

South Australia

# University of South Australia Act 1990

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

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## Legislative history

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### The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

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

### 3—Interpretation

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 statutes 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 or another body under section 6;

*logo* means a design (the copyright of which is vested in the University) declared under this Act to be a logo;

*official insignia* means a logo, an official symbol or an official title;

*official symbol* means a combination of a logo and an official title;

*official title* means a name or title declared under this Act to be an official title;

*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.

## **Part 2—The University**

### **4—Establishment of the University**

- (1) The *University of South Australia* is established.
- (2) Subject to section 6, the University is a body corporate invested with full juristic capacity and unfettered discretion, subject to the laws of this State, to conduct its affairs in the manner it thinks fit.
- (3) The University is not an instrumentality or agency of the Crown.

### **5—Functions of the University**

- (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.

### **6—Powers of University**

- (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; and

- (c) may permit a graduate of the University, for any reason the University thinks fit, to surrender an academic or other award previously conferred on him or her by the University.
- (1a) The power to confer academic awards under subsection (1) includes the power to confer academic awards jointly with—
  - (a) another university; or
  - (b) a registered training organisation; or
  - (c) another body specified in regulations made under subsection (1b).
- (1b) The Governor may, on the recommendation of the Council, make regulations for the following purposes:
  - (a) specifying a body for the purposes of subsection (1a);
  - (b) excluding a registered training organisation from the ambit of the definition of *registered training organisation*.
- (2) The University may exercise its powers within or outside the State (including outside Australia).
- (3) The University must not alienate (except by way of lease for a term not exceeding 21 years), mortgage or charge land vested in or conveyed to the University on trust except with, and in accordance with any terms or conditions of, an approval given by the Governor.
- (4) To avoid doubt, subsection (3) does not confer any power to alienate land contrary to the terms of a trust relating to the land.
- (5) In this section—

*registered training organisation* means a training organisation registered under the *Training and Skills Development Act 2003* but does not include a training organisation excluded from the ambit of this definition by regulations made under subsection (1b).

## 7—Principles to be observed by the University

- (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.

## 8—Internal organisation of the University

- (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*.

## 9—Student associations

- (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.

### **9A—Charitable funds for students**

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

### **9B—Declaration of logo and official titles**

- (1) The Minister may, by notice in the Gazette, declare a design to be a logo in respect of the University.
- (2) *The University of South Australia* and *UniSA* are official titles.

### **9C—Protection of proprietary interests of University**

- (1) The University has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the University, in the course of a trade or business—
  - (a) use a name in which the University has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
  - (b) sell goods marked with official insignia; or
  - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the University, assume a name or description that consists of, or includes, official insignia.  
Maximum penalty: \$20 000.
- (4) A consent under this section—
  - (a) may be given with or without conditions (including conditions requiring payment to the University); and
  - (b) must be given in writing addressed to the applicant for the consent; and
  - (c) may be revoked by the University for a breach of a condition by notice in writing given personally or by post to a person who has the benefit of the consent.
- (5) The Supreme Court may, on the application of the University, grant an injunction to restrain a breach of this section.
- (6) The court by which a person is convicted of an offence against this section may, on the application of the University, order the convicted person to pay compensation of an amount fixed by the court to the University.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the University apart from those subsections.

## Part 3—Administration of the University

### Division 1—The Council

#### 10—Establishment of Council

- (1) The Council of the University is established.
- (2) The Council is the governing body of the University and has the following as its primary responsibilities:
  - (a) appointing the Vice-Chancellor as the chief executive officer of the University, and monitoring his or her performance;
  - (b) approving the mission and strategic direction of the University, as well as the annual budget and business plan;
  - (c) overseeing and reviewing the management of the University and its performance;
  - (d) establishing policy and procedural principles, consistent with legal requirements and community expectations;
  - (e) approving and monitoring systems of control and accountability, including general overview of any entities controlled by the University (within the meaning of section 50AA of the *Corporations Act 2001*);
  - (f) overseeing and monitoring the assessment and management of risk across the University, including commercial undertakings;
  - (g) overseeing and monitoring the academic activities of the University;
  - (h) approving significant commercial activities of the University.
- (2a) The Council must in all matters endeavour to advance the interests 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);
  - (d) 8 persons appointed by the Council, on the recommendation of a selection committee (which consists of the Chancellor and 6 other persons appointed by the Chancellor in accordance with guidelines determined by the Council);
  - (e) if the Council so determines, 1 person co-opted and appointed by the Council;
  - (f) 1 member of the academic staff, elected by the academic staff;
  - (g) 1 member of the general staff, elected by the general staff;

- (h) 2 students of the University (not being persons in the full time employment of the University), 1 of whom must be a postgraduate student and 1 of whom must be an undergraduate student, appointed or elected in a manner determined by the Council.
- (3a) An election of a person to the Council must be conducted in a manner, and in accordance with the procedures, determined by the Council.
- (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 2 must have financial management expertise and at least 1 must have commercial expertise (demonstrated by relevant qualifications or relevant experience at a senior level in the public or private sector).
- (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 1 of their number for appointment.

## 11—Term of office

- (1) Subject to subsection (5a), a member appointed to the Council by the Council will be appointed for a term of between 2 and 4 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 2 years.
- (3) A member of the academic or general staff of the University elected to the Council will be elected for a term of 2 years.
- (4) A student of the University appointed or elected to the Council will be appointed or elected for a term of 1 year.
- (5) Subject to subsection (5a), at the expiration of a term of office, a member appointed or elected to the Council is eligible for reappointment or re-election.
- (5a) A person may not, except by resolution of the Council, be appointed or elected as a member of the Council if the appointment or election (as the case requires) would result in the person being a member of the Council for more than 12 years.
- (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 3 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); or
  - (f) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.
- (7a) An appointed or elected member of the Council may only be removed under subsection (6)(d) by resolution passed by at least a two-thirds majority of the members of the Council.
- (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.

## **12—Chancellor and Deputy Chancellor etc**

- (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 4 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 2 years on terms and conditions fixed by the Council (but the member will cease to hold that office if, for any reason, the member ceases to be a member of the Council).
- (4) The Council may appoint not more than 2 Pro-Chancellors for a term of 2 years on terms and conditions fixed by the Council.
- (5) Neither an employee nor a student of the University is eligible for appointment as Chancellor, Deputy Chancellor or Pro-Chancellor.



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

### **13—Procedure at meetings of Council**

- (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 1 of their number to preside at that meeting.
- (2) A quorum of the Council is constituted by one half of the total number of members of the Council (ignoring any fraction resulting from the division) plus 1, 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 1 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.

### **13A—Common seal**

- (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
  - (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.

### **14—Validity of acts and decisions of Council**

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 or election of a member.

### **15—Delegation by Council**

- (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.

### **15A—Duty of Council members to exercise care and diligence etc**

A member of the Council must at all times in the performance of his or her functions—

- (a) exercise a reasonable degree of care and diligence; and
- (b) act in the best interest of the University.

### **15B—Duty of Council members to act in good faith etc**

- (1) A member of the Council must at all times act in good faith, honestly and for a proper purpose in the performance of the functions of his or her office, whether within or outside the State.
- (2) A member of the Council must not improperly use his or her position to gain an advantage for himself or herself or another person, whether within or outside the State.
- (3) Subsection (1) does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the interest of the University.

### **15C—Duty of Council members with respect to conflict of interest**

- (1) A member of the Council who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Council—
  - (a) must, as soon as is reasonably practicable, disclose in writing to the Council full and accurate details of the interest; and
  - (b) must not take part in any discussion by the Council relating to that matter; and
  - (c) must not vote in relation to that matter; and
  - (d) must be absent from the meeting room when any such discussion or voting is taking place.
- (2) A member of the Council will not be taken to have a direct or indirect interest in a matter for the purposes of this section by reason only of the fact that the member has an interest in the matter that is shared in common with staff members, graduates or students of the University generally, or with a substantial number of staff members, graduates or students of the University.
- (3) If a member of the Council makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
  - (a) the contract is not liable to be avoided by the University; and

- (b) the member of the Council is not liable to account to the University for profits derived from the contract.
- (4) If a member of the Council fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the University.
- (5) A contract may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (6) If a member of the Council has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the Council, the member must, as soon as is reasonably practicable, disclose in writing to the Council full and accurate details of the interest or office.
- (7) A disclosure under this section must be recorded in the minutes of the Council.
- (8) Without limiting the effect of this section, a member of the Council will be taken to have an interest in a matter for the purposes of this section if a relative of the member has an interest in the matter.
- (9) This section does not apply in relation to a matter in which a member of the Council has an interest while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.
- (10) In this section—

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*relative* of a member means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member;

*spouse*—a person is the spouse of another if they are legally married.

#### **15D—Removal of Council members for contravention of section 15A, 15B or 15C**

Non-compliance by a member of the Council with a duty imposed under section 15A, 15B or 15C will be taken to be serious misconduct and a ground for removal of the member from office.

#### **15E—Civil liability for contravention of section 15B or 15C**

If a person who is a member of the Council or a former member of the Council is guilty of a contravention of section 15B or 15C, the University may recover from the person by action in a court of competent jurisdiction—

- (a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and
- (b) if the University suffered loss or damage as a result of the contravention—compensation for the loss or damage.

## **Division 2—The Vice Chancellor and staff**

### **16—Vice Chancellor**

- (1) There will be a Vice Chancellor of the University.
- (2) The Vice Chancellor is the principal academic and chief executive officer of the University and is responsible to the Council for the academic standards, management and administration of the University.
- (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.

### **17—Staff**

- (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**

### **18—Annual report**

- (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, and of every statute of the University confirmed by the Governor during the year ending on the preceding 31 December.
- (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.

### **19—Audit**

The accounts of the University may at any time, and must at least once in each year of operation of the University, be audited in such manner as the Governor may direct.

### **21—Exemption from land tax**

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

### **24—Power to make statutes**

- (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

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- (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
  - (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 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.

## **25—Power to make by-laws**

- (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 to provide for the removal of trespassers from those grounds by persons authorised in writing by the Council; and
  - (b) to prevent damage to the University grounds (including any fixtures, chattels, trees, shrubs, bushes, flowers, gardens and lawns on those grounds); and
  - (ba) to provide for the recovery by the University on complaint compensation for any damage done to the University grounds or any property of the University; 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 by persons authorised in writing by the Council; 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 by persons authorised in writing by the Council; and

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- (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 by persons authorised in writing by the Council; 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 \$80, for alleged offences against the by-laws; and
  - (s) to prescribe fines, not exceeding \$1 250, 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) The Council may only make a by-law—
- (a) at a meeting of the Council of which at least 14 days prior notice has been given in writing to each member of the Council setting out the proposed by-law; and
  - (b) on a resolution supported by a majority of the total number of the members of the Council.
- (4) A by-law must be transmitted to the Governor for confirmation.
- Note—**
- A by-law cannot come into operation until confirmed by the Governor—see section 10(7) of the *Subordinate Legislation Act 1978*.
- (5) To avoid doubt, the *Subordinate Legislation Act 1978* applies to a by-law made under this section.
- (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.
- (10) If, in any proceedings relating to an offence against a by-law, it is proved that a vehicle was parked in the University grounds in contravention of a by-law it will be presumed, in the absence of evidence to the contrary, that the vehicle was so parked by the owner of the vehicle.
- (11) Despite a provision of any other Act—
- (a) any fine (being a fine imposed by a board of inquiry established under the statutes) recovered in respect of an offence against a by-law; and
  - (b) any expiation fee paid in relation to an expiation notice issued for an alleged offence against a by-law,
- will be paid to the University.
- (13) In this section—
- driving*, in relation to a vehicle, includes riding.

## **26—Special provisions relating to statutes and by-laws**

- (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.

## **27—Immunity from civil liability**

- (1) Subject to this Act, no civil liability attaches to a member of the Council for an act or omission in the exercise or purported exercise of official powers or functions.
- (2) An action that would, but for subsection (1), lie against a member of the Council lies instead against the University.
- (3) This section does not prejudice rights of action of the University in respect of an act or omission not in good faith.



## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1990	60	<i>University of South Australia Act 1990</i>	29.11.1990	1.1.1991 ( <i>Gazette 13.12.1990 p1755</i> )
1992	11	<i>University of South Australia (Council Membership) Amendment Act 1992</i>	16.4.1992	1.7.1992 ( <i>Gazette 11.6.1992 p1680</i> )
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 42)—3.2.1997 ( <i>Gazette 19.12.1996 p1923</i> )
1996	72	<i>Statutes Amendment (University Councils) Act 1996</i>	22.8.1996	Pt 4 and Sch 1 (cl 3)—1.1.1997 ( <i>Gazette 5.12.1996 p1812</i> )
1999	88	<i>Statutes Amendment (Universities) Act 1999</i>	2.12.1999	Pt 5 (s 7)—23.12.1999 ( <i>Gazette 23.12.1999 p3670</i> )
2005	29	<i>Statutes Amendment (Universities) Act 2005</i>	7.7.2005	Pt 4 (ss 32—46) & Sch 1 (cl 3)—28.7.2005 ( <i>Gazette 28.7.2005 p2524</i> )
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 89 (s 215)—1.6.2007 ( <i>Gazette 26.4.2007 p1352</i> )
<b>2008</b>	<b>52</b>	<b><i>University of South Australia (Miscellaneous) Amendment Act 2008</i></b>	<b>11.12.2008</b>	<b>31.12.2008 (<i>Gazette 18.12.2008 p5654</i>)</b>
2020	40	<i>Training and Skills Development (Miscellaneous) Amendment Act 2020</i>	19.11.2020	Sch 1 (cl 11)—1.7.2021 ( <i>Gazette 24.6.2021 p2260</i> )

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		

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s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	28.7.2005
s 3		
the Academic Board	inserted by 11/1992 s 3(a)	1.7.1992
	substituted by 72/1996 s 17	1.1.1997
	amended by 29/2005 s 32(1)	28.7.2005
academic staff	inserted by 11/1992 s 3(a)	1.7.1992
the general staff	inserted by 11/1992 s 3(b)	1.7.1992
graduate	inserted by 11/1992 s 3(b)	1.7.1992
	amended by 29/2005 s 32(2)	28.7.2005
logo	inserted by 29/2005 s 32(3)	28.7.2005
official insignia	inserted by 29/2005 s 32(3)	28.7.2005
official symbol	inserted by 29/2005 s 32(3)	28.7.2005
official title	inserted by 29/2005 s 32(3)	28.7.2005
postgraduate student	inserted by 11/1992 s 3(b)	1.7.1992
undergraduate student	inserted by 11/1992 s 3(b)	1.7.1992
Pt 2		
s 4		
s 4(2)	substituted by 29/2005 s 33(1)	28.7.2005
s 4(3)	amended by 29/2005 s 33(2)	28.7.2005
s 6		
<b>s 6(1)</b>	<b>amended by 52/2008 s 4</b>	<b>31.12.2008</b>
s 6(1a)	inserted by 11/1992 s 4	1.7.1992
	amended by 29/2005 s 34(1)	28.7.2005
s 6(1b)	inserted by 29/2005 s 34(2)	28.7.2005
s 6(2)—(4)	substituted by 29/2005 s 34(3)	28.7.2005
s 6(5)	inserted by 29/2005 s 34(3)	28.7.2005
s 7		
s 7(2)—(4)	<i>deleted by 29/2005 s 35</i>	28.7.2005
s 9A	inserted by 11/1992 s 5	1.7.1992
ss 9B and 9C	inserted by 29/2005 s 36	28.7.2005
Pt 3		
Pt 3 Div 1		
s 10	amended by 11/1992 s 6	1.7.1992
	substituted by 72/1996 s 18	1.1.1997
s 10(2)	substituted by 29/2005 s 37(1)	28.7.2005
s 10(2a)	inserted by 29/2005 s 37(2)	28.7.2005
s 10(3)	(c) deleted by 29/2005 s 37(3)	28.7.2005
	amended by 29/2005 s 37(4)	28.7.2005
	<b>amended by 52/2008 s 5(1)—(4)</b>	<b>31.12.2008</b>
<b>s 10(3a)</b>	<b>inserted by 52/2008 s 5(5)</b>	<b>31.12.2008</b>

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s 10(5)	amended by 29/2005 s 37(5)	28.7.2005
s 11	substituted by 11/1992 s 7	1.7.1992
	substituted by 72/1996 s 18	1.1.1997
s 11(1)	amended by 29/2005 s 38(1)	28.7.2005
	<b>amended by 52/2008 s 6</b>	<b>31.12.2008</b>
s 11(5)	amended by 29/2005 s 38(2)	28.7.2005
s 11(5a)	inserted by 29/2005 s 38(3)	28.7.2005
s 11(7)	amended by 29/2005 s 38(4)	28.7.2005
s 11(7a)	inserted by 29/2005 s 38(5)	28.7.2005
s 11A	<i>inserted by 11/1992 s 7</i>	<i>1.7.1992</i>
	<i>deleted by 72/1996 s 18</i>	<i>1.1.1997</i>
s 12		
s 12(2)	substituted by 11/1992 s 8	1.7.1992
	substituted by 72/1996 s 19	1.1.1997
s 12(3)	substituted by 11/1992 s 8	1.7.1992
	substituted by 72/1996 s 19	1.1.1997
	<b>amended by 52/2008 s 7</b>	<b>31.12.2008</b>
s 12(4)	deleted by 11/1992 s 8	1.7.1992
	inserted by 29/2005 s 39(1)	28.7.2005
s 12(5)	amended by 29/2005 s 39(2)	28.7.2005
s 12(6)	amended by 29/2005 s 39(3)	28.7.2005
s 13		
s 13(2)	substituted by 72/1996 s 20	1.1.1997
	<b>amended by 52/2008 s 8</b>	<b>31.12.2008</b>
s 13(3)	substituted by 72/1996 s 20	1.1.1997
s 13A	inserted by 11/1992 s 9	1.7.1992
<b>s 14</b>	<b>amended by 52/2008 s 9</b>	<b>31.12.2008</b>
s 15A	inserted by 29/2005 s 40	28.7.2005
s 15B	inserted by 29/2005 s 40	28.7.2005
s 15C	inserted by 29/2005 s 40	28.7.2005
s 15C(8)	amended by 43/2006 s 215(1)	1.6.2007
s 15C(10)	substituted by 43/2006 s 215(2)	1.6.2007
s 15D	inserted by 29/2005 s 40	28.7.2005
s 15E	inserted by 29/2005 s 40	28.7.2005
Pt 3 Div 2	heading amended by 11/1992 s 10	1.7.1992
s 16		
s 16(2)	substituted by 29/2005 s 41	28.7.2005
s 16(3) and (4)	<i>deleted by 11/1992 s 11</i>	<i>1.7.1992</i>
Pt 4		
s 18		
s 18(1)	<i>deleted by 11/1992 s 12</i>	<i>1.7.1992</i>
s 18(3)	amended by 29/2005 s 42	28.7.2005
<b>s 19</b>	<b>amended by 52/2008 s 10</b>	<b>31.12.2008</b>

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s 20	<i>deleted by 11/1992 s 13</i>	1.7.1992
s 22	<i>amended by 29/2005 s 43</i>	28.7.2005
	<b><i>deleted by 52/2008 s 11</i></b>	<b>31.12.2008</b>
s 23	<i>deleted by 88/1999 s 7</i>	23.12.1999
s 24		
s 24(2)	substituted by 11/1992 s 14	1.7.1992
	amended by 29/2005 s 44	28.7.2005
s 24(3)	substituted by 11/1992 s 14	1.7.1992
s 24(4)	<i>deleted by 11/1992 s 14</i>	1.7.1992
s 25		
s 25(1)	amended by 34/1996 s 4 (Sch cl 42)	3.2.1997
	<b>amended by 52/2008 s 12(1)—(7)</b>	<b>31.12.2008</b>
s 25(3)	amended by 29/2005 s 45	28.7.2005
	<b>substituted by 52/2008 s 12(8)</b>	<b>31.12.2008</b>
<b>s 25(4) and (5)</b>	<b>substituted by 52/2008 s 12(8)</b>	<b>31.12.2008</b>
s 25(10) and (11)	deleted by 34/1996 s 4 (Sch cl 42)	3.2.1997
	<b>inserted by 52/2008 s 12(9)</b>	<b>31.12.2008</b>
s 25(12)	<i>deleted by 34/1996 s 4 (Sch cl 42)</i>	3.2.1997
s 27	inserted by 29/2005 s 46	28.7.2005

## Transitional etc provisions associated with Act or amendments

### *Statutes Amendment (University Councils) Act 1996, Sch 1—Transitional provisions*

- 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.

### *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996*

#### 5—Transitional provision

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.

### *Statutes Amendment (Universities) Act 2005, Sch 1—Transitional provisions*

#### 3—Council members

A member of the Council holding office under section 10(3)(c) of the *University of South Australia Act 1990* immediately before the commencement of this clause will, subject to that Act as amended by this Act, continue to hold office until the expiration of his or her term of office as if he or she were a student appointed or elected under section 10(3)(h) of that Act.

## *University of South Australia (Miscellaneous) Amendment Act 2008, Sch 1*

### **1—Transitional provision relating to members of Council**

- (1) An election of a person to the Council referred to in section 10(3)(f), (g) or (h) of the *University of South Australia Act 1990*—
- (a) that occurs between 1 October 2008 and the commencement of section 5 of this Act; and
  - (b) that is conducted in a manner, and in accordance with the procedures, determined by the Council for the purposes of that election,

will be taken to be valid despite failing to comply with a provision of that Act, or any statute made under that Act, that sets out requirements in respect of the numbers of persons to be elected to the Council at a particular election, or the method by which more than 1 person is elected to the Council at a particular election.

- (2) In this clause—

*Council* has the same meaning as in the *University of South Australia Act 1990*.

### **Historical versions**

Reprint No 1—1.7.1002

Reprint No 2—1.1.1997

Reprint No 3—3.2.1997

Reprint No 4—23.12.1999

28.7.2005

1.6.2007