

1988

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN NATIONAL UNIVERSITY BILL 1988

EXPLANATORY MEMORANDUM

(circulated by authority of the Minister for
Employment, Education and Training,
the Hon J S Dawkins MP)

Australian National University Bill 1988

OUTLINE

The purpose of this Bill is to establish the Australian National University which will be an amalgamation of Canberra's three higher education institutions, ie The Australian National University, Canberra College of Advanced Education and the Canberra Institute of the Arts, [the latter comprised of the Canberra School of Music and the Canberra School of Art.]

Following Government decisions arising from the full review of the Commonwealth's policies for higher education, details of which were announced in "Higher Education - A Policy Statement" (the White Paper) released in July 1988, a Steering Committee was established to advise on the amalgamation of the three Canberra institutions. In October 1988 the Committee made specific recommendations in the Hudson Report concerning the functions and powers of the new University and the composition of its governing council. Particular reference was made to the regional role of the new University and its relationship with the community of the Australian Capital Territory and the surrounding region. At the same time there was recognition of the need to maintain the national and international status of the academic activities in the Territory. In particular reference was made to the functions and role of the ANU's Institute of Advanced Studies and the Institute of the Arts.

This legislation, in implementing the majority of the Hudson Report recommendations, reflects the Government's concern to ensure that institutions be of a size to be economically viable while at the same time catering for local community needs. The amalgamated University will maintain the promotion of excellence in research and teaching, encompassing both internationally recognised post-graduate studies and more vocationally oriented programs. It will have facilities at both the higher education and other levels in the visual and performing arts thus ensuring promotion of the highest standards in these fields.

FINANCIAL IMPACT

There will be no monetary variations when compared to the present arrangements for funding the current institutions in the Australian Capital Territory but economies of scale and rationalisation will mean better resource usage. Expected cost efficiencies will enable greater opportunities through an economic expansion of student numbers and the provision of wider subject choices.

CLAUSES OF THE BILL

PART 1 - PRELIMINARY

- Clause 1: Short title
- Clause 2: Commencement: This Clause provides for the Act to commence on 1 July 1989.
- Clause 3: Interpretations: This Clause defines words and terms used in the Bill.

PART 2 - THE AUSTRALIAN NATIONAL UNIVERSITY

Division 1 - Establishment of the University

- Clause 4: Establishment of the University: This Clause provides for the University to be established as a body corporate, to have a seal, to be involved in real and personal property transactions, and for judicial recognition to be given to the use of the seal of the University.
- Clause 5: Functions of the University: This Clause provides that the University will function in such a way as to provide higher education studies at both a local and national level and to undertake research. It will also provide for a full range of studies in respect of the visual and performing arts, is able to accept students from both within Australia and from overseas, and to award and confer degrees, diplomas and certificates as qualifications as the result of studies at or through the University. Special attention is to be given to the needs of the Australian Capital Territory and the surrounding regions.
- Clause 6: Powers of the University: This Clause provides for the University to have power to do all things necessary or convenient to the performance of its functions. While specific powers are listed they are not to be considered restrictive. Provision is included for the University to act as trustee for any money or property held in trust and for the powers of the University to be exercised both within and outside Australia.

Clause 7: Organisation of the University: This Clause provides for the University to have an Institute of Advanced Studies, and a group of faculties and other bodies to be known as the Faculties or by any other name as decided by the Council. This group is to include an Institute of the Arts and such other faculties and bodies as determined by Council.

Division 2 - The Council

Clause 8: The Council: This Clause provides that the governing authority of the University is to be the Council, the powers and composition of which are defined under Clauses 9 and 10.

Clause 9: Powers of Council: This Clause provides for the Council to have full control and management of the University including the appointment of staff to positions of responsibility and the discretion to operate in the best interests of the University as assessed by the Council.

Clause 10: Constitution of the Council: This Clause provides for the composition of the Council and for the periods of appointment for each of the categories of persons comprising the Council.

Clause 11: Qualifications for membership of Council: This Clause provides that a person to be a member of Council should be over the age of eighteen years and of good character.

Clause 12: Meetings of Council: This Clause provides that the Chancellor, or if the Chancellor is not present, a member of Council elected by the members present, shall preside at meetings of the Council. It also specifies the numbers required for a quorum at such a meeting.

Clause 13: Disclosure of interests of members: This Clause provides that a member of Council should disclose any direct or indirect pecuniary interest in any matter being considered at a meeting of the Council, and the conditions relating to this.

Clause 14: Vacation of Office: This Clause describes the conditions relating to the termination of membership of Council and provides for the seat of a terminated member to be filled as a casual vacancy under conditions provided for under Clause 15.

Clause 15: Casual vacancies: This Clause provides for the conditions of the filling of a position on Council as a casual vacancy.

Clause 16: Delegation to a member of Council, etc: This Clause provides for the Council to delegate all or any of its functions or powers to:

- . a member of Council, or;
- . a person holding executive office, or;
- . a member of staff of the University.

Such a delegation may be revoked by resolution.

Clause 17: Delegation to committee of Council: This clause provides for Council to delegate all or any of its functions or powers to a committee, consisting of

- . members of the Council;
- . members of the Council and other persons

and sets out how such powers are to be exercised by the Committee.

Division 3 - The Institute of Advanced Studies

Clause 18: Constitution of Institute: This Clause provides that The Institute shall consist of research schools and other bodies as prescribed by the Council. The fields of learning shall include medical science, physical sciences, social sciences, Pacific studies as well as such other fields of learning as determined by the Council. It provides that the research school in medical science shall be known as "The John Curtin School of Medical Research" and that the names of the other schools or bodies shall be as determined by the Council.

Clause 19: Board of Institute: This Clause provides that there will be a Board of the Institute and that it shall be responsible under the Council for all academic matters of the Institute.

Clause 20: Constitution of Board: This Clause provides for specified persons or categories of persons to be members of the Board, including such persons (if any) appointed by Council after receiving advice from the Board.

Clause 21: Chairperson of Board: This Clause provides for the Council to appoint from time to time a Professor in the Institute to be Chairperson of the Board and that the Board shall have had the opportunity to tender advice to the Council in relation to the appointment.

Clause 22: Terms of office of Board members: This Clause provides the conditions of appointment including period of membership of the Board.

Clause 23: Meetings of Board: This Clause provides for the Chairperson, or in certain conditions another member of the Board elected by the members present, to preside at a meeting and that a quorum for the Board shall be as provided by Statute.

Division 4 - The Board of the Faculties

Clause 24: Board of the Faculties: This Clause provides that there will be a Board of Faculties and that it shall be responsible under the Council for all academic matters of the Faculties.

Clause 25: Constitution of Board: This Clause provides for specified persons or categories of persons to be members of the Board, including such persons (if any) appointed by Council after receiving advice from the Board.

Clause 26: Chairperson of Board: This Clause provides for the Council to appoint from time to time a Professor in the Faculties to be Chairperson of the Board and that the Board shall have had the opportunity to tender advice to the Council in relation to the appointment.

Clause 27: Terms of office of Board members: This Clause provides the conditions of appointment including period of membership of the Board.

Clause 28: Meetings of Board: This Clause provides for the Chairperson, or in certain conditions another member of the Board elected by the members present, to preside at a meeting and that a quorum for the Board shall be as provided by Statute.

Division 5 - Convocation

Clause 29: Constitution of Convocation: This Clause specifies those persons eligible to be members of Convocation and requires the Council to cause a roll to be kept of all members. Meetings of Convocation are to be convened by the Vice-Chancellor, or as is provided in the Statutes.

Clause 30: Quorum at meetings of Convocation: This Clause provides that a quorum for a meeting of Convocation is 25 members of Convocation.

Division 6 - Senior Officers of the University

Clauses 31, 32, 33, 34, & 35: Senior Officers of the University: These Clauses provide for the Council to appoint the Chancellor, Vice-Chancellor and Deputy Vice-Chancellor. Acting appointments for no more than 12 months can be made to a vacancy occurring in the office of Vice-Chancellor or of Deputy Vice-Chancellor.

Division 7 - Miscellaneous

Clause 36: Execution of contracts: This Clause provides for the conditions under which the University may make contracts.

Clause 37: Validity of acts and proceedings: This Clause provides that acts or proceedings of a University body, members or committee of a University body, or by the Chancellor or the holder of an executive office shall not be invalid if there is any defect or disqualification relating to members of the body, or in the convening of a meeting, or because of any vacancy in membership of a Council, Board or committee of such a Council or Board.

PART III - FINANCIAL MATTERS

Division 1 - Fees

Clauses 38: Fees: This Clause provides that fees are not payable to the University except:
 . as provided in Statutes.

Clause 39: Guidelines relating to certain fees

Division 2 - Finances of the University

- Clauses 40 Financial machinery provisions: These Clauses
41 & 42: provide mechanisms within standard Government
procedures for the appropriation or application
to and borrowing of moneys by the University.
- Clause 43: Proper accounts to be kept etc
- Clause 44: Bank accounts
- Clause 45: Audit
- Clause 46: Taxation: This Clause provides that the University
is not subject to taxation under the laws of the
Commonwealth, State or Territory unless
regulations under a Law provide for that Law to
be applicable to the University.
- Clause 47: Annual report and financial statements

PART IV - STATUTES

- Clause 48: Statutes: This Clause makes provision for the
Council to make Statutes relating to a range of
matters and to make rules or orders not
inconsistent with the Act.
- Clause 49: Statute relating to traffic: This Clause relates
specifically to the making of statutes in regard
to traffic on, in or through the campus or land
occupied by the University in the Australian
Capital Territory.
- Clause 50: Statutes to be approved by Governor General and
published: This Clause provides for Statutes made by
the Council to be:
- . approved by the Governor-General;
 - . notified in the Gazette;
 - . tabled in each House of Parliament; and
- for copies to be available for purchase.

PART V - CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

Division 1 - Preliminary

- Clause 51: Interpretation: This Clause defines the words and
terms used in this Part of the Act.

Division 2 - Repeal

Clause 52: Repeal: This Clause provides for the Australian National University Act 1946 and the Canberra College of Advanced Education Act 1967, both as amended, and for the Canberra Institute of the Arts Ordinance 1988 of the Australian Capital Territory to be repealed.

Division 3 - General

Clause 53: University successor in law of old institutions

Clause 54: Transfer of assets and liabilities of old institutions: This Clause provides for the assets, liabilities and assets held on trust of each of the old institutions to be assets, liabilities or assets held on trust of the University.

Clause 55: Old institution instruments: This Clause provides for any old institution instrument as defined to continue to have effect but in relation to the University.

Clause 56: State or Territory officer may act on certificate

Clause 57: Pending proceedings: This Clause provides for the University to be substituted for any of the old institutions where an old institution was a party to court proceedings.

Clause 58, and 59: First Vice-Chancellor and Deputy Vice-Chancellor: This Clause provides for the Minister to appoint the first Vice-Chancellor and the first Deputy Vice-Chancellor.

Clause 60: Preservation of statutes etc of old institutions

Clause 61: Staff of old institutions: This Clause provides for the transfer of the staff of old institutions to the University with the preservation of their existing rights and entitlements.

Clause 62: Students of old institutions: This Clause serves to preserve the right of students enrolled in a course in an old institution to be enrolled as a student in the University in a course substantially the same as the course undertaken at the old institution, and requires the University to offer such a course as is required to meet this requirement.

Clause 63, and 64: Transfer of appropriated money and Annual report and financial statement

Division 4 - The Council during transitional period and later

Clause 65: Application of Division

Clause 66: First Deputy Vice-Chancellor to be a member of Council

Clause 67: Extra member of Council

Clauses 68 and 69: Chairpersons of Board of Institute and Board of Faculties: These clauses provide for the Chairperson of the Board of the Institute of Advanced Studies of the old University and for the Chairperson of the Board of Faculties of the old University to be members of the Council as a transitional arrangement.

Clause 70: Council Members elected by convocation: This Clause provides for the Minister to appoint two qualified persons to the Council who have held office under the equivalent sections of the old University and College Acts. Such people are to cease to be holders of office upon election of Convocation members to Council.

Clause 71: Council member elected by academic staff of Institute: This Clause enables the Minister, after receiving advice from the Vice-Chancellor, to appoint to the Council a member elected by the academic staff of the Institute. Such person should have held office in an equivalent capacity in the Council of the old University, and is to hold office only until the election of an equivalent member to the Council of the University.

Clauses 72, 73 & 74: Council members elected by academic staff of the Faculties, general staff and students: These Clauses enable the Minister, after receiving advice from the Vice-Chancellor, to appoint to the Council two members elected respectively by:

- . the academic staff of Faculties;
- . the general staff, and;
- . students.

Such persons should have held office in equivalent capacities in the Council of the old University, and are to hold office only for the transitional period. The Minister may fill a casual vacancy in such an appointment if any should occur in the transitional period.

Clause 75: Special provisions relating to certain members of Council

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MEMBERSHIP OF COUNCIL

CATEGORY	PERMANENT	TRANSITIONAL PERIOD
Vice-Chancellor	1	1
First Deputy Vice-Chancellor		1(a)
Chairperson of Board of Institute of Advanced Studies (IAS)	1	1
Chairperson of Board of Faculties	1	1
Appointed by the Governor-General including two on the nomination of Chief Minister of the ACT	6	6
Appointed by the Governor-General on nomination of the Prime Minister	1	1
Appointed by the Governor-General on nomination of Leader of the Opposition	1	1
Elected by Convocation	2	2
Academic staff of IAS	1	1
Academic staff of Faculties	1	2
General staff	1	2
Students	1	2
Extra member	1	2
	<u>18</u>	<u>23</u>

- (a) The First Deputy Vice-Chancellor will remain a member of Council whilst he remains in that position.

