



Western Australia

## **Curtin University of Technology Act 1966**

Compare between:

[17 Sep 2009, 04-c0-01] and [28 Jun 2010, 04-d0-01]



## Curtin University of Technology Act 1966

### **An Act to establish and incorporate the Curtin University of Technology and for incidental and other purposes.**

*[Long title amended by No. 37 of 1981 s. 3; No. 96 of 1986 s. 11.]*

#### **1. Short title**

This Act may be cited as the *Curtin University of Technology Act 1966*<sup>1</sup>.

*[Section 1 amended by No. 96 of 1986 s. 11.]*

#### **2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

*[3. Deleted by No. 37 of 1981 s. 4.]*

#### **4. Interpretation**

(1) In this Act, unless the contrary intention appears —

***Board*** means the Board of a branch of the University;

***branch*** means a branch of the University established by the Council in accordance with section 21A;

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

***Chancellor*** means the Chancellor of the University;

**Council** means the Council of the University;

**enrolled student** means a student enrolled in the University;

**examination** means an examination conducted by the University and includes an examination conducted by any other person or body prescribed by the Statutes as a person or body authorised to conduct examinations for the University;

**Kalgoorlie Campus** means the educational facility established under section 21I;

**member** means a member of the Council;

**prescribed** means prescribed by this Act, by a by-law made under this Act, by a Statute, or by a by-law or rule made under a Statute;

**Statute** means a Statute of the University in force in pursuance of this Act;

**Student Guild** means the Student Guild incorporated under section 44;

**University** means the Curtin University of Technology established under this Act.

- (2) If a question arises as to whether a person is a member of the academic staff or of the full-time salaried or general staff (other than academic staff) of the University or a branch, or as to what persons or classes of persons constitute the academic staff or the full-time salaried or general staff (other than academic staff) thereof, that question shall be determined by the Council, and the decision of the Council thereon is final.

*[Section 4 amended by No. 49 of 1971 s. 2; No. 31 of 1974 s. 2; No. 37 of 1981 s. 5; No. 59 of 1982 s. 3; No. 51 of 1983 s. 14 (as amended by No. 96 of 1986 s. 13); No. 77 of 1985 s. 4; No. 96 of 1986 s. 4 and 11; No. 7 of 1988 s. 15; No. 35 of 1996 s. 4.]*

## **Part I — The Curtin University of Technology**

*[Heading amended by No. 96 of 1986 s. 11.]*

### **Division 1 — The University**

*[Heading amended by No. 96 of 1986 s. 11.]*

#### **5. Establishment of the Curtin University of Technology**

- (1) On and after the day on which the *Western Australian Institute of Technology Amendment Act 1986* comes into operation<sup>1</sup> (in this section called ***the proclaimed date***) the body corporate, consisting of the Council, the members of the academic and other staff, and the enrolled students, that was hitherto established under this Act by the name of the “Western Australian Institute of Technology” is preserved and continues in existence as a body corporate under and subject to the provisions of this Act to be called the “Curtin University of Technology”, but so that the corporate identity of the body corporate and its rights and obligations are not thereby affected.
- (1a) A reference to the Western Australian Institute of Technology, whether by use of that name or a similar or abbreviated form of that name —
- (a) in a written law passed or made before the proclaimed date;
  - (b) in any document or other instrument made, executed, entered into or done before the proclaimed date; or
  - (c) made before the proclaimed date in any other manner,
- shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Curtin University of Technology.
- (2) The University —
- (a) has perpetual succession;
  - (b) shall have a common seal;

- (c) may sue and be sued in any court;
- (d) may take, purchase and hold real and personal property, including property devised, bequeathed or given to the University;
- (e) may grant, sell, alienate, assign or demise real and personal property acquired or held by the University as it thinks fit subject only, in respect of property devised, bequeathed or given to the University, to the express trusts of any deed, will, or instrument under which the property was acquired by the University;
- (ea) may grant leases of land vested in the University under section 20 or 31 for a term not exceeding 99 years subject, where the term exceeds 21 years, to the approval of the Governor; and
- (f) may do and suffer all other acts and things that bodies corporate may by law do and suffer.

*[Section 5 amended by No. 37 of 1981 s. 6; No. 96 of 1986 s. 5 and 11; No. 35 of 1996 s. 31.]*

**6. Common seal of the University**

- (1) The common seal of the University shall be kept in such custody as the Council directs and shall not be used except upon resolution of the Council or as may be authorised by the Statutes.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the University affixed to any document and shall presume that it was duly affixed until the contrary is proved.

*[Section 6 amended by No. 96 of 1986 s. 11.]*

**7. Functions of the University**

- (1) The functions of the University shall include the following —
- (a) to provide courses of study appropriate to a university, and other tertiary courses, and to aid the advancement, development and practical application of knowledge;
  - (b) to encourage and participate in the development and improvement of tertiary education whether on a full or part-time basis;
  - (c) to provide such other courses as may be approved by the Council;
  - (d) to encourage and undertake research and to aid directly or indirectly the application of science and technology to industry;
  - (e) to foster the general welfare and development of its enrolled students;
  - (f) subject to this Act and the Statutes to make appropriate academic awards to enrolled students who have attained standards approved by the University in examinations and to other persons as prescribed; and
  - (g) to provide such facilities relating to the foregoing functions as the Council thinks necessary or conducive for their attainment.
- (2) The University shall have all such powers, rights and privileges as 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.

*[Section 7 inserted by No. 96 of 1986 s. 6; amended by No. 43 of 1998 s. 4.]*

## **Division 2 — The Council**

### **8. The Council**

The governing authority of the University is the Council.

*[Section 8 amended by No. 96 of 1986 s. 11.]*

### **9. Constitution of the Council**

(1) The Council shall consist of —

(a) 6 persons appointed by the Governor representative of the professions and industrial and commercial interests;

*[(b) deleted]*

(c) one person who is nominated by the Minister charged with the administration of the *School Education Act 1999*;

*[(d), (e) deleted]*

(f) the person for the time being appointed the chief executive officer of the University;

(g) 2 persons who are members of the full-time academic staff of the University elected by members of that staff;

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

(gb) one person who is a member of the full-time salaried staff, other than the academic staff, of the University elected by members of that staff;

(gc) one person who is a member of the Alumni Association of the University elected by members of that Association;

(h) the person who not being a member of the Council at the time of his appointment as Chancellor, is appointed Chancellor pursuant to section 11;

(i) 3 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;

*[(ia) deleted]*

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

(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.

*[Section 9 amended by No. 57 of 1969 s. 2; No. 57 of 1970 s. 3; No. 49 of 1971 s. 3; No. 37 of 1981 s. 7; No. 59 of 1982 s. 4; No. 96 of 1986 s. 11; No. 7 of 1988 s. 16; No. 22 of 1996 s. 16(3); No. 35 of 1996 s. 5 and 32; No. 36 of 1999 s. 247; No. 8 of 2005 s. 4.]*

**9A. Term of office of members**

- (1) Subject to this Act —
  - (a) a member appointed under section 9(1)(a) or (i) holds office for a period of 3 years, commencing on the day of his appointment, unless a shorter term of office is specified pursuant to subsection (5);
  - (b) a member elected under section 9(1)(g), (gb), or (gc) holds office for a period of 3 years, commencing on the day on which his election takes effect, unless a shorter term of office is specified pursuant to subsection (6);
  - (c) a member elected under section 9(1)(ga) holds office for a period of one year commencing on the day on which his election takes effect.
- (2) A member who holds office under section 9(1)(j) ceases to hold office if the member was appointed from the members of a body which has ceased to exist.
- (3) A member elected under paragraph (ga) may be re-elected once, but only once, on the expiry of his term of office, if he continues to be qualified under section 9.
- (4) Except as provided in subsection (3), an appointed (which includes co-opted) or elected member, on the expiry of his term of office, may be again appointed or elected, if he continues to be qualified under section 9; but on the expiry of a third successive term of office (of whatever duration) he is not eligible to hold office as a member until 12 months have elapsed after such expiry.
- (5) Notwithstanding subsection (1)(a), the Governor or the Council may, when appointing a person as a member, specify a term of office of less than 3 years where an appointment for such shorter term is desirable to ensure that —
  - (a) the terms of office of members expire at intervals which will produce reasonable continuity of membership; or

- (b) the terms of office expire on dates which afford the convenience of uniformity.
- (6) Notwithstanding subsection (1)(b) the Council may, before an election is held for the purposes of section 9(1)(g), (gb), or (gc) by notice given in writing to the returning officer for the election specify a term of office of less than 3 years for any member proposed to be elected under paragraph (g), (gb), or (gc), where election for such shorter term is desirable for any reason mentioned in subsection (5)(a) and (b).

*[Section 9A inserted by No. 37 of 1981 s. 8; amended by No. 59 of 1982 s. 5; No. 8 of 2005 s. 6.]*

**9B. Members' duties**

Schedule 1A Division 1 has effect.

*[Section 9B inserted by No. 8 of 2005 s. 7.]*

**10. Vacation of office**

If a member —

- (a) dies; or
- (b) resigns his office by writing under his hand addressed to the Minister; or
- (c) is a person in respect of whom an administration order is in force under Part 6 of the *Guardianship and Administration Act 1990*; or
- (d) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (e) is convicted of an indictable offence; or
- (ea) is removed from office by the Council under section 10AA; or

- (eb) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
- (f) is absent without leave of the Council from 3 consecutive meetings of the Council; or
- (g) ceases to hold the requisite qualification under section 9 for being a member, and in particular —
  - (i) in the case of a person elected under paragraph (g) thereof, he ceases to be a member of the full-time academic staff; or
  - (ii) in the case of a person elected under paragraph (ga) thereof, he ceases to be a member of the Student Guild or a voting member of the council of the Student Guild, as the case may be; or
  - (iii) in the case of a person elected under paragraph (gb) thereof, he ceases to be a member of the full-time salaried staff, other than the academic staff; or
  - (iv) in the case of a person elected under paragraph (gc) thereof, he ceases to be a member of the Alumni Association of the University,

his office shall become vacant and shall be filled as a casual vacancy in accordance with section 10A.

*[Section 10 amended by No. 49 of 1971 s. 4; No. 37 of 1981 s. 9; No. 96 of 1986 s. 11; No. 24 of 1990 s. 123; No. 8 of 2005 s. 8; No. 18 of 2009 s. 28(2).]*

**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 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<sup>1</sup>.

**s. 10A**

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- (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.

*[Section 10AA inserted by No. 8 of 2005 s. 9.]*

**10A. Casual vacancies**

- (1) Where a casual vacancy occurs in the office of a member, the vacancy shall, subject to this section, be filled in the same manner as it would be if it had occurred by effluxion of time, except that —
  - (a) if the vacancy is in the office of an elected member and it has not, within 3 months after it occurs, been filled by election, it may be filled by an appointment by the Governor of a person who has the same qualification under section 9 as that of the former member; and
  - (b) the person who fills the vacancy shall, subject to this Act, hold office for the residue of the former member's term of office.
- (2) Notwithstanding subsection (1), if a casual vacancy occurs in the office of an elected member within 6 months before the expiry of his term of office by effluxion of time, that vacancy shall not be filled for the residue of the term of the office unless the Council resolves that exceptional circumstances require that the vacancy be filled.

*[Section 10A inserted by No. 37 of 1981 s. 10.]*

**11. Meetings of Council**

- (1) The Chancellor shall preside at all meetings of the Council at which he is present.
- (2) The members shall from time to time as occasion arises —
  - (a) elect a person, whether a member or not, to be the Chancellor of the University for a term not exceeding 3 years;
  - (b) elect one of its members to be the Pro-Chancellor of the University for a term not exceeding 3 years.
- (3) At any meeting of the Council at which —
  - (a) the Chancellor is not present, the Pro-Chancellor of the University shall preside at the meeting;
  - (b) the Chancellor and the Pro-Chancellor of the University are not present, the members present at the meeting shall elect a member to preside at that meeting,

and while so presiding the Pro-Chancellor of the University or the member, as the case may be, has all the powers and duties of the Chancellor.
- (4) Subject to the Statutes, the Council shall hold such meetings thereof as are necessary for the performance of its functions.
- (5) Subject to the Statutes, the Chancellor may at any time convene a meeting of the Council and shall convene a meeting when requested in writing by the Minister to do so or when so requested by any 4 members.
- (6) Subject to this Act and the Statutes the Council may regulate its own procedure in such manner as it thinks fit.

*[Section 11 amended by No. 96 of 1986 s. 11.]*

**12. Disclosure of interests**

Schedule 1A Division 2 has effect.

*[Section 12 inserted by No. 8 of 2005 s. 10.]*

**13. Quorum**

- (1) At a meeting of the Council —
  - (a) not less than one-half of the total number of members for the time being forms a quorum;
  - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present.
- (2) No act or thing done by the Council is invalidated, prejudiced or affected by reason of any vacancy in the membership of the Council or any failure to appoint or elect any member, or any defect in the appointment or election of any member so long as a quorum of the Council remains.

*[Section 13 amended by No. 59 of 1982 s. 6.]*

**14. Chief executive officer**

- (1) The Council shall appoint and may terminate the appointment of a person to be the chief executive officer of the University.
- (2) The chief executive officer shall hold office as such for such period and on such conditions as the Council determines.
- (3) The chief executive officer has such powers and duties as are prescribed and unless otherwise expressly provided therein, the chief executive officer may delegate any of those powers and duties to any person or committee of persons.

*[Section 14 amended by No. 31 of 1974 s. 3; No. 96 of 1986 s. 7 and 11.]*

**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 this power of delegation and its powers in relation to the making of Statutes or by-laws, to —

- (i) any member;
  - (ii) a committee consisting of members appointed by the Council;
  - (iii) any officer or officers of the University; or
  - (iv) a Board;
- 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 this power of delegation and 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 and no delegation so given prevents the exercise or discharge by the Council of any of its powers, authorities, duties or functions.
  - (3) Each committee appointed by the Council pursuant to this section shall report to the Council on its activities at such times as the Council directs.

*[Section 15 amended by No. 59 of 1982 s. 78; No. 96 of 1986 s. 11; No. 35 of 1996 s. 6.]*

## **16. Power of management of Council**

Subject to this Act, the Council has the management and control of the property and affairs of the University and may do all such acts and things as it may think best calculated to promote the interests of the University.

*[Section 16 amended by No. 96 of 1986 s. 11.]*

**17. Power of Council to appoint and dismiss staff**

Subject to this Act and any award or agreement in force under the *Industrial Arbitration Act 1912*<sup>2</sup>, the Council may appoint, suspend and terminate the appointment of any member of the staff of the University, whether a member of the academic or non-academic staff and any such appointment shall be upon such terms and conditions as the Council thinks fit.

*[Section 17 amended by No. 31 of 1974 s. 4; No. 96 of 1986 s. 11.]*

**17A. Power of University to provide housing**

The University may provide housing accommodation for a member of the staff of the University, whether a member of the academic or non-academic staff.

*[Section 17A inserted by No. 57 of 1969 s. 3; amended by No. 96 of 1986 s. 11.]*

**18. Power to award degrees, diplomas, etc.**

- (1) Subject to this Act, the Council may award —
  - (a) appropriate degrees, diplomas and certificates; and
  - (b) appropriate honorary awards.
- (2) Any degree, diploma or certificate or honorary award of the University awarded by the Council shall be evidenced by a certificate given under the graduation seal of the University.

*[Section 18 amended by No. 57 of 1970 s. 4; No. 31 of 1974 s. 5; No. 96 of 1986 s. 11.]*

*[19. Deleted by No. 59 of 1982 s. 8.]*

**20. Vesting and control of certain land**

- (1) The land described in Schedule 1 (in this section called the *University land*) shall be vested as provided in Schedule 1 in the

University for the purposes of the University and for purposes incidental thereto.

- (2) When the University land ceases to be used for the purposes of or incidental to the University, it shall revert to and revest in Her Majesty.
- (3) The restrictions imposed by section 5(2)(ea) do not apply to the lease of a portion of the University land to an affiliated residential college, affiliated hostel or hall of residence if it is conditional on the leased land being used only as a place for the residence or education and residence of enrolled students and for such other purposes connected therewith or subordinate thereto as are specified in the lease.

*[Section 20 amended by No. 37 of 1968 s. 2; No. 31 of 1974 s. 6; No. 96 of 1986 s. 8 and 11; No. 35 of 1996 s. 7.]*

**20A. By-laws**

- (1) In this section —  
***authorised person*** means any member of the Police Force, the chief executive officer of the University, or any member of the staff of the University authorised by that chief executive officer in respect of the matters referred to in the provision wherein the expression is used; and  
***University lands*** means land described in Schedule 1 and any other land vested in or under the management and control of the University for the purposes of this Act and includes all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary, standing or being on any such lands.
- (2) The University may, with the approval of the Governor, make by-laws for the purpose of managing, preserving, and protecting University lands and for the purpose of regulating the terms and conditions on which such lands may be visited or used by any

persons whomsoever, and the conduct of such persons when on or upon such lands, and in particular may by by-laws —

- (a) prohibit or regulate the admission to such lands of persons, vehicles, or animals;
- (b) prescribe the times when and the purposes for which such lands may be used, and the times when and the purposes for which the same shall be open or closed, and prohibit the use thereof or access thereto at any other times, or for any other purpose;
- (c) prescribe fees to be charged to all or any persons for admission to or use of such lands;
- (d) provide for the issue to all or any persons using such lands of tickets and requiring the production of such tickets by such persons if and whenever required by any member of the Police Force, or any member of the staff of the University;
- (e) regulate the conduct of persons using or being in or upon such lands;
- (f) prohibit any nuisance, or any offensive, indecent, or improper act, conduct, or behaviour on such lands;
- (g) prohibit the use of abusive or insulting language on such lands;
- (h) prohibit damage or injury to or interference with such lands; or any tree, shrub, hedge, plant, or flower thereon, or any fixed or movable article thereon;
- (i) prohibit the writing or printing of any indecent words, or the writing, printing, or drawing, or affixing of any indecent or obscene picture or representation on such lands, or on any fence, wall, tree, shrub, or hedge thereon;
- (j) prescribe, in respect of an alleged breach of the by-laws involving a vehicle, the circumstances under which the owner of the vehicle is deemed to be the driver or

person in charge of the vehicle at the time of the alleged breach;

- (k) prescribe the circumstances under which an authorised person may remove a vehicle, or cause it to be removed, from University lands to a specified place, prescribe his further powers in relation thereto, prescribe the scale of charges to be paid to recover the vehicle from that place, and authorise the University to hold the vehicle until the prescribed charges are paid;
- (l) prescribe a modified penalty or modified penalties payable to the University by a person or one of a class of persons who does not contest an allegation that he committed any specified breach of the by-laws, and provide that the due payment of a modified penalty is a defence to a charge of the breach in respect of which that modified penalty was paid;
- (m) authorise any member of the Police Force or any member of the staff of the University to remove from such lands all persons guilty of any breach of a by-law, and to prohibit the obstruction of any such member of the Police Force or member of the staff;
- (n) require any person using such lands to give his name and address, whenever required so to do by any member of the Police Force, or any member of the staff of the University; and
- (o) generally provide for carrying out the purposes of this Act, or any Statute,

but no such by-law shall be contrary to the express provisions of this Act or of any Statute.

- (3) The by-laws —
  - (a) may be limited in their application to time, place, or circumstance; and
  - (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or

class of persons and may confer a discretionary authority.

- (4) Any by-law may impose a penalty not exceeding \$500 for any breach thereof and proceedings for the recovery of such penalty may be taken by any authorised person in his own name; but all pecuniary penalties shall be appropriated and paid to the University for its use.
- (5) In any proceedings for any contravention of any by-law the allegation in the prosecution notice that any place was on University lands shall be sufficient evidence of the fact alleged in the absence of proof to the contrary.
- (6) No by-law takes away or restricts any liability, civil or criminal, arising under any provision of any Act other than this Act or at common law.
- (7) A breach of a by-law by an enrolled student is a disciplinary offence proceedings for which may be commenced, heard, and determined under the disciplinary Statutes, by-laws, and rules of the University instead of before a court of summary jurisdiction.
- (8) Any act, matter, or thing for or with respect to which provision is made in this section, made, done, or executed before the coming into operation of the *Western Australian Institute of Technology Act Amendment Act 1974*<sup>1</sup> which would have been lawful if that Act had been in force at the time such act, matter, or thing was made, done, or executed is hereby validated.

*[Section 20A inserted by No. 31 of 1974 s. 7; amended by No. 96 of 1986 s. 11; No. 78 of 1995 s. 31; No. 35 of 1996 s. 8 and 33; No. 84 of 2004 s. 80.]*

## **21. Powers of Council**

Subject to this Act and the Statutes, the Council —

- (a) may provide such courses of education not below tertiary level as it thinks fit and may in accordance with

this Act award appropriate degrees, diplomas and certificates or honorary awards;

- (b) may from time to time appoint persons to the Staff of the University and other officers and engage employees for the University;
- (c) has the entire control and management of the affairs, concerns and property of the University;
- (d) may, with the approval of the Minister, provide any course that is below the level of tertiary education; and
- (e) may act in all matters concerning the University in such manner as appears to it best calculated to promote the objects and interests of the University.

*[Section 21 amended by No. 57 of 1970 s. 5; No. 96 of 1986 s. 9 and 11; No. 48 of 1989 s. 13.]*

**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.

*[Section 21AA inserted by No. 8 of 2005 s. 11.]*

**Division 2A — Branches of the University**

*[Heading inserted by No. 59 of 1982 s. 9; amended by No. 96 of 1986 s. 11.]*

**21A. Power to establish branches**

- (1) Subject to subsection (2), the Council may establish and maintain branches of the University at such places as the Council, with the approval of the Minister, thinks fit.
- (2) A branch of the University shall be established for the purposes of this Act by the Council causing to be published in the *Gazette* a notice of the establishment of the branch and such a notice shall specify —
  - (a) the name by which the branch shall be known; and
  - (b) the date on which the branch is to be established.

*[Section 21A inserted by No. 59 of 1982 s. 9; amended by No. 96 of 1986 s. 11; No. 35 of 1996 s. 9; No. 43 of 1998 s. 5.]*

**21B. Management of branch**

Subject to this Act, in respect of each branch there shall be a Board which shall be responsible to the Council for the control and management of the affairs, concerns, and property of the branch.

*[Section 21B inserted by No. 59 of 1982 s. 9.]*

**21C. Constitution of Board**

A Board shall consist of —

- (a) a person appointed by the Minister to be chairman of the Board;
- (b) 7 persons appointed by the Minister representative of education, the professions, industrial, commercial, or other community interests;
- (c) the person for the time being appointed to be the chief executive officer of the branch;



- (d) 2 persons appointed by the Council, but not more than one of those persons may be a member of the full-time staff of the University;
- (e) one person who is a member of the full-time academic staff of the branch elected by members of that staff in such manner as is prescribed by Statute;
- (f) one person who is a member of the full-time salaried staff (other than the academic staff) of the branch elected by members of that salaried staff in such manner as is prescribed by Statute;
- (g) one person who is for the time being an enrolled student of the branch and who is elected by enrolled students of the branch in such manner as is prescribed by Statute; and
- (h) 3 persons, representative of local industry, appointed from time to time by co-option by the Board.

*[Section 21C inserted by No. 59 of 1982 s. 9; amended by No. 96 of 1986 s. 11; No. 35 of 1996 s. 34.]*

**21D. Term of office of Board members**

- (1) Subject to this Act —
  - (a) an appointed member of a Board holds office for such period not exceeding 3 years as is specified in the instrument of his appointment;
  - (b) a member of a Board elected under section 21C(e) or (f) holds office for a term of 3 years from the date on which his election takes effect;
  - (c) a member of a Board elected under section 21C(g) holds office for a term of one year from the date on which his election takes effect.
- (2) Subject to subsection (3), all retiring members are, unless otherwise disqualified, eligible for reappointment or re-election.
- (3) The member referred to in section 21C(g) is not eligible for re-election more than once.

- (4) Where a vacancy occurs in the office of an elected member —
- (a) if, at the expiration of 3 months from the occurrence of the vacancy, the office has not been filled by election the Minister may fill that office by appointing a person with the like prescribed qualification as that of the member whose office is vacant; and
  - (b) if the vacancy occurs otherwise than by effluxion of time, the person who fills the vacancy shall, subject to this Act, hold office as member for the residue of his predecessor's term of office.

- (5) In this section —

***appointed member*** means a member of a Board referred to in section 21C(a), (b), (d), or (h); and

***elected member*** means a member of a Board referred to in section 21C(e), (f), or (g).

*[Section 21D inserted by No. 59 of 1982 s. 9; amended by No. 35 of 1996 s. 35.]*

**21E. Vacation of office of Board member**

The office of a member of a Board becomes vacant if —

- (a) his term of office expires by effluxion of time; or
- (b) he resigns his office by writing under his hand addressed to the Minister; or
- (c) he becomes permanently incapable of performing his duties as a member of the Board;
- (d) he is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (e) he is convicted of an indictable offence; or
- (f) he is absent without leave of the Board from 3 consecutive meetings of the Board; or

- (g) he ceases to hold any qualification required for his becoming or being a member of the Board.

*[Section 21E inserted by No. 59 of 1982 s. 9; amended by No. 18 of 2009 s. 28(3).]*

**21F. Meetings of Board**

- (1) Subject to the Statutes, a Board shall hold such meetings as are necessary for the performance of its functions.
- (2) Subject to the Statutes, the chairman of a Board may at any time convene a meeting of the Board and shall convene a meeting when requested in writing by the Minister to do so or when requested by any 4 members.
- (3) Subject to this Act and the Statutes, a Board may regulate its own procedure in such manner as it thinks fit.
- (4) The chairman of a Board shall preside at all meetings of the Board at which he is present.
- (5) At any meeting of a Board at which the chairman of the Board is not present, the members present shall elect a member to preside at that meeting and while so presiding such a member has all the powers and duties of chairman of the Board.
- (6) A member of a Board is not entitled to vote either in the Board or in any committee of the Board on any question in respect of which he has a direct pecuniary interest, and if a member of a Board so votes his vote shall be disregarded.
- (7) At a meeting of a Board —
  - (a) not less than one-half of the total number of members for the time being forms a quorum; and
  - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members of the Board present.
- (8) No act or thing done by a Board is invalidated, prejudiced or affected by reason of any vacancy in the membership of the

Board or any failure to appoint or elect any member of the Board, or any defect or irregularity in the appointment or election of any person purporting to be a member so long as a quorum of the Board remains.

*[Section 21F inserted by No. 59 of 1982 s. 9.]*

**21G. Powers and duties of a Board**

- (1) Subject to this Act, the Board of a branch shall —
  - (a) perform any function conferred or imposed upon the Board by or under this Act;
  - (b) act in all matters concerning the branch in such manner as appears to it best calculated to promote the objects and interests of the branch and the University;
  - (c) advise the Council on the promotion, development and coordination of the academic courses and programmes which are offered or to be offered by the branch and which are, or some of which are, offered or to be offered elsewhere by the University;
  - (d) not later than 2 months after each 31 December, prepare and furnish to the Council a report of the operations of the branch during the period of 12 months immediately preceding that day.
  
- (2) Subject to this Act, the Board of a branch may —
  - (a) select persons who are to be appointed as members of the staff of the branch and recommend the appointment under section 17 of such persons to the staff of the University;
  - (b) expend or otherwise apply for the purposes of the branch moneys allocated to the branch;
  - (c) expend or otherwise apply moneys received by the University, the Council, the branch or the Board by way of gifts, or bequests for educational, research or other purposes associated with the branch.

*[Section 21G inserted by No. 59 of 1982 s. 9; amended by No. 98 of 1985 s. 3; No. 96 of 1986 s. 11.]*

### **Division 2B — Kalgoorlie Campus**

*[Heading inserted by No. 35 of 1996 s. 10.]*

#### **21H. Definitions**

In this Division, unless the contrary intention appears —

***higher education*** means instruction or training or both but does not include technical and further education or the instruction or training of persons who have not attained school leaving age or the instruction or training of persons attending secondary education institutions;

***Kalgoorlie Campus*** means the educational facility established under section 21I;

***Kalgoorlie Campus Council*** means the body established under section 21K;

***technical and further education*** means instruction or training in the categories referred to in section 21J(a).

*[Section 21H inserted by No. 35 of 1996 s. 10.]*

#### **21I. Kalgoorlie Campus**

- (1) The Council shall establish and maintain as part of the University an educational facility at Kalgoorlie to be known as the Curtin University of Technology — Kalgoorlie Campus.
- (2) The Kalgoorlie Campus shall include —
  - (a) an entity known as the Western Australian School of Mines;
  - (b) such other facilities for the provision of higher education as are determined by the Council; and
  - (c) facilities for the provision of technical and further education.

*[Section 21I inserted by No. 35 of 1996 s. 10.]*

**21J. Functions of Kalgoorlie Campus**

In addition to the functions of the University specified under section 7, the functions of the Kalgoorlie Campus include the following —

- (a) to provide technical and further education in any one or more of the following categories —
  - (i) courses for persons preparing to enter professional occupations or for persons engaged in such occupations who wish to update their knowledge or skills or to specialize;
  - (ii) courses (including diploma and certificate courses and special courses similar in complexity and nature) for persons preparing to enter technical and other paraprofessional occupations or for persons engaged in such occupations who wish to update their knowledge or skills or to specialize;
  - (iii) apprenticeship, pre-apprenticeship and pre-employment courses in apprenticeship trades;
  - (iv) courses for persons wishing to acquire advanced skills in a trade or in any other occupation of a non-technical nature;
  - (v) other skilled trade and vocational courses relevant to basic principles, skills or knowledge including short training courses in additional working skills that are not included in subparagraphs (iii) or (iv);
  - (vi) preparatory or remedial courses or courses with vocational orientation; and

- (vii) adult education courses in home handicrafts, hobbies, self-expression and cultural appreciation, including language courses;
- (b) to aid the advancement, development, and practical application to industry, commerce and the community, of knowledge and technology;
- (c) to contribute to the general cultural development of the community in the south-east region of the State;
- (d) to promote international recognition of the Western Australian School of Mines;
- (e) to provide such facilities relating to the functions set out in this section as the Council thinks necessary for or conducive to those functions; and
- (f) to encourage community use of the Kalgoorlie Campus facilities.

*[Section 21J inserted by No. 35 of 1996 s. 10.]*

**21K. Kalgoorlie Campus Council**

A body by the name of the Kalgoorlie Campus Council is established.

*[Section 21K inserted by No. 35 of 1996 s. 10.]*

**21L. Functions of Kalgoorlie Campus Council**

- (1) Subject to this Act and the direction of the Council, the Kalgoorlie Campus Council —
  - (a) shall be the governing body of the Kalgoorlie Campus; and
  - (b) shall act in all matters concerning the Kalgoorlie Campus in the manner that to it appears most likely to promote the objects and interests of the Kalgoorlie Campus and the University.
- (2) The Kalgoorlie Campus Council shall —

- (a) comply with any direction given to it by the Council, including any direction to prepare and furnish a report to the Council;
  - (b) advise the Council on the promotion, development and coordination of the courses and programmes which are offered or to be offered by the Kalgoorlie Campus and which are, or some of which are, offered or to be offered elsewhere by the University; and
  - (c) not later than 2 months after each 31 December, prepare and furnish to the Council a report of the operations of the Kalgoorlie Campus during the period of 12 months immediately preceding that day.
- (3) Subject to this Act, the Kalgoorlie Campus Council may —
- (a) perform any function conferred or imposed upon it by or under this Act;
  - (b) select persons for appointment as members of the staff of the Kalgoorlie Campus and recommend the appointment of such persons to the staff of the University in accordance with section 17;
  - (c) expend or otherwise apply for the purposes of the Kalgoorlie Campus moneys allocated to the Kalgoorlie Campus; and
  - (d) expend or otherwise apply moneys received by the University, the Council, the Kalgoorlie Campus or the Kalgoorlie Campus Council by way of gifts, or bequests for educational, research or other purposes associated with the Kalgoorlie Campus.

*[Section 21L inserted by No. 35 of 1996 s. 10.]*

**21M. Membership of Kalgoorlie Campus Council**

- (1) Subject to this Act the Kalgoorlie Campus Council shall consist of —
- (a) a person appointed by the Minister to be chairperson of the Kalgoorlie Campus Council;



- (b) 7 persons appointed by the Minister representative of education, the professions, or industrial, commercial or community interests;
  - (c) the chief executive officer of the Kalgoorlie Campus;
  - (d) the person appointed to be responsible for the management of higher education at the Kalgoorlie Campus;
  - (e) the person appointed to be responsible for the management of technical and further education at the Kalgoorlie Campus;
  - (f) a member of the full-time higher education academic staff of the Kalgoorlie Campus elected by members of that staff in accordance with the Statutes;
  - (g) a member of the full-time technical and further education academic staff of the Kalgoorlie Campus elected by members of that staff in accordance with the Statutes;
  - (h) a member of the full-time general staff (other than the academic staff) of the Kalgoorlie Campus elected by members of that staff in accordance with the Statutes;
  - (i) an enrolled student of the Kalgoorlie Campus elected by enrolled students of the Kalgoorlie Campus in accordance with the Statutes;
  - (j) the chief executive officer of the University or a person nominated in writing by that chief executive officer; and
  - (k) 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 will endeavour to ensure that at least one of the persons appointed under subsection (1)(b) is a resident of the Esperance region.

- (3) If a question arises as to whether a person is a member of the full-time higher education academic staff of the Kalgoorlie Campus or of the full-time technical and further education academic staff of the Kalgoorlie Campus, or as to what persons or classes of persons constitute the higher education academic staff or the technical and further education academic staff of the Kalgoorlie Campus, that question shall be determined by the Council, and the decision of the Council on the question is final.

*[Section 21M inserted by No. 35 of 1996 s. 10.]*

**21N. Constitution and proceedings**

The provisions of Schedule 2 have effect with respect to the constitution and proceedings of the Kalgoorlie Campus Council.

*[Section 21N inserted by No. 35 of 1996 s. 10.]*

**21O. Chief executive officer**

- (1) The Council shall appoint a person to be the chief executive officer of the Kalgoorlie Campus and may terminate that appointment.
- (2) The chief executive officer shall hold office for such period and on such conditions as the Council determines.
- (3) The chief executive officer has such powers and duties as are determined by the Council and, unless otherwise expressly provided by the Council, the chief executive officer may delegate any of those powers and duties to any person or committee of persons.

*[Section 21O inserted by No. 35 of 1996 s. 10.]*

**21P. Delegation by Kalgoorlie Campus Council**

- (1) The Kalgoorlie Campus Council may by resolution delegate to any person, or committee of persons appointed by the Kalgoorlie Campus Council, any of its functions, other than this power of delegation.

- (2) A committee appointed by the Kalgoorlie Campus Council under this section shall report to the Kalgoorlie Campus Council on its activities at such times as the Kalgoorlie Campus Council directs.

*[Section 21P inserted by No. 35 of 1996 s. 10.]*

### **Division 3 — Financial provisions**

#### **22. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

- (1) Subject to subsection (4), the provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the University and its operations.

*[(2) deleted]*

- (3) Notwithstanding the *Financial Management Act 2006*, the financial year of the Council shall end on 31 December.
- (4) Notwithstanding the provisions of the *Financial Management Act 2006* —
- (a) sections 13, 14 and 40 do not have effect in relation to the University; and
  - (b) section 78(1) of that Act has effect in relation to the University as if it had been enacted in the following form —

“

- (1) The Treasurer may issue, amend or revoke instructions concerning —
- (a) the annual report required to be prepared under Part 5; and

- (b) the establishment and keeping of the accounts of statutory authorities, including the accounts of subsidiary bodies and related bodies; and
- (c) the form and content of financial statements and reports on the operations of statutory authorities and their subsidiary bodies and related bodies, including information to be disclosed in respect of affiliated bodies; and
- (d) the preparation of key performance indicators of statutory authorities and their subsidiary bodies and related bodies.

”.

*[Section 22 inserted by No. 98 of 1985 s. 3; amended by No. 96 of 1986 s. 11; No. 32 of 1991 s. 2; No. 35 of 1996 s. 36; No. 77 of 2006 s. 17.]*

**23. Funds of University**

- (1) The funds available to the Council for the purpose of enabling it to exercise its powers, authorities, duties and functions under this Act are —
  - (a) moneys from time to time appropriated by Parliament for that purpose;
  - (b) moneys received by the Council by way of fees, charges, gifts, bequests or otherwise whether paid or made to the University or the Council;
  - (c) moneys borrowed by the University under this Act; and
  - (d) moneys made available to the Council or the University for the purposes of this Act.
- (2) The moneys referred to in subsection (1) are to be credited to —
  - (a) an agency special purpose account established under section 16 of the *Financial Management Act 2006*; or
  - (b) with the approval of the Treasurer, an account or accounts established at a bank (as defined in section 3 of that Act) or accounts established at banks.

- (2a) The account, or each account, established for the purposes of subsection (2) is to be called the Curtin University of Technology Account.
- (3) All expenditure incurred by the Council for the purposes of giving effect to this Act, including the repayment of moneys borrowed by or advanced to the University in accordance with this Act, shall, subject to subsection (4), be charged to an account referred to in subsection (2).
- (4) Expenditure incurred for the purposes of giving effect to section 17A shall be paid out of such moneys standing to the credit of an account referred to in subsection (2) as the Treasurer approves.

*[Section 23 amended by No. 57 of 1969 s. 4; No. 37 of 1981 s. 11; No. 96 of 1986 s. 11; No. 49 of 1996 s. 52 and 64; No. 77 of 2006 s. 17.]*

**24. Power of University to borrow**

- (1) Subject to subsection (2), the University may at any time and from time to time, with the approval of the Governor, borrow money —
  - (a) for the effectual exercise by the University of its powers, duties, authorities and functions under this Act; and
  - (b) to discharge the principal, moneys and interest thereon owing by the University in respect of any existing loan or for the consolidation of the debts of the University.
- (2) The Governor shall not approve, for the purposes of subsection (1), unless a written proposal specifying —
  - (a) the amount of the proposed loan and the terms and other particulars thereof;
  - (b) the rate of interest to be paid on the amount of the loan;
  - (c) the purposes to which the amount of the loan is to be applied; and
  - (d) the manner in which the loan is to be repaid,

is first submitted by the University to, and approved by, the Treasurer.

- (3) The Treasurer on behalf of the Crown in right of the State shall guarantee repayment of the principal, moneys and interest thereon in respect of moneys borrowed by the University under this section and any liability of the Crown arising out of a guarantee given by the Treasurer under this subsection shall be charged to the Consolidated Account.

*[Section 24 amended by No. 98 of 1985 s. 3; No. 96 of 1986 s. 11; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

**25. Power of University to invest certain moneys**

Where any money standing to the credit of the Curtin University of Technology Account is not immediately required for the purposes of this Act, the Council may invest it —

- (a) where the manner in which such money may be invested is provided for in any deed, will, or other instrument under which the money is acquired, in the manner so provided;
- (b) in any other case, as trust funds may be invested under Part III of the *Trustees Act 1962*.

*[Section 25 amended by No. 37 of 1981 s. 12; No. 96 of 1986 s. 10 and 11; No. 1 of 1997 s. 18.]*

*[26. Deleted by No. 98 of 1985 s. 3.]*

**Division 4 — Miscellaneous provisions**

**27. Governor to be Visitor**

- (1) The Governor shall be the Visitor of the University, and has authority, as and when he thinks fit, to do all things that pertain to the office of Visitor.

- (2) In this section, the expression **Governor** means the Governor of the State and not the Governor acting with the advice and consent of the Executive Council.

*[Section 27 amended by No. 96 of 1986 s. 11.]*

**28. Prohibition of religious tests**

No religious test shall be administered to any person in order to entitle that person to be admitted as an enrolled student or to hold office in the University, or to graduate thereat, or to hold any advantage or privilege thereof.

*[Section 28 amended by No. 96 of 1986 s. 11.]*

**29. Preservation of rights of officers and employees**

- (1) Where any person appointed under section 14 or 17 was, immediately before such appointment, an officer of the Public Service of the State or an officer appointed under the *Education Act 1928*<sup>3</sup> or section 235(1)(c) of the *School Education Act 1999*, he shall be deemed to have retained, his accrued rights and in particular his rights, if any, under the *Superannuation and Family Benefits Act 1938*<sup>4</sup> or the *Government Employees Superannuation Act 1987*<sup>5</sup>.
- (2) A person appointed under section 14 or 17, other than a person referred to in subsection (1), shall be deemed to have retained his accrued rights, if any, under the *Superannuation and Family Benefits Act 1938*<sup>4</sup> or the *Government Employees Superannuation Act 1987*<sup>5</sup>.

*[Section 29 amended by No. 77 of 1985 s. 5; No. 36 of 1999 s. 247.]*

*[30. Deleted by No. 77 of 1985 s. 6.]*

**30A. Superannuation**

- (1) The Council may —
- (a) establish and maintain a superannuation scheme; or

- (b) join or participate with other educational institutions in a superannuation scheme,

to make financial provision in respect of the retirement, invalidity or death of such members of the staff, officers and employees of the University as the Council decides may be members of the superannuation scheme and as become such members.

- (2) The Council may —
- (a) amend a superannuation scheme established under subsection (1)(a); or
- (b) agree to the amendment of a superannuation scheme in which the Council has joined or participates under subsection (1)(b),

but any such amendment shall not prejudice any right that has accrued under the superannuation scheme concerned before the amendment.

- (3) A member of the staff, officer or employee of the University whom the Council decides may be a member of a superannuation scheme referred to in subsection (1) is not compelled to become such a member unless he is so compelled pursuant to a condition of his appointment under section 14 or 17 but, if he is such a member he may only be a member of one such scheme and he shall not be a member of the Western Australian Institute of Technology Superannuation Scheme established under section 30A as in force before the coming into operation of section 7 of the *Acts Amendment (Educational Institutions Superannuation) Act 1985*<sup>1</sup> or a contributor for pension, superannuation or benefits under the *Superannuation and Family Benefits Act 1938*<sup>4</sup>.

*[Section 30A inserted by No. 77 of 1985 s. 7; amended by No. 96 of 1986 s. 11.]*



**30B. Validation**

Any act, matter or thing for or with respect to which provision is made in this Act made, done or executed before the coming into operation of the *Western Australian Institute of Technology Act Amendment Act 1971*<sup>1</sup> which would have been lawful if that Act had been in force at the time such act, matter or thing was made, done or executed is hereby validated.

*[Section 30B inserted by No. 49 of 1971 s. 6.]*

**31. Power to vest certain lands in the Council**

- (1) For the purposes of this Act the Governor shall, upon being requested by the Minister so to do, by Order in Council, vest in the University —
- (a) any land reserved under Part 4 of the *Land Administration Act 1997*; and
  - (b) any land under the *Land Act 1933*<sup>6</sup> that is vested in the Minister by virtue of section 215 of the *School Education Act 1999*,

and on the making of the Order in Council the land shall vest accordingly.

- (2) The University shall hold and use the land so vested for the purposes of this Act.

*[Section 31 amended by No. 37 of 1968 s. 3; No. 96 1986 s. 11; No. 35 of 1996 s. 37; No. 31 of 1997 s. 22; No. 36 of 1999 s. 247.]*

**31A. Application of *Land Act 1933*<sup>6</sup> to land that vests under section 20 or 31 and past vestings validated, etc.**

- (1) The *Land Act 1933*<sup>6</sup> applies to and in relation to land that vests in the University under section 20 or 31(1) as if the vesting made under either of those sections were a vesting made under section 33(2) of that Act.

- (2) Land that vested, or purportedly vested, before the coming into operation of Part 3 of the *Curtin University of Technology Amendment Act 1996*<sup>1</sup>, in the University under section 20 or 31(1) is declared to have validly vested in the University.
- (3) The *Land Act 1933*<sup>6</sup> applies to and in relation to, and shall be taken always to have applied to and in relation to, land referred to in subsection (2) as if the vesting, or purported vesting, referred to in that subsection were a vesting made under section 33(2) of that Act.
- (4) A lease granted by the University of land referred to in subsection (2), that would have been valid if granted after the coming into operation of Part 3 of the *Curtin University of Technology Amendment Act 1996*<sup>1</sup>, is declared to be, and always to have been, valid.
- (5) If—
- (a) under the *Land Act 1933*<sup>6</sup>; and
  - (b) before the coming into operation of Part 3 of the *Curtin University of Technology Amendment Act 1996*<sup>1</sup>,

land was added to or excised from land referred to in subsection (2), that addition or excision of land is declared to be, and always to have been, valid.

*[Section 31A inserted by No. 35 of 1996 s. 38.]*

**32. Application of moneys received by Council**

The Council shall apply for the purposes of the University all fees and other moneys received by it under this Act or otherwise.

*[Section 32 amended by No. 96 of 1986 s. 11.]*

**33. Exemption from tax or rate**

- (1) No tax or rate may be charged or levied upon 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 for any private purpose.

*[Section 33 amended by No. 37 of 1968 s. 4; No. 96 of 1986 s. 11.]*

### **Division 5 — Statutes**

#### **34. Power to make Statutes**

- (1) The Council may make Statutes, not inconsistent with this Act, with respect to all matters pertaining to the University and in particular may make Statutes with respect to —
- (a) the management, good government and discipline of the University;
  - (b) the use and custody of the common seal of the University, and the functions of the Council that may be exercised without the use of the common seal for that purpose;
  - (c) the organization and supervision of the teaching of enrolled students;
  - (d) the staff of the University, its branches and the Kalgoorlie Campus;
  - (e) the manner and time of convening, holding and adjourning the meetings of the Council, the manner of voting at those meetings, the powers and duties of the Chancellor, the conduct and record of the business, the appointment of committees of the Council and the quorum, powers and duties of those committees;
  - (ea) the manner and time of convening, holding and adjourning the meetings of a Board, the manner of voting at those meetings, the powers and duties of the chairman of a Board, the conduct and record of the business, the appointment of committees of a Board and the quorum, powers and duties of those committees;

- (eb) the manner and time of convening, holding and adjourning the meetings of the Kalgoorlie Campus Council; the manner of voting at those meetings; the powers and duties of the chairperson of the Kalgoorlie Campus Council; the conduct and record of the business of the Kalgoorlie Campus Council; the appointment of committees of the Kalgoorlie Campus Council and the quorum, powers and duties of those committees;
- (f) the entrance standards for students;
- (g) the granting of appropriate degrees, diplomas and certificates or honorary awards by the University;
- (h) the granting of scholarships, exhibitions, bursaries and prizes;
- (i) the fees to be charged for courses of study or instruction, examinations, degrees, diplomas and certificates of the University and for such other facilities or privileges of the University as are prescribed;
- (j) the admission of graduates and students of other educational institutions to any corresponding status in the University without examination;
- (k) the recognition, instead of or for the purpose of any examination or course of study, of any course of study completed or examination passed in any educational institution;
- (l) the establishment by the Council of hostels and halls of residence for enrolled students and the management, control and closing of any of those hostels and halls;
- (m) the government of colleges, hostels and halls of residence that are under the control of the Council, the affiliation of colleges, hostels and halls of residence that are not under the control of the Council and the licensing and supervision of boarding houses catering for enrolled students and for the revocation of the licensing thereof;

- (ma) the affiliation to or in connection with the University of any educational establishment, with the consent of the governing body of the educational establishment;
  - (mb) the establishment and conduct of external teaching and educational facilities within or outside the State;
  - (n) the control and investment of the property of the University; and
  - (o) any matter authorised or directed by this Act to be prescribed by Statute.
- (1a) All fees imposed by or paid to the Council or the University before the commencement of this subsection, shall be deemed to be lawfully imposed or collected under this Act.
- (1b) Without limiting any of the powers conferred by subsection (1), the Council may make a Statute furthering or facilitating the objects or operation of this Act with respect to long service leave entitlements of members of the staff of the University and in particular —
- (a) providing for lump sum payments instead of long service leave entitlements;
  - (b) providing for lump sum payments for *pro rata* long service leave entitlements —
    - (i) to members of the staff who retire after attaining the age of 60 years or through ill-health;
    - [(ii) deleted]*
    - (iii) to other members of the staff;
    - (iv) in the case of death of a member of the staff, to that person's estate; and
    - (v) in relation to each class of members of the staff to prescribe the minimum qualifying continuous service,

but so that the calculation of the amounts of leave or money to any member of the staff shall be based upon the rate of salary of

the member at the date of his retirement, resignation or death, as the case may be; and so that no payment that exceeds the equivalent of 12 months' salary shall be paid under the Statute.

- (1c) Without limiting any of the powers conferred by subsection (1), a Statute with respect to the discipline of the University may —
- (a) prescribe disciplinary offences and disciplinary powers in relation thereto including penalties that may be imposed for the respective offences;
  - (b) provide that penalties may be partly of one kind and partly of another but so that no monetary penalty for any one disciplinary offence exceeds \$500;
  - (c) prescribe circumstances under which a penalty may be modified or suspended;
  - (d) provide, in addition to penalties, for restitution to the University not exceeding \$1 000 for loss, damage, or destruction of University property arising out of the commission of a disciplinary offence;
  - (e) prescribe rights of appeal against decisions made in the exercise or purported exercise of disciplinary powers;
  - (f) prescribe the persons, classes of persons, and bodies of persons who may —
    - (i) make a complaint of a disciplinary offence;
    - (ii) exercise all or any of the prescribed disciplinary powers; or
    - (iii) determine all or any appeals against decisions made in the exercise or purported exercise of disciplinary powers;
  - (g) prescribe the practice and procedure in relation to —
    - (i) making a complaint of a disciplinary offence;
    - (ii) exercising disciplinary powers; and

- (iii) determining appeals against decisions made in the exercise or purported exercise of disciplinary powers;
  - (h) prescribe the circumstances under which costs may be awarded to a person the subject of a complaint of a disciplinary offence, prescribing the persons, classes of persons, or bodies of persons who may award and fix those costs, and providing for payment thereof out of University funds;
  - (i) prescribe the manner in which penalties may be enforced and, in the case of monetary penalties or amounts for restitution, recovered; and
  - (j) prescribe all such other matters as are necessary or expedient to be prescribed for the maintenance of the good order and discipline of the University.
- (1d) Without limiting the power of delegation conferred on the chief executive officer of the University by section 14, where a Statute, or a by-law or rule made under a Statute, with respect to the discipline of the University confers on him any disciplinary power or any power to hear and determine appeals from decisions made in the exercise or purported exercise of disciplinary powers or any power to award or fix costs, he may delegate the power to any person, class of persons, or body of persons.
- (1e) A Statute or a by-law or rule made under a Statute —
  - (a) may be limited in its application to time, place, or circumstance; and
  - (b) may provide that any Act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.
- (2) A Statute made under this section may be revoked or amended by a subsequent Statute so made.

- (3) The Statutes may provide for —
- (a) empowering the Council of the University to make by-laws or rules, not inconsistent with this Act or with any Statute for regulating or providing for the regulation of, any specified matter with respect to which Statutes may be made, or for carrying out or giving effect to the Statutes, and any of those by-laws or rules shall have the same force and effect as a Statute;
  - (b) the manner of promulgation of those by-laws or rules; and
  - (c) the revocation or amendment of any of those by-laws or rules.
- (4) The production of a verified copy of any by-law or rule made under subsection (3) under the common seal of the University is evidence of the making and authenticity of the by-law or rule in all courts and before all persons acting judicially.
- (5) It is deemed —
- (a) that the Council has always had all the powers conferred on it by this section as amended by the *Western Australian Institute of Technology Act Amendment Act 1974*<sup>1</sup>; and
  - (b) that paragraph (a) of Statute 3, published in the *Government Gazette* on 14 January 1969 includes and has always included all the matters referred to in subsection (1c).

*[Section 34 amended by No. 37 of 1968 s. 5; No. 57 of 1970 s. 6; No. 49 of 1971 s. 7; No. 31 of 1974 s. 9; No. 59 of 1982 s. 11; No. 51 of 1983 s. 15 (as amended by No. 96 of 1986 s. 13); No. 96 of 1986 s. 11; No. 35 of 1996 s. 11 and 39; No. 43 of 1998 s. 6; No. 28 of 2003 s. 44.]*



**35. Statutes to be approved by Governor, published and tabled**

- (1) Every Statute made by the Council shall be sealed with the common seal of the University and shall be transmitted by the Council for the approval of the Governor, and when so approved —
  - (a) shall be published in the *Government Gazette*;
  - (b) shall take effect from the date it is so published or from a later date to be specified in the Statute.
- (2) A copy of each Statute shall be laid before each House of Parliament within 14 sitting days after it is published in the *Government Gazette* if Parliament is then in Session, and if not, then within 14 sitting days after the commencement of the next succeeding Session of Parliament.
- (3) If either House of Parliament within the next succeeding 14 sitting days after a copy of a Statute has been laid before it as provided in this section, resolves that the Statute be revoked in whole or in part, that Statute or that part, is from the date of such resolution, of no effect, but without affecting the validity of anything done pursuant to that Statute in the meantime.
- (4) The production of a copy of a Statute under the common seal of the University, or a document purporting to be a copy of a Statute and to have been printed by the Government Printer is, in all proceedings, sufficient evidence of the Statute.

*[Section 35 amended by No. 96 of 1986 s. 11.]*

## **Part II — Student Guild**

*[Heading inserted by No. 37 of 1981 s. 13.]*

*[36-43. Deleted by No. 37 of 1981 s. 13.]*

### **44. Student Guild**

- (1) For the purposes of this Act, there shall be established, upon the making, under section 34, of the Statute referred to in subsection (4), an organized association of enrolled students by the name of the Student Guild.
- (2) When established, the Student Guild shall be a body corporate by that name and under that corporate name —
  - (a) shall have perpetual succession;
  - (b) shall have a common seal;
  - (c) may sue and be sued in any court;
  - (d) may do and suffer all other acts and things that bodies corporate may by law do and suffer; and
  - (e) shall be the recognised means of communication between enrolled students and the Council, in accordance with any Statutes that the Council makes.
- (3) The primary function of the Student Guild is to further the common interests of its members.
- (4) For the purposes of this section a Statute may be made —

*[(a) and (b) deleted]*

- (c) prescribing, in addition to the function referred to in subsection (3), the powers, duties and functions of the Student Guild; and
- (d) prescribing such other matters and things as are necessary or convenient for the effective exercise of the powers, duties and functions of the Student Guild.

- (5) Any enrolled student is eligible to be a member of the Student Guild.
- (6) Subject to subsection (7), a student becomes a member of the Student Guild upon enrolment, for the period of enrolment.
- (7) A student may elect at the time of enrolment not to become a member of the Student Guild, and an enrolled student may resign at any time as a member of the Student Guild.
- (7a) An enrolled student cannot hold an elective office of the Student Guild unless that enrolled student is a member of the Student Guild.
- (8) No academic benefit, right or privilege shall be denied to or withheld from any enrolled student by reason of that student not being a member of the Student Guild.
- (9) The University shall not act in a way that may dissuade or discourage an enrolled student, or person seeking enrolment as a student, from being or becoming a member of the Student Guild.

*[Section 44 inserted by No. 37 of 1968 s. 7; amended by No. 61 of 1977 s. 10; No. 51 of 1983 s. 16 (as amended by No. 96 of 1986 s. 13); No. 96 of 1986 s. 11; No. 91 of 1994 s. 7; No. 44 of 2002 s. 4.]*

**45. Amenities and services fee**

- (1) An annual amenities and services fee shall be set at an amount approved by the Council after receiving a report from, and a recommendation by, the Student Guild.
- (2) The Council may determine that a different level of the amenities and services fee is payable by a specified class of enrolled students.
- (3) The amenities and services fee is payable to the Council by each enrolled student, except a student exempted from doing so, or made ineligible to do so, by Statute.

**s. 46**

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- (4) Despite sections 23(1)(b) and 32, the Council shall pay to the Student Guild a percentage of the amenities and services fees collected that is not less than the percentage of enrolled students that are members of the Student Guild.
- (5) Despite subsection (4), and regardless of the number of enrolled students who are members of the Student Guild, the percentage of the collected amenities and services fees paid to the Student Guild must exceed 50% of those fees.
- (6) The part of the amenities and services fees not paid to the Student Guild is to be spent on student amenities and services in the manner agreed by the Council and the Student Guild.

*[Section 45 inserted by No. 44 of 2002 s. 5.]*

**46. Council to include detail in Statute**

- (1) The Council shall define, by Statute —
  - (a) broad areas of amenities and services to which the Student Guild may apply the fees paid to it; and
  - (b) processes for resolving disputes that might arise in the course of defining those areas.
- (2) The Council shall prescribe, by Statute, the measures by which the Student Guild is to account for the fees received, and those measures shall include —
  - (a) a requirement that the annual financial statements of the Student Guild are to be audited by an independent external auditor whose appointment requires Council approval; and
  - (b) a requirement for the Student Guild to provide a copy of each audited balance sheet, and an annual statement of the Student Guild's income and expenditure, to the Council.
- (3) The Council shall prescribe, by Statute, the process for reaching agreement between the Council and the Student Guild about the

expenditure of the part of the amenities and services fees not paid to the Student Guild.

*[Section 46 inserted by No. 44 of 2002 s. 5.]*

**Schedule 1**

*[Heading amended by No. 35 of 1996 s. 12.]*

[section 20]

So much of the land comprising Reserve ↑27142 being Canning Location number 1884 comprising 276 acres 27 perches or thereabouts, as the Governor may from time to time, by Order in Council published in the *Government Gazette*, vest in the University under section 20.

*[Schedule 1, formerly the Schedule, amended by No. 37 of 1968 s. 8; No. 96 of 1986 s. 11; renumbered as Schedule 1 by No. 35 of 1996 s. 12.]*

## **Schedule 1A — Council members**

[s. 9B, 10AA, 12]

*[Heading inserted by No. 8 of 2005 s. 12.]*

### **Division 1 — Duties**

*[Heading inserted by No. 8 of 2005 s. 12.]*

#### **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.

*[Clause 1 inserted by No. 8 of 2005 s. 12.]*

**Division 2 — Disclosure of interests**

*[Heading inserted by No. 8 of 2005 s. 12.]*

**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.

*[Clause 2 inserted by No. 8 of 2005 s. 12.]*

**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.

*[Clause 3 inserted by No. 8 of 2005 s. 12.]*

**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.

*[Clause 4 inserted by No. 8 of 2005 s. 12.]*

**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.

*[Clause 5 inserted by No. 8 of 2005 s. 12.]*

**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.

*[Clause 6 inserted by No. 8 of 2005 s. 12.]*



## Schedule 2

[section 21N]

### Provisions as to constitution and proceedings of the Kalgoorlie Campus Council

*[Heading inserted by No. 35 of 1996 s. 13.]*

#### 1. Interpretation

In this Schedule —

**chairperson** means chairperson of the Kalgoorlie Campus Council;

**member** means a member of the Kalgoorlie Campus Council.

*[Clause 1 inserted by No. 35 of 1996 s. 13.]*

#### 2. Term of office

(1) Except as otherwise provided by this Act, a member —

(a) appointed under section 21M(1)(a), (b) or (k) holds office for the term, not exceeding 3 years, that is specified in the instrument of his or her appointment;

(b) elected under section 21M(1)(f), (g) or (h) holds office for the term of 3 years from the date on which the person becomes a member, unless that person succeeds to a casual vacancy;

(c) elected under section 21M(1)(i) holds office for the term of 1 year from the date on which the person becomes a member, unless that person succeeds to a casual vacancy.

(2) Subject to subclause (3), all retiring members are, unless otherwise disqualified, eligible for reappointment or re-election 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) A member elected under section 21M(1)(i) is not eligible for re-election more than once.

*[Clause 2 inserted by No. 35 of 1996 s. 13.]*

**cl. 3**

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**3. Casual vacancies**

- (1) Where a casual vacancy occurs in the office of a member, the vacancy shall, subject to this clause, be filled in the same manner as it would be if it had occurred by effluxion of time, except that —
- (a) if the vacancy is in the office of a member elected under section 21M and it has not, within 3 months after it occurs, been filled by election, it may be filled by an appointment by the Minister of a person who has the same qualification under section 21M as that of the former member; and
  - (b) the person who fills the vacancy shall, subject to this Act, hold office for the residue of the former member's term of office.
- (2) Notwithstanding subclause (1), if a casual vacancy occurs in the office of a member elected under section 21M within 6 months before the expiry of the term of office of that member by effluxion of time, that vacancy shall not be filled for the residue of the term of the office unless the Kalgoorlie Campus Council resolves that exceptional circumstances require that the vacancy be filled.

*[Clause 3 inserted by No. 35 of 1996 s. 13.]*

**4. Resignation, removal, etc.**

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 elected under section 21M(1)(f), ceases to be a member of the full-time higher education academic staff of the Kalgoorlie Campus; or

- (e) in the case of a member elected under section 21M(1)(g), ceases to be a member of the full-time technical and further education academic staff of the Kalgoorlie Campus; or
- (f) in the case of a member elected under section 21M(1)(h), ceases to be a member of the full-time general staff (other than the academic staff) of the Kalgoorlie Campus; or
- (g) in the case of a member elected under section 21M(1)(i), ceases to be a person who is an enrolled student attending the Kalgoorlie Campus.

*[Clause 4 inserted by No. 35 of 1996 s. 13; amended by No. 18 of 2009 s. 28(4).]*

## **5. Meetings**

- (1) The first meeting of the Kalgoorlie Campus Council shall be convened by the chairperson and subsequently, subject to the Statutes, the Kalgoorlie Campus Council shall hold such meetings as are necessary for the performance of its functions.
- (2) Subject to the Statutes, the chairperson may at any time convene a meeting of the Kalgoorlie Campus Council and shall convene a meeting when requested in writing by the Minister or the Council to do so or when so requested by any 4 members.
- (3) The chairperson shall preside at all meetings of the Kalgoorlie Campus Council at which the chairperson is present.
- (4) At any meeting of the Kalgoorlie Campus Council at which the chairperson is not present, the members present shall elect a member to preside at that meeting and while so presiding the member elected has all the powers and duties of chairperson of the Kalgoorlie Campus Council.
- (5) A member is not entitled to vote on any question in respect of which that member has a direct pecuniary interest, and if a member so votes that vote is to be regarded as invalid.
- (6) At a meeting of the Kalgoorlie Campus Council —
  - (a) not less than one-half of the total numbers of members for the time being forms a quorum; and

**cl. 5**

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- (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present.
- (7) Subject to this Act and the Statutes, the Kalgoorlie Campus Council may regulate its own procedure in such manner as it thinks fit.

*[Clause 5 inserted by No. 35 of 1996 s. 13.]*

**Notes**

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

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Western Australian Institute of Technology Act 1966</i> <sup>7</sup>	94 of 1966	12 Dec 1966	26 May 1967 (see s. 2 and <i>Gazette</i> 26 May 1967 p. 1363)
<i>Western Australian Institute of Technology Act Amendment Act 1968</i>	37 of 1968	4 Nov 1968	4 Nov 1968
<i>Western Australian Institute of Technology Act Amendment Act 1969</i>	57 of 1969	29 Sep 1969	29 Sep 1969
<i>Western Australian Institute of Technology Act Amendment Act 1970</i>	57 of 1970	5 Nov 1970	5 Nov 1970
<i>Western Australian Institute of Technology Act Amendment Act 1971</i>	49 of 1971	10 Dec 1971	10 Dec 1971
<i>Western Australian Institute of Technology Act Amendment Act 1974</i>	31 of 1974	4 Nov 1974	4 Nov 1974
<b>Reprint of the <i>Western Australian Institute of Technology Act 1966</i> approved 2 Sep 1975 (includes amendments listed above)</b>			
<i>Acts Amendment (Student Guilds and Associations) Act 1977 Pt. III</i>	61 of 1977	23 Nov 1977	1 Jan 1978 (see s. 2)
<i>Western Australian Institute of Technology Act Amendment Act 1981</i>	37 of 1981	25 Aug 1981	1 Nov 1981 (see s. 2 and <i>Gazette</i> 25 Sep 1981 p. 4074)
<i>Western Australian Institute of Technology Act Amendment Act 1982</i>	59 of 1982	28 Sep 1982	1 Jan 1983 (see s. 2)

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Student Guilds and Associations) Act 1983 Pt. IV</i> <sup>8</sup>	51 of 1983 (as amended by No. 96 of 1986)	5 Dec 1983	5 Dec 1983
<i>Acts Amendment (Educational Institutions Superannuation) Act 1985 Pt. II</i> <sup>9, 10</sup>	77 of 1985	20 Nov 1985	16 Dec 1985 (see s. 2 and <i>Gazette</i> 13 Dec 1985 p. 4758)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Western Australian Institute of Technology Amendment Act 1986</i>	96 of 1986	10 Dec 1986	1 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4861)
<i>Acts Amendment (Education) Act 1988 Pt. 5</i>	7 of 1988	30 Jun 1988	8 Jul 1988 (see s. 2 and <i>Gazette</i> 8 Jul 1988 p. 2371)
<b>Reprint of the Curtin University of Technology Act 1966 as at 24 Aug 1988</b> (includes amendments listed above)			
<i>Acts Amendment and Repeal (Post-Secondary Education) Act 1989 Pt. 4</i>	48 of 1989	9 Jan 1990	1 Jan 1990 (see s. 2)
<i>Guardianship and Administration Act 1990 s. 123</i>	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
<i>Acts Amendment (Financial Administration and Audit) Act 1991 Pt. 2</i>	32 of 1991	4 Dec 1991	1 Jan 1992
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Voluntary Membership of Student Guilds and Associations Act 1994 Pt. 3</i> <sup>11</sup>	91 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 22</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)



<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Education Amendment Act 1996 s. 16(3)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see s. 2(1))
<i>Curtin University of Technology Amendment Act 1996</i> <sup>12</sup>	35 of 1996	27 Sep 1996	Act other than Pt 2: 27 Sep 1996 (see s. 2(1)); Pt. 2: 13 Nov 1996 (see s. 2(2) and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Financial Legislation Amendment Act 1996 s. 52 and 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Trustees Amendment Act 1997 s. 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Acts Amendment (Land Administration) Act 1997 Pt. 20</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Curtin University of Technology Amendment Act 1998</i>	43 of 1998	5 Nov 1998	5 Nov 1998 (see s. 2)
<b>Reprint of the Curtin University of Technology Act 1966 as at 28 Jul 1999</b> (includes amendments listed above)			
<i>School Education Act 1999 s. 247</i>	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Acts Amendment (Student Guilds and Associations) Act 2002 Pt. 2</i>	44 of 2002	3 Jan 2003	25 Jan 2003 (see s. 2 and <i>Gazette</i> 24 Jan 2003 p. 141)
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 16</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Universities Legislation Amendment Act 2005 Pt. 2</i> <sup>13</sup>	8 of 2005	7 Jul 2005	13 Aug 2005 (see s. 2 and <i>Gazette</i> 12 Aug 2005 p. 3651)
<b>Reprint 4: The Curtin University of Technology Act 1966 as at 14 Oct 2005</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 28	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnote referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 38 <sup>14</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<a href="#"><u>Standardisation of Formatting Act 2010</u></a> s. 4 and 43 <sup>15</sup>	<a href="#"><u>19 of 2010</u></a>	<a href="#"><u>28 Jun 2010</u></a>	<a href="#"><u>To be proclaimed (see s. 2(b))</u></a>

<sup>2</sup> Repealed by the *Industrial Relations Act 1979*.

<sup>3</sup> Repealed by the *School Education Act 1999* s. 246(1).

<sup>4</sup> The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39 but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26 and those provisions may be amended by regulations under subsection (3) of that section. See also endnote 14.

<sup>5</sup> Repealed by the *State Superannuation Act 2000* s. 39.

<sup>6</sup> Under the *Land Administration Act 1997* s. 281(3) a reference in written law to the *Land Act 1933* is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the *Land Administration Act 1997*.

<sup>7</sup> Now known as the *Curtin University of Technology Act 1966*; short title amended (see note under s. 1).

<sup>8</sup> The *Acts Amendment (Student Guilds and Associations) Act 1983* s. 18 (as amended by the *Western Australian Institute of Technology Amendment Act 1986* s. 13) reads as follows:

“

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

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

*[Section 18 amended by No. 96 of 1986 s. 13.]*

”

<sup>9</sup> The *Acts Amendment (Educational Institutions Superannuation) Act 1985* s. 6(2) and (3) read as follows:

“

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

”

<sup>10</sup> The *Acts Amendment (Educational Institutions Superannuation) Act 1985* s. 8 reads as follows:

“

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

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

(2) In this section —

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

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

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

”

<sup>11</sup> The *Voluntary Membership of Student Guilds and Associations Act 1994* s. 2(2) and (3) are transitional provisions that are of no further effect.

<sup>12</sup> The *Curtin University of Technology Amendment Act 1996* s. 14-26 and 30 are transitional and consequential provisions that are of no further effect.

<sup>13</sup> The *Universities Legislation Amendment Act 2005* s. 5 reads as follows:

“

**5. Transitional provision**

(1) In this section —

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

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

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

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

”

<sup>14</sup> On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 38 had not come into operation. It reads as follows:

“

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

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

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

“

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

”

”

<sup>15</sup> [On the date as at which this compilation was prepared, the \*Standardisation of Formatting Act 2010\* s. 4 and 43 had not come into operation. They read as follows:](#)

**[4. Schedule headings reformatted](#)**

[\(1\) This section amends the Acts listed in the Table.](#)

[\(2\) In each Schedule listed in the Table:](#)

- [\(a\) if there is a title set out in the Table for the Schedule — after the identifier for the Schedule insert that title;](#)

- (b) if there is a shoulder note set out in the Table for the Schedule — at the end of the heading to the Schedule insert that shoulder note;
- (c) reformat the heading to the Schedule, as amended by paragraphs (a) and (b) if applicable, so that it is in the current format.

**Table**

<u>Act</u>	<u>Identifier</u>	<u>Title</u>	<u>Shoulder note</u>
<u><i>Curtin University of Technology Act 1966</i></u>	<u>Schedule 1</u>	<u>University land</u>	
	<u>Schedule 2</u>		

**43. Part heading inserted before section 1**

- (1) This section amends the Acts listed in Tables 1 and 2.
- (2) In the Acts listed in Table 1 before section 1 insert:

**Part IA — Preliminary**