

Western Australia

# **Murdoch University Act 1973**

**Incorporating the amendments proposed  
by the *Universities Legislation Amendment  
Bill 2016* Pt. 4 (Bill No. 172-2)**



# Murdoch University Act 1973

## Contents

### Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Terms used	2

### Part 2 — Murdoch University

4.	Murdoch University	4
5.	Objects of University	4
6.	Functions of University	4
8A.	Power of University to provide residential accommodation for staff and students	6

### Part 3 — Constitution of University

8.	Constitution	7
9.	Visitor	7
10.	Chancellor	7
11.	Deputy Chancellor	8
12.	Senate	9
13.	Nominations Committee	11
14.	Term of office of members	12
14A.	Duties of Senate members	13
15.	Resignation, disqualification and vacation of office	13
15A.	Removal of Senate members for breach of certain duties and suspension pending removal	15
16.	Casual vacancies	16
17.	Functions of Senate, its powers and duties	17
17A.	Disclosure of interests	18
17B.	Relief of Senate members from liability	18
18.	Delegation by Senate	18
19A.	Remuneration and allowances for Senate members	19
20.	Guild of Students	20
20A.	Amenities and services fee	21
20B.	Senate to include detail in Statute	23
21.	Academic Council	23
22.	Degrees and academic distinctions	24
23.	Vice-Chancellor	25

### Part 4 — By-laws, Statutes and regulations

24.	By-laws	26
25.	Statutes	30

Contents

---

26A.	Approval, publication, disallowance and proof of Statutes and by-laws	32
26B.	Statutes and by-laws to be made readily available to public	33
26.	Regulations made by Senate	33
28A.	Regulations made by Governor	34
 <b>Part 5 — University lands and financial provisions</b>		
<b>Division 1 — Vesting of lands in University</b>		
28.	Power to vest certain lands in University	35
<b>Division 2 — Financial provisions and dealings in land</b>		
29.	Financial provisions and dealings in land	35
30A.	Exemption from rate or tax	37
30.	Special powers of investment	37
31.	Trust moneys	38
32A.	Borrowing and other ways of raising money	39
32B.	Notice of borrowing	40
32C.	Guarantees	40
32D.	Charges for guarantee	41
<b>Division 3 — Leasing University land for commercial purposes</b>		
<b>Subdivision 1 — Preliminary</b>		
32E.	Terms used	41
32F.	Object of this Division	43
32G.	Effect of Division on University functions, powers and obligations	43
<b>Subdivision 2 — Power to lease University land for commercial purposes</b>		
32H.	University may lease University land for commercial purposes with Ministerial approval	43
32I.	Effect of approval to lease University land	44
32J.	Approval in principle of university development proposal	45
32K.	Application for advance determination of approval	46
32L.	Advance determination of approval	47
32M.	Approvals	47
32N.	Notification of decision on application for approval	48
32O.	Alteration of approval	49
32P.	Payment agreements	49
32Q.	Minister may delegate functions under this Division	50
<b>Division 4 — Miscellaneous</b>		
33.	Superannuation scheme for University staff etc.	51
34.	Application of <i>Financial Management Act 2006</i> and <i>Auditor General Act 2006</i>	52

## **Part 6 — Validation and transitional provisions**

### **Division 1 — Validations**

- |     |   |    |
|-----|---|----|
| 35. | Certain leases of University land validated | 53 |
|-----|---|----|

### **Division 2 — Transitional provisions for *Universities Legislation Amendment Act 2016***

- |     |  |    |
|-----|--|----|
| 36. | Term used: commencement day                    | 56 |
| 37. | Transitional provisions (Senate)               | 56 |
| 38. | Transitional provisions (guarantees)           | 57 |
| 39. | Transitional provisions (Statutes and by-laws) | 57 |

## **Schedule 1 — Senate members**

### **Division 1 — Duties**

- |    |        |    |
|----|--------|----|
| 1. | Duties | 58 |
|----|--------|----|

### **Division 2 — Disclosure of interests**

- |    |  |    |
|----|--|----|
| 2. | Disclosure of interests                    | 58 |
| 3. | Voting by interested members               | 59 |
| 4. | Clause 3 may be declared inapplicable      | 59 |
| 6. | Minister may declare clause 3 inapplicable | 60 |

## **Notes**

- |  |                   |    |
|--|-------------------|----|
|  | Compilation table | 61 |
|--|-------------------|----|



Western Australia

## **Murdoch University Act 1973**

**An Act to establish and incorporate Murdoch University, to make provision for the government of the University, and for incidental and other purposes.**

## **Part 1 — Preliminary**

[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 90.]

### **1. Short title**

This Act may be cited as the *Murdoch University Act 1973* <sup>1</sup>.

### **2. Commencement**

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

### **3. Terms used**

(1) In this Act, unless the context otherwise requires —

***absolute majority*** means a majority of all the persons for the time being holding office;

***Academic Council*** means the Council established in accordance with section 21;

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

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

~~***Convocation*** means the body established by that name pursuant to section 19;~~

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

***examination*** means an examination conducted by the University or 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;

***Guild*** means the Guild of Students of Murdoch University incorporated under section 20;

***prescribed*** means prescribed by this Act, a by-law or Statute, as is required;

~~***Pro-Chancellor*** means the Pro-Chancellor of the University;~~

***regulation*** means a regulation made under section 26;

***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 students, or both;

~~section means section of this Act;~~

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

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

**Treasurer** means the person holding or acting in the office of Treasurer of the State;

**University land** means —

(a) the land described in certificate of title Vol 2812 Folio 355; and

(b) any land vested in the University under section 28(1);

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

**Visitor** means the Visitor of the University.

- (2) Any question arising as to whether a person is or is not a member of the academic or other staff, or an officer or employee ~~or servant~~ of the University, shall be determined by the Senate and the decision of the Senate thereon is final.

[Section 3 amended by No. 10 of 1998 s. 54(1); Universities Legislation Amendment Bill 2016 cl. 91.]

## **Part 2 — Murdoch University**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 92.]*

### **4. Murdoch University**

- (1) There shall be in the State of Western Australia a university, to be called “Murdoch University”.
- (2) The University shall be a body corporate and shall have perpetual succession and an official seal.
- (3) Subject to the provisions of this Act, the University —
  - (a) may, in its corporate name acquire, accept, hold, deal with, charge, or dispose of real and personal property; and
  - (b) is capable of suing and being sued in its corporate name and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.
- (4) All courts, judges and persons acting judicially shall take notice of the official seal of the University affixed to a document and shall presume that it was duly affixed.
- (5) The official seal of the University shall be kept in strict custody and shall not be used except in accordance with the direction of the Chancellor or as is prescribed by Statute.

### **5. Objects of University**

The objects of the University shall be the advancement of learning and knowledge, and the provision of university education.

### **6. Functions of University**

- (1) The functions of the University 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 to meet the needs of the community;
  - (c) 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;

(d) 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;

(e) to generate revenue for the purposes of funding the carrying out of its functions;

(f) 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 the facilities that are necessary or conducive to the attainment of the objects of the University and the performance of its functions.

(2) The University has all the powers, rights and privileges that 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 6 inserted by the Universities Legislation Amendment Bill 2016 cl. 93.]

[7. Deleted by the Universities Legislation Amendment Bill 2016 cl. 93.]

s. 8A

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**8A. Power of University to provide residential accommodation for staff and students**

- (1) The University may provide residential accommodation for staff of the University, or students, or both.
- (2) The restrictions imposed by section 29(1)(ga) do not apply to the lease of any part of the land referred to in section 29(1)(ga) if the purpose of the lease is the provision of residential accommodation in accordance with this section.

[Section 8A inserted by the Universities Legislation Amendment Bill 2016 cl. 93.]

**~~6. Functions of University~~**

- ~~(1) The functions of the University shall include the following—
  - ~~(a) to establish and maintain such schools of study as are prescribed by Statute;~~
  - ~~(b) to participate in the development and improvement of tertiary education to meet the needs of the community;~~
  - ~~(c) to encourage and undertake research; and~~
  - ~~(d) to provide such facilities as are necessary or conducive to the attainment of the objects of the University and the performance of its functions.~~~~
- ~~(2) The University shall have all such powers, rights and privileges as are reasonably necessary to enable it to carry out its functions.~~

**~~7. No discrimination~~**

- ~~(1) Men and women shall be equally eligible for any office or appointment in the University and for membership of any of its constituent bodies and all degrees and courses of study in the University shall be open to men and women alike.~~
- ~~(2) No religious, racial or political test shall be imposed upon any person in order to entitle him or her to be admitted as a student or other member of the University, or as a member of the academic or other staff of the University, or to hold office in or to graduate at the University, or to hold any advantage or privilege thereof.~~

## **Part 3 — Constitution of University**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 94.]*

### **8. Constitution**

The University shall consist of —

- (a) the Senate; and
- (b) such members of the academic and other staff of the University as are prescribed by Statute; and
- (c) graduates of the University; and
- ~~(e) Convocation;~~
- (d) the students for the time being; and
- (e) such other persons, if any, as are prescribed by Statute.

*[Section 8 inserted by No. 57 of 1997 s. 92(1); amended by the Universities Legislation Amendment Bill 2016 cl. 95.]*

### **9. Visitor**

- (1) The Governor is the Visitor of the University, and has the functions that Visitors usually have.
- (2) As Visitor, the Governor may act without obtaining the advice and consent of the Executive Council.

*[Section 9 inserted by the Universities Legislation Amendment Bill 2016 cl. 96.]*

### ~~**9. Visitor**~~

- ~~(1) The Governor shall be the Visitor of the University, and has authority, as and when he or she thinks fit, to do all things that pertain to the office of Visitor of a university as well as such particular powers as may be conferred upon him by this Act or any Statute.~~
- ~~(2) For the purposes of this section the Governor is authorised to act without the requirement of obtaining the advice and consent of the Executive Council, section 23 of the Interpretation Act 1918<sup>2</sup>, notwithstanding.~~

~~*[Section 9 amended by No. 75 of 2000 s. 3.]*~~

### **10. Chancellor**

- (1) The Senate must elect a person to hold office as Chancellor of the University.

**s. 11**

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(2A) A person who is not a member of the Senate at the time the person is elected to hold office as Chancellor is a member of the Senate for so long as the person holds office as Chancellor.

~~—(1) There shall be a Chancellor of the University who shall be elected by the members of the Senate, and where at the time of his election the person so elected is not a member of the Senate he is by virtue of his election to the office of Chancellor of the University hereby appointed to be a member of the Senate for so long as he continues to hold office as Chancellor.~~

(2) Where the Chancellor is elected from amongst the members of the Senate ~~the~~his election creates a casual vacancy in the office of member of the Senate.

(3) Subject to section 15, the Chancellor holds office for a term not exceeding 3 years to be determined by the Senate ~~the term of 3 years from the date of his election~~ and is eligible for re-election.

(4) The Chancellor shall preside at all meetings of the Senate at which the Chancellor~~he~~ is present.

*[Section 10 amended by No. 10 of 1998 s. 54(2); Universities Legislation Amendment Bill 2016 cl. 97.]*

**11. Deputy Chancellor~~Pro-Chancellor~~**

(1) There shall be a Deputy Chancellor ~~Pro-Chancellor~~ of the University who shall be elected by the members of the Senate from amongst their number.

(2) Subject to subsection (2a) and section 15, the Deputy Chancellor holds office for a term not exceeding 3 years to be determined by the Senate and is eligible for re-election.

~~—(2) Subject to subsection (2a) and section 15, the Pro-Chancellor holds office for the term of 2 years from the date of his election and is eligible for re-election.~~

(2a) The Deputy Chancellor ~~Pro-Chancellor~~ ceases to hold office if he ceases to be a member of the Senate.

(3) In the absence of the Chancellor, or where there is a vacancy in the office of Chancellor, the Deputy Chancellor ~~Pro-Chancellor~~ shall preside at all meetings of the Senate at which the Deputy Chancellor~~he~~ is present and may exercise all the functions of the Chancellor.

*[Section 11 amended by No. 10 of 1998 s. 54(3) and (4); Universities Legislation Amendment Bill 2016 cl. 98.]*

**12. Senate**

- (1) The Senate consists of the following members —
- (a) the Chancellor;
  - (b) the 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) 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;
  - (e) 2 persons who are 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;
  - (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) 3 members appointed by the Governor on the recommendation of the Minister;
  - (h) not more than 5 persons co-opted to serve as members of the Senate by an absolute majority of the other members;
  - (i) the person for the time being the President of the Academic Council.
- (1A) The fact that a person holds an elective office (for example, an elective office of the Guild) does not disqualify that person from being appointed or holding office under subsection (1).
- ~~(1) The membership of Senate shall consist of —~~
- ~~(a) the persons holding or acting in the office of Chancellor and of Vice-Chancellor respectively;~~
  - ~~(b) 3 persons elected by and from the members of the full-time academic staff of the University in the manner prescribed by Statute;~~
  - ~~(c) one person elected by and from the full-time officers and servants of the University who are not members of the~~

**s. 12**

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~~full-time academic staff of the University in the manner prescribed by Statute;~~

~~(d) 2 persons elected by and from the students in the manner prescribed by Statute;~~

~~(e) 2 persons elected by Convocation from the members of Convocation in the manner prescribed by Statute;~~

~~(f) 6 members appointed by the Governor;~~

~~(g) up to 3 persons as are co-opted to serve as members of the Senate by an absolute majority of the other members.~~

(2) The following persons are not eligible to be a member of the Senate under subsection (1)(f), (g) or (h) — ~~subsection (1)(e), (f) or (g)~~ —

(a) a full-time member of the staff of the University;

(b) a part-time or casual employee of the University who works for at least 50% of the minimum time required to be worked by a full-time member of staff;

(c) a student.

(2a) Of the members of the Senate —

(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) The Senate may, from time to time, appoint a committee or committees, which may comprise persons who are not members of the Senate, to advise the Senate on such matters relating to its functions as are referred by the Senate to a committee.

(4) Subject to the requirements as to a quorum, the Senate or a committee has power to act notwithstanding any vacancy among its members or that any number of members has not been appointed or elected at the time of the proceedings.

(5) All acts done at any meeting of the Senate, or a committee, shall notwithstanding that it is afterwards discovered that there was some defect in the election, appointment or qualification of a person purporting to be a member, be as valid as if that defect had not existed.



- (6) The quorum to constitute a meeting of the Senate may be prescribed by Statute but shall not be less than 8 persons.
- (7) Each member shall have a deliberative vote at any meeting of the Senate and, unless otherwise provided by Statute, where there is an equality of votes the person presiding has a casting vote as well as a deliberative vote.
- (8) Subject to this Act, and to any Statute, the Senate may determine its own procedure.

*[Section 12 amended by No. 38 of 1976 s. 2; No. 7 of 1978 s. 2; No. 26 of 1980 s. 3; No. 7 of 1988 s. 22; No. 22 of 1996 s. 16(8); No. 36 of 1999 s. 247; No. 8 of 2005 s. 25; [Universities Legislation Amendment Bill 2016 cl. 99.](#)]*

### **13. Nominations Committee**

- (1) The Senate must establish and maintain a committee of the Senate called the Nominations Committee.
- (2) The Nominations Committee is to consist of not more than 6 members of the Senate appointed by the Senate.
- (3) The following members are not eligible to be appointed to the Nominations Committee —
  - (a) the Vice-Chancellor;
  - (b) the member of the Senate referred to in section 12(1)(c);
  - (c) the member of the Senate referred to in section 12(1)(d);
  - (d) the members of the Senate referred to in section 12(1)(e);
  - (e) the members of the Senate referred to in section 12(1)(f);
  - (f) the President of the Academic Council.
- (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 any member of the Senate who is appointed by the Governor or the Senate;
  - (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of any member of the Senate who is appointed under section 12(1)(g);
  - (c) to recommend to the Senate suitable candidates for appointment by cooption under section 12(1)(h).

**s. 14**

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(5) The fact that the Nominations Committee or the Senate has not recommended a person for appointment under section 12(1) does not prevent the person from being appointed or holding office under section 12(1).

(6) The Nominations Committee may regulate its own procedure, but it must comply with any direction given by the Senate.

[Section 13 inserted by the Universities Legislation Amendment Bill 2016 cl. 100.]

**14. Term of office of members**

(1) Subject to section 15 —

(a) a member appointed under section 12(1)(g) 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 12(1)(c), (d) 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 12(1)(e) 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 coopted) or elected member, on the expiry of their term of office —

(a) may be reappointed or re-elected, if they continue to be qualified under section 12; 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 12(1)(e) may be re-elected once, but only once, on the expiry of their term of office, if they continue to be qualified under section 12.

(4) The Governor or the Senate 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 Senate may, before an election is held for the purposes of section 12(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 14 inserted by the Universities Legislation Amendment Bill 2016 cl. 100.]

~~[13. Deleted by No. 57 of 1997 s. 92(2).]~~

#### **14. Tenure of office**

~~— (1) Subject to sections 15 and 16 —~~

~~— (a) a member of the Senate elected by the students holds office for the term of one year and is eligible for re-election;~~

~~— (b) a member of the Senate elected otherwise than by the students or person who is appointed to be a member holds office for the term of 3 years from the date on which he became a member, unless he succeeds to a casual vacancy, and is eligible to hold office for 2 further such terms of 3 years each;~~

~~— [(c) deleted]~~

~~— (d) a person who is co-opted to be a member of the Senate holds office for such period not exceeding 3 years as is fixed by the Senate at the time of co-option.~~

~~— (2) A member of the Senate who has held office by election, appointment or co-option for 3 successive terms is not thereafter eligible to hold office as a member until the expiry of a period of 12 months from the last day on which he was a member.~~

~~— [Section 14 amended by No. 7 of 1978 s. 3; No. 57 of 1997 s. 92(3).]~~

#### **14A. Duties of Senate members**

Schedule 1 Division 1 has effect.

*[Section 14A inserted by No. 8 of 2005 s. 27.]*

#### **15. Resignation, disqualification and vacation of office**

(1) The Chancellor may resign their office by written notice given to the Minister.

(2) The Deputy Chancellor or a member of the Senate may resign their office by written notice given to the Minister.

**s. 15**

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~~—(1) The Chancellor may resign his office by writing under his hand addressed to and accepted by the Visitor.~~

~~—(2) The Pro-Chancellor or a member of the Senate may resign his office by writing under his hand addressed to the Chancellor, and every such resignation takes effect when it is received at the office of the University.~~

(3) A person who —

(a) is a person in respect of whom an administration order is in force under Part 6 of the *Guardianship and Administration Act 1990*; 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 convicted of an indictable offence; or

(ca) is, or becomes, disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or

(d) has ~~their~~<sup>his</sup> appointment terminated by the Governor for inability, inefficiency or misbehaviour,

is not capable of holding office under this Act and on the happening of any such event ~~the person's office~~ <sup>his office</sup> becomes vacant and ~~the person is not eligible for~~ <sup>he is not eligible for re-election or</sup> re-appointment.

(3a) A member of the Senate who is removed from office by the Senate under section 15A is not eligible to be a member again until —

(a) in the case of a member elected by the students, one year has elapsed since the removal; or

(b) in the case of any other member, 3 years have elapsed since the removal.

(4) If a person who is a member of the Senate ceases to hold the required qualification under section 12 for being a member, the person's office as member becomes vacant.

~~—(4) Where a person was elected to the Senate by and from amongst —~~

~~—(a) the members of the full-time academic staff of the University; or~~

~~(b) the students,~~

~~and he ceases to be a member of that staff or a student, as the case may be, his office as a member of the Senate becomes vacant.~~

- (5) The office of a member of the Senate shall be vacated if, without leave obtained from the Senate, the member ~~he~~ has been absent from all meetings of the Senate for 6 consecutive months, or has been absent from more than one-half of the meetings of the Senate during any period of 12 consecutive months.

*[Section 15 amended by No. 24 of 1990 s. 123; No. 8 of 2005 s. 28; No. 18 of 2009 s. 58; [Universities Legislation Amendment Bill 2016 cl. 101.](#)]*

**15A. Removal of Senate members for breach of certain duties and suspension pending removal**

- (1) The Senate may —
- (a) remove from office a member of the Senate for breach of a duty mentioned in Schedule 1 clause 1(1), 2(1) or 3;
  - (b) suspend from office a member of the Senate who is alleged to have breached a duty mentioned in Schedule 1 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 Senate 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 12(6), the removal or suspension 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 of the Senate for their number to be at least two-thirds ~~2/3~~ of the total number of offices (whether vacant or not) of member of the Senate.
- (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.

**s. 16**

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- (6) The Senate cannot remove or suspend from office a member of the Senate for breach of a duty mentioned in Schedule 1 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 Senate for the breach of a duty mentioned in Schedule 1 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 1 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 1 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 1 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 of the Senate does not create a vacancy in that office.

*[Section 15A inserted by No. 8 of 2005 s. 29; amended by the Universities Legislation Amendment Bill 2016 cl. 102.]*

**16. Casual vacancies**

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

*[Section 16 inserted by the Universities Legislation Amendment Bill 2016 cl. 103.]*

**~~16. Appointment to casual vacancies~~**

- ~~— (1) A vacancy in the office of Chancellor, Pro-Chancellor or member of the Senate which occurs otherwise than by the effluxion of time is a casual vacancy and shall be filled as it occurs.~~
- ~~— (2) A casual vacancy in an office to which a person may be elected under this Act shall be filled by the election of another person to that office by the persons so authorised to elect to that office, but it shall not be necessary to hold any such election to fill a casual vacancy where the unexpired portion of the term of office left vacant is less than 6 months.~~

- ~~—(3) A casual vacancy in an office to which a person may be appointed under this Act shall be filled by the appointment to that office of another person by the person or persons holding the power to appoint.~~
- ~~—(4) Where, in the opinion of the Governor, a casual vacancy is not filled within 6 months of the date on which it was required to be filled, he may appoint a qualified person to that vacancy, and any such appointment is valid and effective for the purposes of this Act.~~
- ~~—(5) A person who succeeds to a casual vacancy holds office only for the residue of the term of office commenced by his predecessor and remaining unexpired.~~

**17. Functions of Senate, its powers and duties**

- (1) The governing body of the University shall be the Senate.
- (2) Subject to the provisions of this Act, the Senate —
  - (a) shall have the entire control and management of the affairs and concerns of the University and may act in all matters concerning the University in the manner which to it appears most likely to promote the objects and interests of the University;
  - (b) shall appoint, and may vary or terminate the appointment of, the academic and other staff, officers ~~and employees and servants~~ of the University;
  - (c) in the name and on behalf of the University and in accordance with the Statutes and regulations made under section 26, relating thereto, shall have the power to award degrees and other academic distinctions, and may grant honorary degrees and other distinctions on approved persons, and may for good cause deprive persons of any degree or other distinction granted or awarded by the University;
  - (d) in the name and on behalf of the University, may, with the approval of the Governor and in the manner and to the extent by this Act provided, make, alter and repeal by-laws for the purpose of managing, preserving and protecting the lands of the University and regulating the use of those lands by any person and the conduct of persons when on or upon those lands;
  - (e) may, with the approval of the Governor and in the manner by this Act provided, make, alter and repeal

**s. 17A**

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Statutes with respect to the constitution, management, good government and discipline of the University.

*[Section 17 amended by No. 103 of 1975 s. 2; No. 48 of 1989 s. 17; [Universities Legislation Amendment Bill 2016 cl. 104.](#)]*

**17A. Disclosure of interests**

Schedule 1 Division 2 has effect.

*[Section 17A inserted by No. 8 of 2005 s. 30.]*

**17B. Relief of Senate members from liability**

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

- (a) is, or may be, liable in respect of the negligence, default or breach;
- (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 17B inserted by No. 8 of 2005 s. 30.]*

**18. Delegation by Senate**

(1) The Senate may, 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 and functions under this Act (except its powers in relation to the making of by-laws, Statutes, and regulations made under section 26) to any —

- (a) member of the Senate; or
- (b) committee, council or other body of the University; or
- (c) officer of the University.

(2) The Senate 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 18 inserted by the *Universities Legislation Amendment Bill 2016* cl. 105.]

**~~18. Delegation by Senate~~**

~~— (1) The Senate may, 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 and functions under this Act (except this power of delegation and its powers in relation to the making of by-laws, Statutes, and regulations) to any —~~

~~— (a) committee, council or other body; or~~

~~— (b) officer or officers,~~

~~— of the University.~~

~~— (2) Every delegation under this section shall be revocable by resolution of the Senate, and no delegation shall prevent the exercise of any power or function by the Senate.~~

~~— [Section 18 amended by No. 10 of 1998 s. 54(5); No. 74 of 2003 s. 86(2).]~~

**19A. Remuneration and allowances for Senate members**

(1) A member of the Senate 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 are to be paid out of funds of the University.

[Section 19A inserted by the *Universities Legislation Amendment Bill 2016* cl. 106.]

[19. Deleted by the *Universities Legislation Amendment Bill 2016* cl. 106.]

**~~19. Convocation~~**

~~— (1) Convocation shall be constituted on 1 July 1980.~~

**s. 20**

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- ~~— (2) Convocation shall consist of —~~
- ~~— (a) all persons who are or have been members of the Senate;~~
- ~~— (b) all persons admitted to a degree awarded by the University of the status of a Bachelor, a Master or a Doctor;~~
- ~~— (c) all persons who are members of the academic staff of the University on the basis of their full-time employment by the University, and such other members of the staff of the University as may be prescribed by Statute; and~~
- ~~— (d) such other persons as may be prescribed by Statute.~~
- ~~— (3) The functions of Convocation shall include —~~
- ~~— (a) the submission for the consideration of the Senate of such proposals as Convocation thinks fit with respect to the welfare of the University;~~
- ~~— (b) the furnishing to the Senate of reports on matters referred to it by the Senate for consideration; and~~
- ~~— (c) such other acts or matters as may be conferred or imposed by Statute,~~
- ~~— and Convocation shall have all such powers as may be necessary to discharge its functions.~~
- ~~— (4) Meetings of Convocation shall be convened and the proceedings of Convocation regulated as may be prescribed by Statute, and where not so prescribed as Convocation may determine.~~

**20. Guild of Students**

- (1) The Guild of Students of Murdoch University shall be established as a body corporate under that name, and by virtue of this section, on 1 September 1976, unless prior to that date the Guild is so established as a body corporate by the Senate, which the Senate is hereby empowered to do.
- (2) The Guild shall be an organized association of students for the furthering of the common interests of its members, and shall be the recognised means of communication between students and the Senate, in accordance with any Statutes that the Senate makes.
- (2a) Any student is eligible to be a member of the Guild.
- (2b) The University shall not act in a way that may dissuade or discourage a student, or person seeking enrolment as a student, from being or becoming a member of the Guild.

*[(2c) deleted]*

- (2d) No academic benefit, right or privilege shall be denied to or withheld from any student by reason of that student being or not being a member of the Guild.
- (3) The functions of the Guild, its powers and duties, authorities, obligations and privileges shall be prescribed by Statute together with such other matters as are considered by the Senate to be necessary or desirable to ensure the effective exercise of those functions.
- (4) When established as a body corporate the Guild in its corporate name shall have perpetual succession and an official seal, may sue and be sued and, subject to the Statutes, may do and suffer such other acts and things as bodies corporate may by law do and suffer.
- (5) A student becomes a member of the Guild upon enrolment, for the period of enrolment, unless at the time of enrolment that student elects not to become a member.
- (6) Subject to subsection (7), a student becomes a member of the Guild upon enrolment, for the period of enrolment.
- (7) A student may —
  - (a) elect at the time of enrolment not to become a member of the Guild; and
  - (b) resign at any time as a member of the Guild.
- (8) A student cannot hold an elective office of the Guild unless that student is a member of the Guild.

*[Section 20 amended by No. 61 of 1977 s. 7; No. 51 of 1983 s. 9; No. 91 of 1994 s. 13; No. 44 of 2002 s. 10; [Universities Legislation Amendment Bill 2016 cl. 107.](#)]*

#### **20A. Amenities and services fee**

- (1) A Statute made under section 25 may provide for an annual amenities and services fee to be payable by 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;

**s. 20A**

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(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 Guild, including conditions to be met before some or all of the amount may be paid to the Guild;

(f) provide for the Senate to decide how the amount of the total fees collected (after deducting the amount that is paid to the Guild) is to be spent, after consultation by the Senate with the Guild.

(2) This section does not limit section 25.

(3) The Senate must pay to the Guild an amount that is not less than 50% of the total amount of the annual amenities and services fees collected.

[Section 20A inserted by the Universities Legislation Amendment Bill 2016 cl. 108.]

**~~20A.—Amenities and services fee~~**

~~—(1) An annual amenities and services fee shall be set at an amount determined by the Senate after receiving a report from, and a recommendation by, the Guild.~~

~~—(2) The Senate may determine that a different level of the amenities and services fee is payable by a specified class of students.~~

~~—(3) The amenities and services fee is payable to the Senate by each student, except a student exempted from doing so, or made ineligible to do so, by Statute.~~

~~—(4) The Senate shall pay to the Guild a percentage of the amenities and services fees collected that is not less than the percentage of students that are members of the Guild.~~

~~—(5) Despite subsection (4), and regardless of the number of students who are members of the Guild, the percentage of the amenities and services fees paid to the Guild must exceed 50% of those fees.~~

~~—(6) The part of the amenities and services fees not paid to the Guild is to be spent on student amenities and services in the manner agreed by the Senate and the Guild.~~

~~—[Section 20A inserted by No. 44 of 2002 s. 11.]~~

**20B. Senate to include detail in Statute**

- (1) The Senate must prescribe, by Statute —
- (a) the broad categories of amenities and services to which the Guild may apply the fees paid to the Guild; and
  - (b) the process for determining those categories.
- ~~— (1) The Senate shall specify, by Statute, the broad categories of amenities and services to which the Guild may apply the fees paid to it.~~
- ~~— (2) The Senate shall prescribe, by Statute, the processes for —~~
- ~~— (a) determining the broad categories of amenities and services to which the Guild may apply the fees; and~~
  - ~~— (b) resolving disputes that arise in the process of those determinations.~~
- (3) The Senate shall prescribe, by Statute, the measures by which the Guild is to account for the fees received, and those measures shall include —
- (a) a requirement that the annual financial statements of the Guild are to be audited by an independent external auditor whose appointment requires Senate approval; and
  - (b) a requirement for the Guild to provide a copy of each audited balance sheet, and an annual statement of the Guild's income and expenditure, to the Senate.
- ~~— (4) The Senate shall prescribe, by Statute, the process for reaching agreement between the Senate and the Guild about the expenditure of the part of the amenities and services fees not paid to the Guild.~~

*[Section 20B inserted by No. 44 of 2002 s. 11; [amended by the Universities Legislation Amendment Bill 2016 cl. 109.](#)]*

**21. Academic Council**

- (1) It shall be the duty of the Senate to establish by Statute an Academic Council.
- (2) The membership of the Academic Council shall consist of —
  - (a) the Vice-Chancellor;
  - (b) members of the academic staff of the University appointed by virtue of their office;

**s. 22**

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- (c) persons elected from amongst the members of the University; and
  - (d) persons co-opted by reason of their qualifications, interest or experience for the purpose of making a specific contribution to the deliberations of the Academic Council.
- (3) The number of members who shall comprise the Academic Council from time to time, the method of their appointment and selection, their term of office, the conduct of proceedings and all other matters in the opinion of the Senate necessary or desirable to ensure the effective exercise of the functions of the Academic Council may be prescribed by Statute.
- (4) The functions of the Academic Council shall include —
  - (a) the discussion and submission to the Senate of opinions and recommendations on academic policy, academic development, the admission of students, instruction, studies and examinations, research, the admission to degrees, the discipline of the University and any other matters which in the opinion of the Academic Council are relevant to the objects of this Act;
  - (b) the furnishing to the Senate of reports on all matters referred to it by the Senate for consideration; and
  - (c) such other acts or matters as may be conferred or imposed by Statute,

and the Academic Council shall have all such powers as may be necessary to discharge its functions.

**22. Degrees and academic distinctions**

- (1) The University ~~has~~ ~~shall have~~ power to award to any person after examination and in accordance with the Statutes and regulations made under section 26 such degrees and other academic distinctions as may be constituted by Statute.
- (2) The University ~~has~~ ~~shall have~~ power, without examination, but in accordance with the Statutes and regulations made under section 26, of the University, to admit to degrees or other academic distinctions which the University has power to award, persons who have graduated at any other tertiary institution.
- (3) The University has power to admit any person to an honorary degree.

~~—(3) The University shall have power to admit any person *honoris causa* to any degree.~~

[Section 22 amended by the Universities Legislation Amendment Bill 2016 cl. 110.]

**23. Vice-Chancellor**

(1) There shall be a Vice-Chancellor of the University who shall be the chief executive officer and academic principal of the University.

(2) The Vice-Chancellor shall be appointed by the Senate and holds office ~~shall hold office at the pleasure of the Senate~~ on such terms and conditions as the Senate from time to time determines.

*[(3) deleted]*

(4) The Vice-Chancellor shall have the powers and duties conferred or imposed upon the Vice-Chancellor by the Statutes and the regulations made under section 26. ~~him by the Statutes and regulations of the University.~~

(5) Subject to the Statutes and the regulations made under section 26, the Vice-Chancellor may, in writing, delegate any function, or any power or duty conferred or imposed on the Vice-Chancellor, to any person or committee of persons.

~~—(5) Subject to the Statutes and regulations of the University, the Vice-Chancellor may, by writing under his hand, delegate any function, or any power or duty conferred or imposed upon him, (except this power of delegation) to any member of the academic or other staff of the University, any committee of members of the University, or a person who is a member of the University, or an officer or servant of the University.~~

~~—(6) A delegation under subsection (5) shall be revocable at the pleasure of the Vice-Chancellor and shall not prevent the exercise of any power or function by the Vice-Chancellor.~~

[Section 23 amended by No. 10 of 1998 s. 54(6); Universities Legislation Amendment Bill 2016 cl. 111.]

**Part 4 — By-laws, Statutes and regulations**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 112.]*

**24. By-laws**

(1A) In this section —

**authorised person** means —

- (a) a police officer; or
- (b) a person authorised under subsection (1B) to be an authorised person for the purposes of the subsection 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.

(1B) 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 any or all of subsection (7)(ab), (b) or (bb); and
- (b) authorise a contractor to be an authorised person for the purposes of any or all of subsection (7)(ab), (b) or (bb); and
- (c) revoke a designation or authorisation made under this subsection.

(1C) A designation or authorisation of a person under subsection (1B) 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.

(1) By-laws made under this Act —

- (a) apply only within the boundaries of the University lands;
- (b) may be limited in their application to time, place or circumstance;
- (c) 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;



- (d) may impose a penalty not exceeding ~~\$1 000~~\$50 for any breach or non-observance thereof.
- (2) For the purposes of by-laws made under this Act, the Governor may, by proclamation, —
  - (a) declare any land to be University land;
  - (b) alter the boundaries of any University land; or
  - (c) declare that any land shall cease to be University land,

and the by-laws shall thereupon apply to that land accordingly and to any building, structure or erection on that land.

- (3) By-laws may empower an authorised person ~~—persons authorised in writing by the Senate, or any police officer,—~~
  - (a) to remove any vehicle, animal or other thing from the land without assigning any reason;
  - (b) to request the name and address of any other person on the land who, in the reasonable belief of the person so empowered, is on the land in breach of a by-law or has committed thereon a breach of a by-law; and
  - (c) to take proceedings for a breach of a by-law.

~~—(4) Every proposed by-law approved by a motion of an absolute majority of the members of the Senate shall be sealed with the official seal of the University and shall be transmitted by the Chancellor for the approval of the Governor.~~

~~—(5) Upon being approved by the Governor a by-law shall be published in the Government Gazette and shall thereupon, subject to section 27, have the force of law.~~

~~—(6) The production of a copy of a by-law under the official seal of the University, or of a copy of the Government Gazette purporting to contain a reprint or copy of a by-law, shall in all proceedings be sufficient evidence of the by-law.~~

- (7) Without derogating from the generality of the power given by section 17(2)(d), the Senate may make by-laws not inconsistent with this Act or any Statute for any of the following purposes —~~for —~~
  - (a) prohibiting or regulating the admission to the University lands of persons, vehicles, and animals;
  - (aa) prescribing the times when and the purposes for which the University lands may be used, and the times when and the purposes for which those lands shall be open or

**s. 24**

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closed, and prohibiting the use thereof or access thereto at any other times, or for any other purpose;

- (ab) providing for the issue to all or any persons using the University lands of permits or tickets and requiring the production of those permits or tickets by such persons if and whenever required by any authorised person;
- (b) prohibiting or regulating the use of vehicles, including provisions as to speed, manner of driving, class of vehicles, routes, entrances and exits, one-way traffic, noise, parking or standing, the removal of vehicles by an authorised person ~~a person authorised under that by-law~~ and for the regulation of traffic generally;
- (ba) prescribing, in respect of an alleged breach of the by-laws involving a vehicle, the circumstances under which the person to whom a permit is issued in respect of a vehicle or 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;
- (bb) prescribing the circumstances under which an authorised person may remove a vehicle or cause it to be removed from the University lands to a specified place, prescribing further powers of the authorised person in relation to the removal of vehicles, ~~his further powers in relation thereto~~, prescribing the scale of charges to be paid to recover the vehicle from that place, and authorising the University to hold the vehicle until the prescribed charges are paid;
- (c) fees, charges and exemptions;
- (d) the prevention of damage to or interference with the grounds of the University and the trees, shrubs, bushes, flowers, gardens and lawns on or in those grounds;
- (e) the use, safety and preservation of buildings, structures, erections, fixtures, fittings and chattels;
- (f) the regulation of the conduct of meetings, and the interruption of lectures or meetings by noise, unseemly behaviour or other means;
- (g) the prohibition of nuisances, or any offensive, indecent or improper act, conduct, language or behaviour;
- (h) the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances;

- (ha) prescribing 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 the person ~~he~~ committed any specified breach of the by-laws, and providing 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;
- (i) the recovery of summary compensation for damage to University property; ~~property; and~~
- (j) the apprehension of persons guilty of a breach of any by-law by an authorised officer and any police constable or officer or servant of the University; the removal of such persons from the University lands; ~~lands; and the enforcement of the by-laws.~~

(k) the enforcement of the by-laws.

- (8) Proceedings for an offence against a by-law shall be commenced within 6 months after the offence was allegedly committed, and all offences shall be punishable on summary conviction.
- (9) All pecuniary penalties shall be appropriated and paid to the Senate for the use of the University.
- (10) Where a contravention of any by-law made by the Senate has been committed by any student of the University, the Senate, instead of charging the student ~~him~~ with that contravention in a court of summary jurisdiction, may direct that the student ~~he~~ be charged with the contravention before a disciplinary body to be constituted by the Senate and if that disciplinary body when constituted finds the offence to be proved, it may punish the offender in any of the ways mentioned in the Statute made by the Senate prescribing the functions, powers, and punishments of that disciplinary body.
- (11) In any proceedings for any contravention of any by-law the allegation in the charge that any place was on the University lands shall be sufficient evidence of the fact alleged in the absence of proof to the contrary.
- (12) 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.

*[Section 24 amended by No. 103 of 1975 s. 3; No. 26 of 1980 s. 4; No. 78 of 1995 s. 75; No. 84 of 2004 s. 80; Universities Legislation Amendment Bill 2016 cl. 113.]*

**s. 25**

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**25. Statutes**

- ~~(1) Every proposed Statute —~~
  - ~~(a) if approved by a motion of an absolute majority of the members of the Senate; and~~
  - ~~(b) if after the contents thereof have been displayed in a conspicuous place within the University for a period of not less than 3 weeks, it is ratified by a motion of an absolute majority of the members of the Senate at a meeting of the Senate held not less than 3 weeks nor more than 16 weeks after the meeting at which the proposed Statute was approved,~~
- ~~shall be sealed with the official seal of the University and shall be transmitted by the Chancellor for the approval of the Governor.~~
- ~~(2) Upon being approved by the Governor a Statute shall be published in the Government Gazette and shall thereupon, subject to section 27, have the force of law.~~
- ~~(3) The production of a copy of a Statute under the official seal of the University, or of a copy of the Government Gazette purporting to contain a reprint or copy of a Statute, shall in all proceedings be sufficient evidence of the Statute.~~
- (4) Without derogating from the generality of the power given by section 17(2)(e), Statutes not inconsistent with this Act may be made by the Senate in respect of —
  - (a) the use and custody of the official seal of the University;
  - (b) the qualifications for entry to the University and the selection and enrolment of students;
  - (c) examinations for or in connection with fellowships, scholarships, prizes, exhibitions, degrees, honours, or other academic distinctions;
  - (d) the courses of lectures or instruction for the degrees and other academic distinctions which the University awards, and the constitution of those degrees and distinctions;
  - (e) the admission of students of other tertiary education institutions to any corresponding status, or of graduates of those institutions to any corresponding degree or academic distinction, without examination;
  - (f) any election to an office in a constituent body of the University, or to any committee;

- (g) the procedure for the co-option of members to the Senate;
- (h) the conditions of service, and the powers and duties of the Vice-Chancellor;
- (i) the number, the conditions of service of, and the powers and duties of the academic and other staff, and officers and employees ~~officers and servants~~ of the University;
- ~~(j) the conditions under which persons may be appointed by the Senate as members of Convocation;~~
- ~~(k) the powers, authorities, duties and functions which may be exercised and discharged by Convocation;~~
- (l) the meetings of the Senate ~~Senate, Convocation~~ and the Academic Council; the method of voting at meetings, the powers and duties of the person presiding, the conduct and record of the business, the appointment of committees and the quorum, powers and duties of committees;
- (m) the membership of the Academic Council;
- (n) the powers and duties of the Academic Council;
- (o) classes of membership and the conditions or qualifications for membership of the Guild of Students;
- (p) the powers, duties and obligations of the Guild of Students and any other matters necessary or convenient for the effective functioning of that body;
- (q) the affiliation to or in connection with the University of any college or educational establishment, with the consent of the governing body of any such college or educational establishment;
- (r) the regulation of the discipline of the University and to determine in what manner disciplinary powers shall be exercised;
- (s) the fees and charges to be paid including fees and charges for entrance, tuition, lectures, examination, residence and the conferring of degrees and other academic distinctions;
- (ta) an annual amenities and services fee in accordance with section 20A;
- (tb) the matters required by section 20B to be defined or prescribed by Statute;
- (t) the exemption from payment of fees and charges;

**s. 26A**

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- (u) the terms and conditions upon which scholarships and prizes may be conferred or awarded;
  - (v) the establishment and conduct of external teaching;
  - (w) academic dress; and
  - (x) in general all matters whatsoever regarding the University.
- (5) The Statutes may direct that any of the matters authorised or directed in this Act to be prescribed by Statute shall be regulated by the decisions made by the Senate.

*[Section 25 amended by No. 61 of 1977 s. 8; No. 51 of 1983 s. 10; No. 74 of 2003 s. 86(3); [Universities Legislation Amendment Bill 2016 cl. 114.](#)]*

**26A. Approval, publication, disallowance and proof of Statutes and by-laws**

- (1) A Statute or by-law made by the Senate —
- (a) must be sealed with the common seal of the University; and
  - (b) must be submitted to the Governor for approval; and
  - (c) if approved by the Governor, must be published in the *Gazette*; and
  - (d) takes effect on the later of —
    - (i) the day after publication in the *Gazette*; or
    - (ii) if a later day is specified for that purpose in the Statute, that day.
- (2) The *Interpretation Act 1984* section 42 applies to a Statute or by-law approved and published under subsection (1) as if the Statute were a regulation.
- (3) In any proceedings in any court or before any person acting judicially, any of the following is sufficient evidence of a Statute —
- (a) a copy of the Statute or the by-law under the common seal of the University;
  - (b) a document purporting to be a copy of the Statute or the by-law and to have been printed by the Government Printer;

- (c) a copy of the *Gazette* purporting to contain a copy of the Statute or the by-law.

*[Section 26A inserted by the Universities Legislation Amendment Bill 2016 cl. 115.]*

**26B. Statutes and by-laws to be made readily available to public**

- (1) The Senate must ensure that the following are readily available to the public by whatever means the Senate considers appropriate —

(a) all Statutes and by-laws approved and published under section 26A(1);

(b) all Statutes and by-laws that are in effect immediately before the *Universities Legislation Amendment Act 2016* section 115 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 26B inserted by the Universities Legislation Amendment Bill 2016 cl. 115.]*

**26. Regulations made by Senate**~~Regulations~~

- (1) The Senate may by a motion approved by a majority of the members present make, alter and repeal regulations for the purpose of implementing the provisions of this Act or any Statute, and regulations so made are binding upon all academic and other staff, officers and ~~employees~~ ~~servants~~ of the University and all students.
- (2) A certificate signed by the Chancellor, Deputy Chancellor, ~~Pro-Chancellor~~, Vice-Chancellor or Secretary of the University, whose signatures shall be judicially noted, that a person named therein is a member of the academic or other staff, or an officer or ~~employee~~ ~~servant~~ of the University, or is a student, is sufficient evidence of that fact in the absence of proof to the contrary.

*[Section 26 amended by No. 57 of 1997 s. 92(4); No. 74 of 2003 s. 86(4); Universities Legislation Amendment Bill 2016 cl. 116.]*

*[27. Deleted by the Universities Legislation Amendment Bill 2016 cl. 117.]*

**s. 28A**

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**28A. Regulations made by Governor**

(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 Senate.

[Section 28A inserted by Universities Legislation Amendment Bill 2016 cl. 117.]

**~~27. Disallowance~~**

~~The provisions of section 36 of the *Interpretation Act 1918*<sup>3</sup>,~~

~~(a) apply to a by-law made by the Senate in the name and on behalf of the University;~~

~~(b) apply in relation to a Statute as though it were a regulation made by the Governor;~~

~~(c) do not apply to a regulation made by the Senate under section 26, which shall take effect from the date of its promulgation in the University or from such later date as may be therein specified.~~



## **Part 5 — University lands and financial provisions**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 118.]*

### **Division 1 — Vesting of lands in University**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 118.]*

#### **28. Power to vest certain lands in University**

- (1) For the purposes of this Act the Governor may, 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* as sites for schools and other buildings for the purposes of education or for the purposes of the University; and
  - (b) any land 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 therein specified shall vest accordingly.

- (2) The University shall hold and use any land vested in the University under this section subject to this Act and for the purposes of this Act.
- (3) Any land vested in the University under this section may be disposed of with the approval of the Governor, but not otherwise.

*[Section 28 amended by No. 31 of 1997 s. 72; No. 36 of 1999 s. 247.]*

### **Division 2 — Financial provisions and dealings in land**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 119.]*

#### **29. Financial provisions and dealings in land**

- (1) The Senate, in the name of and on behalf of the University —
  - (a) shall, subject to the provisions of this Act have the control and management of all real and personal property at any time vested in or acquired by the University; and may set out roads, streets, and open spaces and erect and maintain buildings upon and

**Murdoch University Act 1973**

**Part 5** University lands and financial provisions

**Division 2** Financial provisions and dealings in land

**s. 29**

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otherwise improve any such land or other property as it thinks fit, and may apply any trust funds of the University to any such purposes;

~~(b) may borrow money for the purpose of carrying out and performing any of its functions, the renewal of loans or the discharge or partial discharge of any indebtedness to the Treasurer or to any bank within such limits, to such extent and upon such conditions as to security or otherwise as the Governor upon the recommendation of the Treasurer may approve;~~

~~(c) may with the approval of the Governor give security for any loan;~~

(d) may acquire by gift, bequest or devise any property for the purposes of the University and may agree to carry out the conditions of any such gift, bequest or devise;

(e) may dispose of any real or personal property acquired by gift, devise, or bequest as it may think fit, subject only to the express trusts of any deed, will, or instrument under which the property was acquired;

(f) may grant leases of University land for any term not exceeding 21 years;

(ga) may, with the approval of the Minister, grant leases of University land for a term that exceeds 21 years but does not exceed 99 years;

(gb) may enter into business arrangements;

~~(f) may grant leases of any lands vested in the University for any term not exceeding 21 years, and, with the approval of the Governor, but not otherwise, may grant leases for any term not exceeding 99 years;~~

(g) subject to the provisions of section 31 relating to trust moneys, may invest any moneys belonging to or vested in the University in such securities as the Senate thinks fit and may sell and realize any security or reinvest the proceeds of any sale. ~~sale;~~

~~(h) may enter into or approve a scheme for the provision of housing assistance to members of the academic or other staff of the University and guarantee loans made to such persons thereunder.~~

~~(2) No tax or rate may be charged or levied upon any property vested in the University and used or reserved by the University for the purpose of providing facilities necessary or conducive to~~

~~the attainment of the objects of the University and the performance of its functions.~~

- ~~— (3) All real and personal property that was by virtue of the provisions of the *Murdoch University Planning Board Act 1970*, held for the University shall be deemed, by force of this Act, and without any conveyance, transfer or assignment, to have vested in and become the property of the University on the date of coming into operation of this Act.~~

*[Section 29 amended by No. 103 of 1975 s. 4; [Universities Legislation Amendment Bill 2016 cl. 120.](#)]*

### **30A. Exemption from rate or tax**

- (1) No rate may be charged or levied on University land.
- (2) Subsection (1) does not operate to exempt University land 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 32E) under an approval granted under section 32M.
- (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 30A inserted by the [Universities Legislation Amendment Bill 2016 cl. 121.](#)]*

### **30. Special powers of investment**

- (1) The Senate may establish one or more investment common funds for the collective investment of any trust or other moneys held by or in the custody of the University.
- (2) The Senate may from time to time without liability for breach of trust bring into or withdraw from any investment common fund the whole or any part of any trust fund or other moneys held by or in the custody of the University.
- (3) The Senate shall not bring into any investment common fund the whole or any part of any trust fund —
- (a) if the instrument creating the trust expressly directs to the contrary;

- (b) unless all the securities in which the capital of the investment common fund is invested are securities in which the trust fund may properly be invested.
- (4) The Senate may if it considers it expedient so to do from time to time add some portion of the income to the capital of the common fund or use some part of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.
- (5) Subject to subsection (4), the Senate 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 by each fund in the common fund during the relevant accounting period.

**31. Trust moneys**

- (1) The Senate —
  - (a) may act as trustee or manager of any property, legacy, endowment, bequest, gift or trust moneys for the purposes of the University or in furtherance of the work and welfare of the University; and
  - (b) may use and apply any moneys or property not immediately required for the purposes of a trust declared in relation thereto in any manner not at variance with the trust.
- (2) Where the Senate uses and applies any trust moneys not immediately required for the purposes of the trust, —
  - (a) the amount of the trust moneys so used and applied is deemed to be a loan to the University from the trust estate or trust fund from which the amount is taken repayable by the Senate by equal half-yearly instalments together with interest at the rate approved by the Minister; ~~such rate as the Governor from time to time approves;~~
  - (b) the number of equal half-yearly instalments by which the interest and the principal debt are to be repaid is the number approved by the Minister, but in any case is not to ~~shall be repaid shall be such number as the Governor approves but in any case shall not~~ exceed 50;
  - (c) as and by way of security for the repayment of the loan with interest as aforesaid the Senate shall issue in favour of and deliver to the Treasurer debentures maturing at half-yearly intervals, each for the amount of a

half-yearly instalment, and shall redeem those debentures at the office of the Treasurer as and when they respectively mature;

- (d) as and when the Senate redeems any debenture, the Treasurer shall appropriate the amount paid to the Treasurer ~~him~~ by the Senate expressly for repayment thereof to the trust estate or trust fund from which the loan was made, and pay the same to the Senate subject to such appropriation.
- (3) Where trust moneys have been used and applied in the manner authorised by subsection (1) and until the same have been fully restored in the manner provided and required by subsection (2), the amount of the trust moneys from time to time not so restored is a first charge upon any lands of the University upon which buildings erected with those trust moneys are situated and the charge shall run with that land.
- (4) In investing any trust funds held by the University from time to time in a common fund or in a separate trust the University in addition to the power to invest as trust funds may be invested under Part III of the *Trustees Act 1962* shall also have power unless otherwise provided in the trust instrument to invest in the purchase of improved or unimproved land or in the making of improvements on any University land. ~~land vested in the University.~~

*[Section 31 amended by No. 1 of 1997 s. 18; Universities Legislation Amendment Bill 2016 cl. 122.]*

### **32A. 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.

**Murdoch University Act 1973**

**Part 5** University lands and financial provisions

**Division 2** Financial provisions and dealings in land

**s. 32B**

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(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 section 28A.

*[Section 32A inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

**32B. Notice of borrowing**

(1) If the University intends to borrow money and seek a guarantee under section 32C 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 32B inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

**32C. 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 32C inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

### **32D. 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 32C.

(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 32D inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

## **Division 3 — Leasing University land for commercial purposes**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

### **Subdivision 1 — Preliminary**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

### **32E. Terms used**

In this Division —

**advance determination** means an advance determination granted under section 32L;

**Murdoch University Act 1973**

**Part 5** University lands and financial provisions

**Division 3** Leasing University land for commercial purposes

**s. 32E**

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**approval** means an approval granted under section 32M;

**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 32P;

**university development proposal** means a proposal in respect of which the University intends to seek an approval under section 32M to do either or both of the things set out in section 32H(1).

*[Section 32E inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*



**32F. 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 32F inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32G. Effect of Division on University functions, powers and obligations**

(1) This Division does not limit —

(a) sections 4, 6 and 29; 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 29(1)(ga) to obtain the Minister's approval to the grant of a lease for a term that exceeds 21 years.

[Section 32G inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

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

[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32H. 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.

**Murdoch University Act 1973**

**Part 5** University lands and financial provisions

**Division 3** Leasing University land for commercial purposes

**s. 32I**

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(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 32H inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32I. 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 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 32I inserted by the *Universities Legislation Amendment Bill 2016* cl. 123.]

**32J. 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 32M 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 32J inserted by the *Universities Legislation Amendment Bill 2016* cl. 123.]

**32K. 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 32M 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 32J 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 32M, 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 32J 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 32K inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32L. Advance determination of approval**

- (1) If the University applies under section 32K 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 32J in relation to the proposal; and
  - (b) the Minister is satisfied that, in respect of the matters referred to in section 32J(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 32L inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]*

**32M. Approvals**

- (1) The University may apply to the Minister for approval to do either or both of the things set out in section 32H(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

**Murdoch University Act 1973**

**Part 5** University lands and financial provisions

**Division 3** Leasing University land for commercial purposes

**s. 32N**

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(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 32J, 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 granted under section 32L 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 32M inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32N. 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 32N inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32O. 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 32O inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32P. Payment agreements**

- (1) In this section —  
**regulations** means regulations made under section 28A.
- (2) 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.
- (3) 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.
- (4) 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 32P inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**32Q. 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 32Q inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**Division 4 — Miscellaneous**

[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 123.]

[32. Deleted by the Universities Legislation Amendment Bill 2016 cl. 123.]

**~~32. Loans may be guaranteed by Treasurer~~**

- ~~(1) Where the University proposes to raise a loan for any purpose and desires the Treasurer to guarantee repayment of the amount of the proposed loan and payment of interest thereon, the Senate shall cause particulars of the proposed loan to be submitted to the Treasurer for presentation to the Governor.~~
- ~~(2) If the Governor approves the particulars of the proposed loan and approves the guarantee by the Treasurer and causes the Senate to be advised of the approval, the Senate may proceed to~~



~~negotiate the proposed loan, but shall not finalize the negotiations for, or execute any form of instrument of security required in respect of, the proposed loan, until the form has been submitted to and approved by the Treasurer.~~

~~— (3) — If the Governor approves the particulars of the proposed loan and the Treasurer approves the form of instrument, or if more than one, instruments, of security, the Treasurer on behalf of the State shall guarantee repayment of the amount of the loan and payment of interest thereon in accordance with the provisions of that instrument or those instruments of security, which the Treasurer is hereby authorised to execute on behalf of the State.~~

~~— (4) — The due payment of money payable by the Treasurer under a guarantee given by him under the authority of this section —~~

~~— (a) — is hereby guaranteed by the State; and~~

~~— (b) — shall be charged to the Consolidated Account.~~

~~— [Section 32 amended by No. 98 of 1985 s. 3; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]~~

### **33. Superannuation scheme for University staff etc.**

- (1) The Senate may establish and maintain a scheme, in this Act referred to as “the Scheme”, to make financial provision in respect of the retirement, invalidity or death of such members of the staff, officers and ~~employees~~ ~~servants~~ of the University as the Senate decides may be members of the Scheme and as become such members.
- (2) The Senate may make agreements with other educational or research institutions for the establishment of joint machinery to facilitate the transfer of members of a superannuation scheme controlled by one of the institutions from that scheme to a superannuation scheme controlled by another of the institutions and generally in relation to matters affecting the Scheme.
- (3) The Senate may amend the Scheme or by further agreement amend an agreement made under subsection (2) but any amendment to the Scheme or an agreement shall not prejudice any right that has accrued under the Scheme or the agreement before the amendment.

*[Section 33 amended by the Universities Legislation Amendment Bill 2016 cl. 124.]*

**34. 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) The Senate shall include in its annual report a summary of the work, researches and investigations carried out by the University during that year.
- (3) Notwithstanding the *Financial Management Act 2006*, the financial year of the University 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 34 inserted by No. 98 of 1985 s. 3; amended by No. 92 of 1990 s. 39(3); No. 77 of 2006 Sch. 1 cl. 111.]*

## **Part 6 — Validation and transitional provisions**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 125.]*

### **Division 1 — Validations**

*[Heading inserted by the Universities Legislation Amendment Bill 2016 cl. 125.]*

#### **35. Certain leases of University land validated**

(1) In this section —

***commencement day*** means the day on which the *Universities Legislation Amendment Act 2016* section 89 comes into operation;

***relevant lease*** means a lease referred to in subsection (2);

***university purposes*** means the purposes of the University or purposes incidental to the purposes of the University;

***University's South Street campus*** means Lot 610 on Deposited Plan 75377 being the whole of the land comprised in certificate of title volume 2812 folio 355.

(2) For the purposes of this section, each lease set out in the Table is a relevant lease.

**Table**

<b><u>Item</u></b>	<b><u>Parties to lease</u></b>	<b><u>Description of interest leased</u></b>	<b><u>Date of commencement of lease</u></b>
<u>1.</u>	<u>Murdoch University and Winthrop Baptist College Inc</u>	<u>A lease of approximately 8,887 square metres of land on the University's South Street campus</u>	<u>3 November 1996</u>
<u>2.</u>	<u>Murdoch University and Somerville Baptist College Inc</u>	<u>A lease of approximately 3,773 square metres of land on the University's South Street campus</u>	<u>12 June 2002</u>
<u>3.</u>	<u>Murdoch University and Serco Australia Pty Ltd</u>	<u>A lease of approximately 868 square metres of land on the University's South Street campus</u>	<u>1 May 2011</u>

**Murdoch University Act 1973****Part 6** Validation and transitional provisions**Division 1** Validations**s. 35**

<u>Item</u>	<u>Parties to lease</u>	<u>Description of interest leased</u>	<u>Date of commencement of lease</u>
<u>4.</u>	<u>Murdoch University and the Minister for Health</u>	<u>A lease of 650 square metres on third floor of Building 390, Discovery Way on the University's South Street campus</u>	<u>1 July 2009</u>
<u>5.</u>	<u>Murdoch University and the State Animal Resource Authority</u>	<u>A lease of approximately 20,160 square metres of land on the University's South Street campus</u>	<u>1 December 1988</u>
<u>6.</u>	<u>Murdoch University and Wesfarmers Energy Ltd</u>	<u>A lease of approximately 3,360 square metres of land on the University's South Street campus</u>	<u>1 November 2005</u>
<u>7.</u>	<u>Murdoch University and Murdoch Retirement Services Pty Ltd</u>	<u>A lease of land marked L1, L2 and L3 on Deposited Plan 62329</u>	<u>21 May 2009</u>
<u>8.</u>	<u>Murdoch University and Murdoch Retirement Services Pty Ltd</u>	<u>A lease of land marked L4 on Deposited Plan 71892</u>	<u>6 June 2012</u>
<u>9.</u>	<u>Murdoch University and Aged Care Services Australia Pty Ltd</u>	<u>A lease of the Low Care (Avalon) Facility of the University's South Street campus shown marked C and D on Deposited Plan 63241</u>	<u>28 August 2009</u>
<u>10.</u>	<u>Murdoch University and Aged Care Services Australia Pty Ltd</u>	<u>A lease of the High Care Facility of the University's South Street campus shown marked A and B on Deposited Plan 63241</u>	<u>28 August 2009</u>

<u>Item</u>	<u>Parties to lease</u>	<u>Description of interest leased</u>	<u>Date of commencement of lease</u>
11.	<u>Murdoch University and Campus Living Villages Murdoch Pty Ltd</u>	<u>A lease of approximately 56,500 square metres of land on the University's South Street campus</u>	<u>30 July 2008</u>

(3) University land the subject of a relevant lease is to be taken to be, and since the commencement of the relevant lease to have always been, used for university purposes for the purposes of —

(a) compliance with any conditions, restrictions or limitations (however arising) attaching to the vesting of the 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 that specifies that something is to happen or not to happen, or provides for some other consequence, if that land ceases to be used for university purposes.

(4) The rights, obligations and liabilities of all persons under a relevant lease are to be taken to be, and since the commencement of the relevant lease to have always been, the same as if the University land the subject of the lease is, and since the commencement of the relevant lease has been, used for university purposes.

(5) Anything done, or purportedly done, before commencement day as a result or consequence of, or in reliance on or in relation to, a relevant lease is to be taken to be, and to have always been, as valid and effective as it would have been if the University land the subject of the relevant lease were used for university purposes when the thing was done or purportedly done.

(6) In subsection (5) a reference to the doing of anything includes a reference to an omission to do anything.

(7) A relevant lease is, and is taken always to have been, as valid as if —

(a) any approval of the lease required under section 29(1)(f) as in force immediately before commencement day had been obtained; and

**Murdoch University Act 1973**

**Part 6** Validation and transitional provisions

**Division 2** Transitional provisions for Universities Legislation Amendment Act 2016

**s. 36**

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- (b) any requirement under the *Land Administration Act 1997* section 75 for the written permission of the Minister responsible for the administration of that Act to be obtained for the transfer of the interest under the lease had been complied with.

[Section 35 inserted by the *Universities Legislation Amendment Bill 2016* cl. 125.]

**Division 2 — Transitional provisions for *Universities Legislation Amendment Act 2016***

[Heading inserted by the *Universities Legislation Amendment Bill 2016* cl. 125.]

**36. Term used: commencement day**

In this Division —

**commencement day** means the day on which the *Universities Legislation Amendment Act 2016* section 89 comes into operation.

[Section 36 inserted by the *Universities Legislation Amendment Bill 2016* cl. 125.]

**37. Transitional provisions (Senate)**

- (1) This section applies despite the amendments made to section 12 by the *Universities Legislation Amendment Act 2016* section 99.

- (2) Any person who, immediately before commencement day, holds office under section 12 (as in effect immediately before commencement day) as an appointed or nominated or elected member of the Senate —

- (a) continues in office —

- (i) under and subject to Part 3; 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 15 as that section is in effect immediately before commencement day.

- (3) 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 37 inserted by the Universities Legislation Amendment Bill 2016 cl. 125.]

**38. Transitional provisions (guarantees)**

A guarantee given under section 32 (as in effect immediately before commencement day) and in force immediately before commencement day continues as if it had been given under section 32C.

[Section 38 inserted by the Universities Legislation Amendment Bill 2016 cl. 125.]

**39. Transitional provisions (Statutes and by-laws)**

- (1) In this section —

**commencement day** means the day on which the *Universities Legislation Amendment Act 2016* section 117 comes into operation;

**former section 27** means section 27 as in effect immediately before it was deleted by the *Universities Legislation Amendment Act 2016* section 117.

- (2) Section 26A(2) does not apply to or in relation to any Statute or by-law made and published in the *Gazette* before commencement day, and former section 27 applies instead as if the former section 27 had not been deleted.

- (3) If a Statute or by-law has been made but not published in the *Gazette* before commencement day —

(a) section 26A(2) does not apply to and in relation to that Statute; and

(b) former section 27 applies instead as if the former section 27 had not been deleted.

[Section 39 inserted by the Universities Legislation Amendment Bill 2016 cl. 125.]

~~[35. Deleted by No. 98 of 1985 s. 3.]~~

## **Schedule 1 — Senate members**

[s. 14A, 15A, 17A]

*[Heading inserted by No. 8 of 2005 s. 31.]*

### **Division 1 — Duties**

*[Heading inserted by No. 8 of 2005 s. 31.]*

#### **1. Duties**

- (1) Each member of the Senate —
  - (a) must at all times act honestly in the performance of the functions of a member of the Senate, 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 of the Senate, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Senate'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 of the Senate;
  - (d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member of the Senate 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 of the Senate to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.
- (2) Nothing in subclause (1) or section 15A or 17A affects —
  - (a) any other duty a member of the Senate 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. 31.]*

### **Division 2 — Disclosure of interests**

*[Heading inserted by No. 8 of 2005 s. 31.]*

#### **2. Disclosure of interests**

- (1) A member of the Senate who has a material personal interest in a matter being considered or about to be considered by the Senate 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 Senate.

- (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. 31.]*

### **3. Voting by interested members**

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

- (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. 31.]*

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

Clause 3 does not apply if the Senate 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. 31.]*

*[5. Deleted by the Universities Legislation Amendment Bill 2016 cl. 126.]*

### ~~**5. Quorum where clause 3 applies**~~

~~Despite section 12(6), if a member is disqualified under clause 3 in relation to a matter, a quorum is present during the consideration of the matter if at least 7 members of the Senate are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.~~

~~*[Clause 5 inserted by No. 8 of 2005 s. 31.]*~~

**Murdoch University Act 1973**

**Schedule 1** Senate members

**Division 2** Disclosure of interests

**cl. 6**

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**6. Minister may declare clause 3 inapplicable~~Minister may declare clauses 3 and 5 inapplicable~~**

- (1) The Minister may, on the application of a member of the Senate, by writing declare that clause 3 does not ~~or 5 or both of them do 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. 31; amended by the Universities Legislation Amendment Bill 2016 cl. 127.]*

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## Notes

- <sup>1</sup> This reprint is a compilation as at 11 June 2010 of the *Murdoch University Act 1973* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

## Compilation table

Short title	Number and year	Assent	Commencement
<i>Murdoch University Act 1973</i>	20 of 1973	6 Jun 1973	1 Jul 1973 (see s. 2 and <i>Gazette</i> 26 Jun 1973 p. 2488-9)
<i>Murdoch University Act Amendment Act 1975</i>	103 of 1975	1 Dec 1975	1 Dec 1975
<i>Murdoch University Act Amendment Act 1976</i>	38 of 1976	9 Jun 1976	9 Jun 1976
<i>Acts Amendment (Student Guilds and Associations) Act 1977 Pt. II</i>	61 of 1977	23 Nov 1977	1 Jan 1978 (see s. 2)
<i>Murdoch University Act Amendment Act 1978</i>	7 of 1978	15 May 1978	15 May 1978
<i>Murdoch University Amendment Act 1980</i> <sup>4</sup>	26 of 1980	23 Oct 1980	Act other than s. 3(a)(ii): 23 Oct 1980 (see s. 2(1)); s. 3(a)(ii): 18 Mar 1981 (see s. 2(2) and <i>Gazette</i> 13 Mar 1981 p. 933)
<i>Acts Amendment (Student Guilds and Associations) Act 1983 Pt. III</i>	51 of 1983	5 Dec 1983	5 Dec 1983
<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>Acts Amendment (Education) Act 1988 Pt. 9</i>	7 of 1988	30 Jun 1988	8 Jul 1988 (see s. 2 and <i>Gazette</i> 8 Jul 1988 p. 2371)
<i>Acts Amendment and Repeal (Post-Secondary Education) Act 1989 Pt. 6</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>Financial Administration and Audit Amendment Act 1990 s. 39(3)</i>	92 of 1990	20 Dec 1990	8 Mar 1991 (see s. 2 and <i>Gazette</i> 8 Mar 1991 p. 1029)
<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. 5</i> <sup>5</sup>	91 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)

## Murdoch University Act 1973

Short title	Number and year	Assent	Commencement
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 54</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(8)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see s. 2(1))
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Trustees Amendment Act 1997 s. 18</i>	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 Pt. 45</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 92</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 54</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<b>Reprint of the Murdoch University Act 1973 as at 26 Feb 1999</b> (includes amendments listed above)			
<i>School Education Act 1999 s. 247</i>	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)
<i>Universities Legislation Amendment Act 2000 Pt. 2</i>	75 of 2000	7 Dec 2000	13 Jan 2001 (see s. 2 and <i>Gazette</i> 12 Jan 2001 p. 245)
<i>Acts Amendment (Student Guilds and Associations) Act 2002 Pt. 4</i>	44 of 2002	3 Jan 2003	25 Jan 2003 (see s. 2 and <i>Gazette</i> 24 Jan 2003 p. 141)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 86</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80</i>	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))
<b>Reprint 2: The Murdoch University Act 1973 as at 1 Jul 2005</b> (includes amendments listed above)			
<i>Universities Legislation Amendment Act 2005 Pt. 4</i> <sup>6</sup>	8 of 2005	7 Jul 2005	13 Aug 2005 (see s. 2 and <i>Gazette</i> 12 Aug 2005 p. 3651)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 111</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Acts Amendment (Bankruptcy) Act 2009 s. 58</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<b>Reprint 3: The Murdoch University Act 1973 as at 11 Jun 2010</b> (includes amendments listed above)			
<a href="#"><i>Universities Legislation Amendment Bill 2016 Pt. 4</i></a>	<a href="#">Current Bill No. 172-2</a>		

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- <sup>2</sup> [Footnote no longer applicable.](#) ~~Now see the *Interpretation Act 1984* s. 60.~~
- <sup>3</sup> Now see the *Interpretation Act 1984* Pt. VI.
- <sup>4</sup> The *Murdoch University Amendment Act 1980* s. 5 is a validation provision that is of no further effect.
- <sup>5</sup> The *Voluntary Membership of Student Guilds and Associations Act 1994* s. 2 contains transitional provisions that are of no further effect.
- <sup>6</sup> The *Universities Legislation Amendment Act 2005* s. 26 reads as follows:

**26. Transitional provisions**

- (1) In this section —
- commencement day* means the day on which the *Universities Legislation Amendment Act 2005* comes into operation;
- new section 12(1)* means the *Murdoch University Act 1973* section 12(1) as that provision is in effect on commencement day;
- repealed section 12(1)* means the *Murdoch University Act 1973* section 12(1) as that provision was in effect immediately before commencement day;
- Senate* means the Murdoch University Senate.
- (2) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(a) continue in office as members of the Senate under new section 12(1)(a) on and from commencement day.
- (3) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(b) or (c) cease to be members of the Senate on commencement day.
- (4) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(d) continue in office as members of the Senate under new section 12(1)(b) on and from commencement day.
- (5) The person who, immediately before commencement day, was a member of the Senate under repealed section 12(1)(da) continues in office as a member of the Senate under new section 12(1)(c) on and from commencement day.
- (6) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(e) continue in office as members of the Senate under new section 12(1)(d) on and from commencement day.
- (7) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(f) continue in office as members of the Senate under new section 12(1)(e) on and from commencement day even though one of those persons is a student on commencement day.
- (8) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(g) or (i) continue in office as members of the Senate under new section 12(1)(f) on and from commencement day.
- (9) The persons who, immediately before commencement day, were members of the Senate under repealed section 12(1)(j) continue in

- office as members of the Senate under new section 12(1)(g) on and from commencement day.
- (10) A person who, under this section, continues in office as a member of the Senate on and from commencement day, continues in office for the balance of the term of office that applied to the person immediately before commencement day.