

Western Australia

## **Universities Legislation Amendment Act 2005**

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As at 07 Jul 2005

No. 8 of 2005

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# Universities Legislation Amendment Act 2005

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Western Australia

## Universities Legislation Amendment Act 2005

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No. 8 of 2005

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**An Act to amend —**

- **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*.**

[Assented to 7 July 2005]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Universities Legislation Amendment Act 2005*.

**2. Commencement**

This Act comes into operation on a day fixed by proclamation.

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

### **3. The Act amended**

The amendments in this Part are to the *Curtin University of Technology Act 1966*\*.

[\* *Reprinted as at 28 July 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 115.]*

### **4. Section 9 amended**

- (1) Section 9(1)(ga) is deleted and the following paragraph is inserted instead —

“

- (ga) 2 persons elected by and from the students in the manner prescribed by Statute;

”.

- (2) Section 9(1)(ia), (j) and (k) and “and” after paragraph (j) are deleted and the following is inserted instead —

“

- (j) up to 3 persons appointed by the Council from persons —

- (i) who are members of bodies that represent the interests of the University in places other than the University’s principal campus; and

- (ii) who are not staff or students of the University;

and

**s. 5**

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- (k) one member of the Academic Board of the University established by Statute, elected by and from the Academic Board.

”.

- (3) After section 9(1) the following subsections are inserted —

“

- (2) Of the members —

- (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector); and
- (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector),

and the member mentioned in paragraph (b) may also be one of the members mentioned in paragraph (a).

- (3) The majority of members of the Council must be persons who are not members of the staff or students of the University.

”.

**5. Transitional provision**

- (1) In this section —

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

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

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

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

**6. Section 9A amended**

Section 9A(2) is amended by deleting “branch of which he is chairman of the Board or by the Board of which he is nominated ceases to exist as a branch.” and inserting instead —

“

member was appointed from the members of a body which has ceased to exist.

”.

**7. Section 9B inserted**

After section 9A the following section is inserted —

“

**9B. Members’ duties**

Schedule 1A Division 1 has effect.

”.

**8. Section 10 amended**

After section 10(e) the following paragraphs are inserted —

“

- (ea) is removed from office by the Council under section 10AA;
- (eb) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;

”.

**9. Section 10AA inserted**

After section 10 the following section is inserted —

“

**10AA. Removal of members for breach of certain duties and suspension pending removal**

- (1) The Council may —
  - (a) remove from office a member for breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3;
  - (b) suspend from office a member who is alleged to have breached a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 until the motion for removal is put to the vote.
- (2) The removal or suspension from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed or suspended from office for breach of duty) was duly given.
- (3) Despite section 13(1), the removal or suspension of a member from office may be effected only if the motion for removal or suspension is supported by a majority comprising enough of the members for the time being for their number to be at least  $\frac{2}{3}$  of the total number of offices (whether vacant or not) of member.
- (4) The motion for removal or suspension must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.
- (5) If the member to whom the motion for removal or suspension refers does not attend the meeting, a reasonable opportunity to reply to the motion is to be

taken to have been given if notice of the meeting has been duly given.

- (6) The Council cannot remove or suspend from office a member for breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 except in accordance with this section.
- (7) A person must not vote on any question relating to the person's removal or suspension from office by the Council for the breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3, or be present while the matter is being considered at a meeting.
- (8) This section applies only in relation to a breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 that occurs after the *Universities Legislation Amendment Act 2005* comes into operation.
- (9) A person does not breach a duty mentioned in Schedule 1A clause 1(1)(a), (b) or (c) by doing or omitting to do anything in compliance with a direction given to the person in exercise of a power conferred by a written law.
- (10) Subsection (9) does not extend to the manner in which a thing is done or omitted if it is done or omitted in a manner that is contrary to Schedule 1A clause 1(1)(a), (b) or (c) and the direction did not require that it be done in that manner.
- (11) The suspension from office of a member does not create a vacancy in that office.

”.

**s. 10**

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**10. Section 12 replaced**

Section 12 is repealed and the following section is inserted instead —

“

**12. Disclosure of interests**

Schedule 1A Division 2 has effect.

”.

**11. Section 21AA inserted**

After section 21 the following section is inserted in Part 1 Division 2 —

“

**21AA. Relief of members from liability**

If, in any civil proceeding against a person who is or was a member for negligence, default, breach of trust or breach of duty in the person’s capacity as a member, it appears to the court that the person —

- (a) is, or may be, liable in respect of the negligence, default or breach;
- (b) has acted honestly; and
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the person’s appointment,

the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.

”.

**12. Schedule 1A inserted**

After Schedule 1 the following Schedule is inserted —

“

**Schedule 1A — Council members**

[s. 9B, 10AA, 12]

**Division 1 — Duties**

**1. Duties**

- (1) Each member —
  - (a) must at all times act honestly in the performance of the functions of a member, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Council's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (e) must not, whether within or outside the State, make improper use of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.
- (2) Nothing in subclause (1) or section 10AA or 12 affects —
  - (a) any other duty a member may have under any other law; or

- (b) the operation of any other law in relation to such a duty.

### **Division 2 — Disclosure of interests**

#### **2. Disclosure of interests**

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Council.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

#### **3. Voting by interested members**

A member who has a material personal interest in a matter that is being considered by the Council —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 4 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

#### **4. Clause 3 may be declared inapplicable**

Clause 3 does not apply if the Council has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and

- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

**5. Quorum where clause 3 applies**

Despite section 13(1), if a member is disqualified under clause 3 in relation to a matter, a quorum is present during the consideration of the matter if at least 9 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

**6. Minister may declare clauses 3 and 5 inapplicable**

- (1) The Minister may, on the application of a member, by writing declare that clause 3 or 5 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

”.

**Part 3 — *Edith Cowan University Act 1984***

**13. The Act amended**

The amendments in this Part are to the *Edith Cowan University Act 1984*\*.

[\* *Reprint 3 as at 20 August 2004.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 132.]*

**14. Section 5 amended**

Section 5(2)(e) is amended as follows:

- (a) by inserting after “personal property” —

“

acquired or held by the University as it thinks fit subject only, in respect of property

”;

- (b) by deleting “University as it thinks fit subject only” and inserting instead —

“ University, ”.

**15. Section 9 amended**

- (1) Section 9(1)(g) and (h) are deleted.

- (2) Section 9(1)(i) is amended by deleting “3” and inserting instead —

“ 5 ”.

- (3) Section 9(3) is repealed and the following subsections are inserted instead —

“

- (3) The following persons are not eligible to be a member under subsection (1)(a), (aa) or (i) —

- (a) a person who is a member of the staff or otherwise engaged by the University;
  - (b) an enrolled student.
- (4) The following persons are not eligible to be a member under subsection (1)(e) —
- (a) a full-time member of the staff of the University;
  - (b) a part-time or casual employee of the University who works for at least 50% of the minimum time required to be worked by a full-time member of staff.
- (5) The following persons are not eligible to be a member under subsection (1)(f) —
- (a) a full-time member of the staff of the University;
  - (b) a part-time or casual employee of the University who works for at least 50% of the minimum time required to be worked by a full-time member of staff;
  - (c) an enrolled student who is enrolled on a full-time basis.
- (6) Of the members —
- (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector); and
  - (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector),

and the member mentioned in paragraph (b) may also be one of the members mentioned in paragraph (a).

”.

**s. 16**

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**16. Transitional provision**

(1) In this section —

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

**“deleted section 9(1)(g) or (h)”** means the *Edith Cowan University Act 1984* section 9(1)(g) or (h) as those provisions were in effect immediately before commencement day;

**“member”** means a member of the Council of the Edith Cowan University.

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

**17. Section 10 amended**

(1) Section 10(2) is amended by deleting “subsections (3) and (4)” and inserting instead —

“ subsections (3), (4) and (4a), ”.

(2) After subsection 10(4) the following subsection is inserted —

“

(4a) 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.

”.

**18. Section 10A inserted**

After section 10 the following section is inserted —

“

**10A. Members' duties**

Schedule 1 Division 1 has effect.

”.

**19. Section 11 amended**

After section 11(e) the following paragraphs are inserted —

“

- (ea) he is removed from office by the Council under section 11A;
- (eb) he is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;

”.

**20. Section 11A inserted**

After section 11 the following section is inserted —

“

**11A. Removal of members for breach of certain duties and suspension pending removal**

- (1) The Council may —
  - (a) remove from office a member for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3;
  - (b) suspend from office a member who is alleged to have breached a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 until the motion for removal is put to the vote.

- (2) The removal or suspension from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed or suspended from office for breach of duty) was duly given.
- (3) Despite section 14(1), the removal or suspension of a member from office may be effected only if the motion for removal or suspension is supported by a majority comprising enough of the members for the time being for their number to be at least  $\frac{2}{3}$  of the total number of offices (whether vacant or not) of member.
- (4) The motion for removal or suspension must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.
- (5) If the member to whom the motion for removal or suspension refers does not attend the meeting, a reasonable opportunity to reply to the motion is to be taken to have been given if notice of the meeting has been duly given.
- (6) The Council cannot remove or suspend from office a member for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 except in accordance with this section.
- (7) A person must not vote on any question relating to the person's removal or suspension from office by the Council for the breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3, or be present while the matter is being considered at a meeting.
- (8) This section applies only in relation to a breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3

that occurs after the *Universities Legislation Amendment Act 2005* comes into operation.

- (9) A person does not breach a duty mentioned in Schedule 1 clause 1(1)(a), (b) or (c) by doing or omitting to do anything in compliance with a direction given to the person in exercise of a power conferred by a written law.
- (10) Subsection (9) does not extend to the manner in which a thing is done or omitted if it is done or omitted in a manner that is contrary to Schedule 1 clause 1(1)(a), (b) or (c) and the direction did not require that it be done in that manner.
- (11) The suspension from office of a member does not create a vacancy in that office.

”.

**21. Section 13 replaced**

Section 13 is repealed and the following section is inserted instead —

“

**13. Disclosure of interests**

Schedule 1 Division 2 has effect.

”.

**22. Section 17A inserted**

After section 17 the following section is inserted —

“

**17A. Relief of members from liability**

If, in any civil proceeding against a person who is or was a member for negligence, default, breach of trust or breach of duty in the person’s capacity as a member, it appears to the court that the person —

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- (a) is, or may be, liable in respect of the negligence, default or breach;
- (b) has acted honestly; and
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the person's appointment,

the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.

”.

**23. Schedule 1 inserted**

After section 53 the following Schedule is inserted —

“

**Schedule 1 — Council members**

[s. 10A, 11A, 13]

**Division 1 — Duties**

**1. Duties**

- (1) Each member —
  - (a) must at all times act honestly in the performance of the functions of a member, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Council's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member;

- (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (e) must not, whether within or outside the State, make improper use of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.
- (2) Nothing in subclause (1) or section 11A or 13 affects —
- (a) any other duty a member may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

### **Division 2 — Disclosure of interests**

#### **2. Disclosure of interests**

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Council.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

#### **3. Voting by interested members**

A member who has a material personal interest in a matter that is being considered by the Council —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 4 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

**4. Clause 3 may be declared inapplicable**

Clause 3 does not apply if the Council has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

**5. Quorum where clause 3 applies**

Despite section 14(1), if a member is disqualified under clause 3 in relation to a matter, a quorum is present during the consideration of the matter if at least 8 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

**6. Minister may declare clauses 3 and 5 inapplicable**

- (1) The Minister may, on the application of a member, by writing declare that clause 3 or 5 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

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## Part 4 — Murdoch University Act 1973

### 24. The Act amended

The amendments in this Part are to the *Murdoch University Act 1973*\*.

[\* Reprinted as at 26 February 1999.  
For subsequent amendments see *Western Australian  
Legislation Information Tables for 2004, Table 1, p. 303.*]

### 25. Section 12 amended

Section 12(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) The membership of Senate shall consist of —
  - (a) the persons holding or acting in the office of Chancellor and of Vice-Chancellor respectively;
  - (b) 3 persons elected by and from the members of the full-time academic staff of the University in the manner prescribed by Statute;
  - (c) one person elected by and from the full-time officers and servants of the University who are not members of the full-time academic staff of the University in the manner prescribed by Statute;
  - (d) 2 persons elected by and from the students in the manner prescribed by Statute;
  - (e) 2 persons elected by Convocation from the members of Convocation in the manner prescribed by Statute;
  - (f) 6 members appointed by the Governor;

- (g) up to 3 persons as are co-opted to serve as members of the Senate by an absolute majority of the other members.
- (2) The following persons are not eligible to be a member of the Senate under subsection (1)(e), (f) or (g) —
  - (a) a full-time member of the staff of the University;
  - (b) a part-time or casual employee of the University who works for at least 50% of the minimum time required to be worked by a full-time member of staff;
  - (c) a student.
- (2a) Of the members of the Senate —
  - (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector); and
  - (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector),and the member mentioned in paragraph (b) may also be one of the members mentioned in paragraph (a).

”.

**26. Transitional provisions**

- (1) In this section —
  - “**commencement day**” means the day on which the *Universities Legislation Amendment Act 2005* comes into operation;
  - “**new section 12(1)**” means the *Murdoch University Act 1973* section 12(1) as that provision is in effect on commencement day;

**“repealed section 12(1)”** means the *Murdoch University Act 1973* section 12(1) as that provision was in effect immediately before commencement day;

**“Senate”** means the Murdoch University Senate.

- (2) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(a) continue in office as members of the Senate under new section 12(1)(a) on and from commencement day.
- (3) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(b) or (c) cease to be members of the Senate on commencement day.
- (4) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(d) continue in office as members of the Senate under new section 12(1)(b) on and from commencement day.
- (5) The person who, immediately before commencement day, was a member of the Senate under repealed section 12(1)(da) continues in office as a member of the Senate under new section 12(1)(c) on and from commencement day.
- (6) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(e) continue in office as members of the Senate under new section 12(1)(d) on and from commencement day.
- (7) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(f) continue in office as members of the Senate under new section 12(1)(e) on and from commencement day even though one of those persons is a student on commencement day.
- (8) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(g) or (i) continue in office as members of the Senate under new section 12(1)(f) on and from commencement day.

**s. 27**

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- (9) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(j) continue in office as members of the Senate under new section 12(1)(g) on and from commencement day.
- (10) A person who, under this section, continues in office as a member of the Senate on and from commencement day, continues in office for the balance of the term of office that applied to the person immediately before commencement day.

**27. Section 14A inserted**

After section 14 the following section is inserted —

“

**14A. Duties of Senate members**

Schedule 1 Division 1 has effect.

”.

**28. Section 15 amended**

- (1) Section 15(3) is amended as follows:
  - (a) by deleting “or” after paragraph (c);
  - (b) after paragraph (c) by inserting the following —
    - “
    - (ca) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;
    - or
    - ”.
- (2) After subsection 15(3) the following subsection is inserted —
  - “
  - (3a) A member of the Senate who is removed from office by the Senate under section 15A is not eligible to be a member again until —
  - ”.

- (a) in the case of a member elected by the students, one year has elapsed since the removal; or
- (b) in the case of any other member, 3 years have elapsed since the removal.

”.

**29. Section 15A inserted**

After section 15 the following section is inserted —

“

**15A. Removal of Senate members for breach of certain duties and suspension pending removal**

- (1) The Senate may —
  - (a) remove from office a member of the Senate for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3;
  - (b) suspend from office a member of the Senate who is alleged to have breached a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 until the motion for removal is put to the vote.
- (2) The removal or suspension from office may be effected only at a meeting of the Senate of which notice (including notice of the motion that the member concerned be removed or suspended from office for breach of duty) was duly given.
- (3) Despite section 12(6), the removal or suspension from office may be effected only if the motion for removal or suspension is supported by a majority comprising enough of the members for the time being of the Senate for their number to be at least  $\frac{2}{3}$  of the total number of offices (whether vacant or not) of member of the Senate.
- (4) The motion for removal or suspension must not be put to the vote of the meeting unless the member

concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.

- (5) If the member to whom the motion for removal or suspension refers does not attend the meeting, a reasonable opportunity to reply to the motion is to be taken to have been given if notice of the meeting has been duly given.
- (6) The Senate cannot remove or suspend from office a member of the Senate for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 except in accordance with this section.
- (7) A person must not vote on any question relating to the person's removal or suspension from office by the Senate for the breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3, or be present while the matter is being considered at a meeting.
- (8) This section applies only in relation to a breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 that occurs after the *Universities Legislation Amendment Act 2005* comes into operation.
- (9) A person does not breach a duty mentioned in Schedule 1 clause 1(1)(a), (b) or (c) by doing or omitting to do anything in compliance with a direction given to the person in exercise of a power conferred by a written law.

- (10) Subsection (9) does not extend to the manner in which a thing is done or omitted if it is done or omitted in a manner that is contrary to Schedule 1 clause 1(1)(a), (b) or (c) and the direction did not require that it be done in that manner.
- (11) The suspension from office of a member of the Senate does not create a vacancy in that office.

”.

**30. Sections 17A and 17B inserted**

After section 17 the following sections are inserted —

“

**17A. Disclosure of interests**

Schedule 1 Division 2 has effect.

**17B. Relief of Senate members from liability**

If, in any civil proceeding against a person who is or was a member of the Senate for negligence, default, breach of trust or breach of duty in the person’s capacity as a member of the Senate, it appears to the court that the person —

- (a) is, or may be, liable in respect of the negligence, default or breach;
- (b) has acted honestly; and
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the person’s appointment,

the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.

”.

**31. Schedule 1 inserted**

After section 34 the following Schedule is inserted —

“

**Schedule 1 — Senate members**

[s. 14A, 15A, 17A]

**Division 1 — Duties**

**1. Duties**

- (1) Each member of the Senate —
  - (a) must at all times act honestly in the performance of the functions of a member of the Senate, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member of the Senate, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Senate's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member of the Senate;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member of the Senate to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (e) must not, whether within or outside the State, make improper use of the position of member of the Senate to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.

- (2) Nothing in subclause (1) or section 15A or 17A affects —
  - (a) any other duty a member of the Senate may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

### **Division 2 — Disclosure of interests**

#### **2. Disclosure of interests**

- (1) A member of the Senate who has a material personal interest in a matter being considered or about to be considered by the Senate must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Senate.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

#### **3. Voting by interested members**

A member of the Senate who has a material personal interest in a matter that is being considered by the Senate —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 4 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

**4. Clause 3 may be declared inapplicable**

Clause 3 does not apply if the Senate has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter;  
and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

**5. Quorum where clause 3 applies**

Despite section 12(6), if a member is disqualified under clause 3 in relation to a matter, a quorum is present during the consideration of the matter if at least 7 members of the Senate are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

**6. Minister may declare clauses 3 and 5 inapplicable**

- (1) The Minister may, on the application of a member of the Senate, by writing declare that clause 3 or 5 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

”.

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

### **32. The Act amended**

The amendments in this Part are to the *University of Notre Dame Australia Act 1989*\*.

[\* *Reprinted as at 1 June 2001.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 471.]*

### **33. Section 3 amended**

(1) Section 3 is amended by deleting the definitions of “Archbishop” and “Board”.

(2) Section 3 is amended by inserting in the appropriate alphabetical positions —

“

**“Board of Directors”** means the Board of Directors of the University established under section 15A;

**“Board of Governors”** means the Board of Governors of the University established under section 14;

**“general Trustees”** means the Trustees mentioned in section 7(1)(d);

**“nominee Trustees”** means the Trustees mentioned in section 7(1)(a) and (b);

”.

(3) Section 3 is amended in the definition of “Trustees” by deleting “sections 7 and 8;” and inserting instead —

“ section 7; ”.

**s. 34**

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**34. Section 5 replaced**

Section 5 is repealed and the following section is inserted instead —

“

**5. Objects of University**

The objects of the University are —

- (a) the provision of university education, within a context of Catholic faith and values; and
- (b) the provision of an excellent standard of —
  - (i) teaching, scholarship and research;
  - (ii) training for the professions; and
  - (iii) pastoral care for its students.

”.

**35. Part 3 heading replaced**

The heading to Part 3 is deleted and the following heading is inserted instead —

“

**Part 3 — Trustees, officers, Board of Governors  
and Board of Directors**

”.

**36. Section 7 replaced**

Section 7 is repealed and the following section is inserted instead —

“

**7. Trustees of the University**

There are to be Trustees of the University consisting of —

- (a) 2 persons appointed by the Roman Catholic Archbishop of the Archdiocese of Perth with the approval of the Trustees for the time being;
- (b) 2 persons appointed by the Roman Catholic Archbishop of the Archdiocese of Sydney with the approval of the Trustees for the time being;
- (c) the Vice-Chancellor ex officio;
- (d) 7 other persons appointed by the Trustees for the time being.

”.

**37. Section 8 replaced**

Section 8 is repealed and the following section is inserted instead —

“

**8. Functions of Trustees**

The Trustees are the custodians of the University and are responsible for ensuring that there is compliance with section 5.

”.

**38. Section 9 repealed**

Section 9 is repealed.

**39. Section 10 amended**

Section 10(2) is repealed and the following subsections are inserted instead —

“

- (2) A Trustee who has held office for an initial term is eligible to hold office for a subsequent term or terms as long as the total period of office does not exceed 12 years.

**s. 40**

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- (3) If a Trustee is, or has been, the Chancellor or Deputy Chancellor of the University, the period during which the office of Chancellor or Deputy Chancellor is held is not to be taken into account when reckoning the period for the purposes of subsection (2).

”.

**40. Section 11 amended**

- (1) Section 11(2) is amended by inserting after “period” —  
“ , which must not exceed 8 years, that is ”.
- (2) Section 11(3) is amended by inserting after “Board” —  
“ of Governors or the Board of Directors ”.

**41. Section 12 amended**

- (1) Section 12(2) is amended by inserting after “period” —  
“ , which must not exceed 8 years, that is ”.
- (2) Section 12(3) is amended by deleting “Board,” and inserting instead —  
“ Board of Governors or the Board of Directors ”.

**42. Section 14 amended**

- (1) Section 14(b), (c) and (d) are deleted and the following paragraph is inserted instead —  
“  
(b) at least 18 other persons who are appointed from time to time by the Trustees.  
”.
- (2) Section 14 is amended as follows:  
(a) by inserting before “There” the subsection designation “(1)”;

- (b) at the end of the section by inserting the following subsections —

“

- (2) A member of the Board of Governors who has held office for an initial term is eligible to hold office for a subsequent term or terms as long as the total period of office does not exceed 12 years or, in the case of a particular member, such longer period set by the Trustees.
- (3) If a member of the Board of Governors is, or has been, the Chancellor or Deputy Chancellor of the University, the period during which the office of Chancellor or Deputy Chancellor is held is not to be taken into account when reckoning the period for the purposes of subsection (2).

”.

**43. Section 15 replaced by sections 15, 15A, 15B and 15C**

Section 15 is repealed and the following sections are inserted instead —

“

**15. Function of Board of Governors**

The function of the Board of Governors is to provide advice and support to the Board of Directors.

**15A. Board of Directors**

There is to be a Board of Directors consisting of the following —

- (a) the Chancellor ex officio;
- (b) the Vice-Chancellor ex officio;
- (c) up to 12 other members who are —
  - (i) members of the Board of Governors;and

- (ii) appointed by the Trustees to be members of the Board of Directors on the nomination of a committee comprising the Chancellor, the Deputy Chancellor and the Vice-Chancellor.

**15B. Functions of the Board of Directors**

- (1) Subject to this Act, the Board of Directors is the governing body of the University.
- (2) Except where this Act provides otherwise, the Board of Directors is to exercise all the powers of the University and is to have the entire control and management of the affairs and concerns of the University.

**15C. Duties of Directors and removal for breach**

- (1) Each member of the Board of Directors —
  - (a) must at all times act honestly in the performance of the functions of a member of the Board, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member of the Board, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Board's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or nominating a member of the Board;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member of the Board to gain, directly or indirectly, an advantage for

- any person or to cause detriment to the University;
- (e) must not, whether within or outside the State, make improper use of the position of member of the Board to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (f) must disclose interests in accordance with rules made by the Trustees under section 19.
- (2) The Board of Directors may, subject to subsection (3) and in accordance with rules made by the Trustees under section 19, remove from office a member of the Board mentioned in section 15A(c) for breach of a duty mentioned in subsection (1).
- (3) The removal from office may be effected only if the motion for removal is supported by a majority comprising enough of the members for the time being of the Board of Directors for their number to be at least 2/3 of the total number of offices (whether vacant or not) of member of the Board.
- (4) This section applies only in relation to a breach of a duty mentioned in this section that occurs after the *Universities Legislation Amendment Act 2005* comes into operation.
- (5) Nothing in this section affects —
- (a) any other duty a member of the Board of Directors may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

”.

**s. 44**

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**44. Section 16 replaced**

Section 16 is repealed and the following section is inserted instead —

“

**16. Delegation**

- (1) The Board of Directors may delegate to any committee or officer of the University any power or duty of the Board of Directors under another provision of this Act.
- (2) The delegation must be in writing and executed by the Board of Directors.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under or as authorised under this section 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 Board of Directors to perform a function through an officer or agent.

”.

**45. Section 17 amended**

Section 17(3) is amended by deleting “Trustees, upon the recommendation of the Board” and inserting instead —

“ Board of Directors, on the nomination of the Trustees, ”.

**46. Section 18 amended**

Section 18(2) is amended by deleting “the academic principal of the University.” and inserting instead —

“

responsible for academic leadership within the University.

”.

**47. Section 19 replaced**

Section 19 is repealed and the following section is inserted instead —

“

**19. Rules**

The Trustees may, subject to this Act, make rules —

- (a) providing for the manner, and terms and conditions of appointment and the removal or retirement of the general Trustees and the nominee Trustees;
- (b) fixing the maximum number of members of the Board of Governors;
- (c) providing for the manner, terms and conditions of appointment and the removal or retirement of members of the Board of Governors mentioned in section 14(b);
- (d) providing for the manner, terms and conditions of appointment and the removal or retirement of members of the Board of Directors mentioned in section 15A(c);
- (e) providing for the manner in which members of the Board of Directors are to disclose interests;

**s. 48**

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- (f) providing for the procedure in relation to the removal of a member of the Board of Directors under section 15C(2);
- (g) regulating the procedure for meetings of the Trustees, including the quorum for meetings;
- (h) regulating the sale by the Board of Directors of any of the assets of the University;
- (i) providing for the monitoring or assessment of matters for the purpose of ensuring compliance with section 5; and
- (j) providing for the monitoring and assessment of the performance of the functions of the Board of Directors or any officer of the University.

”.

**48. Various references to “Board” amended**

The provisions mentioned in the Table to this section are amended in each case by inserting after “Board” —

“ of Directors ”.

**Table**

s. 20(1), (2) and (3)	s. 24(1), (2)
s. 21(2)	s. 28(2)
s. 22	s. 29(1), (3)
s. 23(1), (2), (3), (4), (5)	

**49. Section 30 replaced**

Section 30 is repealed and the following section is inserted instead —

“

**30. Report to the Minister**

Within 5 months after the end of each University year the Board of Directors is to transmit to the Minister the auditor's report on all expenditures from public funds by the University for that year.

”.

**50. Transitional provisions**

(1) In this section —

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

“**existing Trustee**” means a person who was a Trustee of the University immediately before commencement day;

“**new section 7**” means the UNDA Act section 7 as that provision is in effect on commencement day;

“**UNDA Act**” means the *University of Notre Dame Australia Act 1989*;

“**University**” has the meaning given to that term in the UNDA Act section 3.

(2) Each existing Trustee continues in office as a Trustee of the University under new section 7 on and from commencement day for the balance of the term of office that applied to the Trustee immediately before commencement day.

(3) As soon as practicable after commencement day —

(a) the Roman Catholic Archbishop of the Archdiocese of Perth is to nominate, with the approval of the existing Trustees, 2 of the existing Trustees to be his representatives; and

(b) the Roman Catholic Archbishop of the Archdiocese of Sydney is to nominate, with the approval of the existing

Trustees, 2 of the existing Trustees to be his representatives.

- (4) An existing Trustee who —
- (a) is nominated under subsection (3)(a) or (b) is to be taken to be a nominee Trustee for the purposes of the UNDA Act; or
  - (b) is not so nominated is to be taken to be a general Trustee for the purposes of the UNDA Act,

but if the Vice-Chancellor is an existing Trustee, the Vice-Chancellor is not to be taken to be a nominee Trustee or a general Trustee for the purposes of the UNDA Act.

- (5) A delegation of a function of the Board of Governors of the University that is in effect immediately before commencement day is, on and from that day, to be taken to be a delegation by the Board of Directors of a function of the Board of Directors.
- (6) The person who was the Vice-Chancellor of the University immediately before commencement day continues, on and from that day, as the Vice-Chancellor of the University for the balance of the term that applied to the person immediately before that day.
- (7) A statute, by-law or regulation made under the UNDA Act section 20 that is in effect immediately before commencement day is, on and from that day, to be taken to have been made by the Board of Directors.
- (8) On and after commencement day agreements, instruments and other documents that had effect immediately before that day —
- (a) to which the Board of Governors of the University was a party; or
  - (b) which contain a reference to the Board of Governors of the University,

have effect, by force of this section, as if —

- (c) the Board of Directors were substituted for the Board of Governors as a party to the agreement or instrument;  
and
  - (d) any reference to the Board of Governors were, unless the context otherwise requires, a reference to the Board of Directors.
- (9) An investment common fund established under the UNDA Act section 23 that was in effect immediately before commencement day is, on and after that day, to be treated as if it were established by the Board of Directors.
- (10) If, immediately before commencement day, any duty imposed by the UNDA Act section 30 on the Board of Governors has not been complied with in relation to the Board of Governors for any University year that expired before commencement day, that duty subsists and is to be performed by the Board of Directors.

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

**51. The Act amended**

The amendments in this Part are to the *University of Western Australia Act 1911*\*.

[\* *Reprinted as at 11 February 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2004, Table 1, p. 473.]*

**52. Sections 8, 10, 10A and 10B replaced by sections 8, 9 and 10**

Sections 8, 10, 10A and 10B are repealed and the following sections are inserted instead —

“

**8. Senate members**

- (1) The Senate shall consist of 21 members as follows —
- (a) 4 persons appointed by the Governor;
  - (b) 4 persons, who are not persons referred to in paragraph (c), elected by Convocation at the time and place and in the manner prescribed by Statute;
  - (c) 3 persons elected —
    - (i) by and from persons who hold an ongoing or fixed term appointment at the University as an academic staff member; and
    - (ii) at the time and place and in the manner prescribed by regulations;
  - (d) the Chancellor ex officio;
  - (e) one member of the Academic Board of the University, as established under Statute, elected by and from the Academic Board;

- (f) the Vice-Chancellor of the University  
ex officio;
  - (g) 2 persons who are enrolled as students of the  
University, elected by students so enrolled at  
the time and place and in the manner prescribed  
by regulations;
  - (h) one member of the Postgraduate Students'  
Association, elected by the members of the  
Association;
  - (i) 3 persons selected and co-opted as members of  
the Senate by the other members of the Senate;
  - (j) one person, elected by and from persons who  
hold an ongoing or fixed term appointment at  
the University other than as an academic staff  
member, elected at the time and place and in  
the manner prescribed by regulations.
- (2) A person who is a principal of any secondary school, or  
similar educational institution, or is a teacher engaged  
in such an institution may be appointed or elected, and  
act, as a member of the Senate, but no more than  
2 such persons may be members of the Senate at the  
same time.
- (3) The following persons are not eligible to be a member  
of the Senate under subsection (1)(c) —
- (a) a person who holds an office which from time  
to time comprises part of the Executive of the  
University;
  - (b) the Chair of the Academic Board of the  
University.
- (4) Of the members of the Senate —
- (a) at least 2 must have financial expertise (as  
demonstrated by relevant qualifications and by

experience in financial management at a senior level in the public or private sector); and

- (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector),

and the member mentioned in paragraph (b) may also be one of the members mentioned in paragraph (a).

- (5) The majority of members of the Senate must be persons who are not members of the staff or students of the University.

**9. Terms of Senate membership**

- (1) Subject to section 11, the term of office of a member of the Senate referred to in section 8(1)(a), (b), (c), (i) or (j) is 4 years from the date of the appointment or election of the member or the date the member is selected and co-opted as a member.
- (2) Subject to section 11, the terms of office of the members of the Senate referred to in section 8(1)(g) are —
  - (a) one year from the date of the election of the member, in the case of one of the members; and
  - (b) 2 years from the date of the election of the member, in the case of the other member.
- (3) Subject to section 11, the term of office of a member of the Senate referred to in section 8(1)(h) is one year from the date of the election of the member.
- (4) A member of the Senate who has held office by election, appointment or selection and co-option for an initial term is eligible to hold office for a subsequent term or terms as long as any consecutive period of membership does not exceed 12 years.

- (5) The Senate may increase the period mentioned in subsection (4) in the case of a particular member if the Senate is of the view that there are exceptional circumstances in that member's case.

**10. Duties of Senate members**

Schedule 1 Division 1 has effect.

”.

**53. Transitional provisions**

- (1) In this section —
- “**commencement day**” means the day on which the *Universities Legislation Amendment Act 2005* comes into operation;
  - “**new section 8(1)**” means the *University of Western Australia Act 1911* section 8(1) as that provision is in effect on commencement day;
  - “**repealed section 10**” means the *University of Western Australia Act 1911* section 10 as that provision was in effect immediately before commencement day;
  - “**Senate**” means the University of Western Australia Senate.
- (2) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(a) continue in office as members of the Senate under new section 8(1)(a) on and from commencement day.
- (3) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(b) or (e) continue in office as members of the Senate under new section 8(1)(b) on and from commencement day.
- (4) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(c) continue in office as members of the Senate under new section 8(1)(c) on and from commencement day.

**s. 54**

---

- (5) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(d), (f), (g), (j) and (l) respectively continue in office as members of the Senate under new section 8(1)(d), (e), (f), (h) and (j) respectively on and from commencement day.
- (6) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(h) and (i) respectively continue in office as members of the Senate under new section 8(1)(g) on and from commencement day.
- (7) The persons who, immediately before commencement day, were members of the Senate under repealed section 10(k) continue in office as members of the Senate under new section 8(1)(i) on and from commencement day.
- (8) A person who, under this section, continues in office as a member of the Senate on and from commencement day, continues in office for the balance of the term of office that applied to the person immediately before commencement day.

**54. Section 11 amended**

After section 11(c) the following paragraphs are inserted —

“

- (ca) is removed from office by the Senate under section 11A;
- (cb) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;

”.

**55. Section 11A inserted**

After section 11 the following section is inserted under the heading relating to the Senate —

“

**11A. Removal of Senate members for breach of certain duties and suspension pending removal**

- (1) The Senate may —
  - (a) remove from office a member of the Senate for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3;
  - (b) suspend from office a member of the Senate who is alleged to have breached a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 until the motion for removal is put to the vote.
- (2) The removal or suspension from office may be effected only at a meeting of the Senate of which notice (including notice of the motion that the member concerned be removed or suspended from office for breach of duty) was duly given.
- (3) Despite section 25, the removal or suspension from office may be effected only if the motion for removal or suspension is supported by a majority comprising enough of the members for the time being of the Senate for their number to be at least  $\frac{2}{3}$  of the total number of offices (whether vacant or not) of member of the Senate.
- (4) The motion for removal or suspension must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.
- (5) If the member to whom the motion for removal or suspension refers does not attend the meeting, a reasonable opportunity to reply to the motion is to be taken to have been given if notice of the meeting has been duly given.

- (6) The Senate cannot remove or suspend from office a member of the Senate for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 except in accordance with this section.
- (7) A person must not vote on any question relating to the person's removal or suspension from office by the Senate for the breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3, or be present while the matter is being considered at a meeting.
- (8) This section applies only in relation to a breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3 that occurs after the *Universities Legislation Amendment Act 2005* comes into operation.
- (9) A person does not breach a duty mentioned in Schedule 1 clause 1(1)(a), (b) or (c) by doing or omitting to do anything in compliance with a direction given to the person in exercise of a power conferred by a written law.
- (10) Subsection (9) does not extend to the manner in which a thing is done or omitted if it is done or omitted in a manner that is contrary to Schedule 1 clause 1(1)(a), (b) or (c) and the direction did not require that it be done in that manner.
- (11) The suspension from office of a member of the Senate does not create a vacancy in that office.

”.

**56. Section 12 amended**

Section 12(3) and (4) are repealed and the following subsections are inserted instead —

“

- (3) Subject to section 11, the Chancellor holds office for an initial term of up to 4 years, and from a day, that is determined by the Senate.
- (4) A person who has held office as Chancellor for an initial term is eligible to hold office for a subsequent term or terms as long as any consecutive period of membership does not exceed 12 years.

”.

**57. Section 12A amended**

Section 12A(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) Subject to section 11, the Pro-Chancellor holds office for an initial term of up to 4 years, and from a day, that is determined by the Senate.
- (3) A person who has held office as Pro-Chancellor for an initial term is eligible to hold office for a subsequent term or terms as long as —
  - (a) any consecutive period of membership does not exceed 12 years; and
  - (b) the person continues to be a member of the Senate.

”.

**58. Section 16EA inserted**

After section 16E the following section is inserted —

“

**16EA. Relief of Senate members from liability**

If, in any civil proceeding against a person who is or was a member of the Senate for negligence, default, breach of trust or breach of duty in the person’s capacity as a member of the Senate, it appears to the court that the person —

- (a) is, or may be, liable in respect of the negligence, default or breach;
- (b) has acted honestly; and
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the person’s appointment,

the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.

”.

**59. Section 21 amended**

Section 21(3) is amended by deleting “Subject to section 11, a” and inserting instead —

“ A ”.

**60. Section 23 amended**

Section 23 is amended by deleting “section 10A(3),” and inserting instead —

“ section 9(4), ”.

**61. Section 24A inserted**

After section 24 the following section is inserted —

“

**24A. Disclosure of interests**

Schedule 1 Division 2 has effect.

”.

**62. Schedule 1 inserted**

After section 42 the following Schedule is inserted —

“

**Schedule 1 — Senate members**

[s. 10, 11A, 24A]

**Division 1 — Duties**

**1. Duties**

- (1) Each member of the Senate —
- (a) must at all times act honestly in the performance of the functions of a member of the Senate, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member of the Senate, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Senate's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member of the Senate;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member of the Senate to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (e) must not, whether within or outside the State, make improper use of the position of member of the

Senate to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.

- (2) Nothing in subclause (1) or section 11A or 24A affects —
- (a) any other duty a member of the Senate may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

### **Division 2 — Disclosure of interests**

#### **2. Disclosure of interests**

- (1) A member of the Senate who has a material personal interest in a matter being considered or about to be considered by the Senate must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Senate.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

#### **3. Voting by interested members**

A member of the Senate who has a material personal interest in a matter that is being considered by the Senate —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 4 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

**4. Clause 3 may be declared inapplicable**

Clause 3 does not apply if the Senate has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter;  
and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

**5. Quorum where clause 3 applies**

Despite section 25, if a member is disqualified under clause 3 in relation to a matter, a quorum is present during the consideration of the matter if at least 7 members of the Senate are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

**6. Minister may declare clauses 3 and 5 inapplicable**

- (1) The Minister may, on the application of a member of the Senate, by writing declare that clause 3 or 5 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

”.

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