

# NORTHERN TERRITORY OF AUSTRALIA

## NORTHERN TERRITORY UNIVERSITY ACT

As in force at 27 May 1998

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 27 May 1998

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## NORTHERN TERRITORY UNIVERSITY ACT

**An Act to establish a university in the Northern Territory, and for related purposes**

### **Part I                      Preliminary**

#### **1                      Short title**

This Act may be cited as the *Northern Territory University Act*.

#### **2                      Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3                      Interpretation**

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

***Academic Board*** means the Academic Board of the University established under section 24.

***by-laws*** means by-laws made under section 49.

***Chancellor*** means the Chancellor of the University elected under section 14.

***Convocation*** means the Convocation of the University constituted by section 25.

***Council*** means the Council of the University.

***Deputy Chancellor*** means the Deputy Chancellor of the University elected under section 14.

***graduate*** means a member of a class of persons determined under by-laws to be graduates for the purposes of this Act.

***Registrar*** means the Registrar appointed under section 15A.

***rules*** means rules made under section 50.

**student** means a person enrolled as a student of the University.

**University** means the Northern Territory University established by section 4.

**Vice-Chancellor** means the Vice-Chancellor of the University appointed under section 15.

**Vocational Education and Training Board** means the Vocational Education and Training Board established under section 24A.

- (2) A reference in this Act to the Chancellor, the Vice-Chancellor, the Registrar, the Chair of the Academic Board or the Chair of the Vocational Education and Training Board, includes a reference to a person for the time being acting in or performing the duties of the office in question.

## **Part II                      The Northern Territory University**

### **4                      Establishment of University in place of existing institutions**

- (1) A university by the name of the Northern Territory University is established by this Act on 1 January 1989.
- (2) The University is established in place of the University College of the Northern Territory (established by the University College of the Northern Territory Act) and the Darwin Institute of Technology (established by the Advanced Education and Darwin Institute of Technology Act), and on its establishment the College and that Institute shall cease to exist.
- (3) The University:
- (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property, and of suing and being sued.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the University affixed to a document, and shall presume that it was duly affixed.

## **5 Functions of University**

The functions of the University are:

- (a) to provide undergraduate and post-graduate university education;
- (aa) to provide vocational education and training by way of a course of instruction which is, or is preparatory to, a course of a kind relevant to a trade, technical or other vocational occupation;
- (b) to provide such other kinds of education, and such kinds of training, as the Council thinks fit;
- (c) to co-operate with other universities, and with institutions of higher education, vocational education and training or research, whether within or outside of Australia;
- (ca) to liaise with industry, trade, commerce, the community, professional organisations and training committees;
- (cb) to undertake research taking advantage of the human and physical resources of the University and where appropriate consider commercial exploitation of such research;
- (d) to disseminate knowledge and advance skills and their practical application as the Council thinks fit;
- (e) to provide consultative and research services and facilities;
- (f) to administer schemes of financial and other assistance for students of, and persons studying or carrying out research at, the University, including, in the case of students, financial assistance in the form of loans;
- (g) to provide library and other educational facilities for use by the public subject to such conditions as the Council thinks fit; and
- (h) to carry out such other functions as are from time to time conferred on it by or under this or any other Act.

## **6 Powers of University**

- (1) Subject to this Act, the University has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

- (2) Without limiting the generality of subsection (1), the University may, for the purpose of performing its functions or exercising its powers (including powers conferred on it elsewhere in this or any other Act):
- (a) enter into contracts;
  - (b) create, develop, apply for, obtain and hold intellectual and industrial property and rights and enter into agreements or arrangements for the commercial exploitation of any such property and rights on such terms as to royalties, lump sum payments or otherwise as the Council thinks fit;
  - (c) purchase, take on lease or otherwise acquire and sell, grant leases of or otherwise dispose of, real or personal property;
  - (d) erect buildings;
  - (e) occupy, use and control any land or building owned or held under lease and made available for the purposes of the University;
  - (f) accept gifts, grants, bequests, devises and assignments made to the University, whether on trust or otherwise, and act as trustee of moneys or other property vested in the University upon trust;
  - (g) establish such faculties, schools, institutes, departments and research or other units within the University as the Council thinks fit;
  - (h) enter into arrangements with other universities, or with institutions of higher, technical or further education, whether in or outside Australia, or with any of the States of the Commonwealth that administer education services, for the establishment in the University of courses of lectures or studies for degrees, diplomas, trade certificates or otherwise; and
  - (j) establish, manage and control halls of residence, and other forms of student and other accommodation.

## **7 Composition of University**

The University shall consist of:

- (a) the members of the Council;
- (b) the graduates of the University;

- (c) the holders of awards of the University other than degrees;
- (d) the staff employed for the time being by the University; and
- (e) all students of the University.

## **Part III                      The Council**

### **8                      University affairs to be conducted by Council**

- (1) Subject to this Act, the affairs of the University shall be conducted by the Council.
- (2) All acts and things done by the Council, or in the name of or on behalf of the University with the express or implied authority of the Council, shall be deemed to have been done by the University.

### **9                      Composition of Council**

- (1) Subject to this Part, the Council shall consist of:
  - (a) the Vice-Chancellor;
  - (b) the Chair of the Academic Board;
  - (c) the Chair of the Vocational Education and Training Board;
  - (d) the President of the student association established under section 26;
  - (e) 11 persons appointed by the Administrator as follows:
    - (i) 2 persons with expertise or experience in matters relating to trade unions so appointed after consultation with trade unions;
    - (ii) 2 persons with expertise or experience in matters relating to business or industry so appointed after consultation with groups representative of business and industry; and
    - (iii) 7 persons so appointed as representing between them a broad range of community interests, including persons with expertise in education and vocational training, research and technology;
  - (f) one person elected by and from the full-time higher education academic staff of the University;

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- (g) one person elected by and from the full-time vocational education and training academic staff of the University;
  - (h) one person elected by and from the full-time non-academic staff of the University;
  - (j) one member of Convocation elected by Convocation; and
  - (k) one student elected by the students.
- (4) If a body, or body of persons, required by this section to elect a person or a number of persons to be a member or members of the Council fails or refuses to elect a person, or a sufficient number of persons, by the date determined from time to time by the Council in respect of that particular election:
- (a) the Minister may on the advice of the Council appoint such person or sufficient number of persons as the Minister thinks fit to be a member or members of the Council; and
  - (b) the person or persons so appointed shall be deemed to have been duly elected by the body or body of persons in question.

## **10 Terms of office of appointed and elected members**

- (1) Subject to this Part, an appointed member of the Council holds office for a period of 3 years beginning on the date of the member's appointment.
- (2) Subject to this Part, a member of the Council elected pursuant to section 9(1)(f), (g), (h) or (j), holds office for a period of 3 years beginning on the next following 1 January after the election of the member.
- (3) Subject to this Part, a member of the Council elected, or deemed to have been elected, by the students of the University holds office for 12 months beginning on 1 January of the year for which the member is elected.

## **12 Vacation of office**

A member of the Council vacates the member's office if:

- (a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, or compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit;



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- (b) the member is convicted in the Territory of an offence punishable by imprisonment for 12 months or more, or is convicted elsewhere than in the Territory of an offence which, if committed in the Territory, would be an offence so punishable;
  - (c) the member becomes a voluntary patient within the meaning of, or is ordered to be kept in custody under section 13 of, the *Mental Health Act* or is similarly confined, controlled or restricted under a law of a State or another Territory of the Commonwealth which provides for the care and control of persons who are mentally ill;
  - (d) the member is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or by post;
  - (e) the member resigns the member's office by writing signed by the member and delivered to the Secretary to Council;
  - (f) being an elected member, the member ceases to hold the qualification or qualifications necessary for the member's election as that elected member; or
  - (j) the member knowingly contravenes or fails to comply with section 16.

### **13 Casual vacancies**

- (1) Subject to section 9(4), where a vacancy occurs in the office of an elected member of the Council otherwise than by the expiry of the member's term of office:
  - (a) the Council shall appoint a person with the same qualification or qualifications for election as the member in whose stead the member is appointed to fill the vacancy; and
  - (b) subject to this Part, the person so appointed shall hold office as a member of the Council for the unexpired period of office of the member in whose stead the member is appointed.
- (2) In exercising its powers under subsection (1), the Council shall take into account the results of the election at which the member vacating his or her office was elected.

**14 Chancellor and Deputy Chancellor**

- (1) At the first meeting of the Council after the commencement of this Act, at the first meeting of the Council after the expiry of 3 years after the commencement of this Act, and at each first meeting of the Council after the expiry of each subsequent 3 years period, the members of the Council shall elect one of their number who is eligible for the office under subsection (2) to be Chancellor of the University and another to be Deputy Chancellor.
- (2) The members of the Council eligible for the offices of Chancellor and Deputy Chancellor are the members appointed by the Administrator and the member elected by Convocation.
- (3) Subject to subsection (5), the Chancellor and Deputy Chancellor hold office in their respective capacities until:
  - (a) the election of the Chancellor and Deputy Chancellor at each first meeting of the Council referred to in subsection (1);
  - (b) they resign their respective offices as Chancellor or Deputy Chancellor by writing signed by them and delivered to the Secretary of the Council; or
  - (c) they cease to be members of the Council,whichever first occurs.
- (4) Where, for any reason, the Chancellor is unable to exercise the powers or perform the duties of the Chancellor's office, the Deputy Chancellor may act in the office of the Chancellor.
- (5) Where a vacancy occurs in the office of Chancellor or Deputy Chancellor otherwise than by the expiry of the term of office, the Council shall elect one of its members eligible under section 14(2) for the office to be the Chancellor or Deputy Chancellor, as the case may be, and the person so elected shall hold the office for the balance of the unexpired term of the member in whose stead the person is appointed.

**15 Vice-Chancellor and Deputy Vice-Chancellor**

- (1) The Council shall, on such terms and conditions as it thinks fit, appoint a Vice-Chancellor, who shall be the chief executive officer of the University and responsible to the Council for the administration of the University.
- (2) The Vice-Chancellor shall have such powers and duties as are prescribed by by-laws or determined by the Council.

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- (3) The Council may, on such terms and conditions as it thinks fit, appoint such Deputy Vice-Chancellors, if any, to perform such functions, as it thinks fit.

### **15A Appointment of Registrar**

- (1) The Council shall appoint a person to be the Registrar of the University on such terms and conditions and with such functions and powers as it thinks fit.
- (2) The Registrar appointed under subsection (1) is the Secretary to the Council.

### **16 Disclosure of interest**

- (1) A member of the Council who has a direct or indirect pecuniary interest in:
- (a) a matter being considered or about to be considered at a meeting of the Council; or
  - (b) a thing being done or about to be done by the Council,

otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 members and of which the member is not a director shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.

- (2) A disclosure by a member at a meeting of the Council that the member:
- (a) is a member, or is in the employment, of a specified company or other body;
  - (b) is a partner, or is in the employment, of a specified person; or
  - (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body, or to that person, which may arise after the date of the disclosure.

- (3) The Council shall cause particulars of all disclosures made under this section to be recorded in a book kept for the purpose and that book shall be open at all reasonable times to the inspection of any

person on payment of such fee, if any, as is determined from time to time by the Council.

- (4) After a member of the Council has, or shall be deemed to have, disclosed the nature of an interest in a matter or thing pursuant to this section, the member shall not, unless the Council (in the absence of the member) otherwise determines:
  - (a) be present during any deliberation of the Council, or take part in a decision of the Council, in relation to that matter; or
  - (b) exercise a function under this Act in relation to that thing.
- (5) A reference in this section to the Council includes a reference to a committee of the Council.

## **17 Meetings of Council**

- (1) The Chancellor shall call such meetings of the Council as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 4 months.
- (2) The Chancellor shall call a meeting of the Council if requested to do so by not less than 50% of the members of the Council for the time being holding office.
- (3) At a meeting of the Council:
  - (a) 50% of the members of the Council for the time being holding office constitute a quorum;
  - (b) questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the matter shall be deferred for consideration at the next meeting of the Council to be held on a subsequent day and, in the event of an equality of votes at that next meeting, the matter shall be taken to have been defeated; and
  - (c) subject to this Act and any by-laws, the Council shall determine the procedure to be followed at or in connection with the meeting.

## **18 Presiding at meetings**

- (1) Subject to subsection (2), the Chancellor or, in the Chancellor's absence, the Deputy Chancellor shall preside at all meetings of the Council at which he or she is present.

- (2) In the absence of both the Chancellor and the Deputy Chancellor, the members present at a meeting of the Council shall elect an acting Chancellor and that person may exercise the powers and shall perform the functions of the Chancellor for that meeting.

## **19                      Committees**

- (1) The Council may establish such committees as it thinks fit.
- (2) A person may be appointed as a member of a committee whether or not the person is a member of the Council.

## **Part V                      Academic Board Vocational Education and Training Board, Convocation and Student Association**

### **24                      Academic Board**

- (1) There shall be an Academic Board of the University, the membership of which shall be prescribed by by-laws.
- (2) By-laws shall make provision for the election of a Chair and Deputy Chair of the Academic Board.
- (3) The Academic Board:
  - (a) may advise the Council or the Vice-Chancellor on any matter whatsoever relating to the University, and, in particular, make recommendations with respect to instruction, studies, examinations and assessments, research and awards relevant to those programs deemed to be higher education awards for funding purposes;
  - (b) shall report on any matter on which it is required to report by the Council or the Vice-Chancellor;
  - (c) shall have such other powers and duties as are conferred or imposed on it by or under this Act; and
  - (d) may regulate its own proceedings.

### **24A                      Training and Further Education Board**

- (1) There shall be a Vocational Education and Training Board of the University, the membership of which shall be prescribed by by-laws.

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- (2) By-laws shall make provision for the election of a Chair and Deputy Chair of the Vocational Education and Training Board.
  - (3) The Vocational Education and Training Board:
    - (a) may advise the Council or the Vice-Chancellor on any matter whatsoever relating to the University and, in particular, make recommendations with respect to instruction in vocational education and training (including examinations and assessments and awards relevant to those programs) deemed to be vocational education and training for the purposes of funding from the Commonwealth or the Territory;
    - (b) shall report on any matter on which it is required to report by the Council or the Vice-Chancellor;
    - (c) shall have such other powers and duties as are conferred or imposed on it by or under this Act; and
    - (d) may regulate its own proceedings.

## **25 Convocation**

- (1) There shall be a Convocation of the University consisting of:
  - (a) all members and past members of the Council;
  - (b) all graduates of the University;
  - (c) all members of the full-time academic staff of the University, and such other members or classes of members of staff as are prescribed by by-laws; and
  - (d) such graduates of other tertiary institutions, and such other persons or classes of persons, as are admitted to membership of Convocation in accordance with by-laws.
- (2) Convocation shall have such functions and powers as are provided by this Act or by by-laws.
- (3) The first meeting of Convocation shall be convened by the Vice-Chancellor, and subsequent meetings as provided by by-laws.
- (4) A quorum at a meeting of Convocation shall be such number of members as by-laws prescribe.
- (5) Subject to any provision made with respect thereto by by-laws, the conduct of business at meetings of Convocation shall be as determined by Convocation.

**26 Student Association**

- (1) The students of the University may, in accordance with provision to be made in that behalf by by-laws or rules, establish a student association of the University and adopt a constitution by which the Association is to be governed.
- (2) The objects of the student association shall be as defined in its constitution.
- (3) Neither the constitution adopted in pursuance of subsection (1) nor any subsequent amendment thereto or constitution adopted in place thereof shall have any force or effect unless and until it is approved by the Council.

**Part VI Degrees and other awards****27 Degrees and awards of the University**

- (1) The Council may:
  - (a) confer degrees of the University; and
  - (b) grant diplomas, certificates or other awards of the University,either in relation to the passing of examinations of the University or otherwise in relation to education and training provided by the University.
- (3) For the purpose of enabling students to obtain degrees and other awards of the University, the Council shall promote course articulation and credit transfer between vocational education and training and higher education.
- (4) The Council may grant honorary degrees and other distinctions as it thinks fit.

**28 Degrees and awards of other bodies**

The Council may cause instruction to be given to students for the purpose of completing the requirements for a degree or other award of any university or other institution with which the Council has made an agreement.

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**Part VII                      Staff, &c.****29                      Appointment of staff**

Subject to this Act and any by-laws, the Council may, on such terms and conditions as it thinks fit, appoint such academic and other staff as it thinks necessary for the purposes of the University.

**30                      Consultants may be engaged**

The Council may engage consultants to the University and make such arrangements to be provided with advice as it thinks fit.

**Part VIII                      Property, finance, audit and annual report****31                      Accountable officer**

The Council shall appoint an Accountable Officer for the purposes of this Part.

**32                      Financial year**

Subject to the approval of the Treasurer, the Council may determine a date on which the financial year of the University ends.

**33                      Fees and charges**

- (1) Subject to this section, fees or charges are payable to the University at such rates, for such courses of study or instruction of the University, for admission to such examinations conducted by the University and in relation to such other facilities or privileges of the University as are determined by the Council.
- (2) A student to whom the University has granted a scholarship or bursary in accordance with any by-law is exempt from payment of fees and charges to the extent of the exemption applicable under the scholarship or bursary.
- (3) The Council may exempt a student from the payment of the whole or any part of a fee or charge otherwise payable by the student if it considers that the payment of the whole or part of the fee or charge, as the case may be, would cause substantial hardship to the student.
- (4) The Council may defer the date at which a fee or charge is otherwise payable by a student if it considers that the payment of the fee or charge at the time at which the fee or charge is ordinarily due, would cause substantial hardship to the student.



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**34 University accounts**

- (1) Subject to this Part, the Council shall open and maintain such account or accounts with such bank or banks, building society or building societies, credit union or credit unions or the Territory Insurance Office as it thinks fit.
- (2) There shall be paid to the credit of the account or accounts referred to in subsection (1) all moneys received by the University.
- (3) Subject to the terms of a trust, money in an account referred to in subsection (1) shall be applied by or with the authority of the Council only for the purposes of the University.

**35 Proper accounts to be kept**

- (1) The Council shall cause to be kept proper accounts and records of the transactions and affairs of the University and shall do all things necessary to ensure that all payments out of the moneys of the University are correctly made and properly authorized and that adequate control is maintained over the property of, or in the custody of, the University and over the incurring of liabilities by the University.
- (2) The Council shall show separately in its accounts under subsection (1) income and expenditure which in the opinion of the Council is properly attributable to vocational education and training.

**36 Gifts, &c., and trust funds**

In exercising its powers to acquire, hold, deal with or dispose of real or personal property, the University may agree to and carry out the conditions of a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property and the Council may create and administer such trust fund or funds in connection therewith, or for any other purpose, as it thinks fit.

**37 Investment**

- (1) The Council may establish such investment common funds for the collective investment of trust or other moneys of or in the custody of the University as it thinks fit.
- (2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from the investment common fund the whole or any part of moneys of the University, trust moneys or other moneys held by or in the custody of the University.

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- (3) Subject to subsections (4) and (5), the Council shall periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.
  - (4) Where moneys received by the Council to be expended for a stated purpose have been brought into an investment account but cannot, or will not immediately, be expended for that purpose, the Council may pay into the general funds of the University the whole or any part of that part of the income of that investment common fund that is attributed to the participation of those moneys in that fund and which are not required for that stated purpose.
  - (5) The Council may, as it thinks fit, add such portion of the income of an investment account as it thinks fit to the capital of the common fund or use such portion of that income as it thinks fit to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.
  - (6) Moneys of the University (whether forming part of a common fund or not), including moneys held on trust or subject to a condition, shall not be invested by the Council except in a class of investment approved by the Treasurer, and when a class of investment is so approved the Council may invest moneys of the University in investments of that class
  - (7) The powers conferred on the Council by this section, or by a by-law relating to investment of property, shall not be exercised by the Council in relation to a trust fund or other moneys where:
    - (a) the investment creating the trust expressly directs to the contrary; or
    - (b) the exercise of power would constitute a breach of a condition under which the fund or moneys in question was or were acquired.

### **38 Variation of terms of trust or gift**

- (1) In this section **approved scheme** means a scheme, with or without modifications, approved under subsection (3) by the Administrator.
- (2) Where property is held by the University on terms requiring it or the income from the property to be applied for a purpose or purposes and:
  - (a) the purpose or all or any of the purposes has or have been effected;

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- (b) the purpose or all or any of the purposes has or have ceased to exist;
  - (c) the purpose or all or any of the purposes has or have been adequately provided for by other means;
  - (d) the purpose or all or any of the purposes is or are uncertain or cannot be identified or is or are not sufficiently defined;
  - (e) it becomes impossible or impracticable or inexpedient to carry out the purpose or all or any of the purposes; or
  - (f) the property or income derived from the property proves inadequate to carry out the purpose or all or any of the purposes,

the Council may, subject to this section, cause to be prepared a scheme by which that property or any part or residue of that property shall be held on terms requiring the property or the income from the property to be applied for the purpose or purposes designated in the scheme.

- (3) A scheme under subsection (1) shall be submitted by the Council to the Administrator and on receipt of the scheme the Administrator may:
  - (a) by notice in the *Gazette*:
    - (i) approve the scheme; or
    - (ii) approve the scheme with such modifications as the Administrator thinks fit; or
  - (b) by notice in writing to the Council, refuse to approve the scheme.
- (4) Where, in relation to property or a part or residue of property held by the University, there is in existence an approved scheme, the property, part or residue shall, in accordance with the approved scheme, be diverted from the purpose or purposes for which it was held and shall be held for the purpose or purposes as designated in the approved scheme.
- (5) In selecting a purpose for an approved scheme or for an amendment of an approved scheme, the Council shall have a preference for a purpose which, in its opinion, is as nearly similar to the purpose or purposes for which the property concerned is, for the time being, held by the University as is consistent with useful and convenient achievement but such a scheme or amendment

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shall not be invalidated or otherwise prejudiced by reason that another purpose may have more properly been selected by the Council in accordance with this subsection.

- (6) On its publication in the Gazette, judicial notice shall be taken of an approved scheme and of all amendments of the scheme.
- (7) The powers conferred by this section are in addition to any other power or right exercisable in law in relation to property held by the University on trust.

### **39 Financial accommodation**

- (1) For the purpose of providing financial accommodation for enabling the University to perform its functions, the Council may, with the prior approval of the Treasurer, obtain advances by way of loan:
  - (a) from the Treasurer;
  - (b) on overdraft from a bank; or
  - (c) from any other person, on such security at such rate of interest and subject to such other terms and conditions as the Council, with the approval of the Treasurer, thinks fit.
- (2) Before entering into negotiations for the obtaining of an advance by way of loan on overdraft from a bank or from another person, the Council shall obtain the approval of the Treasurer to enter into such negotiations and, for the purpose of obtaining that approval, shall submit to the Treasurer such information as the Treasurer requires.

### **40 Budget and financial information**

- (1) The Council shall:
  - (a) in each financial year, adopt for the next following financial year a budget for all funds of the University, other than those to which paragraph (b) relates, and shall approve all amendments to the budget, and shall control the expenditure of the University so that it conforms as nearly as practicable to the approved budget; and
  - (b) review annually funds available to the University by way of bequest, donation or special grant and the expenditure thereof, and shall, subject to the terms of a trust and before any such expenditure is made, approve the proposed disposition of those funds.

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- (2) As soon as practicable after adopting or amending a budget under subsection (1)(a), the Council shall forward to the Treasurer a copy of the budget or amendment, as the case may be.
  - (3) The Treasurer may at any time require the Accountable Officer appointed under section 31 to provide the Treasurer with such information as, in the Treasurer's opinion, is necessary to enable him or her to accurately assess the financial affairs of the University, including details of:
    - (a) financial investments in corporations, trusts and joint ventures;
    - (b) contingent liabilities; and
    - (c) guarantees,and the Accountable Officer shall provide that information accordingly.

#### **41 Annual reports and audit**

- (1) The Council shall, within the period of 6 months immediately following the end of the financial year or such other period as the Minister determines, prepare a report on the operations of the University during the financial year and forward it to the Minister.
- (2) The Accountable Officer appointed under section 31 shall, within the period of 3 months immediately following the end of the financial year or such other period as the Treasurer determines, prepare a financial statement in respect of the operations of the University or functions of the University specified in writing by the Treasurer.
- (3) A financial statement under subsection (2) shall be prepared in such form as the Treasurer directs.
- (4) The Accountable Officer shall forward the financial statements to the Auditor-General who shall audit it and, within the period of 3 months after receiving it or such other period as the Administrator allows, report on the statement to the Minister and forward a copy of the report to the Accountable Officer.
- (5) The Minister shall table the report under subsection (1), together with the financial statement and the report of the Auditor-General on the financial statement, in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the later of the reports to the Minister.

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## **Part IX                      Miscellaneous**

### **42                      Trading, &c., corporations**

The Council may, with the approval of the Treasurer, establish by incorporation in the Territory or elsewhere, or participate in the establishment of, such trading, research or other corporations as it thinks fit for the purpose of promoting or assisting, or in connection with the functions of, the University.

### **43                      Delegation**

- (1) The Council, and the Vice-Chancellor subject to the directions of the Council, may, by instrument in writing, delegate to a person any of the Council's or the Vice-Chancellor's powers, as the case may be, and functions under this Act, other than this power of delegation or, in the case of the Council, the power to make by-laws or rules.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Council or the Vice-Chancellor, as the case may be.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Council or the Vice-Chancellor.
- (4) Where a power or function is delegated under this section by the Council to a member of the staff of the University, that power or function shall be deemed to have been delegated to the Vice-Chancellor also.
- (5) Where under this section the Council delegates a power or a function to a committee of the Council, then, on a change occurring in the composition of that committee, the instrument of delegation shall (unless expressly revoked or varied by the Council) take effect as a fresh delegation of the power or function to the persons constituting the committee immediately after the change.

### **44                      Terms of contract and execution of documents**

- (1) A deed, instrument, contract or agreement relating to any property or matter which, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of the University in writing under its common seal.
- (2) An instrument, contract or agreement relating to any property or matter which, if made by or between individuals would be required to be in writing signed by the parties to be charged therewith, may

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be made on behalf of the University in writing by a person acting under the authority, express or implied, of the Council.

- (3) A contract relating to any property or matter which, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the University by a person acting under the authority, express or implied, of the Council.
- (4) A contract entered into or an instrument, contract or agreement signed in relation to any property or obligation of the University shall be deemed to have been entered into or signed with the express authority of the Council if it is entered into or signed in accordance with a resolution of the Council for the time being in force.

#### **45 Protection of members, &c.**

No action or proceeding, civil or criminal, shall be commenced or lie against a member of the University or of the Council for or in respect of an act or thing done or omitted to be done in good faith:

- (a) by the member in the member's capacity as such a member;  
or
- (b) by the University, the Council or that Board,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

#### **46 Re-election or re-appointment**

Nothing in this Act shall prevent a person from being, at any time, re-appointed or re-elected to an office or place under this Act if the person is otherwise qualified or capable of holding that office or place.

#### **47 Validity of proceedings**

No proceedings of the Council or of a committee of the Council and no act done by the Vice-Chancellor, Deputy Vice-Chancellor, the Registrar or a delegate of the Council or the Vice-Chancellor, shall be invalidated by reason only of:

- (a) a defect in the appointment or election of, or a disqualification of, a member of the Council or of a committee of the Council or such a person;
- (b) a defect in the convening or conduct of a meeting of the Council or a committee of the Council;

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- (c) there being a vacancy in the membership of the Council or a committee of the Council;
  - (d) the fact that a person purporting to be a member of the Council or of a committee of the Council by virtue of an office held by the person did not hold that office;
  - (e) the fact that a person purporting to be a member of the Council or of a committee of the Council was not such a member; or
  - (f) a contravention of or non-compliance with section 16 by a member of the Council or a committee of the Council.

**48 No discrimination**

The University shall not discriminate against or in favour of a person on the grounds of that person's sex, religion, race, sexual preference, colour, age, religion, mental or physical disability or political beliefs.

**49 By-laws**

- (1) The Council may make by-laws, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), by-laws may in particular make provision relating to:
  - (a) the use and custody of the common seal of the University;
  - (b) the method of election of members of the Council, including procedures relating to nominating, enrolling and voting and the counting of votes and the declaration of polls;
  - (c) the manner and time of convening, holding and adjourning the meetings of the Council, voting at such meetings, the powers and duties of the Chancellor or other person presiding at a meeting, and the conduct and recording of the business thereat;
  - (d) the appointment of committees of the Council, and the quorum, powers and duties of such committees;
  - (e) the admission of students to the University;



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- (f) the promotion and extension of University teaching and research;
  - (g) the granting of degrees, diplomas, certificates, and honours by the University;
  - (h) the granting of fellowships, scholarships, exhibitions, bursaries and prizes by the University;
  - (j) the admission of students of other universities or educational establishments to a corresponding status or of graduates of other universities to a corresponding degree or diploma of the University without examination;
  - (k) the establishment, management and control of libraries and museums in connection with the University;
  - (m) the establishment, management and control of halls of residence established, and other accommodation provided, by the University;
  - (n) the affiliation, association or connection with the University of an educational or research establishment, wherever situated, to which the governing body of such establishment consents;
  - (p) the control and investment of the property of the University, including property held on trust or subject to a condition;
  - (q) the protection of the property of or under the control of the University from trespass, damage or misuse;
  - (r) the regulation and control of access to, and the use of, land and buildings the property of or under the control of the University and the conduct of persons and the presence and use of vehicles thereon;
  - (s) the terms and conditions of appointment of academic and other staff;
  - (t) the recognition of the status of graduate for the purposes of this Act;
  - (u) student discipline;
  - (w) the making of rules; and
  - (y) the method of collection of those fees and charges determined by the Council under section 33.

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- (3) A by-law referred to in subsection (2)(b) may provide for an election of a member of the Council to be conducted by and by agreement with the Chief Electoral Officer within the meaning of the Electoral Act and where it so provides the election shall be conducted in such manner, not inconsistent with the By-laws, as the Chief Electoral Officer thinks fit.
- (4) Without limiting the generality of subsection (1), a by-law may:
- (a) provide, in the case of an offence of:
    - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a by-law;
    - (ii) driving a vehicle on a part of a site in breach of a by-law;
    - (iii) driving a vehicle on a part of a site at a speed in excess of a speed that, in relation to that part, is prescribed, determined by a method prescribed or fixed by a person authorized by a by-law so to do in respect of the site or that part;
    - (iv) driving a vehicle on a part of a site contrary to a direction, whether given by a person authorized by a by-law so to do or by a traffic control device on the site; or
    - (v) doing on a site with or in respect of a vehicle such other act as is prescribed,that the person who was in charge of the vehicle at the material time or the owner of the vehicle (whether or not the owner was in charge of the vehicle at the material time) shall be liable to be punished for the offence;
  - (b) define who is the owner of a vehicle for the purposes of the By-laws;
  - (c) provide for the removal or disposal of a vehicle:
    - (i) parked or left standing on a site in such a position as to obstruct, interfere with or cause danger to other vehicles on the site or to users of the site; or
    - (ii) apparently abandoned on a site; and
  - (d) prescribe the proof that is necessary or sufficient to establish a matter relevant to an offence created by the By-laws.

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- (5) A by-law referred to in subsection (4)(a) shall not be so construed that the owner of a vehicle and the person in charge of it at the time an offence was committed with or in respect of the vehicle shall both be liable for the one offence.
  - (6) In subsection (4), **site** means land or a building the property of or under the control of the University.
  - (7) By-laws under this Act are not regulations for the purposes of section 57 of the *Interpretation Act*.

## **50 Rules**

- (1) The Council may make rules (not inconsistent with this Act or any by-law) for carrying into effect any of the provisions of this Act or of by-laws.
- (2) Rules shall be signed by a person authorized by the Council to sign them.
- (3) Rules shall be published in such manner as is provided for in by-laws, and shall take effect from the date of publication or, where a later date is provided for in the rules, from that later date.
- (4) It is sufficient compliance with the requirements of subsection (3) if notice of the making of the rules and the place where copies of them may be obtained is published on a notice board nominated in by-laws as the main notice board for the University in each campus.
- (5) Notwithstanding section 63(11) of the *Interpretation Act*, section 63 of that Act does not apply to or in relation to rules under this section.

## **51 Penalties under by-laws and rules**

- (1) A by-law or rule may impose, or empower the Council or an officer of the University or a body established in accordance with the By-laws to impose, a penalty not exceeding:
  - (a) in the case of a by-law – \$1,000; and
  - (b) in the case of a rule – \$100,for a contravention of or failure to comply with a by-law or rule.
- (2) A penalty imposed under a power conferred by a by-law or rule is a debt due and payable by the person on whom it is imposed to the University, and in proceedings for its recovery from that person, a certificate signed by an officer of the University and specifying the

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person or body by whom it was imposed, the date on which it was imposed and the amount thereof shall be prima facie evidence of the matters specified.

## **Part XI                    Repeals, savings and transitional provisions**

### **59                    Repeals**

The *University College of the Northern Territory Act 1985* and the *Advanced Education and Darwin Institute of Technology Act 1985* (being respectively Act No. 58 of 1985 and Act No. 59 of 1985) are repealed as from 1 January 1989.

### **60                    Savings and transitional provisions**

- (1) The savings and transitional provisions in Schedule 2 shall have effect.
- (2) The Administrator may by regulations make such provision (not inconsistent with this Act) as the Administrator considers necessary or desirable to be made with respect to any matter or thing existing or in force immediately before 1 January 1989, being provision consequential on the repeals effected by section 59 and the replacement of the University College of the Northern Territory and the Darwin Institute of Technology by the Northern Territory University.

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## Schedule 2

section 60(1)

### SAVINGS AND TRANSITIONAL PROVISIONS

#### 1. Definitions

In this Schedule:

**College** means the University College of the Northern Territory.

**Institute** means the Darwin Institute of Technology.

**Interim Council** means the Northern Territory University Interim Council established by section 53.

#### 2. Assets and liabilities, including contracts generally

(1) On and from 1 January 1989:

- (a) all real and personal property and all right and interest therein and all management and control thereof which, immediately before that day, was vested in or belonged to the College, the Institute or the Interim Council shall, by virtue of this Act and without further assurance, vest in and belong to the University;
- (b) all licences held immediately before that day by the College, the Institute or the Interim Council shall, subject to the provisions of any Act (including any Act of the Commonwealth), become licences held by the University;
- (c) all money and liquidated and unliquidated claims which, immediately before that day, were payable to or recoverable by the College, the Institute or the Interim Council shall be money and liquidated and unliquidated claims payable to or recoverable by the University;
- (d) all proceedings pending immediately before that day at the suit of the College, the Institute or the Interim Council shall be deemed to be proceedings pending on that day at the suit of the University, and all proceedings so pending at the suit of any person against the College, the Institute or the Interim Council shall be deemed to be proceedings pending at the suit of that person against the University;
- (e) all contracts, agreements, arrangements and undertakings (not being a contract of employment or a contract, agreement, arrangement or undertaking entered into by a student with

respect to the provision to the student of any course or programme of study) entered into with, and all securities lawfully given to or by, the College, the Institute or the Interim Council and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the University;

- (f) the University may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subparagraph and for the prosecution of proceedings so referred to as the College, the Institute or the Interim Council as the case may be might have done but for its dissolution;
  - (g) the University may enforce and realise any security or charge existing immediately before that day in favour of the College, the Institute or the Interim Council and may exercise any powers thereby conferred on the body in question as if the security or charge were a security or charge in favour of the University;
  - (h) all debts, money and claims, liquidated and unliquidated, which, immediately before that day, were due or payable by, or recoverable against, the College, the Institute or the Interim Council shall be debts due by, money payable by and claims recoverable against, the University; and
  - (j) all liquidated and unliquidated claims for which the College, the Institute or the Interim Council would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the University shall be liable.
- (2) No attornment to the University by a lessee from the College, the Institute or the Interim Council shall be required.
  - (3) On the lodgment of a copy of this Act with the Registrar-General or with an officer controlling any register or other record of interests in property, the Registrar-General or that officer, as the case may require, shall in respect of any property which was vested in the College, the Institute or the Interim Council immediately before 1 January 1989, or in which any of those bodies held an interest immediately before that day, make such entries in the relevant registers or records as are necessary to give effect to this Schedule.

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- (4) No duty, fee or other charge shall be payable by the University in relation to the transfer or vesting of property transferred to or vested in the University by or under this Act.

**3. Staff**

- (1) A person who (not being a casual employee) is immediately before 1 January 1989 a servant of the College, the Institute or the Interim Council and who:

- (a) presents him or herself for work at the University on the first working day after 1 January 1989;
- (b) is on leave on the first working day after 1 January 1989, but presents him or herself for work at the University on the day following the expiry of that leave; or
- (c) has in the opinion of the Vice-Chancellor (whose decision in the matter shall be final) a reasonable excuse for not presenting him or herself for work on the day specified in paragraph (a) or (b) but does so by a day determined by the Vice-Chancellor,

shall become or be deemed to have become, as the case may be, a servant of the University on 1 January 1989.

- (2) Where the contract of employment with the College, the Institute or the Interim Council of a servant transferred by subparagraph (1) was immediately before 1 January 1989 expressed to expire on a specified or ascertainable date later than 1 January 1989, the servant shall be deemed to have become a servant of the University under a contract of employment of like duration.
- (3) A servant transferred by subparagraph (1) shall be entitled to be paid salary or wages, allowances and other benefits at rates equal to those that were payable to him or her immediately before 1 January 1989, and otherwise upon the same conditions as then obtained, until his or her salary, wages, allowances or other benefits is or are varied or altered:
- (a) by an award of a competent tribunal or an industrial agreement or otherwise in accordance with law; or
  - (b) subject to any such award or agreement, by a decision of the Council.

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- (4) Except as otherwise provided by this paragraph, the conditions of employment of a servant transferred by subparagraph (1) shall, subject to any variation of any such condition:

- (a) by an award of a competent tribunal or an industrial agreement or otherwise in accordance with law; or
- (b) by any decision of the Council not inconsistent with any such award or agreement,

be the same as the conditions of his or her employment with the College, the Institute or the Interim Council immediately before 1 January 1989.

- (5) Subject to any decision by the Council to the contrary, a servant transferred by subparagraph (1) shall retain on and after 1 January 1989 any designation held by him or her immediately before that date in relation to his or her services with the College, the Institute or the Interim Council.
- (6) For the purposes of annual leave, sick leave and long service leave, service with the College, the Institute or the Interim Council of a servant transferred by subparagraph (1) shall be deemed to be service with the University.
- (7) A servant transferred by subparagraph (1) shall retain any rights to annual leave, sick leave, long service leave or other leave which, immediately before 1 January 1989, have accrued to him or her in respect of his or her service with the College, the Institute or the Interim Council.
- (8) A servant transferred by subparagraph (1) is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

#### **4. Students**

- (1) Each person who is, immediately before 1 January 1989, enrolled in any course as a student of the College or the Institute shall, subject to the agreement described in subparagraph (6) and to any by-laws or rules, become on that day a student of the University and be enrolled in a course which is substantially the same in content as that former course.
- (2) The University shall, on and after 1 January 1989, provide such courses as are necessary for the purposes of subparagraph (1).



- (3) Where a student is enrolled in a course pursuant to subparagraph (1), the University shall, subject to any by-laws or rules, give the student credit for any subject or work completed by the student in the course from which he or she was transferred.
- (4) Where a person completes a course provided by the Institute before 1 January 1989, but an award in respect of the course has not been conferred on him or her by that date, the University may, after holding any necessary examination or making any necessary assessment, confer such an award.
- (5) An award conferred under subparagraph (4) shall be under the seal of the Institute and signed by such persons as the Council appoints.
- (6) The agreement referred to in subparagraph (1) is the agreement (as in force on 1 January 1989) made on 2 December 1985 between The University of Queensland, the Northern Territory of Australia, and the University Planning Authority established by the University (Interim Arrangements) Act 1980.

## **5. Trading, &c., Corporations**

Where, prior to 1 January 1989, the Institute has established, or participated in the establishment of, any body corporate (however described, and whether within Australia or outside it) any of the shares or other beneficial interests in which are held by or on behalf of the Institute, those shares or other beneficial interests shall, on and from 1 January 1989, be held by or on behalf of the University.

## **6. By-laws, &c.**

On and after 1 January 1989, by-laws, rules and determinations made by the Interim Council by virtue of section 55(5) or (6) shall be treated for all purposes as having been made by the Council of the University, and the power of that Council under section 49(1) is extended accordingly to the making of by-laws with respect to the matters specified in section 55(5)(b).

## **7. General**

- (1) Subject to this Act and any regulations under section 60(2), any act, matter or thing done or omitted to be done before 1 January 1989 by, to or in respect of the College, the Institute or the Interim Council shall, to the extent that, but for the dissolution of the body in question, it would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the University.
- (2) This paragraph does not apply to by-laws or rules made by the College or the Institute.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Northern Territory University Act 1988 (Act No. 49, 1988)***

Assent date	25 October 1988
Commenced	26 October 1988 ( <i>Gaz</i> S62, 26 October 1988)

***Statute Law Revision Act 1989 (Act No. 60, 1989)***

Assent date	2 October 1989
Commenced	2 October 1989

***Northern Territory University Amendment Act 1994 (Act No. 79, 1994)***

Assent date	30 December 1994
Commenced	30 January 1995 ( <i>Gaz</i> S5, 30 January 1995)

***Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)***

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 <i>Financial Management Act 1995</i> (Act No. 4, 1995) and <i>Gaz</i> S13, 31 March 1995)

***Trustee (Consequential Amendments) Act 1996 (Act No. 8, 1996)***

Assent date	20 March 1996
Commenced	26 February 1996 (s 2, s 2 <i>Trustee Amendment Act</i> (No. 2) 1995 (Act No. 60, 1995) and <i>Gaz</i> G7, 14 February 1996, p 2)

***Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)***

Assent date	2 June 1997
Commenced	2 June 1997

***Territory Insurance Office (Miscellaneous Amendments) Act 1998 (Act No. 37, 1998)***

Assent date	27 May 1998
Commenced	27 May 1998

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### 3 LIST OF AMENDMENTS

s 3	amd No. 79, 1994, s 4
s 5	amd No. 79, 1994, s 5
ss 6 – 7	amd No. 79, 1994, s 18
s 9	amd No. 79, 1994, ss 6 and 18
s 10	amd No. 79, 1994, ss 7 and 18
s 11	rep No. 79, 1994, s 18
s 12	amd No. 79, 1994, ss 8 and 18
s 13	amd No. 79, 1994, s 18
s 14	amd No. 79, 1994, ss 9 and 18
s 15	amd No. 79, 1994, s 18
s 15A	ins No. 79, 1994, s 10
s 16	amd No. 79, 1994, s 18
ss 18 – 19	amd No. 79, 1994, s 18
pt IV hdg	rep No. 79, 1994, s 11
ss 20 – 23	rep No. 79, 1994, s 11
pt V hdg	amd No. 79, 1994, s 18
s 24	amd No. 79, 1994, s 18
s 24A	ins No. 79, 1994, s 12
s 27	amd No. 79, 1994, s 18
s 31	amd No. 79, 1994, s 18
	sub No. 5, 1995, s 3
s 33	amd No. 79, 1994, ss 13 and 18
s 34	amd No. 23, 1997, s 6; No. 37, 1998, s 4
s 35	amd No. 79, 1994, s 18
s 37	amd No. 8, 1996, s 3
ss 38 – 39	amd No. 79, 1994, s 18
s 40	amd No. 79, 1994, s 18; No. 5, 1995, s 4
s 41	sub No. 5, 1995, s 5
s 43	amd No. 79, 1994, s 18
ss 45 – 47	amd No. 79, 1994, s 18
s 48	amd No. 79, 1994, s 14
s 49	amd No. 79, 1994, ss 16 and 18
s 51	amd No. 79, 1994, s 18
pt X hdg	rep No. 79, 1994, s 15
ss 52 – 58	rep No. 79, 1994, s 15
sch 1	rep No. 79, 1994, s 17
sch 2	amd No. 60, 1989, s 6