

**UNIVERSITY OF NOTRE DAME
AUSTRALIA ACT 1989**

(No. 49 of 1989)

ARRANGEMENT

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation

PART 2—ESTABLISHMENT AND OBJECTS

4. Establishment and incorporation of University
5. Objects
6. Degrees etc

PART 3—TRUSTEES, OFFICERS AND BOARD OF GOVERNORS

7. Trustees of the University
8. Subsequent appointment of trustees
9. Notification of appointments
10. Tenure of Trustees
11. Chancellor

Section

12. Deputy Chancellor
13. Powers of Trustees
14. Board of Governors
15. Functions of Board of Governors
16. Delegation
17. Vice-Chancellor
18. Provost

PART 4—RULES, STATUTES, BY-LAWS AND REGULATIONS

19. Rules
20. Statutes, by-laws and regulations
21. General provisions as to rules etc

PART 5—PROPERTY

22. Management of property
23. Investment common funds
24. Trust property

PART 6—GENERAL

25. University is an independent body

PART 7—ACCOUNTS, AUDIT AND REPORT

26. Definition
27. University year
28. Accounting standards and accounts
29. Audit
30. Annual report

WESTERN AUSTRALIA

UNIVERSITY OF NOTRE DAME AUSTRALIA ACT

No. 49 of 1989

**AN ACT to provide for the establishment and incorporation of
The University of Notre Dame Australia and for related
purposes.**

[Assented to 9 January 1990]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *University of Notre Dame Australia Act 1989*.

Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

Interpretation

3. In this Act unless the contrary intention appears—

“Archbishop” means the Roman Catholic Archbishop of the Archdiocese of Perth;

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

“Provost” means the Provost of the University;

“statute” means a statute made under this Act;

“this Act” includes rules, statutes, by-laws and regulations made under this Act;

“Trustees” means the Trustees of the University constituted under sections 7 and 8;

“University” means The University of Notre Dame Australia established and incorporated under section 4;

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

PART 2—ESTABLISHMENT AND OBJECTS**Establishment and incorporation of University**

4. (1) A university is established under the name “The University of Notre Dame Australia”.

(2) The University is a body corporate with perpetual succession.

(3) The University shall have an official seal and all courts, judges and persons acting judicially shall take notice of the official seal of the University affixed to any document and shall presume that it was duly affixed unless the contrary is proved.

(4) For the purposes of its objects the University has the powers of a natural person.

(5) The University may exercise its powers in its corporate name.

(6) The University may exercise its powers outside the State if that is necessary or convenient for the purposes of its objects.

Objects

5. The objects of the University are the advancement of learning, knowledge, and the professions and the provision of university education.

Degrees etc

6. The University has the power to award and to confer degrees, diplomas and such other awards as it sees fit as degrees, diplomas or awards of a tertiary institution.

PART 3—TRUSTEES, OFFICERS AND BOARD OF GOVERNORS

Trustees of the University

7. (1) There are to be Trustees of the University consisting of—

- (a) 8 persons to be known as general Trustees;
- (b) 3 persons to be known as nominated Trustees; and
- (c) one person to be known as the appointed Trustee.

(2) The first Trustees are all to be appointed by the Archbishop.

(3) As soon as practicable after their appointment the first Trustees are by resolution to nominate—

- (a) which of their number are to be regarded as general Trustees;
- (b) which of their number are to be regarded as nominee Trustees;
and
- (c) which of their number is to be regarded as the appointed Trustee,

and those nominations have effect for the purposes of this Act.

Subsequent appointment of trustees

8. (1) If after the first trustees are appointed a vacancy exists or arises in the office of a general Trustee the Trustees may appoint a person to fill the vacancy.

(2) Subject to subsection (3), if after the first Trustees are appointed a vacancy exists or arises in the office of a nominated Trustee the Trustees may appoint a person selected by them from a panel of 3 persons nominated by the Archbishop to fill the vacancy.

(3) If the Archbishop does not nominate a panel of persons under subsection (2) the Trustees may fill the vacancy as if it were a vacancy in the office of a general Trustee.

(4) If a vacancy arises in the office of the appointed Trustee the Archbishop may appoint a person to fill the vacancy.

Notification of appointments

9. The name of any Trustee appointed under section 7 (2) or 8 shall be forwarded in writing to the Minister by the Archbishop or the Trustees as the case may require.

Tenure of Trustees

10. (1) A general Trustee or nominee Trustee may be removed from office at any time by the Trustees.

(2) The appointed Trustee holds office for a period determined by the Archbishop and may be removed at any time by the Archbishop by notice in writing to the Trustees.

Chancellor

11. (1) A Chancellor of the University is to be elected by the Trustees from among their number.

(2) The Chancellor holds office for a period determined by the Trustees, or until he or she resigns from that office or ceases to be a Trustee.

(3) The Chancellor is to preside at all meetings of the Trustees, and at all meetings of the Board at which he or she is present.

Deputy Chancellor

12. (1) A Deputy Chancellor of the University is to be elected by the Trustees from among their number.

(2) The Deputy Chancellor holds office for a period determined by the Trustees or until he or she resigns from that office or ceases to be a Trustee.

(3) In the absence of the Chancellor, or where there is a vacancy in the office of the Chancellor, the Deputy Chancellor is to preside at all meetings of the Trustees, and at all meetings of the Board, at which he or she is present.

Powers of Trustees

13. The Trustees may exercise the powers conferred on them by this Act.

Board of Governors

14. There is to be a Board of Governors of the University consisting of—

- (a) the Trustees;
- (b) the Vice-Chancellor;
- (c) the Provost;
- (d) such persons as may from time to time be appointed by the Trustees.

Functions of Board of Governors

15. (1) Subject to this Act the Board of Governors is the governing body of the University.

(2) Except where this Act provides otherwise, the Board 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.

(3) The Board is to act in all matters in the manner which in the opinion of the Board is most likely to promote the interests and objects of the University as an institute of higher learning.

Delegation

16. (1) The Board may by resolution delegate all or any of its functions under this Act to any committee, or officer or officers of the University.

(2) A delegation under subsection (1) may be revoked by resolution of the Board.

Vice-Chancellor

17. (1) There is to be a Vice-Chancellor of the University.

(2) The Vice-Chancellor is the chief executive officer of the University.

(3) The Vice-Chancellor is to be appointed by the Trustees, upon the recommendation of the Board and holds office at the pleasure of the Trustees upon such terms and conditions as the Trustees from time to time determine.

(4) The Vice-Chancellor has the powers and duties conferred on the Vice-Chancellor by the statutes and regulations.

Provost

18. (1) There is to be a Provost of the University.

(2) Subject to the Vice-Chancellor, the Provost is the academic principal of the University.

PART 4—RULES, STATUTES, BY-LAWS AND REGULATIONS**Rules**

19. The Trustees may make rules—

- (a) providing for the manner of appointment, length of tenure, removal or retirement of the general Trustees and the nominee Trustees;
- (b) fixing the maximum number of members of the Board;
- (c) determining the manner, terms and conditions of appointment, length of tenure, removal or retirement of members of the Board appointed under section 14 (d);

- (d) regulating the procedure for meetings of the Trustees, including the quorum for meetings;
- (e) regulating the sale by the Board of any of the assets of the University.

Statutes, by-laws and regulations

20. (1) The Board may make such statutes, by-laws and regulations as it considers to be necessary or expedient for the control, management and administration of the University and its property.

(2) Statutes, by-laws or regulations may provide the fixing of fees and charges to be paid to the Board for the use of the University.

(3) By-laws may provide for the imposition and recovery of pecuniary penalties and for the payment of those penalties to the Board for the use of the University.

General provisions as to rules etc

21. (1) Rules may be published in any manner that the Trustees consider appropriate.

(2) Statutes, by-laws and regulations may be published in any manner that the Board considers appropriate.

(3) Rules, statutes, by-laws and regulations are not—

- (a) written laws or subsidiary legislation within the meaning of the *Interpretation Act 1984*; or
- (b) regulations within the meaning of section 42 of the *Interpretation Act 1984*.

(4) Section 43 (other than subsections (6) and (8) (a) (ii)), 44, 45 and 47 of the *Interpretation Act 1984* apply to rules, statutes, by-laws and regulations as if they were subsidiary legislation within the meaning of that Act.

(5) Statutes, by-laws and regulations apply to and are binding on all academic and other staff, employees and students of the University.

PART 5—PROPERTY

Management of property

22. Subject to this Act, the Board, in the name of and on behalf of the University, has the control and management of all real and personal property at any time vested in or owned by the University, and may set out roads, streets, and open spaces, and erect and maintain buildings upon and otherwise improve any such land or other property as it thinks fit, and may apply any trust funds of the University to any such purposes.

Investment common funds

23. (1) The Board may establish one or more investment common funds for the collective investment of any trust or other moneys held by or in the custody of the University.

(2) The Board may from time to time without liability for breach of trust bring into or withdraw from any investment common fund the whole or any part of any trust fund or other moneys held by or in the custody of the University.

(3) The Board must not bring into any investment common fund the whole or any part of any trust fund—

- (a) if the instrument creating the trust expressly directs to the contrary;
- (b) unless all the securities in which the capital of the investment common fund is invested are securities in which the trust fund may properly be invested.

(4) The Board may if it considers it expedient so to do from time to time add some portion of the income to the capital of the common fund or use some part of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) Subject to subsection (4), the Board is to periodically distribute the income of each investment common fund among the funds participating in the common fund having regard to the extent of the participation by each fund in the common fund during the relevant accounting period.

Trust property**24. (1) The Board—**

- (a) may act as trustee or manager of any property, legacy, endowment, bequest, gift or trust moneys for the purposes of the University or in furtherance of the work and welfare of the University; and
- (b) may use and apply any moneys or property not immediately required for the purposes of a trust declared in relation to them or it in any manner not at variance with the trust.

(2) In investing any trust funds held by the University from time to time in a common fund or in a separate trust the Board in addition to the power to invest in investments authorized by law for the investment of trust funds also has power, unless otherwise provided in the trust instrument, to invest in the purchase of improved or unimproved land or in the making of improvements on any land vested in or owned by the University.

PART 6—GENERAL**University is an independent body**

25. (1) The University is not a State agency or State instrumentality or public statutory body, and no revenue or moneys are to be appropriated for the purposes of the University.

(2) The University is not a public authority, statutory authority or statutory corporation for the purposes of any written law in which any of those terms is used.

(3) Without limiting the generality of subsection (2)—

- (a) the University is not an authority for the purposes of the *Western Australian Treasury Corporation Act 1986*;
- (b) the University is not a public authority for the purposes of Division 2 of Part IIA of the *Industrial Relations Act 1979* and Division 4 of that Part does not apply to the University or its academic or other staff.

PART 7—ACCOUNTS, AUDIT AND REPORT

Definition

26. In this Part “companies laws” means the laws that regulate the financial administration, audit and reporting of companies carrying on business in the State.

University year

27. The University year ends on 31 December.

Accounting standards and accounts

28. (1) The University is to—

- (a) adopt and comply with the accounting standards applying for the time being under the companies laws;
- (b) keep such accounting records as correctly record and explain the affairs of the University and its financial position; and
- (c) keep its accounting records in a manner that will enable—
 - (i) the preparation from time to time of true and fair accounts of the University; and
 - (ii) the accounts of the University to be conveniently and properly audited in accordance with the companies laws as if the University were a body to which the companies laws apply.

(2) Within 2 months after the end of each University year the Board shall cause to be made out and delivered to the University’s auditor accounts that give a true and fair view of the income and expenditure of the University for that University year and the state of the financial affairs of the University at the end of that University year.

Audit

29. (1) The Board is to appoint as auditor of the University a person or firm of registered auditors that would be eligible for appointment as auditor to a company under the companies laws.

(2) In relation to the University the auditor is to exercise the powers and perform the duties of auditors under the companies laws.

(3) The Board shall cause the accounts of the University and the auditor's report on those accounts, in respect of each University year, to be prepared so as to comply with the requirements and standards with which a company is, and the directors and auditor of a company are, required to comply under the companies laws.

Annual report

30. Within 5 months after the end of each University year the Board is to transmit to the Governor a report of the proceedings of the University, including the accounts and auditor's reports, for that University year.
