

**UNIVERSITY OF TECHNOLOGY, SYDNEY  
(MISCELLANEOUS PROVISIONS) ACT 1987 No. 284**

NEW SOUTH WALES



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**UNIVERSITY OF TECHNOLOGY, SYDNEY (MISCELLANEOUS  
PROVISIONS) ACT 1987 No. 284**

NEW SOUTH WALES



**Act No. 284, 1987**

An Act to amend various Acts and to enact certain savings and transitional provisions in consequence of the enactment of the University of Technology, Sydney Act 1987. [Assented to 16 December 1987]

*University of Technology, Sydney (Miscellaneous Provisions) 1987*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the University of Technology, Sydney (Miscellaneous Provisions) Act 1987.

**Commencement**

2. This Act shall commence on 26 January 1988.

**Amendments**

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

**Savings and transitional provisions**

4. Schedule 2 has effect.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**Local Government Act 1919 No. 41—**

Section 132 (**Definition of ratable land**)—

Section 132 (1) (fvii)—

After section 132 (1) (fvi), insert:

(fvii) land which is vested in the University of Technology, Sydney, or in a college of the University and is used or occupied by the University or college solely for its purposes; and

**Public Authorities (Financial Arrangements) Act 1987 No. 33—**

Schedule 1 (**Authorities**)—

Omit "The New South Wales Institute of Technology".

**Public Finance and Audit Act 1983 No. 152—**

Schedule 2 (**Statutory Bodies**)—

In appropriate alphabetical order, insert:

Council of the University of Technology, Sydney.

**State Public Service Superannuation Act 1985 No. 45—**

Schedule 3 (**Employers**)—

Omit "New South Wales Institute of Technology.", insert instead "The University of Technology, Sydney".

**Superannuation Act 1916 No. 28—**

Schedule III—

Omit "New South Wales Institute of Technology.", insert instead "The University of Technology, Sydney".

*University of Technology, Sydney (Miscellaneous Provisions) 1987*SCHEDULE 1—AMENDMENTS—*continued***Technical Education Trust Funds Act 1967 No. 95—**

## Section 2 (Interpretation)—

Section 2, definition of “educational establishment”—

Omit paragraph (b), insert instead:

(b) the University of Technology, Sydney;

**Water Board Act 1987 No. 141—**

## Schedule 3, Part 1 (Land Exempt from Service Charges)—

(a) Schedule 3, Part 1, Item 15 (d)—

Omit “or”.

(b) Schedule 3, Part 1, Item 15 (e), (f)—

Omit Item 15 (e), insert instead:

(e) the University of Technology, Sydney; or

(f) a college of any of them,

## SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 4)

**Definitions**

1. In this Schedule—

“advanced education course” has the meaning it has in the Principal Act;

“Board” means the New South Wales Higher Education Board constituted under the Higher Education Act 1975;

“Institute” means the New South Wales Institute of Technology;

“Principal Act” means the University of Technology, Sydney Act 1987;

“University” means the University of Technology, Sydney established under the University of Technology, Sydney Act 1987.

**Provisions relating to the Institute**

2. (1) The Institute is dissolved.

(2) All real and personal property which immediately before 26 January 1988 was held by or was vested in the Institute or any other body in trust for, or on behalf of, the Institute shall, by virtue of this Act—

(a) be divested from the Institute or such other body; and

(b) vest in the University to be applied by the University, subject to any trusts or conditions on which it was held immediately before 26 January 1988, for the objects and purposes for which the University is established.

**First Council of the University**

3. (1) The first Council of the University shall consist of—

(a) persons (not more than 23 in number) appointed by the Minister for Education; and

(b) the person who holds office, pursuant to clause 4, as first Vice-Chancellor.

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(2) The members of the first Council shall, subject to this Act and the Principal Act, hold office until the Council duly constituted under section 11 of the Principal Act assumes office.

(3) If a casual vacancy occurs in the office of any member of the first Council the Minister for Education may appoint a person to the vacant office and the person so appointed shall hold office for the residue of the term of office of the person's predecessor.

(4) The first meeting of the first Council shall be convened by the first Vice-Chancellor who shall preside until a Chancellor is elected pursuant to subclause (6).

(5) At any meeting of the first Council one-half (or if one-half is not a whole number the whole number next higher than one-half) of the total number of members for the time being of that Council shall form a quorum.

(6) The members of the first Council shall, at their first meeting, elect from among their number a Chancellor and Deputy Chancellor.

(7) Subject to subclause (4), at every meeting of the first Council the Chancellor or, if the Chancellor is not present, the Deputy Chancellor shall preside, but if neither the Chancellor nor the Deputy Chancellor is present, the members present shall elect a person from among their number to preside as presiding member.

(8) The first Council shall make all necessary by-laws under the Principal Act and take all necessary steps to ensure, as far as possible, that a Council is duly constituted under section 11 of that Act so as to take office within 6 months after 26 January 1988 or within such extended time as is specified in a proclamation at any time during that period of 6 months.

(9) Sections 13, 14 and 15 of the Principal Act do not apply to and in respect of the first Council of the University.

**First Vice-Chancellor, Chancellor and Deputy Chancellor**

4. (1) The first Vice-Chancellor of the University shall be the person who, immediately before 26 January 1988, held office as President of the Institute.

(2) The Chancellor and Deputy Chancellor elected under clause 3 (6) shall vacate office when the Chancellor and Deputy Chancellor elected under sections 13 and 14, respectively, of the Principal Act assume office.

**Transfer of certain persons to staff of University**

5. (1) In this clause—

“officer of the Institute” means a person who, immediately before 26 January 1988, held any salaried office or employment in the staff establishment of the Institute otherwise than as—

- (a) a temporary staff member; or
- (b) a staff member employed on a fixed term contract;

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

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SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) Every officer of the Institute shall, on 26 January 1988, become an officer of the University on the same terms and conditions (including terms and conditions as to remuneration and duration of appointment) upon which he or she was employed at the Institute immediately before 26 January 1988.

(3) Such part of the remuneration referred to in subclause (2) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part V of the Industrial Arbitration Act 1940 until the salary is, or the wages are, lawfully varied.

(4) Subject to subclause (5), a person who, pursuant to subclause (2), becomes an officer of the University—

- (a) retains any rights accrued or accruing to the person as an officer of the Institute;
- (b) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming an officer of the University; and
- (c) is entitled to receive annual, sick and long service leave and any payment, pension or gratuity accrued or accruing to the person as an officer of the Institute.

and the person's service as an officer of the Institute shall be deemed to be service as an officer of the University for the purposes of any law under which those rights accrued or were accruing, under which the person continues to contribute or by which that entitlement is conferred.

(5) A person who, but for this subsection, would be entitled under subclause (4) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon the person's becoming a contributor to any other superannuation scheme.

(6) Subclause (5) does not prevent the payment to an officer of the Institute, upon the officer's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the officer if the officer had ceased, by reason of resignation, to be such a contributor.

(7) A person who, pursuant to subclause (2), becomes an officer of the University is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

(8) Nothing in this section affects the operation of the Industrial Arbitration Act 1940.

**Savings**

6. The University is a continuation of, and shall be regarded as the same legal entity as, the Institute for the purposes of—

- (a) any law under which rights referred to in clause 5 (4) accrued or were accruing, under which a person referred to in clause 5 (4) continues to contribute or by which an entitlement referred to in clause 5 (4) is conferred;
- (b) any superannuation scheme to which, by the operation of clause 5 (4), such a person is entitled to contribute;
- (c) any legal or other proceedings instituted or to be instituted by or against the Institute (any of which proceedings, if they might have been continued or commenced before 26 January 1988, may be continued or commenced by or against the University); and

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SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (d) any investigations or inquiries being or proposed to be undertaken by any other person or body into any action taken or practice engaged in by the Institute (any of which investigations or inquiries, if they might have been continued or commenced before 26 January 1988, may be continued or commenced as if the action had been taken or the practice had been engaged in by the University).

**Construction of references**

7. A reference (other than a reference prescribed by regulations under the Principal Act) in any Act, by-law, regulation or other statutory instrument or in any contract or in any certificate evidencing a degree or in any other instrument of any kind to the New South Wales Institute of Technology shall be read as a reference to the University of Technology, Sydney.

**Maintenance of branches, departments or colleges**

8. A branch, department or college established by the Institute and being maintained by the Institute immediately before 26 January 1988 may be maintained by the University as if the Principal Act had been in force when it was so established.

**Continuation of by-laws**

9. All by-laws made under the Colleges of Advanced Education Act 1975 by the Council of the Institute and in force immediately before 26 January 1988 (other than Chapters III and IV of The New South Wales Institute of Technology By-law) shall be deemed to have been made under the Principal Act and may be amended, repealed or replaced by by-laws made under the Principal Act.

**Saving of delegations**

10. Any delegation made by the Council of the Institute under the Colleges of Advanced Education Act 1975 and in force immediately before 26 January 1988 shall be deemed to be a delegation by the Council made under the Principal Act.

**Students**

11. (1) Each person who was, immediately before 26 January 1988, a student of the Institute enrolled in an advanced education course shall, on that day, become a student of the University and be enrolled in a course of study that is substantially the same, in academic content, as the advanced education course in which the student was enrolled at the Institute.

(2) The University shall, in 1988, provide such courses of study as are necessary for the purposes of subclause (1).

(3) If a student is enrolled in a course of study pursuant to subclause (1), the University shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the advanced education course from which the student was transferred.

(4) The University shall confer on a student who satisfactorily completes an advanced education course at the Institute in 1987 an academic award under the seal of the University.

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SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

**Staff of University**

12. (1) Subject to subclause (2), the University may not employ a person as a member of the staff (other than the academic staff) of the University unless the position in which the person is to be employed is within the staff (other than the academic staff) establishment of the University determined by the Public Service Board.

(2) To the extent to which the University may, pursuant to a delegation under subclause (6), determine its own staff (other than the academic staff) establishment, it may appoint a person as a member of its staff (other than the academic staff) as if its determination were a determination of the Public Service Board.

(3) Except in so far as provision is otherwise made by law, the conditions of employment (including salary, wages or remuneration) of staff of the University shall be such as are from time to time determined by the Council of the University after consultation with, and with the concurrence of, the Public Service Board.

(4) In any proceedings before a tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act 1940, the Public Service Board shall act for the University in so far as the proceedings involve a matter in respect of which subclause (3) confers power on the University.

(5) The University shall give effect to any order or determination made in respect of the University by a tribunal referred to in subclause (4).

(6) To the extent to which the Public Service Board may, under section 35 of the Public Service Act 1979, delegate any power, authority, duty or function to a Department Head, within the meaning of that Act, it may, under that section, delegate the power, authority, duty or function to the University or to an officer of the University.

(7) To the extent to which a Department Head, within the meaning of the Public Service Act 1979, may, under section 48 of that Act, delegate any power, authority, duty or function to any officer of the Department, within the meaning of that Act, the Department Head may, under that section, delegate the power, authority, duty or function to the University or to an officer of the University.

**Academic matters**

13. The powers conferred on the Council of the University by section 19 (1) (a) of the Principal Act shall be exercised only with the approval of the Minister for Education on the advice of the Board.

**Repeals**

14. (1) The Governor may repeal all or any of the provisions of clause 12 on a proclaimed day or days, being a day or days occurring before 26 January 1989.

(2) Any provision of clause 12 that is not repealed pursuant to subclause (1) is repealed on 26 January 1989.

(3) The Governor may repeal all or any of the provisions of clause 13 on a proclaimed day or days.

**Regulations**

15. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act and the Principal Act.



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SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from 26 January 1988 or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule (clause 5 excepted).