



Western Australia

## **Curtin University Act 1966**

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# Curtin University Act 1966

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**Defined terms**

Western Australia

## **Curtin University Act 1966**

**An Act to establish and incorporate Curtin University and for incidental and other purposes.**

*[Long title amended by No. 37 of 1981 s. 3; No. 96 of 1986 s. 11; No. 32 of 2016 s. 4.]*

## **Part 1 — Preliminary**

*[Heading inserted by No. 32 of 2016 s. 5.]*

### **1. Short title**

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

*[Section 1 amended by No. 96 of 1986 s. 11; No. 32 of 2016 s. 6.]*

### **2. Commencement**

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

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

### **4. Terms used**

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

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

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

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

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

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

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

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

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

***residential accommodation*** —



- (a) means any form of accommodation (including, without limitation, a residential college, hostel, hall of residence or form of independent living); and
- (b) includes facilities that are —
  - (i) ancillary to residential accommodation; and
  - (ii) primarily for the use of staff of the University, or enrolled students, or both;

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

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

**University** means Curtin University established under this Act;

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

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

*[Section 4 amended by No. 49 of 1971 s. 2; No. 31 of 1974 s. 2; No. 37 of 1981 s. 5; No. 59 of 1982 s. 3; No. 51 of 1983 s. 14 (as amended by No. 96 of 1986 s. 13); No. 77 of 1985 s. 4; No. 96 of 1986 s. 4 and 11; No. 7 of 1988 s. 15; No. 35 of 1996 s. 4; No. 32 of 2016 s. 7.]*

## **Part 2 — Curtin University**

*[Heading inserted by No. 32 of 2016 s. 8.]*

### **Division 1 — The University**

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

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

- (1) There continues to be a body corporate, to be called “Curtin University”.
- (2A) Curtin University is the same body corporate —
  - (a) that was established under this Act and originally called the “Western Australian Institute of Technology”; and
  - (b) that was renamed the “Curtin University of Technology” by the amendments made to this Act by the *Western Australian Institute of Technology Amendment Act 1986* section 5.
- (2) The University —
  - (a) has perpetual succession; and
  - (b) shall have a common seal; and
  - (c) may sue and be sued in any court; and
  - (d) may take, purchase and hold real and personal property, including property devised, bequeathed or given to the University; and
  - (e) may grant, sell, alienate, assign or demise real and personal property acquired or held by the University as it thinks fit subject only, in respect of property devised, bequeathed or given to the University, to the express trusts of any deed, will, or instrument under which the property was acquired by the University; and
  - (ea) may grant leases of land vested in the University under section 20 or 31 for a term not exceeding 99 years

subject, where the term exceeds 21 years, to the approval of the Minister; and

- (eb) may enter into business arrangements; and
- (f) may do and suffer all other acts and things that bodies corporate may by law do and suffer.

*[Section 5 amended by No. 37 of 1981 s. 6; No. 96 of 1986 s. 5 and 11; No. 35 of 1996 s. 31; No. 32 of 2016 s. 9.]*

**6. Common seal of University**

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

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

**7. Functions of University**

- (1) The functions of the University shall include the following —
  - (a) to provide courses of study appropriate to a university, and other tertiary courses;
  - (b) to encourage and participate in the development and improvement of tertiary education whether on a full or part-time basis;
  - (c) to provide such other courses as may be approved by the Council;
  - (d) to undertake and support scholarship, pure and applied research, invention, innovation, education and consultancy, and to apply those matters to the advancement and application of knowledge —
    - (i) to the benefit of industry, business and government; and

- (ii) to the benefit and wellbeing of the Western Australian, Australian and international communities;
  - (ea) to commercially develop or commercially use, for the University's benefit, any facility, resource or property (real or personal) of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others;
  - (eb) to generate revenue for the purpose of funding the carrying out of its functions;
  - (e) to foster the general welfare and development of its enrolled students;
  - (f) subject to this Act and the Statutes to make appropriate academic awards to enrolled students who have attained standards approved by the University in examinations and to other persons as prescribed;
  - (ga) to serve the Western Australian, Australian and international communities and the public interest by —
    - (i) enriching cultural and community life; and
    - (ii) raising public awareness of educational, scientific and artistic developments; and
    - (iii) promoting critical and free enquiry, informed intellectual discussion and public debate within the University and in the wider society;
  - (g) to provide such facilities relating to the foregoing functions as the Council thinks necessary or conducive for their attainment.
- (2) The University shall have all such powers, rights and privileges as are reasonably necessary to enable it to carry out its functions.

- (3) The University may carry out its functions and exercise its powers, including the power to enter into business arrangements, within or outside the State.

*[Section 7 inserted by No. 96 of 1986 s. 6; amended by No. 43 of 1998 s. 4; No. 32 of 2016 s. 10.]*

### **Division 2 — The Council**

#### **8. Council**

The governing authority of the University (including the Kalgoorlie Campus) is the Council.

*[Section 8 amended by No. 96 of 1986 s. 11; No. 32 of 2016 s. 11.]*

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

- (1) The Council consists of the following members —
- (a) 3 persons appointed by the Governor on the recommendation of the Minister;
  - (b) the person for the time being holding the office of Vice-Chancellor;
  - (c) one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
  - (d) 2 persons who are enrolled students —
    - (i) one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and
    - (ii) one of whom is a postgraduate student and who is elected by the postgraduate students in the manner prescribed by Statute;
  - (e) one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;

- (f) 2 persons who are graduates of the University and who are elected by the graduates of the University in the manner prescribed by Statute;
- (g) the person who, not being a member of the Council at the time of their appointment as Chancellor, is appointed Chancellor under section 11;
- (h) not more than 5 persons appointed from time to time by co-option by the Council, but a person whose sole or principal employment is that of a member of the staff of the University may not be so appointed;
- (i) the person for the time being the chairperson of the Academic Board of the University established by Statute.

(2A) The fact that a person holds an elective office (for example, an elective office of the Student Guild) does not disqualify that person from being appointed or holding office under subsection (1).

(2) Of the members —

- (a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector); and
- (b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector),

and the member mentioned in paragraph (b) may also be one of the members mentioned in paragraph (a).

*[(3) deleted]*

*[Section 9 amended by No. 57 of 1969 s. 2; No. 57 of 1970 s. 3; No. 49 of 1971 s. 3; No. 37 of 1981 s. 7; No. 59 of 1982 s. 4; No. 96 of 1986 s. 11; No. 7 of 1988 s. 16; No. 22 of 1996 s. 16(3); No. 35 of 1996 s. 5 and 32; No. 36 of 1999 s. 247; No. 8 of 2005 s. 4; No. 32 of 2016 s. 12.]*

**9AA. Nominations Committee**

- (1) The Council must establish and maintain a committee of the Council called the Nominations Committee.
- (2) The Nominations Committee is to consist of not more than 6 members appointed by the Council.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
  - (a) the Vice-Chancellor;
  - (b) the member referred to in section 9(1)(c);
  - (c) the members referred to in section 9(1)(d);
  - (d) the member referred to in section 9(1)(e);
  - (e) the members referred to in section 9(1)(f);
  - (f) the chairperson of the Academic Board of the University.
- (4) The functions of the Nominations Committee are —
  - (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of —
    - (i) any member of the Council who is appointed by the Governor or the Council; or
    - (ii) any member of the Kalgoorlie Campus Council who is appointed by the Minister or the Council;
  - (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of —
    - (i) any member of the Council who is appointed under section 9(1)(a); or
    - (ii) any member of the Kalgoorlie Campus Council who is appointed under section 21M(1)(a), (b) or (c);

- (c) to recommend to the Council suitable candidates for appointment by co-option under section 9(1)(h).
- (5) The fact that the Nominations Committee or the Council has not recommended a person for appointment under section 9(1) or 21M(1) does not prevent the person from being appointed or holding office under section 9(1) or, as the case requires, section 21M(1).
- (6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by the Council.

*[Section 9AA inserted by No. 32 of 2016 s. 13.]*

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

- (1) Subject to section 10 —
  - (a) a member appointed under section 9(1)(a) or (h) holds office for a period of 3 years, commencing on the day of their appointment, unless a shorter term of office is specified under subsection (4);
  - (b) a member elected under section 9(1)(c), (e) or (f) holds office for a period of 3 years, commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5);
  - (c) a member elected under section 9(1)(d) holds office for a period of one year commencing on the day their election takes effect, unless a shorter term of office is specified under subsection (5).
- (2) An appointed (which includes co-opted) or elected member, on the expiry of their term of office —
  - (a) may be again appointed or elected, if they continue to be qualified under section 9; but
  - (b) on the expiry of a third successive term of office (of whatever duration), they are not eligible to hold office as a member until 12 months have elapsed after that expiry.



- (3) However, a member elected under section 9(1)(d) may be re-elected once, but only once, on the expiry of their term of office, if they continue to be qualified under section 9.
- (4) The Governor or the Council may, when appointing a person as a member, specify a shorter term of office where an appointment for a shorter term is desirable to ensure that —
  - (a) the terms of office of members expire at intervals that will produce reasonable continuity of membership; or
  - (b) the terms of office expire on dates that afford the convenience of uniformity.
- (5) The Council may, before an election is held for the purposes of section 9(1), specify that the election of a person is for a shorter term of office where election for a shorter term is desirable for a reason referred to in subsection (4).

*[Section 9A inserted by No. 32 of 2016 s. 14.]*

**9B. Members' duties**

Schedule 1A Division 1 has effect.

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

**10. Vacation of office**

If a member —

- (a) dies; or
- (b) resigns their office by written notice given to the Minister; or
- (c) is a person in respect of whom an administration order is in force under Part 6 of the *Guardianship and Administration Act 1990*; or
- (d) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (e) is convicted of an indictable offence; or

- (ea) is removed from office by the Council under section 10AA; or
- (eb) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
- (f) is absent without leave of the Council from 3 consecutive meetings of the Council; or
- (g) ceases to hold the qualification required under section 9 for being a member, and in particular —
  - (i) in the case of a person elected under section 9(1)(c), they cease to be a member of the academic staff; or
  - (ii) in the case of a person elected under section 9(1)(d), they cease to be an enrolled student; or
  - (iii) in the case of a person elected under section 9(1)(e), they cease to be a member of the non-academic salaried staff,

their office becomes vacant and must be filled as a casual vacancy in accordance with section 10A.

*[Section 10 amended by No. 49 of 1971 s. 4; No. 37 of 1981 s. 9; No. 96 of 1986 s. 11; No. 24 of 1990 s. 123; No. 8 of 2005 s. 8; No. 18 of 2009 s. 28(2); No. 32 of 2016 s. 15.]*

**10AA. Removal of members for breach of certain duties and suspension pending removal**

- (1) The Council may —
  - (a) remove from office a member for breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3;
  - (b) suspend from office a member who is alleged to have breached a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 until the motion for removal is put to the vote.

- (2) The removal or suspension from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed or suspended from office for breach of duty) was duly given.
- (3) Despite section 13(1), the removal or suspension of a member from office may be effected only if the motion for removal or suspension is supported by a majority comprising enough of the members for the time being for their number to be at least two-thirds of the total number of offices (whether vacant or not) of member.
- (4) The motion for removal or suspension must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.
- (5) If the member to whom the motion for removal or suspension refers does not attend the meeting, a reasonable opportunity to reply to the motion is to be taken to have been given if notice of the meeting has been duly given.
- (6) The Council cannot remove or suspend from office a member for breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 except in accordance with this section.
- (7) A person must not vote on any question relating to the person's removal or suspension from office by the Council for the breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3, or be present while the matter is being considered at a meeting.
- (8) This section applies only in relation to a breach of a duty mentioned in Schedule 1A clause 1(1), 2(1) or 3 that occurs after the *Universities Legislation Amendment Act 2005* comes into operation<sup>1</sup>.
- (9) A person does not breach a duty mentioned in Schedule 1A clause 1(1)(a), (b) or (c) by doing or omitting to do anything in compliance with a direction given to the person in exercise of a power conferred by a written law.

- (10) Subsection (9) does not extend to the manner in which a thing is done or omitted if it is done or omitted in a manner that is contrary to Schedule 1A clause 1(1)(a), (b) or (c) and the direction did not require that it be done in that manner.
- (11) The suspension from office of a member does not create a vacancy in that office.

*[Section 10AA inserted by No. 8 of 2005 s. 9; amended by No. 32 of 2016 s. 16.]*

**10A. Casual vacancies**

If a casual vacancy occurs in the office of a member, the vacancy is to be filled in the same manner as if that member's term of office had expired.

*[Section 10A inserted by No. 32 of 2016 s. 17.]*

**11. Meetings of Council**

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

and while so presiding the Pro-Chancellor of the University or the member, as the case may be, has all the powers and duties of the Chancellor.

- (4) Subject to the Statutes, the Council shall hold such meetings thereof as are necessary for the performance of its functions.
- (5) Subject to the Statutes, the Chancellor may at any time convene a meeting of the Council and shall convene a meeting when requested in writing by the Minister to do so or when so requested by any 3 members.
- (6) Subject to this Act and the Statutes the Council may regulate its own procedure in such manner as it thinks fit.

*[Section 11 amended by No. 96 of 1986 s. 11; No. 32 of 2016 s. 18.]*

## **12. Disclosure of interests**

Schedule 1A Division 2 has effect.

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

## **13. Quorum**

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

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

**14. Vice-Chancellor**

- (1) The Council must appoint a Vice-Chancellor.
- (2) The Vice-Chancellor is the chief executive officer of the University.
- (3) The Vice-Chancellor holds office for the period and on the conditions the Council determines.
- (4) The Vice-Chancellor has the powers and duties prescribed by Statute and, unless otherwise expressly provided by Statute, the Vice-Chancellor may delegate any of those powers and duties to any person or committee of persons.
- (5) In addition to or instead of the title of Vice-Chancellor, the Vice-Chancellor may use any other title that is —
  - (a) approved by the Council; or
  - (b) prescribed by Statute.
- (6) The use by the Vice-Chancellor, in accordance with subsection (5), of any title in addition to or instead of the title of Vice-Chancellor does not affect the validity of anything done or omitted to be done by, to or in relation to the Vice-Chancellor.

*[Section 14 inserted by No. 32 of 2016 s. 20.]*

**15. Delegation by Council**

- (1) The Council may —
  - (a) in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution delegate all or any of its powers, authorities, duties and functions under this Act, except its powers in relation to the making of Statutes or by-laws, to —
    - (i) any member; or
    - (ii) a committee, council or other body of the University; or
    - (iii) any officer of the University;

and

- (b) in relation to any matter or class of matters affecting the Kalgoorlie Campus, or in relation to any activity or function of the Kalgoorlie Campus, by resolution delegate all or any of its powers, authorities, duties and functions under this Act, except its powers in relation to the making of Statutes or by-laws, to the Kalgoorlie Campus Council.
- (2) The Council may by resolution revoke a delegation given under this section.
- (3) A resolution delegating a power, authority, duty or function may authorise the delegate to further delegate the delegated power, authority, duty or function to a person or body.
- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

*[Section 15 inserted by No. 32 of 2016 s. 20.]*

**16. Power of management of Council**

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

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

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

Subject to this Act, any relevant written law and any relevant industrial award or industrial agreement, the Council may appoint, suspend and terminate the appointment of any member of the staff of the University, whether a member of the

academic or non-academic staff and any such appointment shall be upon such terms and conditions as the Council thinks fit.

*[Section 17 amended by No. 31 of 1974 s. 4; No. 96 of 1986 s. 11; No. 32 of 2016 s. 21.]*

**17A. Power of University to provide residential accommodation for staff and students**

- (1) The University may provide residential accommodation for staff of the University, or enrolled students, or both.
- (2) The restrictions imposed by section 5(2)(ea) do not apply to the lease of any part of the land referred to in section 5(2)(ea) if the purpose of the lease is the provision of residential accommodation in accordance with this section.

*[Section 17A inserted by No. 32 of 2016 s. 22.]*

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

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

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

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

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

- (1) The land described in Schedule 1 (in this section called the ***University land***) shall be vested as provided in Schedule 1 in the University for the purposes of the University and for purposes incidental thereto.



- (2) When the University land ceases to be used for the purposes of or incidental to the University, it shall revert to and revest in the State.

*[(3) deleted]*

- (4) Section 22D affects subsection (2).

*[Section 20 amended by No. 37 of 1968 s. 2; No. 31 of 1974 s. 6; No. 96 of 1986 s. 8 and 11; No. 35 of 1996 s. 7; No. 32 of 2016 s. 23.]*

**20A. By-laws**

- (1) In this section —

***authorised person*** means —

- (a) a police officer; or
- (b) the Vice-Chancellor; or
- (c) a member of the staff of the University, or a contractor, who is authorised under subsection (2A) for the purposes of the provision of this section in which the term is used;

***contractor*** means —

- (a) an individual who works under a contract for services for the University; or
- (b) an employee of a body that provides services to the University under a contract;

***University lands*** means —

- (a) land described in Schedule 1; and
- (b) any other land vested in, held by, leased to or under the care, control and management of the University for the purposes of this Act; and
- (c) all buildings, structures and erections of whatsoever kind or nature and whether permanent or temporary standing or being on land referred to in paragraph (a) or (b).

- (2A) The Vice-Chancellor may, in writing —
- (a) designate a member of the staff of the University to be an authorised person for the purposes of either or both of subsection (2)(k) or (4); and
  - (b) authorise a contractor to be an authorised person for the purposes of either or both of subsection (2)(k) or (4); and
  - (c) revoke a designation or authorisation made under this subsection.
- (2B) A designation or authorisation of a person under subsection (2A) ceases to have effect if —
- (a) the designation or authorisation is revoked; or
  - (b) the person ceases to be a member of the staff of the University or a contractor.
- (2) The University may, with the approval of the Governor, make by-laws for the purpose of managing, preserving, and protecting University lands and for the purpose of regulating the terms and conditions on which such lands may be visited or used by any persons whomsoever, and the conduct of such persons when on or upon such lands, and in particular may by by-laws —
- (a) prohibit or regulate the admission to such lands of persons, vehicles, or animals; and
  - (b) prescribe the times when and the purposes for which such lands may be used, and the times when and the purposes for which the same shall be open or closed, and prohibit the use thereof or access thereto at any other times, or for any other purpose; and
  - (c) prescribe fees to be charged to all or any persons for admission to or use of such lands; and
  - (d) provide for the issue to all or any persons using such lands of tickets and requiring the production of such tickets by such persons if and whenever required by any

- police officer, or any member of the staff of the University; and
- (e) regulate the conduct of persons using or being in or upon such lands; and
  - (f) prohibit any nuisance, or any offensive, indecent, or improper act, conduct, or behaviour on such lands; and
  - (g) prohibit the use of abusive or insulting language on such lands; and
  - (h) prohibit damage or injury to or interference with such lands; or any tree, shrub, hedge, plant, or flower thereon, or any fixed or movable article thereon; and
  - (i) prohibit the writing or printing of any indecent words, or the writing, printing, or drawing, or affixing of any indecent or obscene picture or representation on such lands, or on any fence, wall, tree, shrub, or hedge thereon; and
  - (j) prescribe, in respect of an alleged breach of the by-laws involving a vehicle, the circumstances under which the owner of the vehicle is deemed to be the driver or person in charge of the vehicle at the time of the alleged breach; and
  - (k) prescribe the circumstances under which an authorised person may remove a vehicle, or cause it to be removed, from University lands to a specified place, prescribe his further powers in relation thereto, prescribe the scale of charges to be paid to recover the vehicle from that place, and authorise the University to hold the vehicle until the prescribed charges are paid; and
  - (l) prescribe a modified penalty or modified penalties payable to the University by a person or one of a class of persons who does not contest an allegation that he committed any specified breach of the by-laws, and provide that the due payment of a modified penalty is a defence to a charge of the breach in respect of which that modified penalty was paid; and

- (m) authorise any police officer or any member of the staff of the University to remove from such lands all persons guilty of any breach of a by-law, and to prohibit the obstruction of any such police officer or member of the staff; and
- (n) require any person using such lands to give his name and address, whenever required so to do by any police officer, or any member of the staff of the University; and
- (o) generally provide for carrying out the purposes of this Act, or any Statute,

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

- (3) The by-laws —
  - (a) may be limited in their application to time, place, or circumstance; and
  - (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.
- (4) Any by-law may impose a penalty not exceeding \$1 000 for any breach thereof and proceedings for the recovery of such penalty may be taken by any authorised person in his own name; but all pecuniary penalties shall be appropriated and paid to the University for its use.
- (5) In any proceedings for any contravention of any by-law the allegation in the prosecution notice that any place was on University lands shall be sufficient evidence of the fact alleged in the absence of proof to the contrary.
- (6) No by-law takes away or restricts any liability, civil or criminal, arising under any provision of any Act other than this Act or at common law.

- (7) A breach of a by-law by an enrolled student is a disciplinary offence proceedings for which may be commenced, heard, and determined under the disciplinary Statutes, by-laws, and rules of the University instead of before a court of summary jurisdiction.
- (8A) By-laws made under this section apply to and in respect of University lands that are leased (whether under an approval given under section 22I or otherwise) except to the extent that the application of the by-laws, or any provision of a by-law, to the leased lands is expressly excluded by the lease.
- (8) Any act, matter, or thing for or with respect to which provision is made in this section, made, done, or executed before the coming into operation of the *Western Australian Institute of Technology Act Amendment Act 1974*<sup>1</sup> which would have been lawful if that Act had been in force at the time such act, matter, or thing was made, done, or executed is hereby validated.

*[Section 20A inserted by No. 31 of 1974 s. 7; amended by No. 96 of 1986 s. 11; No. 78 of 1995 s. 31; No. 35 of 1996 s. 8 and 33; No. 84 of 2004 s. 80; No. 32 of 2016 s. 24.]*

## **21. Powers of Council**

Subject to this Act and the Statutes, the Council —

- (a) may provide such courses of education as it thinks fit and may in accordance with this Act award appropriate degrees, diplomas and certificates or honorary awards; and
- (b) may from time to time appoint persons to the staff of the University and other officers and engage employees for the University; and
- (c) has the entire control and management of the affairs, concerns and property of the University; and
- [(d) deleted]*
- (e) may act in all matters concerning the University in such manner as appears to it best calculated to promote the objects and interests of the University.

*[Section 21 amended by No. 57 of 1970 s. 5; No. 96 of 1986 s. 9 and 11; No. 48 of 1989 s. 13; No. 32 of 2016 s. 25.]*

**21AA. Relief of members from liability**

If, in any civil proceeding against a person who is or was a member for negligence, default, breach of trust or breach of duty in the person's capacity as a member, it appears to the court that the person —

- (a) is, or may be, liable in respect of the negligence, default or breach; and
- (b) has acted honestly; and
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the person's appointment,

the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.

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

*[Division 2A (s. 21A-21G) deleted by No. 32 of 2016 s. 26.]*

**Division 2B — Kalgoorlie Campus**

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

**21H. Terms used**

In this Division, unless the contrary intention appears —

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

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

*[Section 21H inserted by No. 35 of 1996 s. 10; amended by No. 32 of 2016 s. 27.]*

**21I. Kalgoorlie Campus**

- (1) The Council is to maintain the educational facility at Kalgoorlie established as part of the University and known as the Curtin University — Kalgoorlie Campus.
- (2) The Kalgoorlie Campus —
  - (a) must include a School of Mines known as the Western Australian School of Mines; and
  - (b) may include any other facilities that are for the purposes of the University or a purpose that is incidental to the purposes of the University.
- (3) It is not necessary for all of the facilities or operations of the Western Australian School of Mines to be located on the Kalgoorlie Campus.

*[Section 21I inserted by No. 32 of 2016 s. 28.]*

**21J. Functions of Kalgoorlie Campus**

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

- [(a) deleted]*
- (b) to aid the advancement, development, and practical application to industry, commerce and the community, of knowledge and technology; and
- (c) to contribute to the general cultural development of the community in the south-east region of the State; and
- (d) to promote international recognition of the Western Australian School of Mines; and
- (e) to provide such facilities relating to the functions set out in this section as the Council thinks necessary for or conducive to those functions; and

- (f) to encourage community use of the Kalgoorlie Campus facilities.

*[Section 21J inserted by No. 35 of 1996 s. 10; amended by No. 32 of 2016 s. 29.]*

**21K. Kalgoorlie Campus Council**

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

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

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

- (1) The Kalgoorlie Campus Council must act in all matters concerning the Kalgoorlie Campus in the manner that appears most likely to the Council to promote the objects and interests of the Kalgoorlie Campus and the University.
- (2) The Kalgoorlie Campus Council has the following governance functions —
  - (a) to advise the Council on the promotion, development and coordination of the courses and programmes that are offered or to be offered by the Kalgoorlie Campus and that are, or some of which are, offered or to be offered elsewhere by the University;
  - (b) to develop a strategic plan for the Kalgoorlie Campus for the approval of the Council, and review and monitor the implementation of the approved strategic plan, in accordance with any direction given to it by the Council;
  - (c) to promote the activities carried out on the Kalgoorlie Campus in the communities in which the Campus operates and with relevant government and non-government agencies;
  - (d) to monitor the staffing, infrastructure development and financial management of the Kalgoorlie Campus.



- (3) The Kalgoorlie Campus Council also has the following functions —
- (a) to comply with any direction given to it by the Council, including any direction to prepare and provide to the Council a report;
  - (b) not later than 2 months after each 31 December, to prepare and provide to the Council a report of the operations of the Kalgoorlie Campus during the period of 12 months immediately before that day.

*[Section 21L inserted by No. 32 of 2016 s. 30.]*

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

- (1) The Kalgoorlie Campus Council consists of the following members —
- (a) a member of the Council who is appointed by the Minister to be chairperson of the Kalgoorlie Campus Council;
  - (b) 5 persons who are appointed by the Minister and who are representative of education, the professions, or industrial, commercial or community interests;
  - (c) one person who is appointed by the Minister and who is representative of vocational education and training interests;
  - (d) the person appointed to be responsible for the management of higher education at the Kalgoorlie Campus;
  - (e) the member of the staff of the Kalgoorlie Campus who is responsible for academic and administrative leadership at the Kalgoorlie Campus;
  - (f) a member of the higher education academic staff of the Kalgoorlie Campus and who is appointed by the Council of the University;

- (g) a member of the general staff (other than the academic staff) of the Kalgoorlie Campus and who is appointed by the Council of the University;
  - (h) an enrolled student of the Kalgoorlie Campus and who is appointed by the Council of the University;
  - (i) the Vice-Chancellor or a person nominated in writing by the Vice-Chancellor;
  - (j) not more than 3 persons appointed from time to time by co-option by the Kalgoorlie Campus Council, but a person whose sole or principal employment is that of a member of the staff of the University may not be so appointed.
- (2) The Minister must endeavour to ensure that at least one of the persons appointed under subsection (1)(b) is a resident of the Esperance region.

*[Section 21M inserted by No. 32 of 2016 s. 30.]*

**21N. Constitution and proceedings**

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

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

**21O. Chief executive officer**

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

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

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

- (1) The Kalgoorlie Campus Council may by resolution delegate to any person, or committee of persons appointed by the Kalgoorlie Campus Council, any of its functions, other than this power of delegation.
- (2) A committee appointed by the Kalgoorlie Campus Council under this section shall report to the Kalgoorlie Campus Council on its activities at such times as the Kalgoorlie Campus Council directs.

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

**Division 2C — Leasing University land for  
commercial purposes**

*[Heading inserted by No. 32 of 2016 s. 32.]*

**Subdivision 1 — Preliminary**

*[Heading inserted by No. 32 of 2016 s. 32.]*

**22A. Terms used**

In this Division —

***advance determination*** means an advance determination granted under section 22H;

***approval*** means an approval granted under section 22I;

***commercial arrangement*** means any of the following —

- (a) a company;
- (b) a partnership;
- (c) a trust;
- (d) a joint venture;
- (e) an arrangement for sharing profits;
- (f) an arrangement for sponsorship;

**commercial purpose** means obtaining income for the University through the leasing of University land, if the land is not leased for the purposes of the University or a purpose that is incidental to the purposes of the University;

**lease** includes sublease;

**limited company** has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

**participate** includes form, promote, establish, enter into, manage, dissolve and wind-up;

**participate in a commercial arrangement** includes —

- (a) acquire, hold and dispose of shares, units or other interests in, or relating to, a commercial arrangement; and
- (b) exercise any right conferred on the University to appoint a director of, or hold office in, a commercial arrangement; and
- (c) do anything incidental to participating in a commercial arrangement;

**payment agreement** means an agreement made under section 22L;

**University land** means land vested in the University under section 20 or 31;

**university development proposal** means a proposal in respect of which the University intends to seek an approval under section 22I to do either or both of the things set out in section 22D(1).

*[Section 22A inserted by No. 32 of 2016 s. 32.]*

## **22B. Object of this Division**

The object of this Division is to enable the University to seek and obtain the Minister's approval to lease University land for purposes that would not otherwise be authorised by this Act.

*[Section 22B inserted by No. 32 of 2016 s. 32.]*

**22C. Effect of Division on University functions, powers and obligations**

- (1) This Division does not limit —
  - (a) sections 5 and 7; or
  - (b) any function, power, right, privilege, immunity or obligation of the University under —
    - (i) this Act, another written law or a law of the Commonwealth or of another State or a Territory; or
    - (ii) the principles and rules of common law and equity to the extent that they have effect in this State from time to time.
- (2) Nothing in this Division is to be taken to impose any requirement on the University to seek or obtain the Minister's approval to lease any University land.
- (3) Nothing in this Division affects the University's obligation under section 5(2)(ea) to obtain the Minister's approval to the grant of a lease for a term that exceeds 21 years.

*[Section 22C inserted by No. 32 of 2016 s. 32.]*

**Subdivision 2 — Power to lease University land for commercial purposes**

*[Heading inserted by No. 32 of 2016 s. 32.]*

**22D. University may lease University land for commercial purposes with Ministerial approval**

- (1) With the approval of the Minister, the University can —
  - (a) enter into a transaction that has a commercial purpose; or
  - (b) participate, in the State or elsewhere, in any commercial arrangement that has a commercial purpose.

- (2) An approval can authorise the University to enter into a transaction, or participate in a commercial arrangement, either —
- (a) directly; or
  - (b) through a wholly-owned subsidiary (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the University.
- (3) An approval to lease University land can be granted on the basis that subleases of that land (whether all subleases, or only subleases of a particular class or granted in particular circumstances) can be granted without the need to seek or obtain an approval to the granting of those subleases.
- (4) Subsection (3) is subject to any conditions attached to the approval.
- (5) An approval —
- (a) confers power, for the purposes of this Act, on the University to do the thing authorised by the approval; but
  - (b) does not exempt the University or any other person from compliance with, or authorise the University or any other person to do or omit to do anything contrary to —
    - (i) any other written law or any law of the Commonwealth or of another State or a Territory; or
    - (ii) any obligation of the University or any other person, however that obligation arises.

*[Section 22D inserted by No. 32 of 2016 s. 32.]*

**22E. Effect of approval to lease University land**

- (1) To the extent that an approval authorises the University to lease University land, land leased in accordance with the approval is to be taken to be used for the purposes of the University or for

purposes incidental to the purposes of the University for the purposes of —

- (a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of that land in the University or the holding, care, control or management, by the University, of that land; and
  - (b) any provision of any written law (including, without limitation, section 20(2)) that specifies that something is to happen or not to happen, or provides for some other consequence, if that land is not used, or ceases to be used, for the purposes of the University or for purposes incidental to the purposes of the University.
- (2) The *Land Tax Assessment Act 2002* section 33 overrides this section.

*[Section 22E inserted by No. 32 of 2016 s. 32.]*

**22F. Approval in principle of university development proposal**

- (1) The University may apply to the Minister for the approval in principle of a university development proposal.
- (2) The university development proposal submitted for approval in principle must describe what the University intends to seek an approval under section 22I for, including —
  - (a) details of the University land that is to be leased; and
  - (b) the purpose for which the land is to be leased.
- (3) If the University applies for an approval in principle —
  - (a) the application must be made in the manner and form, and contain the information, that the Minister requires; and
  - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application; and

- (c) the Minister may grant or refuse to grant the approval in principle.
- (4) The Minister must —
  - (a) notify the University in writing of the Minister's decision on the application; and
  - (b) if the decision is to refuse to grant the approval in principle, include in that notification the reasons for the refusal.

*[Section 22F inserted by No. 32 of 2016 s. 32.]*

**22G. Application for advance determination of approval**

- (1) The University may apply to the Minister for a determination that, if an application is made for an approval under section 22I in relation to a university development proposal, the approval will be granted.
- (2) In order to apply for an advance determination, it is not necessary that the University has applied for or obtained an approval in principle under section 22F in relation to the university development proposal.
- (3) The university development proposal submitted for advance determination must describe the transaction or commercial arrangement for which the University intends to seek an approval under section 22I, including —
  - (a) details of the University land that is to be leased; and
  - (b) the purpose for which the land is to be leased; and
  - (c) the financial details of the proposal, including the amount of the investment to be made by the University, the proposed lessee and any other parties involved.
- (4) If approval in principle was previously obtained under section 22F in relation to the proposal, the application for the advance determination must identify any material difference



between the proposal approved in principle and the proposal submitted for advance determination.

- (5) If the University applies for an advance determination —
- (a) the application —
    - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
    - (ii) if required by the Minister, must be accompanied by a payment agreement;
  - and
  - (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.

*[Section 22G inserted by No. 32 of 2016 s. 32.]*

**22H. Advance determination of approval**

- (1) If the University applies under section 22G for an advance determination in relation to a university development proposal, the Minister may grant or refuse to grant the advance determination.
- (2) The Minister must grant the advance determination if —
- (a) approval in principle was previously obtained under section 22F in relation to the proposal; and
  - (b) the Minister is satisfied that, in respect of the matters referred to in section 22F(2)(a) and (b), there is no material difference between the proposal approved in principle and the proposal submitted for advance determination; and
  - (c) the Minister is satisfied with the application submitted in relation to the proposal.
- (3) The Minister must —

- (a) notify the University in writing of the Minister's decision on the application; and
  - (b) if the decision is to refuse to grant the advance determination, include in that notification the reasons for the refusal.
- (4) In granting an advance determination, the Minister may specify a time after which the advance determination lapses.
- (5) Before the advance determination lapses, the Minister may, at the request of the University, by notice in writing to the University, extend the period for which the advance determination is to be in force.

*[Section 22H inserted by No. 32 of 2016 s. 32.]*

**22I. Approvals**

- (1) The University may apply to the Minister for approval to do either or both of the things set out in section 22D(1).
- (2) If the University applies for an approval —
- (a) the application —
    - (i) must be made in the manner and form, and contain the information, that the Minister requires; and
    - (ii) if required by the Minister, must be accompanied by a payment agreement;
- and
- (b) the Minister may request the University to provide any additional information that the Minister considers necessary for the proper consideration of the application.
- (3) In order to apply for an approval, it is not necessary that the University has applied for or obtained an approval in principle under section 22F, or an advance determination, in relation to the matter for which the approval is sought.

- (4) The Minister may grant or refuse to grant the approval.
- (5) However, the Minister must grant the approval if the Minister is satisfied that —
  - (a) an advance determination is in force in respect of the matter for which the approval is sought; and
  - (b) there is no material deviation from the application for the advance determination.
- (6) For the purposes of subsection (5)(b), there is a material deviation from the application for the advance determination if any of the following changes have occurred —
  - (a) the total area of University land that is to be leased has increased by 20% or more;
  - (b) the amount of the investment to be made by the University has increased or decreased by 20% or more.

*[Section 22I inserted by No. 32 of 2016 s. 32.]*

**22J. Notification of decision on application for approval**

- (1) The Minister must —
  - (a) notify the University in writing of the Minister’s decision on an application for an approval; and
  - (b) if the decision is to refuse to grant the approval, include in that notification the reasons for the refusal.
- (2) The Minister may attach conditions to an approval, and those conditions must be specified in the approval.

*[Section 22J inserted by No. 32 of 2016 s. 32.]*

**22K. Alteration of approval**

- (1) The Minister may, at the request of the University, vary or revoke the conditions attached to an approval or attach new or additional conditions.

- (2) The Minister cannot make changes to the terms of an approval under subsection (1) unless the University agrees to the changes, but —
- (a) the Minister is not obliged to make any or all of the changes requested by the University; and
  - (b) the Minister may propose variations, alternatives or additions to the changes requested by the University; and
  - (c) the Minister may refuse to change the terms of an approval unless the University agrees to variations, alternatives or additions proposed by the Minister.

*[Section 22K inserted by No. 32 of 2016 s. 32.]*

**22L. Payment agreements**

- (1) If the University intends to apply for an advance determination or an approval, the Minister may enter into a written agreement with the University for the University to reimburse the State for the reasonable costs and expenses incurred by the Minister in considering the application.
- (2) If permitted by the regulations, those costs and expenses may include the reasonable costs and expenses incurred by, or by the Minister on behalf of, any person or body appointed to consider and report to the Minister on the application.
- (3) Regulations may make provision for and in relation to a payment agreement, including in connection with —
- (a) the ambit of an agreement;
  - (b) the making of an agreement;
  - (c) the costs and expenses to be paid under an agreement, including as to the method of calculating the costs and expenses;
  - (d) the methods for resolving any dispute about the costs and expenses that are to be paid under the agreement.

*[Section 22L inserted by No. 32 of 2016 s. 32.]*

**22M. Minister may delegate functions under this Division**

(1) In this section —

**Department** means the Department of the Public Service principally assisting the Minister in the administration of this Act.

(2) The Minister may delegate to the chief executive officer of the Department all or any of the functions that the Minister has under this Division, other than this power of delegation.

(3) A delegation made under subsection (2) must be in writing signed by the Minister.

(4) If the chief executive officer performs a function that has been delegated to the chief executive officer under this section, the chief executive officer 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 Minister to perform a function through an officer or agent.

*[Section 22M inserted by No. 32 of 2016 s. 32.]*

**Division 3 — Financial provisions**

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

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

*[(2) deleted]*

(3) Notwithstanding the *Financial Management Act 2006*, the financial year of the Council shall end on 31 December.

(4) Notwithstanding the provisions of the *Financial Management Act 2006* —

- (a) sections 13, 14 and 40 do not have effect in relation to the University; and
- (b) section 78(1) of that Act has effect in relation to the University as if it had been enacted in the following form —

“

(1) The Treasurer may issue, amend or revoke instructions concerning —

- (a) the annual report required to be prepared under Part 5; and
- (b) the establishment and keeping of the accounts of statutory authorities, including the accounts of subsidiary bodies and related bodies; and
- (c) the form and content of financial statements and reports on the operations of statutory authorities and their subsidiary bodies and related bodies, including information to be disclosed in respect of affiliated bodies; and
- (d) the preparation of key performance indicators of statutory authorities and their subsidiary bodies and related bodies.

”.

*[Section 22 inserted by No. 98 of 1985 s. 3; amended by No. 96 of 1986 s. 11; No. 32 of 1991 s. 2; No. 35 of 1996 s. 36; No. 77 of 2006 Sch. 1 cl. 42(1)-(3).]*

**23. Funds of University**

- (1) The funds available to the Council for the purpose of enabling it to exercise its powers, authorities, duties and functions under this Act are —
  - (a) moneys from time to time appropriated by Parliament for that purpose; and
  - (b) moneys received by the Council by way of fees, charges, gifts, bequests or otherwise whether paid or made to the University or the Council; and
  - (ca) moneys received by the Council or the University, where the moneys are derived from something that the University is authorised to do by an approval granted under section 22I; and
  - (c) moneys borrowed by the University under this Act; and
  - (d) moneys made available to the Council or the University for the purposes of this Act.
- (2) The moneys referred to in subsection (1) are to be credited to —
  - (a) an agency special purpose account established under section 16 of the *Financial Management Act 2006*; or
  - (b) an account or accounts established at a bank (as defined in section 3 of that Act) or accounts established at banks.
- (2a) The account, or each account, established for the purposes of subsection (2) is to be called the Curtin University Account.
- (3) All expenditure incurred by the Council for the purposes of giving effect to this Act, including the repayment of moneys borrowed by or advanced to the University in accordance with this Act, is to be charged to an account referred to in subsection (2).
- [(4) *deleted*]

*[Section 23 amended by No. 57 of 1969 s. 4; No. 37 of 1981 s. 11; No. 96 of 1986 s. 11; No. 49 of 1996 s. 52 and 64; No. 77 of 2006 Sch. 1 cl. 42(4); No. 32 of 2016 s. 33.]*

**24. Borrowing and other ways of raising money**

- (1) In this section —  
***debt paper*** means inscribed stock, bonds, debentures with coupons annexed, bills of exchange, promissory notes or bearer securities, or other similar instruments evidencing indebtedness.
- (2) The University may do all or any of the following —
- (a) borrow money;
  - (b) obtain credit;
  - (c) issue, acquire, hold or dispose of debt paper;
  - (d) create and issue capital instruments;
  - (e) arrange for financial accommodation to be extended to the University.
- (3) Capital instruments created and issued by the University under subsection (2)(d) —
- (a) may be described in any way determined by the University; and
  - (b) are to be created and issued on whatever terms the University determines.
- (4) The University must keep whatever registers for the purposes of this section as are prescribed by regulations made under this Act.

*[Section 24 inserted by No. 32 of 2016 s. 34.]*

**25A. Notice of borrowing**

- (1) If the University intends to borrow money and seek a guarantee under section 25B in respect of that borrowing, the University must —



- (a) give the Minister reasonable advance notice of its intention to borrow that money and to seek a guarantee; and
  - (b) notify the Minister of the outcome of the University's application to borrow that money.
- (2) A liability of the University is not unenforceable or in any way affected by the University's failure to comply with subsection (1).

*[Section 25A inserted by No. 32 of 2016 s. 34.]*

**25B. Guarantees**

- (1) The Treasurer, on the Minister's recommendation, may guarantee the performance by the University in the State or elsewhere, of any financial obligation of the University.
- (2) A guarantee —
  - (a) is given in the name and on behalf of the State; and
  - (b) must be in the form, and contain the terms and conditions, that the Treasurer determines; and
  - (c) without limiting paragraph (b), must be subject to the condition that the person for whose benefit the guarantee is given must not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.
- (3) Before a guarantee is given, the University must —
  - (a) give the Treasurer any security that the Treasurer requires; and
  - (b) execute all instruments that are required for that purpose.
- (4) Payments made by the Treasurer under a guarantee are to be charged to the Consolidated Account, and this subsection appropriates that Account accordingly.

- (5) The Treasurer must cause to be credited to the Consolidated Account any amounts received or recovered from the University or otherwise in respect of any payment made by the Treasurer under a guarantee.

*[Section 25B inserted by No. 32 of 2016 s. 34.]*

**25C. Charges for guarantee**

- (1) The Treasurer may, from time to time, after consultation with the University, fix charges to be paid by the University in respect of a guarantee under section 25B.
- (2) Payments by the University in respect of charges fixed under subsection (1) —
- (a) must be made at the times, and in the instalments, that the Treasurer determines and notifies to the University; and
  - (b) must be credited to the Consolidated Account.

*[Section 25C inserted by No. 32 of 2016 s. 34.]*

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

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

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

*[Section 25 amended by No. 37 of 1981 s. 12; No. 96 of 1986 s. 10 and 11; No. 1 of 1997 s. 18; No. 32 of 2016 s. 35.]*

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

### **Division 4 — Miscellaneous provisions**

**27. Governor to be Visitor**

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.
- (2) In this section, the expression **Governor** means the Governor of the State and not the Governor acting with the advice and consent of the Executive Council.

*[Section 27 amended by No. 96 of 1986 s. 11; No. 32 of 2016 s. 36.]*

*[28. Deleted by No. 32 of 2016 s. 37.]*

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

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

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

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

**30A. Superannuation**

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

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

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

- (2) The Council may —

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

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

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

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

**30B. Validation**

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

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

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

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

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

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

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

**31A. Application of *Land Act 1933* to land that vests under section 20 or 31 and past vestings validated etc.**

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

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

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

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

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

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

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

**33. Exemption from rate or tax**

- (1) No rate may be charged or levied on any property vested in the University.

- (2) Subsection (1) does not operate so as to exempt property that is vested in the University, if it is leased to or occupied by any person —
  - (a) for any private purpose; or
  - (b) for a commercial purpose (as defined in section 22A) under an approval granted under section 22I.
- (3) The *Land Tax Assessment Act 2002* section 33 provides an exemption from land tax in respect of land owned by, vested in or held in trust for the University, in the circumstances set out in that section.

*[Section 33 inserted by No. 32 of 2016 s. 38.]*

#### **34A. Regulations**

- (1) The Governor, on the recommendation of the Minister, may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Before making a recommendation under subsection (1), the Minister must consult with the Council.

*[Section 34A inserted by No. 32 of 2016 s. 38.]*

### **Division 5 — Statutes**

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

- (1) The Council may make Statutes, not inconsistent with this Act, with respect to all matters pertaining to the University and in particular may make Statutes with respect to —
  - (a) the management, good government and discipline of the University; and
  - (b) the use and custody of the common seal of the University, and the functions of the Council that may be

exercised without the use of the common seal for that purpose; and

- (c) the organization and supervision of the teaching of enrolled students; and
- (d) the staff of the University; and
- (e) the manner and time of convening, holding and adjourning the meetings of the Council, the manner of voting at those meetings, the powers and duties of the Chancellor, the conduct and record of the business, the appointment of committees of the Council and the quorum, powers and duties of those committees; and

*[(ea) deleted]*

- (eb) the manner and time of convening, holding and adjourning the meetings of the Kalgoorlie Campus Council; the manner of voting at those meetings; the powers and duties of the chairperson of the Kalgoorlie Campus Council; the conduct and record of the business of the Kalgoorlie Campus Council; the appointment of committees of the Kalgoorlie Campus Council and the quorum, powers and duties of those committees; and
- (f) the entrance standards for students; and
- (g) the granting of appropriate degrees, diplomas and certificates or honorary awards by the University; and
- (h) the granting of scholarships, exhibitions, bursaries and prizes; and
- (i) the fees to be charged for courses of study or instruction, examinations, degrees, diplomas and certificates of the University and for such other facilities or privileges of the University as are prescribed; and
- (ja) an annual amenities and services fee in accordance with section 45; and
- (jb) the matters required by section 46 to be defined or prescribed by Statute; and





leave entitlements of members of the staff of the University and in particular —

- (a) providing for lump sum payments instead of long service leave entitlements;
- (b) providing for lump sum payments for pro rata long service leave entitlements —
  - (i) to members of the staff who retire after attaining the age of 60 years or through ill-health; and
  - [(ii) deleted]*
  - (iii) to other members of the staff; and
  - (iv) in the case of death of a member of the staff, to that person's estate; and
  - (v) in relation to each class of members of the staff to prescribe the minimum qualifying continuous service,

but so that the calculation of the amounts of leave or money to any member of the staff shall be based upon the rate of salary of the member at the date of his retirement, resignation or death, as the case may be; and so that no payment that exceeds the equivalent of 12 months' salary shall be paid under the Statute.

- (1c) Without limiting any of the powers conferred by subsection (1), a Statute with respect to the discipline of the University may —
  - (a) prescribe disciplinary offences and disciplinary powers in relation thereto including penalties that may be imposed for the respective offences; and
  - (b) provide that penalties may be partly of one kind and partly of another but so that no monetary penalty for any one disciplinary offence exceeds \$1 000; and
  - (c) prescribe circumstances under which a penalty may be modified or suspended; and
  - (d) provide, in addition to penalties, for restitution to the University not exceeding \$1 000 for loss, damage, or



- (1d) Without limiting the power of delegation conferred on the Vice-Chancellor by section 14, where a Statute, or a rule made under a Statute, with respect to the discipline of the University confers on the Vice-Chancellor any disciplinary power or any power to hear and determine appeals from decisions made in the exercise or purported exercise of disciplinary powers or any power to award or fix costs, the Vice-Chancellor may delegate the power to any person, class of persons, or body of persons.
- (1e) A Statute or a rule made under a Statute —
- (a) may be limited in its application to time, place, or circumstance; and
  - (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.
- (2) A Statute made under this section may be revoked or amended by a subsequent Statute so made.
- (3) The Statutes may provide for —
- (a) empowering the Council of the University to make rules, not inconsistent with this Act or with any Statute for regulating or providing for the regulation of, any specified matter with respect to which Statutes may be made, or for carrying out or giving effect to the Statutes, and any of those rules shall have the same force and effect as a Statute; and
  - (b) the manner of promulgation of those rules; and
  - (c) the revocation or amendment of any of those rules.
- (4) The production of a verified copy of any rule made under subsection (3) under the common seal of the University is evidence of the making and authenticity of the rule in all courts and before all persons acting judicially.



- (a) a copy of the Statute under the common seal of the University;
- (b) a document purporting to be a copy of the Statute and to have been printed by the Government Printer;
- (c) a copy of the *Gazette* purporting to contain a copy of the Statute.

*[Section 35 inserted by No. 32 of 2016 s. 40.]*

**36A. Statutes to be made readily available to public**

- (1) The Council must ensure that the following are readily available to the public by whatever means the Council considers appropriate —
  - (a) all Statutes approved and published under section 35(1);
  - (b) all Statutes that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 40 comes into operation.
- (2) Publication in the *Gazette* is not sufficient compliance with subsection (1).
- (3) Subsection (1) ceases to apply to a Statute once it ceases to be in effect.

*[Section 36A inserted by No. 32 of 2016 s. 40.]*

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## Part 3 — Student Guild

*[Heading inserted by No. 32 of 2016 s. 41.]*

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

### 44. Student Guild

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

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

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

**s. 45**

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

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

**45. Amenities and services fee**

- (1) A Statute made under section 34 may provide for an annual amenities and services fee to be payable by enrolled students, and (without limitation) for that purpose may —
  - (a) prescribe the procedures to be followed in setting that fee;
  - (b) prescribe the persons by whom the fee is payable, and exempt or provide for the exemption of persons or classes of persons from payment of the fee;
  - (c) provide for different levels of the fee to be payable by different classes of persons;
  - (d) provide for the reduction, waiver or refund, in whole or in part, of the fee;



- (e) prescribe terms and conditions on which any amount of the total fees collected is to be paid to the Student Guild, including conditions to be met before some or all of the amount may be paid to the Student Guild;
  - (f) provide for the Council to decide how the amount of the total fees collected (after deducting the amount that is paid to the Student Guild) is to be spent, after consultation by the Council with the Student Guild.
- (2) This section does not limit section 34.
  - (3) The Council must pay to the Student Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.
  - (4) This section overrides sections 23(1)(b) and 32.  
*[Section 45 inserted by No. 32 of 2016 s. 42.]*

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

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

*[(3) deleted]*

**s. 46**

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*[Section 46 inserted by No. 44 of 2002 s. 5; amended by No. 32 of 2016 s. 43.]*

**Part 4 — Transitional provisions for *Universities Legislation Amendment Act 2016***

*[Heading inserted by No. 32 of 2016 s. 44.]*

**47. Terms used**

In this Part —

***commencement day*** means the day on which the *Universities Legislation Amendment Act 2016* section 3 comes into operation;

***former name*** means —

- (a) the Western Australian Institute of Technology; or
- (b) the Curtin University of Technology.

*[Section 47 inserted by No. 32 of 2016 s. 44.]*

**48. Transitional provisions (change of name)**

- (1) Subsection (2) applies to a reference to a former name, whether by use of that name or a similar or abbreviated form of that name —
  - (a) in a written law passed or made before commencement day; or
  - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
  - (c) made before commencement day in any other manner.
- (2) A reference to a former name is to be read and construed as a reference to Curtin University, unless because of the context it would be incorrect or inappropriate to do so.
- (3) Subsection (4) applies to a reference to the Curtin University of Technology — Kalgoorlie Campus —
  - (a) in a written law passed or made before commencement day; or

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- (b) in any document or other instrument made, executed, entered into or done before commencement day; or
  - (c) made before commencement day in any other manner.
- (4) A reference to the Curtin University of Technology — Kalgoorlie Campus is to be read and construed as a reference to Curtin University — Kalgoorlie Campus, unless because of the context it would be incorrect or inappropriate to do so.
- (5) On commencement day, each account established for the purposes of section 23(2) and existing immediately before commencement day is renamed the “Curtin University Account”.

*[Section 48 inserted by No. 32 of 2016 s. 44.]*

**49. Transitional provisions (Council)**

- (1) This section applies despite the amendments made to section 9, and the replacement of section 9A, by the *Universities Legislation Amendment Act 2016* sections 12 and 14.
- (2) Any person who, immediately before commencement day, holds office under section 9 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Council —
- (a) continues in office —
    - (i) under and subject to Part I Division 2; and
    - (ii) for the balance of the person’s term of office remaining immediately before commencement day;
  - but
  - (b) vacates office before then in the circumstances set out in section 10 as that section is in effect immediately before commencement day.
- (3) For the purposes of subsection (2)(a)(ii) —

- (a) any member who holds office under section 9(1)(c) or (j) (as in effect immediately before commencement day) is taken to have a term of office that expires on the 60<sup>th</sup> day after the day on which the *Universities Legislation Amendment Act 2016* section 12 comes into operation;
  - (b) the member who holds office under section 9(1)(k) (as in effect immediately before commencement day) is taken to have a term of office that expires on the day on which the person would vacate office as a member of the Council in accordance with the Statute establishing the Academic Board of the University.
- (4) If a question arises under this section as to the balance of a person's term of office remaining immediately before commencement day, the question is to be determined by the Minister.

*[Section 49 inserted by No. 32 of 2016 s. 44.]*

**50. Transitional provisions (Kalgoorlie Campus Council)**

- (1) This section applies despite the replacement of section 21M by the *Universities Legislation Amendment Act 2016* section 30 and the replacement of Schedule 2 clause 2 by section 47 of that Act.
- (2) Any person who, immediately before commencement day, holds office under section 21M (as in effect immediately before commencement day) as an appointed or elected member of the Kalgoorlie Campus Council —
  - (a) continues in office —
    - (i) under and subject to Part I Division 2B and Schedule 2; and
    - (ii) for the balance of the person's term of office remaining immediately before commencement day;

but

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- (b) vacates office before then in the circumstances set out in Schedule 2 clause 4 as that clause is in effect immediately before commencement day.

*[Section 50 inserted by No. 32 of 2016 s. 44.]*

**51. Transitional provisions (Vice-Chancellor)**

- (1) The person who, immediately before commencement day, holds office as chief executive officer of the University under section 14 (as in effect immediately before commencement day) continues to hold office as Vice-Chancellor under section 14 (as in effect on and after commencement day).
- (2) Subsection (3) applies to a reference to the chief executive officer of the University —
  - (a) in a written law passed or made before commencement day; or
  - (b) in any document or other instrument made, executed, entered into or done before commencement day; or
  - (c) made before commencement day in any other manner.
- (3) A reference to the chief executive officer of the University is to be read and construed as a reference to the Vice-Chancellor, unless because of the context it would be incorrect or inappropriate to do so.

*[Section 51 inserted by No. 32 of 2016 s. 44.]*

**52. Transitional provisions (guarantees)**

A guarantee given under section 24 (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 25B.

*[Section 52 inserted by No. 32 of 2016 s. 44.]*

**53. Transitional provisions (Statutes)**

- (1) In this section —  
*former section 35* means section 35 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 40.
- (2) Section 35(2) does not apply to or in relation to any Statute made and published in the *Gazette* before commencement day, and former section 35(2) and (3) apply instead as if the former section 35 had not been deleted.
- (3) If a Statute has been made but not published in the *Gazette* before commencement day —
  - (a) section 35(2) does not apply to and in relation to that Statute; and
  - (b) former section 35(2) and (3) apply instead as if the former section 35 had not been deleted.

*[Section 53 inserted by No. 32 of 2016 s. 44.]*

## **Schedule 1 — University land**

[s. 20]

*[Heading amended by No. 35 of 1996 s. 12; No. 19 of 2010 s. 4.]*

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

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



## **Schedule 1A — Council members**

[s. 9B, 10AA, 12]

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

### **Division 1 — Duties**

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

#### **1. Duties**

- (1) Each member —
  - (a) must at all times act honestly in the performance of the functions of a member, whether within or outside the State;
  - (b) must at all times exercise the degree of care and diligence in the performance of the functions of a member, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Council's circumstances;
  - (c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;
  - (e) must not, whether within or outside the State, make improper use of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.
- (2) Nothing in subclause (1) or section 10AA or 12 affects —
  - (a) any other duty a member may have under any other law; or
  - (b) the operation of any other law in relation to such a duty.

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

**Division 2 — Disclosure of interests**

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

**2. Disclosure of interests**

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Council.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

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

**3. Voting by interested members**

A member who has a material personal interest in a matter that is being considered by the Council —

- (a) must not vote whether at a meeting or otherwise —
  - (i) on the matter; or
  - (ii) on a proposed resolution under clause 4 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
  - (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),is being considered at a meeting.

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

**4. Clause 3 may be declared inapplicable**

Clause 3 does not apply if the Council has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and

- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

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

*[5. Deleted by No. 32 of 2016 s. 45.]*

**6. Minister may declare clause 3 inapplicable**

- (1) The Minister may, on the application of a member, by writing declare that clause 3 does not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

*[Clause 6 inserted by No. 8 of 2005 s. 12; amended by No. 32 of 2016 s. 46.]*

**Schedule 2 — Provisions as to constitution and proceedings of the Kalgoorlie Campus Council**

[s. 21N]

*[Heading inserted by No. 35 of 1996 s. 13; amended by No. 19 of 2010 s. 4.]*

**1. Terms used**

In this Schedule —

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

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

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

**2. Term of office**

(1) Subject to clause 4, a member —

(a) appointed under section 21M(1)(a), (b), (c), (f), (g) or (j) holds office for the term, not exceeding 3 years, that is specified in the instrument of their appointment;

(b) appointed under section 21M(1)(h) holds office for the term, not exceeding 1 year, that is specified in the instrument of their appointment.

(2) All retiring members are, unless otherwise disqualified, eligible for reappointment, but on the expiry of a third successive term of office that member is not eligible to hold office as a member until 12 months after that expiry.

(3) However, a member appointed under section 21M(1)(h) may be reappointed once, but only once, on the expiry of their term, if they continue to be qualified under section 21M(1)(h).

*[Clause 2 inserted by No. 32 of 2016 s. 47.]*

**3. Casual vacancies**

If a casual vacancy occurs in the office of a member, the vacancy is to be filled in the same manner as if that member's term of office had expired.

*[Clause 3 inserted by No. 32 of 2016 s. 47.]*

**4. Vacation of office**

The office of a member becomes vacant if the member —

- (a) resigns the office by written notice addressed to the Minister;  
or
- (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws;  
or
- (c) is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of the member's functions and proved to the satisfaction of the Minister; or
- (d) in the case of a member appointed under section 21M(1)(a), ceases to be a member of the Council; or
- (e) in the case of a member appointed under section 21M(1)(f), ceases to be a member of the higher education academic staff of the Kalgoorlie Campus; or
- (f) in the case of a member appointed under section 21M(1)(g), ceases to be a member of the general staff (other than the academic staff) of the Kalgoorlie Campus; or
- (g) in the case of a member appointed under section 21M(1)(h), ceases to be an enrolled student of the Kalgoorlie Campus.

*[Clause 4 inserted by No. 32 of 2016 s. 47.]*

**5. Meetings**

- (1) The first meeting of the Kalgoorlie Campus Council shall be convened by the chairperson and subsequently, subject to the Statutes, the Kalgoorlie Campus Council shall hold such meetings as are necessary for the performance of its functions.
- (2) Subject to the Statutes, the chairperson may at any time convene a meeting of the Kalgoorlie Campus Council and shall convene a meeting when requested in writing by the Minister or the Council to do so or when so requested by any 4 members.

**cl. 5**

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- (3) The chairperson shall preside at all meetings of the Kalgoorlie Campus Council at which the chairperson is present.
- (4) At any meeting of the Kalgoorlie Campus Council at which the chairperson is not present, the members present shall elect a member to preside at that meeting and while so presiding the member elected has all the powers and duties of chairperson of the Kalgoorlie Campus Council.
- (5) A member is not entitled to vote on any question in respect of which that member has a direct pecuniary interest, and if a member so votes that vote is to be regarded as invalid.
- (6) At a meeting of the Kalgoorlie Campus Council —
  - (a) not less than one-half of the total numbers of members for the time being forms a quorum; and
  - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present.
- (7) Subject to this Act and the Statutes, the Kalgoorlie Campus Council may regulate its own procedure in such manner as it thinks fit.

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

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## Notes

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

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Western Australian Institute of Technology Act 1966</i> <sup>7</sup>	94 of 1966	12 Dec 1966	26 May 1967 (see s. 2 and <i>Gazette</i> 26 May 1967 p. 1363-4)
<i>Western Australian Institute of Technology Act Amendment Act 1968</i>	37 of 1968	4 Nov 1968	4 Nov 1968
<i>Western Australian Institute of Technology Act Amendment Act 1969</i>	57 of 1969	29 Sep 1969	29 Sep 1969
<i>Western Australian Institute of Technology Act Amendment Act 1970</i>	57 of 1970	5 Nov 1970	5 Nov 1970
<i>Western Australian Institute of Technology Act Amendment Act 1971</i>	49 of 1971	10 Dec 1971	10 Dec 1971
<i>Western Australian Institute of Technology Act Amendment Act 1974</i>	31 of 1974	4 Nov 1974	4 Nov 1974
<b>Reprint of the <i>Western Australian Institute of Technology Act 1966</i> approved 2 Sep 1975</b> (includes amendments listed above)			
<i>Acts Amendment (Student Guilds and Associations) Act 1977 Pt. III</i>	61 of 1977	23 Nov 1977	1 Jan 1978 (see s. 2)
<i>Western Australian Institute of Technology Amendment Act 1981</i>	37 of 1981	25 Aug 1981	1 Nov 1981 (see s. 2 and <i>Gazette</i> 25 Sep 1981 p. 4074)
<i>Western Australian Institute of Technology Amendment Act 1982</i>	59 of 1982	28 Sep 1982	1 Jan 1983 (see s. 2)
<i>Acts Amendment (Student Guilds and Associations) Act 1983 Pt. IV</i> <sup>8</sup>	51 of 1983 (as amended by No. 96 of 1986)	5 Dec 1983	5 Dec 1983

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Educational Institutions Superannuation) Act 1985 Pt. II</i> <sup>9, 10</sup>	77 of 1985	20 Nov 1985	16 Dec 1985 (see s. 2 and <i>Gazette</i> 13 Dec 1985 p. 4758)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Western Australian Institute of Technology Amendment Act 1986</i>	96 of 1986	10 Dec 1986	s. 1 and 2: 10 Dec 1986; Act other than s. 1 and 2: 1 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4861)
<i>Acts Amendment (Education) Act 1988 Pt. 5</i>	7 of 1988	30 Jun 1988	8 Jul 1988 (see s. 2 and <i>Gazette</i> 8 Jul 1988 p. 2371)
<b>Reprint of the Curtin University of Technology Act 1966 as at 24 Aug 1988</b> (includes amendments listed above)			
<i>Acts Amendment and Repeal (Post-Secondary Education) Act 1989 Pt. 4</i>	48 of 1989	9 Jan 1990	1 Jan 1990 (see s. 2)
<i>Guardianship and Administration Act 1990 s. 123</i>	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
<i>Acts Amendment (Financial Administration and Audit) Act 1991 Pt. 2</i>	32 of 1991	4 Dec 1991	1 Jan 1992
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Voluntary Membership of Student Guilds and Associations Act 1994 Pt. 3</i> <sup>11</sup>	91 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 22</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Education Amendment Act 1996 s. 16(3)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see s. 2(1))



Short title	Number and year	Assent	Commencement
<i>Curtin University of Technology Amendment Act 1996</i> <sup>12</sup>	35 of 1996	27 Sep 1996	Act other than Pt 2: 27 Sep 1996 (see s. 2(1)); Pt. 2: 13 Nov 1996 (see s. 2(2) and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Financial Legislation Amendment Act 1996</i> s. 52 and 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<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 (Land Administration) Act 1997</i> Pt. 20	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Curtin University of Technology Amendment Act 1998</i>	43 of 1998	5 Nov 1998	5 Nov 1998 (see s. 2)
<b>Reprint of the Curtin University of Technology Act 1966 as at 28 Jul 1999</b> (includes amendments listed above)			
<i>School Education Act 1999</i> s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Acts Amendment (Student Guilds and Associations) Act 2002</i> Pt. 2	44 of 2002	3 Jan 2003	25 Jan 2003 (see s. 2 and <i>Gazette</i> 24 Jan 2003 p. 141)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 16	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Universities Legislation Amendment Act 2005</i> Pt. 2 <sup>13</sup>	8 of 2005	7 Jul 2005	13 Aug 2005 (see s. 2 and <i>Gazette</i> 12 Aug 2005 p. 3651)
<b>Reprint 4: The Curtin University of Technology Act 1966 as at 14 Oct 2005</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and Sch. 1 cl. 42	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 28	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4 and 43(2)	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<b>Reprint 5: The Curtin University of Technology Act 1966 as at 7 Nov 2014</b> (includes amendments listed above)			
<i>Universities Legislation Amendment Act 2016</i> Pt. 2 (other than s. 19 and 31)	32 of 2016	19 Oct 2016	2 Jan 2017 (see s. 2(b) and <i>Gazette</i> 9 Dec 2016 p. 5557)

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

#### **Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 38 <sup>14</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Universities Legislation Amendment Act 2016</i> s. 19 and 31 <sup>15</sup>	32 of 2016	19 Oct 2016	1 Oct 2017 (see s. 2(b) and <i>Gazette</i> 9 Dec 2016 p. 5557)

<sup>2</sup> Footnote no longer applicable.

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

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

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

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

<sup>7</sup> Short title was initially the *Western Australian Institute of Technology Act 1966* and was subsequently changed to the *Curtin University of Technology Act 1966* then to the *Curtin University Act 1966* (see note under s. 1).

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

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

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

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

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

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

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

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

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

(2) In this section —

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

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

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

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

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

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

**5. Transitional provision**

(1) In this section —

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

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

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

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

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

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

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

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

“

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

”.

<sup>15</sup> On the date as at which this compilation was prepared, the *Universities Legislation Amendment Act 2016* s. 19 and 31 had not come into operation. They read as follows:

**19. Section 14A inserted**

After section 13 insert:

**14A. Remuneration and allowances for Council members**

- (1) A member of the Council is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable —
- (a) are, for the purposes of section 23(3), expenditure incurred by the Council for the purposes of giving effect to this Act; and

- (b) are to be paid out of the funds of the University.

**31. Sections 21O and 21P replaced**

Delete sections 21O and 21P and insert:

**21PA. Remuneration and allowances for Kalgoorlie Campus Council members**

- (1) A member of the Kalgoorlie Campus Council is entitled to be paid the remuneration (if any) and allowances (if any) determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.
- (2) Any remuneration and allowances payable —
  - (a) are, for the purposes of section 23(3), expenditure incurred by the Council for the purposes of giving effect to this Act; and
  - (b) are to be paid out of the funds of the University.

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

- (1) The Kalgoorlie Campus Council may by resolution delegate any of its functions to —
  - (a) any member of the Kalgoorlie Campus Council; or
  - (b) a committee of persons appointed by the Kalgoorlie Campus Council; or
  - (c) any other person.
- (2) The Kalgoorlie Campus Council may by resolution revoke a delegation given under this section.
- (3) A resolution delegating a function may authorise the delegate to further delegate the delegated function to a person or body.
- (4) A subdelegation under this section must be in writing.
- (5) The *Interpretation Act 1984* sections 58 and 59 apply to and in relation to a subdelegation under this section in the same way that they apply to and in relation to a delegation given under this section.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
advance determination .....	22A
approval .....	22A
authorised person .....	20A(1)
casual vacancy .....	4(1)
chairperson.....	Sch. 2 cl. 1
Chancellor.....	4(1)
commencement day .....	47
commercial arrangement.....	22A
commercial purpose.....	22A
contractor .....	20A(1)
Council.....	4(1)
debt paper.....	24(1)
Department .....	22M(1)
enrolled student.....	4(1)
examination.....	4(1)
former name.....	47
former section 35 .....	53(1)
Governor.....	27(2)
Kalgoorlie Campus .....	4(1), 21H
Kalgoorlie Campus Council.....	21H
lease .....	22A
limited company .....	22A
member .....	4(1), Sch. 2 cl. 1
participate .....	22A
participate in a commercial arrangement .....	22A
payment agreement.....	22A
prescribed.....	4(1)
residential accommodation .....	4(1)
Statute .....	4(1)
Student Guild.....	4(1)
University .....	4(1)
university development proposal .....	22A
University land.....	20(1), 22A
University lands .....	20A(1)
Vice-Chancellor .....	4(1)