

**UNIVERSITY AND UNIVERSITY COLLEGES
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 1, 1973.

An Act to make further provision with respect to the constitution of the Senate of the University of Sydney; to widen the powers of the Senate to govern the affairs of the University; to make further provision with respect to the payment of funds to the University by the State; for these and other purposes to amend the University and University Colleges Act, 1900; and for purposes connected therewith. [Assented to, 14th March, 1973.]

BE

University and University Colleges (Amendment).

No. 1, 1973

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title and construction.

1. (1) This Act may be cited as the "University and University Colleges (Amendment) Act, 1973".

(2) The University and University Colleges Act, 1900, is, in this Act, referred to as the Principal Act.

Commencement.

2. (1) Section 1 and this section commence on the date of assent to this Act.

(2) The provisions of this Act shall—

(a) for the purpose of making by-laws necessary to be made before the Senate of the University of Sydney may be constituted in accordance with the Principal Act, as amended by this Act; and

(b) for the purpose of doing anything for the purpose of so constituting the Senate,

commence on the date of assent to this Act.

(3) Subject to subsections (1) and (2) this Act commences on such day (in this Act referred to as "the appointed day") as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 22, 1900.

3. The Principal Act is amended—

Sec. 1. (Short title.)

(a) (i) by omitting from section 1 the matter relating to Part V and by inserting instead the following matter :—

PART V.—Exhibitions, Lectures, Matriculation and Privileged Officials.—ss. 31A–32.

(ii)

University and University Colleges (Amendment).

- (ii) by omitting from section 1 the matter relating No. 1, 1973 to Part VA;
- (iii) by omitting from section 1 the matter relating to Division 2 of Part VI and by inserting instead the following matter :—

DIVISION 2.—*Endowment.*—ss. 34–40.

- (b) (i) by omitting from section 3 the definition of Sec. 3. “Board of Secondary School Studies”; (Inter-pretation.)
- (ii) by omitting from section 3 the definition of “Governor”;
- (iii) by omitting from section 3 the definition of “Higher leaving certificate” and by inserting instead the following definition :—
“Higher School Certificate” means a higher school certificate granted in accordance with the provisions of Part III of the Education Act, 1961.
- (iv) by omitting from section 3 the definition of “Minister”.

(c) by omitting sections 7 and 8 and by inserting instead Subst. secs. 7 and 8. the following sections :—

7. (1) The body politic and corporate of the University of Sydney shall consist of a Senate, to consist of a Senate, which shall be constituted by—

- (a) four Fellows appointed by the Governor;
- (b) one Fellow elected by and from the members of the Legislative Council;
- (c) one Fellow elected by and from the members of the Legislative Assembly;
- (d) eight Fellows elected by and from such members of the full-time staff of the University as may be prescribed by the by-laws;

(e)

University and University Colleges (Amendment).

No. 1, 1973

- (e) ten Fellows elected from persons who are ineligible for election under paragraph (d) by persons who are graduates of the University;
- (f) three Fellows elected from persons who are enrolled as candidates proceeding to a degree or diploma in the University and who are ineligible for election under paragraph (d) by persons who are enrolled as candidates proceeding to a degree or diploma in the University;
- (g) one Fellow who shall be the person for the time being holding the office of Chancellor, where he is not otherwise a Fellow;
- (h) one Fellow who shall be the person for the time being holding the office of Vice-Chancellor; and
- (i) three Fellows elected by the other Fellows referred to in this subsection.

(2) An election for the purposes of the election of—

- (a) the Fellow referred to in paragraph (b) of subsection (1), shall be held—
 - (i) as soon as practicable after the commencement of the term of service of the members of the Legislative Council elected as required by section 17F (5) of the Constitution Act, 1902; or
 - (ii) where there is a casual vacancy in the office of that Fellow as soon as practicable after that office becomes vacant;

(b)

University and University Colleges (Amendment).

(b) the Fellow referred to in paragraph (c) of No. 1, 1973 subsection (1), shall be held—

(i) as soon as practicable after each general election of members of the Legislative Assembly; or

(ii) where there is a casual vacancy in the office of that Fellow as soon as practicable after that office becomes vacant; and

(c) the Fellows referred to in paragraphs (d), (e), (f) and (i) of subsection (1), shall be held in each case or class of cases as may be prescribed by the by-laws.

(3) For the purposes of paragraph (e) of subsection (1) "graduates of the University" includes—

(a) the Fellows;

(b) the persons specified in section 32 who by virtue of that section have the same rights and privileges within the University as are enjoyed by Masters and Doctors; and

(c) the persons who possess any certificate or qualification which the Senate may, by by-law made for the purposes of this paragraph, declare to be equivalent to the degree of Bachelor.

(4) Where a person (not being a person who is a Fellow) is appointed at any time by the Senate to act in the place of the Vice-Chancellor, that person shall, while so acting, be deemed to be a Fellow.

8. (1) Subject to this Act, a Fellow shall hold Tenure of office of Fellows. office—

(a) in the case of a Fellow appointed by the Governor, for a term of four years;

(b)

University and University Colleges (Amendment).

No. 1, 1973

- (b) in the case of a Fellow referred to in paragraph (b) or (c) of subsection (1) of section 7, until a member of the House of Parliament that elected him is elected by that House to replace him; and
- (c) in the case of a Fellow referred to in paragraph (d), (e), (f) or (i) of subsection (1) of section 7, for such term not exceeding four years as the by-laws may prescribe.

(2) A retiring Fellow shall not, by reason only of his retirement, be disqualified from again becoming a Fellow.

(3) A by-law for the purposes of paragraph (c) of subsection (1) may—

- (a) prescribe a term of office by reference to determined, or determinable, days of commencement and termination;
- (b) prescribe different terms of office in respect of different classes of Fellows; and
- (c) provide for the retirement in rotation of Fellows of a particular class or classes.

Subst. secs.
9 and 9A.

- (d) by omitting sections 9 and 9A and by inserting instead the following sections :—

Vacation of
office of
Fellow.

9. A Fellow shall be deemed to have vacated his office if he—

- (a) dies;
- (b) transfers his place of permanent residence to another State;
- (c) declines to act;

(d)

University and University Colleges (Amendment).

(d) resigns his office by writing under his hand No. 1, 1973 addressed—

- (i) in the case of a Fellow referred to in paragraph (a) of subsection (1) of section 7, to the Governor;
- (ii) in the case of a Fellow referred to in paragraph (b) of subsection (1) of section 7, to the President of the Legislative Council;
- (iii) in the case of a Fellow referred to in paragraph (c) of subsection (1) of section 7, to the Speaker of the Legislative Assembly; and
- (iv) in the case of a Fellow referred to in paragraph (d), (e), (f) or (i) of subsection (1) of section 7, to the Vice-Chancellor;

(e) becomes, in the case of a Fellow referred to in paragraph (d), (e), (f) or (i) of subsection (1) of section 7, bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;

(f) becomes, in the case of a Fellow referred to in paragraph (d), (e), (f) or (i) of subsection (1) of section 7, a temporary patient or a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(g) absents himself, in the case of any Fellow other than a Fellow referred to in paragraph (b), (c), (g) or (h) of subsection (1) of section 7, from four consecutive meetings of the Senate without leave of the Senate;

(h)

University and University Colleges (Amendment).

No. 1, 1973

- (h) ceases, in the case of a Fellow referred to in paragraph (b) of subsection (1) of section 7, to be a member of the Legislative Council;
- (i) ceases, in the case of a Fellow referred to in paragraph (c) of subsection (1) of section 7—
 - (i) to be a member of the Legislative Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) to be a member of the Legislative Assembly by reason of its dissolution or its expiration by effluxion of time and is not re-elected as a member of that Assembly at the next general election of members of that Assembly;
- (j) ceases, in the case of a Fellow referred to in paragraph (d) of subsection (1) of section 7, to be a member of such class or classes of members of the full-time staff of the University as may be prescribed by the by-laws;
- (k) becomes, in the case of a Fellow referred to in paragraph (e) or (f) of subsection (1) of section 7, a member of such class or classes of members of the full-time staff of the University as may be prescribed by the by-laws; or
- (l) ceases, in the case of a Fellow referred to in paragraph (f) of subsection (1) of section 7, to be enrolled as a candidate proceeding to a degree or diploma in the University.

University and University Colleges (Amendment).

9A. A casual vacancy in the Senate shall—

No. 1, 1973

(a) in the case of a Fellow referred to in paragraph (a) of subsection (1) of section 7, be filled by such person as the Governor may appoint; and

(b) in the case of a Fellow referred to in paragraph (d), (e), (f) or (i) of subsection (1) of section 7, be filled, in such manner as may be prescribed by the by-laws, by a person qualified in accordance with that section to be elected to the vacancy concerned,

and any Fellow filling a casual vacancy under this section shall hold office for the residue of the term of office of his predecessor.

(e) by omitting section 9B;

Sec. 9B.
(Election
and appoint-
ment of
other
Fellows.)

(f) by omitting section 9C;

Sec. 9C.
(Persons
who may
elect as
graduates.)

(g) (i) by omitting from section 10 (1) the words "out of their own body";

Sec. 10.
(Chancel-
lor.)

(ii) by omitting section 10 (2) and by inserting instead the following subsection :—

(2) Whenever a vacancy occurs in the office of Chancellor of the University by reason of death, resignation, or otherwise the Senate shall elect a person (whether a Fellow or not) to be Chancellor of the University.

(h) (i) by omitting from section 13 (3) the word "eight" and by inserting instead the word "fourteen";

Sec. 13.
(Questions
how
decided.)

(ii)

*University and University Colleges (Amendment).***No. 1, 1973**

(ii) by inserting next after section 13 (3) the following new subsections :—

(4) No act or proceeding of the Senate or any committee thereof, or of the Vice-Chancellor or of any other person acting pursuant to any direction of the Senate, shall be invalidated or prejudiced by reason only of the fact that at the time the act or proceeding was done, taken or commenced there was a vacancy or a number of vacancies, not exceeding ten, in the office or offices of any Fellow or Fellows.

(5) All acts and proceedings of the Senate or any committee thereof, or of the Vice-Chancellor or any other person acting pursuant to any direction of the Senate, shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any Fellow or that any such Fellow was disqualified from acting as or is incapable of being a Fellow, be as valid as if that Fellow had been duly appointed or elected and was qualified to act as or was capable of being a Fellow and had acted as a Fellow and as if the Senate had been properly and fully constituted.

Sec. 14.
(Senate
may appoint
and
dismiss
officers.)

(i) by omitting from section 14 (1) the words “, tutors, officers, and servants” and by inserting instead the words “and other employees”;

Sec. 14A.
(Evening
tutorial
classes.)

(j) (i) by omitting from section 14A the words “science, economics, ancient and modern history and sociology, and may provide for evening tutorial classes in other subjects” and by inserting instead the words “such subjects as it may determine”;

(ii) by omitting from section 14A the word “diplomas” and by inserting instead the word “certificates”;

(k)

University and University Colleges (Amendment).

(k) (i) by omitting from section 15 (1) the words No. 1, 1973
 "and regulations";

Sec. 15.
 (By-laws.)

(ii) by omitting from section 15 (1) (b) the word
 "certificates" and by inserting instead the word
 "diplomas";

(iii) by omitting from section 15 (1) the words "or
 regulation";

(iv) by omitting section 15 (2), (3) and (4)
 and by inserting instead the following
 subsections :—

(2) The by-laws may provide for empowering any authority (including the Senate) or officer or class of officers of the University to make regulations, rules or orders (not inconsistent with this Act or with any by-law) for regulating, or providing for the regulation of, any specified matter (being a matter with respect to which by-laws may be made) or for carrying out or giving effect to the by-laws.

(3) Any regulation, rule or order referred to in subsection (2)—

(a) shall have the same force and effect as a by-law;

(b) may, from time to time as the occasion requires, be amended or repealed by any authority (including the Senate) or officer or class of officers of the University empowered by subsection (2) to make the regulation, rule or order; and

(c) shall be deemed not to be within the meaning of the term "regulation" as defined in section 41 of the Interpretation Act, 1897.

(4)

*University and University Colleges (Amendment).***No. 1, 1973**

(4) Every by-law shall be reduced to writing and submitted for the consideration and approval of the Governor, and when approved shall be countersigned by him, and when so countersigned and sealed with the seal of the University shall be of full force and effect.

(5) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

**Subst.
sec. 16.**

(1) by omitting section 16 and by inserting instead the following section :—

**University
to report
proceedings
to the
Governor.**

16. (1) As soon as practicable after the first day of January in each year, the Senate shall, in respect of the period of twelve months immediately preceding that day, prepare and furnish to the Minister a report upon the proceedings of the University during that period.

(2) A copy of each report under subsection (1) shall be laid before both Houses of Parliament as soon as practicable after it has been received by the Minister.

**Sec. 18.
(Religious
tests.)**

(m) by omitting the proviso to section 18;

**Sec. 19.
(Degrees.)**

(n) (i) by omitting from section 19 (1) the word "certificates" and by inserting instead the word "diplomas";

(ii) by omitting the proviso to section 19 (1);

**Subst.
sec. 20.**

(o) by omitting section 20 and by inserting instead the following section :—

**Evidence
of degree.**

20. All degrees conferred by the University shall be evidenced by a certificate given under the seal of the University.

(p)

University and University Colleges (Amendment).

(p) by omitting section 24 and by inserting instead the No. 1, 1973 following section :—

Subst.
sec. 24.

24. (1) There shall be paid by the Treasurer to the University in respect of the year commencing upon the first day of January next following the year in which the University and University Colleges (Amendment) Act, 1973, commences, and in respect of each succeeding year, such sum as the Treasurer may determine having regard to the University's estimated expenditure requirements and income from all sources which is capable of being applied towards meeting those expenditure requirements.

Permanent
endowment.

(2) To enable the Treasurer to exercise and perform the powers and functions conferred on him by subsection (1), the University shall in respect of the year commencing upon the first day of January next following the date of commencement of the University and University Colleges (Amendment) Act, 1973, either before or as soon as practicable after that day, and in respect of each succeeding year either before or as soon as practicable after its commencement, submit to the Treasurer estimates of the expenditure and income of the University for that year and such other information as the Treasurer may deem necessary.

(3) Any moneys payable by the Treasurer under this section shall be paid out of moneys provided by Parliament.

(q) by omitting section 25 and by inserting instead the Subst.
sec. 25. following section :—

25. The Senate may, by by-law, make provision Fees and
other
charges. for and with respect to the payment of fees for

entrance

No. 1, 1973

entrance to the University, attendance at lectures, conferring of degrees and other charges (including fines) as it deems necessary.

Sec. 26.
(Fees to
professors
and
teachers.)

(r) by omitting section 26;

Sec. 27.
(Fees for
entrance,
&c.)

(s) by omitting section 27;

Sec. 29.
(Accounts
of annual
income and
expenditure
to be laid
before the
Legislative
Council and
Assembly.)

(t) by omitting from section 29 the words "Colonial
Secretary" and by inserting instead the word
"Minister";

Part V.
Heading.

(u) by omitting the heading to Part V and by inserting
instead the following heading :—

*Exhibitions, Lectures, Matriculation and Privileged
Officials.*

Sec. 30.
(Residence
of students.)

(v) by omitting section 30;

Sec. 31.
(Licensing
persons with
whom
students
may reside.)

(w) by omitting section 31;

Sec. 31A.
(Public ex-
hibitions.)

(x) by omitting from section 31A the words "higher
leaving" wherever occurring and by inserting
instead the words "higher school";

Sec. 31B.
(Teachers in
schools may
attend
lectures
without
payment of
fees.)

(y) by inserting in section 31B after the word "by-
laws" the words ", have been selected for admission
to the University and are not otherwise excluded
therefrom";

(z)

University and University Colleges (Amendment).

(z) by omitting from section 31C the words "higher leaving" and by inserting instead the words "higher school"; No. 1, 1973
Sec. 31C.
(Matriculation.)

(aa) by omitting from section 31D the words "higher leaving" and by inserting instead the words "higher school"; Sec. 31D.
(Privileges
of students
entering by
means of
leaving
certificate or
higher
school
certificate.)

(ab) by omitting from section 32 (a) the words "public teacher and examiner in the schools" and by inserting instead the words "full-time permanent member of the academic staff"; Sec. 32.
(Members
of the
University.)

(ac) by omitting Part VA; Part VA.

(ad) by omitting section 34 and the heading thereto and by inserting instead the following section :— Subst.
sec. 34.

34. (1) There shall be paid by the Treasurer to any college established before or after the commencement of the University and University Colleges (Amendment) Act, 1973, whether or not the college is incorporated by any Act, such sums as the Treasurer may determine. Endowment
of colleges.

(2) The whole of any sums paid to a college pursuant to subsection (1) shall be applied to the erection of college buildings on land, being—

- (a) land granted by the Crown to the University in trust for the college for or with respect to purposes of the college; or
- (b) land conveyed to and accepted by the University in trust for or with respect to purposes of the college.

(ae) by omitting section 35; Sec. 35.
(Conditions
of endow-
ment.)

(af)

*University and University Colleges (Amendment).***No. 1, 1973**

Sec. 36.

(Endowment
for building.)Subst.
sec. 37.Endowment
for prin-
cipal's
salary.Sec. 38.
(Conditions
as to such
endow-
ment.)Sec. 39.
(Provision
where
selected
principal
is out of
New South
Wales.)Sec. 40.
(Accruing
proceeds
of subscribed
fund until
expended in
building.)Subst.
sec. 41.Students of
college to be
subject to
discipline
of Uni-
versity,
etc.

(af) by omitting section 36 and the heading thereto;

(ag) by omitting section 37 and the heading thereto and
by inserting instead the following section :—

37. There shall be paid annually out of the Consolidated Revenue Fund to each college established by the University, whether or not the college is incorporated by any Act, such sum as the Treasurer may determine for or in aid of a salary to be paid to the principal of that college.

(ah) by omitting section 38;

(ai) by omitting from section 39 the words "no such certificate shall be required until after he has actually entered on his duties, but";

(aj) by omitting section 40 and the heading thereto;

(ak) by omitting section 41 and by inserting instead the following section :—

41. (1) Each college shall have the right to provide accommodation, instruction and supervision to any person attending courses of instruction within the University or proceeding to a degree within the University and to members of the teaching staff of the University.

(2) All students and other residents in a college shall be subject to the discipline of the University and of the college.

(al)

University and University Colleges (Amendment).

(a) by omitting from section 44 (1) the words **No. 1, 1973**
 “, tutors, officers and servants” and by inserting **Sec. 44.**
 instead the words “and other employees”;

(Senate to
 appoint
 officers, etc.,
 and
 manage
 property.)

(am) by omitting from section 45 the word “Colonial” **Sec. 45.**
 wherever occurring;
 (Treasurer
 to meet
 costs in-
 curred in
 establish-
 ment and
 maintenance
 of each
 college.)

(an) (i) by omitting from section 46 (1) the words **Sec. 46.**
 “and regulations”; **(By-laws.)**

(ii) by omitting from section 46 (1) (e) the
 words “or regulations”;

(iii) by omitting from section 46 (2) the words
 “or regulation”;

(iv) by omitting section 46 (3) and by inserting
 instead the following subsections :—

(3) Every such by-law shall be sealed with
 the seal of the University and shall be trans-
 mitted for the consideration and approval of
 the Governor, and when approved shall be
 countersigned by him, and when so counter-
 signed and sealed with the seal of the
 University shall be of full force and effect.

(4) Section 41 of the Interpretation Act,
 1897, applies in respect of a by-law made
 under this section as if this Act had been
 passed after the commencement of the
 Interpretation (Amendment) Act, 1969.

University and University Colleges (Amendment).

No. 1, 1973

Transitional provisions.

4. (1) Notwithstanding anything in the Principal Act, as amended by this Act, a Fellow of the Senate of the University of Sydney holding office as such a Fellow immediately before the appointed day shall be deemed to be holding office on that day as such a Fellow—

- (a) where he was appointed under the Principal Act by the Governor—pursuant to section 7 (1) (a) of the Principal Act, as amended by this Act;
- (b) where he was elected under the Principal Act by the Legislative Council—pursuant to section 7 (1) (b) of the Principal Act, as so amended;
- (c) where he was elected under the Principal Act by the Legislative Assembly—pursuant to section 7 (1) (c) of the Principal Act, as so amended;
- (d) where he was representative under the Principal Act of the teaching staff of the University—pursuant to section 7 (1) (d) of the Principal Act, as so amended;
- (e) where he was elected under the Principal Act by graduates of the University—pursuant to section 7 (1) (e) of the Principal Act, as so amended;
- (f) where he was elected under the Principal Act by the other Fellows—pursuant to section 7 (1) (i) of the Principal Act, as so amended; and
- (g) where he was representative under the Principal Act of the undergraduates of the University—pursuant to section 7 (1) (f) of the Principal Act, as so amended,

and shall, subject to the Principal Act, as so amended (section 9 (j), 9 (k) and 9 (l) excepted), continue to hold that office for the residue of the term of office for which he was appointed under the Principal Act.

(2)

University and University Colleges (Amendment).

(2) Nothing in section 2 (1) operates to prejudice No. 1, 1973 or affect the continuity of the body politic and corporate constituted under section 6 of the Principal Act.

(3) Where, in respect of the year commencing upon the first day of January in the year in which this Act commences, the sum referred to in section 24 of the Principal Act as in force immediately before the commencement of this Act or any part of that sum has not been authorised pursuant to that section as so in force to be paid out of the Consolidated Revenue Fund to the University of Sydney that sum or part or parts of that sum, as the case may be, shall be paid to the University out of that Fund pursuant to that section as so in force as if this Act had not been enacted.
