

Western Australia

**University of Notre Dame Australia Act  
1989**

---

As at 01 Feb 2007

Version 02-b0-07

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



## University of Notre Dame Australia Act 1989

---

### CONTENTS

---

<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
3.	Interpretation	2
<b>Part 2 — Establishment and objects</b>		
4.	Establishment and incorporation of University	3
5.	Objects of University	3
6.	Degrees etc.	3
<b>Part 3 — Trustees, officers, Board of Governors and Board of Directors</b>		
7.	Trustees of the University	4
8.	Functions of Trustees	4
10.	Tenure of Trustees	4
11.	Chancellor	5
12.	Deputy Chancellor	5
13.	Powers of Trustees	6
14.	Board of Governors	6
15.	Function of Board of Governors	6
15A.	Board of Directors	6
15B.	Functions of the Board of Directors	7
15C.	Duties of directors and removal for breach	7
16.	Delegation	8
17.	Vice-Chancellor	9
18.	Provost	9

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

19.	Rules	10
20.	Statutes, by-laws and regulations	11
21.	General provisions as to rules etc.	11

**Part 5 — Property**

22.	Management of property	12
23.	Investment common funds	12
24.	Trust property	13

**Part 6 — General**

25.	University is an independent body	14
25A.	Power to borrow and give security	14
25B.	Minister may lend money	14
25C.	Borrowing by the Minister	15
25D.	Moneys to be credited and charged to operating account	16
25E.	Guarantee by the Treasurer	16
25F.	Payments under guarantee	17

**Part 7 — Accounts, audit and report**

26.	Definition	18
27.	University year	18
28.	Accounting standards and accounts	18
29.	Audit	19
30.	Report to the Minister	19

**Notes**

	Compilation table	20
--	-------------------	----

Western Australia

## **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*<sup>1</sup>.

### 2. Commencement

This Act shall come into operation on such day as is fixed by proclamation<sup>1</sup>.

### 3. Interpretation

In this Act unless the contrary intention appears —

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

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

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

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

**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 section 7;

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

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

*[Section 3 amended by No. 8 of 2005 s. 33.]*

## **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 of University**

The objects of the University are —

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

*[Section 5 inserted by No. 8 of 2005 s. 34.]*

### **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, Board of Governors and Board of Directors**

*[Heading inserted by No. 8 of 2005 s. 35.]*

**7. Trustees of the University**

There are to be Trustees of the University consisting of —

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

*[Section 7 inserted by No. 8 of 2005 s. 36.]*

**8. Functions of Trustees**

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

*[Section 8 inserted by No. 8 of 2005 s. 37.]*

*[9. Deleted by No. 8 of 2005 s. 38.]*

**10. Tenure of Trustees**

- (1) A general Trustee or nominee Trustee may be removed from office at any time by the Trustees.
- (2) A Trustee who has held office for an initial term is eligible to hold office for a subsequent term or terms as long as the total period of office does not exceed 12 years.



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

*[Section 10 amended by No. 8 of 2005 s. 39.]*

**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, which must not exceed 8 years, that is 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 of Governors or the Board of Directors at which he or she is present.

*[Section 11 amended by No. 8 of 2005 s. 40.]*

**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, which must not exceed 8 years, that is 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 of Governors or the Board of Directors at which he or she is present.

*[Section 12 amended by No. 8 of 2005 s. 41.]*

**s. 13**

---

**13. Powers of Trustees**

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

**14. Board of Governors**

- (1) There is to be a Board of Governors of the University consisting of —
  - (a) the Trustees;
  - (b) at least 18 other persons who are appointed from time to time by the Trustees.
- (2) A member of the Board of Governors who has held office for an initial term is eligible to hold office for a subsequent term or terms as long as the total period of office does not exceed 12 years or, in the case of a particular member, such longer period set by the Trustees.
- (3) If a member of the Board of Governors is, or has been, the Chancellor or Deputy Chancellor of the University, the period during which the office of Chancellor or Deputy Chancellor is held is not to be taken into account when reckoning the period for the purposes of subsection (2).

*[Section 14 amended by No. 8 of 2005 s. 42.]*

**15. Function of Board of Governors**

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

*[Section 15 inserted by No. 8 of 2005 s. 43.]*

**15A. Board of Directors**

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

- (a) the Chancellor ex officio;
- (b) the Vice-Chancellor ex officio;

- (c) up to 12 other members who are —
  - (i) members of the Board of Governors; and
  - (ii) appointed by the Trustees to be members of the Board of Directors on the nomination of a committee comprising the Chancellor, the Deputy Chancellor and the Vice-Chancellor.

*[Section 15A inserted by No. 8 of 2005 s. 43.]*

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

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

*[Section 15B inserted by No. 8 of 2005 s. 43.]*

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

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

**s. 16**

---

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

*[Section 15C inserted by No. 8 of 2005 s. 43.]*

**16. Delegation**

- (1) The Board of Directors may delegate to any committee or officer of the University any power or duty of the Board of Directors under another provision of this Act.

- (2) The delegation must be in writing and executed by the Board of Directors.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under or as authorised under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Board of Directors to perform a function through an officer or agent.

*[Section 16 inserted by No. 8 of 2005 s. 44.]*

**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 Board of Directors, on the nomination of the Trustees, 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.

*[Section 17 amended by No. 8 of 2005 s. 45.]*

**18. Provost**

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

*[Section 18 amended by No. 8 of 2005 s. 46.]*

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

### **19. Rules**

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

- (a) providing for the manner, and terms and conditions of appointment and the removal or retirement of the general Trustees and the nominee Trustees;
- (b) fixing the maximum number of members of the Board of Governors;
- (c) providing for the manner, terms and conditions of appointment and the removal or retirement of members of the Board of Governors mentioned in section 14(b);
- (d) providing for the manner, terms and conditions of appointment and the removal or retirement of members of the Board of Directors mentioned in section 15A(c);
- (e) providing for the manner in which members of the Board of Directors are to disclose interests;
- (f) providing for the procedure in relation to the removal of a member of the Board of Directors under section 15C(2);
- (g) regulating the procedure for meetings of the Trustees, including the quorum for meetings;
- (h) regulating the sale by the Board of Directors of any of the assets of the University;
- (i) providing for the monitoring or assessment of matters for the purpose of ensuring compliance with section 5; and
- (j) providing for the monitoring and assessment of the performance of the functions of the Board of Directors or any officer of the University.

*[Section 19 inserted by No. 8 of 2005 s. 47.]*

**20. Statutes, by-laws and regulations**

- (1) The Board of Directors 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 of Directors 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 of Directors for the use of the University.

*[Section 20 amended by No. 8 of 2005 s. 48.]*

**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 of Directors 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.

*[Section 21 amended by No. 8 of 2005 s. 48.]*

## Part 5 — Property

### 22. Management of property

Subject to this Act, the Board of Directors, 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.

*[Section 22 amended by No. 8 of 2005 s. 48.]*

### 23. Investment common funds

- (1) The Board of Directors 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 of Directors 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 of Directors 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 of Directors 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 of Directors 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.

*[Section 23 amended by No. 8 of 2005 s. 48.]*

**24. Trust property**

- (1) The Board of Directors —
- (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 of Directors 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; No. 8 of 2005 s. 48.]*

## 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.]*

s. 25D

---

**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 an agency special purpose account established and maintained under section 16 of the *Financial Management Act 2006*.

*[Section 25D inserted by No. 27 of 1998 s. 8; amended by No. 77 of 2006 s. 17.]*

**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 Account in respect of a guarantee given under this section.

*[Section 25E inserted by No. 27 of 1998 s. 8; amended by No. 77 of 2006 s. 4.]*

**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 Account, and this subsection appropriates that Account accordingly.
- (2) The Treasurer is to cause to be credited to the Consolidated Account 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; amended by No. 77 of 2006 s. 4 and 5(1).]*

## **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 of Directors 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.

*[Section 28 amended by No. 8 of 2005 s. 48.]*

**29. Audit**

- (1) The Board of Directors 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 of Directors 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.

*[Section 29 amended by No. 8 of 2005 s. 48.]*

**30. Report to the Minister**

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

*[Section 30 inserted by No. 8 of 2005 s. 49.]*

*[Part 8 deleted by No. 44 of 2002 s. 13.]*

### Notes

- <sup>1</sup> This is a compilation 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. The table also contains information about any reprint.

#### Compilation table

Short title	Number and year	Assent	Commencement
<i>University of Notre Dame Australia Act 1989</i>	49 of 1989	9 Jan 1990	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 <sup>2</sup>	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	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	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 <sup>3</sup>	27 of 1998	30 Jun 1998	30 Jun 1998 (see s. 2)
<b>Reprint of the <i>University of Notre Dame Australia Act 1989</i> as at 1 Jun 2001</b> (includes amendments listed above)			
<i>Acts Amendment (Student Guilds and Associations) Act 2002</i> Pt. 5	44 of 2002	3 Jan 2003	25 Jan 2003 (see s. 2 and <i>Gazette</i> 24 Jan 2003 p. 141)
<i>Universities Legislation Amendment Act 2005</i> Pt. 5 <sup>4</sup>	8 of 2005	7 Jul 2005	13 Aug 2005 (see s. 2 and <i>Gazette</i> 12 Aug 2005 p. 3651)
<b>Reprint 2: The <i>University of Notre Dame Australia Act 1989</i> as at 3 Feb 2006</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(1) and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

- <sup>2</sup> The *Voluntary Membership of Student Guilds and Associations Act 1994* s. 2(2), (3) and (4) are transitional provisions that are of no further effect.



---

<sup>3</sup> 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.

”.

<sup>4</sup> The *Universities Legislation Amendment Act 2005* s. 50 reads as follows:

“

**50. Transitional provisions**

(1) In this section —

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

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

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

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

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

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

(3) As soon as practicable after commencement day —

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

(b) the Roman Catholic Archbishop of the Archdiocese of Sydney is to nominate, with the approval of the existing Trustees, 2 of the existing Trustees to be his representatives.

(4) An existing Trustee who —

(a) is nominated under subsection (3)(a) or (b) is to be taken to be a nominee Trustee for the purposes of the UNDA Act; or

(b) is not so nominated is to be taken to be a general Trustee for the purposes of the UNDA Act,

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

(5) A delegation of a function of the Board of Governors of the University that is in effect immediately before commencement day is, on and from that day, to be taken to be a delegation by the Board of Directors of a function of the Board of Directors.

- (6) The person who was the Vice-Chancellor of the University immediately before commencement day continues, on and from that day, as the Vice-Chancellor of the University for the balance of the term that applied to the person immediately before that day.
- (7) A statute, by-law or regulation made under the UNDA Act section 20 that is in effect immediately before commencement day is, on and from that day, to be taken to have been made by the Board of Directors.
- (8) On and after commencement day agreements, instruments and other documents that had effect immediately before that day —
  - (a) to which the Board of Governors of the University was a party; or
  - (b) which contain a reference to the Board of Governors of the University,have effect, by force of this section, as if —
  - (c) the Board of Directors were substituted for the Board of Governors as a party to the agreement or instrument; and
  - (d) any reference to the Board of Governors were, unless the context otherwise requires, a reference to the Board of Directors.
- (9) An investment common fund established under the UNDA Act section 23 that was in effect immediately before commencement day is, on and after that day, to be treated as if it were established by the Board of Directors.
- (10) If, immediately before commencement day, any duty imposed by the UNDA Act section 30 on the Board of Governors has not been complied with in relation to the Board of Governors for any University year that expired before commencement day, that duty subsists and is to be performed by the Board of Directors.

”.