

# Policy: University legislation

## Purpose

The purpose of this policy is to provide governing principles for the use, content and management of University legislation.

## Overview

The University is an independent, self-governing institution of higher learning, authorised under the ANU Act to make legislation covering a wide range of matters. The University's legislation provides the legal underpinning for the University's legal powers, functions and operations. This policy provides the University with a high quality statute book, which enables:

- individual items of legislation to give effect to current University strategy, values and policies; and
- compliance,

and would be fewer in number than has historically been the case, more accessible to the ANU community, and more efficient to administer.

## Scope

This policy applies to all ANU staff and students across the University. It is limited in application to statutes, rules, orders and other legislation made (or proposed to be made) under the ANU Act (or other Commonwealth legislation) by the University.

This policy guides the decisions of the Council in making legislation, but does not bind the Council.

## Definitions

**ANU Act** means the *Australian National University Act 1991*.

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

**legislation** means statutes, rules and orders made (or proposed to be made) under the ANU Act, and includes any other legislative instruments, and any notifiable instruments, made (or proposed to be made) under those statutes, rules or orders

or by the University under other Commonwealth legislation.

**Legislation Act** means the *Legislation Act 2003* (Cwlth).

**statute book**, of the University, means the University's legislation taken as a whole.

## Policy statement

### General

1. Legislation is only made if it is authorised to be made under the ANU Act (or other Commonwealth legislation e.g. the Legislation Act).
2. Legislation is not made if it is inconsistent with the ANU Act or other Commonwealth legislation.
3. Legislation is developed and drafted to promote the achievement of the University's strategic plan, and align with its values and policies.
4. Legislation is only made to give effect to the ANU Act or other Commonwealth legislation, and in particular for the following purposes:
  - to provide an efficient, effective, economical and ethical legal framework for the exercise of responsibilities by the Council and the Vice-Chancellor, the operations of the Council, and associated governance and regulatory matters;
  - to create, or affect, necessary legal rights or privileges, to impose necessary legally enforceable obligations, and to provide for the enforcement of those rights, privileges or obligations;
  - to protect rights and freedoms as they relate to the activities of the University or to participation in the life of the University;
  - to govern and regulate the academic programs and awards of the University;
  - to support the legal operation of other items of legislation; or
  - to amend or repeal existing legislation.
5. Legislation is not made for the following purposes:
  - to establish, continue in existence or regulate bodies or offices of the University, other than bodies or offices directly associated with the operations of the Council;
  - to deal with matters of internal University organisation, other than matters connected with the operations of the Council;
  - to deal with matters of University policy or procedure, unless the policy or

procedure needs to be dealt with in legislation for legal reasons (e.g. ensure procedural fairness in decision-making);

- to deal with internal administrative arrangements, including arrangements between University bodies and offices (e.g. provisions requiring consultation between officers);
- to deal with any other matter that can otherwise be dealt with administratively (e.g. through a delegation or directions to a delegate); or
- to give a matter 'visibility' or 'prominence' that it may not otherwise have.

6. Proposed legislation that does not comply with the above requirements is not developed, drafted or made without the Vice-Chancellor's prior approval.

### **Legislative standards**

7. The University strives to ensure that its statute book is of a high quality and standard expected of one of the world's great universities. The hallmarks of a high quality statute book include the following:

- the statute book, as a whole, is up-to-date, promotes the University's strategic plan, and reflects its values and policies;
- the statute book is consistently and logically structured, and forms a cohesive whole. As a result, linkages are evident between individual items of legislation and users can readily locate and access the legislation they need;
- the statute book reflects contemporary good drafting practice, including the use of gender neutral language and a consistent approach to matters such as numbering, formatting, style and expression; and
- the statute book is at all times as simple, succinct and accessible as possible.

8. The University avoids unnecessary fragmentation of its legislation. If a topic is dealt with across a number of items of legislation, it can be difficult for a legislation user to see the linkages between the different items of legislation and to form an overview or locate where specific matters of interest are contained.

### **What should be dealt with by statute, rule or order**

9. The following broad approach is taken in deciding whether a matter to be dealt with in legislation should be dealt with by the Council by statute or by the Vice-Chancellor by rule (or order):

- for a matter that falls within the functions, duties and powers that the

Council cannot delegate or that relates to the Council, the Chancellor, Pro-Chancellor or Vice-Chancellor, the Nominations Committee or a Council Committee— the matter should be dealt with by statute, but a statute may authorise the Vice-Chancellor to deal with matters of detail by rule (subject to any policy that the Council wishes to set, or any direction the Council wishes to give, by statute or otherwise);

- for any other matter— the matter should be dealt with by rule (or order), similarly subject to any policy that the Council wishes to set, or any direction the Council wishes to give, by statute or otherwise, as the University's governing authority.

10. Orders are only used where the resulting fragmentation between the authorising rule and the orders is justified, because, for example, the order deals with self-contained matters that apply only to a particular part of the University or are subject to more frequent change than other matters dealt with in the authorising rule.

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