



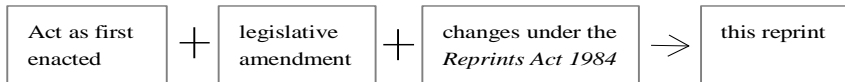
Western Australia

University of Notre Dame Australia Act 1989

Reprinted as at 1 June 2001

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the reprinted Act was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).
Notes of this kind may also be at the foot of Schedules or headings.
2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

University of Notre Dame Australia Act 1989

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 1 June 2001

University of Notre Dame Australia Act 1989

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

Part 1 — Preliminary

1. Short title

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

2. Commencement

This Act shall come into operation on such day as is fixed by proclamation¹.

3. Interpretation

In this Act unless the contrary intention appears —

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

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

“**Provost**” means the Provost of the University;

“**statute**” means a statute made under this Act;

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

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

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

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

Part 2 — Establishment and objects

4. Establishment and incorporation of University

- (1) A university is established under the name “The University of Notre Dame Australia”.
- (2) The University is a body corporate with perpetual succession.
- (3) The University shall have an official seal and all courts, judges and persons acting judicially shall take notice of the official seal of the University affixed to any document and shall presume that it was duly affixed unless the contrary is proved.
- (4) For the purposes of its objects the University has the powers of a natural person.
- (5) The University may exercise its powers in its corporate name.
- (6) The University may exercise its powers outside the State if that is necessary or convenient for the purposes of its objects.

5. Objects

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

6. Degrees etc.

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

Part 3 — Trustees, officers and Board of Governors

7. Trustees of the University

- (1) There are to be Trustees of the University consisting of —
 - (a) 8 persons to be known as general Trustees;
 - (b) 3 persons to be known as nominated Trustees; and
 - (c) one person to be known as the appointed Trustee.
- (2) The first Trustees are all to be appointed by the Archbishop.
- (3) As soon as practicable after their appointment the first Trustees are by resolution to nominate —
 - (a) which of their number are to be regarded as general Trustees;
 - (b) which of their number are to be regarded as nominee Trustees; and
 - (c) which of their number is to be regarded as the appointed Trustee,

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

8. Subsequent appointment of Trustees

- (1) If after the first Trustees are appointed a vacancy exists or arises in the office of a general Trustee the Trustees may appoint a person to fill the vacancy.
- (2) Subject to subsection (3), if after the first Trustees are appointed a vacancy exists or arises in the office of a nominated Trustee the Trustees may appoint a person selected by them from a panel of 3 persons nominated by the Archbishop to fill the vacancy.
- (3) If the Archbishop does not nominate a panel of persons under subsection (2) the Trustees may fill the vacancy as if it were a vacancy in the office of a general Trustee.
- (4) If a vacancy arises in the office of the appointed Trustee the Archbishop may appoint a person to fill the vacancy.

9. Notification of appointments

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

10. Tenure of Trustees

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

11. Chancellor

- (1) A Chancellor of the University is to be elected by the Trustees from among their number.
- (2) The Chancellor holds office for a period determined by the Trustees, or until he or she resigns from that office or ceases to be a Trustee.
- (3) The Chancellor is to preside at all meetings of the Trustees, and at all meetings of the Board at which he or she is present.

12. Deputy Chancellor

- (1) A Deputy Chancellor of the University is to be elected by the Trustees from among their number.
- (2) The Deputy Chancellor holds office for a period determined by the Trustees or until he or she resigns from that office or ceases to be a Trustee.
- (3) In the absence of the Chancellor, or where there is a vacancy in the office of the Chancellor, the Deputy Chancellor is to preside at all meetings of the Trustees, and at all meetings of the Board, at which he or she is present.

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13. Powers of Trustees

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

14. Board of Governors

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

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

15. Functions of Board of Governors

- (1) Subject to this Act the Board of Governors is the governing body of the University.
- (2) Except where this Act provides otherwise, the Board is to exercise all the powers of the University and is to have the entire control and management of the affairs and concerns of the University.
- (3) The Board is to act in all matters in the manner which in the opinion of the Board is most likely to promote the interests and objects of the University as an institute of higher learning.

16. Delegation

- (1) The Board may by resolution delegate all or any of its functions under this Act to any committee, or officer or officers of the University.
- (2) A delegation under subsection (1) may be revoked by resolution of the Board.

17. Vice-Chancellor

- (1) There is to be a Vice-Chancellor of the University.
- (2) The Vice-Chancellor is the chief executive officer of the University.
- (3) The Vice-Chancellor is to be appointed by the Trustees, upon the recommendation of the Board and holds office at the pleasure of the Trustees upon such terms and conditions as the Trustees from time to time determine.
- (4) The Vice-Chancellor has the powers and duties conferred on the Vice-Chancellor by the statutes and regulations.

18. Provost

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

Part 4 — Rules, statutes, by-laws and regulations

19. Rules

The Trustees may make rules —

- (a) providing for the manner of appointment, length of tenure, removal or retirement of the general Trustees and the nominee Trustees;
- (b) fixing the maximum number of members of the Board;
- (c) determining the manner, terms and conditions of appointment, length of tenure, removal or retirement of members of the Board appointed under section 14(d);
- (d) regulating the procedure for meetings of the Trustees, including the quorum for meetings;
- (e) regulating the sale by the Board of any of the assets of the University.

20. Statutes, by-laws and regulations

- (1) The Board may make such statutes, by-laws and regulations as it considers to be necessary or expedient for the control, management and administration of the University and its property.
- (2) Statutes, by-laws or regulations may provide the fixing of fees and charges to be paid to the Board for the use of the University.
- (3) By-laws may provide for the imposition and recovery of pecuniary penalties and for the payment of those penalties to the Board for the use of the University.

21. General provisions as to rules etc.

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

- (2) Statutes, by-laws and regulations may be published in any manner that the Board considers appropriate.
- (3) Rules, statutes, by-laws and regulations are not —
 - (a) written laws or subsidiary legislation within the meaning of the *Interpretation Act 1984*; or
 - (b) regulations within the meaning of section 42 of the *Interpretation Act 1984*.
- (4) Section 43 (other than subsections (6) and (8)(a)(ii)), 44, 45 and 47 of the *Interpretation Act 1984* apply to rules, statutes, by-laws and regulations as if they were subsidiary legislation within the meaning of that Act.
- (5) Statutes, by-laws and regulations apply to and are binding on all academic and other staff, employees and students of the University.

Part 5 — Property

22. Management of property

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

23. Investment common funds

- (1) The Board may establish one or more investment common funds for the collective investment of any trust or other moneys held by or in the custody of the University.
- (2) The Board may from time to time without liability for breach of trust bring into or withdraw from any investment common fund the whole or any part of any trust fund or other moneys held by or in the custody of the University.
- (3) The Board must not bring into any investment common fund the whole or any part of any trust fund —
 - (a) if the instrument creating the trust expressly directs to the contrary;
 - (b) unless all the securities in which the capital of the investment common fund is invested are securities in which the trust fund may properly be invested.
- (4) The Board may if it considers it expedient so to do from time to time add some portion of the income to the capital of the common fund or use some part of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.
- (5) Subject to subsection (4), the Board is to periodically distribute the income of each investment common fund among the funds

participating in the common fund having regard to the extent of the participation by each fund in the common fund during the relevant accounting period.

24. Trust property

(1) The Board —

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

(2) In investing any trust funds held by the University from time to time in a common fund or in a separate trust the Board in addition to the power to invest as trust funds may be invested under Part III of the *Trustees Act 1962* also has power, unless otherwise provided in the trust instrument, to invest in the purchase of improved or unimproved land or in the making of improvements on any land vested in or owned by the University.

[Section 24 amended by No. 1 of 1997 s. 18.]

Part 6 — General

25. **University is an independent body**

- (1) The University is not a State agency or State instrumentality or public statutory body, and, other than as provided in section 25A, no revenue or moneys are to be appropriated for the purposes of the University.
- (2) The University is not a public authority, statutory authority or statutory corporation for the purposes of any written law in which any of those terms is used.
- (3) Without limiting the generality of subsection (2) —
 - (a) the University is not an authority for the purposes of the *Western Australian Treasury Corporation Act 1986*;
 - (b) the University is not a public authority for the purposes of Division 2 of Part 11A of the *Industrial Relations Act 1979*.

[Section 25 amended by No. 1 of 1995 s. 35; No. 16 of 1996 s. 3.]

25A. **Power to borrow and give security**

The University may —

- (a) borrow or re-borrow money or otherwise arrange financial accommodation upon such terms and conditions as the University thinks fit; and
- (b) give such security for the discharge of liabilities incurred by the University as the University thinks fit.

[Section 25A inserted by No. 27 of 1998 s. 8.]

25B. **Minister may lend money**

- (1) The Minister may lend money for capital works to the University, provided the works are for the purposes of the objects of the University.

- (2) Any such loan is to be made out of moneys borrowed by the Minister under section 25C.
- (3) The terms and conditions of any such loan, including the interest to be paid —
 - (a) may be less onerous than those that might reasonably apply to such a loan made commercially; and
 - (b) are to be approved by the Treasurer.
- (4) In subsection (1) —
“**capital works**” means the acquisition of land, the construction, modification and renovation of buildings and the purchase of plant and equipment, or any of those things.

[Section 25B inserted by No. 27 of 1998 s. 8.]

25C. Borrowing by the Minister

- (1) The Minister may borrow moneys for the purpose of lending under section 25B —
 - (a) from the Treasurer on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes; or
 - (b) with the prior written approval of the Treasurer and on such terms and conditions as the Treasurer approves, from persons other than the Treasurer.
- (2) Any moneys borrowed by the Minister under subsection (1)(b) may be raised —
 - (a) as one loan or as several loans; and
 - (b) in such manner as the Treasurer approves.
- (3) The total amount of the moneys borrowed by the Minister under subsection (1)(b) in any one financial year is not to exceed such amount as the Treasurer approves.

[Section 25C inserted by No. 27 of 1998 s. 8.]

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25D. Moneys to be credited and charged to operating account

- (1) The following moneys are to be credited to an operating account approved by the Treasurer —
 - (a) repayments of moneys loaned under section 25B; and
 - (b) moneys borrowed under section 25C.
- (2) The following moneys are to be charged to the operating account —
 - (a) moneys loaned under section 25B; and
 - (b) repayments of moneys borrowed under section 25C.
- (3) In this section —

“operating account” means a trust account established and administered under section 15B of the *Financial Administration and Audit Act 1985*.

[Section 25D inserted by No. 27 of 1998 s. 8.]

25E. Guarantee by the Treasurer

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable by the Minister in respect of moneys borrowed by the Minister under section 25C(1)(b).
- (2) A guarantee is to be in such form and contain such terms and conditions as the Treasurer determines.
- (3) Before a guarantee is given —
 - (a) the Minister is to give to the Treasurer such security as the Treasurer requires; and
 - (b) all instruments that are necessary for the purpose are to be executed.
- (4) The Treasurer may fix charges to be paid by the Minister to the credit of the Consolidated Fund in respect of a guarantee given under this section.

[Section 25E inserted by No. 27 of 1998 s. 8.]

25F. Payments under guarantee

- (1) The due payment of moneys under a guarantee given under section 25E is to be —
 - (a) made by the Treasurer; and
 - (b) charged to, and paid out of, the Consolidated Fund,and this subsection appropriates that Fund accordingly.
- (2) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee given under section 25E.

[Section 25F inserted by No. 27 of 1998 s. 8.]

Part 7 — Accounts, audit and report

26. Definition

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

27. University year

The University year ends on 31 December.

28. Accounting standards and accounts

- (1) The University is to —
 - (a) adopt and comply with the accounting standards applying for the time being under the companies laws;
 - (b) keep such accounting records as correctly record and explain the affairs of the University and its financial position; and
 - (c) keep its accounting records in a manner that will enable —
 - (i) the preparation from time to time of true and fair accounts of the University; and
 - (ii) the accounts of the University to be conveniently and properly audited in accordance with the companies laws as if the University were a body to which the companies laws apply.
- (2) Within 2 months after the end of each University year the Board shall cause to be made out and delivered to the University’s auditor accounts that give a true and fair view of the income and expenditure of the University for that University year and the state of the financial affairs of the University at the end of that University year.

29. Audit

- (1) The Board is to appoint as auditor of the University a person or firm of registered auditors that would be eligible for appointment as auditor to a company under the companies laws.
- (2) In relation to the University the auditor is to exercise the powers and perform the duties of auditors under the companies laws.
- (3) The Board shall cause the accounts of the University and the auditor's report on those accounts, in respect of each University year, to be prepared so as to comply with the requirements and standards with which a company is, and the directors and auditor of a company are, required to comply under the companies laws.

30. Annual report

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

Part 8 — Student associations

[Heading inserted by No. 91 of 1994 s. 15.]

31. Interpretation of Part

In this Part, unless the contrary intention appears —

“student association” includes any association, society, or other body, whether corporate or unincorporate representing the interests of students, or any group of students;

“student” means a person enrolled at the University.

[Section 31 inserted by No. 91 of 1994 s. 15.]

32. Membership of student associations to be voluntary

- (1) It is not compulsory for any student to be a member of a student association.
- (2) It is not compulsory for any student or person seeking enrolment as a student to make a subscription or pay any fee required by a student association, either directly or indirectly, or to pay an amount in lieu of such a subscription or fee, unless that person has chosen to join the student association.
- (3) No academic benefit, right or privilege shall be denied to or withheld from any student by reason of that student not being a member of a student association.

[Section 32 inserted by No. 91 of 1994 s. 15.]

33. University not to accept certain Commonwealth grants

The University shall not —

- (a) accept payment of any amount of financial assistance from the Commonwealth granted to the University for a student association as a result of the State taking or refusing or failing to reverse, action having the effect, directly or indirectly, of preventing or hindering the

imposition of fees for a student association or the collection of those fees;

- (b) accept payment of any amount referred to in paragraph (a) on condition that the University will pay that amount to the student association or pay that amount to the student association without undue delay;
- (c) accept payment of any advance on account of any amount referred to in paragraph (a) that is expected to become payable; or
- (d) accept payment of an advance referred to in paragraph (c) on condition that the University will pay that amount to the student association or pay that amount to the student association without undue delay.

[Section 33 inserted by No. 91 of 1994 s. 15.]

34. Student association not to accept certain Commonwealth grants

A student association shall not —

- (a) accept payment of any amount of financial assistance from the Commonwealth authorised to be paid to the student association as a result of the State taking or refusing or failing to reverse, action having the effect, directly or indirectly, of preventing or hindering the acceptance by the University, or payment by the University to a student association, of financial assistance from the Commonwealth;
- (b) accept payment of any amount referred to in paragraph (a) on condition that the student association use that amount for the purposes of providing benefits to students or for purposes that further the objects of the student association;
- (c) accept payment of any advance on account of any amount referred to in paragraph (a) that is expected to become payable; or

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- (d) accept payment of an advance referred to in paragraph (c) on condition that the student association will use that amount for the purposes of providing benefits to students or for purposes that further the objects of the student association.

[Section 34 inserted by No. 91 of 1994 s. 15.]

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Notes

¹ This reprint is a compilation as at 1 June 2001 of the *University of Notre Dame Australia Act 1989* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>University of Notre Dame Australia Act 1989</i>	49 of 1989	9 Jan 1990	Proc. 26 Jan 1990 (see s. 2 and <i>Gazette</i> 26 Jan 1990 p. 657)
<i>Voluntary Membership of Student Guilds and Associations Act 1994</i> Pt. 6 ²	91 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Industrial Legislation Amendment Act 1995</i> s. 35	1 of 1995	9 May 1995	Proc. 1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389)
<i>University of Notre Dame Australia Amendment Act 1996</i>	16 of 1996	28 Jun 1996	26 Jul 1996
<i>Trustees Amendment Act 1997</i> s. 18	1 of 1997	6 May 1997	Proc. 16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Acts Amendment (Education Loan Scheme) Act 1998</i> Pt. 4 and 5 ³	27 of 1998	30 Jun 1998	30 Jun 1998 (see s. 2)

² The *Voluntary Membership of Student Guilds and Associations Act 1994* s. 2(2), (3) and (4) reads as follows:

“

- (2) Except as provided in subsection (3), the amendments to each principal Act effected by this Act do not apply in respect of any subscription, fee or amount that became payable under any such principal Act before the commencement of this Act.
- (3) If, before this Act comes into operation, a subscription, fee or amount has been paid under a principal Act that is amended by this Act for membership of a student guild or association in the year commencing 1 January 1995, or any part of that year, the student guild or association shall, upon written application by the

person by or on whose behalf the subscription, fee or amount was paid, refund that subscription, fee or amount.

- (4) The amendments to each principal Act effected by this Act are to be construed subject to the limits of the legislative power of the State and are valid to the extent to which they are within that power.

”

^{3.} The *Acts Amendment (Education Loan Scheme) Act 1998* Pt. 5 reads as follows:

“

Part 5 — Transitional

9. Existing loans may be varied

Despite the repeal of sections 9A(5)(c) and 27C(3) of the *Education Act 1928*, section 17 of the *Vocational Education and Training Act 1996* and section 25A of the *University of Notre Dame Australia Act 1989*, the terms and conditions of a loan made under any of those provisions before the coming into operation of this Act may be varied in the same manner and to the same extent as if the provision had not been repealed.

10. Moneys may be borrowed and paid to Treasurer

- (1) Any moneys advanced to the Education Minister or the Vocational Education and Training Minister under the authorization of the *Treasurer's Advance Authorization Act 1997* for the purpose of lending under the *Education Act 1928*, the *Vocational Education and Training Act 1996* or the *University of Notre Dame Australia Act 1989* and not repaid to the Treasurer before the coming into operation of this Act, are to be repaid, together with the interest accrued and due on those moneys, by the relevant Minister to the Treasurer.
- (2) The Education Minister may borrow moneys under section 9D(1) of the *Education Act 1928*, as amended by this Act, or section 25C(1) of the *University of Notre Dame Australia Act 1989*, as amended by this Act, for the purpose of meeting obligations under subsection (1).
- (3) The Vocational Education and Training Minister may borrow moneys under section 17A(1) of the *Vocational Education and Training Act 1996*, as amended by this Act, for the purpose of meeting obligations under subsection (1).

(4) In this section —

“Education Minister” means the Minister in whom the administration of the *Education Act 1928* is for the time being committed by the Governor;

“Vocational Education and Training Minister” means the Minister in whom the administration of the *Vocational Education and Training Act 1996* is for the time being committed by the Governor.

”

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
Archbishop.....	3
Board.....	3
capital works	25B(4)
companies laws	26
operating account	25D(3)
Provost	3
statute	3
student.....	31
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Trustees	3
University	3
Vice-Chancellor	3