

New South Wales

# University Legislation Amendment Bill 2004

# **Explanatory note**

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

### Overview of Bill

Under section 33-15 of the *Higher Education Support Act 2003* of the Commonwealth, higher education providers are required to meet the requirements of the Commonwealth's National Governance Protocols for higher education providers to qualify for increased Commonwealth funding. The object of this Bill is to amend the Acts that establish universities in New South Wales to the extent necessary to enable the Universities to comply with those requirements.

In relation to each University, the amendments:

(a) alter, and impose requirements in relation to, the composition of the University's governing body (including limiting its membership to no more than 22 members, removing the requirement that it include members of Parliament, allowing the Minister to appoint members of Parliament as members only if on the nomination of the governing body, requiring the majority of its members to be external to the University, requiring its members to possess certain expertise and experience, and requiring procedures for the nomination of appointed members to be set out in the University's by-laws), and

- (b) particularise certain of the functions of the University's governing body (including overseeing the University's performance, approving the University's mission, strategic direction, annual budget and business plan, overseeing risk management across the University, approving and monitoring the University's systems of accountability, ensuring that the University's grievance procedures and associated information are published in a form that is readily accessible to the public, regularly reviewing its own performance, adopting a statement of its primary responsibilities, and making available a program of induction and development for its members), and
- (c) note generally the governing body's obligations under the *Annual Reports* (Statutory Bodies) Act 1984, and
- (d) impose requirements on the governing body relating to the control and monitoring of entities controlled by the University, and
- (e) provide for the duties of members of the University's governing body (being to act in the best interests of the University, to exercise care and diligence, to not improperly use the position of member or improperly use information, and to disclose material interests to avoid a conflict of interest) and for removal of a member from office for breach of duty if such a motion is supported by a two-thirds majority of members of the governing body, and
- (f) require the Minister and the governing body to take into account the need to maintain an appropriate balance of experienced and new members when appointing members and (in the case of the governing body) when making by-laws with respect to the terms of elected members and provide (except where a more stringent limit is already provided for in the University's Act) that the maximum incumbency for a member of the governing body is 12 consecutive years unless the governing body otherwise resolves, and
- (g) alter the grounds on which the office of member of the governing body is vacated (most significantly by requiring the office of a member of the governing body to be vacated if the member is or becomes disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth), and
- (h) enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act, and insert other provisions of a savings or transitional nature (including in relation to the constitution and continuity of the governing body, the application of the proposed provisions dealing with the removal from office of a member of the governing body for breach of duty, and the period to be counted for the purposes of the proposed provision dealing with the maximum incumbency for members of the governing body).

#### The Bill also:

- (a) incorporates certain uncommenced amendments from the *University Legislation (Amendment) Act 1994* that replace the provisions in the *Macquarie University Act 1989* and the *Southern Cross University Act 1993* relating to the making of rules with provisions (parallel to those contained in the other Universities' Acts) that make it clear that the by-laws may authorise the making of rules with respect to matters for which by-laws may be made (except with respect to matters such as the constitution of, and the election of members to, the University's governing body, the offices of Chancellor and Deputy Chancellor, and the making, publication and inspection of rules), and
- (b) repeals the *University Legislation (Amendment) Act 1994* and the *Statute Law (Miscellaneous Provisions) Act (No 2) 1999*, and
- (c) makes a number of ancillary and consequential amendments to the Universities' Acts.

The amended Acts are as follows:

Charles Sturt University Act 1989 No 76

Macquarie University Act 1989 No 126

Southern Cross University Act 1993 No 69

University of New England Act 1993 No 68

University of New South Wales Act 1989 No 125

University of Newcastle Act 1989 No 68

University of Sydney Act 1989 No 124

University of Technology, Sydney, Act 1989 No 69

University of Western Sydney Act 1997 No 116

University of Wollongong Act 1989 No 127

# Outline of provisions

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 the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the Acts amended by Schedules 1–10.

Clause 4 repeals the *Statute Law (Miscellaneous Provisions) Act (No 2) 1999* (the only unspent provisions of which amend the *Macquarie University Act 1989* in relation to the constitution of its governing body).

Clause 5 repeals the *University Legislation (Amendment) Act 1994* (the only unspent provisions of which will become redundant as a result of the proposed amendments described in the Overview to the *Macquarie University Act 1989* and the *Southern Cross University Act 1993* that replace the provisions in those Acts relating to the making of rules).

Explanatory note page 3

**Schedule 1** makes the amendments described in the Overview to the *Charles Sturt University Act 1989*.

**Schedule 2** makes the amendments described in the Overview to the *Macquarie University Act 1989*.

**Schedule 3** makes the amendments described in the Overview to the *Southern Cross University Act 1993*.

**Schedule 4** makes the amendments described in the Overview to the *University of New England Act 1993*.

**Schedule 5** makes the amendments described in the Overview to the *University of New South Wales Act 1989*.

**Schedule 6** makes the amendments described in the Overview to the *University of Newcastle Act 1989*.

**Schedule 7** makes the amendments described in the Overview to the *University of Sydney Act 1989*.

**Schedule 8** makes the amendments described in the Overview to the *University of Technology, Sydney, Act 1989*.

**Schedule 9** makes the amendments described in the Overview to the *University of Western Sydney Act 1997*.

**Schedule 10** makes the amendments described in the Overview to the *University of Wollongong Act 1989*.



New South Wales

# **University Legislation Amendment Bill 2004**

# **Contents**

		Page
1	Name of Act	2
2	Commencement	2
3	Amendment of Acts	2
4	Repeal of Statute Law (Miscellaneous Provisions) Act (No 2) 1999 No 85	2
5	Repeal of University Legislation (Amendment) Act 1994 No 16	2
Schedule 1	Amendment of Charles Sturt University Act 1989 No 76	3
Schedule 2	Amendment of Macquarie University Act 1989 No 126	16
Schedule 3	Amendment of Southern Cross University Act 1993 No 69	30
Schedule 4	Amendment of University of New England Act 1993 No 68	44
Schedule 5	Amendment of University of New South Wales Act 1989	
	No 125	58
Schedule 6	Amendment of University of Newcastle Act 1989 No 68	71
Schedule 7	Amendment of University of Sydney Act 1989 No 124	85
Schedule 8	Amendment of University of Technology, Sydney, Act 1989 No 69	98

b04-034-43.p02

### University Legislation Amendment Bill 2004

#### Contents

			Page
	Schedule 9	Amendment of University of Western Sydney Act 1997	
		No 116	112
5	Schedule 10	Amendment of University of Wollongong Act 1989 No 127	126



New South Wales

# **University Legislation Amendment Bill 2004**

No , 2004

#### A Bill for

An Act to amend certain Universities' Acts to enable the Universities to meet the requirements of the National Governance Protocols for higher education providers of the Commonwealth; and for other purposes.

Γhe	Legislature of New South Wales enacts:	1
1	Name of Act	2
	This Act is the University Legislation Amendment Act 2004.	3
2	Commencement	4
	This Act commences on the date of assent.	5
3	Amendment of Acts	6
	Each Act specified in Schedules 1–10 is amended as set out in those Schedules.	7 8
4	Repeal of Statute Law (Miscellaneous Provisions) Act (No 2) 1999 No 85	9
	The Statute Law (Miscellaneous Provisions) Act (No 2) 1999 is repealed.	10 11
5	Repeal of University Legislation (Amendment) Act 1994 No 16	12
	The University Legislation (Amendment) Act 1994 is repealed	13

Scł	chedule 1		chedule 1 Amendment of Charles Sturt University Act 1989 No 76			1 2
					(Section 3)	3
[1]	Sect	ion 3	Defini	tions		4
	Inser	t after	sectio	n 3 (3)	:	5
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Sect	ions 8	A and	I 9		7
	Omi	t section	on 9. Iı	nsert in	istead:	8
	8 <b>A</b>	The	Coun	cil		g
		(1)			be a Council of the University.	10
		(2)			il is the governing authority of the University and has	11
		(-)	the f		ns conferred or imposed on it by or under this Act or	12 13
	9	Constitution of Council			Council	14
		(1)	The	Counc	il is to consist of:	15
			(a)	3 off	ficial members, being:	16
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	17 18
				(ii)	the Vice-Chancellor, and	19
				(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the	20 21 22 23
					presiding member is the Vice-Chancellor), and	24
			(b)	6 ext	ternal persons appointed by the Minister, and	25
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	26 27
			(d)	2 per	rsons:	28
				(i)	who are members of the academic staff of the University, and	29 30
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	31 32

(iii)

			the University in the manner prescribed by the by-laws, and	2
	(e)	one p	person:	4
		(i)	who is a member of the general staff of the University, and	5 6
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8
		(iii)	who is elected by members of the general staff of the University in the manner prescribed by the by-laws, and	9 10 11
	(f)	2 per	sons:	12
		(i)	who are students of the University but who are not members of the academic or general staff of the University, and	13 14 15
		(ii)	who have such qualifications as may be prescribed by the by-laws, and	16 17
		(iii)	who are elected by students of the University in the manner prescribed by the by-laws, and	18 19
	(g)		or more external persons (being such number as is cribed by the by-laws):	20 21
		(i)	who are graduates of the University, and	22
		(ii)	who have such qualifications as are prescribed by the by-laws, and	23 24
		(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	25 26 27
(2)	purp num	oses of ber of	rs may not prescribe a number of members for the f subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the uld exceed 22.	28 29 30 31
(3)			appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	32 33
(4)	Parli	ament o	er may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only is nominated by the Council for appointment.	34 35 36
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	37 38

who are elected by members of the academic staff of

	(5)	Of th	e members of the Council:	1
		(a)	at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	2 3 4 5
		(b)	at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8
	(6)	expendand a	ppointed members of the Council must have expertise and rience relevant to the functions exercisable by the Council in appreciation of the object, values, functions and activities to University.	9 10 11 12
	(7)	The perso	majority of members of the Council must be external ons.	13 14
	(8)		by-laws are to prescribe the procedures for the nomination of ons for appointment as members of the Council.	15 16
	(9)		dule 1 has effect in relation to the members and procedure of council.	17 18
	(10)	perso the U	ference in this section to external persons is a reference to ons who are not members of the academic or general staff of University or undergraduate or postgraduate students of the ersity.	19 20 21 22
[3]	Section 19	Funct	tions of Council	23
	Insert after	section	n 19 (1A):	24
	(1B)	(1A)	out limiting the functions of the Council under subsection, the Council is, in controlling and managing the affairs and erns of the University:	25 26 27
		(a)	to monitor the performance of the Vice-Chancellor, and	28
		(b)	to oversee the University's performance, and	29
		(c)	to oversee the academic activities of the University, and	30
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 19A), and	1 2 3
	(g)	to approve significant University commercial activities (within the meaning of section 24A), and	4 5
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 19, note		20
	Insert at the end of	f the section:	21
	makin Cound risk m	The Annual Reports (Statutory Bodies) Act 1984 regulates the g of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to anagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
[5]	Section 19A Con	trolled entities	27
	Omit "This section	n does not itself confer" from section 19A (4).	28
	Insert instead "No	thing in the preceding subsections confers".	29
[6]	Section 19A (5)		30
	Omit "This section	n does not affect".	31
	Insert instead "No	thing in the preceding subsections affects".	32

[7]	Sect	ion 19	A (5A	.)		1
	Inser	t after	sectio	n 19A	(5):	2
		(5A)	The	Counci	il is, as far as is reasonably practicable, to ensure:	3
			(a)	that t	he governing bodies of controlled entities:	4
				(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	5
				(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	7 8 9
				(iii)	adopt and evaluate their own governance principles, and	10 11
				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
			(b)		a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	15 16
[8]	Part	4A				17
	Inser	t after	Part 4	:		18
	Part 4A Duties of Council members				19	
	24F	Dutie	es of (	Counci	Il members	20
			The	membe	ers of the Council have the duties set out in Schedule 3.	21
	24G	Rem	oval f	rom of	fice for breach of duty	22
		(1)			il may remove a member of the Council from office of a duty set out in Schedule 3.	23 24
		(2)	Cou	ncil of	al from office may be effected only at a meeting of the which notice (including notice of the motion that the neerned be removed from office for breach of duty) ven.	25 26 27 28
		(3)	remo	oval is s	al from office may be effected only if the motion for supported by at least a two-thirds majority of the total members for the time being of the Council.	29 30 31
		(4)	unle oppo	ss the	for removal must not be put to the vote of the meeting member concerned has been given a reasonable to reply to the motion at the meeting, either orally or	32 33 34 35

	(5)	atten moti	e member to whom the motion for removal refers does not do the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has duly given.	1 2 3 4
	(6)	A me Cour	ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	5 6
[9]	Section 31	By-la	ws	7
	Omit "(oth	er than	the parliamentary members)" from section 31 (1) (b).	8
[10]	Section 32	Rules	<b>S</b>	9
			2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) and m section 32 (1).	10 11
	Insert inste 31 (1) (b) a	ad "9 ( and (k)	(1) (c)–(g) and (8), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and and clauses 1 (1) (c) and (d)".	12 13
[11]	Schedule '	1 Provi	isions relating to members and procedure of the Council	14
	Omit claus	es 1 an	nd 2. Insert instead:	15
	1 Tern	n of of	fice	16
	(1)	Subj follo	ect to this Act, a member of the Council holds office as ws:	17 18
		(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
		(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	21 22 23
		(c)	in the case of an elected member referred to in section 9 (1) (d), (e) or (f), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	24 25 26
		(d)	in the case of a member referred to in section 9 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	27 28 29 30 31
	(2)		need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	32 33
		(a)	by the Council, when making the by-laws required under this clause, and	34 35
		(b)	by the Minister and the Council, when appointing members to the Council.	36 37

(3)	A person must not be appointed or elected to serve more than 12 consecutive years of office (unless the Council otherwise resolves in relation to the person).						
Vaca	tion o	of office	4				
		The office of a member of the Council becomes vacant if the member:  (a) dies, or					
	(a)						
	(b)	declines to act, or	8				
	(c)	resigns the office by writing under his or her hand addressed:	9 10				
		(i) in the case of a member appointed by the Minister, to the Minister, or	11 12				
		(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14				
		(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16				
	(d)	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	17 18 19 20				
	(e)	becomes a mentally incapacitated person, or	21				
	(f)	is convicted in New South Wales of an offence that is punishable by 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	22 23 24 25 26				
	(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29				
	(h)	is removed from office by the Council pursuant to section 24G, or	30 31				
	(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	32 33 34 35 36				
	(j)	in the case of an elected member, or a member appointed under section 9 (1) (g), ceases to be qualified for election or appointment, or	37 38 39				

		(K)	removed from office by the Minister, or	2
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	3 4
[12]	Sche	edule 1, clau	ıse 3 (2)	5
	Omi	t "(otherwise	than to fill the office of a parliamentary member)".	6
[13]	Sche	edule 3		7
	Inser	t after Sched	ule 2:	8
	Sch	nedule 3	<b>Duties of Council members</b>	9
			(Section 24F)	10
	1	Duty to act	t in best interests of University	11
		A me	ember of the Council must carry out his or her functions:	12
		(a)	in good faith in the best interests of the University as a whole, and	13 14
		(b)	for a proper purpose.	15
	2	Duty to ex	ercise care and diligence	16
		reasc	nember of the Council must act honestly and exercise a bnable degree of care and diligence in carrying out his or her tions.	17 18 19
	3	Duty not to	o improperly use position	20
			ember of the Council must not make improper use of his or position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	4	Duty not to	o improperly use information	26
			nember of the Council must not make improper use of rmation acquired because of his or her position:	27 28
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	29 30

to cause detriment to the University.

(b)

5	Disc	losure	e of material interests by Council members	1
	(1)	If:		2
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	3 4 5
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8
		come	nember must, as soon as possible after the relevant facts have e to the member's knowledge, disclose the nature of the est at a meeting of the Council.	9 10 11
	(2)		sclosure by a member of the Council at a meeting of the neil that the member:	12 13
		(a)	is a member, or is in the employment, of a specified company or other body, or	14 15
		(b)	is a partner, or is in the employment, of a specified person, or	16 17
		(c)	has some other specified interest relating to a specified company or other body or to a specified person,	18 19
		relati may	sufficient disclosure of the nature of the interest in any matter ing to that company or other body or to that person which arise after the date of the disclosure and which is required to isclosed under subclause (1).	20 21 22 23
	(3)	recor book	culars of any disclosure made under this clause must be rded by the Council in a book kept for the purpose and that a must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the neil.	24 25 26 27 28
	(4)	inter	r a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council rwise determines:	29 30 31
		(a)	be present during any deliberation of the Council with respect to the matter, or	32 33
		(b)	take part in any decision of the Council with respect to the matter.	34 35
	(5)	unde	the purpose of the making of a determination by the Council or subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	36 37 38

be present during any deliberation of the Council for the purpose of making the determination, or

		(b) take part in the making by the Council of the determination.	1 2					
	(6)	A contravention of this clause does not invalidate any decision of the Council.						
	(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Council pursuant to section 24G.	5 6 7 8					
	(8)	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.	9 10 11					
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.	12 13 14 15					
	(10)	In this clause:	16					
		associate of a member means any of the following:	17					
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	18 19					
		(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	20 21 22					
		(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	23 24 25					
[14]	Schedule 4	Savings and transitional provisions	26					
	Insert at the	e end of clause 1 (1):	27					
		University Legislation Amendment Act 2004	28					

[15]	Schedule 4, Part 6 Insert after Part 5:					
	Par	t 6	Provisions consequent on enactment of University Legislation Amendment Act 2004			
	41	Defi	nitions	6		
			In this Part: amending Act means the University Legislation Amendment Act 2004.	<del>7</del> 8 9		
			<b>former section 9</b> means section 9 as in force immediately before its substitution by the amending Act.	10 11		
			<b>new section 9</b> means section 9 as substituted by the amending Act.	12 13		
			relevant day means the date of assent to the amending Act.	14		
	42	Gen	eral			
			The provisions of this Part are subject to any regulations made under clause 1.	16 17		
	43	Con	stitution of Council	18		
		(1)	Subject to this Act, on the relevant day:	19		
			(a) a person holding office under former section 9 (3) ceases to hold that office, and	20 21		
			(b) a person holding office under former section 9 (5) (a) or (b) or (7) is taken to be appointed as a member under new section 9 (1) (b), (g) or (c), respectively, for the balance of the person's term of office, and	22 23 24 25		
			(c) a person holding office under former section 9 (6) (a), (b) or (c) is taken to be elected as a member under new section 9 (1) (d), (e) or (f), respectively, for the balance of the person's term of office.	26 27 28		
		(2)	On, or as soon as is reasonably practicable after, the relevant day, the Minister must appoint the balance of the members required to be appointed under new section 9 (1) (b).	30 37 32		
		(3)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	33 34 35 36		

(4)	(3), t	the purposes of making the by-laws referred to in subclause the Council must be constituted so as to include all of the bers required to be appointed under new section 9 (1) (b).	1 2 3		
(5)	The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 9.				
(6)	A cas Coun follow	tual vacancy occurring in the office of a member before the cil is duly constituted under new section 9 is to be filled as ws:	6 7 8		
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	9 10 11		
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14		
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	15 16 17		
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22		
	(e)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26		
(7)	holds subcl	office from the time that person is appointed under that ause until the expiry of the term of that member's reessor.	27 28 29 30		
(8)	Subje	ect to this Act, if, on the expiry:	31		
	(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	32 33		
	(b)	in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,	34 35		
	electe not ye	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	36 37 38 39		

	(9)	For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.				
	(10)	A person who ceases to hold office under subclause (1) (a):	6			
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8			
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10			
44	Max	mum incumbency for Council members	11			
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	12 13 14			
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 43 (1) (b) or (c) or (8) of this Schedule.	15 16			
45	Арр	ication of section 24G	17			
		Section 24G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	18 19 20			
46	Con	tinuation of Council	21			
		No amendment made by the amending Act affects the continuity of the Council.	22 23			

Schedule 2			Amendment of Macquarie University Act 1989 No 126		
				(Section 3)	3
[1]	Section 3	Defini	tions		4
	Insert after	r sectio	on 3 (3)	:	5
	(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Section 9				7
	Omit the s	ection.	Insert	instead:	8
	9 Cor	stituti	on of (	Council	9
	(1)	The	Counc	il is to consist of:	10
		(a)	3 off	ficial members, being:	11
		. ,	(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
			(ii)	the Vice-Chancellor, and	14
			(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
		(b)	6 ext	ternal persons appointed by the Minister, and	20
		(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	21 22
		(d)	3 per	rsons:	23
			(i)	who are members of the academic staff of the University, and	24 25
			(ii)	who have such qualifications as may be prescribed by the by-laws, and	26 27
			(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	28 29 30
		(e)	one j	person:	31
			(i)	who is a member of the non-academic staff of the University, and	32 33
			(ii)	who has such qualifications as may be prescribed by the by-laws, and	34 35

	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
	(f) one j	person:	4
	(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	5 6 7
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	8 9
	(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	10 11
		or more external persons (being such number as is cribed by the by-laws):	12 13
	(i)	who are graduates of the University, and	14
	(ii)	who have such qualifications as are prescribed by the by-laws, and	15 16
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	17 18 19
(2)	purposes o number of	vs may not prescribe a number of members for the of subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the ould exceed 22.	20 21 22 23
(3)		appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	24 25
(4)	Parliament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only in is nominated by the Council for appointment.	26 27 28
		nan 2 such persons may hold office at any one time as members under subsection (1) (b).	29 30
(5)	Of the men	nbers of the Council:	31
.,	by re mana	ast 2 must have financial expertise (as demonstrated elevant qualifications and by experience in financial agement at a senior level in the public or private or), and	32 33 34 35
	demo	east one must have commercial expertise (as onstrated by relevant experience at a senior level in the ic or private sector).	36 37 38

	(6)	experand a	appointed members of the Council must have expertise and rience relevant to the functions exercisable by the Council an appreciation of the object, values, functions and activities e University.	2 3 2
	(7)	The perso	majority of members of the Council must be external ons.	5
	(8)		by-laws are to prescribe the procedures for the nomination of ons for appointment as members of the Council.	<del>,</del> 8
	(9)		dule 1 has effect in relation to the members and procedure of Council.	10
	(10)	perso staff	ference in this section to external persons is a reference to ons who are not members of the academic or non-academic of the University or undergraduate or postgraduate students e University.	11 12 13 14
[3]	Section 16	Funct	tions of Council	15
	Insert after	section	n 16 (1A):	16
	(1B)	(1A)	out limiting the functions of the Council under subsection, the Council is, in controlling and managing the affairs and erns of the University:	17 18 19
		(a)	to monitor the performance of the Vice-Chancellor, and	20
		(b)	to oversee the University's performance, and	21
		(c)	to oversee the academic activities of the University, and	22
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	23 24
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	25 26 27 28 29 30
		(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	31 32 33
		(g)	to approve significant University commercial activities (within the meaning of section 21A), and	34 35
		(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	36 37 38

	inform confer	ure that the University's grievance procedures, and nation concerning any rights of appeal or review red by or under any Act, are published in a form that lily accessible to the public, and	1 2 3 4
	function	ularly review its own performance (in light of its ons and obligations imposed by or under this or any Act), and	5 6 7
	(k) to ado	pt a statement of its primary responsibilities, and	8
	of ind	ke available for members of the Council a program uction and of development relevant to their role as member.	9 10 11
[4]	Section 16, note		12
	Insert at the end of the sec	ction:	13
	making of anr Council to rep	nnual Reports (Statutory Bodies) Act 1984 regulates the hual reports to Parliament by the Council and requires the port on the University's operations (including in relation to lent and insurance arrangements) and a range of financial ters.	14 15 16 17 18
[5]	Section 16A Controlled	entities	19
	Omit "This section does n	not itself confer" from section 16A (4).	20
	Insert instead "Nothing in	the preceding subsections confers".	21
[6]	Section 16A (5)		22
	Omit "This section does n	not affect".	23
	Insert instead "Nothing in	the preceding subsections affects".	24
[7]	Section 16A (5A)		25
	Insert after section 16A (:	5):	26
	(5A) The Council	is, as far as is reasonably practicable, to ensure:	27
	(a) that th	e governing bodies of controlled entities:	28
		possess the expertise and experience necessary to provide proper stewardship and control, and	29 30
	(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	31 32 33
	(iii)	adopt and evaluate their own governance principles,	34 35

			<ul> <li>(iv) document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and</li> </ul>	1 2 3
			(b) that a protocol is established regarding reporting by governing bodies of controlled entities to the Council.	4 5
[8]	Part	4A		6
	Inser	t after	Part 4:	7
	Par	t 4A	<b>Duties of Council members</b>	8
	21F	Dutie	s of Council members	9
			The members of the Council have the duties set out in Schedule 2A.	10 11
	21G	Remo	oval from office for breach of duty	12
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	13 14
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	15 16 17 18
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	19 20 21
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	22 23 24 25
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	26 27 28 29
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	30 31
[9]	Sect	ion 28	By-laws	32
	Omit	t "(othe	r than the parliamentary members)" from section 28 (1) (b).	33

[10]	Section 28 (1) (y)							
	Omit "and" where secondly occurring.							
[11]	Sect	ion 28	(1) (a	а)	3			
	Inser	t at the	end o	of section 28 (1) (z):	4			
				, and	5			
			(aa)	the making, publication and inspection of rules.	6			
[12]	Sect	ion 29			7			
	Omit	the se	ction.	Insert instead:	8			
	29	Rule	s		9			
		(1)	or of this matter the n (2), 1	by-laws may empower any authority (including the Council) ficer of the University to make rules (not inconsistent with Act or the by-laws) for or with respect to any or all of the ers for or with respect to which by-laws may be made, except natters referred to in sections 3 (2), 9 (1) (c)–(g) and (8), 10 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses (c) and (d) and 3 of Schedule 1.	10 11 12 13 14 15			
		(2)	A ru	le:	17			
			(a)	has the same force and effect as a by-law, and	18			
			(b)	may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule, and	19 20 21 22			
			(c)	takes effect on the day on which it is published or on such later day as may be specified in the rule, and	23 24			
			(d)	must indicate the authority or officer who made the rule and that it is made under this section.	25 26			
		(3)		e event of an inconsistency between a by-law and a rule, the aw prevails to the extent of the inconsistency.	27 28			
		(4)	matte does	fact that a provision of this Act specifically provides for a er to be the subject of by-laws (without mention of rules) not prevent the matter from being the subject of rules made cordance with this section.	29 30 31 32			

[13]	Sche	edule '	1 Provi	isions	relating to members and procedure of the Council	1	
	Omit	claus	es 1 an	d 2. In	sert instead:	2	
	1	Term of office					
		(1)		Subject to this Act, a member of the Council holds office as follows:			
			(a)		e case of an official member, while the member holds ffice by virtue of which he or she is a member,	6 7	
			(b)	or (c	e case of a member appointed under section 9 (1) (b), for such term (not exceeding 4 years) as may be fied in the member's instrument of appointment,	8 9 10	
			(c)	(d), (	e case of an elected member referred to in section 9 (1) e) or (f), for such term (not exceeding 3 years) as may escribed by the by-laws,	11 12 13	
			(d)	such the b in the	e case of a member referred to in section 9 (1) (g), for term (not exceeding 4 years) as may be prescribed by y-laws (in the case of an elected member) or specified e member's instrument of appointment (in the case of pointed member).	14 15 16 17 18	
		(2)			o maintain an appropriate balance of experienced and ers on the Council must be taken into account:	19 20	
			(a)		e Council, when making the by-laws required under clause, and	21 22	
			(b)		he Minister and the Council, when appointing bers to the Council.	23 24	
		(3)	cons	ecutive	ust not be appointed or elected to serve more than 12 e years of office (unless the Council otherwise relation to the person).	25 26 27	
	2	Vaca	ation o	f offic	e	28	
			The mem		of a member of the Council becomes vacant if the	29 30	
			(a)	dies,	or	31	
			(b)	decli	nes to act, or	32	
			(c)		ns the office by writing under his or her hand essed:	33 34	
				(i)	in the case of a member appointed by the Minister, to the Minister, or	35 36	
				(ii)	in the case of a member appointed by the Council, to the Chancellor, or	37 38	

[14]

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law	3
	for the relief of bankrupt or insolvent debtors, compounds	4
	with his or her creditors or makes any assignment of his or	5
	her estate for their benefit, or	6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is	8
	punishable by imprisonment for 12 months or more or is	9
	convicted elsewhere than in New South Wales of an	10
	offence that, if committed in New South Wales, would be	11
	an offence so punishable, or	12
(g)	is, or becomes, disqualified from managing a corporation	13
	under Part 2D.6 of the Corporations Act 2001 of the	14
	Commonwealth, or	15
(h)	is removed from office by the Council pursuant to section	16
( )	21G, or	17
(i)	is absent from 3 consecutive meetings of the Council of	18
	which reasonable notice has been given to the member	19
	personally or in the ordinary course of post and is not,	20
	within 6 weeks after the last of those meetings, excused by	21
	the Council for his or her absence, or	22
(j)	in the case of an elected member, or a member appointed	23
0/	under section 9 (1) (g), ceases to be qualified for election	24
	or appointment, or	25
(k)	in the case of a member appointed by the Minister, is	26
( )	removed from office by the Minister, or	27
(1)	in the case of a member appointed by the Council, is	28
( )	removed from office by the Council.	29
Schedule 1, clau	se 3 (2)	30
Omit "(otherwise	than to fill the office of a parliamentary member)".	31

[15]	Schedule 2A Insert after Schedule 2:			1		
	Schedule 2A Duties of Council members					
			(Section 21F)	4		
	1	Duty to ac	t in best interests of University	5		
		A m	ember of the Council must carry out his or her functions:	6		
		(a)	in good faith in the best interests of the University as a whole, and	7 8		
		(b)	for a proper purpose.	9		
	2	Duty to ex	ercise care and diligence	10		
		reaso	nember of the Council must act honestly and exercise a onable degree of care and diligence in carrying out his or her tions.	11 12 13		
	3	Duty not to	o improperly use position	14		
			ember of the Council must not make improper use of his or position:	15 16		
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18		
		(b)	to cause detriment to the University.	19		
	4	Duty not to	o improperly use information	20		
			nember of the Council must not make improper use of rmation acquired because of his or her position:	21 22		
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24		
		(b)	to cause detriment to the University.	25		
	5	Disclosure	e of material interests by Council members	26		
		(1) If:		27		
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30		

(2)

(3)

(4)

(5)

(6)

(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	1 2 3
come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	4 5 6
	sclosure by a member of the Council at a meeting of the acil that the member:	7 8
(a)	is a member, or is in the employment, of a specified company or other body, or	9 10
(b)	is a partner, or is in the employment, of a specified person, or	11 12
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	13 14
is a s relati may be di	15 16 17 18	
recor book	culars of any disclosure made under this clause must be reded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the neil.	19 20 21 22 23
inter	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	24 25 26
(a)	be present during any deliberation of the Council with respect to the matter, or	27 28
(b)	take part in any decision of the Council with respect to the matter.	29 30
unde	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	31 32 33
(a)	be present during any deliberation of the Council for the purpose of making the determination, or	34 35
(b)	take part in the making by the Council of the determination.	36 37

A contravention of this clause does not invalidate any decision of the Council.

38

		(7)	cons	ideration or discussion of, or from voting on any question ing to, the person's removal from office by the Council uant to section 21G.	3
		(8)	and t	clause applies to a member of a committee of the Council the committee in the same way as it applies to a member of Council and the Council.	<u> </u>
		(9)	in a resul	the purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may it in a detriment being suffered by or a benefit accruing to the aber or an associate of the member.	8 9 10 11
		(10)	In th	is clause:	12
			asso	ciate of a member means any of the following:	13
			(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15
			(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18
			(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[16]	Sche	edule 3	Savii	ngs and transitional provisions	22
	Insert before clause 1:				
	1A	Savi	ngs or	r transitional regulations	24
		(1)	savir	Governor may make regulations containing provisions of a ngs or transitional nature consequent on the enactment of the wing Acts:	25 26 27
			Univ	versity Legislation Amendment Act 2004	28
		(2)		such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	29 30
		(3)	that i	ne extent to which any such provision takes effect from a date is earlier than the date of its publication in the Gazette, the ision does not operate so as:	31 32 33
			(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	34 35 36

			(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.	1 2 3		
[17]	Sche	dule :	3, clau	use 12	4		
	Insert after clause 11:						
	12	Provisions consequent on enactment of University Legislation Amendment Act 2004					
		(1)	In this clause:				
			amending Act means the University Legislation Amendment Act 2004.				
				ner section 9 means section 9 as in force immediately before ubstitution by the amending Act.	11 12		
			<i>new</i> Act.	section 9 means section 9 as substituted by the amending	13 14		
			relev	vant day means the date of assent to the amending Act.	15		
		(2)	Subject to this Act, on the relevant day:				
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	17 18		
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	19 20 21 22		
			(c)	a person holding office under former section 9 (5) (a), (b), (c) or (d) is taken to be elected as a member under new section 9 (1) (d), (e), (f) or (g), respectively, for the balance of the person's term of office.	23 24 25 26		
		(3)	the N	or as soon as is reasonably practicable after, the relevant day, Minister must appoint the balance of the members required to ppointed under new section 9 (1) (b).	27 28 29		
		(4)	nece duly	Council is to make all necessary by-laws and take all essary steps to ensure, as far as possible, that the Council is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	30 31 32 33		
		(5)	(4),	the purposes of making the by-laws referred to in subclause the Council must be constituted so as to include all of the abers required to be appointed under new section 9 (1) (b).	34 35 36		
		(6)		Council is taken to be properly constituted until such time as constituted in accordance with new section 9.	37 38		

(7)	A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:						
	(a)	(a) if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,					
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	7 8 9				
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	10 11 12				
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	13 14 15 16 17				
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	18 19 20 21				
(8)	hold: subc	ect to this Act, a member appointed under subclause (7) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	22 23 24 25				
(9)	Subj	ect to this Act, if, on the expiry:	26				
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	27 28				
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	29 30				
	the by-laws necessary to enable a person to be duly appointed or elected (as the case may be) to that office under new section 9 are not yet in force, the member may continue to hold that office until such time as a person is so duly appointed or elected.						
(10)	A pe	erson who ceases to hold office under subclause (2) (a):	35				
	(a)	is not entitled to any remuneration or compensation because of loss of that office, and	36 37				
	(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	38 39				

(11)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(12)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	6 7 8
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	9 10
(14)	Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	11 12 13
(15)	Any by-law in force immediately before the relevant day is taken to have been validly made under this Act (as amended by the amending Act) but only to the extent to which it could validly have been made immediately after that day.	14 15 16 17
(16)	Any rule in force immediately before the relevant day that could validly have been made immediately before that day is taken to have been validly made under this Act as amended by the amending Act.	18 19 20 21
(17)	On and after 1 September 2005, subclause (16) does not validate any rule in force immediately before the relevant day that could not have been validly made after the relevant day.	22 23 24
(18)	No amendment made by the amending Act affects the continuity of the Council.	25 26
(19)	The provisions of this clause are subject to any regulations made under clause 1A.	27 28

Schedule 3			Amendment of Southern Cross University Act 1993 No 69				
					(Section 3)	3	
[1]	Sect	ion 3 l	Defini	tions		4	
	Inser	t after	sectio	n 3 (3)	:	5	
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6	
[2]	Sect	ion 10	)			7	
	Omit the section. Insert instead:						
	10	Cons	stituti	on of (	Council	9	
		(1)	The	Counc	il is to consist of:	10	
		. ,	(a)	3 off	icial members, being:	11	
			. ,	(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13	
				(ii)	the Vice-Chancellor, and	14	
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19	
			(b)	pract	ternal persons appointed by the Minister with, as far as ticable, at least one person appointed from each of the wing categories:	20 21 22	
				(i)	persons experienced in the field of education or the arts,	23 24	
				(ii)	persons experienced in technology, industry, commerce or industrial relations,	25 26	
				(iii)	persons who are practising, or have practised, a profession,	27 28	
				(iv)	persons associated with the north coast region of the State, and	29 30	
					or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	31 32	
			(d)	2 per	rsons:	33	
				(i)	who are members of the academic staff of the University, and	34 35	

		(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
		(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
	(e)	one p	person:	6
		(i)	who is a member of the non-academic staff of the University, and	7 8
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
	(f)	one p	person:	14
		(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
		(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	20 21
	(g)		or more external persons (being such number as is cribed by the by-laws):	22 23
		(i)	who are graduates of the University, and	24
		(ii)	who have such qualifications as are prescribed by the by-laws, and	25 26
		(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	27 28 29
(2)	purp num	oses o ber of	of subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the ould exceed 22.	30 31 32 33
(3)	A paddi	erson a	appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	34 35
(4)	Parli	iament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	36 37 38
			an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	39 40

	(5)	Of th	ne members of the Council:	1
		(a)	at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	2 3 4 5
		(b)	at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8
	(6)	expe and a	appointed members of the Council must have expertise and prience relevant to the functions exercisable by the Council an appreciation of the object, values, functions and activities e University.	9 10 11 12
	(7)	The perso	majority of members of the Council must be external ons.	13 14
	(8)		by-laws are to prescribe the procedures for the nomination of ons for appointment as members of the Council.	15 16
	(9)		edule 1 has effect in relation to the members and procedure of Council.	17 18
	(10)	perso staff	ference in this section to external persons is a reference to ons who are not members of the academic or non-academic of the University or undergraduate or postgraduate students e University.	19 20 21 22
[3]	Section 16	Func	tions of Council	23
	Insert after	section	n 16 (1A):	24
	(1B)	(1A)	nout limiting the functions of the Council under subsection is, the Council is, in controlling and managing the affairs and the university:	25 26 27
		(a)	to monitor the performance of the Vice-Chancellor, and	28
		(b)	to oversee the University's performance, and	29
		(c)	to oversee the academic activities of the University, and	30
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38

	(f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	2
	(g) to approve significant University commercial activities (within the meaning of section 21A), and	
	(h) to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i) to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	10 11 12
	(j) to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k) to adopt a statement of its primary responsibilities, and	16
	(l) to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 16, note	20
	Insert at the end of the section:	2
	<b>Note.</b> The <i>Annual Reports (Statutory Bodies) Act 1984</i> regulates the making of annual reports to Parliament by the Council and requires the Council to report on the University's operations (including in relation to risk management and insurance arrangements) and a range of financial and other matters.	22 23 24 25 26
[5]	Section 16A Controlled entities	27
	Omit "This section does not itself confer" from section 16A (4).	28
	Insert instead "Nothing in the preceding subsections confers".	29
[6]	Section 16A (5)	30
	Omit "This section does not affect".	31
	Insert instead "Nothing in the preceding subsections affects".	32
[7]	Section 16A (5A)	33
	Insert after section 16A (5):	34
	(5A) The Council is, as far as is reasonably practicable, to ensure:	35
	(a) that the governing bodies of controlled entities:	36

				<ul> <li>possess the expertise and experience r provide proper stewardship and control.</li> </ul>		1
			(	i) comprise, where possible, at least som		3
				who are not members of the Council or staff, or students, of the University, and		4 5
			(	i) adopt and evaluate their own governance	e principles.	6
			(	and	, F,	7
			(	<ul> <li>document, and keep updated, a conduction business strategy containing achie</li> </ul>	orporate or vable and	8
				measurable performance targets, and		10
				at a protocol is established regarding re overning bodies of controlled entities to the C	porting by	11 12
[8]	Part	4A			1	13
	Inser	t after	Part 4:		1	14
	Par	t 4A	Dutie	s of Council members	1	15
	21F	Dutie	s of Co	ncil members	1	16
			The mo	mbers of the Council have the duties set out	iii belieuule	17 18
	21G	Rem	oval fro	office for breach of duty	1	19
		(1)		incil may remove a member of the Council ch of a duty set out in Schedule 2A.	HOIH OTHEC	20 21
		(2)	Counci	oval from office may be effected only at a moof which notice (including notice of the moor concerned be removed from office for bread given.	tion that the 2 uch of duty) 2	22 23 24 25
		(3)	remova	oval from office may be effected only if the is supported by at least a two-thirds majority of members for the time being of the Council	of the total	26 27 28
		(4)	unless	ion for removal must not be put to the vote of he member concerned has been given a nity to reply to the motion at the meeting, eith g.	reasonable are orally or	29 30 31 32
		(5)	attend motion	ember to whom the motion for removal reference meeting, a reasonable opportunity to restaken to have been given if notice of the region.	eply to the meeting has	33 34 35 36

		(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	1 2
[9]	Sect	ion 29	By-la	ws	3
	Omi	t "(oth	er than	the parliamentary members)" from section 29 (1) (b).	4
[10]	Sect	ion 29	(1) (a	a)	5
	Inser	t after	section	n 29 (1) (z):	6
			(aa)	the making, publication and inspection of rules.	7
[11]	Sect	ion 30			8
	Omi	t the se	ection.	Insert instead:	9
	30	Rule	s		10
		(1)	or of this a matter the n (2), 1	by-laws may empower any authority (including the Council) ficer of the University to make rules (not inconsistent with Act or the by-laws) for or with respect to any or all of the ers for or with respect to which by-laws may be made, except natters referred to in sections 3 (2), 10 (1) (c)–(g) and (8), 11 (16 (1) (d) and (e), 24 and 29 (1) (b) and (k) and clauses 1 (1) and (d) and 3 of Schedule 1.	11 12 13 14 15 16
		(2)	A rul	le:	18
			(a)	has the same force and effect as a by-law, and	19
			(b)	may, from time to time, be amended or repealed by the Council (whether or not the Council is empowered to make such a rule), or by the authority or officer of the University for the time being empowered to make such a rule, and	20 21 22 23
			(c)	takes effect on the day on which it is published or on such later day as may be specified in the rule, and	24 25
			(d)	must indicate the authority or officer who made the rule and that it is made under this section.	26 27
		(3)		e event of an inconsistency between a by-law and a rule, the aw prevails to the extent of the inconsistency.	28 29
		(4)	matte does	fact that a provision of this Act specifically provides for a er to be the subject of by-laws (without mention of rules) not prevent the matter from being the subject of rules made cordance with this section.	30 31 32 33

Sch	edule '	1 Provi	sions r	elating to members and procedure of the Council	
Om	it claus	es 1 an	d 2. Inse	ert instead:	2
1	Tern	n of of	fice		3
	(1)	Subj follo		his Act, a member of the Council holds office as	5
		(a)	in the	case of an official member, while the member holds fice by virtue of which he or she is a member,	<del>-</del>
		(b)	or (c),	case of a member appointed under section 10 (1) (b), for such term (not exceeding 4 years) as may be ied in the member's instrument of appointment,	8 9 10
		(c)	(1)(d)	case of an elected member referred to in section 10 , (e) or (f), for such term (not exceeding 3 years) as e prescribed by the by-laws,	11 12 13
		(d)	such to the by in the	case of a member referred to in section 10 (1) (g), for erm (not exceeding 4 years) as may be prescribed by -laws (in the case of an elected member) or specified member's instrument of appointment (in the case of pointed member).	14 15 16 17 18
	(2)	The new	need to a	maintain an appropriate balance of experienced and so on the Council must be taken into account:	19 20
		(a)		Council, when making the by-laws required under ause, and	2° 22
		(b)	by th memb	e Minister and the Council, when appointing ers to the Council.	23 24
	(3)	cons	ecutive	st not be appointed or elected to serve more than 12 years of office (unless the Council otherwise elation to the person).	25 26 27
2	Vaca	ation o	f office		28
		The mem		of a member of the Council becomes vacant if the	29 30
		(a)	dies, o	or	31
		(b)	declin	es to act, or	32
		(c)	resign: addres	s the office by writing under his or her hand seed:	33 34
			(i)	in the case of a member appointed by the Minister, to the Minister, or	35 36
				in the case of a member appointed by the Council, to the Chancellor, or	37 38

[13]

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	becomes bankrupt, applies to take the benefit of any law	3
	for the relief of bankrupt or insolvent debtors, compounds	4
	with his or her creditors or makes any assignment of his or	5
	her estate for their benefit, or	6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is	8
	punishable by imprisonment for 12 months or more or is	9
	convicted elsewhere than in New South Wales of an	10
	offence that, if committed in New South Wales, would be	11
	an offence so punishable, or	12
(g)	is, or becomes, disqualified from managing a corporation	13
	under Part 2D.6 of the Corporations Act 2001 of the	14
	Commonwealth, or	15
(h)	is removed from office by the Council pursuant to section	16
( )	21G, or	17
(i)	is absent from 3 consecutive meetings of the Council of	18
	which reasonable notice has been given to the member	19
	personally or in the ordinary course of post and is not,	20
	within 6 weeks after the last of those meetings, excused by	21
	the Council for his or her absence, or	22
(j)	in the case of an elected member, or a member appointed	23
0)	under section 10 (1) (g), ceases to be qualified for election	24
	or appointment, or	25
(k)	in the case of a member appointed by the Minister, is	26
()	removed from office by the Minister, or	27
(1)	in the case of a member appointed by the Council, is	28
( )	removed from office by the Council.	29
Schedule 1, claus	se 3 (2)	30
Omit "(otherwise	than to fill the office of a parliamentary member)".	31

Sch	edule 2A		
Inse	t after Sched	rule 2:	2
Sc	nedule 2/	A Duties of Council members	3
		(Section 21F)	4
1	Duty to ac	t in best interests of University	5
	A me	ember of the Council must carry out his or her functions:	6
	(a)	in good faith in the best interests of the University as a whole, and	7 8
	(b)	for a proper purpose.	9
2	Duty to ex	ercise care and diligence	10
	reaso	nember of the Council must act honestly and exercise a bnable degree of care and diligence in carrying out his or her tions.	11 12 13
3	Duty not to	o improperly use position	14
		ember of the Council must not make improper use of his or position:	15 16
	(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18
	(b)	to cause detriment to the University.	19
4	Duty not to	o improperly use information	20
		nember of the Council must not make improper use of rmation acquired because of his or her position:	21 22
	(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
	(b)	to cause detriment to the University.	25
5	Disclosure	e of material interests by Council members	26
	(1) If:		27
	(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30
	(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	31 32 33

(2)

(3)

(4)

(5)

(6)

(7)

come	ember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the st at a meeting of the Council.	1 2 3
A disc Counc	closure by a member of the Council at a meeting of the cil that the member:	4 5
(a)	is a member, or is in the employment, of a specified company or other body, or	6 7
(b)	is a partner, or is in the employment, of a specified person, or	8 9
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	10 11
relatin may a	fficient disclosure of the nature of the interest in any matter ag to that company or other body or to that person which rise after the date of the disclosure and which is required to closed under subclause (1).	12 13 14 15
record book i	ulars of any disclosure made under this clause must be led by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any n on payment of a reasonable fee determined by the cil.	16 17 18 19 20
interes	a member of the Council has disclosed the nature of an st in any matter, the member must not, unless the Council vise determines:	21 22 23
(a)	be present during any deliberation of the Council with respect to the matter, or	24 25
(b)	take part in any decision of the Council with respect to the matter.	26 27
under	e purpose of the making of a determination by the Council subclause (4), a member of the Council who has a material st in a matter to which the disclosure relates must not:	28 29 30
(a)	be present during any deliberation of the Council for the purpose of making the determination, or	31 32
(b)	take part in the making by the Council of the determination.	33 34
A cont	travention of this clause does not invalidate any decision of buncil.	35 36
consid	clause does not prevent a person from taking part in the deration or discussion of, or from voting on any question ag to, the person's removal from office by the Council	37 38 39

39 40

pursuant to section 21G.

	(8)	This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.	1 2 3
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Council in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.	4 5 6 7
	(10)	In this clause:	8
	, ,	associate of a member means any of the following:	9
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	10 11
		(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	12 13 14
		(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	15 16 17
[15]	Schedule 3	Savings and transitional provisions	18
_		is Act." from clause 2 (1). Insert instead:	19
		of this Act and the following Acts:	20
		University Legislation Amendment Act 2004	21
[16]	Schedule 3	3, clause 2 (2)	22
		is Act". Insert instead "to the Act concerned".	23
[17]	Schedule 3	3, Part 8	24
_	Insert after	Part 7:	25
	Part 8	Provisions consequent on enactment of	26
		University Legislation Amendment Act	27
		2004	28
	32 Defii	nitions	29
		In this Part:	30
		amending Act means the University Legislation Amendment Act 2004.	31 32
		<i>former section 10</i> means section 10 as in force immediately before its substitution by the amending Act.	33 34

		<i>new section 10</i> means section 10 as substituted by the amending Act.	1 2
		relevant day means the date of assent to the amending Act.	3
33	Gen	neral	4
		The provisions of this Part are subject to any regulations made under clause 2.	5 6
34	Con	stitution of Council	7
	(1)	Subject to this Act, on the relevant day:	8
		(a) a person holding office under former section 10 (2) ceases to hold that office, and	9 10
		(b) a person holding office under former section 10 (4) (a) or (b) or (6) is taken to be appointed as a member under new section 10 (1) (g), (b) or (c), respectively, for the balance of the person's term of office, and	11 12 13 14
		(c) a person holding office under former section 10 (5) (a), (b) or (c) is taken to be elected as a member under new section 10 (1) (d), (e) or (f), respectively, for the balance of the person's term of office.	15 16 17 18
	(2)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 10 as soon as is reasonably practicable after the relevant day.	19 20 21 22
	(3)	For the purposes of making the by-laws referred to in subclause (2), the Council must be constituted so as to include all of the members required to be appointed under new section 10 (1) (b).	23 24 25
	(4)	The Council is taken to be properly constituted until such time as it is constituted in accordance with new section 10.	26 27
	(5)	A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 10 is to be filled as follows:	28 29 30
		(a) if the vacancy occurs in the office of a member appointed under new section 10 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	31 32 33
		(b) if the vacancy occurs in the office of a member appointed under new section 10 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	34 35 36
		(c) if the vacancy occurs in the office of a member elected under new section 10 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	37 38 39

		(d)	if the vacancy occurs in the office of a member elected under new section 10 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	1 2 3 4 5
		(e)	if the vacancy occurs in the office of a member appointed under new section 10 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	6 7 8 9
	(6)	holds subcl	ect to this Act, a member appointed under subclause (5) soffice from the time that person is appointed under that ause until the expiry of the term of that member's ecessor.	10 11 12 13
	(7)	Subje	ect to this Act, if, on the expiry:	14
		(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	15 16
		(b)	in the case of a member appointed under subclause (5), of the term of office of the member's predecessor,	17 18
		electe are no	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 10 ot yet in force, the member may continue to hold that office such time as a person is so duly appointed or elected.	19 20 21 22
	(8)	vacar is tak under	the purposes of subclause (1), a member filling a casual ancy and holding office immediately before the relevant day then to hold that office immediately before the relevant day of the provision under which the member's predecessor was red or appointed.	23 24 25 26 27
	(9)	A per	rson who ceases to hold office under subclause (1) (a):	28
		(a)	is not entitled to any remuneration or compensation because of loss of that office, and	29 30
		(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	31 32
35	Maxii	num i	ncumbency for Council members	33
	(1)	imme	ecutive years of office served by a member of the Council ediately before the relevant day are to be taken into account plying clause 1 (3) of Schedule 1 in respect of the member.	34 35 36
	(2)		ever, clause 1 (3) of Schedule 1 does not affect the operation ause 34 (1) (b) or (c) or (7) of this Schedule.	37 38

36	Арр	lication of section 21G	1
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	2 3 4
37	Effe	ct of amendments on existing by-laws and rules	5
	(1)	Any by-law in force immediately before the relevant day is taken to have been validly made under this Act (as amended by the amending Act) but only to the extent to which it could validly have been made immediately after that day.	6 7 8 9
	(2)	Any rule in force immediately before the relevant day that could validly have been made immediately before that day is taken to have been validly made under this Act as amended by the amending Act.	10 11 12 13
	(3)	On and after 1 September 2005, subclause (2) does not validate any rule in force immediately before the relevant day that could not have been validly made after the relevant day.	14 15 16
38	Con	tinuation of Council	17
		No amendment made by the amending Act affects the continuity of the Council	18 19

Schedule 4				ndment of University of New and Act 1993 No 68	1 2	
					(Section 3)	3
[1]	Section	on 3 I	Defini	tions		4
	Insert	after	sectio	n 3 (4)	:	5
		(5)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Section	n 9				7
	Omit t	he se	ction.	Insert	instead:	8
	9	Cons	stituti	on of C	Council	9
		(1)	The	Counc	il is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			(b)	cons Mini	ternal persons appointed by the Minister following ultation by the Minister with such persons as the ster considers appropriate, with at least one person each of the following categories:	20 21 22 23
				(i)	persons experienced in the field of education,	24
				(ii)	persons experienced in technology, industry, business, human services or industrial relations,	25 26
				(iii)	persons who are practising, or have practised, a profession,	27 28
				(iv)	persons having such other qualifications and experience as the Minister thinks appropriate, and	29 30
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	31 32
			(d)	2 per	rsons:	33
				(i)	who are members of the academic staff of the University, and	34 35

	(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
(e)	one p	person:	6
( )	(i)	who is a member of the non-academic staff of the University, and	7 8
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
(f)	one p	person:	14
	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	20 21 22
(g)	one p	person:	23
	(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	24 25 26
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	27 28
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	29 30 31
(h)		or more external persons (being such number as is cribed by the by-laws):	32 33
	(i)	who are graduates of the University, and	34
	(ii)	who have such qualifications as are prescribed by the by-laws, and	35 36
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	37 38 39

(2)	The by-laws may not prescribe a number of members for the purposes of subsection (1) (c) or (h) that when added to the number of other members to be appointed or elected to the Council would exceed 22.	1 2 3 4
(3)	A person appointed under subsection (1) (h) is appointed in addition to any member appointed under subsection (1) (c).	5 6
(4)	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Council for appointment.	7 8 9
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	10 11
(5)	Of the members of the Council:	12
	(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	13 14 15 16
	(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	17 18 19
(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	20 21 22 23
(7)	The majority of members of the Council must be external persons.	24 25
(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	26 27
(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	28 29
(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	30 31 32 33

[3]	Section 16	Func	tions of Council	1
	Insert after	sectio	n 16 (1A):	2
	(1B)	(1A)	nout limiting the functions of the Council under subsection b, the Council is, in controlling and managing the affairs and terns of the University:	3 4 5
		(a)	to monitor the performance of the Vice-Chancellor, and	6
		(b)	to oversee the University's performance, and	7
		(c)	to oversee the academic activities of the University, and	8
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	9 10
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	11 12 13 14 15
		(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	17 18 19
		(g)	to approve significant University commercial activities (within the meaning of section 21A), and	20 21
		(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	22 23 24
		(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	25 26 27 28
		(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	29 30 31
		(k)	to adopt a statement of its primary responsibilities, and	32
		(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	33 34 35

[4]	Section 16	5, note	•		1	
	Insert at the	Note maki Cour risk r	. The aing of a	Annual Reports (Statutory Bodies) Act 1984 regulates the nnual reports to Parliament by the Council and requires the eport on the University's operations (including in relation to ement and insurance arrangements) and a range of financial	2 3 4 5 6 7	
[5]	Section 16	SA Co	ntrolle	d entities	8	
	Omit "This	s sectio	on does	s not itself confer" from section 16A (4).	9	
	Insert inste	ad "N	othing	in the preceding subsections confers".	10	
[6]	Section 16	6A (5)			11	
	Omit "This	s section	on does	s not affect".	12	
	Insert instead "Nothing in the preceding subsections affects".					
[7]	Section 16	6A (5A	١)		14	
	Insert after section 16A (5):					
	(5A)	The	Counc	cil is, as far as is reasonably practicable, to ensure:	16	
		(a)	that	the governing bodies of controlled entities:	17	
			(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	18 19	
			(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	20 21 22	
			(iii)	adopt and evaluate their own governance principles, and	23 24	
			(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	25 26 27	
		(b)		a protocol is established regarding reporting by erning bodies of controlled entities to the Council.	28 29	

[8]	Part 4A Insert after Part 4:						
	Par	t 4A	Duties of Council members	3			
	21F	Dutie	es of Council members	4			
			The members of the Council have the duties set out in Schedule 2A.	5 6			
	21G	Rem	oval from office for breach of duty	7			
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	8 9			
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	10 11 12 13			
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	14 15 16			
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	17 18 19 20			
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	21 22 23 24			
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	25 26			
[9]	Sect	ion 28	By-laws	27			
	Omi	t "(othe	er than the parliamentary members)" from section 28 (1) (b).	28			
[10]	Sect	ion 29	Rules	29			
			, 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and (e)" from section 29 (1).	30 31			
		Insert instead "9 (1) (c)–(h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and clauses 1 (1) (c) and (d)".					

[11]	Sche	dule 1	l Provi	isions	relating to members and procedure of the Council	1	
	Omit	claus	es 1 an	d 2. In	sert instead:	2	
	1	Term of office					
		(1)	Subj follo		this Act, a member of the Council holds office as	4 5	
			(a)		e case of an official member, while the member holds office by virtue of which he or she is a member,	6 7	
			(b)	or (c	e case of a member appointed under section 9 (1) (b) e), for such term (not exceeding 4 years) as may be ified in the member's instrument of appointment,	8 9 10	
			(c)	(d), (	e case of an elected member referred to in section 9 (1) (e), (f) or (g), for such term (not exceeding 3 years) as be prescribed by the by-laws,	11 12 13	
			(d)	such the b in the	e case of a member referred to in section 9 (1) (h), for term (not exceeding 4 years) as may be prescribed by by-laws (in the case of an elected member) or specified e member's instrument of appointment (in the case of expointed member).	14 15 16 17 18	
		(2)			o maintain an appropriate balance of experienced and ers on the Council must be taken into account:	19 20	
			(a)		ne Council, when making the by-laws required under clause, and	21 22	
			(b)		the Minister and the Council, when appointing abers to the Council.	23 24	
		(3)	cons	ecutive	nust not be appointed or elected to serve more than 12 e years of office (unless the Council otherwise relation to the person).	25 26 27	
	2	Vaca	ation o	of offic	e	28	
			The mem		of a member of the Council becomes vacant if the	29 30	
			(a)	dies,	or	31	
			(b)	decli	nes to act, or	32	
			(c)		ens the office by writing under his or her hand essed:	33 34	
				(i)	in the case of a member appointed by the Minister, to the Minister, or	35 36	
				(ii)	in the case of a member appointed by the Council, to the Chancellor, or	37 38	

[12]

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	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	3 4 5 6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is punishable by 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	8 9 10 11 12
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
(h)	is removed from office by the Council pursuant to section 21G, or	16 17
(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	18 19 20 21 22
(j)	in the case of an elected member, or a member appointed under section 9 (1) (h), ceases to be qualified for election or appointment, or	23 24 25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(1)	in the case of a member appointed by the Council, is removed from office by the Council.	28 29
Schedule 1, claus	se 3 (2)	30
Omit "(otherwise t	than to fill the office of a parliamentary member)".	31

[13]	Sche	edule 2A		1
	Inser	t after Sched	ule 2:	2
	Sch	nedule 2	A Duties of Council members	3
			(Section 21F)	4
	1	Duty to act	t in best interests of University	5
		A me	ember of the Council must carry out his or her functions:	6
		(a)	in good faith in the best interests of the University as a whole, and	7 8
		(b)	for a proper purpose.	9
	2	Duty to exc	ercise care and diligence	10
		reasc	nember of the Council must act honestly and exercise a brable degree of care and diligence in carrying out his or her tions.	11 12 13
	3	Duty not to	o improperly use position	14
			ember of the Council must not make improper use of his or position:	15 16
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	17 18
		(b)	to cause detriment to the University.	19
	4	Duty not to	o improperly use information	20
		A m infor	nember of the Council must not make improper use of rmation acquired because of his or her position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	5	Disclosure	of material interests by Council members	26
		(1) If:		27
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	28 29 30

(2)

(3)

(4)

(5)

(6)

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	1 2 3
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.	4 5 6
A disclosure by a member of the Council at a meeting of the Council that the member:	7 8
(a) is a member, or is in the employment, of a specified company or other body, or	9 10
(b) is a partner, or is in the employment, of a specified person, or	11 12
(c) has some other specified interest relating to a specified company or other body or to a specified person,	13 14
is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).	15 16 17 18
Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of a reasonable fee determined by the Council.	19 20 21 22 23
After a member of the Council has disclosed the nature of an interest in any matter, the member must not, unless the Council otherwise determines:	24 25 26
(a) be present during any deliberation of the Council with respect to the matter, or	27 28
(b) take part in any decision of the Council with respect to the matter.	29 30
For the purpose of the making of a determination by the Council under subclause (4), a member of the Council who has a material interest in a matter to which the disclosure relates must not:	31 32 33
(a) be present during any deliberation of the Council for the purpose of making the determination, or	34 35
(b) take part in the making by the Council of the determination.	36 37
A contravention of this clause does not invalidate any decision of the Council.	38 39

	(7)	cons relat	s clause does not prevent a person from taking part in the sideration or discussion of, or from voting on any question ting to, the person's removal from office by the Council uant to section 21G.	3
	(8)	This and	clause applies to a member of a committee of the Council the committee in the same way as it applies to a member of Council and the Council.	5 6
	(9)	in a resul	the purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may lt in a detriment being suffered by or a benefit accruing to the other or an associate of the member.	8 9 10 11
	(10)	In th	iis clause:	12
		asso	ciate of a member means any of the following:	13
		(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15
		(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18
		(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[14]	Schedule 3	3 Savi	ngs and transitional provisions	22
	Omit "of th	is Act	t." from clause 2 (1). Insert instead:	23
			nis Act and the following Acts:	24
			versity Legislation Amendment Act 2004	25
[15]	Schedule 3	3, clau	use 2 (2)	26
_	Omit "to th	is Act	". Insert instead "to the Act concerned".	27

[16]	Schedule 3, Part 8 Insert after Part 7:				
	Part 8		Provisions consequent on enactment of University Legislation Amendment Act 2004	3 4 5	
	37	Defi	nitions	6	
			In this Part:	7	
			amending Act means the University Legislation Amendment Act 2004.	8 9	
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	10 11	
			<b>new section 9</b> means section 9 as substituted by the amending Act.	12 13	
			relevant day means the date of assent to the amending Act.	14	
	38	Gen	eral	15	
			The provisions of this Part are subject to any regulations made under clause 2.	16 17	
	39	Con	stitution of Council	18	
		(1)	Subject to this Act, on the relevant day:	19	
		( )	(a) a person holding office under former section 9 (2) ceases to hold that office, and	20 21	
			(b) a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	22 23 24 25	
			(c) a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	26 27 28 29	
		(2)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	30 31 32 33	
		(3)	For the purposes of making the by-laws referred to in subclause (2), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).	34 35 36	

(4)		Council is taken to be properly constituted until such time as constituted in accordance with new section 9.	1 2			
(5)	A casual vacancy occurring in the office of a member before the Council is duly constituted under new section 9 is to be filled as follows:					
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	6 7 8			
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	9 10 11			
	(c) if the vacancy occurs in the office of a member el under new section 9 (1) (d) or (e), the Council is to ap a person qualified to hold that office,		12 13 14			
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	15 16 17 18 19			
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	20 21 22 23			
(6)	hold: subc	ect to this Act, a member appointed under subclause (5) is office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	24 25 26 27			
(7)	Subj	ect to this Act, if, on the expiry:	28			
	(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	29 30			
	(b)	in the case of a member appointed under subclause (5), of the term of office of the member's predecessor,	31 32			
	elect not y	ry-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are ret in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	33 34 35 36			
(8)	vaca is tal	the purposes of subclause (1), a member filling a casual ncy and holding office immediately before the relevant day ken to hold that office immediately before the relevant day or the provision under which the member's predecessor was	37 38 39 40			

41

elected or appointed.

	(9)	A person who ceases to hold office under subclause (1) (a):	1
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	2
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	4 5
40	Max	imum incumbency for Council members	6
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	7 8 9
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 39 (1) (b) or (c) or (7) of this Schedule.	10 11
41	Арр	lication of section 21G	12
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	13 14 15
42	Con	tinuation of Council	16
		No amendment made by the amending Act affects the continuity of the Council.	17 18

Scl	nedule 5 Amendment of University of New South Wales Act 1989 No 125			1 2	
				(Section 3)	3
[1]	Section 3	Definiti	ions		4
	Insert after	section	3 (3):		5
	(4)	Notes	s inclu	ded in this Act do not form part of this Act.	6
[2]	Section 9				7
	Omit the se	ection. I	Insert i	instead:	8
	9 Con	stitutio	n of C	Council	9
	(1)	The C	Counci	il is to consist of:	10
		(a)	3 offi	icial members, being:	11
			(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
			(ii)	the Vice-Chancellor, and	14
			(iii)	the person for the time being holding the office of President of the Academic Board (if that person is not the Vice-Chancellor) or of Deputy President of the Academic Board (if the President is the Vice-Chancellor), and	15 16 17 18 19
		(b)	6 ext	ernal persons appointed by the Minister, and	20
		(c)	presc	or more external persons (being such number as is cribed by the by-laws) appointed by the Council, at one of whom is a graduate of the University, and	21 22 23
		(d)	4 per	sons:	24
			(i)	who are members of the academic staff of the University, and	25 26
			(ii)	who have such qualifications as may be prescribed by the by-laws, and	27 28
			(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	29 30 31
		(e)	one p	person:	32
			(i)	who is a member of the non-academic staff of the University, and	33 34
			(ii)	who has such qualifications as may be prescribed by the by-laws, and	35 36

		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
	(f)	one p	person:	4
		(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	5 6 7
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	8
		(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	10 11 12
	(g)	one p	person:	13
		(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	14 15 16
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	17 18
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	19 20 21
	(h)	4 ext	ternal persons:	22
		(i)	who are graduates of the University, and	23
		(ii)	who have such qualifications as are prescribed by the by-laws, and	24 25
		(iii)	who are elected by graduates of the University in the manner prescribed by the by-laws.	26 27
(2)	purp othe	oses of	vs may not prescribe a number of members for the f subsection (1) (c) that when added to the number of bers to be appointed or elected to the Council would	28 29 30 31
(3)	Parli	ament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	32 33 34
			an 2 such persons may hold office at any one time as members under subsection (1) (b).	35 36

Of the members of the Council:

(4)

		(a)	at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	2 3 4 5
		(b)	at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8
	(5)	experand a	ppointed members of the Council must have expertise and rience relevant to the functions exercisable by the Council in appreciation of the object, values, functions and activities e University.	9 10 11 12
	(6)	The perso	majority of members of the Council must be external ons.	13 14
	(7)		by-laws are to prescribe the procedures for the nomination of ons for appointment as members of the Council.	15 16
	(8)		dule 1 has effect in relation to the members and procedure of ouncil.	17 18
	(9)	perso staff	Gerence in this section to external persons is a reference to ons who are not members of the academic or non-academic of the University or undergraduate or postgraduate students to University.	19 20 21 22
[3]	Section 15	Funct	ions of Council	23
	Insert after	section	n 15 (1A):	24
	(1B)	(1A),	out limiting the functions of the Council under subsection the Council is, in controlling and managing the affairs and erns of the University:	25 26 27
		(a)	to monitor the performance of the Vice-Chancellor, and	28
		(b)	to oversee the University's performance, and	29
		(c)	to oversee the academic activities of the University, and	30
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	31 32
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	33 34 35 36 37 38

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 15A), and	2
	(g)	to approve significant University commercial activities (within the meaning of section 20A), and	
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 17 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 15, note		20
	Insert at the end o	f the section:	21
	makir Coun risk m	The Annual Reports (Statutory Bodies) Act 1984 regulates the ng of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to nanagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
[5]	Section 15A Con	trolled entities	27
	Omit "This sectio	n does not itself confer" from section 15A (4).	28
	Insert instead "No	othing in the preceding subsections confers".	29
[6]	Section 15A (5)		30
	Omit "This sectio	n does not affect".	31
	Insert instead "No	othing in the preceding subsections affects".	32

[7]	Sect	ion 15	A (5A)	)		1
	Inse	t after	section	n 15A (	(5):	2
		(5A)	The	Counci	il is, as far as is reasonably practicable, to ensure:	3
			(a)	that t	the governing bodies of controlled entities:	4
				(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	5
				(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	<del>7</del> 8 9
				(iii)	adopt and evaluate their own governance principles, and	10 11
				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
			(b)	that gove	a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	15 16
[8]	Part	4A				17
	Insert after Part 4:					
	Part 4A Duties of Council members				19	
	20F	Dutie	es of Council members			
			The 12A.	membe	ers of the Council have the duties set out in Schedule	21 22
	20G	Rem	oval fi	rom of	fice for breach of duty	23
		(1)			il may remove a member of the Council from office of a duty set out in Schedule 2A.	24 25
		(2)	Cour mem	icil of	al from office may be effected only at a meeting of the which notice (including notice of the motion that the ncerned be removed from office for breach of duty) ven.	26 27 28 29
		(3)	remo	oval is s	al from office may be effected only if the motion for supported by at least a two-thirds majority of the total members for the time being of the Council.	30 31 32
		(4)	unles oppo	ss the	for removal must not be put to the vote of the meeting member concerned has been given a reasonable to reply to the motion at the meeting, either orally or	33 34 35 36

	(5)	atten motie	e member to whom the motion for removal refers does not d the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has duly given.	2
	(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	(
[9]	Section 27	By-la	ws	-
	Omit "(othe	er than	the parliamentary members)" from section 27 (1) (b).	8
[10]	Section 28	Rules	•	9
			2), 15 (1) (d) and (e), 22 and 27 (1) (b) and (k) and clauses 1 section 28 (1).	10 17
	Insert instea (b) and (k)	ad "9 ( and cla	(1) (c)–(h) and (7), 10 (2), 15 (1) (d) and (e), 22 and 27 (1) auses 1 (1) (c) and (d)".	12 13
[11]	Schedule 1	Provi	isions relating to members and procedure of the Council	14
	Omit clause	es 1 an	d 2. Insert instead:	15
	1 Term	of of	fice	16
	(1)	Subjet follows	ect to this Act, a member of the Council holds office as ws:	17 18
		(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
		(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	2° 22 23
		(c)	in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	24 25 26
		(d)	in the case of an elected member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws.	25 28 29
	(2)	The new	need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	30 31
		(a)	by the Council, when making the by-laws required under this clause, and	32 33
		(b)	by the Minister and the Council, when appointing members to the Council.	3 <sup>2</sup> 35

	(3)	cons	rson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise ves in relation to the person).	3
2	Vaca	ation o	f office	2
		The mem	office of a member of the Council becomes vacant if the ber:	(
		(a)	dies, or	7
		(b)	declines to act, or	8
		(c)	resigns the office by writing under his or her hand addressed:	9 10
			(i) in the case of a member appointed by the Minister, to the Minister, or	11 12
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14
			(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16
		(d)	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	17 18 19 20
		(e)	becomes a mentally incapacitated person, or	2
		(f)	is convicted in New South Wales of an offence that is punishable by 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	22 23 24 25 26
		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29
		(h)	is removed from office by the Council pursuant to section 20G, or	30 31
		(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	32 33 34 35 36
		(i)	in the case of an elected member, ceases to be qualified for	37

election, or

		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	1 2
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	3
[12]	Sche	edule 1, clau	se 3 (2)	5
	Omi	t "(otherwise	than to fill the office of a parliamentary member)".	6
[13]	Sche	edule 2A		7
		t after Sched	ule 2:	8
	Sch	nedule 2	A Duties of Council members	g
			(Section 20F)	10
	1	Duty to act	t in best interests of University	11
		A me	ember of the Council must carry out his or her functions:	12
		(a)	in good faith in the best interests of the University as a whole, and	13 14
		(b)	for a proper purpose.	15
	2	Duty to ex	ercise care and diligence	16
		reasc	nember of the Council must act honestly and exercise a phable degree of care and diligence in carrying out his or her tions.	17 18 19
	3	Duty not to	o improperly use position	20
			ember of the Council must not make improper use of his or position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	4	Duty not to	o improperly use information	26
			nember of the Council must not make improper use of rmation acquired because of his or her position:	27 28
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	29 30
		(b)	to cause detriment to the University.	31

Disclosure of material interests by Council members

	_		
(1)	If:		2
	(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	3 4 5
	(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8
	come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	9 10 11
(2)	A dis Cour	sclosure by a member of the Council at a meeting of the acil that the member:	12 13
	(a)	is a member, or is in the employment, of a specified company or other body, or	14 15
	(b)	is a partner, or is in the employment, of a specified person, or	16 17
	(c)	has some other specified interest relating to a specified company or other body or to a specified person,	18 19
	relati may	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	20 21 22 23
(3)	recor book	culars of any disclosure made under this clause must be ded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the acil.	24 25 26 27 28
(4)	inter	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	29 30 31
	(a)	be present during any deliberation of the Council with respect to the matter, or	32 33
	(b)	take part in any decision of the Council with respect to the matter.	34 35
(5)	unde	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	36 37 38
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	39 40

			(b) take part in the making by th determination.	e Council of the	2
		(6)	A contravention of this clause does not inval the Council.	idate any decision of	3
		(7)	This clause does not prevent a person from consideration or discussion of, or from vot relating to, the person's removal from of pursuant to section 20G.	ting on any question	7
		(8)	This clause applies to a member of a command the committee in the same way as it applies to a member of a command the Council and the Council.	plies to a member of	10 11
		(9)	For the purposes of this clause, a member h in a matter if a determination of the Councresult in a detriment being suffered by or a bemember or an associate of the member.	enefit accruing to the	12 13 14 15
		(10)	In this clause:		16
			associate of a member means any of the fol	lowing:	17
			(a) the spouse, de facto partner, parent, ch business partner or friend of the mem	ina, ordiner or sister,	18 19
			(b) the spouse, de facto partner, parent, ch business partner or friend of a pe paragraph (a) if that relationship is kn	erson referred to in	20 21 22
			(c) any other person who is known to the other than that person's connection w that person's public reputation.	with the University or	23 24 25
[14]	Sche	dule 3	Savings and transitional provisions	:	26
	Inser	t befor	clause 1:	:	27
	1 <b>A</b>	Savir	gs or transitional regulations	:	28
		(1)	The Governor may make regulations contains savings or transitional nature consequent on following Acts:	the enactment of the	29 30 31
			University Legislation Amendment Act 2004	<i>t</i> :	32
		(2)	Any such provision may, if the regulations so from the date of assent to the Act concerned	o provide, take criect	33 34

		(3)	that	ne extent to which any such provision takes effect from a date is earlier than the date of its publication in the Gazette, the ision does not operate so as:	1 2 3
			(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	4 5 6
			(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.	7 8 9
[15]	Sche	edule (	3, clau	se 12	10
	Inser	t after	clause	:11:	11
	12	Prov Ame	risions Indme	s consequent on enactment of University Legislation nt Act 2004	12 13
		(1)	In th	is clause:	14
			<b>ame</b> i 2004	nding Act means the University Legislation Amendment Act	15 16
				ner section 9 means section 9 as in force immediately before abstitution by the amending Act.	17 18
			new Act.	section 9 means section 9 as substituted by the amending	19 20
			relev	vant day means the date of assent to the amending Act.	21
		(2)	Subj	ect to this Act, on the relevant day:	22
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	23 24
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	25 26 27 28
			(c)	a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	29 30 31 32
		(3)	the N	or as soon as is reasonably practicable after, the relevant day, Minister must appoint the balance of the members required to oppointed under new section 9 (1) (b).	33 34 35
		(4)	nece:	Council is to make all necessary by-laws and take all ssary steps to ensure, as far as possible, that the Council is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	36 37 38 39

(5)	(4), tl	ne purposes of making the by-laws referred to in subclause the Council must be constituted so as to include all of the pers required to be appointed under new section 9 (1) (b).	1 2 3
(6)		Council is taken to be properly constituted until such time as onstituted in accordance with new section 9.	4 5
(7)		ual vacancy occurring in the office of a member before the cil is duly constituted under new section 9 is to be filled as ws:	6 7 8
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	9 10 11
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	15 16 17
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26
(8)	holds subcla	office from the time that person is appointed under that ause until the expiry of the term of that member's cessor.	27 28 29 30
(9)	Subje	ect to this Act, if, on the expiry:	31
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	32 33
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	34 35
	electe not ye	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	36 37 38 39

(10)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(11)	A person who ceases to hold office under subclause (2) (a):	6
	(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
(12)	Consecutive years of office served by a member immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	11 12 13
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	14 15
(14)	Section 20G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	16 17 18
(15)	No amendment made by the amending Act affects the continuity of the Council.	19 20
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	21 22

Scl	nedule 6	Ame Act	ndment of University of Newcastle 1989 No 68	1
			(Section 3)	3
[1]	Section 3	Definitions		4
	Insert afte	r section 3 (3	(i):	5
	(4)	`	luded in this Act do not form part of this Act.	6
[2]	Section 9			7
		section. Inser	t instead:	8
	9 Coi	nstitution of	Council	9
	(1)	The Coun	cil is to consist of:	10
		(a) 3 of	fficial members, being:	11
		(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
		(ii)	the Vice-Chancellor, and	14
		(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			xternal persons appointed by the Minister from, as far oracticable, the following categories:	20 21
		(i)	persons experienced in the field of education or the arts,	22 23
		(ii)	persons experienced in technology, industry, commerce or industrial relations,	24 25
		(iii)	persons who are practising, or have practised, a profession, and	26 27
			or more external persons (being such number as is scribed by the by-laws) appointed by the Council, and	28 29
		(d) 2 pe	ersons:	30
		(i)	who are members of the academic staff of the University, and	31 32
		(ii)	who have such qualifications as may be prescribed by the by-laws, and	33 34

	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
(e)	one p	person:	4
	(i)	who is a member of the non-academic staff of the University, and	5 6
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	9 10 11
(f)	one p	person:	12
	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	13 14 15
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	16 17
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	18 19 20
(g)	one p	person:	21
	(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	22 23 24
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	25 26
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	27 28 29
(h)	one preso	or more external persons (being such number as is cribed by the by-laws):	30 31
	(i)	who are members of Convocation, and	32
	(ii)	who have such qualifications as are prescribed by the by-laws, and	33 34
	(iii)	who are (as prescribed by the by-laws) elected by members of Convocation in the manner prescribed by the by-laws or appointed by the Council.	35 36 37
purp num	oses o ber of	ors may not prescribe a number of members for the f subsection (1) (c) or (h) that when added to the other members to be appointed or elected to the ould exceed 22.	38 39 40 41

(2)

(3)

		addition to any member appointed under subsection (1) (c).	2
	(4)	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Council for appointment.	3 4 5
		No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	6 7
	(5)	Of the members of the Council:	8
		(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	9 10 11 12
		(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	13 14 15
	(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	16 17 18 19
	(7)	The majority of members of the Council must be external persons.	20 21
	(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	22 23
	(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	24 25
	(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	26 27 28 29
[3]	Section 16	Functions of Council	30
	Insert after	section 16 (1A):	31
	(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	32 33 34
		(a) to monitor the performance of the Vice-Chancellor, and	35
		<ul><li>(b) to oversee the University's performance, and</li><li>(c) to oversee the academic activities of the University, and</li></ul>	36 37

A person appointed under subsection (1) (h) is appointed in

	(	(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	2
	(	(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	; ; <del>;</del> ;
	(	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	10 11
	(	(g)	to approve significant University commercial activities (within the meaning of section 21A), and	12 13
	(	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	14 15 16
	1	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	17 18 19 20
	1	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	2° 22 23
	(	(k)	to adopt a statement of its primary responsibilities, and	24
	ı	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	25 26 27
[4]	Section 16, n	ote		28
	Insert at the en	nd of	the section:	29
	n C ri	naking Counc isk ma	The Annual Reports (Statutory Bodies) Act 1984 regulates the g of annual reports to Parliament by the Council and requires the il to report on the University's operations (including in relation to an agement and insurance arrangements) and a range of financial her matters.	30 31 32 33 34
[5]	Section 16A	Cont	rolled entities	35
	Omit "This se	ection	does not itself confer" from section 16A (4).	36
	Insert instead	"Not	hing in the preceding subsections confers".	37

[6]	Sect	ion 16	<b>A</b> (5)		•
	Omi	t "This	section does	not affect".	2
	Inse	rt instea	d "Nothing i	n the preceding subsections affects".	3
[7]	Sect	ion 16	A (5A)		2
	Inse	rt after	section 16A (	(5):	Ę
		(5A)	The Counci	l is, as far as is reasonably practicable, to ensure:	6
		,		he governing bodies of controlled entities:	7
			(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	§
			(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	10 12 12
			(iii)	adopt and evaluate their own governance principles, and	13 14
			(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	15 16 17
				a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	18 19
[8]	Part	4A			20
	Inse	rt after	Part 4:		2
	Par	rt 4A	Duties o	of Council members	22
	21F	Dutie	s of Counci	I members	23
			The member 2A.	ers of the Council have the duties set out in Schedule	24 25
	21G	Rem	oval from of	fice for breach of duty	26
		(1)		il may remove a member of the Council from office of a duty set out in Schedule 2A.	27 28
		(2)	Council of	al from office may be effected only at a meeting of the which notice (including notice of the motion that the incerned be removed from office for breach of duty) ven.	29 30 37 32

		(3)	remo	removal from office may be effected only if the motion for oval is supported by at least a two-thirds majority of the total ber of members for the time being of the Council.	1 2 3
		(4)	unles oppo	motion for removal must not be put to the vote of the meeting ss the member concerned has been given a reasonable ortunity to reply to the motion at the meeting, either orally or riting.	4 5 6 7
		(5)	atten moti	e member to whom the motion for removal refers does not ad the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has a duly given.	8 9 10 11
		(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	12 13
[9]	Sect	ion 28	By-la	ws	14
	Omit	t "(othe	er than	the parliamentary members)" from section 28 (1) (b).	15
[10]	Sect	ion 29	Rules	5	16
	Omit claus	t "9 (5) ses 1 (c	), 10 (2 l) and	2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and (e)" from section 29 (1).	17 18
				(1) (c)–(h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and and clauses 1 (1) (c) and (d)".	19 20
[11]	Sche	edule 1	Prov	isions relating to members and procedure of the Council	21
	Omit	t clause	es 1 an	nd 2. Insert instead:	22
	1	Term	of of	fice	23
		(1)	Subj follo	ect to this Act, a member of the Council holds office as ows:	24 25
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	26 27
			(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	28 29 30
			(c)	in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	31 32 33

		(d)	in the case of a member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	1 2 3 4 5
	(2)	The new	need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	6 7
		(a)	by the Council, when making the by-laws required under this clause, and	8 9
		(b)	by the Minister and the Council, when appointing members to the Council.	10 11
	(3)	cons	erson must not be appointed or elected to serve more than 12 ecutive years of office (unless the Council otherwise lives in relation to the person).	12 13 14
2	Vaca	ition o	of office	15
		The mem	office of a member of the Council becomes vacant if the aber:	16 17
		(a)	dies, or	18
		(b)	declines to act, or	19
		(c)	resigns the office by writing under his or her hand addressed:	20 21
			(i) in the case of a member appointed by the Minister, to the Minister, or	22 23
			(ii) in the case of a member appointed by the Council, to the Chancellor, or	24 25
			(iii) in the case of an elected member, to the Vice-Chancellor, or	26 27
		(d)	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	28 29 30 31
		(e)	becomes a mentally incapacitated person, or	32
		(f)	is convicted in New South Wales of an offence that is punishable by 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	33 34 35 36 37

		(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	2
		(h)	is removed from office by the Council pursuant to section 21G, or	
		(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	6 7 8 9
		(j)	in the case of an elected member, or a member appointed under section 9 (1) (h), ceases to be qualified for election or appointment, or	11 12 13
		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	14 15
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	16 17
-401	Sche	edule 2A		18
[12]				
[12]	Inser	t after Sched	ule 2:	19
[12]			ule 2:  A Duties of Council members	19
[12]				
[12]		nedule 2	A Duties of Council members	20
[12]	Sch	nedule 2/	A Duties of Council members (Section 21F)	20 21
[12]	Sch	nedule 2/	A Duties of Council members  (Section 21F)  t in best interests of University	20 27 22
[12]	Sch	Duty to act	A Duties of Council members  (Section 21F)  t in best interests of University  ember of the Council must carry out his or her functions:  in good faith in the best interests of the University as a	20 21 22 23 24
[12]	Sch	Duty to act  A me  (a)  (b)	A Duties of Council members  (Section 21F)  It in best interests of University  The most interests of University  The most interests of University out his or her functions:  In good faith in the best interests of the University as a whole, and	20 21 22 23 24 25
[12]	Sch 1	Duty to act A me (a) (b) Duty to exe	A Duties of Council members  (Section 21F)  It in best interests of University  The council must carry out his or her functions:  In good faith in the best interests of the University as a whole, and  The for a proper purpose.  The council must act honestly and exercise a smalle degree of care and diligence in carrying out his or her	20 21 22 23 24 25
[12]	Sch 1	Duty to act A me (a) (b) Duty to exe A me reaso funct	A Duties of Council members  (Section 21F)  It in best interests of University  The council must carry out his or her functions:  In good faith in the best interests of the University as a whole, and  The for a proper purpose.  The council must act honestly and exercise a smalle degree of care and diligence in carrying out his or her	20 22 23 24 25 26 27 28
[12]	1 2	Duty to act A me (a) (b) Duty to exe A me rease funct Duty not to	(Section 21F)  It in best interests of University  It in good faith in the best interests of the University as a whole, and  If or a proper purpose.  It is in best interests of the University as a whole, and  If or a proper purpose.  It is in best interests of the University as a whole, and  If or a proper purpose.  It is in best interests of University  If it is in best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and  If it is in the best interests of the University as a whole, and th	20 22 23 24 25 26 27 28 29 30

		(b)	to cause detriment to the University.	1
4	Duty	not to	o improperly use information	2
			nember of the Council must not make improper use of rmation acquired because of his or her position:	3 4
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	5 6
		(b)	to cause detriment to the University.	7
5	Disc	losure	e of material interests by Council members	8
	(1)	If:		9
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	10 11 12
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	13 14 15
		come	member must, as soon as possible after the relevant facts have e to the member's knowledge, disclose the nature of the rest at a meeting of the Council.	16 17 18
	(2)		isclosure by a member of the Council at a meeting of the ncil that the member:	19 20
		(a)	is a member, or is in the employment, of a specified company or other body, or	21 22
		(b)	is a partner, or is in the employment, of a specified person, or	23 24
		(c)	has some other specified interest relating to a specified company or other body or to a specified person,	25 26
		relat may	sufficient disclosure of the nature of the interest in any matter ing to that company or other body or to that person which arise after the date of the disclosure and which is required to isclosed under subclause (1).	27 28 29 30
	(3)	reco	iculars of any disclosure made under this clause must be rded by the Council in a book kept for the purpose and that a must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the ncil.	31 32 33 34 35

(4)	inter	r a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council rwise determines:	2
	(a)	be present during any deliberation of the Council with respect to the matter, or	2
	(b)	take part in any decision of the Council with respect to the matter.	<del>6</del>
(5)	unde	the purpose of the making of a determination by the Council or subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	8 9 10
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	11 12
	(b)	take part in the making by the Council of the determination.	13 14
(6)		ntravention of this clause does not invalidate any decision of Council.	15 16
(7)	cons	clause does not prevent a person from taking part in the ideration or discussion of, or from voting on any question ing to, the person's removal from office by the Council pant to section 21G.	17 18 19 20
(8)	and t	clause applies to a member of a committee of the Council the committee in the same way as it applies to a member of Council and the Council.	21 22 23
(9)	in a resul	the purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may t in a detriment being suffered by or a benefit accruing to the liber or an associate of the member.	24 25 26 27
(10)	In th	is clause:	28
	asso	ciate of a member means any of the following:	29
	(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	30 31
	(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	32 33 34
	(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	35 36 37

[13]	Schedule 3 Savings and transitional provisions  Insert before the heading to Part 1:			
			General	3
	1 <b>A</b>	Savir	ngs or transitional regulations	4
		(1)	The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5 6 7
			University Legislation Amendment Act 2004	8
		(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	9 10
		(3)	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:	11 12 13
			(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	14 15 16
			(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.	17 18 19
[14]	Sche	dule 3	s, Part 4	20
		t after		21
	Par	t 4	Provisions consequent on enactment of University Legislation Amendment Act 2004	22 23 24
	15	Defin	nitions	25
			In this Part:	26
			amending Act means the University Legislation Amendment Act 2004.	27 28
			<b>former section 9</b> means section 9 as in force immediately before its substitution by the amending Act.	29 30
			<b>new section 9</b> means section 9 as substituted by the amending Act.	31 32
			relevant day means the date of assent to the amending Act.	33

16	Gen	ral		1		
		The provisions of this Part a under clause 1A.	are subject to any regulations made	2		
17	Con	titution of Council		4		
	(1)	Subject to this Act, on the relevant day:				
		(a) a person holding office to hold that office, and	e under former section 9 (2) ceases	6 7		
		taken to be appointed	e under former section 9 (4) or (6) is as a member under new section 9 (1) , for the balance of the person's term	8 9 10 11		
		(c), (c1) or (d) is take	e under former section 9 (5) (a), (b), en to be elected as a member under (e), (f), (g) or (h), respectively, for son's term of office.	12 13 14 15		
	(2)		ly practicable after, the relevant day, balance of the members required to ion 9 (1) (b).	16 17 18		
	(3)	necessary steps to ensure, as	Il necessary by-laws and take all far as possible, that the Council is section 9 as soon as is reasonably day.	19 20 21 22		
	(4)	(3), the Council must be co	the by-laws referred to in subclause nstituted so as to include all of the binted under new section 9 (1) (b).	23 24 25		
	(5)	The Council is taken to be prit is constituted in accordance	operly constituted until such time as e with new section 9.	26 27		
	(6)		in the office of a member before the under new section 9 is to be filled as	28 29 30		
		under new section 9	in the office of a member appointed (1) (b), the Minister is to appoint a sister considers appropriate,	31 32 33		
		under new section 9	in the office of a member appointed (1) (c), the Council is to appoint a ncil considers appropriate,	34 35 36		
			in the office of a member elected (d) or (e), the Council is to appoint old that office,	37 38 39		

	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	1 2 3 4 5
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with Convocation.	6 7 8 9
(7)	hold: subc	ect to this Act, a member appointed under subclause (6) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	10 11 12 13
(8)	Subj	ect to this Act, if, on the expiry:	14
	(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	15 16
	(b)	in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,	17 18
	elect not y	ey-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	19 20 21 22
(9)	vacar is tal unde	the purposes of subclause (1), a member filling a casual ncy and holding office immediately before the relevant day cen to hold that office immediately before the relevant day or the provision under which the member's predecessor was ed or appointed.	23 24 25 26 27
(10)	A pe	rson who ceases to hold office under subclause (1) (a):	28
	(a)	is not entitled to any remuneration or compensation because of loss of that office, and	29 30
	(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	31 32
Maxi	mum	incumbency for Council members	33
(1)	imm	secutive years of office served by a member of the Council ediately before the relevant day are to be taken into account oplying clause 1 (3) of Schedule 1 in respect of the member.	34 35 36
(2)		ever, clause 1 (3) of Schedule 1 does not affect the operation ause 17 (1) (b) or (c) or (8) of this Schedule	37 38

University Legislation Amendment Bill 2004

Schedule 6	Amendment of	University	of Newcastle Act	1989 No	68
Ochicadic o	/ tilleriallicité of	CHIVCHOILY	OI INCWOODLIC / ICE	1000 140	OO

19	Application of section 21G	1
	Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	2 3 4
20	Continuation of Council	5
	No amendment made by the amending Act affects the continuity of the Council	6 7

Scl	Schedule 7		chedule 7 Amendment of University of Sydney Act 1989 No 124		1 2	
					(Section 3)	3
[1]	Secti	on 3 l	Defini	tions		4
	Insert	after	section	on 3 (3)	:	5
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Secti	on 9				7
	Omit	the se	ection.	Insert	instead:	8
	9	Cons	stituti	on of S	Senate	9
		(1)	The	Senate	is to consist of:	10
			(a)	3 off	icial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Senate), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
			(b)	is no	ternal persons appointed by the Minister, one of whom minated by the Senate for appointment otherwise than uant to subsection (2), and	20 21 22
			(c)	one o	external person appointed by the Senate, and	23
			(d)	4 per	rsons:	24
				(i)	who are members of the academic staff of the University, and	25 26
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	27 28
				(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	29 30 31
			(e)	one j	person:	32
				(i)	who is a member of the non-academic staff of the University, and	33 34
				(ii)	who has such qualifications as may be prescribed by the by-laws, and	35 36

		(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
	(f)	one p	person:	4
		(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	5 6 7
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	8 9
		(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	10 11 12
	(g)	one p	person:	13
		(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	14 15 16
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	17 18
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	19 20 21
	(h)	5 ext	ternal persons:	22
	` ′	(i)	who are graduates of the University, and	23
		(ii)	who have such qualifications as are prescribed by the by-laws, and	24 25
		(iii)	who are elected by graduates of the University in the manner prescribed by the by-laws.	26 27
2)	Parli	ament	ter may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only on is nominated by the Senate for appointment.	28 29 30
			nan 2 such persons may hold office at any one time as members under subsection (1) (b).	31 32
3)	Of th	ne men	nbers of the Senate:	33
	(a)	by remana	ast 2 must have financial expertise (as demonstrated elevant qualifications and by experience in financial agement at a senior level in the public or private or), and	34 35 36 37
	(b)	demo	east one must have commercial expertise (as onstrated by relevant experience at a senior level in the ic or private sector).	38 39 40

	(4)	All appointed members of the Senate must have expertise and experience relevant to the functions exercisable by the Senate and an appreciation of the object, values, functions and activities of the University.	1 2 3 4
	(5)	The majority of members of the Senate must be external persons.	5
	(6)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Senate.	6 7
	(7)	Schedule 1 has effect in relation to the members and procedure of the Senate.	8 9
	(8)	A reference in this section to members of the academic staff of the University includes a reference to such persons as the by-laws declare to be members of the academic staff of the University for the purposes of this section.	10 11 12 13
	(9)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	14 15 16 17
[3]	Section 16	Functions of Senate	18
	Insert after	section 16 (1A):	19
	(1B)	Without limiting the functions of the Senate under subsection (1A), the Senate is, in controlling and managing the affairs and concerns of the University:	20 21 22
		(a) to monitor the performance of the Vice-Chancellor, and	23
		(b) to oversee the University's performance, and	24
		(c) to oversee the academic activities of the University, and	25
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	26 27
		(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	28 29 30 31 32 33
		(f) to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	34 35 36
		(g) to approve significant University commercial activities (within the meaning of section 26A), and	37 38

	J	o establish policies and procedural principles for the University consistent with legal requirements and ommunity expectations, and	2
	ii c	o ensure that the University's grievance procedures, and information concerning any rights of appeal or review onferred by or under any Act, are published in a form that is readily accessible to the public, and	
	f	o regularly review its own performance (in light of its unctions and obligations imposed by or under this or any ther Act), and	8 9 10
	(k) to	adopt a statement of its primary responsibilities, and	1
		o make available for Fellows a program of induction and f development relevant to their role as a Fellow.	12 13
[4]	Section 16, note		14
	Insert at the end of the	ne section:	15
	Note. T	he Annual Reports (Statutory Bodies) Act 1984 regulates the	16 17
	Senate t	of annual reports to Parliament by the Senate and requires the co report on the University's operations (including in relation to	18
		agement and insurance arrangements) and a range of financial er matters.	19 20
[5]	Section 16A Contro	olled entities	2
	Omit "This section of	loes not itself confer" from section 16A (4).	22
	Insert instead "Nothi	ing in the preceding subsections confers".	23
[6]	Section 16A (5)		24
	Omit "This section of	loes not affect".	25
	Insert instead "Nothi	ing in the preceding subsections affects".	26
[7]	Section 16A (5A)		27
	Insert after section 1	6A (5):	28
	(5A) The Ser	nate is, as far as is reasonably practicable, to ensure:	29
	(a) tl	nat the governing bodies of controlled entities:	30
		(i) possess the expertise and experience necessary to provide proper stewardship and control, and	3° 32
	(	ii) comprise, where possible, at least some members who are not members of the Senate or members of staff, or students, of the University, and	33 34 38
	(i	ii) adopt and evaluate their own governance principles, and	36 37

			<ul> <li>(iv) document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and</li> </ul>	1 2 3
			(b) that a protocol is established regarding reporting by governing bodies of controlled entities to the Senate.	4 5
[8]	Part	4A		6
	Inser	t after l	Part 4:	7
	Par	t 4A	Duties of Fellows	8
	26F	Dutie	es of Fellows	9
			The Fellows have the duties set out in Schedule 2A.	10
	26G	Remo	oval from office for breach of duty	11
		(1)	The Senate may remove a Fellow from office for breach of a duty set out in Schedule 2A.	12 13
		(2)	The removal from office may be effected only at a meeting of the Senate of which notice (including notice of the motion that the Fellow concerned be removed from office for breach of duty) was duly given.	14 15 16 17
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of Fellows for the time being.	18 19 20
		(4)	The motion for removal must not be put to the vote of the meeting unless the Fellow concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	21 22 23 24
		(5)	If the Fellow to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	25 26 27 28
		(6)	A Fellow may not be removed from office by the Senate for breach of duty except pursuant to this section.	29 30
[9]	Sect	ion 36	By-laws	31
	Omit	t "(othe	er than the parliamentary members)" from section 36 (1) (b).	32

[10]	Sect	ion 37	' Rule	s	1
				9), 10 (2), 14 (1), 16 (1) (d) and (e), 30 and 36 (1) (b) and (k) and (e)" from section 37 (1).	2
				(1) (d)–(h), (6) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 30 d (k) and clauses 1 (1) (c) and (d)".	4 5
[11]	Sche Sena		1 Prov	visions relating to Fellows and to the procedure of the	6 7
	Omit	claus	es 1 ar	nd 2. Insert instead:	8
	1	Tern	n of of	ffice	9
		(1)	Subj	ject to this Act, a Fellow holds office as follows:	10
			(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	11 12
			(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	13 14 15
			(c)	in the case of an elected member referred to in section 9 (1) (d), (e), (f) or (g), for such term (not exceeding 2 years) as may be prescribed by the by-laws,	16 17 18
			(d)	in the case of an elected member referred to in section 9 (1) (h), for such term (not exceeding 4 years) as may be prescribed by the by-laws.	19 20 21
		(2)		need to maintain an appropriate balance of experienced and members on the Senate must be taken into account:	22 23
			(a)	by the Senate, when making the by-laws required under this clause, and	24 25
			(b)	by the Minister and the Senate, when appointing members to the Senate.	26 27
		(3)	cons	erson must not be appointed or elected to serve more than 12 secutive years of office (unless the Senate otherwise resolves elation to the person).	28 29 30
	2	Vaca	ation o	of office	31
			The	office of a Fellow becomes vacant if the Fellow:	32
			(a)	dies, or	33
			(b)	declines to act, or	34

(c)	resigns the office by writing under his or her hand addressed:	1 2
	(i) in the case of a Fellow appointed by the Minister, to the Minister, or	3 4
	(ii) in the case of a Fellow appointed by the Senate, to the Chancellor, or	5 6
	(iii) in the case of an elected Fellow, to the Vice-Chancellor, or	7 8
(d)	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	9 10 11 12
(e)	becomes a mentally incapacitated person, or	13
(f)	is convicted in New South Wales of an offence that is punishable by 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	14 15 16 17 18
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	19 20 21
(h)	is removed from office by the Senate pursuant to section 26G, or	22 23
(i)	is absent from 3 consecutive meetings of the Senate of which reasonable notice has been given to the Fellow personally or in the ordinary course of post and is not, within 6 weeks after the last of those meetings, excused by the Senate for his or her absence, or	24 25 26 27 28
(j)	in the case of an elected Fellow, ceases to be qualified for election, or	29 30
(k)	in the case of a Fellow appointed by the Minister, is removed from office by the Minister, or	31 32
(1)	in the case of a Fellow appointed by the Senate, is removed from office by the Senate.	33 34
Schedule 1, clau	se 3 (2)	35
Omit "(otherwise	than to fill the office of a parliamentary member)".	36

[12]

[13]		edule 2A t after Sch	nedule 2:	1	
	Sch	nedule	2A Duties of Fellows	3	
			(Section 26F)	4	
	1	Duty to	act in best interests of University	5	
		A	Fellow must carry out his or her functions:	6	
		(a	a) in good faith in the best interests of the University as a whole, and	7 8	
		(b	o) for a proper purpose.	9	
	2	Duty to	exercise care and diligence	10	
			Fellow must act honestly and exercise a reasonable degree of are and diligence in carrying out his or her functions.	11 12	
	3	Duty not to improperly use position			
		A	Fellow must not make improper use of his or her position:	14	
		(a	a) to gain, directly or indirectly, an advantage for the Fellow or another person, or	15 16	
		(b	b) to cause detriment to the University.	17	
	4	Duty no	et to improperly use information	18	
			Fellow must not make improper use of information acquired ecause of his or her position:	19 20	
		(a	a) to gain, directly or indirectly, an advantage for the Fellow or another person, or	21 22	
		(b	b) to cause detriment to the University.	23	
	5	Disclosi	ure of material interests by Fellows	24	
		(1) If:	:	25	
		(a	a) a Fellow has a material interest in a matter being considered or about to be considered at a meeting of the Senate, and	26 27 28	

(2)

(3)

(4)

(5)

(6)

(b)	the interest appears to raise a conflict with the proper performance of the Fellow's duties in relation to the consideration of the matter,	1 2 3
come	ellow must, as soon as possible after the relevant facts have to the Fellow's knowledge, disclose the nature of the est at a meeting of the Senate.	4 5 6
A di Fello	sclosure by a Fellow at a meeting of the Senate that the w:	7 8
(a)	is a member, or is in the employment, of a specified company or other body, or	9 10
(b)	is a partner, or is in the employment, of a specified person, or	11 12
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	13 14
relati may	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	15 16 17 18
recor book	culars of any disclosure made under this clause must be ded by the Senate in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the Senate.	19 20 21 22
matte	a Fellow has disclosed the nature of an interest in any er, the Fellow must not, unless the Senate otherwise mines:	23 24 25
(a)	be present during any deliberation of the Senate with respect to the matter, or	26 27
(b)	take part in any decision of the Senate with respect to the matter.	28 29
unde	he purpose of the making of a determination by the Senate r subclause (4), a Fellow who has a material interest in a er to which the disclosure relates must not:	30 31 32
(a)	be present during any deliberation of the Senate for the purpose of making the determination, or	33 34
(b)	take part in the making by the Senate of the determination.	35
	ntravention of this clause does not invalidate any decision of enate.	36 37

		(/)	cons	ideration or discussion of, or from voting on any question ing to, the person's removal from office by the Senate uant to section 26G.	3
		(8)	the c	clause applies to a member of a committee of the Senate and committee in the same way as it applies to a member of the and the Senate.	5 6
		(9)	a ma in a	the purposes of this clause, a Fellow has a material interest in a determination of the Senate in the matter may result detriment being suffered by or a benefit accruing to the ow or an associate of the Fellow.	8 9 10 11
		(10)	In th	is clause:	12
			asso	ciate of a Fellow means any of the following:	13
			(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the Fellow,	14 15
			(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the Fellow,	16 17 18
			(c)	any other person who is known to the Fellow for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[14]	Sche	dule 3	Savi	ngs and transitional provisions	22
	Inser	t befor	e clau	se 1:	23
	1 <b>A</b>	Savii	ngs oı	r transitional regulations	24
		(1)	savir	Governor may make regulations containing provisions of a ngs or transitional nature consequent on the enactment of the wing Acts:	25 26 27
			Univ	versity Legislation Amendment Act 2004	28
		(2)		such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	29 30
		(3)	that	ne extent to which any such provision takes effect from a date is earlier than the date of its publication in the Gazette, the ision does not operate so as:	31 32 33
			(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	34 35 36

			(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.	1 2 3		
[15]	Sche	dule :	3, clau	use 14	4		
	Insert after clause 13:						
	14	14 Provisions consequent on enactment of University Legislation Amendment Act 2004					
		(1)		nis clause:  nding Act means the University Legislation Amendment Act 4.	8 9 10		
				ner section 9 means section 9 as in force immediately before ubstitution by the amending Act.	11 12		
			<i>new</i> Act.	section 9 means section 9 as substituted by the amending	13 14		
			relev	want day means the date of assent to the amending Act.	15		
		(2)	Subj	ect to this Act, on the relevant day:	16		
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	17 18		
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	19 20 21 22		
			(c)	a person holding office under former section 9 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	23 24 25 26		
		(3)	the N	or as soon as is reasonably practicable after, the relevant day, Minister must appoint the balance of the members required to ppointed under new section 9 (1) (b).	27 28 29		
		(4)	nece duly	Senate is to make all necessary by-laws and take all essary steps to ensure, as far as possible, that the Senate is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	30 31 32 33		
		(5)	(4),	the purposes of making the by-laws referred to in subclause the Senate must be constituted so as to include all of the abers required to be appointed under new section 9 (1) (b).	34 35 36		
		(6)	The it is	Senate is taken to be properly constituted until such time as constituted in accordance with new section 9.	37 38		

(7)	A casual vacancy occurring in the office of a Fellow before the Senate is duly constituted under new section 9 is to be filled as follows:							
	(a)	if the vacancy occurs in the office of a Fellow appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	4 5 6					
	(b)	if the vacancy occurs in the office of a Fellow appointed under new section 9 (1) (c), the Senate is to appoint a person whom the Senate considers appropriate,	7 8 9					
	(c)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (d) or (e), the Senate is to appoint a person qualified to hold that office,	10 11 12					
	(d)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (f) or (g), the Senate is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Senate,	13 14 15 16 17					
	(e)	if the vacancy occurs in the office of a Fellow elected under new section 9 (1) (h), the Senate is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	18 19 20 21					
(8)	offic	ect to this Act, a Fellow appointed under subclause (7) holds e from the time that person is appointed under that subclause the expiry of the term of that Fellow's predecessor.	22 23 24					
(9)	Subj	ect to this Act, if, on the expiry:	25					
	(a)	of a Fellow's term of office that is continued under subclause (2) (b) or (c), or	26 27					
	(b)	in the case of a Fellow appointed under subclause (7), of the term of office of the Fellow's predecessor,	28 29					
	elect not y	by-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are yet in force, the Fellow may continue to hold that office until time as a person is so duly appointed or elected.	30 31 32 33					
(10)	vaca is tal unde	the purposes of subclause (2), a Fellow filling a casual ncy and holding office immediately before the relevant day ken to hold that office immediately before the relevant day or the provision under which the Fellow's predecessor was red or appointed.	34 35 36 37 38					
(11)	A pe	erson who ceases to hold office under subclause (2) (a):	39					
	(a)	is not entitled to any remuneration or compensation because of loss of that office, and	40 41					

	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a Fellow.	1 2
(12)	Consecutive years of office served by a Fellow immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the Fellow.	3 4 5
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	6 7
(14)	Section 26G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	8 9 10
(15)	No amendment made by the amending Act affects the continuity of the Senate.	11 12
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	13 14

Schedule 8		Amendment of University of Technology, Sydney, Act 1989 No 69			1
				(Section 3)	3
[1]	Section 3 I	Defini	tions		4
	Insert after	sectio	n 3 (3)	:	5
	(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Section 9				7
	Omit the se	ection.	Insert	instead:	8
	9 Cons	stituti	on of (	Council	9
	(1)	The	Counc	il is to consist of:	10
		(a)	3 off	icial members, being:	11
			(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
			(ii)	the Vice-Chancellor, and	14
			(iii)	the person for the time being holding the office of presiding member of the Academic Board (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor), and	15 16 17 18 19
		(b)		ternal persons appointed by the Minister from, as far racticable, the following categories:	20 21
			(i)	persons experienced in the field of education,	22
			(ii)	persons experienced in technology, industry, business, human services or industrial relations,	23 24
			(iii)	persons who are practising, or have practised, a profession,	25 26
			(iv)	persons who, in the opinion of the Minister, are likely to contribute to the cultural diversity of the University,	27 28 29
			(v)	persons having such other qualifications and experience as the Minister thinks appropriate, and	30 31
		(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	32 33
		(d)	2 per	rsons:	34
			(i)	who are members of the academic staff of the University, and	35 36

	(ii)	who have such qualifications as may be prescribed by the by-laws, and	1 2
	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	3 4 5
(e)	one p	person:	6
( )	(i)	who is a member of the non-academic staff of the University, and	7 8
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	9 10
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	11 12 13
(f)	one p	person:	14
	(i)	who is an undergraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	15 16 17
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	18 19
	(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	20 21 22
(g)	one p	person:	23
	(i)	who is a postgraduate student of the University but who is not a member of the academic or non-academic staff of the University, and	24 25 26
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	27 28
	(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	29 30 31
(h)		or more external persons (being such number as is cribed by the by-laws):	32 33
	(i)	who are members of Convocation, and	34
	(ii)	who have such qualifications as are prescribed by the by-laws, and	35 36
	(iii)	who are (as prescribed by the by-laws) elected by members of Convocation in the manner prescribed by the by-laws or appointed by the Council.	37 38 39

(2)	The by-laws may not prescribe a number of members for the purposes of subsection (1) (c) or (h) that when added to the number of other members to be appointed or elected to the Council would exceed 22.	1 2 3 4
(3)	A person appointed under subsection (1) (h) is appointed in addition to any member appointed under subsection (1) (c).	5 6
(4)	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Council for appointment.	7 8 9
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	10 11
(5)	Of the members of the Council:	12
	(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	13 14 15 16
	(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	17 18 19
(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	20 21 22 23
(7)	The majority of members of the Council must be external persons.	24 25
(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	26 27
(9)	Schedule 1 has effect in relation to the members and procedure of the Council.	28 29
(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	30 31 32 33

[3]	Section 16	Func	tions of Council	1
	Insert after	sectio	n 16 (1A):	2
	(1B)	(1A)	nout limiting the functions of the Council under subsection b, the Council is, in controlling and managing the affairs and terns of the University:	3 4 5
		(a)	to monitor the performance of the Vice-Chancellor, and	6
		(b)	to oversee the University's performance, and	7
		(c)	to oversee the academic activities of the University, and	8
		(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	9 10
		(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	11 12 13 14 15
		(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	17 18 19
		(g)	to approve significant University commercial activities (within the meaning of section 21A), and	20 21
		(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	22 23 24
		(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	25 26 27 28
		(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	29 30 31
		(k)	to adopt a statement of its primary responsibilities, and	32
		(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	33 34 35

[4]	Section 16	, note		1
	Insert at the end of the section:			2
		making of ar Council to re	Annual Reports (Statutory Bodies) Act 1984 regulates the inual reports to Parliament by the Council and requires the eport on the University's operations (including in relation to ment and insurance arrangements) and a range of financial atters.	3 4 5 6 7
[5]	Section 16A Controlled entities			8
	Omit "This section does not itself confer" from section 16A (4).			9
	Insert instead "Nothing in the preceding subsections confers".			10
[6]	Section 16A (5)			11
	Omit "This section does not affect".			12
	Insert instead "Nothing in the preceding subsections affects".			13
[7]	Section 16A (5A)			14
	Insert after section 16A (5):			15
	(5A)	The Council is, as far as is reasonably practicable, to ensure:		16
		(a) that t	the governing bodies of controlled entities:	17
		(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	18 19
		(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	20 21 22
		(iii)	adopt and evaluate their own governance principles, and	23 24
		(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	25 26 27
			a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	28 29

[8]	Part 4A Insert after Part 4:							
	Par	t 4A	Duties of Council members					
	21F	Dutie	es of Council members					
			The members of the Council have the duties set out in Schedule 2A.	6				
	21G	Remo	oval from office for breach of duty	7				
		(1)	The Council may remove a member of the Council from office for breach of a duty set out in Schedule 2A.	3				
		(2)	The removal from office may be effected only at a meeting of the Council of which notice (including notice of the motion that the member concerned be removed from office for breach of duty) was duly given.	10 11 12 13				
		(3)	The removal from office may be effected only if the motion for removal is supported by at least a two-thirds majority of the total number of members for the time being of the Council.	14 15 16				
		(4)	The motion for removal must not be put to the vote of the meeting unless the member concerned has been given a reasonable opportunity to reply to the motion at the meeting, either orally or in writing.	17 18 19 20				
		(5)	If the member to whom the motion for removal refers does not attend the meeting, a reasonable opportunity to reply to the motion is taken to have been given if notice of the meeting has been duly given.	21 22 23 24				
		(6)	A member of the Council may not be removed from office by the Council for breach of duty except pursuant to this section.	25 26				
[9]	Sect	ion 28	By-laws	27				
	Omit	t "(othe	er than the parliamentary members)" from section 28 (1) (b).	28				
[10]	Sect	ion 29	Rules	29				
			, 10 (2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and ) and (e)" from section 29 (1).	30 31				
			nd "9 (1) (c)–(h) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and and (k) and clauses 1 (1) (c) and (d)".	32 33				

[11]	Sche	edule 1	l Provi	sions i	relating to members and procedure of the Council	•
	Omi	t claus	es 1 an	d 2. Ins	sert instead:	2
	1	Tern	of of	fice		3
		(1)	Subje follo		this Act, a member of the Council holds office as	2 5
			(a)		case of an official member, while the member holds ffice by virtue of which he or she is a member,	6 7
			(b)	or (c)	e case of a member appointed under section 9 (1) (b), for such term (not exceeding 4 years) as may be fied in the member's instrument of appointment,	8 9 10
			(c)	(d), (e	ecase of an elected member referred to in section 9 (1) e), (f) or (g), for such term (not exceeding 2 years) as the prescribed by the by-laws,	11 12 13
			(d)	such the by in the	case of a member referred to in section 9 (1) (h), for term (not exceeding 4 years) as may be prescribed by y-laws (in the case of an elected member) or specified emember's instrument of appointment (in the case of pointed member).	14 15 16 17
		(2)	The new i	need to membe	maintain an appropriate balance of experienced and ers on the Council must be taken into account:	19 20
			(a)		e Council, when making the by-laws required under lause, and	2° 22
			(b)		he Minister and the Council, when appointing pers to the Council.	23 24
		(3)	conse	ecutive	years of office (unless the Council otherwise relation to the person).	25 26 27
	2	Vaca	ation o	f office	)	28
			The mem		of a member of the Council becomes vacant if the	29 30
			(a)	dies,	or	31
			(b)	declir	nes to act, or	32
			(c)	resigr addre	ns the office by writing under his or her hand issed:	33 34
				(i)	in the case of a member appointed by the Minister, to the Minister, or	35 36
				(ii)	in the case of a member appointed by the Council, to the Chancellor, or	37 38

[12]

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(d)	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	3 4 5 6
(e)	becomes a mentally incapacitated person, or	7
(f)	is convicted in New South Wales of an offence that is punishable by 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	8 9 10 11 12
(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
(h)	is removed from office by the Council pursuant to section 21G, or	16 17
(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	18 19 20 21 22
(j)	in the case of an elected member, or a member appointed under section 9 (1) (h), ceases to be qualified for election or appointment, or	23 24 25
(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(1)	in the case of a member appointed by the Council, is removed from office by the Council.	28 29
Schedule 2A		30
Insert after Schedu	ule 2:	31
Schedule 2A	Duties of Council members	32
	(Section 21F)	33
1 Duty to act	in best interests of University	34
A me	ember of the Council must carry out his or her functions:	35
(a)	in good faith in the best interests of the University as a whole, and	36 37

		(b)	for a proper purpose.	1
2	Duty	to ex	ercise care and diligence	2
		reaso	nember of the Council must act honestly and exercise a bnable degree of care and diligence in carrying out his or her tions.	3 4 5
3	Duty	not to	o improperly use position	6
			ember of the Council must not make improper use of his or position:	7 8
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	9 10
		(b)	to cause detriment to the University.	11
4	Duty	not to	o improperly use information	12
			nember of the Council must not make improper use of rmation acquired because of his or her position:	13 14
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	15 16
		(b)	to cause detriment to the University.	17
5	Disc	losure	e of material interests by Council members	18
	(1)	If:		19
		(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	20 21 22
		(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	23 24 25
		come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the test at a meeting of the Council.	26 27 28
	(2)		sclosure by a member of the Council at a meeting of the ncil that the member:	29 30
		(a)	is a member, or is in the employment, of a specified company or other body, or	31 32
		(b)	is a partner, or is in the employment, of a specified person, or	33 34

(3)

(4)

(5)

(6)

**(7)** 

(8)

(9)

(c)	has some other specified interest relating to a specified company or other body or to a specified person,	1 2
relati may a	afficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	3 4 5 6
recor book	culars of any disclosure made under this clause must be ded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the cil.	7 8 9 10 11
intere	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	12 13 14
(a)	be present during any deliberation of the Council with respect to the matter, or	15 16
(b)	take part in any decision of the Council with respect to the matter.	17 18
under	the purpose of the making of a determination by the Council or subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	19 20 21
(a)	be present during any deliberation of the Council for the purpose of making the determination, or	22 23
(b)	take part in the making by the Council of the determination.	24 25
	ntravention of this clause does not invalidate any decision of ouncil.	26 27
consi relati	clause does not prevent a person from taking part in the deration or discussion of, or from voting on any question ng to, the person's removal from office by the Council ant to section 21G.	28 29 30 31
and t	clause applies to a member of a committee of the Council he committee in the same way as it applies to a member of ouncil and the Council.	32 33 34
in a result	he purposes of this clause, a member has a material interest matter if a determination of the Council in the matter may in a detriment being suffered by or a benefit accruing to the ber or an associate of the member.	35 36 37 38

		(10)	In thi	is clause:	•
			assoc	ciate of a member means any of the following:	2
			(a)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	3
			(b)	the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	6
			(c)	any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	8 9 10
[13]	Sche	dule 3	Savir	ngs and transitional provisions	11
	Inser	t befor	e the h	neading to Part 1:	12
	Par	t 1A	Ger	neral	13
	1A	Savir	ngs or	r transitional regulations	14
		(1)	savin	Governor may make regulations containing provisions of a negs or transitional nature consequent on the enactment of the wing Acts:	15 16 17
			Univ	ersity Legislation Amendment Act 2004	18
		(2)		such provision may, if the regulations so provide, take effect the date of assent to the Act concerned or a later date.	19 20
		(3)	that i	ne extent to which any such provision takes effect from a date is earlier than the date of its publication in the Gazette, the ision does not operate so as:	21 22 23
			(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	24 25 26
			(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.	27 28 29

[14]	Schedule 3, Part 4 Insert after Part 3:						
	Par		Provisions consequent on enactment of University Legislation Amendment Act 2004				
	15	Defi	nitions				
			In this Part:  amending Act means the University Legislation Amendment Act 2004.	7 8 9			
			<i>former section 9</i> means section 9 as in force immediately before its substitution by the amending Act.	10 11			
			<b>new section 9</b> means section 9 as substituted by the amending Act.	12 13			
			relevant day means the date of assent to the amending Act.	14			
	16	Gen	eral	15			
			The provisions of this Part are subject to any regulations made under clause 1A.	16 17			
	17	Con	stitution of Council	18			
		(1)	Subject to this Act, on the relevant day:	19			
			(a) a person holding office under former section 9 (2) ceases to hold that office, and	20 21			
			(b) a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	22 23 24 25			
			(c) a person holding office under former section 9 (5) (a), (b), (c), (c1) or (d) is taken to be elected as a member under new section 9 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	26 27 28 29			
		(2)	The Council is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Council is duly constituted under new section 9 as soon as is reasonably practicable after the relevant day.	30 31 32 33			
		(3)	For the purposes of making the by-laws referred to in subclause (2), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).	34 35 36			

(4)		Council is taken to be properly constituted until such time as constituted in accordance with new section 9.	1 2
(5)		sual vacancy occurring in the office of a member before the acil is duly constituted under new section 9 is to be filled as ws:	3 4 5
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	6 7 8
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	9 10 11
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	12 13 14
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f) or (g), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	15 16 17 18 19
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (h), the Council is to appoint a person qualified to hold that office following consultation with members of Convocation whose names are entered in the Roll of Convocation.	20 21 22 23 24
(6)	holds subcl	ect to this Act, a member appointed under subclause (5) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	25 26 27 28
(7)	Subje	ect to this Act, if, on the expiry:	29
	(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	30 31
	(b)	in the case of a member appointed under subclause (5), of the term of office of the member's predecessor,	32 33
	electe not y	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until time as a person is so duly appointed or elected.	34 35 36 37

	(8)	For the purposes of subclause (1), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
	(9)	A person who ceases to hold office under subclause (1) (a):	6
		(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
		(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
18	Max	imum incumbency for Council members	11
	(1)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	12 13 14
	(2)	However, clause 1 (3) of Schedule 1 does not affect the operation of clause 17 (1) (b) or (c) or (7) of this Schedule.	15 16
19	App	lication of section 21G	17
		Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	18 19 20
20	Con	tinuation of Council	21
		No amendment made by the amending Act affects the continuity of the Council.	22 23

Scł	chedule 9		nedule 9 Amendment of University of Western Sydney Act 1997 No 116			1
					(Section 3)	3
[1]	Sect	ion 3	Defini	tions		4
	Inser	t after	section	on 3 (2)	:	5
		(3)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Sect	ion 12	2			7
	Omi	the se	ection.	Insert	instead:	8
	12	Con	stituti	on of I	3oard	9
		(1)	The	Board	is to consist of:	10
			(a)	5 of	ficial members, being:	11
				(i)	the Chancellor (if the Chancellor is not otherwise a member of the Board), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the Deputy Chancellors, and	15
				(iv)	the Chair of the Academic Senate, and	16
			(b)	6 ex opin	ternal persons appointed by the Minister who, in the ion of the Minister:	17 18
				(i)	each have an interest in Greater Western Sydney and its development or an interest in the students or other clients of the University, and	19 20 21
				(ii)	bring to the Board suitable levels of knowledge, skills and experience in matters such as strategic planning, human resources or educational or financial matters, and	22 23 24 25
			(c)		or more external persons (being such number as is cribed by the by-laws) appointed by the Board, and	26 27
			(d)	one	person:	28
				(i)	who is a member of the academic staff of the University, and	29 30
				(ii)	who has such qualifications as may be prescribed by the by-laws, and	31 32
				(iii)	who is elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	33 34 35

	(e)	one person:					
		(i)	who is a member of the general staff of the University, and	2			
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	4 5			
		(iii)	who is elected by members of the general staff of the University in the manner prescribed by the by-laws, and	6 7 8			
	(f)	one p	person:	9			
		(i)	who is an undergraduate student of the University but who is not a member of the academic or general staff of the University, and	10 11 12			
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	13 14			
		(iii)	who is elected by undergraduate students of the University in the manner prescribed by the by-laws, and	15 16 17			
	(g)	one p	person:	18			
		(i)	who is a postgraduate student of the University but who is not a member of the academic or general staff of the University, and	19 20 21			
		(ii)	who has such qualifications as may be prescribed by the by-laws, and	22 23			
		(iii)	who is elected by postgraduate students of the University in the manner prescribed by the by-laws, and	24 25 26			
	(h)		or more external persons (being such number as is cribed by the by-laws):	27 28			
		(i)	who are graduates of the University, and	29			
		(ii)	who have such qualifications as are prescribed by the by-laws, and	30 31			
		(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Board.	32 33 34			
(2)	purp num	oses o	ors may not prescribe a number of members for the f subsection (1) (c) or (h) that when added to the other members to be appointed or elected to the Board and 22.	35 36 37 38			
(3)			appointed under subsection (1) (h) is appointed in any member appointed under subsection (1) (c).	39 40			

(4)	The Minister may appoint a person who is a member of the Parliament of New South Wales under subsection (1) (b) but only if the person is nominated by the Board for appointment.	1 2 3
	No more than 2 such persons may hold office at any one time as appointed members under subsection (1) (b).	4 5
(5)	Of the members of the Board:	6
	(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	7 8 9 10
	(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	11 12 13
(6)	All appointed members of the Board must have expertise and experience relevant to the functions exercisable by the Board and an appreciation of the object, values, functions and activities of the University.	14 15 16 17
(7)	The majority of members of the Board must be external persons.	18
(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Board.	19 20
(9)	Schedule 1 has effect in relation to the members and procedure of the Board.	21 22
(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or general staff of the University or undergraduate or postgraduate students of the University.	23 24 25 26
(11)	For the purposes of this section, <i>general staff</i> of the University excludes the academic staff of the University.	27 28
Section 22	Functions of Board	29
Insert after	section 22 (1A):	30
(1B)	Without limiting the functions of the Board under subsection (1A), the Board is, in controlling and managing the affairs and concerns of the University:	31 32 33
	(a) to monitor the performance of the Vice-Chancellor, and	34
	(b) to oversee the University's performance, and	35
	(c) to oversee the academic activities of the University, and	36

[3]

	(d)	to approve the University's mission, strategic direction, annual budget and business plan, and	1 2
	(e)	to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable steps to obtain independent audit reports of entities in which the University has an interest but which it does not control or with which it has entered into a joint venture), and	3 4 5 6 7 8
	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 22A), and	9 10 11
	(g)	to approve significant University commercial activities (within the meaning of section 32A), and	12 13
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	14 15 16
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	17 18 19 20
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	21 22 23
	(k)	to adopt a statement of its primary responsibilities, and	24
	(1)	to make available for members of the Board a program of induction and of development relevant to their role as such a member.	25 26 27
[4]	Section 22, note		28
	Insert at the end	of the section:	29
	mak Boa man	e. The Annual Reports (Statutory Bodies) Act 1984 regulates the ing of annual reports to Parliament by the Board and requires the rd to report on the University's operations (including in relation to risk agement and insurance arrangements) and a range of financial and r matters.	30 31 32 33 34
[5]	Section 22A Co	ntrolled entities	35
	Omit "This section	on does not itself confer" from section 22A (4).	36
	Insert instead "N	othing in the preceding subsections confers".	37

[6]	Section 22A (5)							
	Omi	t "This	ection does not affect".		2			
	Inser	Insert instead "Nothing in the preceding subsections affects".						
[7]	Sect	ion 22	(5A)		4			
	Inser	t after	ection 22A (5):		5			
		(5A)	The Board is, as far as is reaso	nably practicable, to ensure:	6			
			(a) that the governing bodie	s of controlled entities:	7			
				tise and experience necessary to ewardship and control, and	9			
			who are not mem	possible, at least some members bers of the Board or members of of the University, and	10 17 12			
				e their own governance principles,	13 14			
			business strateg	keep updated, a corporate or y containing achievable and mance targets, and	15 16 17			
				ablished regarding reporting by trolled entities to the Board.	18 19			
[8]	Part	4A			20			
	Insert after Part 4:							
	Par	t 4A	Duties of Board men	nbers	22			
	32F	Dutie	s of Board members		23			
			The members of the Board have	e the duties set out in Schedule 2A.	24			
	32G	Rem	val from office for breach of	duty	2			
		(1)	The Board may remove a mer breach of a duty set out in Sch	nber of the Board from office for edule 2A.	26 27			
		(2)	Board of which notice (include	be effected only at a meeting of the ling notice of the motion that the d from office for breach of duty)	28 29 30 37			
		(3)		be effected only if the motion for t a two-thirds majority of the total ne being of the Board.	32 33 34			

	(4)	unle:	motion for removal must not be put to the vote of the meeting ss the member concerned has been given a reasonable ortunity to reply to the motion at the meeting, either orally or riting.	2	
	(5)	atten moti	e member to whom the motion for removal refers does not and the meeting, a reasonable opportunity to reply to the con is taken to have been given if notice of the meeting has a duly given.	5 7 8	
	(6)		ember of the Board may not be removed from office by the rd for breach of duty except pursuant to this section.	10	
[9]	Section 38	Limit	ed tenure in certain positions	11	
			ter may, by order, grant a person an exemption from this ction 38 (3).	12 13	
	Insert instead "a person may be exempted from this section by resolution of the Board".				
[10]	Section 38 (6) (d) and (e)				
	Omit the paragraphs. Insert instead:				
		(d)	in the case of an elected member of the Board referred to in section 12 (1) (d), (e), (f) or (g)—2 years,	18 19	
		(e)	in the case of an elected member of the Board referred to in section 12 (1) (h)—4 years.	20 21	
[11]	Section 40	By-la	ws	22	
	Omit "(othe	er than	the parliamentary members)" from section 40 (1) (b).	23	
[12]	Section 41 Rules				
	Omit "12 (sand (e)" from	5), 13 om sec	(2), 14 (2), 22 (1) (e) and (f) and 40 (1) (b) and clauses 1 (d) tion 41 (1).	25 26	
			2 (1) (c)–(h) and (8), 13 (2), 14 (2), 22 (1) (e) and (f) and 40 es 1 (1) (c) and (d)"	27 28	

[13]	Sche	edule '	dule 1 Provisions relating to members and procedure of Board			
	Omit	claus	es 1 an	d 2. Ins	sert instead:	2
	1	Tern	n of of	fice		3
		(1)	Subj follo		this Act, a member of the Board holds office as	4 5
			(a)		case of an official member, while the member holds ffice by virtue of which he or she is a member,	6 7
			(b)	or (c)	e case of a member appointed under section 12 (1) (b) ), for such term (not exceeding 4 years) as may be fied in the member's instrument of appointment,	8 9 10
			(c)	(1)(d	e case of an elected member referred to in section 12 (), (e), (f) or (g), for such term (not exceeding 2 years) by be prescribed by the by-laws,	11 12 13
			(d)	such the by in the	case of a member referred to in section 12 (1) (h), for term (not exceeding 4 years) as may be prescribed by y-laws (in the case of an elected member) or specified emember's instrument of appointment (in the case of pointed member).	14 15 16 17 18
		(2)			maintain an appropriate balance of experienced and ers on the Board must be taken into account:	19 20
			(a)		e Board, when making the by-laws required under this e, and	21 22
			(b)		e Minister and the Board, when appointing members e Board.	23 24
	2	Vaca	ation o	of office	•	25
			The mem		of a member of the Board becomes vacant if the	26 27
			(a)	dies,	or	28
			(b)	or he	case of an appointed or elected member, transfers his r place of permanent residence to a place that is not n the State or the Australian Capital Territory, or	29 30 31
			(c)	decli	nes to act, or	32
			(d)	resigi addre	ns the office by writing under his or her hand essed:	33 34
				(i)	in the case of a member appointed by the Minister, to the Minister, or	35 36
				(ii)	in the case of a member appointed by the Board, to the Chancellor, or	37 38

[14]

[15]

	(iii) in the case of an elected member, to the Vice-Chancellor, or	1 2
(e)	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	3 4 5 6
(f)	becomes a mentally incapacitated person, or	7
(g)	is convicted in New South Wales of an offence that is punishable by 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	8 9 10 11 12
(h)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	13 14 15
(i)	is removed from office by the Board pursuant to section 32G, or	16 17
(j)	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	18 19 20 21 22
(k)	in the case of an elected member, or a member appointed under section 12 (1) (h), ceases to be qualified for election or appointment, or	23 24 25
(1)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	26 27
(m)	in the case of a member appointed by the Board, is removed from office by the Board.	28 29
Schedule 1, clau	se 3 (2)	30
Omit the subclaus	e.	31
Schedule 1, claus	se 3 (3)	32
Omit "(otherwise	than to fill the office of a parliamentary member)".	33

Schedule 2A

Insert after Schedule 2:

[16]

2

20

21

22 23

24

25

26

27

28

29

30

Schedule 2A Duties of Board members	3
(Section 32F)	4
1 Duty to act in best interests of University	5
A member of the Board must carry out his or her functions:	6
(a) in good faith in the best interests of the University as a whole, and	7 8
(b) for a proper purpose.	9
2 Duty to exercise care and diligence	10
A member of the Board must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions.	11 12 13
3 Duty not to improperly use position	14
A member of the Board must not make improper use of his or her position:	15 16
(a) to gain, directly or indirectly, an advantage for the member or another person, or	17 18
(b) to cause detriment to the University.	19

A member of the Board must not make improper use of

to gain, directly or indirectly, an advantage for the member

a member of the Board has a material interest in a matter

being considered or about to be considered at a meeting of

information acquired because of his or her position:

to cause detriment to the University.

Disclosure of material interests by Board members

(1)

If:

(a)

Duty not to improperly use information

or another person, or

the Board, and

(2)

(3)

(4)

(5)

(6)

(b)	the interest appears to raise a conflict with the proper	1
( )	performance of the member's duties in relation to the consideration of the matter,	2
come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Board.	4 5 6
	closure by a member of the Board at a meeting of the Board he member:	7 8
(a)	is a member, or is in the employment, of a specified company or other body, or	9 10
(b)	is a partner, or is in the employment, of a specified person, or	11 12
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	13 14
relati may	ufficient disclosure of the nature of the interest in any matter ng to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	15 16 17 18
recor book	culars of any disclosure made under this clause must be ded by the Board in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the Board.	19 20 21 22
intere	a member of the Board has disclosed the nature of an est in any matter, the member must not, unless the Board wise determines:	23 24 25
(a)	be present during any deliberation of the Board with respect to the matter, or	26 27
(b)	take part in any decision of the Board with respect to the matter.	28 29
unde	he purpose of the making of a determination by the Board r subclause (4), a member of the Board who has a material est in a matter to which the disclosure relates must not:	30 31 32
(a)	be present during any deliberation of the Board for the purpose of making the determination, or	33 34
(b)	take part in the making by the Board of the determination.	35
	ntravention of this clause does not invalidate any decision of board.	36 37

	(7)	This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on any question relating to, the person's removal from office by the Board pursuant to section 32G.	2
	(8)	This clause applies to a member of a committee of the Board and the committee in the same way as it applies to a member of the Board and the Board.	<u> </u>
	(9)	For the purposes of this clause, a member has a material interest in a matter if a determination of the Board in the matter may result in a detriment being suffered by or a benefit accruing to the member or an associate of the member.	8 9 10 17
	(10)	In this clause:	12
	` ′	associate of a member means any of the following:	13
		(a) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of the member,	14 15
		(b) the spouse, de facto partner, parent, child, brother or sister, business partner or friend of a person referred to in paragraph (a) if that relationship is known to the member,	16 17 18
		(c) any other person who is known to the member for reasons other than that person's connection with the University or that person's public reputation.	19 20 21
[17]	Schedule	4 Savings, transitional and other provisions	22
		e end of clause 1 (1):	23
		University Legislation Amendment Act 2004	24
[18]	Schedule	4. Part 5	25
	Insert after		26
	Part 5	Provisions consequent on enactment of	27
		University Legislation Amendment Act	28
		2004	29
	26 Defi	nitions	30
		In this Part:	31
		amending Act means the University Legislation Amendment Act 2004.	32 33
		<i>former section 12</i> means section 12 as in force immediately before its substitution by the amending Act.	3 <sup>2</sup> 35

		new section 12 means section 12 as substituted by the amending Act.	1 2
		relevant day means the date of assent to the amending Act.	3
27	Gen	eral	4
		The provisions of this Part are subject to any regulations made under clause 1.	5 6
28	Cons	stitution of Board	7
	(1)	Subject to this Act, on the relevant day:	8
		(a) a person holding office under former section 12 (2) ceases to hold that office, and	9 10
		(b) a person holding office under former section 12 (4) or (6) is taken to be appointed as a member under new section 12 (1) (b) or (c), respectively, for the balance of the person's term of office, and	11 12 13 14
		(c) a person holding office under former section 12 (5) (a), (b), (c), (d) or (e) is taken to be elected as a member under new section 12 (1) (d), (e), (f), (g) or (h), respectively, for the balance of the person's term of office.	15 16 17 18
	(2)	On, or as soon as is reasonably practicable after, the relevant day, the Minister must appoint the balance of the members required to be appointed under new section 12 (1) (b).	19 20 21
	(3)	The Board is to make all necessary by-laws and take all necessary steps to ensure, as far as possible, that the Board is duly constituted under new section 12 as soon as is reasonably practicable after the relevant day.	22 23 24 25
	(4)	For the purposes of making the by-laws referred to in subclause (3), the Board must be constituted so as to include all of the members required to be appointed under new section 12 (1) (b).	26 27 28
	(5)	The Board is taken to be properly constituted until such time as it is constituted in accordance with new section 12.	29 30
	(6)	A casual vacancy occurring in the office of a member before the Board is duly constituted under new section 12 is to be filled as follows:	31 32 33
		(a) if the vacancy occurs in the office of a member appointed under new section 12 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	34 35 36

(7)

(8)

(9)

(10)

(b)	if the vacancy occurs in the office of a member appointed under new section 12 (1) (c), the Board is to appoint a person whom the Board considers appropriate,	1 2 3
(c)	if the vacancy occurs in the office of a member elected under new section 12 (1) (d) or (e), the Board is to appoint a person qualified to hold that office,	4 5 6
(d)	if the vacancy occurs in the office of a member elected under new section 12 (1) (f) or (g), the Board is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Board,	7 8 9 10 11
(e)	if the vacancy occurs in the office of a member elected under new section 12 (1) (h), the Board is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	12 13 14 15
nolds subcla	office from the time that person is appointed under that ause until the expiry of the term of that member's cessor.	16 17 18 19
Subje	ct to this Act, if, on the expiry:	20
(a)	of a member's term of office that is continued under subclause (1) (b) or (c), or	21 22
(b)	in the case of a member appointed under subclause (6), of the term of office of the member's predecessor,	23 24
electe are no	y-laws necessary to enable a person to be duly appointed or bid (as the case may be) to that office under new section 12 bit yet in force, the member may continue to hold that office such time as a person is so duly appointed or elected.	25 26 27 28
vacan s tak ınder	the purposes of subclause (1), a member filling a casual acy and holding office immediately before the relevant day en to hold that office immediately before the relevant day the provision under which the member's predecessor was ad or appointed.	29 30 31 32 33
A per	son who ceases to hold office under subclause (1) (a):	34
(a)	is not entitled to any remuneration or compensation because of loss of that office, and	35 36
(b)	is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	37 38

29	Existing exemptions from section 38	1				
	An exemption granted by the Minister under section 38 (3) (as in					
	force immediately before its amendment by the amending Act) is	3				
	taken to be an exemption by resolution of the Board under that	4				
	subsection as so amended.	5				
30	Application of section 32G	6				
	Section 32G, as inserted by the amending Act, applies only in	7				
	relation to breaches of duty constituted by acts or omissions	8				
	occurring after the relevant day.	9				
31	Continuation of Board	10				
	No amendment made by the amending Act affects the continuity	11				
	of the Board	12				

Schedule 10			Amer Act 1	ndment of University of Wollongong 989 No 127	2	
					(Section 3)	3
[1]	Sectio	n 3 D	efini	tions		2
	Insert a	after s	sectio	n 3 (3)	:	Ę
		(4)	Note	es inclu	ided in this Act do not form part of this Act.	6
[2]	Sectio	n 9			-	7
,			ction.	Insert	instead:	8
	9 (	Cons	tituti	on of (	Council	ę
		(1)	The	Counc	il is to consist of:	10
		(-)	(a)		ficial members, being:	11
			()	(i)	the Chancellor (if the Chancellor is not otherwise a member of the Council), and	12 13
				(ii)	the Vice-Chancellor, and	14
				(iii)	the person for the time being holding the office of presiding member of the Academic Senate (if that person is not the Vice-Chancellor) or of deputy presiding member of the Academic Senate (if the presiding member is the Vice-Chancellor), and	15 16 17 18
			(b)	6 ext	ternal persons appointed by the Minister from, as far racticable, the following categories:	20 21
				(i)	persons experienced in the field of education or the arts,	22 23
				(ii)	persons experienced in technology, industry, commerce or industrial relations,	24 25
				(iii)	persons who are practising, or have practised, a profession,	26 27
				(iv)	persons associated with Illawarra and the South Coast, and	28 29
			(c)	one preso	or more external persons (being such number as is cribed by the by-laws) appointed by the Council, and	30 31
			(d)	2 per	rsons:	32
				(i)	who are members of the academic staff of the University, and	33 34
				(ii)	who have such qualifications as may be prescribed by the by-laws, and	35 36

(2)

(3)

(4)

	(iii)	who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and	1 2 3
(e)	one p	person:	4
	(i)	who is a member of the non-academic staff of the University, and	5 6
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	7 8
	(iii)	who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws, and	9 10 11
(f)	one p	person:	12
	(i)	who is a student of the University but who is not a member of the academic or non-academic staff of the University, and	13 14 15
	(ii)	who has such qualifications as may be prescribed by the by-laws, and	16 17
	(iii)	who is elected by students of the University in the manner prescribed by the by-laws, and	18 19
(g)	one o	or more external persons (being such number as is cribed by the by-laws):	20 21
	(i)	who are graduates of the University, and	22
	(ii)	who have such qualifications as are prescribed by the by-laws, and	23 24
	(iii)	who are (as prescribed by the by-laws) elected by graduates of the University in the manner prescribed by the by-laws or appointed by the Council.	25 26 27
purp num	oses o ber of	of subsection (1) (c) or (g) that when added to the other members to be appointed or elected to the ould exceed 22.	28 29 30 31
A po	erson a	appointed under subsection (1) (g) is appointed in any member appointed under subsection (1) (c).	32 33
Parli	ament	er may appoint a person who is a member of the of New South Wales under subsection (1) (b) but only n is nominated by the Council for appointment.	34 35 36
		an 2 such persons may hold office at any one time as nembers under subsection (1) (b).	37 38

Of the members of the Council:

(5)

		(a) at least 2 must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector), and	2 3 4 5	
		(b) at least one must have commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector).	6 7 8	
	(6)	All appointed members of the Council must have expertise and experience relevant to the functions exercisable by the Council and an appreciation of the object, values, functions and activities of the University.	9 10 11 12	
	(7)	The majority of members of the Council must be external persons.	13 14	
	(8)	The by-laws are to prescribe the procedures for the nomination of persons for appointment as members of the Council.	15 16	
	(9)	(9) Schedule 1 has effect in relation to the members and procedure of the Council.		
	(10)	A reference in this section to external persons is a reference to persons who are not members of the academic or non-academic staff of the University or undergraduate or postgraduate students of the University.	19 20 21 22	
[3]	Section 16	Functions of Council	23	
	Insert after	section 16 (1A):	24	
	(1B)	Without limiting the functions of the Council under subsection (1A), the Council is, in controlling and managing the affairs and concerns of the University:	25 26 27	
		(a) to monitor the performance of the Vice-Chancellor, and	28	
		(b) to oversee the University's performance, and	29	
		(c) to oversee the academic activities of the University, and	30	
		(d) to approve the University's mission, strategic direction, annual budget and business plan, and	31 32	
		(e) to oversee risk management and risk assessment across the University (including, if necessary, taking reasonable	33 34	
		steps to obtain independent audit reports of entities in	35	
		which the University has an interest but which it does not	36	
		control or with which it has entered into a joint venture),	37 38	

	(f)	to approve and monitor systems of control and accountability for the University (including in relation to controlled entities within the meaning of section 16A), and	2
	(g)	to approve significant University commercial activities (within the meaning of section 21A), and	
	(h)	to establish policies and procedural principles for the University consistent with legal requirements and community expectations, and	6 7 8
	(i)	to ensure that the University's grievance procedures, and information concerning any rights of appeal or review conferred by or under any Act, are published in a form that is readily accessible to the public, and	9 10 11 12
	(j)	to regularly review its own performance (in light of its functions and obligations imposed by or under this or any other Act), and	13 14 15
	(k)	to adopt a statement of its primary responsibilities, and	16
	(1)	to make available for members of the Council a program of induction and of development relevant to their role as such a member.	17 18 19
[4]	Section 16, note		20
	Insert at the end o	f the section:	2
	makir Cound risk m	The Annual Reports (Statutory Bodies) Act 1984 regulates the ag of annual reports to Parliament by the Council and requires the cil to report on the University's operations (including in relation to lanagement and insurance arrangements) and a range of financial ther matters.	22 23 24 25 26
[5]	Section 16A Con	trolled entities	27
	Omit "This section	n does not itself confer" from section 16A (4).	28
	Insert instead "No	thing in the preceding subsections confers".	29
[6]	Section 16A (5)		30
	Omit "This section	n does not affect".	3′
	Insert instead "No	thing in the preceding subsections affects".	32

[7]	Sect	ion 16	A (5A)			1
	Inser	t after	section	16A	(5):	2
		(5A)	The C	Counc	il is, as far as is reasonably practicable, to ensure:	3
			(a)	that t	the governing bodies of controlled entities:	4
				(i)	possess the expertise and experience necessary to provide proper stewardship and control, and	5
				(ii)	comprise, where possible, at least some members who are not members of the Council or members of staff, or students, of the University, and	7 8 9
				(iii)	adopt and evaluate their own governance principles, and	10 11
				(iv)	document, and keep updated, a corporate or business strategy containing achievable and measurable performance targets, and	12 13 14
			(b)	that gove	a protocol is established regarding reporting by rning bodies of controlled entities to the Council.	15 16
[8]	Part	4A				17
	Inser	t after	Part 4:			18
	Part 4A		Dut	ies (	of Council members	19
	21F Dutie		s of C	ounci	il members	20
			The r	nembe	ers of the Council have the duties set out in Schedule	21 22
	21G	Rem	oval fr	om of	ffice for breach of duty	23
		(1)			il may remove a member of the Council from office of a duty set out in Schedule 2A.	24 25
		(2)	Coun meml	cil of	al from office may be effected only at a meeting of the which notice (including notice of the motion that the neerned be removed from office for breach of duty) iven.	26 27 28 29
		(3)	remo	val is	al from office may be effected only if the motion for supported by at least a two-thirds majority of the total members for the time being of the Council.	30 31 32
		(4)	unles	s the rtunity	for removal must not be put to the vote of the meeting member concerned has been given a reasonable to reply to the motion at the meeting, either orally or	33 34 35 36

	(5)	atten moti	e member to whom the motion for removal refers does not ad the meeting, a reasonable opportunity to reply to the on is taken to have been given if notice of the meeting has a duly given.	1 2 3 4
	(6)		ember of the Council may not be removed from office by the neil for breach of duty except pursuant to this section.	5 6
[9]	Section 28	By-la	ws	7
	Omit "(othe	er than	the parliamentary members)" from section 28 (1) (b).	8
[10]	Section 29	Rules	S	9
			2), 14 (1), 16 (1) (d) and (e), 23 and 28 (1) (b) and (k) and (e)" from section 29 (1).	10 11
	Insert instead 28 (1) (b) a	ad "9 nd (k)	(1) (c)–(g) and (8), 10 (2), 14 (1), 16 (1) (d) and (e), 23 and and clauses 1 (1) (c) and (d)".	12 13
[11]	Schedule 1	Prov	isions relating to members and procedure of the Council	14
	Omit clause	es 1 an	nd 2. Insert instead:	15
	1 Term	n of of	fice	16
	(1)	Subj follo	ect to this Act, a member of the Council holds office as ows:	17 18
		(a)	in the case of an official member, while the member holds the office by virtue of which he or she is a member,	19 20
		(b)	in the case of a member appointed under section 9 (1) (b) or (c), for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment,	21 22 23
		(c)	in the case of an elected member referred to in section 9 (1) (d), (e) or (f), for such term (not exceeding 3 years) as may be prescribed by the by-laws,	24 25 26
		(d)	in the case of a member referred to in section 9 (1) (g), for such term (not exceeding 4 years) as may be prescribed by the by-laws (in the case of an elected member) or specified in the member's instrument of appointment (in the case of an appointed member).	27 28 29 30 31
	(2)		need to maintain an appropriate balance of experienced and members on the Council must be taken into account:	32 33
		(a)	by the Council, when making the by-laws required under this clause, and	34 35
		(b)	by the Minister and the Council, when appointing members to the Council.	36 37

(3)

(3)	cons	person must not be appointed or elected to serve more than 12 assecutive years of office (unless the Council otherwise polves in relation to the person).					
Vacation of office							
	The mem	office of a member of the Council becomes vacant if the nber:	5 6				
	(a)	dies, or	7				
	(b)	declines to act, or	8				
	(c)	resigns the office by writing under his or her hand addressed:	9 10				
		(i) in the case of a member appointed by the Minister, to the Minister, or	11 12				
		(ii) in the case of a member appointed by the Council, to the Chancellor, or	13 14				
		(iii) in the case of an elected member, to the Vice-Chancellor, or	15 16				
	(d)	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	17 18 19 20				
	(e)	becomes a mentally incapacitated person, or	21				
	(f)	is convicted in New South Wales of an offence that is punishable by 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	22 23 24 25 26				
	(g)	is, or becomes, disqualified from managing a corporation under Part 2D.6 of the <i>Corporations Act 2001</i> of the Commonwealth, or	27 28 29				
	(h)	is removed from office by the Council pursuant to section 21G, or	30 31				
	(i)	is absent from 3 consecutive meetings of the Council 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 Council for his or her absence, or	32 33 34 35 36				
	(j)	in the case of an elected member, or a member appointed under section 9 (1) (g), ceases to be qualified for election or appointment, or	37 38 39				

		(k)	in the case of a member appointed by the Minister, is removed from office by the Minister, or	1 2
		(1)	in the case of a member appointed by the Council, is removed from office by the Council.	3 4
[12]	Sche	dule 1, clau	se 3 (2)	5
	Omit	"(otherwise	than to fill the office of a parliamentary member)".	6
[13]	Sche	edule 2A		7
	Inser	t after Sched	ule 2:	8
	Scł	nedule 2	A Duties of Council members	9
			(Section 21F)	10
	1	Duty to act	t in best interests of University	11
		A me	ember of the Council must carry out his or her functions:	12
		(a)	in good faith in the best interests of the University as a whole, and	13 14
		(b)	for a proper purpose.	15
	2	Duty to exe	ercise care and diligence	16
			ember of the Council must act honestly and exercise a bnable degree of care and diligence in carrying out his or her tions.	17 18 19
	3	Duty not to	improperly use position	20
			ember of the Council must not make improper use of his or position:	21 22
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	23 24
		(b)	to cause detriment to the University.	25
	4	Duty not to	improperly use information	26
			member of the Council must not make improper use of mation acquired because of his or her position:	27 28
		(a)	to gain, directly or indirectly, an advantage for the member or another person, or	29 30
		(b)	to cause detriment to the University.	31

DISC	iosure	of material interests by Council members	1
(1)	If:		2
	(a)	a member of the Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and	3 4 5
	(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	6 7 8
	come	nember must, as soon as possible after the relevant facts have to the member's knowledge, disclose the nature of the est at a meeting of the Council.	9 10 11
(2)		sclosure by a member of the Council at a meeting of the neil that the member:	12 13
	(a)	is a member, or is in the employment, of a specified company or other body, or	14 15
	(b)	is a partner, or is in the employment, of a specified person, or	16 17
	(c)	has some other specified interest relating to a specified company or other body or to a specified person,	18 19
	relati may	ufficient disclosure of the nature of the interest in any matter ing to that company or other body or to that person which arise after the date of the disclosure and which is required to sclosed under subclause (1).	20 21 22 23
(3)	recor book	culars of any disclosure made under this clause must be reded by the Council in a book kept for the purpose and that must be open at all reasonable hours for inspection by any on on payment of a reasonable fee determined by the neil.	24 25 26 27 28
(4)	inter	a member of the Council has disclosed the nature of an est in any matter, the member must not, unless the Council wise determines:	29 30 31
	(a)	be present during any deliberation of the Council with respect to the matter, or	32 33
	(b)	take part in any decision of the Council with respect to the matter.	34 35
(5)	unde	he purpose of the making of a determination by the Council r subclause (4), a member of the Council who has a material est in a matter to which the disclosure relates must not:	36 37 38
	(a)	be present during any deliberation of the Council for the purpose of making the determination, or	39 40

			(b) take part determination	in the making by the Council of the on.	2
		(6)	A contravention of he Council.	f this clause does not invalidate any decision of	f 3
		(7)	consideration or d	not prevent a person from taking part in the discussion of, or from voting on any question erson's removal from office by the Council 121G.	1 6
		(8)		es to a member of a committee of the Council e in the same way as it applies to a member of the Council.	
		(9)	n a matter if a de esult in a detrimer	of this clause, a member has a material interest etermination of the Council in the matter may not being suffered by or a benefit accruing to the ociate of the member.	, 13
		(10)	n this clause:		16
			<i>issociate</i> of a men	mber means any of the following:	17
				de facto partner, parent, child, brother or sister, rtner or friend of the member,	, 18 19
			business pa	de facto partner, parent, child, brother or sister artner or friend of a person referred to in a) if that relationship is known to the member,	1 21
			other than th	erson who is known to the member for reasons hat person's connection with the University of s public reputation.	
[14]	Sche	dule 3	Savings and trans	sitional provisions	26
	Inser	t befor	clause 1:		27
	1A	Savir	s or transitional	regulations	28
		(1)		y make regulations containing provisions of a conal nature consequent on the enactment of the	
			University Legisla	tion Amendment Act 2004	32
		(2)		n may, if the regulations so provide, take effects sent to the Act concerned or a later date.	t 33

		(3)	that i	is earlier than the date of its publication in the Gazette, the ision does not operate so as:	1 2 3
			(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	4 5 6
			(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.	7 8 9
[15]	Sche	edule 3	3, clau	se 13	10
	Inser	t after	clause	: 12:	11
	13	Prov Ame	isions ndme	s consequent on enactment of University Legislation nt Act 2004	12 13
		(1)	In th	is clause:	14
			<b>amei</b> 2004	nding Act means the University Legislation Amendment Act	15 16
				ner section 9 means section 9 as in force immediately before abstitution by the amending Act.	17 18
			<i>new</i> Act.	section 9 means section 9 as substituted by the amending	19 20
			relev	vant day means the date of assent to the amending Act.	21
		(2)	Subje	ect to this Act, on the relevant day:	22
			(a)	a person holding office under former section 9 (2) ceases to hold that office, and	23 24
			(b)	a person holding office under former section 9 (4) or (6) is taken to be appointed as a member under new section 9 (1) (b) or (c), respectively, for the balance of the person's term of office, and	25 26 27 28
			(c)	a person holding office under former section 9 (5) (a), (b), (c) or (d) is taken to be elected as a member under new section 9 (1) (d), (e), (f) or (g), respectively, for the balance of the person's term of office.	29 30 31 32
		(3)	the N	or as soon as is reasonably practicable after, the relevant day, Minister must appoint the balance of the members required to oppointed under new section 9 (1) (b).	33 34 35
		(4)	neces duly	Council is to make all necessary by-laws and take all ssary steps to ensure, as far as possible, that the Council is constituted under new section 9 as soon as is reasonably ticable after the relevant day.	36 37 38 39

(5)	For the purposes of making the by-laws referred to in subclause (4), the Council must be constituted so as to include all of the members required to be appointed under new section 9 (1) (b).				
(6)		Council is taken to be properly constituted until such time as constituted in accordance with new section 9.	4 5		
(7)		sual vacancy occurring in the office of a member before the acil is duly constituted under new section 9 is to be filled as ws:	6 7 8		
	(a)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (b), the Minister is to appoint a person whom the Minister considers appropriate,	9 10 11		
	(b)	if the vacancy occurs in the office of a member appointed under new section 9 (1) (c), the Council is to appoint a person whom the Council considers appropriate,	12 13 14		
	(c)	if the vacancy occurs in the office of a member elected under new section 9 (1) (d) or (e), the Council is to appoint a person qualified to hold that office,	15 16 17		
	(d)	if the vacancy occurs in the office of a member elected under new section 9 (1) (f), the Council is to appoint a person qualified to hold that office following consultation with the relevant student body or bodies recognised by the Council,	18 19 20 21 22		
	(e)	if the vacancy occurs in the office of a member elected under new section 9 (1) (g), the Council is to appoint a person qualified to hold that office following consultation with the alumni association or body for the University.	23 24 25 26		
(8)	holds subcl	ect to this Act, a member appointed under subclause (7) s office from the time that person is appointed under that lause until the expiry of the term of that member's ecessor.	27 28 29 30		
(9)	Subje	ect to this Act, if, on the expiry:	31		
	(a)	of a member's term of office that is continued under subclause (2) (b) or (c), or	32 33		
	(b)	in the case of a member appointed under subclause (7), of the term of office of the member's predecessor,	34 35		
	electe	y-laws necessary to enable a person to be duly appointed or ed (as the case may be) to that office under new section 9 are et in force, the member may continue to hold that office until	36 37 38		

such time as a person is so duly appointed or elected.

## Schedule 10 Amendment of University of Wollongong Act 1989 No 127

(10)	For the purposes of subclause (2), a member filling a casual vacancy and holding office immediately before the relevant day is taken to hold that office immediately before the relevant day under the provision under which the member's predecessor was elected or appointed.	1 2 3 4 5
(11)	A person who ceases to hold office under subclause (2) (a):	6
	(a) is not entitled to any remuneration or compensation because of loss of that office, and	7 8
	(b) is eligible (subject to this Act and if otherwise qualified) to be appointed as a member.	9 10
(12)	Consecutive years of office served by a member of the Council immediately before the relevant day are to be taken into account in applying clause 1 (3) of Schedule 1 in respect of the member.	11 12 13
(13)	However, clause 1 (3) of Schedule 1 does not affect the operation of subclause (2) (b) or (c) or (9) of this Schedule.	14 15
(14)	Section 21G, as inserted by the amending Act, applies only in relation to breaches of duty constituted by acts or omissions occurring after the relevant day.	16 17 18
(15)	No amendment made by the amending Act affects the continuity of the Council.	19 20
(16)	The provisions of this clause are subject to any regulations made under clause 1A.	21 22