

[Act 2001 No 101]



New South Wales

Universities Legislation Amendment (Financial and Other Powers) Bill 2001

Explanatory note

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

The *Higher Education Bill 2001* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the Acts that establish universities in New South Wales:

- (a) to state the object and to restate the principal functions and other functions of a university in order to update and standardise those functions, and
- (b) to clarify a university's commercial functions, and
- (c) to clarify a university's power to develop and provide certain services to the community, and
- (d) to provide that a university has certain general and ancillary functions, and

* Amended in committee—see table at end of volume.

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- (e) to make it clear that a university can exercise its functions outside the State and outside Australia, and
- (f) to broaden the power of universities to provide facilities to students so that facilities can also be provided to staff and other members of the university community, and
- (g) to clarify the functions and role of the governing body of a university as the body that acts for and on behalf of the university and has the control and management of the affairs of the university, and
- (h) to clarify the powers of a governing body to borrow funds on behalf of the university and to promote, establish or participate in various entities (such as trusts, partnerships, companies and joint ventures) on behalf of the university, and
- (i) to require the governing body of a university to ensure that a controlled entity of the university does not exercise any function or engage in any activity that the university is not authorised to exercise or engage in, unless the Minister otherwise permits, and
- (j) to make it clear that nothing in the Act establishing a university limits or otherwise affects the operation of the *Ombudsman Act 1974*, the *Public Finance and Audit Act 1983* or the *Annual Reports (Statutory Bodies) Act 1984*, and
- (k) to institute new obligations with respect to commercial activities of universities, including requirements for compliance with guidelines approved by the Minister, a requirement to keep a register of commercial activities, an obligation to report to the Minister when required, and power to refer matters to the Ombudsman or Auditor-General, and
- (l) to continue the stamp duty exemption that universities currently enjoy under the *Public Authorities (Financial Arrangements) Act 1987* in respect of borrowing and investment by universities, and
- (m) to extend an existing protection from liability provision so that it applies to things omitted to be done as well as things done, and
- (n) to provide that a university is to have such powers of investment as the Minister may from time to time approve with the concurrence of the Treasurer (instead of the current regime whereby universities have investment powers under the *Public Authorities (Financial Arrangements) Act 1987*), and
- (o) to authorise a university to engage an approved funds manager to act in relation to the management of the funds of the university, and
- (p) to enact a savings provision to continue the existing investment powers of universities until new powers are approved, and

- (q) to validate the exercise of functions of universities and their governing bodies on the basis of their functions as restated by this Bill.

The Acts amended are as follows:

Charles Sturt University Act 1989

Macquarie University Act 1989

University of New England Act 1993

University of New South Wales Act 1989

University of Newcastle Act 1989

Southern Cross University Act 1993

University of Sydney Act 1989

University of Technology, Sydney, Act 1989

University of Western Sydney Act 1997

University of Wollongong Act 1989

The Bill also amends the *Public Authorities (Financial Arrangements) Act 1987* to remove universities from the operation of that Act.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the Acts amended in the Schedules to the proposed Act.

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 *University of New England Act 1993*.

Schedule 4 makes the amendments described in the Overview to the *University of New South Wales Act 1989*.

Schedule 5 makes the amendments described in the Overview to the *University of Newcastle Act 1989*.

Schedule 6 makes the amendments described in the Overview to the *Southern Cross University Act 1993*.

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*.

Schedule 11 amends the definition of *authority* in the *Public Authorities (Financial Arrangements) Act 1987* to remove universities (and their governing bodies) from the operation of that Act.