

AUSTRALIAN CATHOLIC UNIVERSITY ACT 1990 No. 110

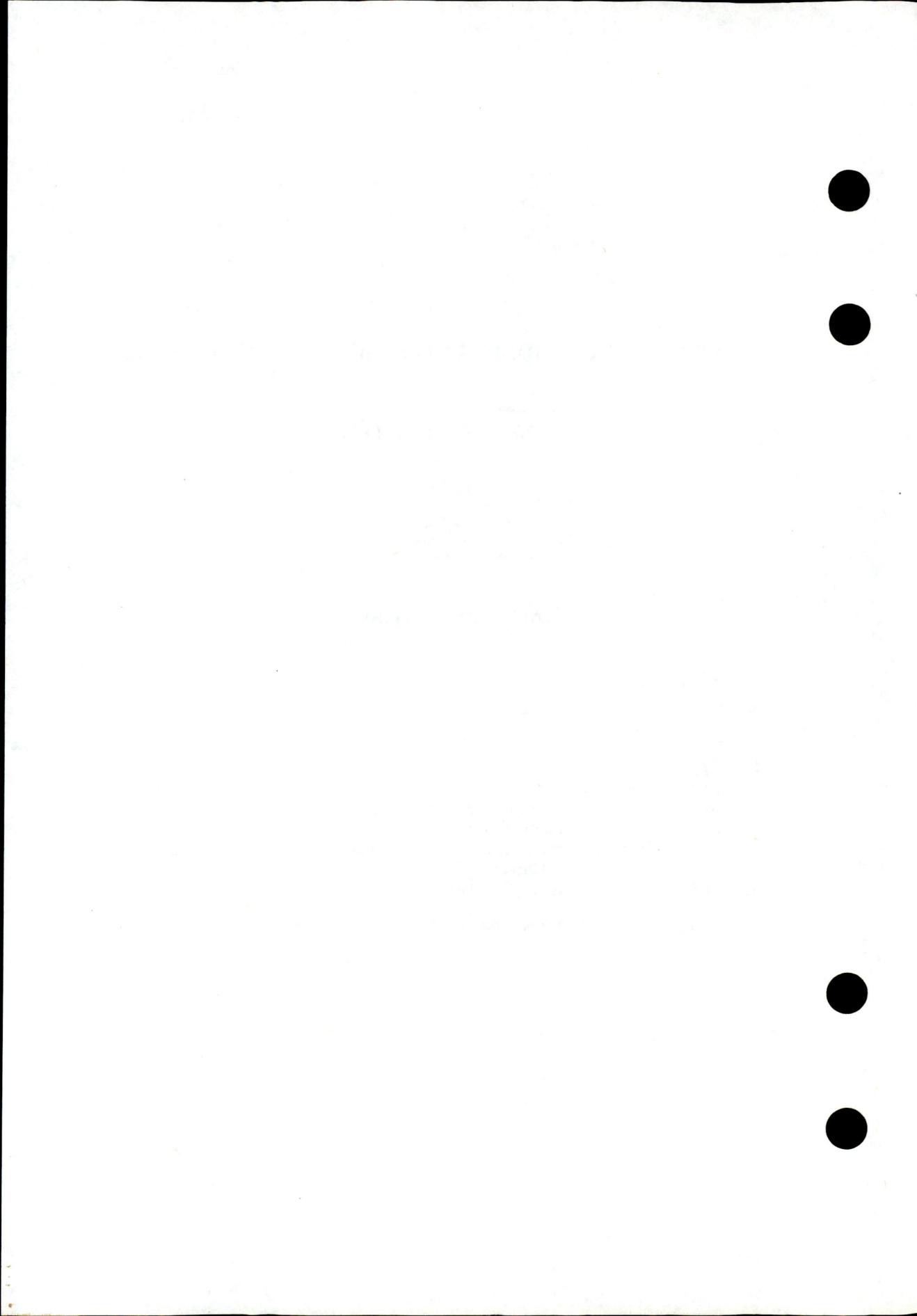
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Definitions
4. Objects
5. Application of Act
6. Official status as a university
7. No religious test or political discrimination
8. Investment of University funds
9. Rule of law as to remoteness of vesting not to apply to gifts etc.
10. Independence of the University
11. Liability of the State

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS



AUSTRALIAN CATHOLIC UNIVERSITY ACT 1990
No. 110

NEW SOUTH WALES



Act No. 110, 1990

An Act to provide statutory recognition of the Australian Catholic University and to facilitate its operation within New South Wales.
[Assented to 14 December 1990]

Australian Catholic University 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Australian Catholic University Act 1990.

Commencement

2. This Act commences on 1 January 1991.

Definitions

3. In this Act:

“**Australian Catholic University**” or “**University**” means the company incorporated under the Companies (Victoria) Code under the name of the Australian Catholic University Limited or under that name as changed from time to time;

“**constituent documents**”, in relation to the University, means the memorandum and articles of association of the company referred to in the definition of “**Australian Catholic University**”;

“**Senate**” means the Senate of the University as constituted from time to time in accordance with the constituent documents of the University.

Objects

4. The objects of this Act are to provide statutory recognition of the Australian Catholic University as a university and to facilitate its operation within New South Wales.

Application of Act

5. (1) This Act applies to and in respect of the University to the full extent to which the law of New South Wales is so applicable.

(2) Nothing in this Act limits the application to or in respect of the University of any other law to the full extent to which that law is so applicable.

Official status as a university**6. The University:**

- (a) is an official university for the purposes of section 4 of the Higher Education Act 1988; and
- (b) is authorised to be called a university; and
- (c) is authorised to confer degrees.

No religious test or political discrimination

7. A person is not, because of his or her religious or political affiliations, views or beliefs, to be denied admission as a student of the University or to be taken to be ineligible to graduate from or to enjoy any benefit, advantage or privilege of the University.

Investment of University funds

8. Schedule 1 has effect in relation to the investment of funds belonging to or vested in the University.

Rule of law as to remoteness of vesting not to apply to gifts etc.

9. The rule of law against remoteness of vesting does not apply to or in respect of any gift, bequest or devise accepted by the University.

Independence of the University

10. It is declared that, subject to this Act, the Senate alone is responsible for and has authority over the provision of education within the University and is not subject, in that respect, to the direction of any person.

Liability of the State

11. Neither the State nor any authority of the State is liable to any action, liability, claim or demand arising from or in connection with the enactment or operation of this Act or anything done or omitted by or in connection with the University.

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS

(Sec. 8)

Definition of funds

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment common funds

2. (1) The University may establish one or more investment common funds.

(2) The University may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of any trust funds or other funds of the University.

(3) Subject to subclause (4), the University must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The University may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be regarded as holding that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be regarded as having contributed to the common fund an amount of money equivalent to the value attributed to the investment by the University at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the University to the equity in the common fund of that participating fund at the time of withdrawal.

Australian Catholic University 1990

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS—
continued

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

3. In respect of the trust funds of the University:

- (a) the power of the University to bring the trust funds into an investment common fund; and
- (b) the investment powers of the University,

are subject to any express direction in or express condition of the trust.

[*Minister's second reading speech made in—
Legislative Assembly on 20 November 1990
Legislative Council on 26 November 1990*]



FIRST PRINT

AUSTRALIAN CATHOLIC UNIVERSITY BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to provide statutory recognition of the Australian Catholic University as a university; and
- (b) to authorise the Australian Catholic University to be called a university; and
- (c) to confer on the Australian Catholic University the authority to award degrees; and
- (d) to make such other provision as is appropriate to enable the Australian Catholic University to operate as a university within New South Wales.

Clause 1 specifies the short title of the proposed Act.

Clause 2 specifies that the proposed Act is to commence on 1 January 1991.

Clause 3 defines certain expressions for the purposes of the proposed Act.

Clause 4 declares that the objects of the proposed Act are to provide statutory recognition of the Australian Catholic University as a university and to facilitate its operation within New South Wales.

Clause 5 applies the proposed Act to and in respect of the Australian Catholic University to the full extent to which the law of New South Wales is so applicable, but preserves the application of any other law to or in respect of the University to the full extent to which that law is so applicable.

Clause 6 declares that the Australian Catholic University is an official university for the purposes of section 4 of the Higher Education Act 1988 and authorises it to be called a university and to confer degrees.

Clause 7 provides that a person is not to be denied admission as a student of the Australian Catholic University, or to be taken to be ineligible to graduate from or to enjoy the benefits of the University, merely because of his or her religious or political affiliations, views or beliefs.

Australian Catholic University 1990

Clause 8 is a formal provision that gives effect to Schedule 1 (Investment of University Funds).

Clause 9 provides that the rule of law against remoteness of vesting is not to apply to any gift, bequest or devise accepted by the University.

Clause 10 ensures that the Senate of the University is alone responsible for, and has authority over, the provision of education within the University.

Clause 11 protects the State, and any authority of the State, from any action, liability, claim or demand arising from or in connection with the enactment or operation of the proposed Act.

Schedule 1 specifies the investment powers of the University and contains provisions:

- (a) defining the expression "funds" for the purposes of the Schedule (clause 1); and
 - (b) providing for investment common funds into which all funds (including trust funds) can be brought for the purpose of investment (clause 2); and
 - (c) ensuring that the investment of trust funds remains subject to the provisions of the relevant trust (clause 3).
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FIRST PRINT

AUSTRALIAN CATHOLIC UNIVERSITY BILL 1990

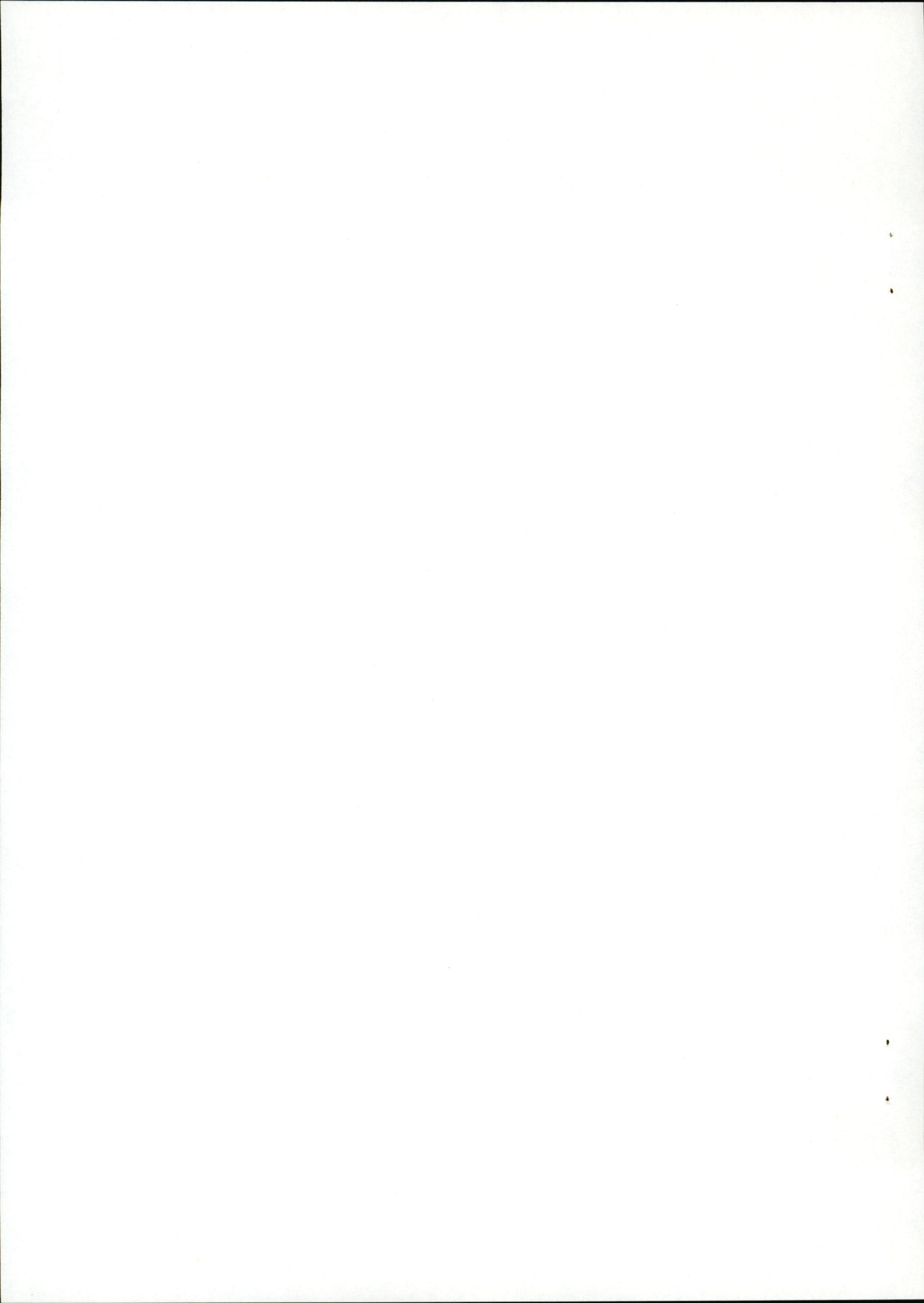
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11. Liability of the State

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS



AUSTRALIAN CATHOLIC UNIVERSITY BILL 1990

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to provide statutory recognition of the Australian Catholic University and to facilitate its operation within New South Wales.

Australian Catholic University 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Australian Catholic University Act 1990.

Commencement

2. This Act commences on 1 January 1991.

Definitions

3. In this Act:

“**Australian Catholic University**” or “**University**” means the company incorporated under the Companies (Victoria) Code under the name of the Australian Catholic University Limited or under that name as changed from time to time;

“**constituent documents**”, in relation to the University, means the memorandum and articles of association of the company referred to in the definition of “**Australian Catholic University**”;

“**Senate**” means the Senate of the University as constituted from time to time in accordance with the constituent documents of the University.

Objects

4. The objects of this Act are to provide statutory recognition of the Australian Catholic University as a university and to facilitate its operation within New South Wales.

Application of Act

5. (1) This Act applies to and in respect of the University to the full extent to which the law of New South Wales is so applicable.

(2) Nothing in this Act limits the application to or in respect of the University of any other law to the full extent to which that law is so applicable.

Australian Catholic University 1990

Official status as a university

6. The University:

- (a) is an official university for the purposes of section 4 of the Higher Education Act 1988; and
- (b) is authorised to be called a university; and
- (c) is authorised to confer degrees.

No religious test or political discrimination

7. A person is not, because of his or her religious or political affiliations, views or beliefs, to be denied admission as a student of the University or to be taken to be ineligible to graduate from or to enjoy any benefit, advantage or privilege of the University.

Investment of University funds

8. Schedule 1 has effect in relation to the investment of funds belonging to or vested in the University.

Rule of law as to remoteness of vesting not to apply to gifts etc.

9. The rule of law against remoteness of vesting does not apply to or in respect of any gift, bequest or devise accepted by the University.

Independence of the University

10. It is declared that, subject to this Act, the Senate alone is responsible for and has authority over the provision of education within the University and is not subject, in that respect, to the direction of any person.

Liability of the State

11. Neither the State nor any authority of the State is liable to any action, liability, claim or demand arising from or in connection with the enactment or operation of this Act or anything done or omitted by or in connection with the University.

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS

(Sec. 8)

Definition of funds

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment common funds

2. (1) The University may establish one or more investment common funds.

(2) The University may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of any trust funds or other funds of the University.

(3) Subject to subclause (4), the University must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The University may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be regarded as holding that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be regarded as having contributed to the common fund an amount of money equivalent to the value attributed to the investment by the University at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the University to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

Australian Catholic University 1990

SCHEDULE 1—INVESTMENT OF UNIVERSITY FUNDS—
continued

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

3. In respect of the trust funds of the University:

- (a) the power of the University to bring the trust funds into an investment common fund; and
- (b) the investment powers of the University,

are subject to any express direction in or express condition of the trust.
