

1991

THE PARLIAMENT OF THE  
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN NATIONAL UNIVERSITY BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for  
Higher Education and Employment Services,  
the Hon Peter Baldwin MP)

## Australian National University Bill 1991

### OUTLINE

The purpose of this Bill is to provide for the amalgamation of two higher education institutions in the Australian Capital Territory, i.e. The Australian National University 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, including the former Canberra College of Advanced Education. 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 Australian National University's Institute of Advanced Studies and the Institute of the Arts.

This legislation, in implementing the majority of the Hudson Report recommendations, albeit for only two of the three institutions, 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 postgraduate 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 facilitate better resource usage.

## NOTES ON CLAUSES OF THE BILL

### PART 1 - PRELIMINARY

- Clause 1:            Short title
- Clause 2:            Commencement: Provides for the Act to commence on 1 January 1992.
- Clause 3:            Interpretation: 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: Provides for the continued existence of the University established under the Australian National University Act 1946 as a body corporate. The University will continue to have a seal and to be involved in real and personal property transactions. Judicial recognition is given to the use of the seal of the University.
- Clause 5:            Functions of the University: The University will provide higher education studies, including a full range of studies in respect of the visual and performing arts and undertake research. The University may accept students from both within Australia and from overseas, and award and confer degrees, diplomas and certificates, whether in its own right or jointly with other institutions. Special attention is to be given to the needs of the Australian Capital Territory and the surrounding regions in addition to the national and international roles of the University.
- Clause 6:            Powers of the University: 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: The University will have an Institute of Advanced Studies, and a group of faculties and other bodies to be known as The Faculties. This group is to include an Institute of the Arts, including the Canberra School of Music and the Canberra School of Art and such other faculties and bodies as are determined by Council.

## Division 2 - The Council

Clause 8:            The Council 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: The Council is to have full 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 Council: The composition of the Council and the periods of appointment for each of the categories of persons comprising the Council are specified in this Clause.

Clause 11:          Qualifications for membership of Council: Members of Council should be over the age of eighteen years, not be an undischarged bankrupt, serving a prison sentence or have had the control of their property removed, under a State or Territory law, due to mental incapacity.

Clause 12:          Meetings of Council: The Chancellor or the Pro-Chancellor shall preside at meetings of the Council and the numbers required for a quorum at such a meeting are specified in the Clause.

Clause 13:          Resolutions without meetings: Resolutions may be passed without meetings, by a majority of members of Council signing a copy of the resolution. The request to pass the resolution must be circulated by the Chancellor or the Pro-Chancellor to all members of Council.

Clause 14:          Disclosure of interests of members: Members of Council must 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 15:      Vacation of Office: Membership of Council is terminated under specified conditions and the seat of a terminated member is to be filled as a casual vacancy under conditions provided for under Clause 16.

Clause 16:      Casual vacancies: Casual vacancies on Council may be filled as specified in this Clause.

Clause 17:      Delegation to member of Council, etc: The Council may delegate all or any of its functions or powers, except its powers in relation to making Statutes, to:

- . a member of Council; or
- . a member of staff of the University.

Council may revoke a delegation.

Clause 18:      Delegation to committee of Council: The Council may delegate all or any of its functions or powers, except its powers in relation to making Statutes, to a committee, consisting of

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

and such powers are to be exercised in the specified manner.

Council may revoke a delegation.

### Division 3 - The Institute of Advanced Studies

Clause 19:      Constitution of the Institute: 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. The research school in medical science shall be known as "The John Curtin School of Medical Research" and the names of the other schools or bodies shall be as determined by the Council.

Clause 20:      Board of the Institute: There will be a Board of the Institute, it shall be responsible under the Council for all academic matters of the Institute and may advise Council on matters related to the University generally.

Clause 21:      Constitution of Board: The membership of the Board is specified by this Clause.

- Clause 22:      Chairperson of Board: Council shall appoint from time to time a professor in the Institute to be Chairperson of the Board and the Board shall have had the opportunity to tender advice to the Council in relation to the appointment.
- Clause 23:      Terms of office of Board members: The conditions of appointment including period of membership of the Board are specified in this Clause.
- Clause 24:      Meetings of Board: The Chairperson, or in certain conditions another member of the Board elected by the members present, shall preside at a meeting and a quorum for the Board shall be as provided by Statute.

#### Division 4 - The Board of The Faculties

- Clause 25:      Board of The Faculties: There will be a Board of The Faculties, it shall be responsible under the Council for all academic matters of The Faculties and it may advise the Council on the academic activities of the University, generally.
- Clause 26:      Constitution of Board: The membership of the Board is specified in this clause.
- Clause 27:      Chairperson of Board: Council shall appoint from time to time a qualified person in The Faculties to be Chairperson of the Board and the Board shall have had the opportunity to tender advice to the Council in relation to the appointment.
- Clause 28:      Terms of office of Board members: The conditions of appointment, including period of membership of the Board, are specified in this Clause.
- Clause 29:      Meetings of Board: The Chairperson, or in certain conditions another member of the Board elected by the members present, shall preside at a meeting and a quorum for the Board shall be as provided by Statute.

#### Division 5 - Convocation

- Clause 30:      Constitution of Convocation The membership of Convocation is specified by this Clause. Council shall cause a roll to be kept of all members of Convocation. Meetings of Convocation are to be convened by the Vice-Chancellor, or as is provided in the Statutes.
- Clause 31:      Quorum at meetings of Convocation: A quorum for a meeting of Convocation is 50 members.

### Division 6 - Senior officers of the University

Clauses 32, 33, 34, 35, 36 & 37:      Senior Officers of the University: Council shall appoint the Chancellor, Pro-Chancellor, Vice-Chancellor and one or more Deputy Vice-Chancellors. Acting appointments for no more than 12 months can be made to a vacancy occurring in the office of Vice-Chancellor or of a Deputy Vice-Chancellor. The Division has effect subject to the Remuneration Tribunal Act 1973.

### Division 7 - Miscellaneous

Clause 38:      Execution of contracts: Contracts may be made on behalf of the University in writing under the seal or by any person, with the authority of Council, and the contract can be executed by that person.

Clause 39:      Validity of acts and proceedings: 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.

Clause 40:      Religious test not to be administered

## PART 3 - FINANCIAL MATTERS

### Division 1 - Fees

Clause 41:      Fees and guidelines relating to certain fees:  
Fees are not payable to the University except:

.      as provided in Statutes

The Minister may issue guidelines in relation to specified classes of fees that can be charged by the University. The Guidelines must be published in the Gazette.

### Division 2 - Finances of the University

Clauses 42, 43 & 44:      Finance machinery provisions: Appropriated moneys are payable to the University and it may apply these and other monies to University purposes within standard Government procedures. The University may also borrow money subject to limits set by the Treasurer.

- Clause 45:      Proper accounts to be kept etc
- Clause 46:      Bank accounts
- Clause 47:      Audit
- Clause 48:      Taxation: The University is not subject to taxation under the laws of the Commonwealth or of a State or Territory unless regulations provide for that Law to be applicable to the University.
- Clause 49:      Annual report and financial statements

#### PART 4 - STATUTES

- Clause 50:      Statutes: Council may make Statutes relating to a range of matters and make rules or orders not inconsistent with the Act.
- Clause 51:      Statutes relating to traffic: Council may make statutes in regard to traffic on, in or through the campus or land occupied by the University in the Australian Capital Territory.
- Clause 52:      Statutes to be approved by Governor-General and published: Statutes made by the Council are to be:
- . approved by the Governor-General;
  - . notified in the Gazette;
  - . tabled in each House of Parliament; and
  - . copies to be available for purchase.

#### PART 5 - CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

##### Division 1 - Preliminary

- Clause 53:      Interpretation: The words and terms used in this Part of the Act are defined.

##### Division 2 - Repeal

- Clause 54:      Repeal: The Australian National University Act 1946 as amended, and the Canberra Institute of the Arts Ordinance 1988 are repealed.

##### Division 3 - General

- Clause 55:      Senior officers to continue in office: The Chancellor, Vice-Chancellor and Deputy Vice-Chancellor appointed under the original Act are assumed to continue in those offices under Part 2.

- Clause 56:      University successor in law of the Arts Institute
- Clause 57:      Preservation of Statutes etc
- Clause 58:      Transfer of assets and liabilities of the Arts Institute: the assets and liabilities of the Arts Institute become the assets and liabilities of the University. Assets held on trust by the Arts Institute are to be held on trust by the University under the same terms and conditions.
- Clause 59:      Arts Institute instruments: Any Arts Institute instrument as defined is to continue to have effect but in relation to the University.
- Clause 60:      State or Territory officer may act on certificate
- Clause 61:      Pending proceedings: The University shall be substituted for the Arts Institute where the Arts Institute was a party to court proceedings.
- Clause 62:      Staff of the Arts Institute: Staff of the Arts Institute shall transfer to the University with the preservation of their existing rights and entitlements.
- Clause 63:      Students of the Arts Institute: The right of students enrolled in a course in the Arts Institute to be enrolled as a student in the University in a course substantially the same as the course undertaken at the Arts Institute is preserved, and the University shall offer such a course as is required to meet this requirement.
- Clause 64:      Granting of Arts Institute awards: The University may grant an Arts Institute award where the course requirements were completed before commencement.
- Clauses 65 and 66:      Transfer of appropriated money and annual report and financial statement

Division 4 - Membership of Council immediately after commencement and during transitional period

- Clause 67:      Application of Division
- Clause 68:      Chairperson of the Arts Institute: The Executive Chairperson of the Arts Institute shall be a member of Council for twelve months from proclamation.

- Clauses 69 and 70: Chairpersons of Board of the Institute and Board of The Faculties: The Chairperson of the Board of the Institute of Advanced Studies of the University and the Chairperson of the Board of The Faculties of the University, prior to commencement, continue as members of the Council.
- Clause 71: Council members elected by Convocation: The Minister, after receiving advice from the Vice-Chancellor, may appoint two qualified persons to the Council.
- Clause 72: Council member elected by academic staff of the Institute: The Minister, after receiving advice from the Vice-Chancellor, may appoint a qualified person to the Council.
- Clauses 73 & 74: Council members representing academic staff of The Faculties and general staff: The Minister, after receiving advice from the Vice-Chancellor, may appoint a qualified person in each class to the Council.

Division 5 - Amendment of the Employment, Education and Training Act 1988

- Clause 75: Principal Act: Defines the term for the purpose of this Division.
- Clause 76: Schedule 1: Omits "Canberra Institute of the Arts" from Schedule 1 of the Employment, Education and Training Act 1988.













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