

1997

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**UNIVERSITY OF CANBERRA (TRANSFER)
BILL 1997**

EXPLANATORY MEMORANDUM

Circulated by authority of
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Minister for Education and Training

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University of Canberra (Transfer) Bill 1997

Outline

The *University of Canberra (Transfer) Bill 1997* 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

Although the Bill preserves UC autonomy, the university will be accountable to the ACT Government and the community. The Chief Minister appoints 10 of the 22 members of the university council. All university statutes will be tabled in the Assembly. Legislative statutes are disallowable

The Bill places the university under the *Financial Management Act 1996* and the Territory accountability framework. The Auditor General will audit financial statements. An annual report on the operations of the university will be presented to the Assembly.

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

The transfer of the University of Canberra is an important milestone in Territory history. The ACT will now have its own university as in other states. The transfer is a testament to our growth as a regional centre of excellence in education

Revenue

The transfer is expected to be cost neutral for the ACT

PART I - 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 1997* will commence when the Commonwealth *University of Canberra Act 1989* (Principal Act) becomes an enactment under the *ACT (Self Government) Act 1988*

PART II - UNIVERSITY OF CANBERRA ACT 1989

Part II covers the amended title of the *University of Canberra Act 1989*, the values and principles of the university, the University Council and the appointment of a Deputy Chancellor

Interpretation

Section 3 of the *University of Canberra Act 1989* is amended to change 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 of the Principal Act. 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 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.

Immunity from suit

The Bill indemnifies Council members for actions taken in good faith in the performance of their duties. Council members in other universities are indemnified

Principal Act Part 3

The heading to Part 3 of the Principal Act is omitted and a new heading *PART III - FINANCIAL AND COMMERCIAL MATTERS* inserted. Sections 35, 36, 37 and 39 of the Principal Act are repealed and sections covering the application of the *Financial Management Act 1989* and annual reporting substituted.

Application of Parts VI and VIII of the *Financial Management Act 1989* (FMA)

For the purposes of the FMA, the University Council is deemed to be the chief executive officer, responsible for the efficient and effective management of the university.

The university shall not prepare a statement of intent for the Treasurer under the FMA. The university already provides comprehensive financial reporting to the Commonwealth under the *Higher Education Funding Act 1988*

The university will not be required to use the bank of the Territory under the FMA. Section 35 gives the UC similar investment powers to other territory authorities. The Bill also provides for the university to invest with an authorised dealer or in clear bills of exchange. The university can only borrow with the written approval of the Treasurer

Annual reports and financial statements

The university shall within two months after 31 December in each year prepare annual financial statements relating to its operations. These statements shall be prepared according to generally accepted accounting practice. They will not include a statement of performance. The University Council shall forward the statements to the Auditor General within two weeks after they are prepared.

The university will not be required to provide monthly and quarterly interim financial statements under the FMA. Instead, the responsible Minister may, by instrument direct the

University Council to provide financial statements. The direction will be laid before the Assembly within five sitting days after it is issued to the university.

The Council shall within 4 months after 31 December of each year submit to the Minister an annual report for presentation to the Assembly

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 is defined in the *Auditor General's Act 1996* which applies to the university. According to this act, the university has a controlling interest in a company if it is able to:

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

Reporting requirements

Where the UC has a controlling interest in a company or joint venture it 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

Approval and publication of statutes

Section 42 of the Principal Act is amended to omit all reference to Commonwealth entities. Subsection 4 on tabling and gazettal of Council statutes, has been amended. These amendments make the distinction between legislative and administrative statutes. Administrative statutes will be tabled in the Assembly within 15 sitting days after gazettal. Legislative statutes are disallowable by the Executive and the Assembly under the *Subordinate Laws Act 1989*.

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

PART III - AMENDMENTS OF OTHER ACTS

Part IV covers amendments to 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 Land (Planning and Environment) (Consequential Amendments) Act 1991.

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 IV - SAVINGS AND TRANSITIONAL PROVISIONS

Continuance in office of the Vice Chancellor and acting appointments

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

Terms and conditions of employment of university employees

The Bill does not affect the terms and conditions of employment of university employees

Annual 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

Occupational health and safety

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

PART V - MISCELLANEOUS

Regulations

These provisions allow Executive twelve months to make regulations amending the *University of Canberra (Transfer) Act 1997* on any matter arising from the transfer 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