

# University of Sydney Act, 1989

An Act with respect to the constitution and functions of the University of Sydney; to repeal the University and University Colleges Act 1900; and for other purposes.

[Proclaimed to start on 1 January 1990]

The Legislature of New South Wales enacts:

## PART I

### PRELIMINARY

#### Short title

1. This Act may be cited as the University of Sydney Act 1989.

#### Commencement

2. (1) This Act (section 40 (2)-(4) excepted) commences on a day or days to be appointed by proclamation.  
(2) The provisions of section 40 (2)-(4) commence on the date of assent to this Act.

#### Definitions

3. (1) In this Act:  
'academic college' means a college established by or under Part 5;  
'advisory council' means an advisory council established under Part 5;  
'Bachelor' means any person on whom the degree of Bachelor has been conferred by the University;  
'Doctor' means any person on whom the degree of Doctor has been conferred by the University;  
'Fellow' means a member of the Senate;  
'incorporated college' means Sancta Sophia College, St Andrew's College, St John's College, St Paul's College, Wesley College or the Women's College;  
'Master' means any person on whom the degree of Master has been conferred by the University;  
'principal', in relation to an incorporated college, means the master, warden, rector or other person who is the head of the college;  
'residential college' means an incorporated college or a college (other than an academic college) established under this Act;  
'Senate' means the Senate of the University;  
'University' means the University of Sydney established by this Act.  
(2) In this Act, a reference to a graduate of the University is a reference to:

- (a) a person who is the recipient of a degree, or of such other diploma, award or certificate as may be prescribed by the by-laws, conferred or awarded by the University; or
- (b) 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:
  - (i) by or on behalf of any former institution that has, pursuant to this Act or to the Higher Education (Amalgamation) Act 1989 or otherwise, become a part of the University; or
  - (ii) 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

#### Establishment of University

4. A University, consisting of:
- (a) a Senate;
  - (b) Convocation;
  - (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) the graduates and students of the University, is established by this Act as a continuation of the University of Sydney established by Act 14 Vic. No. 31.

#### Incorporation of University

5. The University is a body corporate under the name of The University of Sydney.

#### Functions of University

6. (1) The functions of the University (within the limits of its resources) include:
- (a) the provision of educational and research facilities at university standard;
  - (b) the promotion, advancement and transmission of knowledge and research;
  - (c) the commitment to the development and provision of cultural, professional, technical and vocational services to the community; and
  - (d) 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.

#### Facilities to be provided for students

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

## PART 3

### THE SENATE, AUTHORITIES AND OFFICERS OF THE UNIVERSITY

#### The Senate

8. (1) There is to be a Senate of the University.  
 (2) The Senate is the governing authority of the

University and has the functions conferred or imposed on it by or under this Act. THE ACT

#### Constitution of Senate

9. (1) The Senate is to consist of:
- (a) parliamentary members;
  - (b) official members;
  - (c) appointed members; and
  - (d) elected members.
- (2) The parliamentary members comprise:
- (a) one Member of the Legislative Council elected by that Council:
    - (i) as soon as practicable after the commencement of this section and thereafter 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 Senate, 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 the commencement of this section and thereafter 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 Senate, as soon as practicable after that office becomes vacant.
- (3) The official members comprise:
- (a) the Chancellor (if the Chancellor is not otherwise a member of the Senate);
  - (b) the Vice-Chancellor; and
  - (c) the person for the time being holding the office of:
    - (i) presiding member of the Academic Board (if that person is not the Vice-Chancellor); or
    - (ii) deputy presiding member of the Academic Board (if the presiding member is the Vice-Chancellor).
- (4) The appointed members comprise four persons appointed by the Minister of whom one is to be appointed on the nomination of Senate.
- (5) The elected members comprise:
- (a) four persons:
    - (i) who are members of the academic staff of the University;
    - (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;
  - (b) one person:
    - (i) who is a member of the non-academic staff of the University;
    - (ii) who has such qualifications as may be prescribed by the by-laws; and
    - (iii) who is elected by members of the non-academic staff of the University in the manner prescribed by the by-laws;
  - (c) one person:
    - (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;
    - (ii) who has such qualifications as may be prescribed by the by-laws; and

- (iii) who is elected by undergraduate students of the University in the manner prescribed by the by-laws;
- (d) one person:
  - (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;
  - (ii) who has such qualifications as may be prescribed by the by-laws; and
  - (iii) who is elected by postgraduate students of the University in the manner prescribed by the by-laws; and
- (e) five persons:
  - (i) who are graduates of the University (but who are not members of the academic or non-academic staff of the University having the qualifications referred to in paragraph (a) (ii) or (b) (ii) or undergraduate or postgraduate students of the University having the qualifications referred to in paragraph (c) (ii) or (d) (ii));
  - (ii) who have such qualifications as may be prescribed by the by-laws; and
  - (iii) who are elected by graduates of the University in the manner prescribed by the by-laws.
- (6) The Senate may appoint any other person to be a member of the Senate and the person, on being appointed, is to be taken to be an appointed member of the Senate in addition to the members appointed under subsection (4).
- (7) No more than one person may hold office at any one time as an appointed member under subsection (6).
- (8) Schedule 1 has effect in relation to the members and procedure of the Senate.
- (9) 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.

#### Chancellor

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

#### Deputy Chancellor

11. (1) Whenever a vacancy in the office of Deputy Chancellor occurs, the Senate must elect a Fellow 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 Fellow, holds office for such period (not exceeding two years), 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.

#### Vice-Chancellor

12. (1) Whenever a vacancy in the office of Vice-Chancellor occurs, the Senate must appoint a person (whether or not a Fellow) to be Vice-Chancellor of the University.
- (2) The Vice-Chancellor, unless he or she sooner resigns as Vice-Chancellor, holds office for such period, and on such conditions, as the Senate determines.
- (3) The Vice-Chancellor is the principal executive officer of the University and has the functions conferred or imposed on the Vice-Chancellor by or under this or any other Act.
- (4) If a person who is not a Fellow is appointed at any time to act in the place of the Vice-Chancellor, that person is, while so acting, to be taken to be a Fellow.

#### Visitor

13. The Governor is the Visitor of the University with full authority and jurisdiction to exercise all functions pertaining to the office of Visitor.

#### Convocation

14. (1) Convocation consists of:
- (a) the Fellows and former Fellows of the Senate;
  - (b) the graduates of the University;
  - (c) the persons referred to in section 34;
  - (d) 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
  - (e) such graduates of other universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation.
- (2) Subject to the by-laws, meetings of Convocation are to be convened and the business at the meetings is to be as determined by Convocation.
- (3) A quorum at any meeting of Convocation is to be such number of members as may be prescribed by the by-laws.
- (4) Convocation has such functions as may be prescribed by the by-laws.
- (5) The Senate may establish a Standing Committee and such other committees of Convocation as it considers necessary.

#### Academic Board

15. (1) There is to be an Academic Board of the University, consisting of:
- (a) the Vice-Chancellor; and
  - (b) such other persons as the Senate may, in accordance with the by-laws, determine.
- (2) Subject to subsection (1), the constitution and functions of the Academic Board are to be as prescribed by the by-laws.

#### PART 4

### FUNCTIONS OF SENATE

#### Division 1 — General

#### Powers of Senate

16. (1) The Senate:
- (a) may provide such courses, and may confer such degrees (including *ad eundem* degrees and honorary 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, 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 of any intellectual property, in which the University has a right or interest;
  - (h) may authorise any other university or educational institution (whether in New South Wales or elsewhere) to confer degrees, or to award diplomas or other certificates, on behalf of the University;
  - (i) may make loans and grants to students; and
  - (j) may impose fees, charges and fines.
- (2) The powers of the Senate under this section are to be exercised subject to the by-laws.
- (3) Schedule 2 has effect in relation to the investment of funds by the Senate.

#### **Delegation by Senate**

17. The Senate 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:
- (a) any member or committee of the Senate;
  - (b) any authority or officer of the University (including any advisory council); or
  - (c) any other person or body prescribed by the by-laws.

#### **Division 2 — Property**

##### **Powers of Senate relating to property**

18. (1) The Senate:
- (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 Senate is not, except with the approval of the Minister, to alienate, mortgage, charge or demise any lands of the University.
- (3) Notwithstanding subsection (2), the Senate 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) (except where the lessee is a residential college affiliated with the University) there is reserved for the whole of the term the highest rent that can reasonably be obtained.

(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) is to be for a term not exceeding 99 years; and
  - (b) is to be at a nominal rent; and
  - (c) is to contain a condition that the lease is not to be assigned and such other conditions as the Senate 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.

##### **Powers of Senate over certain property vested in Crown**

19. (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 Senate has the control and management of that property and is responsible for its maintenance.
- (2) Nothing in subsection (1) enables the Senate 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 Senate 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) is to be for a term not exceeding 21 years; and
  - (b) is to contain a condition that the lease is not to be assigned and such other conditions as the Senate thinks fit.
- (5) The Senate is, in the exercise of its functions under this section, subject to the control and direction of the Minister.

##### **Acquisition of land**

20. (1) For the purposes of this Act, the Governor may, on the recommendation of the Minister, resume or appropriate any land under Division 1 of Part 5 of the Public Works Act 1912.
- (2) The Minister is not to make a recommendation for the purposes of this section unless satisfied that adequate provision has been or will be made for the payment by the University of compensation for the resumption or appropriation and of all necessary charges and expenses incidental to the resumption or appropriation.
- (3) A resumption or appropriation effected pursuant to this section is to be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Minister is, in relation to that authorised work, to be taken to be the Constructing Authority within the meaning of that Act.
- (4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, but section 38 of that Act does, apply in relation to a resumption or appropriation under this section.

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

21. (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.

### *Division 3 — Variation of trusts*

#### **Definitions**

22. In this Division:

- 'donor', in relation to a trust, means the person creating the trust, whether or not the trustee is a volunteer;
- 'prize' includes a scholarship or exhibition.

#### **Trusts to which Division 3 applies**

23. This Division applies to a trust, whether created before or after the commencement of this section:

- (a) by which any property is held:
  - (i) by the University on trust for a particular purpose; or
  - (ii) by any person on trust for the University for a particular purpose; and
- (b) the terms of which, by reason of the death or incapacity of the donor or otherwise, could not, but for the provisions of this Division, be varied without the order of a court.

#### **Variation of amount of prize, scholarship or exhibition**

24. (1) If:

- (a) by the terms of a trust for the award from time to time, out of the income from the trust property or its proceeds, of a prize, the prize to be awarded is a fixed amount of money; and
  - (b) in the opinion of the Senate, the value of the amount so fixed has been so affected by monetary inflation that it no longer reflects the intentions of the donor with respect to the value and significance of the prize,
- the Senate may request the Minister to effect a variation of the amount of the prize.
- (2) The Minister, if satisfied that it is just and equitable to do so, may determine to vary the amount of the prize in accordance with the Senate's request.

- (3) On delivery to the Senate of an instrument in writing signed by the Minister and specifying such a variation, the trust concerned is varied accordingly.

#### **Variation of terms of trust**

25. (1) If:

- (a) by the terms of a trust, any property is held:
    - (i) on trust for a charitable purpose; or
    - (ii) on trust for a purpose of the University other than its general purposes; and
  - (b) in the opinion of the Senate, it is impossible or inexpedient to carry out or observe the terms of the trust, whether as to its purpose or any other of its terms,
- the Senate may request the Minister to effect a variation of the terms of the trust.

- (2) The Minister, if satisfied that it is just and equitable to do so, and with the concurrence of the Attorney General, may determine to vary the terms of the trust concerned in accordance with the Senate's request.

(3) In the making of any such determination, regard is to be had:

- (a) to the extent to which it may be necessary to depart from the terms of the trust concerned in order to avoid the impossibility or inexpediency complained of; and
- (b) to what appear to have been the intentions of the donor in creating the trust.
- (4) On delivery to the Senate of an instrument in writing signed by the Minister and specifying a variation of the terms of the trust concerned, the trust is varied accordingly.

#### **Further variation**

26. A trust that has been varied in accordance with this Division may, in the same manner, be further varied from time to time.

### **PART 5**

## **ESTABLISHMENT OF ACADEMIC COLLEGES**

### **Establishment of academic colleges**

27. (1) The following academic colleges of the University are established:

- Sydney Conservatorium of Music
- Cumberland College of Health Sciences
- Sydney College of the Arts.

(2) The Governor may, by order published in the Gazette, establish:

- (a) an educational institution set up by the University;
- (b) any other public educational institution or body; or
- (c) any part of any such institution or body, as an academic college.

(3) If, before the establishment of an academic college, any property has been vested in or acquired by any person on trust for the purposes for which the college is established, the person may, when the college is established, convey or transfer the property to the University on trust to apply the property, or the proceeds of it or the income from it, for the benefit of the college.

#### **Advisory councils**

28. (1) An advisory council may be constituted for an academic college.

(2) An advisory council is to consist of no fewer than 10, and no more than 20, members.

(3) The members of an advisory council are to be appointed by the Senate.

(4) An advisory council has such functions as may be prescribed by the by-laws.

### **PART 6**

## **GENERAL**

### **Advance by Treasurer**

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

### **Financial year**

30. 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.

### **No religious test or political discrimination**

31. A person is not, because of his or her religious or

political affiliations, views or beliefs, to be denied admission as a student of the University or to be taken to be ineligible to hold office in, to graduate from or to enjoy any benefit, advantage or privilege of the University.

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

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

#### **Re-appointment or re-election**

33. 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.

#### **Academic status**

34. (1) Persons belonging to the following classes of persons have the same rights and privileges within the University as have Masters and Doctors:

- (a) professors and other full-time members of the academic staff of the University;
- (b) principals of the incorporated colleges;
- (c) persons declared by the by-laws to be superior officers of the University.

(2) Persons who possess qualifications that are recognised by the by-laws as being of the same rank as the degree of Bachelor have the same rights and privileges within the University as have Bachelors.

#### **Seal of University**

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

#### **By-laws**

36. (1) The Senate 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 Senate (other than the parliamentary members) who are to be elected;
- (c) the manner and time of convening, holding and adjourning the meetings of the Senate or Academic Board;
- (d) the manner of voting (including postal voting or voting by proxy) at meetings of the Senate or Academic Board;
- (e) the functions of the presiding member of the Senate or Academic Board;
- (f) the conduct and record of business of the Senate or Academic Board;
- (g) the appointment of committees of the Senate or Academic Board;
- (h) the quorum and functions of committees of the Senate or Academic Board;
- (i) the resignation of members of the Senate, 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, non-academic staff, full-time staff, part-time staff or otherwise and the designation of students of the University as undergraduate students, post-graduate students 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 Senate 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, memberships, 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 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 discipline of academic and residential colleges;
- (v) the classes and courses of instruction provided at academic colleges and the conduct of examinations at such colleges;
- (w) the constitution and functions of advisory councils;
- (x) the delegation of functions of the Senate to advisory councils;
- (y) the affiliation with the University of any educational or research establishment;
- (z) the creation of faculties, schools, departments, centres, institutes or other entities within the University;
- (aa) the provision of schemes of superannuation for the officers and employees of the University;

- (bb) the form and use of academic costume;
  - (cc) the form and use of an emblem of the University or of any body within or associated with the University; and
  - (dd) the use of the seal of the University.
- (2) A by-law has no effect unless it has been approved by the Governor.

#### Rules

37. (1) The by-laws may empower any authority (including the Senate) or officer of the University to make rules (not inconsistent with this Act or the by-laws) for regulating, or providing for the regulation of, any specified matter with respect to which by-laws may be made.
- (2) Any such 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 Senate or by the authority or officer of the University empowered to make such a rule.

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

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

#### Repeal etc.

39. (1) The University and University Colleges Act 1900 is repealed.
- (2) The Senate of the University of Sydney, as constituted immediately before the repeal of the University and University Colleges Act 1900, is dissolved.
- (3) The persons holding office as members of the Senate and Deputy Chancellor immediately before the repeal of the University and University Colleges Act 1900 cease to hold office as such on that repeal.

#### Savings and transitional provisions

40. (1) Schedule 3 has effect.
- (2) For the purpose only of enabling the Senate to be duly constituted on or after the commencement of section 9, elections may be conducted and appointments made before that commencement as if:
- (a) the whole of this Act; and
  - (b) sections 7, 10, 13, 19, 20 and 21 of the Higher Education (Amalgamation) Act 1989, were in force.
- (3) A Fellow who is elected or appointed to the Senate under this section does not assume office before the commencement of section 9.
- (4) The Senate of the University of Sydney referred to in the University and University Colleges Act 1900 is to make the nomination for the purposes of section 9 (4) in respect of the first Senate to be constituted under this Act.

#### SCHEDULE 1

#### PROVISIONS RELATING TO FELLOWS AND TO THE PROCEDURE OF THE SENATE

(Sec. 9)

##### Term of office

1. Subject to this Act, a Fellow 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 four years) as may be specified in the member's instrument of appointment;
- (d) in the case of an elected member referred to in section 9 (5) (a), (b), (c) or (d) for such term (not exceeding two years) as may be prescribed by the by-laws; and
- (e) in the case of an elected member referred to in section 9 (5) (e), for such term (not exceeding four years) as may be prescribed by the by-laws.

##### Vacation of office

2. The office of a Fellow becomes vacant if the Fellow:

- (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 (other than a member appointed by the Senate under section 9 (6)), to the Minister; or
  - (iv) in the case of an elected member or a member appointed by the Senate under section 9 (6), to the Vice-Chancellor;
- (d) in the case of an appointed or elected Fellow, 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 Fellow, 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 penal servitude or 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 Fellow, is absent from three consecutive meetings of the Senate of which reasonable notice has been given to the member personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Senate 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 Fellow, ceases to be qualified for election;
- (k) in the case of an appointed Fellow (other than a Fellow appointed by the Senate under section 9 (6)), is removed from office by the Minister; or
- (l) in the case of a Fellow appointed by the Senate under section 9 (6), is removed from office by the Senate.

#### **Filling of vacancy in office of Fellow**

3. (1) If the office of an appointed or elected Fellow becomes vacant, a person is, subject to this Act and the by-laws, to be appointed or elected to fill the vacancy.
- (2) The by-laws may provide that, in such circumstances as may be prescribed, a person is to 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.

#### **Committees of the Senate**

4. (1) The Senate 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 Fellows.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Senate or (subject to any determination of the Senate) by the committee.

#### **Liability of Fellows and others**

5. No matter or thing done by:
- (a) the University, the Senate or a Fellow; or
  - (b) any person acting under the direction of the University or the Senate,
- if the matter or thing was done in good faith for the purpose of executing this or any other Act, subjects a Fellow or a person so acting personally to any action, liability, claim or demand.

#### **General procedure**

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

#### **Presiding member**

7. (1) The Chancellor is to preside at all meetings of the Senate at which the Chancellor is present.
- (2) At any meeting of the Senate at which the

Chancellor is not present, the Deputy Chancellor is to preside and, in the absence of both the Chancellor and the Deputy Chancellor, a member elected by and from the members present is to preside.

(3) Except as provided by subclause (4), at the meetings of a committee constituted by the Senate a Fellow appointed by the Senate (or, if no Fellow is so appointed, elected by and from the Fellows present) is to preside.

(4) At any meeting of a committee constituted by the Senate at which the Chancellor is present, the Chancellor is entitled, if he or she so desires, to preside at that meeting.

#### **Quorum**

8. At any meeting of the Senate, a majority of the total number of Fellows for the time being constitutes a quorum.

#### **Voting**

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

#### **SCHEDULE 2**

#### **POWERS OF INVESTMENT**

(Sec. 16)

#### **Definitions**

1. In this Schedule:

'funds' means:

- (a) private gifts, other than private gifts which may be applied without restriction or limitation:
  - (i) for any of the purposes of the University; or
  - (ii) for any of the purposes of any faculty, department, school or foundation within the University;
- (b) grants;
- (c) student tuition fees; or
- (d) other money held by the University;

'grant' means money granted to the University by or on behalf of the Government of:

- (a) the State of New South Wales; or
- (b) the Commonwealth,

or any part of that money;

'investment pool' means an investment pool established by the Senate under this Schedule;

'pooled item' means:

- (a) a private gift;
- (b) a grant;
- (c) student tuition fees;
- (d) funds;
- (e) securities; or
- (f) real property,

forming part of an investment pool;

'private gift' means:

- (a) money, not being a grant, given to the University;
- (b) money obtained from the conversion of property given to the University; and
- (c) money obtained from the investment or use of property given to the University;

'securities' means debentures, stocks, shares, bonds and notes.

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

2. The terms of:

- (a) in the case of a private gift — any instrument creating a trust with respect to that private gift;

- (b) in the case of a grant — the instrument of grant; and
  - (c) in the case of property, other than money, given to the University — any instrument creating a trust with respect to that property,
- have effect despite clauses 3, 4 and 5.

#### **Investment of money**

**3.** The Senate may invest any funds held by the University:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) at any time at which the Public Authorities (Financial Arrangements) Act 1987 does not apply to the Senate so as to authorise any such investment:
  - (i) in accordance with and subject to the Trustee Act 1925; or
  - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

#### **Investment pools**

**4.** (1) The Senate may establish and maintain one or more investment pools for the collective investment of property held by the University.

- (2) The Senate may from time to time:
    - (a) bring into or withdraw from an investment pool the whole or any part of any funds held by the University; or
    - (b) bring into an investment pool:
      - (i) securities, other than securities in respect of which the donor has, in an instrument creating a trust in respect of those securities, specified that the income from those securities is to be applied for a purpose other than the general purposes of the University; or
      - (ii) real property, other than real property in respect of which the donor has, in an instrument creating a trust in respect of that real property, specified that the income from that real property is to be applied for a purpose other than the general purposes of the University,
- or withdraw money to the value attributed equitably to those securities or that real property by the Senate at the date of withdrawal.

#### **Distribution of income of investment pools**

- 5.** (1) The Senate must, at least once a year, distribute the income of an investment pool.
- (2) On the distribution of the income of an investment pool, the Senate must, in respect of:
  - (a) a pooled item being a private gift where the donor of the private gift has, in an instrument creating a trust in respect of the private gift:
    - (i) specified that the income from the investment of the private gift is to be applied for a purpose other than the general purposes of the University; or
    - (ii) specified that the private gift is to be applied for a purpose other than the general purposes of the University and the private gift is insufficient, without the addition of the income from the investment of the private gift, to achieve that purpose; and
  - (b) any other pooled item in respect of which the Senate is otherwise required to do so,

credit the income of the investment pool to the account kept by it in respect of the private gift or other pooled item proportionately according to:

- (c) the value attributed equitably to the private gift or other pooled item by the Senate at the date of distribution; and
  - (d) the period for which the private gift or other pooled item has formed part of the investment pool since the date of the last preceding distribution of the income of the investment pool.
- (3) If the Senate distributes the income of an investment pool, it may, in respect of a pooled item (other than a pooled item referred to in subclause (2) (a) or (b)) credit the income of the investment pool to any account kept by it.

#### **Nature of private gift etc. not affected by pooling**

**6.** (1) The inclusion in an investment pool of a pooled item (being a private gift, a grant or student tuition fees) does not affect the identity of the pooled item as a private gift, a grant or student tuition fees.

(2) The inclusion in an investment pool of a pooled item does not affect any trust to which the pooled item was subject immediately before its inclusion in the investment pool.

(3) On the withdrawal from an investment pool of a pooled item (being a private gift, a grant or student tuition fees) the pooled item is to continue to be subject to any trust to which it was subject immediately before its inclusion in the investment pool.

(4) On the withdrawal from an investment pool of money to the value attributed to any securities or real property by the Senate under clause 4 (2) (b), that money is to be subject to any trust to which those securities were subject, or to which that real property was subject, immediately before its inclusion in the investment pool.

### **SCHEDULE 3**

#### **SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 40)

##### **University a continuation of the old University**

**1.** The University is a continuation of, and the same legal entity as, the University of Sydney referred to in the University and University Colleges Act 1900.

##### **Chancellor**

**2.** (1) The person who, immediately before the commencement of this clause, held office as the Chancellor of the University of Sydney;

- (a) remains Chancellor of the University; and
- (b) continues to hold office as such (unless he or she sooner resigns) for the residue of the term for which he or she was appointed as Chancellor.

(2) Section 10(2) does not apply to or in respect of the Chancellor referred to in this clause.

##### **Deputy Chancellor**

**3.** The Senate must, at its first meeting that takes place after the commencement of this clause or as soon as practicable thereafter, appoint a Deputy Chancellor of the University.

##### **Vice-Chancellor**

**4.** (1) The person who, immediately before the commencement of this clause, held office as the Vice-Chancellor of the University of Sydney:

- (a) remains Vice-Chancellor of the University; and
  - (b) continues to hold office as such (unless he or she sooner resigns) for the residue of the term for which he or she was appointed as Vice-Chancellor.
- (2) Section 12(2) does not apply to or in respect of the Vice-Chancellor referred to in this clause.
- (3) Any appointment made by the Senate of the University of Sydney referred to in the University and University Colleges Act 1900 before the commencement of this clause (not being an appointment that has been revoked) under which a person has been appointed to succeed, as Vice-Chancellor, the person who was the Vice-Chancellor immediately before the commencement of this clause continues to have effect, unless sooner revoked, as if it had been made by the Senate on or after that commencement.

#### **Convocation**

5. (1) Convocation includes:
- (a) past members of the governing body of any of the former institutions that have, pursuant to this Act or to the Higher Education (Amalgamation) Act 1989 or otherwise, become 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.

#### **Savings of delegations**

6. Any delegation made or taken to have been made by the Senate of the University of Sydney under the University and University Colleges Act 1900 is to be taken to be a delegation under this Act by the Senate.

#### **Existing investments**

7. Nothing in this Act affects the validity of any investment made on behalf of the University before the commencement of Schedule 2.

#### **Advisory councils**

8. An advisory council constituted under section 43 of the University and University Colleges Act 1900 and in existence immediately before the commencement of this clause is to be taken to have been constituted under section 28.

#### **By-laws**

9. The By-laws of the University of Sydney:
- (a) continue in force as if they had been made by the Senate; and
  - (b) may be amended and revoked accordingly.

The *Interpretation Act, 1987* applies to this Act and should be read in conjunction with it as it contains provisions of a common or general nature applying to this Act as well as provisions relating to the exercise of certain statutory functions and the powers of statutory bodies.