

**UNIVERSITY OF NEW ENGLAND (AMENDMENT)
ACT.**

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 58, 1970.

An Act to make further provisions in relation to the constitution, powers, authorities, duties and functions of the Council of The University of New England and the endowment of the University; for these and other purposes to amend the University of New England Act, 1953; and for purposes connected therewith. [Assented to, 6th November, 1970.]

BE

University of New England (Amendment).

No. 58, 1970 **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 com-
mencement.

1. (1) This Act may be cited as the "University of New England (Amendment) Act, 1970".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
34, 1953.

2. (1) The University of New England Act, 1953, is amended—

Long title.

(a) by omitting from the long title the words "to authorise the University so established and incorporated and the New South Wales University of Technology to co-operate in the provision of degree and diploma courses at Newcastle and other places in the State;" ;

Sec. 3.
(Defini-
tions.)

(b) by inserting at the end of section three the following new subsection :—

(2) In this Act, unless the contrary intention appears—

(a) a reference to the academic staff of the University or to members of the academic staff of the University is a reference to the members of the staff of the University who are members of any Faculty of the University or whose terms of appointment require them to undertake teaching or research duties in the University;

(b) a reference to a member of the Council elected by the academic staff of the University is a reference to a member of the Council

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Council elected in pursuance of paragraph No. 58, 1970
(c) of subsection four of section ten of this
Act, and includes a reference to a member
of the Council filling a casual vacancy in
the office of a member so elected;

- (c) a reference to a student of the University is a reference to a person who is enrolled as a candidate proceeding to a degree or diploma at the University;
- (d) a reference to a member of the Council elected by the students of the University is a reference to a member of the Council elected in pursuance of paragraph (a) of subsection four of section ten of this Act, and includes a reference to a member of the Council filling a casual vacancy in the office of a member so elected.
- (c) by omitting section six and by inserting in lieu Subst. sec. 6. thereof the following section :—
 - 6. The functions of the University shall, within Functions
the limits of its resources and subject to this Act of the
and the By-laws, include— University.
 - (a) the provision of university education for internal and external students;
 - (b) the dissemination of knowledge and the promotion of scholarship and of the increase of knowledge; and
 - (c) the conferring and awarding of degrees and diplomas.
- (d) by omitting from paragraph (c) of section seven Sec. 7.
the words "Animal Husbandry" and by inserting in (Faculties
lieu thereof the words "Rural Science"; and Depart-
ments.)
- (e) by omitting from subsection one of section eight Sec. 8.
words "Provided that the provisions of sections (The
thirteen, sixteen and seventeen of this Act shall not Council.)
apply to or in respect of the first Council.";

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Sec. 9.
(Constitu-
tion of first
Council.)

Subst.
sec. 10.

Constitution
of Council.

(f) by omitting section nine;

(g) by omitting section ten and by inserting in lieu thereof the following section :—

10. (1) The Council shall consist of—

- (a) parliamentary members;
- (b) official members;
- (c) elected members; and
- (d) appointed members.

(2) The parliamentary members of the Council shall be—

- (a) a member of the Legislative Council elected by that Council as soon as practicable after the commencement of the term of service of the members of that Council elected at each election held as required by subsection five of section 17F of the Constitution Act, 1902; and
- (b) a member of the Legislative Assembly elected by that Assembly as soon as practicable after each general election of members of that Assembly.

(3) The official members of the Council shall be—

- (a) the person for the time being holding the office of Chancellor, where he is not otherwise a member of the Council;
- (b) the person for the time being holding the office of Vice-Chancellor;
- (c) the person for the time being holding the office of Chairman of the Professorial Board of the University; and

(d)

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- (d) the person for the time being holding the No. 58, 1970
office of Principal of the Armidale Teachers'
College.

(4) The elected members of the Council shall be elected in such manner as for each class may be prescribed by the By-laws and shall comprise—

- (a) two persons so elected by the students of the University;
- (b) six persons so elected by the members of Convocation;
- (c) four persons so elected by such members of the academic staff of the University as may be prescribed by the By-laws; and
- (d) four persons so elected by the other members of the Council for the time being holding office:

Provided that—

- (i) a person who is not a student of the University shall be ineligible to be elected as a member of the Council in pursuance of paragraph (a) of this subsection;
- (ii) a person who is a full time member of the staff of the University shall be ineligible to be elected as a member of the Council in pursuance of paragraph (a) of this subsection;
- (iii) not more than three persons who are full time members of the staff of the University may be elected as members of the Council in pursuance of paragraph (b) of this subsection; and

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- (iv) a person who is not a member of the academic staff of the University referred to in paragraph (c) of this subsection shall be ineligible to be elected as a member of the Council in pursuance of that paragraph.

The By-laws may make provision for or with respect to determining whether or not a person is a full time member of the staff of the University for the purposes of this subsection.

(5) The appointed members of the Council shall comprise seven persons appointed by the Governor.

(6) Subject to this Act, a member of the Council shall hold office—

- (a) in the case of a parliamentary member, until a member of the House of Parliament that elected him is elected by that House to replace him;
- (b) in the case of an official member, while he holds the office by virtue of which he is such a member; and
- (c) in the case of an elected or appointed member, for such period not exceeding three years as may be prescribed by the By-laws.

The By-laws may prescribe—

- (i) a period of office by reference to determined, or determinable, days of commencement and termination; and
- (ii) different periods of office in respect of different classes of members.

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(7) A casual vacancy in the office of an No. 58, 1970
elected or appointed member shall—

(a) be filled—

(i) in the case of an elected member
(not being a member referred to in
subparagraph (ii) of this para-
graph) or an appointed member—
by a person (being a person who
could have filled the vacancy had it
not been a casual vacancy) elected
or appointed in the same manner as
the member whose office is vacant;
or

(ii) in the case of a member elected in
pursuance of paragraph (b) of sub-
section four of this section—by a
person appointed by the Council
in such manner as is prescribed for
the purposes of this subparagraph
by the By-laws; or

(b) where the By-laws make other provision for
the filling of the casual vacancy, be filled
in accordance therewith,

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

(8) The provisions of the Public Service
Act, 1902, shall not apply to or in respect of the
appointment by the Governor of any member of
the Council, and any member so appointed shall
not, in his capacity as such member, be subject
to the provisions of that Act during his term of
office.

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(9) (a) In this subsection—

“the appointed day” means the day appointed and notified under subsection two of section one of the University of New England (Amendment) Act, 1970;

“the former section ten” means section ten of this Act as in force immediately before the appointed day.

(b) Notwithstanding anything in subsection four, five or six of this section, where, immediately before the appointed day, a person held office as a member of the Council—

- (i) in pursuance of subsection seven of the former section ten, he shall be deemed to have been elected in pursuance of paragraph (a) of subsection four of this section;
- (ii) in pursuance of subsection five of the former section ten, he shall be deemed to have been elected in pursuance of paragraph (b) of subsection four of this section;
- (iii) in pursuance of subsection four of the former section ten, he shall be deemed to have been elected in pursuance of paragraph (c) of subsection four of this section;
- (iv) in pursuance of subsection eight of the former section ten, he shall be deemed to have been elected in pursuance of paragraph (d) of subsection four of this section;
or
- (v) in pursuance of subsection two of the former section ten, he shall be deemed to have been appointed in pursuance of subsection five of this section,

and

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and he shall, subject to sections eleven and twelve No. 58, 1970 of this Act, hold office until the expiration of the period for which he would have held office had the former section ten not been repealed.

(c) Where, immediately before the appointed day, the Chairman of the Professorial Board held office as a member of the Council in pursuance of subsection four of the former section ten, the provisions of subparagraph (iii) of paragraph (b) of this subsection shall not apply in respect of him.

(d) (i) Notwithstanding anything in this section, where there is, on the appointed day, a vacancy in the office of an elected member of the Council, that vacancy shall be filled in the same manner as if it were a casual vacancy.

(ii) The person filling a vacancy referred to in subparagraph (i) of this paragraph shall, subject to sections eleven and twelve of this Act, hold office for the appropriate period prescribed in pursuance of paragraph (c) of subsection six of this section.

- (h) (i) by omitting paragraph (a) of section eleven; Sec. 11.
 (ii) by omitting paragraph (d) of the same section (Disqualifications.)
 and by inserting in lieu thereof the following paragraph :—

(d) is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;

- (i) by omitting section twelve and by inserting in lieu thereof the following section :— Subst. sec. 12.

12. A member of the Council shall be deemed to have vacated his office if he— Vacation of office.

(a) dies;

(b)

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(b) resigns his office by writing under his hand addressed—

- (i) in the case of a parliamentary member elected by the Legislative Council, to the President of the Legislative Council;
 - (ii) in the case of a parliamentary member elected by the Legislative Assembly, to the Speaker of the Legislative Assembly;
 - (iii) in the case of an elected member, to the Vice-Chancellor; or
 - (iv) in the case of an appointed member, to the Minister;
- (c) being an elected or appointed member, absents himself from four consecutive meetings of the Council and the Council resolves that his office be declared vacant;
- (d) in the case of a parliamentary member elected by the Legislative Council, ceases to be a member of that Council; or
- (e) in the case of a parliamentary member elected by the Legislative Assembly—
- (i) ceases to be a member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) ceases to be a member of that 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)

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- (j) (i) by omitting from subsection one of section No. 58, 1970
fourteen the words "After the Council has
been duly constituted and appointed under Sec. 14.
section ten of this Act there" and by insert- (Standing
ing in lieu thereof the word "There"; Committee
of Council.)
- (ii) by omitting paragraph (d) of the same sub-
section;
- (iii) by omitting from paragraph (e) of the same
subsection the word "eight" and by inserting
in lieu thereof the word "nine";
- (iv) by omitting from paragraph (b) of subsection
two of the same section the words "repre-
sented the professorial and other teaching
staff" and by inserting in lieu thereof the words
"elected by the academic staff";
- (v) by inserting at the end of the same paragraph
the following word and new paragraph:—
; and
(c) one shall be from among the members
of the Council elected by the students
of the University.
- (vi) by omitting from subsection five of the same
section the words "representing the profes-
sorial and other teaching staff" wherever
occurring and by inserting in lieu thereof the
words "elected by the academic staff";
- (k) (i) by omitting from subsection one of section
fifteen the words "of or above the age of
twenty-one years";
- (ii) by omitting from paragraph (c) of the same
subsection the words "teaching staff" and by
inserting in lieu thereof the words "academic
staff";

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Sec. 16.
(Election
of
Chancellor.)

(1) (i) by omitting from subsection one of section sixteen the words “, and whenever a vacancy in the office of Chancellor occurs,”;

(ii) by inserting in the same subsection after the word “number” the words “, and shall, whenever a vacancy in the office of Chancellor occurs, elect a person (whether a member of the Council or not),”;

Sec. 17.
(Deputy
Chancellor.)

(m) (i) by omitting from subsection one of section seventeen the words “thereafter annually” and by inserting in lieu thereof the words “whenever a vacancy in the office of Deputy Chancellor occurs”;

(ii) by inserting in the same subsection after the word “election” the words “(unless he sooner resigns his office as Deputy Chancellor or ceases to be a member of the Council)”;

(iii) by omitting from subsection two of the same section the words “all the powers and duties” and by inserting in lieu thereof the words “and may exercise and discharge all the powers, authorities, duties and functions”;

Subst.
sec. 22.

(n) by omitting section twenty-two and by inserting in lieu thereof the following section : —

Powers of
Council.

22. (1) Subject to this Act and the By-laws, the Council—

(a) may provide such courses at university standard as it deems fit, and in conferring and awarding degrees and diplomas grant such certificates in the nature of degrees, diplomas or otherwise as it thinks fit;

(b) may appoint and terminate the services of academic and other staff of the University;

(c)

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- (c) shall have the entire control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it best calculated to promote the functions and interests of the University; No. 58, 1970
- (d) may purchase or acquire by gift, bequest or devise any property for the purposes of this Act, and may carry out the conditions of any such gift, bequest or devise acquired either before or after the commencement of the University of New England (Amendment) Act, 1970; and
- (e) may invest any funds belonging to or vested in the University in such securities as may be prescribed by the By-laws.

(2) The rule of law against remoteness of vesting shall not apply and shall be deemed never to have applied to any condition of a gift, bequest or devise referred to in paragraph (d) of subsection one of this section.

- (o) (i) by inserting in paragraph (c) of subsection one of section twenty-five after the word "Council" the words "(other than the parliamentary members)"; Sec. 25.
(By-laws.)
- (ii) by inserting next after the same paragraph the following new paragraph :—
- (c1) The filling of casual vacancies in the office of an elected member (other than a parliamentary member) or an appointed member of the Council;
- (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph :—
- (g) The number, stipend, conditions of employment, manner of appointment and termination of the services of the academic

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academic and other staff of the University, and their titles, powers, authorities, duties and functions;

- (iv) by omitting paragraph (h) of the same subsection and by inserting in lieu thereof the following paragraph :—

(h) The matriculation, admission, enrolment and exclusion of students;

- (v) by omitting paragraph (i) of the same subsection;

- (vi) by omitting from paragraph (j) of the same subsection the word “external” and by inserting in lieu thereof the words “internal and external”;

- (vii) by omitting paragraph (l) of the same subsection and by inserting in lieu thereof the following paragraph :—

(l) The conferring and awarding of degrees and diplomas, the issue of certificates in the nature of degrees, diplomas or otherwise, and the granting of honours;

- (viii) by omitting paragraph (q) of the same subsection and by inserting in lieu thereof the following paragraph :—

(q) The fees and charges to be paid including fees and charges for matriculation, entrance, tuition, lectures, classes, use of facilities (including facilities available through the Department of External Studies), examinations, residence, the conferring and awarding of degrees and diplomas, and the granting of certificates; and the exemption from payment of fees and charges;

(ix)

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(ix) by inserting in paragraph (s) of the same sub- No. 58, 1970
 section after the word "University" the words
 "and their conduct";

(x) by inserting at the end of subsection two of the
 same section the following new proviso :—

Provided that any regulation, rule or order
 made by any such authority or officer—

(a) may be amended or repealed by the
 Council, as well as by that authority
 or officer; and

(b) shall not have any force or effect until
 the Council approves of the regulation,
 rule or order.

(p) by omitting section twenty-six and by inserting in Subst.
 lieu thereof the following section :— sec. 26.

26. (1) There shall be paid by the Treasurer Permanent
 to the University in respect of— endowment.

(a) the year commencing upon the first day of
 January in which the University of New
 England (Amendment) Act, 1970,
 commences; and

(b) 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 such
 expenditure requirements and, in the case of the
 year in which the University of New England
 (Amendment) Act, 1970, commences, any moneys
 paid, in that year, before that Act commenced to
 the University under the section which this section
 replaces.

(2)

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(2) To enable the Treasurer to exercise and perform the powers and functions conferred on him by subsection one of this section, the University shall, in respect of—

(a) the year commencing upon the first day of January in which the University of New England (Amendment) Act, 1970, commences, as soon as practicable after such commencement; and

(b) each succeeding year either before or as soon as practicable after the commencement of such year,

submit to the Treasurer estimates of the expenditure and income of the University for such 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.

Sec. 27.
(Endowment—
transitional
provisions.)

(q) by omitting section twenty-seven;

Sec. 28.
(Advance by
Treasurer.)

(r) by omitting from section twenty-eight the word “Colonial”;

Sec. 29.
(Power of
Council to
borrow.)

(s) by omitting from section twenty-nine the word “Colonial” wherever occurring;

Sec. 30.
(Payment
of fees.)

(t) by omitting section thirty;

Sec. 33.
(Teachers’
college
students
and school
teachers.)

(u) (i) by omitting from subsection one of section thirty-three the words “, for the purpose of proceeding to a first degree,”;

(ii)

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(ii) by omitting from the same subsection the words "for the period required for admission to that degree";

(iii) by omitting from the same subsection the words " : Provided further that the Minister shall not, without the consent of the Council, give approval under this section for more than one hundred and fifty persons to commence courses in any one year".

(2) Nothing in this section shall prejudice or affect the continuity of the body corporate constituted under section four of the University of New England Act, 1953, but the same shall continue notwithstanding the provisions of this section.

(3) Nothing in this section shall affect the tenure of office of the person holding the office of Chancellor immediately before the commencement of this Act.

UNIVERSITY