

# Charles Sturt University Act 1989 No 76

[1989-76]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
*Universities Legislation Amendment (Financial and Other Powers) Act 2001 No 101* (not commenced)

### Authorisation

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# Charles Sturt University Act 1989 No 76



New South Wales

An Act with respect to the constitution and functions of the Charles Sturt University; to make consequential amendments to certain other Acts; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Charles Sturt University Act 1989*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**Council** means the Council of the University.

**general staff** of the University means staff other than the academic staff of the University.

**major campus** means a campus of the University at a location referred to in section 6 (a), (b), (c) or (d).

**University** means the Charles Sturt University established by this Act.

(2) In this Act, a reference to a graduate of the University is a reference to a person who is the recipient of a degree or diploma, or of such other award or certificate as may be prescribed by the by-laws, conferred or awarded:

(a) by the University,

(b) by or on behalf of any former institution that has, pursuant to this Act or otherwise, become a network member of, or a part of, the University, or

(c) by any predecessor of any such institution.

(3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## **Part 2 Constitution and functions of the University**

### **4 Establishment of University**

A University, consisting of:

- (a) the Council,
- (b) Convocation,
- (c) the members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe, and
- (d) the graduates and students of the University,

is established by this Act.

### **5 Incorporation of University**

The University is a body corporate under the name of the Charles Sturt University.

### **6 University campuses**

The University is to have campuses at the following locations:

- (a) Albury,
- (b) Bathurst,
- (c) Dubbo,
- (d) Wagga Wagga,

and may have campuses at other locations.

### **7 Functions of University**

- (1) The functions of the University (within the limits of its resources) include:
  - (a) the provision of educational facilities at university standard (whether on a campus or elsewhere), taking account of regional, national and international markets for educational services, while having particular regard to the needs and aspirations of the residents of western and south-western New South Wales,
  - (b) the provision of distance education for students within New South Wales and elsewhere,

- (c) the dissemination and increase of knowledge, the undertaking and promotion of research and scholarship and the contribution to the intellectual life of western and south-western New South Wales,
  - (d) the development of regional, national and international consultancy and entrepreneurial activities, including research and development initiatives, especially those that will contribute to the development of western and south-western New South Wales, and
  - (e) the conferring of the degrees of Bachelor, Master and Doctor and the awarding of diplomas and other certificates.
- (2) The University has such other functions as are conferred or imposed on it by or under this or any other Act.
- (3) (Repealed)

#### **8 Facilities to be provided for students**

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

### **Part 3 The Council, authorities and officers of the University**

#### **9 Council**

- (1) There is to be a Council of the University.
- (2) The Council is to consist of the following:
  - (a) parliamentary members,
  - (b) official members,
  - (c) appointed members,
  - (d) elected members.
- (3) The parliamentary members comprise:
  - (a) one Member of the Legislative Council elected by that Council:
    - (i) as soon as practicable after each periodic Council election within the meaning of section 3 of the *Constitution Act 1902*, or
    - (ii) if there is a casual vacancy in the office of that member of the Council of the University, as soon as practicable after that office becomes vacant, and
  - (b) one Member of the Legislative Assembly elected by that Assembly:

- (i) as soon as practicable after each general election of Members of the Legislative Assembly, or
  - (ii) if there is a casual vacancy in the office of that member of the Council, as soon as practicable after that office becomes vacant.
- (4) The official members comprise:
- (a) the Chancellor (if the Chancellor is not otherwise a member of the Council), and
  - (b) the Vice-Chancellor, and
  - (c) the person for the time being holding the office of:
    - (i) the presiding officer of the Academic Senate (if that person is not the Vice-Chancellor), or
    - (ii) the deputy presiding officer of the Academic Senate (if the presiding officer is the Vice-Chancellor).
- (5) The appointed members comprise:
- (a) 4 persons appointed by the Minister, and
  - (b) 4 persons appointed by the Minister, being persons nominated by the Council, who are graduates of the University, and who the Minister considers to be appropriate for appointment, but who are not:
    - (i) members of the staff of the University eligible to be elected as members of the Council in accordance with subsection (6) (a) or (b), or
    - (ii) persons who, within the 5 years immediately prior to appointment, had been members of the staff of the University who were eligible to be elected as members of the Council in accordance with subsection (6) (a) or (b), or
    - (iii) students of the University eligible to be elected as members of the Council in accordance with subsection (6) (c).
- (6) The elected members comprise:
- (a) 2 persons:
    - (i) who are members of the academic staff of the University, and
    - (ii) who have such qualifications as may be prescribed by the by-laws, and
    - (iii) who are elected by members of the academic staff of the University in the manner prescribed by the by-laws, and
  - (b) one person:

- (i) who is a member of the general staff of the University, and
  - (ii) who has such qualifications as may be prescribed by the by-laws, and
  - (iii) who is elected by members of the general staff of the University in the manner prescribed by the by-laws, and
- (c) two persons:
- (i) who are students of the University but who are not members of the staff of the University, and
  - (ii) who have such qualifications as may be prescribed by the by-laws, and
  - (iii) who are elected by students of the University in the manner prescribed by the by-laws.
- (7) The Council must appoint one other person, being a member of the staff of the University having responsibility for the administration of a major campus, to be a member of the Council and the person, on being appointed, is to be taken to be an appointed member of the Council in addition to the members appointed under subsection (5).
- (8) Schedule 1 has effect in relation to the members and procedure of the Council.

## **10 Chancellor**

- (1) Whenever a vacancy in the office of Chancellor occurs, the Council must elect a person (whether or not a member of the Council) to be Chancellor of the University.
- (2) The Chancellor, unless he or she sooner resigns as Chancellor or ceases to be a member of the Council, holds office for such period (not exceeding 4 years), and on such conditions, as may be prescribed by the by-laws.
- (3) The Chancellor has such functions as are conferred or imposed on the Chancellor by or under this or any other Act.

## **11 Deputy Chancellor**

- (1) Whenever a vacancy in the office of Deputy Chancellor occurs, the Council must elect one of its members to be Deputy Chancellor of the University.
- (2) The Deputy Chancellor, unless he or she sooner resigns as Deputy Chancellor or ceases to be a member of the Council, holds office for 2 years from the date of election and on such conditions as may be prescribed by the by-laws.
- (3) In the absence of the Chancellor, or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor has all the functions of the Chancellor.



## **12 Vice-Chancellor**

- (1) Whenever a vacancy in the office of Vice-Chancellor occurs, the Council must appoint a person (whether or not a member of the Council) to be Vice-Chancellor of the University.
- (2) The Vice-Chancellor holds office for such period, and on such conditions, as the Council determines.
- (3) The Vice-Chancellor is the principal executive officer of the University and has such functions as are conferred or imposed on the Vice-Chancellor by or under this or any other Act.

## **13 (Repealed)**

## **14 Visitor**

- (1) The Governor is the Visitor of the University but has ceremonial functions only.
- (2) Accordingly, the Visitor has no functions or jurisdiction with respect to the resolution of disputes or any other matter concerning the affairs of the University (other than a matter involving the exercise of ceremonial functions only).

## **15 Convocation**

- (1) Convocation shall consist of:
  - (a) the members and past members of the Council,
  - (b) the graduates of the University,
  - (c) the professors and full-time members of the academic staff of the University and such other members or classes of members of the staff of the University as the by-laws may prescribe, and
  - (d) such graduates of other Universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.
- (2) The first meeting of Convocation shall be convened by the Vice-Chancellor.
- (3) Subject to the by-laws, meetings of convocation shall be convened and the business at the meetings shall be as determined by Convocation.
- (4) A quorum at any meeting of Convocation shall be such number of members as may be prescribed by the by-laws.
- (5) Convocation has such functions as may be prescribed by the by-laws.
- (6) The Council may establish a Standing Committee and such other committees of Convocation as it considers necessary.

## **16 Academic Senate**

- (1) There shall be an Academic Senate of the University, consisting of:
  - (a) the Vice-Chancellor,
  - (b) (Repealed)
  - (c) such members of the academic staff of the University, and of other universities, as the Council may appoint, and
  - (d) such other persons as the Council may, in accordance with the by-laws, determine.
- (2) Subject to subsection (1), the constitution and functions of the Academic Senate shall be as prescribed by the by-laws.

## **17 Advisory committees**

- (1) The Council is to establish an advisory committee for each major campus.
- (2) The members of an advisory committee are to be appointed by the Council.
- (3) An advisory committee has such functions as may be determined by the Council.

# **Part 4 Functions of the Council**

## **Division 1 General**

### **18 Functions of Council**

The Council is the governing authority of the University and has the functions conferred or imposed on it by or under this or any other Act.

### **19 Powers of Council**

- (1) The Council:
  - (a) may provide such courses, and may confer such degrees and award such diplomas and other certificates, as it thinks fit,
  - (b) may appoint and terminate the appointment of academic and other staff of the University,
  - (c) has the control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it to be best calculated to promote the objects and interests of the University,
  - (d) may borrow money for the purpose of exercising any of its functions, for the renewal of loans or for the discharge or partial discharge of any indebtedness to

the Treasurer or to any bank, building society or credit union, within such limits, to such extent and on such conditions as to security or otherwise as the Governor, on the recommendation of the Treasurer, may approve,

- (e) may invest any funds belonging to or vested in the University,
- (f) may establish or participate in such trusts, companies or other incorporated bodies as it considers appropriate to promote the objects and interests of the University,
- (g) may engage in the commercial development of any discovery or invention, or any intellectual property, in which the University has a right or interest,
- (h) may establish and maintain branches and colleges of the University, within the University and elsewhere,
- (i) may make loans and grants to students, and
- (j) may impose fees, charges and fines.

(2) The powers of the Council under this section shall be exercised subject to the by-laws.

(3) Schedule 2 has effect in relation to the investment of funds by the Council.

## **20 Delegation by Council**

The Council may, in relation to any matter or class of matters or in relation to any activity or function of the University, by resolution, delegate all or any of its functions (except this power of delegation) to any member or committee of the Council or to any authority or officer of the University or to any other person or body prescribed by the by-laws.

## **Division 2 Property**

### **21 Powers of Council relating to property**

- (1) The Council:
  - (a) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise, and
  - (b) has the control and management of all property at any time vested in or acquired by the University and may, subject to this section, dispose of property in the name and on behalf of the University.
- (2) The Council shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands of the University.
- (3) Notwithstanding subsection (2), the Council may, without the approval of the Minister, lease any lands of the University if:

- (a) the term of the lease does not exceed 21 years, and
  - (b) the Council is satisfied that it is to the benefit of the University, whether from a financial or educational standpoint or otherwise, that the lease be entered into.
- (4) In the case of a lease of any lands of the University, or any renewal of the lease, to a residential college affiliated with the University, the lease:
- (a) shall be for a term not exceeding 99 years, and
  - (b) shall be at a nominal rent, and
  - (c) shall contain a condition that the lease shall not be assigned and such other conditions as the Council thinks fit.
- (5) The rule of law against remoteness of vesting does not apply to or in respect of any condition of a gift, bequest or devise to which the University has agreed.

## **22 Powers of Council over certain property vested in Crown**

- (1) Where any property used for the conduct of the University is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the Council has the control and management of that property and is responsible for its maintenance.
- (2) Nothing in subsection (1) enables the Council to alienate, mortgage, charge or demise any land vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise).
- (3) Notwithstanding subsection (2), the Council may (on behalf of the Crown or a Minister of the Crown) lease land of which it has, pursuant to this section, the control and management.
- (4) Such a lease:
  - (a) shall be for a term not exceeding 21 years, and
  - (b) shall contain a condition that the lease shall not be assigned and such other conditions as the Council thinks fit.
- (5) The Council is, in the exercise of its functions under this section, subject to the control and direction of the Minister.

## **23 Acquisition of land**

- (1) The Minister may, for the purposes of this Act, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the [Land Acquisition \(Just Terms Compensation\) Act 1991](#).

- (2) The Minister may do so only if the University:
  - (a) applies to the Minister for acquisition of the land, and
  - (b) makes provision to the satisfaction of the Minister for the payment of the purchase price or of compensation for compulsory acquisition (together with all necessary charges and expenses incidental to the acquisition).
- (3) For the purposes of the *Public Works Act 1912*, any acquisition of land under this section is taken to be for an authorised work and the Minister is, in relation to that authorised work, taken to be the Constructing Authority.
- (4) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply in respect of works constructed under this section.

#### **24 Grant or transfer of certain land to University**

- (1) If land on which the University is conducted is vested in the Crown or a Minister of the Crown (whether as Constructing Authority or otherwise), the land may:
  - (a) if it is vested in the Crown—be transferred to the University subject to such trusts, conditions, covenants, provisions, exceptions and reservations as the Minister for Natural Resources thinks fit, or
  - (b) if it is vested in a Minister of the Crown—be conveyed or transferred to the University for such estate, and subject to such trusts and rights of way or other easements, as the Minister in whom the land is vested thinks fit.
- (2) A conveyance, transfer or other instrument executed for the purposes of this section:
  - (a) is not liable to stamp duty under the *Stamp Duties Act 1920*, and
  - (b) may be registered under any Act without fee.

### **Part 5 General**

#### **25 Advance by Treasurer**

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

#### **26 Financial year**

The financial year of the University is:

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

**27 No religious test or political discrimination**

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

**28 Exemption from membership of body corporate or Convocation**

A student or graduate of the University or a member of staff of the University is entitled to be exempted by the Council, on grounds of conscience, from membership of the body corporate of the University or of Convocation, or both.

**29 Re-appointment or re-election**

Nothing in this Act prevents any person from being re-appointed or re-elected to any office under this Act if the person is eligible and otherwise qualified to hold that office.

**30 Seal of University**

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

**31 By-laws**

- (1) The Council may make by-laws, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
- (a) the management, good government and discipline of the University,
  - (b) the method of election of members of the Council (other than the parliamentary members) who are to be elected,
  - (c) the manner and time of convening, holding and adjourning the meetings of the Council or Academic Senate,
  - (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Council or Academic Senate,
  - (e) the functions of the presiding member of the Council or Academic Senate,
  - (f) the conduct and record of business of the Council or Academic Senate,
  - (g) the appointment of committees of the Council or Academic Senate,
  - (h) the quorum and functions of committees of the Council or Academic Senate,
  - (i) the resignation of members of the Council, the Chancellor, the Deputy Chancellor or the Vice-Chancellor,

- (j) the tenure of office, stipend and functions of the Vice-Chancellor,
- (k) the designation of members of staff of the University as academic staff, general staff, full-time staff, part-time staff or otherwise,
- (l) the number, stipend, manner of appointment and dismissal of officers and employees of the University,
- (m) admission to, enrolment in and exclusion from courses of studies,
- (n) the payment of such fees and charges, including fines, as the Council considers necessary, including fees and charges to be paid in respect of:
  - (i) entrance to the University,
  - (ii) tuition,
  - (iii) lectures and classes,
  - (iv) examinations,
  - (v) residence,
  - (vi) the conferring of degrees and the awarding of diplomas and other certificates,
  - (vii) the provision of amenities and services, whether or not of an academic nature, and
  - (viii) an organisation of students or of students and other persons,
- (o) the exemption from, or deferment of, payment of fees and charges, including fines,
- (p) without limiting the operation of paragraphs (n) and (o), the imposition and payment of penalties for parking and traffic infringements,
- (q) the courses of lectures or studies for, the assessments for, and the granting of, degrees, diplomas, certificates and honours and the attendance of candidates for degrees, diplomas, certificates and honours,
- (r) the assessments for, and the granting of, fellowships, scholarships, exhibitions, bursaries and prizes,
- (s) the admission of students and former students of other Universities and institutions of higher education to any status within the University or the granting to graduates of such Universities or institutions, or to other persons, of degrees or diplomas without examination,
- (t) the establishment and conduct of places of accommodation for students (including

residential colleges and halls of residence within the University) and the affiliation of residential colleges,

- (u) the affiliation with the University of any educational or research establishment,
- (v) the creation of faculties, schools, departments, centres or other entities within the University,
- (w) the provision of schemes of superannuation for the officers and employees of the University,
- (x) the form and use of academic costume,
- (y) the form and use of an emblem of the University or of any network member or other body within or associated with the University,
- (z) the use of the seal of the University, and
- (aa) the making, publication and inspection of rules.

(2) A by-law has no effect unless it has been approved by the Governor.

### **32 Rules**

- (1) The by-laws may empower any authority (including the Council) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for or with respect to any or all of the matters for or with respect to which by-laws may be made, except the matters referred to in sections 3 (2), 9 (6), 10 (2), 15 (1), 19 (1) (d) and (e), 26 and 31 (1) (b) and (k) and clauses 1 (d) and 3 of Schedule 1.
- (2) A rule:
  - (a) has the same force and effect as a by-law, and
  - (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
  - (c) takes effect on the day on which it is published or on such later day as may be specified in the rule, and
  - (d) must indicate the authority or officer who made the rule and that it is made under this section.
- (3) In the event of an inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.
- (4) The fact that a provision of this Act specifically provides for a matter to be the subject of by-laws (without mention of rules) does not prevent the matter from being the



subject of rules made in accordance with this section.

### **33 Recovery of charges, fees and other money**

Any charge, fee or money due to the University under this Act may be recovered as a debt in any court of competent jurisdiction.

### **34 (Repealed)**

### **35 Savings and transitional provisions**

Schedule 4 has effect.

## **Schedule 1 Provisions relating to members and procedure of the Council**

(Section 9)

### **1 Term of office**

Subject to this Act, a member of the Council holds office:

- (a) in the case of a parliamentary member, until a member of the House of Parliament that elected the member is elected as a replacement,
- (b) in the case of an official member, while the member holds the office by virtue of which he or she is a member,
- (c) in the case of an appointed member, for such term (not exceeding 4 years) as may be specified in the member's instrument of appointment, and
- (d) in the case of an elected member, for such term (not exceeding 2 years) as may be prescribed by the by-laws.

### **2 Vacation of office**

The office of a member of the Council becomes vacant if the member:

- (a) dies,
- (b) declines to act,
- (c) resigns the office by writing under his or her hand addressed:
  - (i) in the case of the parliamentary member who is a Member of the Legislative Council, to the President of the Legislative Council,
  - (ii) in the case of the parliamentary Member who is a Member of the Legislative Assembly, to the Speaker of the Legislative Assembly,
  - (iii) in the case of an appointed member, to the Minister, or

- (iv) in the case of an elected member, to the Vice-Chancellor,
- (d) in the case of an appointed or elected member, becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes any assignment of his or her remuneration for their benefit,
- (e) in the case of an appointed or elected member, becomes a temporary patient or a continued treatment patient within the meaning of the *Mental Health Act 1958*, a forensic patient within the meaning of the *Mental Health Act 1983* or a protected person within the meaning of the *Protected Estates Act 1983*,
- (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,
- (g) in the case of an appointed or elected member, 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,
- (h) in the case of the parliamentary member elected by the Legislative Council:
  - (i) ceases to be a Member of that Council otherwise than by reason of section 22B (1) (c) of the *Constitution Act 1902*, or
  - (ii) ceases to be a Member of that Council by reason of section 22B (1) (c) of that Act and does not become a candidate at the next periodic Council election within the meaning of section 3 of that Act or, as the case may be, becomes a candidate but is not elected,
- (i) in the case of the parliamentary member elected by the Legislative Assembly:
  - (i) ceases to be a Member of that Assembly otherwise than by reason of its dissolution or its expiration by effluxion of time, or
  - (ii) ceases to be a Member of that Assembly by reason of its dissolution or its expiration by effluxion of time and does not become a candidate at the next general election of Members of that Assembly or, as the case may be, becomes a candidate but is not elected,
- (j) in the case of an elected or appointed member, ceases to be qualified for election or appointment, or
- (k) in the case of an appointed member, is removed from office by the Minister.

### **3 Filling of vacancy in office of member**

- (1) If the office of an appointed or elected member of the Council becomes vacant, a person shall, subject to this Act and the by-laws, be appointed or elected to fill the vacancy.
- (2) The by-laws may provide that, in such circumstances (other than expiration of term of office) as may be prescribed, a person shall be appointed or elected (otherwise than to fill the office of a parliamentary member) in such manner as may be prescribed instead of in the manner provided for by this Act.

### **4 Committees of the Council**

- (1) The Council may establish committees to assist it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of a committee are not members of the Council.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Council or (subject to any determination of the Council) by the committee.

### **5 Liability of Council members and others**

No matter or thing done by:

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

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

### **6 General procedure**

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

### **7 Presiding member**

- (1) The Chancellor shall preside at all meetings of the Council at which the Chancellor is present.
- (2) At any meeting of the Council at which the Chancellor is not present, the Deputy Chancellor shall preside and, in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present shall preside.

- (3) Except as provided by subclause (4), at the meetings of a committee constituted by the Council a member appointed by the Council (or, if no member is so appointed, a member elected by and from the members present) shall preside.
- (4) At any meeting of a committee constituted by the Council at which the Chancellor is present, the Chancellor is entitled, if he or she so desires, to preside at that meeting.

## **8 Quorum**

At any meeting of the Council, a majority of the total number of members for the time being of the Council constitutes a quorum.

## **9 Voting**

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

# **Schedule 2 Investment**

(Section 19)

## **1 Definition of “funds”**

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

## **2 Investment powers**

- (1) The Council has, in respect of the funds of the University, the investment powers conferred on the Council by Part 3 of the *Public Authorities (Financial Arrangements) Act 1987*.
- (2) If Part 3 of that Act does not confer investment powers on the Council in respect of any such funds, the Council may invest those funds:
  - (a) in any manner authorised for the investment of trust funds, or
  - (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

## **3 Investment common funds**

- (1) The Council may establish one or more investment common funds.
- (2) The Council may from time to time, without liability for breach of trust, bring into or withdraw from any such investment common fund the whole or any part of trust funds or other funds of the University.
- (3) Subject to subclause (4), the Council must periodically distribute the income of each

investment common fund among the funds participating in the common fund, having regard to the extent of the participation of each fund in the common fund during the relevant accounting period.

- (4) The Council may, if it considers it expedient to do so, from time to time add some portion of the income of an investment common fund to the capital of the common fund or use some portion of the income to establish or augment a fund or funds as a provision against capital depreciation or reduction of income.
- (5) If an investment is brought into an investment common fund:
  - (a) the University is to be taken to hold that investment on behalf of and for the benefit of the common fund instead of the participating trust fund or other fund, and
  - (b) that participating fund is to be taken to have contributed to the common fund an amount of money equivalent to the value attributed to the investment by the Council at the time it is brought into the common fund, and
  - (c) on the withdrawal of that participating fund from the common fund, the amount of money to be withdrawn is to be the amount equivalent to the value attributed by the Council to the equity in the common fund of that participating fund at the time of withdrawal.
- (6) The inclusion in an investment common fund of trust funds does not affect any trust to which those trust funds (or money attributed to them) are subject.
- (7) On the withdrawal of trust funds from an investment common fund, the funds (or money attributed to them) continue to be subject to the trust.

#### **4 Terms of trust to prevail**

In respect of the trust funds of the University:

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

#### **Schedule 3 (Repealed)**

## Schedule 4 Savings and transitional provisions

(Section 35)

### Part 1 General

#### 1 Regulations

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Charles Sturt University Act 1989*

*Charles Sturt University Amendment Act 1998*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (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:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) (Repealed)

### Part 2 Provisions consequent on the enactment of the **Charles Sturt University Act 1989**

#### Division 1 Preliminary

##### 2 Definitions

- (1) In this Part:

**former institution** means:

- (a) the Mitchell CAE,
- (b) the Riverina-Murray Institute (Murray Campus), or
- (c) the Riverina-Murray Institute (Riverina Campus).

**governing body**, in relation to a former institution, means the governing body of:

- (a) the Mitchell CAE, or
  - (b) the Riverina-Murray Institute,
- as the case requires.

**Mitchell CAE** means the Mitchell College of Advanced Education established under the *Colleges of Advanced Education Act 1975*.

**relevant commencement** means:

- (a) in relation to the Mitchell CAE—the commencement of clause 3,
- (b) in relation to the Riverina-Murray Institute (Murray campus)—the commencement of clause 5, or
- (c) in relation to the Riverina-Murray Institute (Riverina campus)—the commencement of clause 6.

**Riverina-Murray Institute** means the Riverina-Murray Institute of Higher Education established under the *Colleges of Advanced Education Act 1975*.

**Riverina-Murray Institute (Murray campus)** means such part of the Riverina-Murray Institute as is situated in Albury.

**Riverina-Murray Institute (Riverina campus)** means such part of the Riverina-Murray Institute as is situated in Wagga Wagga.

- (2) In this Part, a reference to a former institution includes, where the former institution forms part of the Riverina-Murray Institute, a reference to that Institute.

## **Division 2 The Mitchell College of Advanced Education**

### **3 The Mitchell College of Advanced Education**

- (1) The Mitchell CAE is abolished and its Council is dissolved.
- (2) The property of the Mitchell CAE is vested in the University (subject to any trusts or conditions subject to which it was held immediately before the commencement of this clause) to be applied by the University for the purposes of the University.
- (3) The University has the control and management of land that was under the control and management of the Mitchell CAE immediately before the commencement of this clause.
- (4) The Mitchell College of Advanced Education By-laws:
  - (a) continue in force (in respect of the Charles Sturt University, Mitchell) as if they had been made by the Board as by-laws under this Act, and

(b) may be amended and revoked accordingly.

### **Division 3 The Riverina-Murray Institute of Higher Education**

#### **4 Dissolution**

The Riverina-Murray Institute is abolished and its Council is dissolved.

#### **5 Riverina-Murray Institute (Murray campus)**

- (1) The property of the Riverina-Murray Institute that relates to the Riverina-Murray Institute (Murray campus) is vested in the University (subject to any trusts or conditions subject to which it was held immediately before the commencement of this clause) to be applied by the University for the purposes of the University.
- (2) The University has the control and management of land that was under the control and management of the Riverina-Murray Institute in relation to the Riverina-Murray Institute (Murray campus) immediately before the commencement of this clause.
- (3) The *Riverina College of Advanced Education By-law 1978*:
  - (a) continues in force (in respect of the Charles Sturt University, Murray) as if it had been made by the Board as a By-law under this Act, and
  - (b) may be amended and revoked accordingly.

#### **6 Riverina-Murray Institute (Riverina campus)**

- (1) The property of the Riverina-Murray Institute that relates to the Riverina-Murray Institute (Riverina campus) is vested in the University (subject to any trusts or conditions subject to which it was held immediately before the commencement of this clause) to be applied by the University for the purposes of the University.
- (2) The University has the control and management of land that was under the control and management of the Riverina-Murray Institute in relation to the Riverina-Murray Institute (Riverina campus) immediately before the commencement of this clause.
- (3) The *Riverina College of Advanced Education By-law 1978*:
  - (a) continues in force (in respect of the Charles Sturt University, Riverina) as if it had been made by the Board as a by-law under this Act, and
  - (b) may be amended and revoked accordingly.

#### **7 Regulations**

The following Regulations are repealed:

The *Riverina College of Advanced Education Regulation 1981*,



*The Riverina College of Advanced Education (Amalgamation) Regulation 1981,*

*The Riverina-Murray Institute of Higher Education (Murray Campus Board of Management) Regulation 1988.*

## **Division 4 Transfer of staff**

### **8 Definitions**

In this Division:

**officer**, in relation to a former institution, means a person who, immediately before the relevant commencement, held any salaried office or employment in the staff establishment of that institution otherwise than as a temporary staff member or a staff member employed on a fixed term contract.

**superannuation scheme** means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

**temporary staff member**, in relation to a former institution, means a person who, immediately before the relevant commencement, was employed in the staff establishment of that institution on terms and conditions that allowed for his or her services to be dispensed with at any time.

### **9 Transfer of staff generally**

- (1) Each officer of a former institution shall, on the relevant commencement, become an officer of the University.
- (2) Except as provided by this Division or the regulations, the terms and conditions on which an officer of a former institution becomes an officer of the University shall be the same as those on which he or she was an officer of the former institution.

### **10 Remuneration and tenure**

- (1) An officer of a former institution who, pursuant to this Division, becomes an officer of the University shall become such an officer on the same terms and conditions as to remuneration, and duration of appointment, as those on which he or she was employed at the former institution immediately before the relevant commencement.
- (2) Such part of the remuneration referred to in subclause (1) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the *Industrial Arbitration Act 1940* until the salary is, or the wages are, lawfully varied.

### **11 Superannuation**

- (1) An officer of a former institution who, pursuant to this Division, becomes an officer of

the University:

- (a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming an officer of the University, and
- (b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,

as if he or she had continued to be such a contributor during his or her service as an officer of the University.

- (2) Service by an officer of a former institution as an officer of the University shall be taken to be service as an officer of the former institution for the purposes of any law under which the officer continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.
- (3) An officer of a former institution who, pursuant to this Division, becomes an officer of the University shall be regarded as an officer or employee, and the University shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.
- (4) If a person would, but for this subclause, be entitled under subclause (1) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under any such scheme:
  - (a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme, and
  - (b) the provisions of subclause (3) cease to apply to or in respect of the person and the University where the person becomes a contributor to any such other superannuation scheme.
- (5) Subclause (4) does not prevent the payment to an officer of a former institution, on the officer's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the officer if the officer had ceased, by reason of resignation, to be such a contributor.

## **12 Annual leave, long service leave and sick leave**

- (1) An officer of a former institution who, pursuant to this Division, becomes an officer of the University retains any rights to:
  - (a) annual leave,
  - (b) leave in the nature of long service leave, and
  - (c) sick leave,accrued or accruing to the person as an officer of the former institution.

(2) A person's entitlement to any such leave shall be calculated:

- (a) for such part of any period during which that leave accrued or was accruing as occurred before the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the former institution, before that commencement, and
- (b) for such part of that period as occurred after the relevant commencement—at the rate for the time being applicable to the officer, as an officer of the University, after that commencement.

### **13 No entitlement to dual benefits**

An officer of a former institution who, pursuant to this Division, becomes an officer of the University is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

### **14 Temporary staff**

- (1) Each temporary staff member of a former institution shall, on the relevant commencement, become a temporary staff member of the University.
- (2) A temporary staff member of a former institution who, pursuant to this clause, becomes a temporary staff member of the University shall become such a staff member on the same terms and conditions (including conditions as to remuneration) as those on which he or she was employed at the former institution immediately before the relevant commencement.
- (3) Such part of the remuneration referred to in subclause (2) as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 5 of the *Industrial Arbitration Act 1940* until the salary is, or the wages are, lawfully varied.

### **15 Fixed term contracts**

A fixed term contract in force, immediately before the relevant commencement, between a person and a former institution (being a contract under which the person performed services for that institution):

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

### **16 Operation of *Industrial Arbitration Act 1940* unaffected**

Nothing in this Division affects the operation of the *Industrial Arbitration Act 1940*.

## **Division 5 Other matters consequent on the abolition of the former institutions**

### **17 Transfer of assets etc**

Subject to this Act, on and from the relevant commencement, any assets, rights, liabilities or obligations of a former institution become assets, rights, liabilities or obligations of the University.

### **18 Determination of certain questions**

- (1) Any question arising in connection with the operation of this Part:
  - (a) as to which institution any particular item of property belongs or relates to,
  - (b) as to which land is under the control and management of any particular institution,
  - (c) as to which institution any assets, rights, liabilities or obligations belong or relate to, or
  - (d) as to which institution the employment of any staff pertains to,shall be determined by the Minister.
- (2) A certificate by the Minister as to a determination under this clause is, for any purpose, evidence of the matters contained in the certificate.

### **19 Students**

- (1) Each person who was, immediately before the relevant commencement, a student of a former institution enrolled in a course of study shall on that commencement (unless the student was a graduand in that course) become a student of the University and be enrolled in a course of study that is substantially the same as the course of study in which the student was enrolled at the former institution.
- (2) The University shall (for such period as is necessary for the purposes of this clause and, in any case, until the end of the academic year next following the relevant commencement) provide such courses of study as are necessary for the purposes of this clause.
- (3) If a student is enrolled in a course of study pursuant to this clause, the University shall, as far as it may practicably do so, give the student credit in that course for any subject or work completed by the student in the course of study from which the student was transferred.
- (4) Students so enrolled are entitled, on satisfactory completion of their courses, to appropriate awards conferred by the University but may, if they so desire, instead

obtain awards conferred in the name of the former institution at which they were previously enrolled.

- (5) For the purposes of subclause (4), the seal of a former institution may be affixed to any document pursuant to a resolution of the Board.
- (6) The seal of a former institution shall, on and from the relevant commencement, be kept in the custody of the Vice-Chancellor.

## **20 (Repealed)**

## **21 Instruments exempt from stamp duty etc**

Any instrument that is executed for the purposes of disposing of, or otherwise dealing with, property in accordance with this Part is exempt:

- (a) from payment of stamp duty under the *Stamp Duties Act 1920*, and
- (b) from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

## **22 Control and management of property**

The transfer, by this Part, of the control and management of any property from a former institution to the University does not affect any power of the person or body by whom the control and management of that property has been conferred, or of any lawful successor of that person or body:

- (a) to remove the control and management of that property from the University, or
- (b) to vary the conditions subject to which the control and management of that property may be exercised by the University,

that could have been exercised by that person or body, or by that lawful successor, in respect of the former institution had this Act not been enacted.

## **23 Existing investments**

Nothing in this Part affects the validity of any investment made by or on behalf of a former institution before the relevant commencement.

## **23A, 23B (Repealed)**

## **24 Construction of certain references**

In any other Act or in any statutory instrument (including any industrial award or industrial agreement) or other document, a reference to a former institution shall, on and from the relevant commencement, be read as a reference to the University.

## **Division 6 The interim Board, officers and authorities**

### **25 (Repealed)**

### **26 Chancellor**

- (1) The Board constituted under this Division shall:
  - (a) at its first meeting or as soon as practicable thereafter, and
  - (b) whenever a vacancy in the office of Chancellor occurs,elect a person (whether or not a member of the Board) to be Chancellor of the University.
- (2) The Chancellor elected under this clause shall, subject to this Act, hold office until a Chancellor is duly elected under section 10.
- (3) Section 10 (1) and (2) do not apply to or in respect of the Chancellor elected under this clause.

### **27 Deputy Chancellor**

- (1) The Board constituted under this Division shall:
  - (a) at its first meeting or as soon as practicable thereafter, and
  - (b) whenever a vacancy in the office of Deputy Chancellor occurs,elect one of its members to be Deputy Chancellor of the University.
- (2) The Deputy Chancellor elected under this clause shall, subject to this Act, hold office until a Deputy Chancellor is duly elected under section 11.
- (3) Section 11 (1) and (2) do not apply to or in respect of the Deputy Chancellor elected under this clause.

### **28 Acting Vice-Chancellor**

- (1) If at its first meeting the Board does not appoint a person to be Vice-Chancellor, the Board may, at that meeting or subsequently, appoint a person to act as Vice-Chancellor pending the appointment of a Vice-Chancellor.
- (2) Until the appointment of a Vice-Chancellor, a person appointed to act as Vice-Chancellor has all the functions of a Vice-Chancellor, except as provided by subclause (3).
- (3) A person acting as Vice-Chancellor by appointment under this clause is not a member of the Board, and has none of the functions of a member of the Board.

- (4) Until the appointment of a Vice-Chancellor, the Vice-Chancellor of the University of New South Wales, or such other person as the Vice-Chancellor of that University may nominate, shall be an official member of the Board in addition to the members referred to in section 9 (4).

**29 (Repealed)**

**30 Convocation**

- (1) Convocation includes:
- (a) past members of the governing body of any of the former institutions that have, pursuant to this Act or otherwise, become network members of, or a part of, the University, and
  - (b) graduates of any of those institutions.
- (2) In this clause, a reference to a former institution includes a reference to any predecessor of the institution.

**Part 3 Provisions consequent on the enactment of the [University Legislation \(Amendment\) Act 1994](#)**

**31 Visitor**

- (1) Section 14 (2) extends to disputes and other matters arising before the commencement of this clause.
- (2) However, if an inquiry by or at the direction of the Visitor into a dispute or other matter has commenced or been completed before the commencement of this clause, the dispute or other matter is to be dealt with and determined as if the [University Legislation \(Amendment\) Act 1994](#) had not been enacted.

**32 Effect of the [University Legislation \(Amendment\) Act 1994](#) on existing by-laws and rules**

- (1) Any by-law made or taken to have been made under this Act and in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the [University Legislation \(Amendment\) Act 1994](#), but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the by-law was made.
- (2) Any rule in force immediately before the commencement of this clause is taken to have been made under this Act as amended by the [University Legislation \(Amendment\) Act 1994](#), but only to the extent to which it could have been made under this Act if this Act had been so amended at the time the rule was made.

**Part 4 Provisions consequent on enactment of [Charles Sturt](#)**

## University Amendment Act 1998

### 33 Definitions

In this Part:

**amending Act** means the *Charles Sturt University Amendment Act 1998*.

**Board** means the Board as constituted under section 9 as in force immediately before the substitution of that section by the amending Act.

**University network** means the University network established under section 6 as in force immediately before the commencement of Schedule 1 [6] to the amending Act.

### 34 Council is a continuation of Board

- (1) The Council is a continuation of the Board.
- (2) Subject to subclauses (3) to (5), the persons holding office as members of the Board immediately before the substitution of section 9 by the amending Act continue to hold office as members of the Council on that substitution.
- (3) The persons holding office as official members of the Board under section 9 (4) (c) immediately before the substitution of section 9 by the amending Act cease to hold office as such on that substitution.
- (4) The persons holding office as appointed members of the Board under section 9 (5) (b) immediately before the substitution of section 9 by the amending Act cease to hold office as such on that substitution.
- (5) The student holding office as an elected member of the Board under section 9 (6) (c) immediately before the substitution of section 9 by the amending Act continues to hold office on that substitution and is taken to be one of the two student members of the Council elected in accordance with section 9 (6) (c), as substituted.
- (6) Any person who ceases to hold office because of the operation of subclause (3) or (4) is not entitled to be paid any remuneration or compensation because of ceasing to hold the office.
- (7) Nothing in this clause limits section 53 of the *Interpretation Act 1987*.

### 35 Elections and appointments for Council

- (1) For the purpose only of enabling the Council to be duly constituted on or after the substitution of section 9 by the amending Act, elections may be conducted and appointments made before that substitution as if section 9, as substituted, were in force.
- (2) A member who is elected or appointed to the Council under this clause does not



assume office before the commencement of section 9, as substituted.

### **36 Saving of delegations**

Any delegation made by the Board and in force immediately before the commencement of this clause continues to have effect as if it were a delegation made by the Council, but may be revoked at any time by the Council.

### **37 By-laws**

The By-laws of the University:

- (a) continue in force as if they had been made by the Council, and
- (b) may be amended and revoked accordingly.

### **38 Chief executive officers of network members**

Any person who ceases to hold office as a chief executive officer of a member of the University network because of the operation of Schedule 1 [16] to the amending Act is not entitled to be paid any remuneration or compensation because of ceasing to hold the office.