

**UNIVERSITIES LEGISLATION (INVESTMENT) AMENDMENT
ACT 1989 No. 179**

NEW SOUTH WALES



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**UNIVERSITIES LEGISLATION (INVESTMENT) AMENDMENT
ACT 1989 No. 179**

NEW SOUTH WALES



Act No. 179, 1989

An Act to amend the Acts establishing Universities in respect of the investment of the funds of Universities. [Assented to 14 December 1989]

Universities Legislation (Investment) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Universities Legislation (Investment) Amendment Act 1989.

Commencement

2. This Act commences on the date of assent.

Amendment of Universities legislation

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

Validation

4. Anything done by a body referred to in a provision of Schedule 1 before the commencement of that provision which would have been validly done if it had been done after that commencement is validated with effect from the date it was done.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

Charles Sturt University Act 1989 No. 76:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 19)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Board has, in respect of the funds of the University, the investment powers conferred on the Board by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(2) If Part 3 of that Act does not confer investment powers on the Board in respect of any such funds, the Board may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Board may establish one or more investment common funds.

(2) The Board may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Board must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Board may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the

SCHEDULE 1 - AMENDMENTS - *continued*

investment by the Board at the time it is brought into the common fund; and

- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Board to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:
- (a) the investment powers of the Board; and
- (b) the power of the Board to bring the trust funds into an investment common fund,

are subject to any express direction in or express condition of the trust.

Macquarie University Act 1989 No. 126:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 16)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

Investment powers

2. (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Council may establish one or more investment common funds.

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
 - (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Council at the time it is brought into the common fund; and
 - (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.
- (6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.
- (7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:
- (a) the investment powers of the Council; and
 - (b) the power of the Council to bring the trust funds into an investment common fund,
- are subject to any express direction in or express condition of the trust.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

University of Newcastle Act 1989 No. 68:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 16)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Council may establish one or more investment common funds.

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the

SCHEDULE 1 - AMENDMENTS - *continued*

participation of each fund in the common fund during the relevant accounting period.

(4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Council at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

Terms of trust to prevail

4. In respect of the trust funds of the University:
- (a) the investment powers of the Council; and
 - (b) the power of the Council to bring the trust funds into an investment common fund,
- are subject to any express direction in or express condition of the trust.

University of New England Act 1989 No. 67:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 19)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Board has, in respect of the funds of the University, the investment powers conferred on the Board by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Board in respect of any such funds, the Board may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Board may establish one or more investment common funds.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) The Board may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Board must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Board may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Board at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Board to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:

(a) the investment powers of the Board; and

(b) the power of the Board to bring the trust funds into an investment common fund,

are subject to any express direction in or express condition of the trust.

University of New South Wales Act 1989 No. 125:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 15)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:

(a) in any manner authorised for the investment of trust funds; or

(b) in any other manner approved by the Minister with the concurrence of the Treasurer.

SCHEDULE 1 - AMENDMENTS - *continued*

Investment common funds

3. (1) The Council may establish one or more investment common funds.

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Council at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:
(a) the investment powers of the Council; and
(b) the power of the Council to bring the trust funds into an investment common fund,
are subject to any express direction in or express condition of the trust.

University of Sydney Act 1989 No. 124:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 16)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Senate has, in respect of the funds of the University, the investment powers conferred on the Senate by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Senate in respect of any such funds, the Senate may invest those funds:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Senate may establish one or more investment common funds.

(2) The Senate may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Senate must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Senate may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Senate at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

withdrawn is to be the amount equivalent to the value attributed by the Senate to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:

- (a) the investment powers of the Senate; and
- (b) the power of the Senate to bring the trust funds into an investment common fund,

are subject to any express direction in or express condition of the trust.

University of Technology, Sydney, Act 1989 No. 69:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 16)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Council may establish one or more investment common funds.

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

investment by the Council at the time it is brought into the common fund; and

- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:

- (a) the investment powers of the Council; and
- (b) the power of the Council to bring the trust funds into an investment common fund,

are subject to any express direction in or express condition of the trust.

University of Western Sydney Act 1988 No. 90:

(1) Section 11 (**Powers of Board**):

- (a) From section 11 (1) (f), omit "in any manner provided by Part 4".
- (b) After section 11 (5), insert:
 - (6) Schedule 1A has effect in relation to the investment of funds by the Board.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) Part 4 (**Powers of investment**):

Omit the Part.

(3) Schedule 1A:

After Schedule 1, insert:

SCHEDULE 1A - INVESTMENT

(Sec. 11)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Board has, in respect of the funds of the University, the investment powers conferred on the Board by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Board in respect of any such funds, the Board may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Board may establish one or more investment common funds.

(2) The Board may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(3) Subject to subclause (4), the Board must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Board may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Board at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Board to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

SCHEDULE 1 - AMENDMENTS - *continued*

Terms of trust to prevail

4. In respect of the trust funds of the University:
- (a) the investment powers of the Board; and
 - (b) the power of the Board to bring the trust funds into an investment common fund,
- are subject to any express direction in or express condition of the trust.

University of Wollongong Act 1989 No. 127:

Omit Schedule 2, insert instead:

SCHEDULE 2 - INVESTMENT

(Sec. 16)

Definition of "funds"

1. For the purposes of this Schedule, the funds of the University include funds under the control of the University and real property, securities or other property comprising an investment.

Investment powers

2. (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

Investment common funds

3. (1) The Council may establish one or more investment common funds.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.

(3) Subject to subclause (4), the Council must periodically distribute the income of each investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

(4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.

(5) If an investment is brought into an investment common fund:

- (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund; and
- (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Council at the time it is brought into the common fund; and
- (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.

(6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.

Universities Legislation (Investment) Amendment 1989

SCHEDULE 1 - AMENDMENTS - *continued*

(7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

Terms of trust to prevail

4. In respect of the trust funds of the University:
- (a) the investment powers of the Council; and
 - (b) the power of the Council to bring the trust funds into an investment common fund,
- are subject to any express direction in or express condition of the trust.

[*Minister's second reading speech made in -
Legislative Assembly on 15 November 1989
Legislative Council on 22 November 1989*]