

[Act 1997 No 116]



New South Wales

University of Western Sydney Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish the University of Western Sydney as a continuation of the University established by the *University of Western Sydney Act 1988* and to provide for the constitution and governance of the University.

The principal changes that are made to the University by this Bill relate to the governance of the University. They are as follows:

- (a) The Board of Governors is replaced by a Board of Trustees. The constitution of the Board of Trustees differs from the constitution of the Board of Governors, although the principal categories of membership remain the same (that is, parliamentary members, elected members, official members and members appointed by the Minister). The Bill also allows the Board to appoint an additional member of the Board.
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- (b) The Chancellor, who is elected by the Board, is no longer required to be elected from among the members of the Board (however, when elected the Chancellor becomes an official member of the Board).
- (c) Provision is made for the establishment of Councils by University Members (formerly known as members of the University network). At present, the University Members are the University of Western Sydney, Hawkesbury, the University of Western Sydney, Macarthur and the University of Western Sydney, Nepean. Councils are to be responsible for the internal governance of the University Members. The Chair of each Council is an official member of the Board of Trustees and a Deputy Chancellor.
- (d) Each University Member has a principal executive officer, appointed by the Board, who is the academic and administrative head of the University Member (this replaces the position of chief executive officer).
- (e) The Academic Board is re-constituted as an Academic Senate. The Chair of the Academic Senate is an official member of the Board.

The Bill also expands and clarifies the functions of the University, the Board, the Chancellor, the Vice-Chancellor and the Academic Senate.

The Bill repeals and replaces the *University of Western Sydney Act 1988*.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation, except for some of the savings and transitional provisions, which commence on assent.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that notes do not form part of the proposed Act.

Part 2 Constitution and functions of University

Clause 5 establishes the University.

Clause 6 states that the University is a body corporate.

Clause 7 provides that the University's structure is that of a federation, consisting of the office of the Vice-Chancellor and the University Members.

Clause 8 specifies the functions of the University.

Clause 9 empowers the University, for the purpose of exercising its functions, to provide such facilities for students as it considers desirable.

Part 3 Governance of University

Clause 10 establishes a Board of Trustees of the University.

Clause 11 provides for the functions of the Board.

Clause 12 provides that the Board consists of parliamentary, official, appointed and elected members.

Clause 13 contains provisions relating to the Chancellor of the University.

Clause 14 contains provisions relating to the Deputy Chancellors of the University.

Clause 15 contains provisions relating to the Vice-Chancellor of the University and provides that the Vice-Chancellor is the chief executive officer of the University.

Clause 16 provides for the establishment of a Council for each University Member.

Clause 17 contains provisions relating to the Chair of each Council.

Clause 18 contains provisions relating to the principal executive officers of University Members.

Clause 19 designates the Governor as the Visitor of the University.

Clause 20 establishes an Academic Senate of the University.

Clause 21 contains provisions relating to the Chair of the Academic Senate.

Part 4 Functions of Board

Division 1 General

Clause 22 specifies the principal powers of the Board.

Clause 23 permits the Board to delegate its functions.

Division 2 Property

Clause 24 specifies the powers of the Board relating to property and places certain restrictions on the Board when dealing with land of the University.

Clause 25 provides for the resumption or appropriation of land for the benefit of the University.

Clause 26 gives the Board, subject to certain restrictions, the control and management of land of the Crown on which the University is conducted.

Clause 27 provides for the vesting in the University of certain land of the Crown.

Division 3 Variation of trusts

Clause 28 contains definitions.

Clause 29 provides for the application of the Division to certain trusts.

Clause 30 allows the Minister to vary the terms of a trust that provides for the awarding of a prize in certain circumstances.

Clause 31 allows the Minister, with the concurrence of the Attorney General, to vary the terms of a trust if it is impossible or inexpedient, or not in the reasonable interests of the University, to carry out the terms of the trust.

Clause 32 allows the terms of a trust to be varied more than once.

Part 5 General

Clause 33 enables the Treasurer, with the approval of the Governor, to advance money to the Board for the temporary accommodation of the University.

Clause 34 provides for the financial year of the University.

Clause 35 forbids religious or political discrimination in the admission of students, progression within the University and other benefits provided by the University.

Clause 36 provides for the exemption of persons, on grounds of conscience, from membership of the body corporate of the University.

Clause 37 enables the re-appointment or re-election of a person to any office under the proposed Act which the person has held and for which he or she is still eligible.

Clause 38 prevents a person from holding office as Chancellor, an appointed member of the Board, an elected member of the Board or the Chair of a Council for more than 2 consecutive terms, except with the approval of the Minister. Four consecutive terms of office are not permitted.

Clause 39 provides for the use and custody of the seal of the University.

Clause 40 enables the Board, with the approval of the Governor, to make by-laws generally for the management, good government and discipline of the University and in relation to certain other matters.

Clause 41 enables the Board, or another authority specified in the by-laws, to make rules with respect to the matters for and with respect to which by-laws can be made (with the exception of certain matters, for example, elections of members of the Board).

Clause 42 repeals the *University of Western Sydney Act 1988*.

Clause 43 is a formal provision that gives effect to the Schedule of amendments to other Acts.

Clause 44 is a formal provision that gives effect to the Schedule of savings, transitional and other provisions.

Clause 45 provides for a review of the proposed Act by the Minister 5 years after its enactment.

Schedule 1 contains provisions relating to the members and procedure of the Board (including vacation of office, committees of the Board and liability of Board members).

Schedule 2 sets out the investment powers of the Board.

Schedule 3 contains consequential amendments to the *Public Finance and Audit Act 1983* and the *University Legislation (Amendment) Act 1994*.

Schedule 4 contains savings, transitional and other provisions. These provisions:

- (a) provide for the making of savings and transitional regulations, and
- (b) make it clear that the University is a continuation of, and the same legal entity as, the University established by the *University of Western Sydney Act 1988*, and
- (c) provide for the dissolution of the Board of Governors of the University and provide that some of the elected members and the parliamentary members are to continue as members of the new Board, and

- (d) provide for the continuation of the appointment of the Vice-chancellor and certain other office holders of the University, and
- (e) allow certain steps to be taken, prior to the establishment of the new Board, to facilitate its establishment, including the holding of elections, and
- (f) allow the Board of Governors to take steps to facilitate the commencement of the new Act, including by making new by-laws and appointing the first Chairs of the Councils, and
- (g) contain other matters of a savings, transitional or consequential nature.