

1995

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

UNIVERSITY OF CANBERRA (TRANSFER) BILL 1995

EXPLANATORY MEMORANDUM

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Bill Stefaniak MLA

Minister for Education and Training

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University of Canberra (Transfer) Bill 1995

Outline

The *University of Canberra (Transfer) Bill 1995* amends the *University of Canberra Act 1989* and other laws where necessary. It establishes appropriate transitional arrangements to take effect on the transfer of the University of Canberra (UC) from the Commonwealth to the Territory.

The Bill preserves UC autonomy. The UC will be accountable to the ACT government through submission of audited financial statements and annual management reports.

Current terms and conditions of employment of UC academic and general staff will continue to apply.

The transfer will identify the UC with the Canberra community. It will facilitate collaboration between the UC and ACT government agencies, businesses and community organisations.

Revenue

The transfer is expected to be cost neutral for the ACT.

PART 1 - PRELIMINARY

Part 1 provides for the formal matters of the Act including the short title, the citation of the Bill once enacted, and its commencement. The *University of Canberra (Transfer) Act 1995* will commence when the Commonwealth *University of Canberra Act 1989* becomes an enactment under the *ACT (Self Government) Act 1988*.

PART 2 - UNIVERSITY OF CANBERRA ACT 1989

Part 2 provides the amended long title of the *University of Canberra Act 1989*.

Interpretation

Section 3 of the *University of Canberra Act 1989* amends the definition of *Vice Chancellor* to *Vice Chancellor and President*. The title *President* will be used by the *Vice Chancellor* when marketing UC services overseas.

The Bill defines the new position of *Deputy Chancellor* appointed under Section 24A. The *Deputy Chancellor* will be a University Council appointment.

Values and principles

Values and principles of the UC are inserted after Section 6 of the principal act. These fulfil the same purpose as those in Section 6 of the *Public Sector Management Act 1994*.

Constitution of the Council

Section 11 of the principal act is amended to include the new position of *Deputy Chancellor*. The membership of the Council is amended to include 10 persons appointed by the Chief Minister. After the transfer the Council will have 22 members.

Council meetings

Section 13 of the principal act is amended to ensure that in the absence of the Chancellor, Council meetings will be chaired by the Deputy Chancellor or an elected Council member.

Acting appointments

Section 27 of the principal act is repealed. A new section makes provision for the Council to appoint an acting vice chancellor for no longer than 12 months.

PART 3 - FINANCIAL AND COMMERCIAL MATTERS

Sections 35, 36, 37 and 39 of the principal act are repealed and the following sections substituted:

Investment of money

Section 35 gives the UC power to invest money with an approved bank, in Territory or Commonwealth securities, clean bills of exchange, on loan to an authorised dealer or in any other manner approved by the Minister. This gives the UC similar investment powers to the CIT.

Application of the *Audit Act 1989*

Under Section 36 the UC is declared a public authority to which Division 2 of Part IX of the *Audit Act 1989* applies. The UC investment powers are not determined by Section 90 of the *Audit Act*.

Subsections 92(1) and (3) of the *Audit Act* have been amended to ensure the Auditor General:

- reports to the Council on the audit at least once a year; and
- draws Council attention to any financial irregularities.

Subsections 93(1) and (1(A)) of the *Audit Act* dealing with annual reporting and financial statements have been amended to calendar year reporting. Financial statements to be included in the annual report will follow the provisions of the *Commonwealth Authorities and Companies Act 1995*. These will be submitted within 2 months of the calendar year end.

Annual report

The UC Council is to submit an annual report within 4 months of the calendar year end. This position takes into account the timeframe proposed in the *Commonwealth Authorities and Companies Act 1995* and Territory reporting requirements. It also allows time for the UC Council to approve the annual report at its April meeting. The report is to be written in accordance with the guidelines in the *Commonwealth Authorities and Companies Act 1995*.

The UC is not covered by the *Annual Reports (Government Agencies) Act 1995* or the *Territory Owned Corporations Act 1990*. The UC will continue to report according to Commonwealth guidelines.

Division 3 - Companies and joint ventures

This division sets out the conditions under which the UC may form or participate in a company or joint venture. The objectives of a company or joint venture must be consistent with the objectives of the university. Where the university has a controlling interest in a company, Council is required to retain the power to authorise alterations to the memorandum or articles of association.

Controlling interest

For the purpose of this division, the UC has a controlling interest in a company if it is able to:

- control the composition of the board of directors; or
- cast, or control the casting of, more than 50% of the maximum number of votes cast at a general meeting of the company; or
- control more than 50% of the company issued share capital.

The UC has a controlling interest in a joint venture if it is able to control the acts and things done in the course of the joint venture.

Reporting requirements

Where the UC has a controlling interest in a company or joint venture, the UC will:

- submit a copy of any document lodged with the Australian Securities Commission to the Treasurer within 14 days; and
- include a summary of company and joint venture operations and financial statements in the first annual report of the UC prepared after the respective company/joint venture reporting periods.

Where the UC has a controlling interest in a company or joint venture, the Auditor General shall inspect and audit the financial accounts and records as per an authority under the *Audit Act*.

Approval and publication of statutes

Section 42 of the principal act is amended to omit all reference to Commonwealth entities. Subsection 4, tabling and gazettal of Council statutes, has been amended. These amendments make the distinction between legislative and administrative statutes. Before gazettal administrative statutes will be tabled in the Assembly. Legislative statutes are disallowable by the Executive and the Assembly under the *Subordinate Laws Act 1989*.

This section defines statutes as legislative if they determine or alter existing law.

Amendments of other Acts

Section 5 of the *Public Sector Management Act 1994* is amended to exclude the UC.

Section 6 of the *Sewerage Rates Act 1968* and section 7B of the *Water Rates Act 1959* have been updated in line with the law under which the UC holds land.

The *Sewerage Rates Act* and *Water Rates Act* have been amended to correct outdated references to the *College*. There has been no change to substantive law.

PART 4 - SAVINGS AND TRANSITIONAL PROVISIONS

Continuance in office of the Vice Chancellor and acting appointments

These provisions ensure that on transfer the Vice Chancellor and persons in acting appointments shall continue to hold office.

Audit reports in first year

In the year of transfer the UC shall submit an annual report to the Assembly relating only to that part of the calendar year after it becomes an enactment.

Part 5 of the principal act 1989

Savings provisions concerned with transitions relating to the cessation of the Canberra College of Advanced Education have been removed. Provisions that continue to operate are preserved.

Occupational health and safety

This provision is to preserve designated Occupational Health and Safety work groups and representatives on the UC transfer.

PART 5 - MISCELLANEOUS

Regulations

These provisions allow Executive twelve months to make regulations amending the *University of Canberra (Transfer) Act 1995*. This is to ensure that any necessary adjustments can be made.

Schedule

The schedule provides for minor amendments to a number of provisions bringing the principal act in line with modern drafting practices and the change in jurisdiction.