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SOUTH AUSTRALIA

UNIVERSITY OF SOUTH AUSTRALIA ACT 1990

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **23 December 1999**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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UNIVERSITY OF SOUTH AUSTRALIA ACT 1990

being

University of South Australia Act 1990 No. 60 of 1990
[Assented to 29 November 1990]¹

as amended by

University of South Australia (Council Membership) Amendment Act 1992 No. 11 of 1992 [Assented to 16 April 1992]²
Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996 No. 34 of 1996 [Assented to 2 May 1996]³
Statutes Amendment (University Councils) Act 1996 No. 72 of 1996 [Assented to 22 August 1996]⁴
Statutes Amendment (Universities) Act 1999 No. 88 of 1999 [Assented to 2 December 1999]⁵

¹ Came into operation 1 January 1991: *Gaz.* 13 December 1990, p. 1755.

² Came into operation 1 July 1992: *Gaz.* 11 June 1992, p. 1680.

³ Came into operation 3 February 1997: *Gaz.* 19 December 1996, p. 1923.

⁴ Came into operation 1 January 1997: *Gaz.* 5 December 1996, p. 1812.

⁵ **Part 5 (s. 7) came into operation 23 December 1999: *Gaz.* 23 December 1999, p. 3670.**

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last reprint.*
- *For the legislative history of the Act see Appendix.*

An Act to establish the University of South Australia; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *University of South Australia Act 1990*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

"**the Academic Board**" means—

- (a) the board established by the Council under that title; or
- (b) if another body is prescribed by the regulations of the University for the purposes of this definition, that other body;

"**academic staff**" means those employees of the University who are classified by the Council as members of the academic staff;

"**the Council**" means the Council of the University established under Part 3;

"**the general staff**" means those employees of the University who are classified by the Council as members of the general staff;

"**graduate**" means a person on whom the University has conferred an academic award, including an honorary award and an award conferred jointly with another university;

"**postgraduate student**" means a student enrolled at the University in a course designated by the statutes to be a postgraduate course;

"**undergraduate student**" means a student enrolled at the University in a course designated by the statutes to be an undergraduate course;

"**student**" means a person enrolled at the University as an undergraduate or postgraduate student of the University;

"**the University**" means the University of South Australia established under this Act;

"**the University grounds**" means all land owned or occupied by the University or of which the University has the care, control and management.

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**PART 2
THE UNIVERSITY**

Establishment of the University

4. (1) The *University of South Australia* is established.

(2) The University is a body corporate with full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate.

(3) The University is not an instrumentality of the Crown.

Functions of the University

5. (1) The functions of the University are as follows:

(a) to preserve, extend and disseminate knowledge through teaching, research, scholarship, consultancy or any other means; and

(b) to provide tertiary education in such disciplines and areas of study as the University thinks appropriate to meet the needs of industry, commerce, the professions or any other section of the community; and

(c) to provide such tertiary education programmes as the University thinks appropriate to meet the needs of the Aboriginal people; and

(d) to provide such tertiary education programmes as the University thinks appropriate to meet the needs of groups within the community that the University considers have suffered disadvantages in education; and

(e) to provide educational programmes for the benefit of the wider community or programmes for the enhancement of the diverse cultural life of the community, as the University thinks fit; and

(f) to foster and further an active corporate life within the University; and

(g) to perform any functions that are ancillary or incidental to the functions referred to in the preceding paragraphs.

(2) The University must strive for excellence in teaching and research and for attainment of the highest standards in education.

Powers of the University

6. (1) The University—

(a) may confer, in accordance with the statutes of the University, appropriate academic awards on those persons who have attained the standards approved by the University; and

(b) may confer, in accordance with the statutes of the University, honorary awards on persons who the University thinks merit special recognition by the University.

(1a) The power to confer academic awards under subsection (1) includes the power to confer academic awards jointly with any other university.

(2) The University may, for the purpose of performing its functions or discharging its duties under this Act—

- (a) acquire, purchase, take on hire or loan, sell, lease or otherwise dispose of or deal with real and personal property; and
- (b) make charges for services or facilities that are provided by the University to the public on a commercial basis; and
- (c) borrow or invest money; and
- (d) enter into any other kind of contract or arrangement; and
- (e) do such other things as the University thinks necessary or desirable for that purpose.

(3) The University has, subject to the law of this State, an unfettered discretion to conduct its affairs as it thinks fit.

(4) Notwithstanding subsections (2) and (3), the University cannot, except with the approval of the Governor and in accordance with any terms or conditions stipulated by the Governor in granting that approval, sell, lease (except for a term not exceeding 21 years), or otherwise dispose of, mortgage or charge any of its real property.

Principles to be observed by the University

7. (1) Principles for the sound and fair management of the University and its staff must be established and regularly reviewed by the Council, and those principles must be observed at all times in the administration of the University.

(2) The University must not, in performing its functions—

- (a) discriminate against any person on the ground of his or her religious or political affiliations, views or beliefs; or
- (b) unlawfully discriminate against any person on the ground of his or her sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age or any other ground.

(3) Nothing in subsection (2) prevents the University from establishing affirmative action programmes for, or taking special measures for the benefit of, such classes of persons as the University thinks have suffered disadvantages in education or employment.

(4) Nothing in this section derogates from the operation of the *Equal Opportunity Act 1984*.

Internal organisation of the University

8. (1) The University will have such units or divisions for the different areas of learning as the Council thinks fit.

(2) There must be continued and maintained within the University—

- (a) the *De Lissa Institute of Early Childhood and Family Studies*; and
- (b) the *South Australian School of Art*.

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Student associations

9. (1) The Council may approve the formation of any association of students, or students and staff, of the University that is to be formed for the purposes of promoting the interests of students, or of students and staff.

(2) Such an association of students, or of students and staff, of the University cannot adopt a constitution or rules, or alter its constitution or rules, unless the proposed constitution or rules, or the proposed alteration, has been approved by the Council.

Charitable funds for students

9A. The University may establish a fund to be applied towards assisting students of the University who are in necessitous circumstances.

**PART 3
ADMINISTRATION OF THE UNIVERSITY**

DIVISION 1—THE COUNCIL

Establishment of the Council

10. (1) The Council of the University is established.

(2) The Council is the governing body of the University and has as its principal responsibilities—

- (a) overseeing the management and development of the University; and
- (b) devising or approving strategic plans and major policies for the University; and
- (c) monitoring and reviewing the operation of the University.

(3) The Council will consist of the following members:

- (a) the Chancellor and the Vice-Chancellor who will be members of the Council *ex officio*;
- (b) the presiding member of the Academic Board who will be a member of the Council *ex officio* or, if the Vice-Chancellor is the presiding member of the Academic Board, a member of the Academic Board elected by the Academic Board (but that person cannot be a student of the University);
- (c) the presiding member of the Students Association of the University who will be a member of the Council *ex officio*;
- (d) ten persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and six other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
- (e) if the Council so determines, one person co-opted and appointed by the Council;
- (f) two members of the academic staff, elected by the academic staff;
- (g) two members of the general staff, elected by the general staff;
- (h) two students of the University, one of whom must be a postgraduate student and one of whom must be an undergraduate student, appointed or elected in a manner determined by the Vice-Chancellor after consultation with the presiding member of the Students Association of the University.

(4) Where a person is appointed to the Council, the appointing authority must recognise that the Council is, as far as practicable, to be constituted of equal numbers of men and women who—

- (a) have a commitment to education and, in particular, to higher education; and
- (b) have an understanding of, and commitment to, the principles of equal opportunity and social justice and, in particular, to access and equity in education.

(5) Of the members of the Council appointed on the recommendation of the selection committee, at least one must have qualifications and experience in financial management.

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(6) A member of the academic or general staff or student of the University is not eligible to be appointed to the Council by the Council.

(7) A selection committee established for the purpose of making an appointment under subsection (3)(d) cannot recommend one of their number for appointment.

Term of office

11. (1) A member appointed to the Council by the Council will be appointed for a term of two or four years to be determined—

(a) in the case of a member appointed on the recommendation of a selection committee—by that selection committee; and

(b) in the case of a member co-opted and appointed by the Council—by the Council.

(2) A person elected by the Academic Board to the Council will be elected for a term of two years.

(3) A member of the academic or general staff of the University elected to the Council will be elected for a term of two years.

(4) A student of the University appointed or elected to the Council will be appointed or elected for a term of one year.

(5) At the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.

(6) The Council may remove an appointed or elected member of the Council from office for—

(a) mental or physical incapacity to carry out official duties satisfactorily; or

(b) failing, without reasonable excuse, to comply with the Council's requirements in relation to attendance at Council meetings; or

(c) conviction of an indictable offence; or

(d) serious misconduct.

(7) The office of an appointed or elected member becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed or re-elected; or

(c) does not continue in the capacity in which he or she was appointed or elected to membership of the Council (unless the date of the next appointment or election to his or her office is within three months from the date on which the member ceased to continue in the capacity in which he or she was appointed or elected); or

(d) resigns by notice in writing addressed to the Chancellor; or

(e) is removed from the office by the Council under subsection (6).

(8) If a member of the Council is appointed by the Council to the office of Chancellor or Vice-Chancellor, a casual vacancy occurs in the office held by that member.

(9) On the office of an appointed or elected member of the Council becoming vacant under this section, a person must be appointed or elected, as the case may require, to the vacant office in accordance with this Act.

(10) Subject to this Act, a member appointed or elected to fill a casual vacancy in the membership of the Council holds office for the balance of the term of his or her predecessor.

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Chancellor and Deputy Chancellor

12. (1) There will be a Chancellor and a Deputy Chancellor of the University.

(2) The Council may appoint a member of the Council or any other suitable person to the office of Chancellor for a term of four years on terms and conditions fixed by the Council.

(3) The Council may appoint a member of the Council to the office of Deputy Chancellor for a term of two years on terms and conditions fixed by the Council.

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(5) Neither an employee nor a student of the University is eligible for appointment as Chancellor or Deputy Chancellor.

(6) A person who holds office as Chancellor or Deputy Chancellor is, on the expiration of a term of office, eligible for reappointment.

Procedure at meetings of the Council

13. (1) The Chancellor or, in his or her absence, the Deputy Chancellor will preside at meetings of the Council and, in the absence of both the Chancellor and the Deputy Chancellor from a meeting, the members present must elect one of their number to preside at that meeting.

(2) A quorum of the Council is constituted by 11 members of the Council and no business may be transacted at a meeting of the Council unless a quorum is present.

(3) Each member present at a meeting of the Council is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.

(4) A decision carried by a majority of the votes cast by the members present and voting at a meeting is a decision of the Council.

(5) Subject to this Act, the proceedings of the Council may be conducted as it thinks fit.

Common seal

13A. (1) The following provisions apply in relation to the common seal of the University:

(a) the seal will be in a form approved by the Council; and

(b) the seal must be kept in the custody of the secretary to the Council; and

(c) the seal can only be affixed to a document pursuant to a resolution of the Council to that effect; and

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- (d) the affixture of the seal to a document must be witnessed by the signature—
 - (i) in the case of an academic award—of the Chancellor or the Vice Chancellor; and
 - (ii) in any other case—of both the Chancellor or his or her nominee and the Vice Chancellor or his or her nominee; and
- (e) where an apparently genuine document purports to bear the common seal of the University and appears to be duly witnessed, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal was duly affixed to the document.

Validity of acts and decisions of the Council

14. An act or decision of the Council is not invalid by reason only of a vacancy in its membership or on the ground of any defect in the appointment of a member.

Delegation by Council

15. (1) The Council may delegate any of its powers or functions—

- (a) to a member of the Council; or
- (b) to an employee of the University; or
- (c) to the holder of a particular office or position in the University; or
- (d) to any committee of the Council or the University.

(2) A delegation under this section—

- (a) must be by instrument in writing; and
- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the Council to act in any matter; and
- (d) is revocable at will by the Council.

DIVISION 2—THE VICE CHANCELLOR AND STAFF

Vice Chancellor

16. (1) There will be a Vice Chancellor of the University.

(2) The Vice Chancellor is the chief executive officer of the University and is responsible to the Council for the management and administration of the University.

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(5) The Council must, from time to time as occasion requires, appoint a person to be Vice Chancellor, on terms and conditions determined by the Council.

Staff

17. (1) The Council may appoint such staff as it thinks fit for the proper and efficient operation of the University.

(2) The appointment of staff will be on such terms and conditions as the Council may determine.

**PART 4
MISCELLANEOUS**

Annual report

18.

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(2) The Council must, not later than 30 June in each year, present to the Minister a report on the operation of the University during the year ending on the preceding 31 December.

(3) The report must include a copy of the audited accounts of the University.

(4) The Minister must, within 12 sitting days of receiving a report under this section, cause a copy of the report to be laid before each House of Parliament.

Audit

19. The accounts of the University may at any time, and must at least once in each year of operation of the University, be audited by the Auditor-General.

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Exemption from land tax

21. Any land in respect of which the University would, but for this section, be liable to pay land tax is exempt from that tax.

Jurisdiction of Industrial Commission

22. Notwithstanding any Act or law to the contrary, the Industrial Commission of South Australia has and may exercise in relation to the officers and employees of the University any jurisdiction conferred on it by the *Industrial Conciliation and Arbitration Act 1972*.

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Power to make statutes

24. (1) The Council may make, alter and repeal statutes for all or any of the following purposes, or with respect to all or any of the following matters:

- (a) the conduct of the business and proceedings of the Council; and
- (b) the election of members of the Council; and
- (c) the appointment and dismissal of staff; and
- (d) the terms and conditions upon which the Chancellor, Deputy Chancellor, the Vice Chancellor or any other member of the Council, or officer or employee of the University, holds office; and
- (e) the management and organisation of the University; and
- (f) the qualification required for admission to any course of education provided by the University and the credits to be given for the purposes of any such course in respect of work completed elsewhere; and
- (g) the conferring of fellowships, degrees, diplomas, certificates, scholarships, exhibitions, prizes or other awards; and

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- (h) the imposition, collection, application and administration of fees in relation to anything done by the University; and
- (i) the abatement or waiver of fees; and
- (j) courses of instruction, lectures and classes to be provided by the University; and
- (k) examinations and other methods of assessing the academic attainments and performance of students; and
- (l) residential accommodation for students and licensing of boarding houses for students; and
- (m) the establishment and management of branches of the University; and
- (n) co-operation between the University and any other university, college or educational institution, and the affiliation of educational institutions with the University; and
- (o) the maintenance of good order and discipline in the University; and
- (p) the establishment of a board of discipline and its practice, procedure, jurisdiction and powers (which may include powers to punish by a monetary penalty, by expulsion or suspension from the University or by exclusion from rights, privileges or benefits conferred by or arising under this Act or the statutes); and
- (q) the establishment of an appellate committee and its practice, procedure, jurisdiction and powers; and
- (r) the establishment and administration of a fund for the purpose of assisting students in necessitous circumstances; and
- (s) any other matter affecting the administration of the University.

(2) A statute made pursuant to this Act—

- (a) must be sealed with the common seal of the University and submitted to the Governor for confirmation; and
- (b) takes effect on the day on which it is confirmed by the Governor or on a later day prescribed in the statute.

(3) The *Subordinate Legislation Act 1978* does not apply to or in relation to a statute made under this section.

* * * * *

(5) A monetary penalty imposed for an offence against a statute is a debt due to the University and is recoverable by the University by action in a court of competent jurisdiction.

Power to make by-laws

25. (1) The Council may make, alter and repeal by-laws for all or any of the following purposes:

- (a) to prohibit persons from trespassing on the University grounds; and

- (b) to prevent damage to the University grounds (including any fixtures, chattels, trees, shrubs, bushes, flowers, gardens and lawns on those grounds); and
- (c) to regulate the speed at which vehicles may be driven on the University grounds; and
- (d) to prohibit dangerous or careless driving of vehicles on the University grounds; and
- (e) to restrict or prohibit the driving of any vehicle on the University grounds according to the laden weight of the vehicle or any part of the vehicle; and
- (f) to prescribe the route to be followed by traffic on roads, ways or tracks within the University grounds, and the gates to be used for the entrance and exit of vehicles and pedestrians, and to require the observance of one-way traffic rules on specified roads, ways or tracks; and
- (g) to prohibit or regulate the parking of vehicles on the University grounds, and to provide for the removal of vehicles from the University grounds; and
- (h) to require drivers or persons in charge of vehicles on the University grounds to comply with traffic directions (which may include directions as to the speed of vehicles, the course and direction of vehicles, the parking or standing of vehicles, and other matters required for order or safety); and
- (i) generally to regulate traffic of all kinds on the University grounds; and
- (j) to prohibit disorderly or offensive behaviour on the University grounds and to provide for the removal from those grounds of persons guilty of disorderly or offensive behaviour in the contravention of the by-laws; and
- (k) to regulate, restrict or prohibit the bringing of animals onto the University grounds and the handling of animals while within the grounds; and
- (l) to regulate, restrict or prohibit within the University grounds the consumption or use of alcoholic liquor, tobacco or other substances, and the bringing of alcoholic liquor, tobacco or other substances onto those grounds, and to provide for the removal of intoxicated persons from those grounds; and
- (m) to provide for the seizure and confiscation of alcoholic liquor, tobacco or other substances that have been brought onto the University grounds in contravention of a by-law; and
- (n) to prevent persons from climbing on fences or buildings, or walking over gardens or lawns; and
- (o) to regulate the conduct of meetings on the University grounds; and
- (p) to prevent the interruption of lectures, classes or meetings by noise or unseemly behaviour (whether within or outside buildings) and to prevent undue noise from motor vehicles; and
- (q) to prescribe fees for the parking of motor vehicles on the University grounds and provide for the recovery of those fees; and
- (r) to fix expiation fees, not exceeding a division 10 fee, for alleged offences against the by-laws; and

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- (s) to prescribe fines, not exceeding a division 8 fine, for contravention of any by-law; and
- (t) to prescribe any other matters expedient for the maintenance of good order on the University grounds or for the protection of property or for the prevention of hindrance to or interference with any activities conducted on the University grounds.

(2) A by-law operates generally throughout the University grounds unless its operation is expressly or by necessary implication limited to a particular part or particular parts of the University grounds.

(3) A by-law made under this section—

- (a) must be sealed with the seal of the University and submitted to the Governor for confirmation; and
- (b) must after confirmation, be published in the *Gazette* and laid before each House of Parliament; and
- (c) takes effect from the date of publication in the *Gazette* or a later date prescribed in the by-law.

(4) If either House of Parliament, pursuant to a notice of motion given within 14 sitting days after the by-law is laid before that House, passes a resolution disallowing the by-law, it ceases to have effect, but the disallowance of the by-law does not affect the validity or legality or cure the invalidity or illegality of any act or omission occurring in the meantime.

(5) Notice of a resolution under subsection (4) must be published in the *Gazette*.

(6) Offences against by-laws are summary offences.

(7) The statutes may provide for proceedings against students or staff of the University in respect of offences against the by-laws to be heard and determined by a board of inquiry established under the statutes and for appeals against decisions of that board of inquiry in respect of any such offences to be heard and determined by an appellate committee established under the statutes.

(8) An allegation in a complaint that any specified place is within the University grounds will be taken to be proved in the absence of proof to the contrary.

(9) In any proceedings relating to an offence against a by-law an allegation in the complaint that a specified person was the owner or driver of a specified vehicle on a specified day will be taken to be proved in the absence of proof to the contrary.

* * * * *

(13) In this section—

"**driving**", in relation to a vehicle, includes riding.

Special provisions relating to statutes and by-laws

26. (1) Where a statute or by-law has been confirmed by the Governor and published in the *Gazette* all conditions precedent to the making of the statute or by-law will be conclusively presumed to have been fulfilled.

(2) A statute or by-law cannot take away or restrict any civil or criminal liability under any other Act or at common law.

(3) Where an act or omission is an offence against a statute and a by-law, the offender may be charged and punished either under the statute or by-law, but not under both.

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APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Statutes Amendment (University Councils) Act 1996, Sched. 1, cl. 3)

3. The offices of the appointed and elected members of the Council of the University of South Australia are vacated on the commencement of Part 4 of this Act.

(Transitional provision from Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996, s. 5)

5. An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

Legislative History

(entries in bold type indicate amendments incorporated since the last reprint)

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|-------------------------------|---|
| Section 3: | definition of "the Academic Board" inserted by 11, 1992, s. 3(a); substituted by 72, 1996, s. 17 |
| | definition of "academic staff" inserted by 11, 1992, s. 3(a) |
| | definition of "the general staff" inserted by 11, 1992, s. 3(b) |
| | definition of "graduate" inserted by 11, 1992, s. 3(b) |
| | definition of "postgraduate student" inserted by 11, 1992, s. 3(b) |
| | definition of "undergraduate student" inserted by 11, 1992, s. 3(b) |
| Section 6(1a): | inserted by 11, 1992, s. 4 |
| Section 9A: | inserted by 11, 1992, s. 5 |
| Section 10: | amended by 11, 1992, s. 6; substituted by 72, 1996, s. 18 |
| Section 11: | substituted by 11, 1992, s. 7; 72, 1996, s. 18 |
| Section 11A: | inserted by 11, 1992, s. 7; repealed by 72, 1996, s. 18 |
| Section 12(2) and (3): | substituted by 11, 1992, s. 8; 72, 1996, s. 19 |
| Section 12(4): | repealed by 11, 1992, s. 8 |
| Section 13(2) and (3): | substituted by 72, 1996, s. 20 |
| Section 13A: | inserted by 11, 1992, s. 9 |
| Heading preceding section 16: | amended by 11, 1992, s. 10 |
| Section 16(3) and (4): | repealed by 11, 1992, s. 11 |
| Section 18(1): | repealed by 11, 1992, s. 12 |
| Section 20: | repealed by 11, 1992, s. 13 |
| Section 23: | repealed by 88, 1999, s. 7 |
| Section 24(2) and (3): | substituted by 11, 1992, s. 14 |
| Section 24(4): | repealed by 11, 1992, s. 14 |
| Section 25(1): | amended by 34, 1996, s. 4 (Sched. cl. 42) |
| Section 25(10) - (12): | repealed by 34, 1996, s. 4 (Sched. cl. 42) |