

**2024**

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

**UNIVERSITY OF CANBERRA AMENDMENT BILL 2024**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004*, s 37)**

**Presented by  
Andrew Barr MLA  
Minister for Trade, Investment and Economic Development**

# UNIVERSITY OF CANBERRA AMENDMENT BILL 2024

This explanatory statement relates to the *University of Canberra Amendment Bill 2024* (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the bill and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision.

The bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the Human Rights Act 2004 (the HRA).

## OVERVIEW OF THE BILL

The purpose of the Bill is to amend the *University of Canberra Act 1989* (the UC Act) to make appointments to the University of Canberra (UC) Council (the UC Council) consistent with Administrative Arrangements for the UC Act and to give explicit allowance for subdelegation of authorities delegated by the UC Council. This Bill will also amend the UC Act to change the ministerial appointments to the UC Council from being the responsibility of the Chief Minister to the Responsible Minister for the UC Act.

## CONSULTATION ON THE PROPOSED APPROACH

In April 2015, the UC Act was amended to, among other things, expand UC's community functions and purpose, provide additional authorities to the UC Council, and provide explicit authority to pursue commercialisation of its property (*University of Canberra Amendment Act 2015*).

One specific amendment to the UC Act as it pertains to this Bill was the inclusion of a new Section 17(1)(d) which permitted the UC Council to make delegate its functions to "any other person approved by the council."

Under Section 43 of the UC Act as amended, since repealed, the ACT Government was required within five years to undertake a review of the impact of the amendment on the university's function and any benefits provided to both the university and broader community as a result (the Review).

The Review was due to commence in 2020; however, the *COVID-19 Emergency Response Legislation Amendment Act 2020* amended the UC Act to provide a one-year extension.

The ACT Government engaged an independent reviewer in March 2021, and the final report was presented to the Legislative Assembly on 24 June 2021 (“Report on the Review of the University of Canberra Act 1989”, the Report).

The Report included the outcomes of consultations with UC’s executives and other stakeholders. This included a statement from the university that:

The University would like to take this review as an opportunity to request an amendment to the Act to expressly provide power to the Vice-Chancellor to subdelegate any functions which are within their area of responsibility.

The justifications for this request were that 1) similar authority exists in other Australian universities’ enabling legislation, and 2) the lack of the authority within the UC Act was creating a bottleneck of administrative burden on the Vice-Chancellor.

While the Vice-Chancellor was specifically cited in this request, the administrative bottleneck applies to any potential delegate. This is because the *Legislation Act 2001* prevents delegates from further subdelegating functions if the legislation does not explicitly provide for it (s 231(3) *Example 1*).

In order to prevent having to legislate each university executive with permission to subdelegate, this Bill has sought to 1) give subdelegation authority to any person to whom the UC Council delegates its functions, and 2) provide the UC Council with the authority to qualify or limit that authority by exercising its statute-making power.

An initial draft of this Bill included the phrase “if the subdelegation is authorised, in writing, by the council.” This language would have made the subdelegation authority conform with most other legislation where subdelegation is permitted.

However, the university responded to consultation on the language with its view that the provision was not necessary, because the *Legislation Act 2001* requires that the initial delegation from the UC Council must be in writing (s 232) and that the Bill further provides that a delegates subdelegation authority will be “subject to the statutes” under which the UC Council may further qualify the authority.

## **CONSISTENCY WITH HUMAN RIGHTS**

The Bill does not appreciably engage with, promote, or limit any Rights articulated by the HRA.

University of Canberra Amendment Bill  
*Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **University of Canberra Amendment Bill 2024**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA  
Attorney-General

## CLAUSE NOTES

### Clause 1      Name of Act

This clause provides the Act's name.

### Clause 2      Commencement

This clause provides that the Act will come into force the day after it is notified from the date of enactment.

### Clause 3      Legislation amended

This clause provides that the Act will amend the *University of Canberra Act 1989*, and all sections referenced by the Act relate solely to that legislation.

### Clause 4      Sections 11, 11A and 15

This clause omits the word "Chief" in referring to appointments made to the University of Canberra Council by the Minister. The purpose of this omission is to allow appointments to the University of Canberra Council to be made by the Minister responsible for the *University of Canberra Act 1989* as established by Administrative Arrangements.

This omission does not replace or supercede any other legislated requirements for the Minister to make Statutory Appointments.

### Clause 5      Delegation by council

#### New section 17 (4)

This creates a new section within the *University of Canberra Act 1989* to provide for explicit authority for the subdelegation of functions which were originally delegated by the University of Canberra Council. This section provides for the subdelegation authority may be further defined, qualified, or limited by statute, which the University of Canberra Council may make pursuant to its authority at Section 40 and is subject to Executive review and approval at Section 42.

### Clause 6      Dictionary, note 2

This clause inserts the terms *entity* and *Minister* in the dictionary references related to the *Legislation Act 2001*.