

CHIFLEY UNIVERSITY INTERIM COUNCIL ACT 1987
No. 113

NEW SOUTH WALES



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CHIFLEY UNIVERSITY INTERIM COUNCIL ACT 1987 No. 113

NEW SOUTH WALES



Act No. 113, 1987

An Act to constitute the Chifley University Interim Council and to define its functions; to repeal the University of Western Sydney Advisory Council Act 1986; and for other purposes. [Assented to 16 June 1987]

See also Education Commission (Further Amendment) Act 1987; University and University Colleges (Amendment) Act 1987.

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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

1. This Act may be cited as the "Chifley University Interim Council Act 1987".

Interpretation

2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Chief Executive Officer" means the Chief Executive Officer of the Council;

"College" means Chifley University College to be established under Part VIIA of the University and University Colleges Act 1900;

"Council" means the Chifley University Interim Council;

"member" means a member of the Council;

"President" means the President of the Council.

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

The Council

3. (1) There is constituted by this Act a corporation with the corporate name "Chifley University Interim Council".

(2) The Council—

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;

(b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and

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(c) shall, in the exercise of its functions (except in relation to determining the general educational objectives of the proposed Chifley University, or in relation to the contents of a report or recommendation made by it to the Minister) be subject to the control and direction of the Minister.

(3) Except as provided by subsections (4) and (5), the Council shall consist of—

- (a) the Vice-Chancellor for the time being of the University of Sydney;
- (b) the Chief Executive Officer; and
- (c) 14 persons appointed by the Minister, of whom—
 - (i) 5 shall be nominees of the University of Sydney; and
 - (ii) 5 others shall have, in the opinion of the Minister, an association with western Sydney.

(4) At such time as a principal officer (however styled) of the College has been appointed, the principal officer so appointed, and thereafter the principal officer for the time being of the College, shall be a member of the Council.

(5) Three persons, elected as prescribed, of whom—

- (a) 1 shall be a student at the College; and
- (b) 2 shall be employed on the staff (whether academic or other staff) of the College.

shall, upon election, be members of the Council.

(6) Schedule 1 has effect in relation to the members of the Council.

(7) Schedule 2 has effect in relation to the procedure of the Council.

Staff of the Council

4. (1) There shall be a Chief Executive Officer of the Council, who shall be appointed by the Minister.

(2) Schedule 3 has effect in relation to the Chief Executive Officer.

(3) Such other staff as may be necessary to enable the Council to exercise its functions shall be employed under the Public Service Act 1979.

(4) The Council may—

- (a) with the approval of the Minister; and

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- (b) on such terms and conditions as may be approved by the Public Service Board,
- arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Functions of the Council

- 5. (1)** The Council shall be responsible—
- for determining the general educational objectives and planning the future educational profile of the proposed Chifley University, having particular regard to the needs of the residents of western Sydney; and
 - in consultation with the University of Sydney, for the physical planning and development of the site of the College and of the proposed Chifley University, including the supervision of the erection of any buildings on the site.
- (2)** In determining educational objectives, it shall be the function of the Council to consult with other tertiary institutions with a view to enhancement of the opportunities for higher education available to residents of western Sydney.
- (3)** The Council may consult with other persons or bodies having an interest in the welfare of the proposed Chifley University with a view to promoting sponsorship of studies or educational projects or otherwise furthering the welfare of the proposed university and its students.
- (4)** The Council shall consult with representatives of the University of Sydney, and inform the University of its views, in relation to—
- proposed areas of study, having regard to the needs of the population of western Sydney;
 - transitional arrangements for the development of the College into an autonomous university; and
 - such other matters as may be requested on behalf of the University of Sydney to be the subject of consultation or advice.
- (5)** The Council shall make reports and recommendations to the Minister with respect to—
- the form of governance of the future Chifley University and the legislation and resources necessary for its establishment;
 - transitional arrangements for development of the College into an autonomous university; and

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- (c) such other matters as may be referred to the Council by the Minister.

Committees

6. (1) The Council may establish committees to assist it in connection with the exercise of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Council.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Council or (subject to any determination of the Council) by the committee.

Delegation by Council

7. (1) The Council may delegate to any person or group of persons (including any committee of the Council) the exercise of any of its functions, other than this power of delegation.

(2) A delegation—

(a) shall be in writing;

(b) may be general or limited; and

(c) may be revoked, wholly or partly, by the Council.

(3) A delegate is, in the exercise of a delegated function, subject to such conditions as are specified in the instrument of delegation.

(4) A delegated function, when exercised by the delegate, shall be deemed to have been exercised by the Council.

(5) A delegation does not prevent the exercise of a function by the Council.

(6) A function purporting to have been exercised by a delegate shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

Annual report

8. (1) As soon as practicable after 30 June, but on or before 31 December, in 1988 and in each subsequent year, the Council shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30 June in that year.

(2) The 1988 report shall, in addition, include a report of the Council's work and activities prior to 1 July 1987.

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(3) The Minister shall lay each report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Regulations

9. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Repeal of Act No. 49, 1986

10. The University of Western Sydney Advisory Council Act 1986 is repealed.

SCHEDULE 1

(Sec. 3(6))

PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL**Age of members**

1. A person of or above the age of 70 years is not eligible to be appointed or elected as a member (other than a member appointed on the nomination of the University of Sydney) or to act in the office of an elected or appointed member (other than a member so appointed).

President of the Council

2. (1) One of the members appointed by the Minister shall, in and by the member's instrument of appointment, or by another instrument executed by the Minister, be appointed as President of the Council.

(2) A person shall be deemed to have vacated office as President if the person—

- (a) is removed from that office by the Minister;

*Chifley University Interim Council 1987***SCHEDULE 1—*continued*****PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—*continued***

(b) resigns that office by writing addressed to the Minister; or

(c) ceases to be a member.

(3) The Minister may remove a member from the office of President.

Acting members and acting President

3. (1) The Minister may, from time to time, appoint a person to act in the office of an appointed member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be the member.

(2) The Minister may, from time to time, appoint a member to act in the office of President, and the member, while so acting, shall have and may exercise all the functions of the President and shall be deemed to be the President.

(3) The Minister may remove a person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a vacancy in the office of a member or the President shall be deemed to be an absence from office of the member or President, as the case may be.

Term of office

4. (1) Subject to this Schedule—

(a) a member appointed by the Minister shall hold office for such period, not exceeding 4 years, as may be specified in the instrument of the member's appointment;

(b) of the members referred to in section 3 (5)—

(i) the student member shall hold office for 1 year; and

(ii) the staff member shall hold office for 2 years.

(2) A member is eligible (if otherwise qualified) for re-appointment or re-election.

Remuneration

5. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

6. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

*Chifley University Interim Council 1987***SCHEDULE 1—continued****PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—continued****Casual vacancies**

7. (1) A member shall be deemed to have vacated office if the member—
- (a) dies;
 - (b) absents himself or herself from 3 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (f) resigns the office by instrument in writing addressed to the Minister;
 - (g) being an elected or appointed member (other than a member appointed on the nomination of the University of Sydney), attains the age of 70 years; or
 - (h) is removed from office by the Minister.
- (2) The Minister may remove a member from office.

Effect of certain other Acts

8. (1) If by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(2) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Proof of certain matters not required

9. In any legal proceedings, proof is not required (until evidence is given to the contrary), of—

- (a) the constitution of the Council;

*Chifley University Interim Council 1987***SCHEDULE 1—continued****PROVISIONS RELATING TO THE MEMBERS OF THE COUNCIL—continued**

- (b) any resolution of the Council;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence of a quorum at any meeting of the Council.

Liability of members etc.

10. No matter or thing done by the Council, a member or a person acting under the direction of the Council shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

SCHEDULE 2

(Sec. 3 (7))

PROVISIONS RELATING TO THE PROCEDURE OF THE COUNCIL**General procedure**

1. The procedure for the calling of meetings of the Council and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Council.

Quorum

2. The quorum for a meeting of the Council is—
- (a) one more than one-half of the number of members for the time being; or
 - (b) if the number obtained by applying paragraph (a) is not a whole number—the nearest whole number that is less than the number so obtained.

Presiding member

3 (1) The President or, in the absence of the President, another member elected to preside at the meeting by the members present shall preside at a meeting of the Council.

(2) The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present shall be the decision of the Council.

Minutes

5. The Council shall cause full and accurate minutes to be kept of the proceedings at each meeting of the Council.

*Chifley University Interim Council 1987*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE PROCEDURE OF THE COUNCIL—*continued***First meeting of Council**

6. The Minister shall call the first meeting of the Council in such manner as the Minister thinks fit.

SCHEDULE 3

(Sec. 4 (2))

PROVISIONS RELATING TO THE CHIEF EXECUTIVE OFFICER

Age

1. A person of or above the age of 70 years is not eligible to be appointed as, or to act as, Chief Executive Officer.

Acting Chief Executive Officer

2. The Minister may, from time to time, appoint a person to act in the office of Chief Executive Officer during the illness or absence of the Chief Executive Officer and the person, while so acting—

- (a) shall have and may exercise all the functions of the Chief Executive Officer and shall be deemed to be the Chief Executive Officer; and
- (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

Term of office

3. Subject to this Schedule, the Chief Executive Officer shall hold office for such period, not exceeding 4 years, as may be specified in the instrument of his or her appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. Subject to this Schedule, the Chief Executive Officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

Vacation of office

5. (1) The Chief Executive Officer shall be deemed to have vacated office as such if he or she—

- (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

SCHEDULE 3—*continued*PROVISIONS RELATING TO THE CHIEF EXECUTIVE OFFICER—*continued*

- (c) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (e) resigns the office by instrument in writing addressed to the Minister;
 - (f) attains the age of 70 years; or
 - (g) is removed from office by the Minister.
- (2) The Minister may remove the Chief Executive Officer from office.

Effect of certain other Acts

6. (1) If by or under any other Act provision is made—
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

that provision does not operate to disqualify the person from holding that office and also the office of Chief Executive Officer or from accepting and retaining any remuneration payable to the person under this Act as a member.

(2) The office of Chief Executive Officer shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of Chief Executive Officer

7. (1) Subject to subclause (2) and to the terms of appointment, if the Chief Executive Officer was, immediately before being appointed as Chief Executive Officer—

- (a) a statutory officer, an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;

*Chifley University Interim Council 1987***SCHEDULE 3—continued****PROVISIONS RELATING TO THE CHIEF EXECUTIVE OFFICER—continued**

- (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as Chief Executive Officer; and
- (g) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as Chief Executive Officer and—

- (h) his or her service as Chief Executive Officer shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Council shall be deemed to be the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(2) If the Chief Executive Officer would, but for this subclause, be entitled under subclause (1) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she shall not be so entitled upon becoming (whether upon appointment as Chief Executive Officer or at any later time while holding office as Chief Executive Officer) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (1) (i) cease to apply to or in respect of him or her and the Council in any case where he or she becomes a contributor to any such other superannuation scheme.

(3) Subclause (2) does not prevent the payment to the Chief Executive Officer upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(4) The Chief Executive Officer is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(5) In this clause—

“statutory body” means any body constituted by or under any Act which the Governor, by proclamation published in the Gazette, declares to be a statutory body for the purposes of this clause;

“statutory officer” means an office holder within the meaning of the Statutory and Other Offices Remuneration Act 1975;

SCHEDULE 3—*continued*

PROVISIONS RELATING TO THE CHIEF EXECUTIVE OFFICER—*continued*

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.