After section 14 insert:

15A. Remuneration and allowances for Council members

- (1) A member of the Council is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable are to be paid out of the funds available to the Council under section 36.

62. Section 15 amended

- (1) In section 15(1) delete “this power of delegation and”.
- (2) Delete section 15(2) and (3) and insert:
 - (2) The Council may by resolution revoke a delegation given under this section.
 - (3) A resolution delegating a power, authority, duty or function may authorise the delegate to further delegate the delegated power, authority, duty or function to a person or body.
 - (4) A subdelegation under this section must be in writing.
 - (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

63. Section 17 amended

- (1) In section 17(1):
- (a) in paragraph (c) delete “university” and insert:

university, or other tertiary courses,
 - (b) after paragraph (e) insert:

(fa) may provide residential accommodation for members of staff, or enrolled students, or both; and
- (2) In section 17(1) after each of paragraphs (a) to (d) insert:

and

64. Section 20 amended

Delete section 20(2) and (3) and insert:

- (2) The Council may make Statutes —
- (a) prescribing the method of the appointment and selection of the members of the ECU South West Campus (Bunbury) Advisory Board by the Council;
 - (b) prescribing the terms of office of the members of the ECU South West Campus (Bunbury) Advisory Board;
 - (c) prescribing the circumstances in which an office of member of the ECU South West Campus (Bunbury) Advisory Board becomes vacant;

- (d) providing for meetings of the ECU South West Campus (Bunbury) Advisory Board;
 - (e) providing for any other matters necessary or desirable to ensure the effective exercise of the functions of the ECU South West Campus (Bunbury) Advisory Board.
- (3) The functions of the ECU South West Campus (Bunbury) Advisory Board are —
- (a) to provide the Council with strategic advice in relation to the ECU South West Campus (Bunbury) and education matters relevant to the south-west region of the State; and
 - (b) any other functions relating to the ECU South West Campus (Bunbury) and education matters relevant to the south-west region of the State determined by the Council.

65. Section 24 amended

Delete section 24(2) and (3) and insert:

- (2) The Council may make Statutes providing for the control and management of the affairs and concerns of the Academy.

66. Sections 25 and 25A inserted

After section 24 insert:

25. Advisory Board of Academy

- (1) There is to be an Advisory Board of the Academy.

- (2) Without limiting section 24(2), the Council may make Statutes —
 - (a) prescribing the method of the appointment and selection of the members of the Advisory Board of the Academy by the Council;
 - (b) prescribing the terms of office of the members of the Advisory Board of the Academy;
 - (c) prescribing the circumstances in which an office of member of the Advisory Board of the Academy becomes vacant;
 - (d) providing for meetings of the Advisory Board of the Academy;
 - (e) providing for any other matters necessary or desirable to ensure the effective exercise of the functions of the Advisory Board of the Academy.
- (3) The functions of the Advisory Board of the Academy are —
 - (a) to provide the Council with strategic advice in relation to the Academy; and
 - (b) any other functions relating to the Academy determined by the Council.
- (4) The Advisory Board of the Academy is subject to the direction and control of the Council.

25A. Remuneration and allowances for Advisory Board members

- (1) A member of an Advisory Board is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.

- (2) Any remuneration and allowances payable are to be paid out of the funds available to the Council under section 36.

67. Section 26 amended

- (1) In section 26(1):
- (a) after paragraph (i) insert:
 - (ja) an annual amenities and services fee in accordance with section 41A; and
 - (jb) the matters required by section 41B to be defined or prescribed by Statute; and

 - (b) delete paragraphs (l) and (m) and insert:
 - (l) the establishment by the Council of residential accommodation for members of the staff, or enrolled students, or both, and the management, control and closing of any residential accommodation; and
 - (m) the affiliation of residential accommodation for members of the staff, or enrolled students, or both, where the residential accommodation is not under the control of the Council; and
 - (na) the licensing and supervision of residential accommodation for members of the staff, or enrolled students, or both, and for the revocation of the licensing of that accommodation; and

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- (2) In section 26(3):
- (a) in paragraph (b) delete “\$250;” and insert:

\$1 000; and
 - (b) in paragraph (d) delete “\$500” and insert:

\$1 000
- (3) Delete section 26(4) and insert:
- (4) Without limiting section 30(4), the Vice-Chancellor may delegate to any person, class of persons or body of persons any of the following powers conferred on the Vice-Chancellor under a Statute —
- (a) a disciplinary power;
 - (b) a power to hear and determine appeals from decisions made in the exercise or purported exercise of disciplinary powers;
 - (c) a power to award or fix costs.
- (4) In section 26(5) delete “by-law or”.
- (5) In section 26(7) delete “by-laws or” (each occurrence).
- (6) In section 26(8) delete “by-law or” (each occurrence).
- (7) In section 26 after each of subsections (1)(a) to (i), (j) and (k) and (3)(a) and (c) to (h) insert:

and

68. Section 27 replaced

Delete section 27 and insert:

27. Approval, publication, disallowance and proof of Statutes

- (1) A Statute made by the Council —
 - (a) must be sealed with the common seal of the University; and
 - (b) must be submitted to the Governor for approval; and
 - (c) if approved by the Governor, must be published in the *Gazette*; and
 - (d) takes effect on the later of —
 - (i) the day after publication in the *Gazette*; or
 - (ii) if a later day is specified for that purpose in the Statute, that day.
- (2) The *Interpretation Act 1984* section 42 applies to a Statute approved and published under subsection (1) as if the Statute were a regulation.
- (3) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a Statute —
 - (a) a copy of the Statute under the common seal of the University;
 - (b) a document purporting to be a copy of the Statute and to have been printed by the Government Printer;
 - (c) a copy of the *Gazette* purporting to contain a copy of the Statute.

28A. Statutes to be made readily available to public

- (1) The Council must ensure that the following are readily available to the public by whatever means the Council considers appropriate —
 - (a) all Statutes approved and published under section 27(1);
 - (b) all Statutes that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 68 comes into operation.
- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a Statute once it ceases to be in effect.

69. Part VI Division 1 heading inserted

At the beginning of Part VI insert:

Division 1 — Vesting of land in University and by-laws applicable to University lands

70. Section 28 amended

- (1) In section 28(1) before “management” insert:

care,
- (2) Delete section 28(3) and (4) and insert:
- (3) Where any land in the care, management and control of, or vested in, the University under this Act is no

longer required for the purposes of this Act, the Governor, by Order in Council, may revest it in the State.

- (4) The restrictions imposed by section 5(2)(ea) do not apply to the lease of any part of the land referred to in section 5(2)(ea) if the purpose of the lease is the provision of residential accommodation in accordance with section 17(1)(fa).

71. Section 29 amended

- (1) Before section 29(1) insert:

- (1A) In this section —

authorised person means —

- (a) a police officer; or
- (b) a person authorised under subsection (1B) to be an authorised person for the purposes of the subsection in which the term is used;

contractor means —

- (a) an individual who works under a contract for services for the University; or
- (b) an employee of a body that provides services to the University under a contract.

- (1B) The Vice-Chancellor may, in writing —

- (a) designate a member of the staff of the University to be an authorised person for the purposes of either or both of subsection (3)(k) or (7A); and
- (b) authorise a contractor to be an authorised person for the purposes of either or both of subsection (3)(k) or (7A); and

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- (c) revoke a designation or authorisation made under this subsection.
- (1C) A designation or authorisation of a person under subsection (1B) ceases to have effect if —
 - (a) the designation or authorisation is revoked; or
 - (b) the person ceases to be a member of the staff of the University or a contractor.
- (2) Delete section 29(2)(a) and insert:
 - (a) declare any land vested in, held by, leased to or under the care, management and control of the University to be University lands; or
- (3) In section 29(3):
 - (a) in paragraph (d) delete “member of the Police Force,” and insert:

police officer,
 - (b) in paragraph (k) delete “his” and insert:

the authorised person’s
 - (c) in paragraph (l) delete “he” and insert:

the person
 - (d) in paragraph (m) delete “member of the Police Force” (each occurrence) and insert:

police officer

- (e) in paragraph (n) delete “his” and insert:

the person’s

 - (f) in paragraph (n) delete “member of the Police Force,”
and insert:

police officer,
- (4) Delete section 29(4).
- (5) Delete section 29(6) and insert:
- (6) A by-law may impose a penalty of a fine not exceeding \$1 000 for a breach of the by-law.
 - (7A) Proceedings for the breach of a by-law may be taken by an authorised person in the name of the authorised person.
- (6) In section 29(9) delete “Statutes, by-laws” and insert:
- Statutes
- (7) After section 29(9) insert:
- (10) By-laws made under this section apply to and in respect of University lands that are leased (whether under an approval given under section 30I or otherwise) except to the extent that the application of the by-laws, or any provision of a by-law, to the leased lands is expressly excluded by the lease.

(8) In section 29(3) after each of paragraphs (a) to (m) insert:

and

72. Part VI Division 2 inserted

At the end of Part VI insert:

Division 2 — Leasing University land for commercial purposes

Subdivision 1 — Preliminary

30A. Terms used

In this Division —

advance determination means an advance determination granted under section 30H;

approval means an approval granted under section 30I;

commercial arrangement means any of the following —

- (a) a company;
- (b) a partnership;
- (c) a trust;
- (d) a joint venture;
- (e) an arrangement for sharing profits;
- (f) an arrangement for sponsorship;

commercial purpose means obtaining income for the University through the leasing of University land, if the land is not leased for the purposes of the University or

a purpose that is incidental to the purposes of the University;

lease includes sublease;

limited company has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

participate includes form, promote, establish, enter into, manage, dissolve and wind-up;

participate in a commercial arrangement includes —

- (a) acquire, hold and dispose of shares, units or other interests in, or relating to, a commercial arrangement; and
- (b) exercise any right conferred on the University to appoint a director of, or hold office in, a commercial arrangement; and
- (c) do anything incidental to participating in a commercial arrangement;

payment agreement means an agreement made under section 30L;

University land means land vested in the University under section 28;

university development proposal means a proposal in respect of which the University intends to seek an approval under section 30I to do either or both of the things set out in section 30D(1).

30B. Object of this Division

The object of this Division is to enable the University to seek and obtain the Minister's approval to lease University land for purposes that would not otherwise be authorised by this Act.

30C. Effect of Division on University functions, powers and obligations

- (1) This Division does not limit —
 - (a) sections 5 and 7; or
 - (b) any function, power, right, privilege, immunity or obligation of the University under —
 - (i) this Act, another written law or a law of the Commonwealth or of another State or a Territory; or
 - (ii) the principles and rules of common law and equity to the extent that they have effect in this State from time to time.
- (2) Nothing in this Division is to be taken to impose any requirement on the University to seek or obtain the Minister's approval to lease any University land.
- (3) Nothing in this Division affects the University's obligation under section 5(2)(ea) to obtain the Minister's approval to the grant of a lease for a term that exceeds 21 years.

Subdivision 2 — Power to lease University land for commercial purposes

30D. University may lease University land for commercial purposes with Ministerial approval

- (1) With the approval of the Minister, the University can —
 - (a) enter into a transaction that has a commercial purpose; or
 - (b) participate, in the State or elsewhere, in any commercial arrangement that has a commercial purpose.

- (2) An approval can authorise the University to enter into a transaction, or participate in a commercial arrangement, either —
 - (a) directly; or
 - (b) through a wholly-owned subsidiary (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the University.
- (3) An approval to lease University land can be granted on the basis that subleases of that land (whether all subleases, or only subleases of a particular class or granted in particular circumstances) can be granted without the need to seek or obtain an approval to the granting of those subleases.
- (4) Subsection (3) is subject to any conditions attached to the approval.
- (5) An approval —
 - (a) confers power, for the purposes of this Act, on the University to do the thing authorised by the approval; but
 - (b) does not exempt the University or any other person from compliance with, or authorise the University or any other person to do or omit to do anything contrary to —
 - (i) any other written law or any law of the Commonwealth or of another State or a Territory; or
 - (ii) any obligation of the University or any other person, however that obligation arises.

30E. Effect of approval to lease University land

- (1) To the extent that an approval authorises the University to lease University land, land leased in accordance with

the approval is to be taken to be used for the purposes of the University or for purposes incidental to the purposes of the University for the purposes of —

- (a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of that land in the University or the holding, care, control or management, by the University, of that land; and
 - (b) any provision of any written law that specifies that something is to happen or not to happen, or provides for some other consequence, if that land is not used, or ceases to be used, for the purposes of the University or for purposes incidental to the purposes of the University.
- (2) The *Land Tax Assessment Act 2002* section 33 overrides this section.

30F. Approval in principle of university development proposal

- (1) The University may apply to the Minister for the approval in principle of a university development proposal.
- (2) The university development proposal submitted for approval in principle must describe what the University intends to seek an approval under section 30I for, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased.
- (3) If the University applies for an approval in principle —
 - (a) the application must be made in the manner and form, and contain the information, that the Minister requires; and

- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application; and
 - (c) the Minister may grant or refuse to grant the approval in principle.
- (4) The Minister must —
 - (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the approval in principle, include in that notification the reasons for the refusal.

30G. Application for advance determination of approval

- (1) The University may apply to the Minister for a determination that, if an application is made for an approval under section 30I in relation to a university development proposal, the approval will be granted.
- (2) In order to apply for an advance determination, it is not necessary that the University has applied for or obtained an approval in principle under section 30F in relation to the university development proposal.
- (3) The university development proposal submitted for advance determination must describe the transaction or commercial arrangement for which the University intends to seek an approval under section 30I, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased; and
 - (c) the financial details of the proposal, including the amount of the investment to be made by the

University, the proposed lessee and any other parties involved.

- (4) If approval in principle was previously obtained under section 30F in relation to the proposal, the application for the advance determination must identify any material difference between the proposal approved in principle and the proposal submitted for advance determination.
- (5) If the University applies for an advance determination —
 - (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;and
 - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.

30H. Advance determination of approval

- (1) If the University applies under section 30G for an advance determination in relation to a university development proposal, the Minister may grant or refuse to grant the advance determination.
- (2) The Minister must grant the advance determination if —
 - (a) approval in principle was previously obtained under section 30F in relation to the proposal; and

- (b) the Minister is satisfied that, in respect of the matters referred to in section 30F(2)(a) and (b), there is no material difference between the proposal approved in principle and the proposal submitted for advance determination; and
 - (c) the Minister is satisfied with the application submitted in relation to the proposal.
- (3) The Minister must —
- (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the advance determination, include in that notification the reasons for the refusal.
- (4) In granting an advance determination, the Minister may specify a time after which the advance determination lapses.
- (5) Before the advance determination lapses, the Minister may, at the request of the University, by notice in writing to the University, extend the period for which the advance determination is to be in force.

30I. Approvals

- (1) The University may apply to the Minister for approval to do either or both of the things set out in section 30D(1).
- (2) If the University applies for an approval —
- (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;

and

- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.
- (3) In order to apply for an approval, it is not necessary that the University has applied for or obtained an approval in principle under section 30F, or an advance determination, in relation to the matter for which the approval is sought.
- (4) The Minister may grant or refuse to grant the approval.
- (5) However, the Minister must grant the approval if the Minister is satisfied that —
 - (a) an advance determination granted under section 30H is in force in respect of the matter for which the approval is sought; and
 - (b) there is no material deviation from the application for the advance determination.
- (6) For the purposes of subsection (5)(b), there is a material deviation from the application for the advance determination if any of the following changes have occurred —
 - (a) the total area of University land that is to be leased has increased by 20% or more;
 - (b) the amount of the investment to be made by the University has increased or decreased by 20% or more.

30J. Notification of decision on application for approval

- (1) The Minister must —

- (a) notify the University in writing of the Minister's decision on an application for an approval; and
 - (b) if the decision is to refuse to grant the approval, include in that notification the reasons for the refusal.
- (2) The Minister may attach conditions to an approval and those conditions must be specified in the approval.

30K. Alteration of approval

- (1) The Minister may, at the request of the University, vary or revoke the conditions attached to an approval or attach new or additional conditions.
- (2) The Minister cannot make changes to the terms of an approval under subsection (1) unless the University agrees to the changes, but —
- (a) the Minister is not obliged to make any or all of the changes requested by the University; and
 - (b) the Minister may propose variations, alternatives or additions to the changes requested by the University; and
 - (c) the Minister may refuse to change the terms of an approval unless the University agrees to variations, alternatives or additions proposed by the Minister.

30L. Payment agreements

- (1) If the University intends to apply for an advance determination or an approval, the Minister may enter into a written agreement with the University for the University to reimburse the State for the reasonable costs and expenses incurred by the Minister in considering the application.

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- (2) If permitted by the regulations, those costs and expenses may include the reasonable costs and expenses incurred by, or by the Minister on behalf of, any person or body appointed to consider and report to the Minister on the application.
- (3) Regulations may make provision for and in relation to a payment agreement, including in connection with —
 - (a) the ambit of an agreement;
 - (b) the making of an agreement;
 - (c) the costs and expenses to be paid under an agreement, including as to the method of calculating the costs and expenses;
 - (d) the methods for resolving any dispute about the costs and expenses that are to be paid under the agreement.

30M. Minister may delegate functions under this Division

- (1) In this section —

Department means the Department of the Public Service principally assisting the Minister in the administration of this Act.
- (2) The Minister may delegate to the chief executive officer of the Department all or any of the functions that the Minister has under this Division, other than this power of delegation.
- (3) A delegation made under subsection (2) must be in writing signed by the Minister.
- (4) If the chief executive officer performs a function that has been delegated to the chief executive officer under this section, the chief executive officer is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

73. Section 30 replaced

Delete section 30 and insert:

30. Vice-Chancellor

- (1) The Council must appoint and may terminate the appointment of a Vice-Chancellor.
- (2) The Vice-Chancellor is the chief executive officer of the University.
- (3) The Vice-Chancellor holds office as such for the period and on the conditions the Council determines.
- (4) The Vice-Chancellor has powers and duties prescribed by Statute and, unless otherwise expressly provided, the Vice-Chancellor may delegate any of those powers and duties to any person or committee of persons.
- (5) In addition to or instead of the title of Vice-Chancellor, the Vice-Chancellor may use any other title that is —
 - (a) approved by the Council; or
 - (b) prescribed by Statute.
- (6) The use by the Vice-Chancellor, in accordance with subsection (5), of any title in addition to or instead of the title of Vice-Chancellor does not affect the validity of anything done or omitted to be done by, to or in relation to the Vice-Chancellor.

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74. Section 31 amended

In section 31(1) delete “Act and any relevant award or agreement in force under the *Industrial Relations Act 1979* —” and insert:

Act, any relevant written law and any relevant industrial award or industrial agreement —

75. Section 36 amended

(1) After section 36(1)(b) insert:

(ca) moneys received by the Council or the University, where the moneys are derived from something that the University is authorised to do by an approval granted under section 30I; and

(2) In section 36(2)(b) delete “with the approval of the Treasurer,”.

(3) In section 36(1) after each of paragraphs (a) and (b) insert:

and

76. Section 37 replaced

Delete section 37 and insert:

37. Borrowing and other ways of raising money

(1) In this section —

debt paper means inscribed stock, bonds, debentures with coupons annexed, bills of exchange, promissory

notes or bearer securities, or other similar instruments evidencing indebtedness.

- (2) The University may do all or any of the following —
 - (a) borrow money;
 - (b) obtain credit;
 - (c) issue, acquire, hold or dispose of debt paper;
 - (d) create and issue capital instruments;
 - (e) arrange for financial accommodation to be extended to the University.
- (3) Capital instruments created and issued by the University under subsection (2)(d) —
 - (a) may be described in any way determined by the University; and
 - (b) are to be created and issued on whatever terms the University determines.
- (4) The University must keep whatever registers for the purposes of this section as are prescribed by regulations made under this Act.
- (5) Nothing in this section or section 37A or 37B affects or applies to moneys that are applied under section 38A(b).

37A. Notice of borrowing

- (1) If the University intends to borrow money and seek a guarantee under section 37B in respect of that borrowing, the University must —
 - (a) give the Minister reasonable advance notice of its intention to borrow that money and to seek a guarantee; and
 - (b) notify the Minister of the outcome of the University's application to borrow that money.

- (2) A liability of the University is not unenforceable or in any way affected by the University's failure to comply with subsection (1).

37B. Guarantees

- (1) The Treasurer, on the Minister's recommendation, may guarantee the performance by the University in the State or elsewhere, of any financial obligation of the University.
- (2) A guarantee —
- (a) is given in the name and on behalf of the State; and
 - (b) must be in the form, and contain the terms and conditions, that the Treasurer determines; and
 - (c) without limiting paragraph (b), must be subject to the condition that the person for whose benefit the guarantee is given must not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.
- (3) Before a guarantee is given, the University must —
- (a) give the Treasurer any security that the Treasurer requires; and
 - (b) execute all instruments that are required for that purpose.
- (4) Payments made by the Treasurer under a guarantee are to be charged to the Consolidated Account, and this subsection appropriates that Account accordingly.
- (5) The Treasurer must cause to be credited to the Consolidated Account any amounts received or recovered from the University or otherwise in respect of any payment made by the Treasurer under a guarantee.

37C. Charges for guarantee

- (1) The Treasurer may, from time to time, after consultation with the University, fix charges to be paid by the University in respect of a guarantee under section 37B.
- (2) Payments by the University in respect of charges fixed under subsection (1) —
 - (a) must be made at the times, and in the instalments, that the Treasurer determines and notifies to the University; and
 - (b) must be credited to the Consolidated Account.

77. Section 38B amended

After section 38B(2) insert:

- (3) Sections 37, 37A and 37B do not apply to or affect moneys that are applied under section 38A(b).

78. Section 41 amended

In section 41(6b) before “not being” insert:

being or

79. Section 41A replaced

Delete section 41A and insert:

41A. Amenities and services fee

- (1) A Statute made under section 26 may provide for an annual amenities and services fee to be payable by enrolled students, and (without limitation) for that purpose may —
 - (a) prescribe the procedures to be followed in setting that fee;
 - (b) prescribe the persons by whom the fee is payable, and exempt or provide for the exemption of persons or classes of persons from payment of the fee;
 - (c) provide for different levels of the fee to be payable by different classes of persons;
 - (d) provide for the reduction, waiver or refund, in whole or in part, of the fee;
 - (e) prescribe terms and conditions on which any amount of the total fees collected is to be paid to the Student Guild, including conditions to be met before some or all of the amount may be paid to the Student Guild;
 - (f) provide for the Council to decide how the amount of the total fees collected (after deducting the amount that is paid to the Student Guild) is to be spent, after consultation by the Council with the Student Guild.
- (2) This section does not limit section 26.
- (3) The Council must pay to the Student Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.
- (4) This section overrides section 36(1)(b) and (3).

80. Section 41B amended

- (1) Delete section 41B(2) and insert:
 - (2) The fees collected each year are to be allocated to broad categories of expenditure and the Council must specify, by Statute —
 - (a) the broad categories of amenities and services within which the fees are to be expended; and
 - (b) the process for determining those categories.

- (2) In section 41B(3) delete “the fees” and insert:

any fees

81. Section 42 amended

Delete section 42(1) and insert:

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.

82. Sections 43 and 44 replaced

Delete sections 43 and 44 and insert:

43. Exemption from rate or tax

- (1) No rate may be charged or levied on any property vested in the University.

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- (2) Subsection (1) does not operate so as to exempt property that is vested in the University if it is leased to or ordinarily occupied by any other person —
 - (a) for any private purpose; or
 - (b) for a commercial purpose (as defined in section 30A(1)) under an approval given under section 30I.
- (3) The *Land Tax Assessment Act 2002* section 33 provides an exemption from land tax in respect of land owned by, vested in or held in trust for the University, in the circumstances set out in that section.

44A. Regulations

- (1) The Governor, on the recommendation of the Minister, may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Before making a recommendation under subsection (1), the Minister must consult with the Council.

83. Part XI Division 1 heading inserted

At the beginning of Part XI insert:

Division 1 — General

84. Sections 45 and 46 deleted

Delete sections 45 and 46.

85. Section 52 deleted

Delete section 52.

86. Part XI Division 2 inserted

At the end of Part XI insert:

**Division 2 — Transitional provisions for *Universities
Legislation Amendment Act 2016***

54. Term used: commencement day

In this Division —

commencement day means the day on which the *Universities Legislation Amendment Act 2016* section 48 comes into operation.

55. Transitional provisions (Council)

- (1) This section applies despite the amendments made to section 9, and the replacement of section 10 by the *Universities Legislation Amendment Act 2016* sections 55 and 56.
- (2) Any person who, immediately before commencement day, holds office under section 9 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Council —
 - (a) continues in office —
 - (i) under and subject to Part III; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

- (b) vacates office before then in the circumstances set out in section 11 as that section is in effect immediately before commencement day.
- (3) For the purposes of subsection (2)(a)(ii), any member who holds office under section 9(1)(aa) (as in effect immediately before commencement day) is taken to have a term of office that expires on the 60th day after the day on which the *Universities Legislation Amendment Act 2016* section 55 comes into operation.
- (4) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.

56. Transitional provisions (Deputy Chancellor)

- (1) The person who, immediately before commencement day, holds office as Pro-Chancellor of the University under section 12 (as in effect immediately before commencement day) continues to hold office as Deputy Chancellor for the balance of their term of office.
- (2) Subsection (3) applies to a reference to the Pro-Chancellor of the University —
 - (a) in any written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.
- (3) A reference to the Pro-Chancellor of the University is to be read and construed as a reference to the Deputy

Chancellor, unless because of the context it would be incorrect or inappropriate to do so.

57. Transitional provisions (Vice-Chancellor)

- (1) The person who, immediately before commencement day, holds office as chief executive officer of the University under section 30 (as in effect immediately before commencement day) continues to hold office as Vice-Chancellor.
- (2) Subsection (3) applies to a reference to the chief executive officer of the University —
 - (a) in a written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.
- (3) A reference to the chief executive officer of the University is to be read and construed as a reference to the Vice-Chancellor, unless because of the context it would be incorrect or inappropriate to do so.

58. Transitional provisions (Advisory Board of the Academy)

- (1) In this section —

Advisory Board of the Academy means the Advisory Board of the Academy referred to in section 25(1);

former Board means the Board of the Academy constituted by a Statute made under section 24(2) (as in effect immediately before commencement day).
- (2) Any person who, immediately before commencement day, holds office as a member of the former Board

continues to hold office as member of the Advisory Board of the Academy for the balance of their term of office.

- (3) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.
- (4) Subsection (5) applies to a reference to the former Board —
 - (a) in any written law passed or made before commencement day; or
 - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
 - (c) made before commencement day in any other manner.
- (5) A reference to the former Board is to be read and construed as a reference to the Advisory Board of the Academy, unless because of the context it would be incorrect or inappropriate to do so.

59. Transitional provisions (Statutes)

- (1) In this section —

former section 27 means section 27 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 68.
- (2) Section 27(2) does not apply to or in relation to any Statute made and published in the *Gazette* before commencement day, and former section 27(2) and (3) apply instead as if the former section 27 had not been deleted.

- (3) If a Statute has been made but not published in the *Gazette* before commencement day —
- (a) section 27(2) does not apply to and in relation to that Statute; and
 - (b) former section 27(2) and (3) apply instead as if the former section 27 had not been deleted.

60. Transitional provisions (guarantees)

A guarantee given under section 37 (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 37B.

61. Transitional provisions (amenities and services fee)

- (1) In this section —
- former section 41A* means section 41A as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 79;
- transition period* means the remainder of the calendar year beginning on commencement day.
- (2) During the transition period —
- (a) section 41A does not apply to the annual amenities and services fee set under former section 41A; and
 - (b) former section 41A applies instead to that annual amenities and services fee as if former section 41A had not been deleted.

87. Schedule 1 clause 5 deleted

Delete Schedule 1 clause 5.

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88. Schedule 1 clause 6 amended

In Schedule 1 clause 6(1) delete “or 5 or both of them do” and insert:

does

Note: The heading to amended clause 6 is to read:

Minister may declare clause 3 inapplicable

Part 4 — *Murdoch University Act 1973* amended

89. Act amended

This Part amends the *Murdoch University Act 1973*.

90. Part 1 heading inserted

Before section 1 insert:

Part 1 — Preliminary

91. Section 3 amended

- (1) In section 3(1) delete the definitions of:

Convocation

Pro-Chancellor

section

- (2) In section 3(1) insert in alphabetical order:

casual vacancy means a vacancy arising in the office of a member of the Senate otherwise than by reason of the effluxion of time;

Deputy Chancellor means the Deputy Chancellor of the University;

residential accommodation —

- (a) means any form of accommodation (including, without limitation, a residential college, hostel, hall of residence or form of independent living); and
- (b) includes facilities that are —
 - (i) ancillary to residential accommodation; and

- (ii) primarily for the use of staff of the University, or students, or both;

University land means —

- (a) the land described in certificate of title Vol 2812 Folio 355; and
 - (b) any land vested in the University under section 28(1);
- (3) In section 3(2):
- (a) after “academic” insert:

or other
 - (b) delete “or servant” and insert:

or employee

92. Part 2 heading inserted

After section 3 insert:

Part 2 — Murdoch University

93. Sections 6 and 7 replaced

Delete sections 6 and 7 and insert:

6. Functions of University

- (1) The functions of the University include the following —

- (a) to provide courses of study appropriate to a university, and other tertiary courses;
- (b) to encourage and participate in the development and improvement of tertiary education to meet the needs of the community;
- (c) to undertake and support scholarship, pure and applied research, invention, innovation, education and consultancy, and to apply those matters to the advancement and application of knowledge —
 - (i) to the benefit of industry, business and government; and
 - (ii) to the benefit and wellbeing of the Western Australian, Australian and international communities;
- (d) to commercially develop or commercially use, for the University's benefit, any facility, resource or property (real or personal) of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others;
- (e) to generate revenue for the purposes of funding the carrying out of its functions;
- (f) to serve the Western Australian, Australian and international communities and the public interest by —
 - (i) enriching cultural and community life; and
 - (ii) raising public awareness of educational, scientific and artistic developments; and

- (iii) promoting critical and free enquiry, informed intellectual discussion and public debate within the University and in the wider society;
 - (g) to provide the facilities that are necessary or conducive to the attainment of the objects of the University and the performance of its functions.
- (2) The University has all the powers, rights and privileges that are reasonably necessary to enable it to carry out its functions.
- (3) The University may carry out its functions and exercise its powers, including the power to enter into business arrangements, within or outside the State.

8A. Power of University to provide residential accommodation for staff and students

- (1) The University may provide residential accommodation for staff of the University, or students, or both.
- (2) The restrictions imposed by section 29(1)(ga) do not apply to the lease of any part of the land referred to in section 29(1)(ga) if the purpose of the lease is the provision of residential accommodation in accordance with this section.

94. Part 3 heading inserted

Before section 8 insert:

Part 3 — Constitution of University

95. Section 8 amended

(1) In section 8 delete paragraph (c) and insert:

(c) graduates of the University; and

(2) In section 8 after each of paragraphs (a) and (b) insert:

and

96. Section 9 replaced

Delete section 9 and insert:

9. Visitor

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.
- (2) As Visitor, the Governor may act without obtaining the advice and consent of the Executive Council.

97. Section 10 amended

(1) Delete section 10(1) and insert:

- (1) The Senate must elect a person to hold office as Chancellor of the University.
- (2A) A person who is not a member of the Senate at the time the person is elected to hold office as Chancellor is a member of the Senate for so long as the person holds office as Chancellor.

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- (2) In section 10(2) delete “his” and insert:

the

- (3) In section 10(3) delete “the term of 3 years from the date of his election” and insert:

a term not exceeding 3 years to be determined by the Senate

- (4) In section 10(4) delete “he” and insert:

the Chancellor

98. Section 11 amended

- (1) In section 11(1) delete “Pro-Chancellor” and insert:

Deputy Chancellor

- (2) Delete section 11(2) and insert:

(2) Subject to subsection (2a) and section 15, the Deputy Chancellor holds office for a term not exceeding 3 years to be determined by the Senate and is eligible for re-election.

- (3) In section 11(2a) delete “Pro-Chancellor” and insert:

Deputy Chancellor

- (4) In section 11(3):
- (a) delete “Pro-Chancellor” and insert:

Deputy Chancellor

- (b) delete “he” and insert:

the Deputy Chancellor

Note: The heading to amended section 11 is to read:

Deputy Chancellor

99. Section 12 amended

- (1) Delete section 12(1) and insert:

- (1) The Senate consists of the following members —
 - (a) the Chancellor;
 - (b) the Vice-Chancellor;
 - (c) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
 - (d) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;
 - (e) 2 persons who are students —
 - (i) one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and

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- (ii) one of whom is a postgraduate student and who is elected by the postgraduate students in the manner prescribed by Statute;
 - (f) 2 persons who are graduates of the University and who are elected by the graduates of the University in the manner prescribed by Statute;
 - (g) 3 members appointed by the Governor on the recommendation of the Minister;
 - (h) not more than 5 persons co-opted to serve as members of the Senate by an absolute majority of the other members;
 - (i) the person for the time being the President of the Academic Council.
- (1A) The fact that a person holds an elective office (for example, an elective office of the Guild) does not disqualify that person from being appointed or holding office under subsection (1).

- (2) In section 12(2) delete “subsection (1)(e), (f) or (g) —” and insert:

subsection (1)(f), (g) or (h) —

100. Section 14 replaced

Delete section 14 and insert:

13. Nominations Committee

- (1) The Senate must establish and maintain a committee of the Senate called the Nominations Committee.

- (2) The Nominations Committee is to consist of not more than 6 members of the Senate appointed by the Senate.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
 - (a) the Vice-Chancellor;
 - (b) the member of the Senate referred to in section 12(1)(c);
 - (c) the member of the Senate referred to in section 12(1)(d);
 - (d) the members of the Senate referred to in section 12(1)(e);
 - (e) the members of the Senate referred to in section 12(1)(f);
 - (f) the President of the Academic Council.
- (4) The functions of the Nominations Committee are —
 - (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of any member of the Senate who is appointed by the Governor or the Senate;
 - (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of any member of the Senate who is appointed under section 12(1)(g);
 - (c) to recommend to the Senate suitable candidates for appointment by cooption under section 12(1)(h).
- (5) The fact that the Nominations Committee or the Senate has not recommended a person for appointment under section 12(1) does not prevent the person from being appointed or holding office under section 12(1).

- (6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by the Senate.

14. Term of office of members

- (1) Subject to section 15 —
 - (a) a member appointed under section 12(1)(g) or (h) holds office for a period of 3 years, commencing on the day of their appointment, unless a shorter term of office is specified under subsection (4);
 - (b) a member elected under section 12(1)(c), (d) or (f), holds office for a period of 3 years, commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5);
 - (c) a member elected under section 12(1)(e) holds office for a period of one year commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5).
- (2) An appointed (which includes coopted) or elected member, on the expiry of their term of office —
 - (a) may be reappointed or re-elected, if they continue to be qualified under section 12; but
 - (b) on the expiry of a third successive term of office (of whatever duration), they are not eligible to hold office as a member until 12 months have elapsed after that expiry.
- (3) However, a member elected under section 12(1)(e) may be re-elected once, but only once, on the expiry of their term of office, if they continue to be qualified under section 12.

- (4) The Governor or the Senate may, when appointing a person as a member, specify a shorter term of office where an appointment for a shorter term is desirable to ensure that —
 - (a) the terms of office of members expire at intervals that will produce reasonable continuity of membership; or
 - (b) the terms of office expire on dates that afford the convenience of uniformity.
- (5) The Senate may, before an election is held for the purposes of section 12(1), specify that the election of a person is for a shorter term of office where election for a shorter term is desirable for a reason referred to in subsection (4).

101. Section 15 amended

- (1) Delete section 15(1) and (2) and insert:
 - (1) The Chancellor may resign their office by written notice given to the Minister.
 - (2) The Deputy Chancellor or a member of the Senate may resign their office by written notice given to the Minister.
- (2) In section 15(3):
 - (a) in paragraph (d) delete “his” and insert:

their
 - (b) delete “his office” and insert:

the person’s office

(c) delete “he is not eligible for re-election or” and insert:

the person is not eligible for

(3) Delete section 15(4) and insert:

(4) If a person who is a member of the Senate ceases to hold the required qualification under section 12 for being a member, the person’s office as member becomes vacant.

(4) In section 15(5) delete “he” and insert:

the member

102. Section 15A amended

In section 15A(3) delete “2/3” and insert:

two-thirds

103. Section 16 replaced

Delete section 16 and insert:

16. Casual vacancies

If a casual vacancy occurs in the office of a member of the Senate, the vacancy is to be filled in the same manner as if that member’s term of office had expired.

104. Section 17 amended

In section 17(2):

- (a) in paragraph (b) delete “and servants” and insert:

and employees

- (b) in paragraph (c) delete “relating thereto,” and insert:

made under section 26,

105. Section 18 replaced

Delete section 18 and insert:

18. Delegation by Senate

- (1) The Senate may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its powers and functions under this Act (except its powers in relation to the making of by-laws, Statutes, and regulations made under section 26) to any —
- (a) member of the Senate; or
 - (b) committee, council or other body of the University; or
 - (c) officer of the University.
- (2) The Senate may by resolution revoke a delegation given under this section.
- (3) A resolution delegating a power, authority, duty or function may authorise the delegate to further delegate the delegated power, authority, duty or function to a person or body.

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- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

106. Section 19 replaced

Delete section 19 and insert:

19A. Remuneration and allowances for Senate members

- (1) A member of the Senate is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable are to be paid out of funds of the University.

107. Section 20 amended

In section 20(2d) before “not being” insert:

being or

108. Section 20A replaced

Delete section 20A and insert:

20A. Amenities and services fee

- (1) A Statute made under section 25 may provide for an annual amenities and services fee to be payable by

students, and (without limitation) for that purpose may —

- (a) prescribe the procedures to be followed in setting that fee;
 - (b) prescribe the persons by whom the fee is payable, and exempt or provide for the exemption of persons or classes of persons from payment of the fee;
 - (c) provide for different levels of the fee to be payable by different classes of persons;
 - (d) provide for the reduction, waiver or refund, in whole or in part, of the fee;
 - (e) prescribe terms and conditions on which any amount of the total fees collected is to be paid to the Guild, including conditions to be met before some or all of the amount may be paid to the Guild;
 - (f) provide for the Senate to decide how the amount of the total fees collected (after deducting the amount that is paid to the Guild) is to be spent, after consultation by the Senate with the Guild.
- (2) This section does not limit section 25.
- (3) The Senate must pay to the Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.

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109. Section 20B amended

(1) Delete section 20B(1) and (2) and insert:

(1) The Senate must prescribe, by Statute —

(a) the broad categories of amenities and services to which the Guild may apply the fees paid to the Guild; and

(b) the process for determining those categories.

(2) Delete section 20B(4).

110. Section 22 amended

(1) In section 22(1):

(a) delete “shall have” and insert:

has

(b) after “regulations” insert:

made under section 26

(2) In section 22(2):

(a) delete “shall have” and insert:

has

(b) delete “of the University,” and insert:

made under section 26,

(3) Delete section 22(3) and insert:

(3) The University has power to admit any person to an honorary degree.

111. Section 23 amended

(1) In section 23(2) delete “shall hold office at the pleasure of the Senate” and insert:

holds office

(2) In section 23(4) delete “him by the Statutes and regulations of the University.” and insert:

the Vice-Chancellor by the Statutes and the regulations made under section 26.

(3) Delete section 23(5) and (6) and insert:

(5) Subject to the Statutes and the regulations made under section 26, the Vice-Chancellor may, in writing, delegate any function, or any power or duty conferred or imposed on the Vice-Chancellor, to any person or committee of persons.

112. Part 4 heading inserted

After section 23 insert:

Part 4 — By-laws, Statutes and regulations

113. Section 24 amended

- (1) Before section 24(1) insert:
- (1A) In this section —
- authorised person* means —
- (a) a police officer; or
 - (b) a person authorised under subsection (1B) to be an authorised person for the purposes of the subsection in which the term is used;
- contractor* means —
- (a) an individual who works under a contract for services for the University; or
 - (b) an employee of a body that provides services to the University under a contract.
- (1B) The Vice-Chancellor may, in writing —
- (a) designate a member of the staff of the University to be an authorised person for the purposes of any or all of subsection (7)(ab), (b) or (bb); and
 - (b) authorise a contractor to be an authorised person for the purposes of any or all of subsection (7)(ab), (b) or (bb); and
 - (c) revoke a designation or authorisation made under this subsection.
- (1C) A designation or authorisation of a person under subsection (1B) ceases to have effect if —

- (a) the designation or authorisation is revoked; or
- (b) the person ceases to be a member of the staff of the University or a contractor.

(2) In section 24(1)(d) delete “\$50” and insert:

\$1 000

(3) In section 24(3) delete “persons authorised in writing by the Senate, or any police officer, — ” and insert:

an authorised person —

(4) Delete section 24(4), (5) and (6).

(5) In section 24(7):

(a) delete “for —” and insert:

for any of the following purposes —

(b) in paragraph (b) delete “a person authorised under that by-law” and insert:

an authorised person

(c) in paragraph (bb) delete “his further powers in relation thereto,” and insert:

further powers of the authorised person in relation to the removal of vehicles,

(d) in paragraph (ha) delete “he” and insert:

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the person

- (e) in paragraph (i) delete “property; and” and insert:

property;

- (f) in paragraph (j) delete “any police constable or officer or servant of the University;” and insert:

an authorised officer and

- (g) in paragraph (j) delete “lands, and the enforcement of the by-laws.” and insert:

lands;

- (h) after paragraph (j) insert:

(k) the enforcement of the by-laws.

- (6) In section 24(10):

- (a) delete “him” and insert:

the student

- (b) delete “he” and insert:

the student

114. Section 25 amended

- (1) Delete section 25(1), (2) and (3).
- (2) In section 25(4):
 - (a) in paragraph (i) delete “officers and servants” and insert:

and officers and employees
 - (b) delete paragraphs (j) and (k);
 - (c) in paragraph (l) delete “Senate, Convocation” and insert:

Senate
 - (d) after paragraph (s) insert:
 - (ta) an annual amenities and services fee in accordance with section 20A;
 - (tb) the matters required by section 20B to be defined or prescribed by Statute;

115. Sections 26A and 26B inserted

After section 25 insert:

26A. Approval, publication, disallowance and proof of Statutes and by-laws

- (1) A Statute or by-law made by the Senate —
 - (a) must be sealed with the common seal of the University; and
 - (b) must be submitted to the Governor for approval; and

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- (c) if approved by the Governor, must be published in the *Gazette*; and
- (d) takes effect on the later of —
 - (i) the day after publication in the *Gazette*; or
 - (ii) if a later day is specified for that purpose in the Statute, that day.
- (2) The *Interpretation Act 1984* section 42 applies to a Statute or by-law approved and published under subsection (1) as if the Statute were a regulation.
- (3) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a Statute —
 - (a) a copy of the Statute or the by-law under the common seal of the University;
 - (b) a document purporting to be a copy of the Statute or the by-law and to have been printed by the Government Printer;
 - (c) a copy of the *Gazette* purporting to contain a copy of the Statute or the by-law.

26B. Statutes and by-laws to be made readily available to public

- (1) The Senate must ensure that the following are readily available to the public by whatever means the Senate considers appropriate —
 - (a) all Statutes and by-laws approved and published under section 26A(1);
 - (b) all Statutes and by-laws that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 115 comes into operation.

- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a Statute once it ceases to be in effect.

116. Section 26 amended

- (1) In section 26(1) delete “servants” and insert:

employees

- (2) In section 26(2):

- (a) delete “Pro-Chancellor,” and insert:

Deputy Chancellor,

- (b) delete “servant” and insert:

employee

Note: The heading to amended section 26 is to read:

Regulations made by Senate

117. Section 27 replaced

Delete section 27 and insert:

28A. Regulations made by Governor

- (1) The Governor, on the recommendation of the Minister, may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Before making a recommendation under subsection (1), the Minister must consult with the Senate.

118. Part 5 heading and Part 5 Division 1 heading inserted

Before section 28 insert:

Part 5 — University lands and financial provisions

Division 1 — Vesting of lands in University

119. Part 5 Division 2 heading inserted

After section 28 insert:

Division 2 — Financial provisions and dealings in land

120. Section 29 amended

- (1) In section 29(1):
 - (a) delete paragraphs (b) and (c);
 - (b) delete paragraph (f) and insert:

- (f) may grant leases of University land for any term not exceeding 21 years;
- (ga) may, with the approval of the Minister, grant leases of University land for a term that exceeds 21 years but does not exceed 99 years;
- (gb) may enter into business arrangements;

- (c) in paragraph (g) delete “sale;” and insert:

sale.

- (d) delete paragraph (h).
- (2) Delete section 29(2) and (3).

121. Section 30A inserted

After section 29 insert:

30A. Exemption from rate or tax

- (1) No rate may be charged or levied on University land.
- (2) Subsection (1) does not operate to exempt University land if it is leased to or occupied by any person —
 - (a) for any private purpose; or
 - (b) for a commercial purpose (as defined in section 32E) under an approval granted under section 32M.
- (3) The *Land Tax Assessment Act 2002* section 33 provides an exemption from land tax in respect of land owned by, vested in or held in trust for the University, in the circumstances set out in that section.

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122. Section 31 amended

(1) In section 31(2):

- (a) in paragraph (a) delete “such rate as the Governor from time to time approves;” and insert:

the rate approved by the Minister;

- (b) in paragraph (b) delete “shall be repaid shall be such number as the Governor approves but in any case shall not” and insert:

are to be repaid is the number approved by the Minister, but in any case is not to

- (c) in paragraph (d) delete “him” and insert:

the Treasurer

(2) In section 31(4) delete “land vested in the University.” and insert:

University land.

123. Section 32 replaced

Delete section 32 and insert:

32A. Borrowing and other ways of raising money

(1) In this section —

debt paper means inscribed stock, bonds, debentures with coupons annexed, bills of exchange, promissory notes or bearer securities, or other similar instruments evidencing indebtedness.

- (2) The University may do all or any of the following —
 - (a) borrow money;
 - (b) obtain credit;
 - (c) issue, acquire, hold or dispose of debt paper;
 - (d) create and issue capital instruments;
 - (e) arrange for financial accommodation to be extended to the University.
- (3) Capital instruments created and issued by the University under subsection (2)(d) —
 - (a) may be described in any way determined by the University; and
 - (b) are to be created and issued on whatever terms the University determines.
- (4) The University must keep whatever registers for the purposes of this section as are prescribed by regulations made under section 28A.

32B. Notice of borrowing

- (1) If the University intends to borrow money and seek a guarantee under section 32C in respect of that borrowing, the University must —
 - (a) give the Minister reasonable advance notice of its intention to borrow that money and to seek a guarantee; and
 - (b) notify the Minister of the outcome of the University's application to borrow that money.

- (2) A liability of the University is not unenforceable or in any way affected by the University's failure to comply with subsection (1).

32C. Guarantees

- (1) The Treasurer, on the Minister's recommendation, may guarantee the performance by the University in the State or elsewhere, of any financial obligation of the University.
- (2) A guarantee —
- (a) is given in the name and on behalf of the State; and
 - (b) must be in the form, and contain the terms and conditions, that the Treasurer determines; and
 - (c) without limiting paragraph (b), must be subject to the condition that the person for whose benefit the guarantee is given must not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.
- (3) Before a guarantee is given, the University must —
- (a) give the Treasurer any security that the Treasurer requires; and
 - (b) execute all instruments that are required for that purpose.
- (4) Payments made by the Treasurer under a guarantee are to be charged to the Consolidated Account, and this subsection appropriates that Account accordingly.
- (5) The Treasurer must cause to be credited to the Consolidated Account any amounts received or recovered from the University or otherwise in respect of any payment made by the Treasurer under a guarantee.

32D. Charges for guarantee

- (1) The Treasurer may, from time to time, after consultation with the University, fix charges to be paid by the University in respect of a guarantee under section 32C.
- (2) Payments by the University in respect of charges fixed under subsection (1) —
 - (a) must be made at the times, and in the instalments, that the Treasurer determines and notifies to the University; and
 - (b) must be credited to the Consolidated Account.

Division 3 — Leasing University land for commercial purposes

Subdivision 1 — Preliminary

32E. Terms used

In this Division —

advance determination means an advance determination granted under section 32L;

approval means an approval granted under section 32M;

commercial arrangement means any of the following —

- (a) a company;
- (b) a partnership;
- (c) a trust;
- (d) a joint venture;
- (e) an arrangement for sharing profits;
- (f) an arrangement for sponsorship;

commercial purpose means obtaining income for the University through the leasing of University land, if the land is not leased for the purposes of the University or a purpose that is incidental to the purposes of the University;

lease includes sublease;

limited company has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

participate includes form, promote, establish, enter into, manage, dissolve and wind up;

participate in a commercial arrangement includes —

- (a) acquire, hold and dispose of shares, units or other interests in, or relating to, a commercial arrangement; and
- (b) exercise any right conferred on the University to appoint a director of, or hold office in, a commercial arrangement; and
- (c) do anything incidental to participating in a commercial arrangement;

payment agreement means an agreement made under section 32P;

university development proposal means a proposal in respect of which the University intends to seek an approval under section 32M to do either or both of the things set out in section 32H(1).

32F. Object of this Division

The object of this Division is to enable the University to seek and obtain the Minister's approval to lease University land for purposes that would not otherwise be authorised by this Act.

32G. Effect of Division on University functions, powers and obligations

- (1) This Division does not limit —
 - (a) sections 4, 6 and 29; or
 - (b) any function, power, right, privilege, immunity or obligation of the University under —
 - (i) this Act, another written law or a law of the Commonwealth or of another State or a Territory; or
 - (ii) the principles and rules of common law and equity to the extent that they have effect in this State from time to time.
- (2) Nothing in this Division is to be taken to impose any requirement on the University to seek or obtain the Minister's approval to lease any University land.
- (3) Nothing in this Division affects the University's obligation under section 29(1)(ga) to obtain the Minister's approval to the grant of a lease for a term that exceeds 21 years.

Subdivision 2 — Power to lease University land for commercial purposes

32H. University may lease University land for commercial purposes with Ministerial approval

- (1) With the approval of the Minister, the University can —
 - (a) enter into a transaction that has a commercial purpose; or
 - (b) participate, in the State or elsewhere, in any commercial arrangement that has a commercial purpose.

- (2) An approval can authorise the University to enter into a transaction, or participate in a commercial arrangement, either —
 - (a) directly; or
 - (b) through a wholly-owned subsidiary (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the University.
- (3) An approval to lease University land can be granted on the basis that subleases of that land (whether all subleases, or only subleases of a particular class or granted in particular circumstances) can be granted without the need to seek or obtain an approval to the granting of those subleases.
- (4) Subsection (3) is subject to any conditions attached to the approval.
- (5) An approval —
 - (a) confers power, for the purposes of this Act, on the University to do the thing authorised by the approval; but
 - (b) does not exempt the University or any other person from compliance with, or authorise the University or any other person to do or omit to do anything contrary to —
 - (i) any other written law or any law of the Commonwealth or of another State or a Territory; or
 - (ii) any obligation of the University or any other person, however that obligation arises.

32I. Effect of approval to lease University land

- (1) To the extent that an approval authorises the University to lease University land, land leased in accordance with

the approval is to be taken to be used for the purposes of the University or for purposes incidental to the purposes of the University for the purposes of —

- (a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of that land in the University or the holding, care, control or management, by the University, of that land; and
 - (b) any provision of any written law that specifies that something is to happen or not to happen, or provides for some other consequence, if that land is not used, or ceases to be used, for the purposes of the University or for purposes incidental to the purposes of the University.
- (2) The *Land Tax Assessment Act 2002* section 33 overrides this section.

32J. Approval in principle of university development proposal

- (1) The University may apply to the Minister for the approval in principle of a university development proposal.
- (2) The university development proposal submitted for approval in principle must describe what the University intends to seek an approval under section 32M for, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased.
- (3) If the University applies for an approval in principle —
 - (a) the application must be made in the manner and form, and contain the information, that the Minister requires; and

- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application; and
 - (c) the Minister may grant or refuse to grant the approval in principle.
- (4) The Minister must —
- (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the approval in principle, include in that notification the reasons for the refusal.

32K. Application for advance determination of approval

- (1) The University may apply to the Minister for a determination that, if an application is made for an approval under section 32M in relation to a university development proposal, the approval will be granted.
- (2) In order to apply for an advance determination, it is not necessary that the University has applied for or obtained an approval in principle under section 32J in relation to the university development proposal.
- (3) The university development proposal submitted for advance determination must describe the transaction or commercial arrangement for which the University intends to seek an approval under section 32M, including —
 - (a) details of the University land that is to be leased; and
 - (b) the purpose for which the land is to be leased; and
 - (c) the financial details of the proposal, including the amount of the investment to be made by the

University, the proposed lessee and any other parties involved.

- (4) If approval in principle was previously obtained under section 32J in relation to the proposal, the application for the advance determination must identify any material difference between the proposal approved in principle and the proposal submitted for advance determination.
- (5) If the University applies for an advance determination —
 - (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;
 - and
 - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.

32L. Advance determination of approval

- (1) If the University applies under section 32K for an advance determination in relation to a university development proposal, the Minister may grant or refuse to grant the advance determination.
- (2) The Minister must grant the advance determination if —
 - (a) approval in principle was previously obtained under section 32J in relation to the proposal; and

- (b) the Minister is satisfied that, in respect of the matters referred to in section 32J(2)(a) and (b), there is no material difference between the proposal approved in principle and the proposal submitted for advance determination; and
 - (c) the Minister is satisfied with the application submitted in relation to the proposal.
- (3) The Minister must —
 - (a) notify the University in writing of the Minister's decision on the application; and
 - (b) if the decision is to refuse to grant the advance determination, include in that notification the reasons for the refusal.
- (4) In granting an advance determination, the Minister may specify a time after which the advance determination lapses.
- (5) Before the advance determination lapses, the Minister may, at the request of the University, by notice in writing to the University, extend the period for which the advance determination is to be in force.

32M. Approvals

- (1) The University may apply to the Minister for approval to do either or both of the things set out in section 32H(1).
- (2) If the University applies for an approval —
 - (a) the application —
 - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
 - (ii) if required by the Minister, must be accompanied by a payment agreement;

and

- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.
- (3) In order to apply for an approval, it is not necessary that the University has applied for or obtained an approval in principle under section 32J, or an advance determination, in relation to the matter for which the approval is sought.
- (4) The Minister may grant or refuse to grant the approval.
- (5) However, the Minister must grant the approval if the Minister is satisfied that —
- (a) an advance determination granted under section 32L is in force in respect of the matter for which the approval is sought; and
 - (b) there is no material deviation from the application for the advance determination.
- (6) For the purposes of subsection (5)(b), there is a material deviation from the application for the advance determination if any of the following changes have occurred —
- (a) the total area of University land that is to be leased has increased by 20% or more;
 - (b) the amount of the investment to be made by the University has increased or decreased by 20% or more.

32N. Notification of decision on application for approval

- (1) The Minister must —

- (a) notify the University in writing of the Minister's decision on an application for an approval; and
 - (b) if the decision is to refuse to grant the approval, include in that notification the reasons for the refusal.
- (2) The Minister may attach conditions to an approval, and those conditions must be specified in the approval.

32O. Alteration of approval

- (1) The Minister may, at the request of the University, vary or revoke the conditions attached to an approval or attach new or additional conditions.
- (2) The Minister cannot make changes to the terms of an approval under subsection (1) unless the University agrees to the changes, but —
- (a) the Minister is not obliged to make any or all of the changes requested by the University; and
 - (b) the Minister may propose variations, alternatives or additions to the changes requested by the University; and
 - (c) the Minister may refuse to change the terms of an approval unless the University agrees to variations, alternatives or additions proposed by the Minister.

32P. Payment agreements

- (1) In this section —
regulations means regulations made under section 28A.
- (2) If the University intends to apply for an advance determination or an approval, the Minister may enter into a written agreement with the University for the

University to reimburse the State for the reasonable costs and expenses incurred by the Minister in considering the application.

- (3) If permitted by the regulations, those costs and expenses may include the reasonable costs and expenses incurred by, or by the Minister on behalf of, any person or body appointed to consider and report to the Minister on the application.
- (4) Regulations may make provision for and in relation to a payment agreement, including in connection with —
 - (a) the ambit of an agreement;
 - (b) the making of an agreement;
 - (c) the costs and expenses to be paid under an agreement, including as to the method of calculating the costs and expenses;
 - (d) the methods for resolving any dispute about the costs and expenses that are to be paid under the agreement.

32Q. Minister may delegate functions under this Division

- (1) In this section —

Department means the Department of the Public Service principally assisting the Minister in the administration of this Act.
- (2) The Minister may delegate to the chief executive officer of the Department all or any of the functions that the Minister has under this Division, other than this power of delegation.
- (3) A delegation made under subsection (2) must be in writing signed by the Minister.
- (4) If the chief executive officer performs a function that has been delegated to the chief executive officer under

this section, the chief executive officer is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

Division 4 — Miscellaneous

124. Section 33 amended

In section 33(1) delete “servants” and insert:

employees

125. Part 6 inserted

At the end of the Act:

Part 6 — Validation and transitional provisions

Division 1 — Validations

35. Certain leases of University land validated

(1) In this section —

commencement day means the day on which the *Universities Legislation Amendment Act 2016* section 89 comes into operation;

relevant lease means a lease referred to in subsection (2);

university purposes means the purposes of the University or purposes incidental to the purposes of the University;

University’s South Street campus means Lot 610 on Deposited Plan 75377 being the whole of the land comprised in certificate of title volume 2812 folio 355.

(2) For the purposes of this section, each lease set out in the Table is a relevant lease.

Table

Item	Parties to lease	Description of interest leased	Date of commencement of lease
1.	Murdoch University and Winthrop Baptist College Inc	A lease of approximately 8,887 square metres of land on the University's South Street campus	3 November 1996
2.	Murdoch University and Somerville Baptist College Inc	A lease of approximately 3,773 square metres of land on the University's South Street campus	12 June 2002
3.	Murdoch University and Serco Australia Pty Ltd	A lease of approximately 868 square metres of land on the University's South Street campus	1 May 2011
4.	Murdoch University and the Minister for Health	A lease of 650 square metres on the third floor of Building 390, Discovery Way on the University's South Street campus	1 July 2009
5.	Murdoch University and the State Animal Resource Authority	A lease of approximately 20,160 square metres of land on the University's South Street campus	1 December 1988
6.	Murdoch University and Wesfarmers Energy Ltd	A lease of approximately 3,360 square metres of land on the University's South Street campus	1 November 2005

Item	Parties to lease	Description of interest leased	Date of commencement of lease
7.	Murdoch University and Murdoch Retirement Services Pty Ltd	A lease of land marked L1, L2 and L3 on Deposited Plan 62329	21 May 2009
8.	Murdoch University and Murdoch Retirement Services Pty Ltd	A lease of land marked L4 on Deposited Plan 71892	6 June 2012
9.	Murdoch University and Aged Care Services Australia Pty Ltd	A lease of the Low Care (Avalon) Facility of the University's South Street campus shown marked C and D on Deposited Plan 63241	28 August 2009
10.	Murdoch University and Aged Care Services Australia Pty Ltd	A lease of the High Care Facility of the University's South Street campus shown marked A and B on Deposited Plan 63241	28 August 2009
11.	Murdoch University and Campus Living Villages Murdoch Pty Ltd	A lease of approximately 56,500 square metres of land on the University's South Street campus	30 July 2008

- (3) University land the subject of a relevant lease is to be taken to be, and since the commencement of the relevant lease to have always been, used for university purposes for the purposes of —
 - (a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of the land in the University or the holding, care, control or management, by the University, of that land; and
 - (b) any provision of any written law that specifies that something is to happen or not to happen, or provides for some other consequence, if that land ceases to be used for university purposes.
- (4) The rights, obligations and liabilities of all persons under a relevant lease are to be taken to be, and since the commencement of the relevant lease to have always been, the same as if the University land the subject of the lease is, and since the commencement of the relevant lease has been, used for university purposes.
- (5) Anything done, or purportedly done, before commencement day as a result or consequence of, or in reliance on or in relation to, a relevant lease is to be taken to be, and to have always been, as valid and effective as it would have been if the University land the subject of the relevant lease were used for university purposes when the thing was done or purportedly done.
- (6) In subsection (5) a reference to the doing of anything includes a reference to an omission to do anything.
- (7) A relevant lease is, and is taken always to have been, as valid as if —

- (a) any approval of the lease required under section 29(1)(f) as in force immediately before commencement day had been obtained; and
- (b) any requirement under the *Land Administration Act 1997* section 75 for the written permission of the Minister responsible for the administration of that Act to be obtained for the transfer of the interest under the lease had been complied with.

Division 2 — Transitional provisions for *Universities Legislation Amendment Act 2016*

36. Term used: commencement day

In this Division —

commencement day means the day on which the *Universities Legislation Amendment Act 2016* section 89 comes into operation.

37. Transitional provisions (Senate)

- (1) This section applies despite the amendments made to section 12 by the *Universities Legislation Amendment Act 2016* section 99.
- (2) Any person who, immediately before commencement day, holds office under section 12 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Senate —
 - (a) continues in office —
 - (i) under and subject to Part 3; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

- (b) vacates office before then in the circumstances set out in section 15 as that section is in effect immediately before commencement day.
- (3) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.

38. Transitional provisions (guarantees)

A guarantee given under section 32 (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 32C.

39. Transitional provisions (Statutes and by-laws)

- (1) In this section —
 - commencement day* means the day on which the *Universities Legislation Amendment Act 2016* section 117 comes into operation;
 - former section 27* means section 27 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 117.
- (2) Section 26A(2) does not apply to or in relation to any Statute or by-law made and published in the *Gazette* before commencement day, and former section 27 applies instead as if the former section 27 had not been deleted.
- (3) If a Statute or by-law has been made but not published in the *Gazette* before commencement day —
 - (a) section 26A(2) does not apply to and in relation to that Statute; and

- (b) former section 27 applies instead as if the former section 27 had not been deleted.

126. Schedule 1 clause 5 deleted

Delete Schedule 1 clause 5.

127. Schedule 1 clause 6 amended

In Schedule 1 clause 6 delete “or 5 or both of them do not” and insert:

does not

Note: The heading to amended clause 6 is to read:

Minister may declare clause 3 inapplicable

Part 5 — *University of Notre Dame Australia Act 1989* amended

128. Act amended

This Part amends the *University of Notre Dame Australia Act 1989*.

129. Section 15C amended

In section 15C(3) delete “2/3” and insert:

two-thirds

130. Section 25 amended

Delete section 25(1) and insert:

- (1) The University is not a State agency or State instrumentality or public statutory body.

**Part 6 — *University of Western Australia*
Act 1911 amended**

131. Act amended

This Part amends the *University of Western Australia Act 1911*.

132. Section 2 replaced

Delete section 2 and insert:

2. Terms used

In this Act —

casual vacancy means a vacancy arising in the office of a member of the Senate otherwise than by reason of the effluxion of time;

Convocation means Convocation of the University;

regulations means regulations made by the Senate under section 16E;

residential accommodation —

- (a) means any form of accommodation (including, without limitation, a residential college, hostel, hall of residence or form of independent living); and
- (b) includes facilities that are —
 - (i) ancillary to residential accommodation; and
 - (ii) primarily for the use of staff of the University, or students, or both;

Senate means the Senate of the University;

Statutes means Statutes of the University made under this Act;

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student means a person enrolled in the University as a student;

Student Guild means the Student Guild referred to in section 28(1);

University means the University of Western Australia;

University lands —

- (a) means the land being Reserve 17331 leased to the University under Crown Lease 195321 and any other land vested in, held by, leased to or under the care, control and management of the University for the purposes of this Act; and
- (b) includes all buildings, structures and erections of any kind (whether permanent or temporary) on that land.

133. Section 4 replaced

Delete section 4 and insert:

4. University to consist of Senate, Convocation, staff and students

The University consists of a Senate, Convocation, staff and students.

134. Section 7 amended

Delete section 7(1) and insert:

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.

135. Section 8 amended

- (1) Delete section 8(1) and (2) and insert:
- (1) The Senate consists of the following members —
- (a) 3 persons appointed by the Governor on the recommendation of the Minister;
 - (b) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by regulations;
 - (c) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by regulations;
 - (d) the Chancellor ex officio;
 - (e) the Chair of the Academic Board of the University, as established under Statute;
 - (f) the Vice-Chancellor of the University ex officio;
 - (g) 2 persons who are students and are elected by the students in the manner prescribed by regulations;
 - (h) 2 persons who are members of Convocation and who are elected by Convocation in the manner prescribed by Statute;
 - (i) not more than 5 persons coopted as members of the Senate by the Senate.
- (2) The fact that a person holds an elective office (for example, an elective office of the Student Guild) does not disqualify that person from being appointed or holding office under subsection (1).

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(2) After section 8(3) insert:

(3A) A person who is a member of the staff of the University is not eligible to be a member of the Senate under subsection (1)(h).

(3) Delete section 8(5) and insert:

(5) At least 4 members of the Senate must be graduates of the University.

136. Section 9 replaced

Delete section 9 and insert:

9A. Nominations Committee

- (1) The Senate must establish and maintain a committee of the Senate called the Nominations Committee.
- (2) The Nominations Committee is to consist of not more than 6 members of the Senate appointed by the Senate.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
 - (a) the Vice-Chancellor;
 - (b) the member referred to in section 8(1)(b);
 - (c) the member referred to in section 8(1)(c);
 - (d) the members referred to in section 8(1)(g);
 - (e) the members referred to in section 8(1)(h);
 - (f) the Chair of the Academic Board of the University.

- (4) The functions of the Nominations Committee are —
- (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of any member of the Senate who is appointed by the Governor or the Senate;
 - (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of any member of the Senate who is appointed under section 8(1)(a);
 - (c) to recommend to the Senate suitable candidates for appointment by cooption under section 8(1)(i).
- (5) The fact that the Nominations Committee or the Senate has not recommended a person for appointment under section 8(1) does not prevent the person from being appointed or holding office under section 8(1).
- (6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by the Senate.

9. Terms of members

- (1) Subject to section 11, the term of office of a member of the Senate referred to in section 8(1)(a) or (i) is 3 years from the date of the appointment of the member or the date the member is coopted as a member.
- (2) Subject to section 11, the term of office of a member of the Senate referred to in section 8(1)(b), (c) or (h) is 3 years from the date their election takes effect.
- (3) Subject to section 11, the term of office of a member of the Senate referred to in section 8(1)(g) is one year from the date their election takes effect.

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- (4) A member of the Senate, other than a member referred to in section 8(1)(g), is not eligible to be reappointed or re-elected on the expiry of a third successive term of office until 12 months have elapsed after that expiry.
- (5) A member of the Senate referred to in section 8(1)(g) is not eligible for re-election more than once.
- (6) The Senate may, in the case of a particular member of the Senate, increase the number of successive terms that member may have under subsection (4) if the Senate is of the view that there are exceptional circumstances in that member's case.

137. Section 11 replaced

Delete section 11 and insert:

11. People disqualified from being Chancellor, Pro-Chancellor or Senate member

A person must not be appointed or continue to hold office as Chancellor, Pro-Chancellor or a member of the Senate if the person —

- (a) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (b) is removed from office by the Senate under section 11A; or
- (c) is, or becomes, disqualified from managing corporations under the *Corporations Act 2001* (Commonwealth) Part 2D.6; or
- (d) has been convicted of an offence and sentenced to a term of imprisonment, unless the person has been pardoned or has completed the term of imprisonment; or

- (e) ceases to hold the qualification required to be held by the person for appointment as a member of the Senate; or
- (f) is a person in respect of whom an administration order is in force under the *Guardianship and Administration Act 1990* Part 6.

138. Section 11A amended

In section 11A(3) delete “2/3” and insert:

two-thirds

139. Section 11B inserted

After section 11A insert:

11B. Remuneration and allowances for Senate members

- (1) A member of the Senate is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable —
 - (a) are expenditure for the purposes of the University; and
 - (b) are to be paid out of the funds of the University.

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140. Section 12 amended

- (1) In section 12(3) delete “4 years,” and insert:

3 years,

- (2) In section 12(4) delete “12 years.” and insert:

9 years.

- (3) Delete section 12(5) and insert:

- (5) If the Chancellor is elected from among the members of the Senate, the election creates a casual vacancy in the office of member of the Senate.

141. Section 12A amended

- (1) In section 12A(2) delete “4 years,” and insert:

3 years,

- (2) In section 12A(3)(a) delete “12 years; and” and insert:

9 years; and

142. Section 13 amended

In section 13:

- (a) delete “Act” and insert:

Act, any relevant written law, any relevant industrial award or industrial agreement

- (b) delete “servants” and insert:

employees

143. Section 15 replaced

Delete section 15 and insert:

15. Leasing University lands

- (1) In this section —
lease includes a sublease.
- (2) The University may grant a lease of any University lands for a term not exceeding 21 years.
- (3) The University may, with the approval of the Minister —
- (a) grant a lease of any University lands for a term that exceeds 21 years but does not exceed 99 years; or
- (b) mortgage any University lands.

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144. Section 15A amended

- (1) In section 15A(3B) delete “Governor shall approve.” and insert:

Minister approves.

- (2) In section 15A(3C) delete “shall be repaid shall be such number as the Governor shall approve, but in any case shall not” and insert:

are to be repaid is the number approved by the Minister, but in any case is not to

- (3) In section 15A(3E) delete “him” and insert:

the Treasurer

- (4) After section 15A(5) insert:

- (6) Sections 15B, 15C and 15D do not affect or apply to trust moneys used and applied in the manner provided and authorised by subsection (1).

145. Section 15B replaced

Delete section 15B and insert:

15B. Borrowing and other ways of raising money

- (1) In this section —

debt paper means inscribed stock, bonds, debentures with coupons annexed, bills of exchange, promissory

notes or bearer securities, or other similar instruments evidencing indebtedness.

- (2) The University may do all or any of the following —
 - (a) borrow money;
 - (b) obtain credit;
 - (c) issue, acquire, hold or dispose of debt paper;
 - (d) create and issue capital instruments;
 - (e) arrange for financial accommodation to be extended to the University.
- (3) Capital instruments created and issued by the University under subsection (2)(d) —
 - (a) may be described in any way determined by the University; and
 - (b) are to be created and issued on whatever terms the University determines.
- (4) The University must keep whatever registers for the purposes of this section as are prescribed by regulations made under subsection (5).
- (5) The Governor may make regulations prescribing registers that are to be kept for the purposes of this section and the keeping of those registers.
- (6) Nothing in this section or section 15C or 15D affects or applies to trust moneys used and applied in the manner provided and authorised by section 15A(1).

15C. Notice of borrowing

- (1) If the University intends to borrow money and seek a guarantee under section 15D in respect of that borrowing, the University must —

- (a) give the Minister reasonable advance notice of its intention to borrow that money and to seek a guarantee; and
 - (b) notify the Minister of the outcome of the University's application to borrow that money.
- (2) A liability of the University is not unenforceable or in any way affected by the University's failure to comply with subsection (1).

15D. Guarantees

- (1) The Treasurer, on the Minister's recommendation, may guarantee the performance by the University in the State or elsewhere, of any financial obligation of the University.
- (2) A guarantee —
 - (a) is given in the name and on behalf of the State; and
 - (b) must be in the form, and contain the terms and conditions, that the Treasurer determines; and
 - (c) without limiting paragraph (b), must be subject to the condition that the person for whose benefit the guarantee is given must not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.
- (3) Before a guarantee is given, the University must —
 - (a) give the Treasurer any security that the Treasurer requires; and
 - (b) execute all instruments that are required for that purpose.
- (4) Payments made by the Treasurer under a guarantee are to be charged to the Consolidated Account, and this subsection appropriates that Account accordingly.

- (5) The Treasurer must cause to be credited to the Consolidated Account any amounts received or recovered from the University or otherwise in respect of any payment made by the Treasurer under a guarantee.

15E. Charges for guarantee

- (1) The Treasurer may, from time to time, after consultation with the University, fix charges to be paid by the University in respect of a guarantee under section 15D.
- (2) Payments by the University in respect of charges fixed under subsection (1) —
- (a) must be made at the times, and in the instalments, that the Treasurer determines and notifies to the University; and
 - (b) must be credited to the Consolidated Account.

15F. Power of University to provide residential accommodation for staff and students

- (1) The University may provide residential accommodation for staff of the University, or students, or both.
- (2) The restrictions imposed by section 15(3) do not apply to the lease of any part of University lands referred to in section 15(3) if the purpose of the lease is the provision of residential accommodation in accordance with this section.

146. Section 16AA inserted

Before section 16A insert:

16AA. Authorised persons

(1) For the purposes of sections 16A to 16F —

authorised person means —

- (a) a police officer; or
- (b) the Vice-Chancellor; or
- (c) a member of the staff of the University, or a contractor, who is authorised under subsection (2) for the purposes of the provision of this section in which the term is used;

contractor means —

- (a) an individual who works under a contract for services for the University; or
- (b) an employee of a body that provides services to the University under a contract;

owner, in relation to a vehicle, means a person who is the owner of that vehicle for the purposes of the *Road Traffic (Administration) Act 2008*.

(2) The Vice-Chancellor may, in writing —

- (a) designate a member of the staff of the University to be an authorised person for the purposes of any or all of section 16A(2)(j) or (k) or (3) or 16C(2); and
- (b) authorise a contractor to be an authorised person for the purposes of any or all of section 16A(2)(j) or (k) or (3) or 16C(2); and
- (c) revoke a designation or authorisation made under this subsection.

(3) A designation or authorisation of a person under subsection (2) ceases to have effect if —

- (a) the designation or authorisation is revoked; or

- (b) the person ceases to be a member of the staff of the University or a contractor.

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147. Section 16A amended

(1) Delete section 16A(1) and insert:

(1) In this section —

lands of the University means the lands described in subsection (4) and includes all buildings, structures and erections of any kind (whether permanent or temporary) on that land.

(2) In section 16A(2):

(a) delete “time, with the approval of the Governor,” and insert:

time

(b) delete “University, hereafter described,” and insert:

University

(c) in paragraph (d) delete “police constable or an”;

(d) delete paragraphs (j) and (k) and insert:

(j) authorise an authorised person to remove from such lands any person guilty of a breach of a by-law and to prohibit the obstruction of an authorised person; and

(k) require any person using such lands to give their name and address if required to do so by an authorised person; and

(e) in paragraph (l) delete “and”.

- (3) In section 16A(3):
 - (a) in paragraph (d)(i) delete “his” and insert:

the owner’s
 - (b) in paragraph (e) delete “his” and insert:

the authorised person’s
 - (c) in paragraph (g) delete “he” and insert:

the person
- (4) Delete section 16A(7).
- (5) In section 16A(2) after each of paragraphs (a) to (i) insert:

and

148. Sections 16B and 16C replaced

Delete sections 16B and 16C and insert:

16B. Approval, publication, disallowance and proof of by-laws

- (1) A by-law made by the Senate —
 - (a) must be sealed with the common seal of the University; and
 - (b) must be submitted to the Governor for approval; and
 - (c) if approved by the Governor, must be published in the *Gazette*; and

- (d) takes effect on the later of —
 - (i) the day after publication in the *Gazette*;
or
 - (ii) if a later day is specified for that purpose in the by-law, that day.
- (2) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a by-law —
 - (a) a copy of the by-law under the common seal of the University;
 - (b) a document purporting to be a copy of the by-law and to have been printed by the Government Printer;
 - (c) a copy of the *Gazette* purporting to contain a copy of the by-law.

16C. Penalties

- (1) A by-law may impose a penalty not exceeding a fine of \$1 000 for any breach or non-observance of the by-law.
- (2) Proceedings for the recovery of a penalty imposed under a by-law may be taken by an authorised person in the name of the authorised person.
- (3) All penalties are to be paid to the Senate for the use of the University.

16D. By-laws to be made readily available to public

- (1) The Senate must ensure that the following are readily available to the public by whatever means the Senate considers appropriate —
 - (a) all by-laws approved and published under section 16B(1);

- (b) all by-laws that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 148 comes into operation.
- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a by-law once it ceases to be in effect.

149. Section 16E amended

- (1) In section 16E(1) delete “servants” and insert:

employees

- (2) In section 16E(2) delete “provisions of section 36 of the *Interpretation Act 1918*, do not” and insert:

Interpretation Act 1984 section 42 does not

150. Section 16F amended

In section 16F:

- (a) delete “Pro-Chancellor, Vice-Chancellor, or Registrar of the University” and insert:

Pro-Chancellor or Vice-Chancellor

- (b) delete “servant” and insert:

employee

151. Section 16G inserted

After section 16F insert:

16G. Delegation by Senate

- (1) The Senate may in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution delegate all or any of its powers, authorities, duties and functions under this Act (except its powers in relation to the making of Statutes, regulations and by-laws) to —
 - (a) any member of the Senate; or
 - (b) a committee, council or other body of the University; or
 - (c) any officer of the University.
- (2) The Senate may by resolution revoke a delegation given under this section.
- (3) A resolution delegating a power, authority, duty or function may authorise the delegate to further delegate the delegated power, authority, duty or function to a person or body.
- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

152. Section 17 amended

Delete section 17(1) and insert:

- (1) Convocation consists of the following persons —
 - (a) members and past members of the Senate;
 - (b) graduates of the University;
 - (c) persons not referred to in paragraph (a) or (b) who were members of Convocation immediately before the coming into operation of the *Universities Legislation Amendment Act 2016* section 152;
 - (d) persons who the Senate may, from time to time, admit to be members of Convocation.

153. Section 18A inserted

After section 17 insert:

18A. Functions of Convocation

Convocation has the functions prescribed by Statute.

154. Section 18 amended

After section 18(2) insert:

- (3) The Warden may resign their office by written notice given to the Chancellor.

155. Sections 19 to 23 replaced

Delete sections 19 to 23 and insert:

19. Resignation

- (1) A Chancellor, Pro-Chancellor or a member of the Senate described in section 8(1)(a) may resign their office by written notice given to the Minister.
- (2) Any other member of the Senate may resign their office by written notice given to the Chancellor.

20. Vacation of Senate office

A member of the Senate vacates office if —

- (a) the member is or has become disqualified under the provisions of this Act; or
- (b) the member has, without the leave of the Senate, been absent from all meetings of the Senate held during a period of at least 6 months; or
- (c) the member dies or resigns.

22. Casual vacancies

If a casual vacancy occurs in the office of a member of the Senate, the vacancy is to be filled in the same manner as if that member's term of office had expired.

23. Reappointment

Subject to sections 9(4), 12(4) and 12A(3), a person may at any time be reappointed or re-elected to the office of Chancellor, Pro-Chancellor, Warden or member of the Senate, if the person is capable under this Act of holding that office.

156. Section 24 replaced

Delete section 24 and insert:

23A. Chair of Senate

- (1) The Chancellor, or in the absence of the Chancellor the Pro-Chancellor, is to preside as the chair of a meeting of the Senate.
- (2) If the Chancellor and the Pro-Chancellor are not present at a meeting of the Senate, the members of the Senate present at the meeting are to elect a person to preside as the chair of the meeting.

24. Chair of Convocation

- (1) The Warden is to preside as the chair of a meeting of Convocation.
- (2) If the Warden is not present at a meeting of Convocation, the members of Convocation present at the meeting are to elect a person to preside as the chair of the meeting.

157. Section 27 amended

- (1) Delete section 27(1).
- (2) In section 27(3):
 - (a) delete “by writing under his hand,” and insert:

in writing,
 - (b) delete “him” and insert:

the Vice-Chancellor

- (3) After section 27(3) insert:
- (4) In addition to or instead of the title of Vice-Chancellor, the Vice-Chancellor may use any other title that is —
- (a) approved by the Senate; or
 - (b) prescribed by Statute, regulation or by-law.
- (5) The use by the Vice-Chancellor, in accordance with subsection (4), of any title in addition to or instead of the title of Vice-Chancellor does not affect the validity of anything done or omitted to be done by, to or in relation to the Vice-Chancellor.

Note: The heading to amended section 27 is to read:

Vice-Chancellor

158. Part 5 heading replaced

Delete the heading to Part 5 and insert:

Part 5 — Student Guild

159. Section 28 amended

- (1) Delete section 28(1) and insert:
- (1) There continues to be a body corporate, to be called the Student Guild.
- (1A) The Student Guild is the same body corporate that was established under this Act and originally called the Guild of Undergraduates.

- (2) In section 28(2) and (2a) before “Guild” (each occurrence) insert:

Student

- (3) In section 28(2c) delete “not being a member of the Guild.” and insert:

being or not being a member of the Student Guild.

- (4) In section 28(3) before “Guild” insert:

Student

- (5) Delete section 28(4) and insert:

- (4) The Student Guild —
- (a) has perpetual succession; and
 - (b) is to have a common seal; and
 - (c) may sue and be sued; and
 - (d) subject to the Statutes, may do and suffer all other acts and things that bodies corporate may by law do and suffer.

- (6) In section 28(5), (6) and (7) before “Guild” (each occurrence) insert:

Student

Note: The heading to amended section 28 is to read:

Student Guild

160. Section 28A replaced

Delete section 28A and insert:

28A. Amenities and services fee

- (1) A Statute made under section 31 may provide for an annual amenities and services fee to be payable by students, and (without limitation) for that purpose may —
 - (a) prescribe the procedures to be followed in setting that fee;
 - (b) prescribe the persons by whom the fee is payable, and exempt or provide for the exemption of persons or classes of persons from payment of the fee;
 - (c) provide for different levels of the fee to be payable by different classes of persons;
 - (d) provide for the reduction, waiver or refund, in whole or in part, of the fee;
 - (e) prescribe terms and conditions on which any amount of the total fees collected is to be paid to the Student Guild, including conditions to be met before some or all of the amount may be paid to the Student Guild;
 - (f) provide for the Senate to decide how the amount of the total fees collected (after deducting the amount that is paid to the Student Guild) is to be spent, after consultation by the Senate with the Student Guild.
- (2) This section does not limit section 31.

- (3) The Senate must pay to the Student Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.
- (4) This section overrides section 38.

161. Section 28B amended

In section 28B:

- (a) before “Guild” (each occurrence) insert:

Student

- (b) before “Guild’s” insert:

Student

162. Section 29 replaced

Delete section 29 and insert:

29. Courses of study and degrees

- (1) The Senate may —
 - (a) cause to be provided to students courses of study appropriate to a university, and other tertiary courses; and
 - (b) grant degrees, diplomas and certificates in any branch of knowledge appropriate to a university; and
 - (c) confer honorary degrees or other distinctions on persons approved by the Senate.

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- (2) Subsection (1) is subject to any provision in the Statutes relating to the grant or conferral of a degree, diploma, certificate or other distinction.

163. Section 30 amended

In section 30(2):

- (a) delete “his” and insert:

the person’s

- (b) delete “Governor” and insert:

Minister

164. Section 31 amended

- (1) Delete section 31(1) and insert:

- (1) The Senate may make Statutes with respect to any of the following matters —
- (a) the management, good government, and discipline of the University;
 - (b) the use and custody of the common seal;
 - (c) the election of —
 - (i) the Warden;
 - (ii) officers of Convocation or of a committee of Convocation;
 - (d) procedures for meetings of the Senate and Convocation;
 - (e) the tenure of office, and powers and duties of the Vice-Chancellor;

- (f) the number, manner of appointment and dismissal of deans, professors, lecturers, examiners, and other officers and employees of the University;
- (g) the holding of lectures, classes, and examinations;
- (h) the promotion and extension of University teaching;
- (i) the granting of degrees, diplomas, certificates, and honours;
- (j) the conditions on which degrees, diplomas, certificates, and honours may be granted to students who are not residents of Australia;
- (k) the granting of fellowships, scholarships, exhibitions, bursaries, and prizes;
- (l) the admission of students of other universities to any corresponding status or of graduates of other universities to any corresponding degree or diploma without examination;
- (m) the fees, if any, to be paid for examinations, for the granting of degrees, diplomas, and certificates, and for attendance at the lectures and classes of the University;
- (n) the annual amenities and services fee in accordance with section 28A;
- (o) the matters required by section 28B to be specified or prescribed by Statute;
- (p) the establishment, management, and control of libraries and museums in connection with the University;
- (q) the establishment by the Senate of residential accommodation for staff of the University, or

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- students, or both, and the management, control and closing of any residential accommodation;
- (r) the affiliation of residential accommodation for staff of the University, or students, or both, where the residential accommodation is not under the control of the Senate;
 - (s) providing for a scheme of superannuation for the salaried teachers and officers on retirement;
 - (t) the control and investment of the property of the University;
 - (u) classes of membership and conditions or qualifications for membership of the Student Guild;
 - (v) the powers, authorities and obligations of the Student Guild, the use and custody of the common seal of the Student Guild and any other matters necessary or convenient for the effective functioning of that body;
 - (w) academic costume;
 - (x) any other matters not inconsistent with the provisions of this Act.

- (2) In section 31(2) delete “3 months” and insert:

28 days

165. Section 33 replaced

Delete section 33 and insert:

33. Approval, publication, disallowance and proof of Statutes

- (1) A Statute made by the Senate —
 - (a) must be sealed with the common seal of the University; and
 - (b) must be submitted to the Governor for approval; and
 - (c) if approved by the Governor, must be published in the *Gazette*; and
 - (d) takes effect on the later of —
 - (i) the day after publication in the *Gazette*; or
 - (ii) if a later day is specified for that purpose in the Statute, that day.
- (2) The *Interpretation Act 1984* section 42 applies to a Statute approved and published under subsection (1) as if the Statute were a regulation.
- (3) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a Statute —
 - (a) a copy of the Statute under the common seal of the University;
 - (b) a document purporting to be a copy of the Statute and to have been printed by the Government Printer;
 - (c) a copy of the *Gazette* purporting to contain a copy of the Statute.

34A. Statutes to be made readily available to public

- (1) The Senate must ensure that the following are readily available to the public by whatever means the Senate considers appropriate —
 - (a) all Statutes approved and published under section 33(1);
 - (b) all Statutes that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 164 comes into operation.
- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a Statute once it ceases to be in effect.

166. Section 34 amended

- (1) Delete section 34(1) and insert:
 - (1) The Senate may make Statutes for —
 - (a) the affiliation to, or connection with, the University of any college or educational institution if the governing body of the college or educational institution consents to the affiliation or connection; and
 - (b) the licensing of persons to provide residential accommodation for staff of the University, or students, or both.
 - (2A) Statutes referred to in subsection (1) may provide for conditions, including the payment of fees, to apply in respect of any of the matters referred to in that subsection.
- (2) In section 34(2) delete “boarding-houses.” and insert:

residential accommodation.

167. Section 35 amended

In section 35(1) delete “he may think.” insert:

the Governor thinks.

168. Section 36 amended

(1) In section 36 delete “No tax or” and insert:

(1) No

(2) At the end of section 36 insert:

(2) The *Land Tax Assessment Act 2002* section 33 provides an exemption from land tax in respect of land owned by, vested in or held in trust for the University, in the circumstances set out in that section.

Note: The heading to amended section 36 is to read:

Exemption from rate or tax

169. Section 37 deleted

Delete section 37.

170. Sections 39 and 40 deleted

Delete sections 39 and 40.

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171. Section 42 deleted

Delete section 42.

172. Part 10 inserted

After section 42 insert:

**Part 10 — Transitional provisions for
*Universities Legislation Amendment Act 2016***

43. Term used: commencement day

In this Part —

commencement day means the day on which the *Universities Legislation Amendment Act 2016* section 131 comes into operation.

44. Transitional provisions (Senate)

- (1) This section applies despite the amendments made to section 8, and the replacement of section 9 by the *Universities Legislation Amendment Act 2016* sections 135 and 136.
- (2) Any person who, immediately before commencement day, holds office under section 8 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Senate —
 - (a) continues in office —
 - (i) under and subject to Part 4; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

- (b) vacates office before then in the circumstances set out in section 20 as that section is in effect immediately before commencement day.
- (3) For the purposes of subsection (2)(a)(ii), the member who holds office under section 8(1)(e) (as in effect immediately before commencement day) is taken to have a term of office that expires on —
 - (a) 31 December 2016, if the *Universities Legislation Amendment Act 2016* section 135 comes into operation on or before that date; or
 - (b) the 60th day after the day on which the *Universities Legislation Amendment Act 2016* section 135 comes into operation, if that section comes into operation after 31 December 2016.
- (4) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.

45. Transitional provisions (Chancellor and Pro-Chancellor)

- (1) This section applies despite the amendments made to sections 12 and 12A by the *Universities Legislation Amendment Act 2016* sections 140 and 141.
- (2) The person who, immediately before commencement day, holds office under section 12 (as in effect immediately before commencement day) as Chancellor —
 - (a) continues in office —
 - (i) under and subject to Part 4; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

- (b) vacates office before then in the circumstances set out in section 20 as that section is in effect immediately before commencement day.

- (3) The person who, immediately before commencement day, holds office under section 12A (as in effect immediately before commencement day) as Pro-Chancellor —

- (a) continues in office —

- (i) under and subject to Part 4; and
 - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

- (b) vacates office before then in the circumstances set out in section 20 as that section is in effect immediately before commencement day.

46. Transitional provisions (guarantees)

A guarantee given under section 15B (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 15D.

47. Transitional provisions (by-laws)

- (1) In this section —

former section 16B means section 16B as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 148.

- (2) Section 16B(2) does not apply to or in relation to any by-law made and published in the *Gazette* before commencement day, and former section 16B applies

instead as if the former section 16B had not been deleted.

- (3) If a by-law has been made but not published in the *Gazette* before commencement day —
 - (a) section 16B(2) does not apply to and in relation to that by-law; and
 - (b) former section 16B applies instead as if the former section 16B had not been deleted.

48. Transitional provisions (Statutes)

- (1) In this section —
former section 33 means section 33 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 165.
- (2) Section 33(2) does not apply to or in relation to any Statute made and published in the *Gazette* before commencement day, and former section 33(2) applies instead as if the former section 33 had not been deleted.
- (3) If a Statute has been made but not published in the *Gazette* before commencement day —
 - (a) section 33(2) does not apply to and in relation to that Statute; and
 - (b) former section 33(2) applies instead as if the former section 33 had not been deleted.

173. Schedule 1 clause 5 deleted

Delete Schedule 1 clause 5.

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174. Schedule 1 clause 6 amended

In Schedule 1 clause 6(1) delete “or 5 or both of them do not” and insert:

does not

Note: The heading to amended clause 6 is to read:

Minister may declare clause 3 inapplicable

Part 7 — Amendments to and repeal of other Acts

Division 1 — Acts repealed

- 175. *Murdoch University Planning Board Act 1970* repealed**
The *Murdoch University Planning Board Act 1970* is repealed.
- 176. *Reserves (University Lands) Act 1972* repealed**
The *Reserves (University Lands) Act 1972* is repealed.

Division 2 — *Animal Resources Authority Act 1981* amended

- 177. Act amended**
This Division amends the *Animal Resources Authority Act 1981*.
- 178. Section 5 amended**
Delete section 5(2)(b)(iii) and insert:
- (iii) Curtin University — 1 person.
- 179. Section 17 amended**
Delete section 17(b)(iii) and insert:
- (iii) Curtin University;

Division 3 — *Financial Management Act 2006* amended

- 180. Act amended**
This Division amends the *Financial Management Act 2006*.

181. Schedule 1 amended

In Schedule 1 delete the item “Curtin University of Technology” and insert:

Curtin University

Division 4 — *Industrial Relations Act 1979* amended

182. Act amended

This Division amends the *Industrial Relations Act 1979*.

183. Section 7 amended

In section 7(1) in the definition of *post-secondary education institution* delete “*Curtin University of Technology Act 1966*,” and insert:

Curtin University Act 1966,

Division 5 — *Land Tax Assessment Act 2002* amended

184. Act amended

This Division amends the *Land Tax Assessment Act 2002*.

185. Section 33 amended

In section 33(4):

(a) delete paragraph (b) and insert:

(b) Curtin University established under the *Curtin University Act 1966*;

(b) delete paragraph (d) and insert:

(d) Edith Cowan University established under the
Edith Cowan University Act 1984;

186. Section 44 deleted

Delete section 44.

Division 6 — *Oaths, Affidavits and Statutory Declarations Act 2005* amended

187. Act amended

This Division amends the *Oaths, Affidavits and Statutory Declarations Act 2005*.

188. Schedule 2 amended

In Schedule 2 item 1 in the 1st bullet point delete “*of Technology*”.

Division 7 — *Public Sector Management Act 1994* amended

189. Act amended

This Division amends the *Public Sector Management Act 1994*.

190. Schedule 1 amended

In Schedule 1 delete item 6 and insert:

6 Curtin University established under the *Curtin University Act 1966*

Division 8 — *Salaries and Allowances Act 1975* amended

191. Act amended

This Division amends the *Salaries and Allowances Act 1975*.

192. Section 6 amended

(1) After section 6(1)(d) insert:

(ea) a person holding any of the following offices —

- (i) member of the Council of Curtin University;
- (ii) member of the Kalgoorlie Campus Council of Curtin University;
- (iii) member of the Council of Edith Cowan University;
- (iv) member of the ECU South West Campus (Bunbury) Advisory Board of Edith Cowan University;
- (v) member of the Advisory Board of the Academy of Edith Cowan University;
- (vi) member of the Senate of Murdoch University;
- (vii) member of the Senate of the University of Western Australia;

and

(2) In section 6 after each of subsections (1)(a) to (c) and (2)(a) insert:

and

193. Section 10 amended

After section 10(4)(b) insert:

- (ca) appoint a person nominated from time to time in writing by the Public Sector Commissioner to assist the Tribunal in an inquiry insofar as it relates to the remuneration to be paid or provided to persons holding the offices referred to in section 6(1)(ea); and

Division 9 — *Sentencing Act 1995* amended

194. Act amended

This Division amends the *Sentencing Act 1995*.

195. Schedule 1 amended

In Schedule 1 delete the item relating to the Curtin University of Technology and insert:

Curtin University Act 1966 Curtin University

Division 10 — *Superannuation and Family Benefits Act 1938* amended

196. Act amended

This Division amends the *Superannuation and Family Benefits Act 1938*.

Universities Legislation Amendment Act 2016

Part 7 Amendments to and repeal of other Acts

Division 10 Superannuation and Family Benefits Act 1938 amended

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197. Section 67 amended

In section 67(1a)(a) delete “*Curtin University of Technology Act 1966;*” and insert:

Curtin University Act 1966;

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