

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY

4. Establishment of University
5. Incorporation of University
6. University network
7. Functions of University
8. Facilities to be provided for students

PART 3—THE BOARD OF GOVERNORS AND OFFICERS OF THE UNIVERSITY

9. The Board
10. Functions of Board
11. Powers of Board
12. Delegation by Board
13. Chancellor
14. Deputy Chancellor
15. Vice-Chancellor
16. Chief executive officers of network members

PART 4—POWERS OF INVESTMENT

17. Definitions
18. Terms of trust to prevail
19. Investment of money
20. Investment pools
21. Distribution of income of investment pools
22. Nature of private gift etc. not affected by pooling

PART 5—GENERAL

23. Academic Board
24. Convocation
25. Advance by Treasurer
26. Financial year
27. No religious test or political discrimination
28. Exemption from membership of body corporate or Convocation
29. Visitor
30. Acquisition of land
31. Grant or transfer of certain land to University
32. Re-appointment or re-election
33. Seal of University
34. Regulations
35. By-laws
36. Rules or orders
37. Repeal of Chifley University Interim Council Act 1987 No. 113
38. Amendment of certain Acts
39. Transitional provisions

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF
THE BOARD

SCHEDULE 2—AMENDMENT OF CERTAIN ACTS

SCHEDULE 3—TRANSITIONAL PROVISIONS

UNIVERSITY OF WESTERN SYDNEY ACT 1988 No. 90

NEW SOUTH WALES



Act No. 90, 1988

An Act to provide for the establishment and incorporation of the University of Western Sydney and to define its functions; to repeal the Chifley University Interim Council Act 1987 and to amend certain other Acts; and for other purposes. [Assented to 15 December 1988]

The Legislature of New South Wales enacts:**PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the University of Western Sydney Act 1988.

Commencement

2. (1) This Act commences (or shall be taken to have commenced) on 1 January 1989, except as provided by this section.
 - (2) Section 39 (2) and Part 2 of Schedule 3 commence on a day or days to be appointed by proclamation.
 - (3) Section 39 (3) commences on the date of assent to this Act.

Definitions

3. (1) In this Act—
 - “Board” means the Board of Governors of the University;
 - “University” means the University of Western Sydney established by this Act;
 - “University network” means the federated University network for the time being established under section 6.
- (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.

PART 2—CONSTITUTION AND FUNCTIONS OF THE UNIVERSITY**Establishment of University**

4. A University, consisting of—
 - (a) a Board of Governors; and
 - (b) Convocation; and
 - (c) the professors and full-time members of the academic staff of the University and such other members of the staff of the University as the by-laws may prescribe; and
 - (d) the graduates and students of the University,is established by this Act.

Incorporation of University

5. The University is a body corporate under the name of the University of Western Sydney.

University of Western Sydney 1988

University network

6. (1) The University network is a federation of—
- (a) the University of Western Sydney, Nepean; and
 - (b) the University of Western Sydney, Hawkesbury; and
 - (c) such other network members as may be established from time to time under this section.
- (2) The Governor may, by order published in the Gazette, establish—
- (a) an educational institution set up by the University; or
 - (b) any public educational institution or body; or
 - (c) part of any such institution or body,
- as a member of the University network.

Functions of University

7. (1) The functions of the University, within the limits of its resources and subject to this Act, the regulations and the by-laws, are—
- (a) the provision of education facilities at university standard for persons attending it, having particular regard to the needs and aspirations of residents of the western districts of Sydney; and
 - (b) the dissemination and increase of knowledge, the undertaking and promotion of research and scholarship and contribution to the intellectual life of western Sydney; and
 - (c) the development of consultancy and entrepreneurial activities, including research and development initiatives, which will contribute to the development of western Sydney; and
 - (d) the conferring of diplomas and the degrees of Bachelor, Master and Doctor and the issuing of such certificates as the by-laws may prescribe.
- (2) The University has such other functions as are conferred or imposed on it by or under this or any other Act.

Facilities to be provided for students

8. The University may, for the purpose of exercising its functions, provide from time to time such facilities for its students as it considers desirable.

**PART 3—THE BOARD OF GOVERNORS AND OFFICERS OF THE
UNIVERSITY**

The Board

9. (1) There shall be a Board of Governors of the University.

- (2) The Board shall consist of—
- (a) parliamentary members; and
 - (b) official members; and
 - (c) appointed members; and
 - (d) elected members (one being a student member and one being an academic staff member).
- (3) The parliamentary members of the Board are—
- (a) a Member of the Legislative Council elected by that Council—
 - (i) as soon as practicable after 1 January 1989 and thereafter as soon as practicable after each periodic Council election within the meaning of section 3 of the Constitution Act 1902; or
 - (ii) if there is a casual vacancy in the office of the member of the Board elected pursuant to subparagraph (i), as soon as practicable after that office becomes vacant; and
 - (b) a Member of the Legislative Assembly elected by that Assembly—
 - (i) as soon as practicable after 1 January 1989 and thereafter as soon as practicable after each general election of Members of the Legislative Assembly; or
 - (ii) if there is a casual vacancy in the office of the member of the Board elected pursuant to subparagraph (i), as soon as practicable after that office becomes vacant.
- (4) The official members of the Board are—
- (a) the Vice-Chancellor of the University; and
 - (b) the chief executive officers (however styled) of the members of the University network.
- (5) The appointed members of the Board are persons appointed by the Minister, of whom—
- (a) 4 are to be nominees of the Senate of the University of Sydney; and
 - (b) 4 shall have, in the opinion of the Minister, an association with western Sydney; and
 - (c) 1 is to be nominated jointly by all or a majority of the chief executive officers of members of the University network; and
 - (d) a number equal to the number of members of the University network are to be the respective nominees of each chief executive officer of each member of the University network.
- (6) The elected student member is a person qualified and elected in each case as may be prescribed by the by-laws by and from persons enrolled as candidates proceeding to a degree, diploma or certificate at the University.
- (7) The elected academic staff member is a person qualified and elected in each case as may be prescribed by the by-laws by and from members of the academic staff of the University.

University of Western Sydney 1988

(8) Schedule 1 has effect in relation to the members and procedure of the Board.

Functions of Board

10. (1) The Board is the governing authority of the University and is responsible for—

- (a) the co-ordination of the use of the University's resources, including the monitoring of the efficiency and effectiveness of members of the University network in their use of resources; and
- (b) the distribution, among members of the University network, of the income of the University; and
- (c) the development of broad policies with respect to academic planning and the nature and standards of academic awards and generally defining the educational profile of the University; and
- (d) the definition of the areas and responsibilities of the members of the University network with respect to teaching, research and consultancy; and
- (e) the provision of courses which will enable students to transfer to other universities with a high level of credit for work already completed; and
- (f) the development, on land designated by the Minister at Werrington, New South Wales, of administrative and teaching facilities for the University; and
- (g) liaison with government in relation to overall resource needs of the University; and
- (h) representation of the University as occasion requires.

(2) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

Powers of Board

11. (1) Subject to this Act, the regulations and the by-laws, the Board—

- (a) may provide such courses as it thinks fit and, in conferring and awarding degrees and diplomas, issue such certificates in the nature of degrees, diplomas or other awards as it thinks fit; and
- (b) may appoint and terminate the appointment of academic and other staff of the University; and
- (c) has the 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 to be best calculated to promote the objects and interests of the University; and
- (d) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the condition of any such gift, bequest or devise; and

University of Western Sydney 1988

- (e) may borrow money for the purpose of exercising any of its functions, for the renewal of loans or the discharge or partial discharge of any indebtedness to the Treasurer or to any bank within such limits, to such extent and upon such conditions as to security or otherwise as the Governor, on the recommendation of the Treasurer, may approve; and
- (f) may invest any funds belonging to or vested in the University in any manner provided by Part 4; and
- (g) has the control and management of all real and personal property at any time vested in or acquired by the University, and may, subject to this section, dispose of real or personal property in the name and on behalf of the University.

(2) The Board shall not, except in accordance with subsection (3) or with the approval of the Minister, alienate, mortgage, charge or demise any lands of the University.

(3) The Board may, without the approval of the Minister, lease any lands of the University if—

- (a) the term of the lease does not exceed 21 years; and
- (b) (except where the lessee is a residential college affiliated with the University) there is reserved for the whole of the term the highest rent that can reasonably be obtained without fine, premium or penalty.

(4) In the case of a lease of any lands of the University, or any renewal of the lease, to a residential college affiliated with the University, the lease—

- (a) shall be for a term not exceeding 99 years; and
- (b) shall be at a nominal rent; and
- (c) shall contain such other conditions as the Board thinks fit, including a condition that the lease shall not be assigned.

(5) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the University has agreed.

Delegation by Board

12. The Board may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its functions (except this power of delegation) to any member or committee of the Board or to any person prescribed by the regulations.

Chancellor

13. (1) The Board shall, at its first meeting and whenever a vacancy in the office of Chancellor occurs, elect one of its members to be Chancellor of the University.

University of Western Sydney 1988

(2) The Chancellor, unless he or she sooner ceases to be a member of the Board, holds office for such period (not exceeding 4 years), and on such terms and conditions, as may be prescribed by the by-laws.

(3) The Chancellor has the functions conferred or imposed on the Chancellor by or under this or any other Act.

Deputy Chancellor

14. (1) The Board shall, at its first meeting and whenever a vacancy in the office of Deputy Chancellor occurs, elect one of its members to be Deputy Chancellor of the University.

(2) The Deputy Chancellor, unless he or she sooner ceases to be a member of the Board, holds office for 2 years from the date of election and on such conditions as may be prescribed by the by-laws.

(3) In the absence of the Chancellor or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor has all the functions of the Chancellor.

Vice-Chancellor

15. (1) The Board shall, at (or as soon as practicable after) its first meeting and whenever a vacancy in the office of Vice-Chancellor occurs, appoint a person (whether a member of the Board or not) to be Vice-Chancellor of the University.

(2) The Vice-Chancellor holds office for such period and on such terms and conditions as the Board determines.

(3) The Vice-Chancellor is the chief executive officer of the University and has such functions as may be prescribed by the by-laws and (subject to the by-laws) as the Board determines.

Chief executive officers of network members

16. (1) The persons who, immediately before 1 January 1989, held office as Principals of Hawkesbury Agricultural College and of Nepean College of Advanced Education shall respectively be the chief executive officers of the corresponding members of the University network.

(2) Whenever--

(a) a new member of the University network is established; or

(b) a vacancy in the office of chief executive officer of a member of the University network occurs,

the Board shall appoint a person (whether a member of the Board or not) to be the chief executive officer of the network member concerned.

(3) A chief executive officer holds office for such period and on such conditions as the Board determines.

(4) A chief executive officer is responsible to the Board, through the Vice-Chancellor, for the day-to-day management of the network member and has such other functions as the Board determines and (subject to any determination of the Board) as the Vice-Chancellor determines.

PART 4—POWERS OF INVESTMENT

Definitions

17. In this Part—

“class A funds” means—

- (a) private gifts, other than private gifts which may be applied without restriction or limitation—
 - (i) for any of the purposes of the University; or
 - (ii) for any of the purposes of any faculty, department, school or foundation within the University; and
- (b) grants; and
- (c) student tuition fees;

“class B funds” means money held by the University which is not class A funds;

“grant” means money granted to the University by or on behalf of the Government of—

- (a) the State of New South Wales; or
 - (b) the Commonwealth,
- or any part of that money;

“investment pool” means an investment pool established by the Board under this Part;

“pooled item” means—

- (a) a private gift;
- (b) a grant;
- (c) student tuition fees;
- (d) class B funds;
- (e) securities; or
- (f) real property,

forming part of an investment pool;

“private gift” means—

- (a) money, not being a grant, given to the University; and
- (b) money obtained from the conversion of property given to the University; and
- (c) money obtained from the investment or use of property given to the University;

University of Western Sydney 1988

“securities” means debentures, stocks, shares, bonds and notes.

Terms of trust to prevail

18. The terms of—

- (a) in the case of a private gift—any instrument creating a trust with respect to that private gift; and
- (b) in the case of a grant—the instrument of grant; and
- (c) in the case of property, other than money, given to the University—any instrument creating a trust with respect to that property,

have effect despite sections 19, 20 and 21.

Investment of money

19. The Board may invest any class A funds or class B funds held by the University—

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) at any time at which the Public Authorities (Financial Arrangements) Act 1987 does not apply to the Board so as to authorise any such investment—
 - (i) in accordance with and subject to the Trustee Act 1925; and
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment pools

20. (1) The Board may establish and maintain one or more investment pools for the collective investment of property held by the University.

(2) The Board may from time to time—

- (a) bring into or withdraw from an investment pool the whole or any part of any class A funds or class B funds held by the University; or
- (b) bring into an investment pool—
 - (i) securities, other than securities in respect of which the donor has, in an instrument creating a trust in respect of those securities, specified that the income from those securities is to be applied for a purpose other than the general purposes of the University; or
 - (ii) real property, other than real property in respect of which the donor has, in an instrument creating a trust in respect of that real property, specified that the income from that real property is to be applied for a purpose other than the general purposes of the University,

or withdraw money to the value attributed equitably to those securities or that real property by the Board at the date of withdrawal.

(3) The Board shall not bring into or retain in any investment pool the whole or any part of any class A funds if the investments in which the capital of the investment pool is invested are not investments made in accordance with and subject to the Trustee Act 1925.

Distribution of income of investment pools

21. (1) The Board shall, at least once a year, distribute the income of an investment pool.

(2) On the distribution of the income of an investment pool, the Board shall, in respect of—

- (a) a pooled item being a private gift where the donor of the private gift has, in an instrument creating a trust in respect of the private gift—
 - (i) specified that the income from the investment of the private gift is to be applied for a purpose other than the general purposes of the University; or
 - (ii) specified that the private gift is to be applied for a purpose other than the general purposes of the University and the private gift is insufficient, without the addition of the income from the investment of the private gift, to achieve that purpose; and
- (b) any other pooled item in respect of which the Board is otherwise required to do so,

credit the income of the investment pool to the account kept by it in respect of the private gift or other pooled item proportionately according to—

- (c) the value attributed equitably to the private gift or other pooled item by the Board at the date of distribution; and
- (d) the period for which the private gift or other pooled item has formed part of the investment pool since the date of the last preceding distribution of the income of the investment pool.

(3) If the Board distributes the income of an investment pool, it may, in respect of a pooled item (other than a pooled item referred to in subsection (2) (a) or (b)) credit the income of the investment pool to any account kept by it.

Nature of private gift etc. not affected by pooling

22. (1) The inclusion in an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) does not affect the identity of the pooled item as a private gift, a grant, student tuition fees or class B funds.

(2) The inclusion in an investment pool of a pooled item does not affect any trust to which the pooled item was subject immediately before its inclusion in the investment pool.

University of Western Sydney 1988

(3) On the withdrawal from an investment pool of a pooled item (being a private gift, a grant, student tuition fees or class B funds) the pooled item shall continue to be subject to any trust to which it was subject immediately before its inclusion in the investment pool.

(4) On the withdrawal from an investment pool of money to the value attributed to any securities or real property by the Board under section 20 (2) (b), that money shall be subject to any trust to which those securities were subject, or to which that real property was subject, immediately before its inclusion in the investment pool.

PART 5—GENERAL**Academic Board**

23. (1) There shall be an Academic Board of the University, consisting of—

- (a) the Vice-Chancellor of the University; and
- (b) such members of staff of the University, and of other universities, as the Board of Governors may appoint; and
- (c) the chief executive officers of the members of the University network.

(2) Subject to this Act, the by-laws—

- (a) may prescribe the functions of the Academic Board, the conditions on which its members hold office and all other matters concerning it; and
- (b) may generally make provision for or with respect to the regulation of its conduct and procedure and the conduct and procedure of any of its committees.

Convocation

24. (1) Convocation shall consist of—

- (a) all members and past members of the Board; and
- (b) all graduates of the University; and
- (c) all members of the full-time academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe; and
- (d) such graduates of other universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.

(2) The first meeting of Convocation shall be convened by the Vice-Chancellor.

(3) Meetings of Convocation shall be convened and the business at the meetings shall, subject to the by-laws, be as determined by Convocation.

(4) A quorum at any meeting of Convocation shall be such number of members as may be prescribed by the by-laws.

(5) Convocation has such functions as may be prescribed by the by-laws.

(6) The Board may establish a Standing Committee and such other committees of Convocation as it considers necessary.

Advance by Treasurer

25. The Treasurer may, with the approval of the Governor, advance to the Board money for the temporary accommodation of the University on such terms and conditions in relation to repayment and interest as may be agreed upon.

Financial year

26. The financial year of the University is—

- (a) if no period is prescribed as referred to in paragraph (b)—the year commencing on 1 January; or
- (b) the period prescribed for the purposes of this section.

No religious test or political discrimination

27. A person shall not, because of his or her religious or political views or beliefs, be denied admission as a student of the University or be ineligible to hold office in, to graduate from or to enjoy any benefit, advantage or privilege of, the University.

Exemption from membership of body corporate or Convocation

28. A graduate of the University, a student enrolled at the University or a member of the academic staff of the University may be exempted by the Board, on grounds of conscience, from membership of the body corporate of the University or of Convocation, or both.

Visitor

29. The Governor of New South Wales is the Visitor of the University with full authority and jurisdiction to do all things and entertain all causes which may pertain to or be exercised by visitors, as often as the Governor thinks fit.

Acquisition of land

30. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.

University of Western Sydney 1988

(2) The Minister shall not make a recommendation for the purposes of subsection (1) unless satisfied that adequate provision has been or will be made for the payment by the University of compensation for the resumption or appropriation and all necessary charges and expenses incidental to the resumption or appropriation.

(3) A resumption or appropriation effected pursuant to subsection (1) shall be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister shall, in relation to that authorised work, be taken to be the Constructing Authority within the meaning of that Act.

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

Grant or transfer of certain land to University

31. (1) If land on which the University is conducted is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the land may—

- (a) if it is vested in the Crown—be transferred to the University subject to such trusts, conditions, covenants, provisions, exemptions and reservations as the Minister for Natural Resources thinks fit; or
- (b) if it is vested in a Minister of the Crown—be conveyed or transferred to the University for such estate, and subject to such trusts and rights of way or other easements, as the Minister thinks fit.

(2) A conveyance, transfer or other instrument executed for the purposes of this section—

- (a) is not liable to stamp duty under the Stamp Duties Act 1920; and
- (b) may be registered under any Act without fee.

Re-appointment or re-election

32. Nothing in this Act prevents any person from being immediately, or at any time, re-appointed or re-elected to any office or place under this Act if the person is eligible and otherwise qualified, for the time being, to hold that office or place.

Seal of University

33. The seal of the University shall be kept in such custody as the Board may direct and shall only be affixed to a document pursuant to a resolution of the Board.

Regulations

34. 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 by the regulations or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular—

- (a) the appointment of persons ordinarily required to be nominated for appointment by the Minister as members of the Board, in the event of a failure of any due nomination; and
- (b) the election of members of the first Board (other than the parliamentary members) who are to be elected.

By-laws

35. (1) The Board may make by-laws, not inconsistent with this Act, for or with respect to all matters concerning the University.

(2) Without limiting the generality of subsection (1), the Board may make by-laws for or with respect to—

- (a) the management, good government and discipline of the University; and
- (b) the election of members of the Board (other than the parliamentary members) who are to be elected; and
- (c) the manner and time of convening, holding and adjourning the meetings of the Board; and
- (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Board; and
- (e) the functions of the presiding member of the Board; and
- (f) the conduct and record of business of the Board; and
- (g) the appointment of committees of the Board; and
- (h) the quorum and functions of committees of the Board; and
- (i) the resignation of members of the Board, the Chancellor, Deputy Chancellor or Vice-Chancellor; and
- (j) the tenure of office, stipend and functions of the Vice-Chancellor; and
- (k) the number, stipend, manner of appointment and dismissal of deans, professors, lecturers, examiners and other officers and employees of the University; and
- (l) the entrance standards for students; and
- (m) the payment of such fees and charges, including fines, as the Board considers necessary, including fees and charges to be paid in respect of—
 - (i) entrance to the University;
 - (ii) tuition;

University of Western Sydney 1988

- (iii) lectures and classes;
 - (iv) examinations;
 - (v) residence;
 - (vi) the conferring of degrees and diplomas;
 - (vii) the provision of amenities and services, whether or not of an academic nature; and
 - (viii) an organisation of students or of students and other persons;
 - (n) the exemption from, or deferment of, payment of fees and charges, including fines; and
 - (o) the course of lectures or studies for, the examinations for, and the granting of, degrees, diplomas, certificates and honours and the attendance of candidates for degrees, diplomas, certificates and honours; and
 - (p) the examinations for, and the granting of, fellowships, scholarships, exhibitions, bursaries and prizes; and
 - (q) the admission of students of other universities and institutions of higher education to any status within the University or the granting to graduates of such universities or institutions, or other persons, of a degree or diploma without examination; and
 - (r) the establishment of residential colleges and halls of residence within the University and their conduct or the affiliation of residential colleges; and
 - (s) the affiliation with the University of any educational or research establishment; and
 - (t) the provision of a scheme of superannuation for the officers and employees of the University; and
 - (u) the form and use of academic costume; and
 - (v) the form and use of an emblem of the University or of any college within or associated with the University; and
 - (w) the exemption of persons, on grounds of conscience, from membership of the body corporate or Convocation of the University; and
 - (x) all matters that by this Act are required or permitted to be prescribed by the by-laws or that are necessary or convenient to give effect to this Act.
- (3) A by-law has no effect unless approved by the Governor.

Rules or orders

36. (1) The by-laws may provide for empowering any authority (including the Board) or officer of the University to make rules or orders (not inconsistent with this Act or with any regulation or 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.

University of Western Sydney 1988

- (2) Any rule or order referred to in subsection (1)—
- (a) shall have the same force and effect as a by-law; and
 - (b) may, from time to time as occasion requires, be amended or repealed by any authority (including the Board) or officer of the University empowered by subsection (1) to make such a rule or order; and
 - (c) shall not be deemed to be a statutory rule for the purposes of section 39, 40 or 41 of the Interpretation Act 1987.

Repeal of Chifley University Interim Council Act 1987 No. 113

37. The Chifley University Interim Council Act 1987 is repealed.

Amendment of certain Acts

38. Each Act specified in Schedule 2 is amended as set out in that Schedule.

Transitional provisions

39. (1) Part 1 of Schedule 3 has effect.

(2) Part 2 of Schedule 3 has effect.

(3) For the purposes of enabling the Board to be constituted in accordance with this Act on or after (but not before) 1 January 1989—

- (a) appointments may be made; and
- (b) regulations may be made; and
- (c) persons may, in accordance with this Act and the regulations, be nominated for, or elected to, membership of the Board; and
- (d) any other act, matter or thing may be done,

before 1 January 1989 as if the whole of this Act (with the exception of subsection (2) and Part 2 of Schedule 3) commenced on the date of assent to this Act, but so that no person commences to hold office as a member of the Board before 1 January 1989.

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD

(Sec. 9 (8))

Age of members

1. A person of or above the age of 70 years is not eligible to hold office as a member of the Board.

Term of office

2. Subject to this Act, a member of the Board holds office—

- (a) in the case of a parliamentary member, until a member of the House of Parliament that elected the member is elected as a replacement; and

University of Western Sydney 1988

SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (b) in the case of an official member, while the member holds the office by virtue of which he or she is a member; and
- (c) in the case of an appointed member, for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment; and
- (d) in the case of an elected member, for such term (not exceeding 3 years) as may be prescribed by the by-laws.

Vacation of office

3. The office of a member of the Board becomes vacant if the member—
- (a) dies; or
 - (b) reaches the age of 70 years; or
 - (c) in the case of an appointed or elected member, transfers his or her place of permanent residence to a place that is not within the State or the Australian Capital Territory; or
 - (d) declines to act; or
 - (e) resigns the office by writing under his or her hand addressed—
 - (i) in the case of the parliamentary member who is a Member of the Legislative Council, to the President of the Legislative Council; or
 - (ii) in the case of the parliamentary member who is a Member of the Legislative Assembly, to the Speaker of the Legislative Assembly; or
 - (iii) in the case of an appointed member, to the Minister; or
 - (iv) in the case of an elected member, to the Vice-Chancellor; or
 - (f) in the case of an appointed or elected member, 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 any assignment of his or her estate for their benefit; or
 - (g) in the case of an appointed or elected member, 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; or
 - (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
 - (i) in the case of an appointed or elected member, is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, and is not, within 6 weeks after the last of those meetings, excused by the Board for his or her absence; or
 - (j) in the case of the parliamentary member elected by the Legislative Council, ceases—
 - (i) to be a Member of that Council otherwise than by reason of section 22B (1) (c) of the Constitution Act 1902; or
 - (ii) to be a Member of that Council by reason of section 22B (1) (c) of that Act and does not become a candidate at the next periodic Council election within the meaning of section 3 of that Act or, as the case may be, becomes a candidate but is not elected; or

*University of Western Sydney 1988***SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued***

- (k) in the case of the parliamentary member elected by the Legislative Assembly, ceases—
- (i) to be a Member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time; or
 - (ii) to be a Member of that Assembly by reason of its dissolution or its expiration by effluxion of time and does not become a candidate at the next general election of Members of that Assembly or, as the case may be, becomes a candidate but is not elected; or
- (l) in the case of the elected student member, ceases to be a student enrolled at the University; or
- (m) in the case of the elected academic staff member, ceases to be a member of the academic staff of the University; or
- (n) in the case of a member referred to in section 9 (5) (b), is removed from office by the Minister.

Filling of vacancy in office of member

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

Committees of the Board

5. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

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

(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 Board or (subject to any determination of the Board) by the committee.

Liability of Board members and others

6. No matter or thing done by—

- (a) the University, the Board or a member of the Board; or
- (b) any person acting under the direction of the University or the Board,

shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board or a person so acting personally to any action, liability, claim or demand.

General procedure

7. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by the Board.

Presiding member

8. (1) The Chancellor shall preside at all meetings of the Board and of committees constituted by the Board at which the Chancellor is present.

*University of Western Sydney 1988***SCHEDULE 1—PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF THE BOARD—*continued***

(2) At any meeting of the Board or of a committee constituted by the Board at which the Chancellor is not present, the Deputy Chancellor shall preside, and in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present shall preside.

Quorum

9. At any meeting of the Board, a quorum shall be 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 the Board.

Voting

10. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

SCHEDULE 2—AMENDMENT OF CERTAIN ACTS

(Sec. 38)

Local Government Act 1919 No. 41—**Section 132 (Definition of ratable land)—**

Section 132 (1) (fviii)—

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

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

Public Finance and Audit Act 1983 No. 152—**Schedule 2 (Statutory Bodies)—**

Insert (in alphabetical order)—

Board of Governors of the University of Western Sydney.

University and University Colleges Act 1900 No. 22—(1) Section 42 (**Power to establish and maintain colleges**)—

(a) Section 42 (1)—

Omit "outside the Sydney Metropolitan Area".

(b) Section 42 (1)—

Omit ", but outside the Sydney Metropolitan Area,".

(2) Part 7A—

Omit the Part.

Water Board Act 1987 No. 141—**Schedule 3, Part 1 (Land Exempt from Service Charges)—**

(a) Schedule 3, Part 1, Item 15 (c)—

Omit "or".

*University of Western Sydney 1988***SCHEDULE 2—AMENDMENT OF CERTAIN ACTS—*continued***

- (b) Schedule 3, Part 1, Item 15 (f), (g)—
Omit Item 15 (f), insert instead:
- (f) the University of Western Sydney; or
 - (g) a college of any of them,

SCHEDULE 3—TRANSITIONAL PROVISIONS

(Sec. 39)

PART 1—PROVISIONS OPERATING FROM 1 JANUARY 1989**Definition**

1. In this Schedule—
“Colleges” means—
 - (a) Hawkesbury Agricultural College; and
 - (b) Nepean College of Advanced Education,
incorporated under the Colleges of Advanced Education Act 1975.

Councils of the Colleges to be subject to the Board

2. The Councils of Hawkesbury Agricultural College and Nepean College of Advanced Education—
 - (a) in so far as they have the care, control and management of all real and personal property held by or vested in either of the Colleges or in any other body in trust for, or on behalf of, either of the Colleges; and
 - (b) generally in the exercise of their functions,
 are subject to the control and direction of the Board.

Property of, and matters affecting, the Chifley University Interim Council

3. (1) All real or personal property which, immediately before 1 January 1989, was held by or was vested in the Chifley University Interim Council or in the University of Sydney or any other body in trust for, or on behalf of, that Council is by this Act—
 - (a) divested from that Council or other such university or body; and
 - (b) vested in the University of Western Sydney to be applied by that University, subject to any trusts or conditions on which it was held immediately before 1 January 1989, for the objects and purposes of that University.
- (2) A reference (however expressed), in any instrument assigning property to (or to any body in trust for or on behalf of) the Chifley University Interim Council, to the objects and purposes of the Council shall be read as a reference to the objects and purposes of the University of Western Sydney.
- (3) The University is a continuation of, and shall be taken to be the same legal entity as, the Chifley University Interim Council for the purposes of—
 - (a) any legal or other proceedings instituted or to be instituted by or against that Council (any of which proceedings, if they might have been continued or commenced before the commencement of this clause, may be continued or commenced by or against the University); and

*University of Western Sydney 1988*SCHEDULE 3—TRANSITIONAL PROVISIONS—*continued*

- (b) 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 that Council (any of which investigations or inquiries, if they might have been continued or commenced before the commencement of this clause, may be continued or commenced as if the action had been taken or the practice had been engaged in by the University).

Original network members

4. (1) A reference in this or any other Act or statutory instrument to the members of the University network includes, in respect of the period during which the Colleges continue in existence, a reference to the Colleges.

(2) For the purposes of this Act, the network members named in section 6 (1) (a) and (b) correspond to Nepean College of Advanced Education and Hawkesbury Agricultural College, respectively.

Right of College Councils to nominate Board member

5. While the Colleges continue in existence, a reference in section 9 (5) (c) and (d) to the chief executive officer of a member of the University network is a reference to the council of the corresponding College.

Acting Vice-Chancellor

6. (1) If at its first meeting the Board does not appoint a person to be Vice-Chancellor of the University, the Board may, at that meeting or subsequently, appoint a person to act as Vice-Chancellor pending the appointment of a Vice-Chancellor.

(2) Until the appointment of a Vice-Chancellor of the University, a person appointed to act as Vice-Chancellor has all the functions of the Vice-Chancellor, except as provided by subclause (3).

(3) A person acting as Vice-Chancellor by appointment under this clause is not a member of the Board, and has none of the functions of a Board member.

(4) Until the appointment of a Vice-Chancellor of the University, the Vice-Chancellor of the University of Sydney is an official member of the Board.

Presiding member of the Academic Board

7. The Board shall, at its first meeting, appoint a suitably qualified person to preside at meetings of the Academic Board during the year commencing on 1 January 1989.

First meeting of the Board

8. (1) The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

(2) At the first meeting of the Board, a member of the Board designated by the Minister shall preside until the election of the first Chancellor of the University.

Regulations

9. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

*University of Western Sydney 1988*SCHEDULE 3—TRANSITIONAL PROVISIONS—*continued*

(2) In particular, the regulations may contain provisions relating to any aspect of the election of members of the first Board (other than the parliamentary members) who are to be elected and relating to their terms of office and other matters concerning them (and for that purpose, a reference in this Act to the by-laws includes a reference to the regulations).

(3) A provision referred to in subclause (1) or (2) may, if the regulations so provide, take effect as from the commencement of this clause or a later day.

(4) To the extent to which any such provision 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.

**PART 2—PROVISIONS OPERATING FROM A PROCLAIMED DAY OR
PROCLAIMED DAYS**

Provisions relating to the Colleges

10. (1) The Colleges are dissolved.

(2) All real and personal property which, immediately before the commencement of this clause, was held by or was vested in either of the Colleges or in any other body in trust for, or on behalf of, either of the Colleges is by this Act—

- (a) divested from the College or other such body; and
- (b) vested in the University to be applied by the University, subject to any trusts or conditions on which it was held immediately before the commencement of this clause, for the objects and purposes of the University.

Transfer of certain persons to staff of University

11. (1) In this clause—

“officer of a College” means a person who, immediately before the commencement of this clause, held any salaried office or employment in the staff establishment of either of the Colleges 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.

(2) Every officer of a College shall, on the commencement of this clause, become an officer of the University on the same terms and conditions (including terms and conditions as to remuneration and duration of appointment) as those on which he or she was employed at the relevant College immediately before the commencement of this clause.

*University of Western Sydney 1988*SCHEDULE 3—TRANSITIONAL PROVISIONS—*continued*

(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 5 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 this clause, becomes an officer of the University—

- (a) retains any rights accrued or accruing to the person as an officer of the College concerned; and
- (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 a College,

and the person's service as an officer of a College 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 clause, 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 on the person's becoming a contributor to any other superannuation scheme.

(6) Subclause (5) does not prevent the payment to an officer of a College, on 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 this clause, 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) A fixed term contract in force, immediately before the commencement of this clause, between a person and either of the Colleges under which the person performed teaching services—

- (a) shall be taken, for the remainder of its term, to be a contract in the same terms between the person concerned and the University, under which the University assumes the rights and obligations of the College; and
- (b) may be arbitrated, terminated or renewed in any manner provided by the contract.

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

University to be continuation of the Colleges for certain purposes

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

- (a) any law under which rights referred to in clause 11 (4) accrued or were accruing, under which a person referred to in clause 11 (4) continues to contribute or by which an entitlement referred to in clause 11 (4) is conferred; and
- (b) any superannuation scheme to which, by the operation of clause 11 (4), such a person is entitled to contribute; and

*University of Western Sydney 1988*SCHEDULE 3—TRANSITIONAL PROVISIONS—*continued*

- (c) any legal or other proceedings instituted or to be instituted by or against either of the Colleges (any of which proceedings, if they might have been continued or commenced before the commencement of this clause, may be continued or commenced by or against the University); and
- (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 either of the Colleges (any of which investigations or inquiries, if they might have been continued or commenced before the commencement of this clause, may be continued or commenced as if the action had been taken or the practice had been engaged in by the University).

Students

13. (1) Each person who was, immediately before the commencement of this clause, a student of either of the Colleges enrolled in an advanced education course shall on that day (unless the student was a graduand in that course) 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 College.

(2) The University shall, in 1989, provide such courses of study as are necessary for the purposes of this clause.

(3) If a student is enrolled in a course of study pursuant to this clause, 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) Students so enrolled are entitled, on satisfactory completion of their courses, to appropriate awards conferred by the University but may, if they so desire, instead obtain awards conferred in the name of the College at which they were previously enrolled.

(5) For the purposes of subclause (4), the seal of either of the Colleges may be affixed to any document pursuant to a resolution of the Board.

Maintenance of branches, departments and activities of the Colleges

14. A branch, department or activity that was being maintained, managed or undertaken by either of the Colleges immediately before the commencement of this clause may be maintained, managed or undertaken by the University as if this Act had been in force when it was established or commenced.

Continuation of by-laws

15. (1) All by-laws made under the Colleges of Advanced Education Act 1975 by the Councils of the Colleges and in force immediately before the commencement of this clause—

- (a) shall, to the extent that they could have been legally made under this Act if this Act had been in force at the time they were made, continue in force (subject to this Act) as if made under this Act; and
- (b) may be amended, repealed or replaced by by-laws made under this Act.

(2) For the purposes of this clause—

- (a) a reference in any by-laws of the Colleges to the council of a College shall be read as a reference to the Board; and

University of Western Sydney 1988

SCHEDULE 3—TRANSITIONAL PROVISIONS—*continued*

- (b) a reference in any such by-laws to any officer of the College shall be read as a reference to the corresponding officer of the University.

Saving of delegations

16. Any delegation made under the Colleges of Advanced Education Act 1975 by the council of either of the Colleges and in force immediately before the commencement of this clause continues to have effect, but may be revoked at any time by the Board.

Construction of certain references

17. In any other Act or statutory instrument or other document, a reference to Hawkesbury Agricultural College or Nepean College of Advanced Education shall be read as a reference to the University.

Provisions relating to new members of University network

18. The regulations—
- (a) may make provision for or with respect to all matters necessary for carrying out or giving effect to an order under section 6 establishing an institution or body as a member of the University network; and
 - (b) in particular, may make provision for the application (with or without modification) of any of the provisions of this Schedule to and in respect of such an institution or body, its staff, property and other matters ancillary or incidental to the purposes of the order.

[*Minister's second reading speech made in—
Legislative Assembly on 17 November 1988
Legislative Council on 1 December 1988*]
