



New South Wales

Universities Legislation Amendment (Financial and Other Powers) Bill 2001

Explanatory note

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

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

Overview of Bill

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

- (a) to state the object and to restate the principal functions and other functions of a university in order to update and standardise those functions, and
- (b) to clarify a university's commercial functions, and
- (c) to clarify a university's power to develop and provide certain services to the community, and
- (d) to provide that a university has certain general and ancillary functions, and
- (e) to make it clear that a university can exercise its functions outside the State and outside Australia, and

Explanatory note

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

The Acts amended are as follows:

Charles Sturt University Act 1989

Macquarie University Act 1989

University of New England Act 1993

University of New South Wales Act 1989

University of Newcastle Act 1989

Southern Cross University Act 1993

University of Sydney Act 1989

University of Technology, Sydney, Act 1989

University of Western Sydney Act 1997

University of Wollongong Act 1989

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

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

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

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

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

Schedule 3 makes the amendments described in the Overview to the *University of New England Act 1993*.

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

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

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

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

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

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

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

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



New South Wales

Universities Legislation Amendment (Financial and Other Powers) Bill 2001

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendments	2
Schedules	
1 Amendment of Charles Sturt University Act 1989 No 76	3
2 Amendment of Macquarie University Act 1989 No 126	13
3 Amendment of University of New England Act 1993 No 68	23
4 Amendment of University of New South Wales Act 1989 No 125	33
5 Amendment of University of Newcastle Act 1989 No 68	43
6 Amendment of Southern Cross University Act 1993 No 69	53
7 Amendment of University of Sydney Act 1989 No 124	63
8 Amendment of University of Technology, Sydney, Act 1989 No 69	73
9 Amendment of University of Western Sydney Act 1997 No 116	83
10 Amendment of University of Wollongong Act 1989 No 127	93
11 Amendment of Public Authorities (Financial Arrangements) Act 1987 No 33	103



New South Wales

Universities Legislation Amendment (Financial and Other Powers) Bill 2001

No , 2001

A Bill for

An Act to amend various Acts to make further provision for the financial and other powers of universities; and for other purposes.

See also *Higher Education Bill 2001*.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendments	8
The Acts specified in the Schedules to this Act are amended as set out in those Schedules.	9 10

**Schedule 1 Amendment of Charles Sturt University
 Act 1989 No 76**

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 7 (3) (a).

[2] Section 7

Omit the section. Insert instead:

7 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard, having particular regard to the needs
and aspirations of the residents of western and
south-western New South Wales,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in

	which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3 4 5
	(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	6 7 8
	(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	9 10 11 12 13 14
	(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	15 16
	(4) The functions of the University may be exercised within or outside the State, including outside Australia.	17 18
[3]	Section 8	19
	Omit the section. Insert instead:	20
	8 Facilities for students, staff and others	21
	The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	22 23 24 25
[4]	Section 9 Council	26
	Insert after section 9 (1):	27
	(1A) The Council is the governing authority of the University and has the functions conferred or imposed on it by or under this Act or any other Act.	28 29 30
[5]	Section 18	31
	Omit the section.	32

[6] Section 19 Functions of Council	1
Insert before section 19 (1):	2
(1A) The Council:	3
(a) acts for and on behalf of the University in the exercise of the University's functions, and	4
	5
(b) has the control and management of the affairs and concerns of the University, and	6
	7
(c) may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	8
	9
	10
[7] Section 19 (1)	11
Omit "The Council:".	12
Insert instead "Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University's functions:".	13
	14
	15
[8] Section 19 (1) (a), (b), (e), (h), (i) and (j)	16
Omit "may" wherever occurring.	17
[9] Section 19 (1) (c)	18
Omit the paragraph.	19
[10] Section 19 (1) (d)	20
Omit the paragraph. Insert instead:	21
(d) borrow money 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,	22
	23
	24
	25

[11] Section 19 (1) (f)	1
Omit the paragraph. Insert instead:	2
(f) promote, establish or participate in (whether by means	3
of debt, equity, contribution of assets or by other means)	4
partnerships, trusts, companies and other incorporated	5
bodies, or joint ventures (whether or not incorporated),	6
[12] Section 19 (1) (g)	7
Omit the paragraph.	8
[13] Section 19 (2)	9
Omit “powers”. Insert instead “functions”.	10
[14] Section 19A	11
Insert after section 19:	12
19A Controlled entities	13
(1) The Council must ensure that a controlled entity does not	14
exercise any function or engage in any activity that the	15
University is not authorised by or under this Act to exercise or	16
engage in, except to the extent that the Council is permitted to	17
do so by the Minister under this section.	18
(2) The Minister may, by order in writing, permit the Council to	19
authorise a controlled entity to exercise a function or engage in	20
an activity of the kind referred to in subsection (1). Permission	21
may be given in respect of a specified function or activity or	22
functions or activities of a specified class.	23
(3) The Governor may make regulations providing that	24
subsection (1) does not apply to functions or activities of a	25
specified class.	26
(4) This section does not itself confer power on a controlled entity	27
to engage in any activity.	28

(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	1 2 3 4
(6) In this section: <i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	5 6 7 8 9
[15] Sections 20A and 20B	10
Insert after section 20:	11
20A Operation of certain Acts	12
Nothing in this Act limits or otherwise affects the operation of the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to or in respect of the University or the Council.	13 14 15 16
20B Recommendations of Ombudsman or Auditor-General	17
The Council must include in each annual report of the Council as part of the report of its operations a report as to any action taken by the Council during the period to which the report relates to implement any recommendation made in a report of the Ombudsman or the Auditor-General concerning the Council or the University:	18 19 20 21 22 23
(a) whether or not the recommendation relates to a referral by the Minister under section 24E, and	24 25
(b) whether or not the recommendation relates to a University commercial activity (as defined in section 24A).	26 27 28

[16] Part 4, Division 3	1
Insert after Division 2 of Part 4:	2
Division 3 Commercial activities	3
24A Definitions	4
In this Division:	5
<i>the Guidelines</i> means the guidelines approved for the time being under section 24B.	6 7
<i>University commercial activity</i> means:	8
(a) any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	9 10 11
(b) any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity.	12 13 14 15 16 17
24B Guidelines for commercial activities	18
(1) The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities.	19 20 21
(2) The Council may submit proposals for the Guidelines to the Minister for approval.	22 23
(3) Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities:	24 25 26
(a) requiring feasibility and due diligence assessment,	27
(b) requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements),	28 29 30
(c) requiring the undertaking of risk assessment and risk management measures,	31 32

-
- | | | |
|------------|---|----------------------------|
| (d) | regulating and imposing requirements concerning the delegation by the Council of any of its functions under this Act in connection with University commercial activities, | 1
2
3
4 |
| (e) | declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 24A. | 5
6
7 |
| (4) | The Council must ensure that the Guidelines are complied with. | 8
9 |
| (5) | The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Council or any failure by the Council to submit proposals for the Guidelines. | 10
11
12 |
| (6) | Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time. | 13
14
15
16
17 |
| 24C | Register of commercial activities | 18 |
| (1) | The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities: | 19
20
21 |
| (a) | a description of the activity, | 22 |
| (b) | details of all parties who participate in the activity, | 23 |
| (c) | details of any appointment by or on behalf of the University to relevant boards or other governing bodies, | 24
25 |
| (d) | details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines, | 26
27
28 |
| (e) | such other details as the Guidelines may require. | 29 |
| (2) | The Guidelines may make provision for the following: | 30 |
| (a) | exempting specified activities or activities of a specified class from all or specified requirements of this section, | 31
32 |
| (b) | altering the details to be included in the Register in respect of specified activities or activities of a specified class, | 33
34
35 |
-

(c)	enabling related activities to be treated as a single activity for the purposes of the Register.	1 2
(3)	The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.	3 4 5
24D	Reports to Minister on commercial activities	6
(1)	The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.	7 8 9 10
(2)	The Council must provide a report to the Minister in accordance with the Minister's request.	11 12
24E	Referral of matters to Ombudsman or Auditor-General	13
	The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	14 15 16
(a)	to the Auditor-General for investigation and report to the Minister, or	17 18
(b)	to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	19 20
[17] Section 25A		21
	Insert after section 25:	22
25A	Stamp duty exemption	23
(1)	Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	24 25 26 27 28 29

(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	1 2 3 4 5
[18] Schedule 1 Provisions relating to members and procedure of the Council	6 7
Insert “or omitted to be done” after “done” in clause 5 wherever occurring.	8
[19] Schedule 2 Investment	9
Omit clause 2. Insert instead:	10
2 Investment powers	11
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	12 13 14
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	15 16 17
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	18 19
2A Funds managers	20
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	21 22 23 24
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer’s approval.	25 26 27
(3) The Treasurer’s approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	28 29 30

(4)	An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	1 2 3 4 5
(5)	The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	6 7 8 9 10
[20]	Schedule 4 Savings and transitional provisions	11
	Insert after Part 4:	12
	Part 5 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	13 14 15
39	Investment powers	16
	Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	17 18 19 20 21 22 23 24 25
40	Validation	26
	Any act or omission occurring before the substitution of section 7 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	27 28 29 30 31 32 33

Schedule 2 Amendment of Macquarie University Act 1989 No 126

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,
for example, study, research, knowledge and intellectual

property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	4 5 6
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	7 8 9 10 11 12
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	13 14
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	15 16
[3] Section 7	17
Omit the section. Insert instead:	18
7 Facilities for students, staff and others	19
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	20 21 22 23
[4] Section 16 Functions of Council	24
Insert before section 16 (1):	25
(1A) The Council:	26
(a) acts for and on behalf of the University in the exercise of the University's functions, and	27 28
(b) has the control and management of the affairs and concerns of the University, and	29 30
(c) may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	31 32 33

[5] Section 16 (1)	1
Omit “The Council:”.	2
Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	3 4 5
[6] Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
Omit “may” wherever occurring.	7
[7] Section 16 (1) (c)	8
Omit the paragraph.	9
[8] Section 16 (1) (d)	10
Omit the paragraph. Insert instead:	11
(d) borrow money 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,	12 13 14 15
[9] Section 16 (1) (f)	16
Omit the paragraph. Insert instead:	17
(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	18 19 20 21
[10] Section 16 (1) (g)	22
Omit the paragraph.	23
[11] Section 16 (2)	24
Omit “powers”. Insert instead “functions”.	25

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

- (b) any other activity comprising the promotion of, 1
establishment of or participation in any partnership, 2
trust, company or other incorporated body, or joint 3
venture, by or on behalf of the University, that is for the 4
time being declared by the Guidelines to be a University 5
commercial activity. 6

21B Guidelines for commercial activities 7

- (1) The Minister on the advice of the Treasurer may approve 8
Guidelines requiring specified processes and procedures to be 9
followed in connection with University commercial activities. 10
- (2) The Council may submit proposals for the Guidelines to the 11
Minister for approval. 12
- (3) Without limitation, the Guidelines may contain provision for or 13
with respect to the following in connection with University 14
commercial activities: 15
 - (a) requiring feasibility and due diligence assessment, 16
 - (b) requiring the identification of appropriate governance 17
and administrative arrangements (including as to legal 18
structures and audit requirements), 19
 - (c) requiring the undertaking of risk assessment and risk 20
management measures, 21
 - (d) regulating and imposing requirements concerning the 22
delegation by the Council of any of its functions under 23
this Act in connection with University commercial 24
activities, 25
 - (e) declaring a specified activity to be a University 26
commercial activity for the purposes of paragraph (b) of 27
the definition of that expression in section 21A. 28
- (4) The Council must ensure that the Guidelines are complied 29
with. 30
- (5) The Minister's power to approve Guidelines is not limited by 31
any proposals for Guidelines submitted by the Council or any 32
failure by the Council to submit proposals for the Guidelines. 33

(6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time.	1 2 3 4 5
21C Register of commercial activities	6
(1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities:	7 8 9
(a) a description of the activity,	10
(b) details of all parties who participate in the activity,	11
(c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies,	12 13
(d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines,	14 15 16
(e) such other details as the Guidelines may require.	17
(2) The Guidelines may make provision for the following:	18
(a) exempting specified activities or activities of a specified class from all or specified requirements of this section,	19 20
(b) altering the details to be included in the Register in respect of specified activities or activities of a specified class,	21 22 23
(c) enabling related activities to be treated as a single activity for the purposes of the Register.	24 25
(3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.	26 27 28
21D Reports to Minister on commercial activities	29
(1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.	30 31 32 33

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 22A	11
Insert after section 22:	12
22A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after clause 9:	2
10 Investment powers	3
Until an order is made under clause 2 of Schedule 2	4
(as substituted by the <i>Universities Legislation Amendment</i>	5
(<i>Financial and Other Powers</i>) Act 2001), approval is taken to	6
have been given by order under that clause to the investment by	7
the Council of any funds of the University in any manner that	8
the Council was authorised to invest those funds immediately	9
before the Council ceased to be an authority for the purposes of	10
Part 3 (Investment) of the <i>Public Authorities (Financial</i>	11
<i>Arrangements</i>) Act 1987.	12
11 Validation	13
Any act or omission occurring before the substitution of	14
section 6 by the <i>Universities Legislation Amendment (Financial</i>	15
and <i>Other Powers</i>) Act 2001 that would have been valid had	16
that section as so substituted been in force from the	17
commencement of that section as originally enacted is (to the	18
extent of any invalidity) taken to be, and always to have been,	19
valid.	20

Schedule 3	Amendment of University of New England	1
	Act 1993 No 68	2
	(Section 3)	3
[1] Section 3 Definitions		4
	Insert in alphabetical order in section 3 (1):	5
	<i>commercial functions</i> of the University means the commercial functions described in section 6 (3) (a).	6 7
[2] Section 6		8
	Omit the section. Insert instead:	9
6 Object and functions of University		10
(1)	The object of the University is the promotion, within the limits of the University's resources, of scholarship and academic excellence.	11 12 13
(2)	The University has the following principal functions for the promotion of its object:	14 15
(a)	the provision of facilities for education and research of university standard,	16 17
(b)	the encouragement of the dissemination, advancement, development and application of knowledge,	18 19
(c)	the provision of courses of study or instruction to meet the needs of the community,	20 21
(d)	the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	22 23 24
(3)	The University has other functions as follows:	25
(a)	the University may exercise commercial functions comprising the commercial exploitation or development, for the University's benefit, of any facility, resource or property of the University or in which the University has a right or interest (including, for example, study, research, knowledge and intellectual	26 27 28 29 30 31

property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	4 5 6
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	7 8 9 10 11 12
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	13 14
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	15 16
[3] Section 7	17
Omit the section. Insert instead:	18
7 Facilities for students, staff and others	19
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	20 21 22 23
[4] Section 16 Functions of Council	24
Insert before section 16 (1):	25
(1A) The Council:	26
(a) acts for and on behalf of the University in the exercise of the University's functions, and	27 28
(b) has the control and management of the affairs and concerns of the University, and	29 30
(c) may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	31 32 33

[5] Section 16 (1)	1
Omit “The Council:”.	2
Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	3 4 5
[6] Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
Omit “may” wherever occurring.	7
[7] Section 16 (1) (c)	8
Omit the paragraph.	9
[8] Section 16 (1) (d)	10
Omit the paragraph. Insert instead:	11
(d) borrow money 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,	12 13 14 15
[9] Section 16 (1) (f)	16
Omit the paragraph. Insert instead:	17
(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	18 19 20 21
[10] Section 16 (1) (g)	22
Omit the paragraph.	23
[11] Section 16 (2)	24
Omit “powers”. Insert instead “functions”.	25

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

- (b) any other activity comprising the promotion of, 1
establishment of or participation in any partnership, 2
trust, company or other incorporated body, or joint 3
venture, by or on behalf of the University, that is for the 4
time being declared by the Guidelines to be a University 5
commercial activity. 6

21B Guidelines for commercial activities 7

- (1) The Minister on the advice of the Treasurer may approve 8
Guidelines requiring specified processes and procedures to be 9
followed in connection with University commercial activities. 10
- (2) The Council may submit proposals for the Guidelines to the 11
Minister for approval. 12
- (3) Without limitation, the Guidelines may contain provision for or 13
with respect to the following in connection with University 14
commercial activities: 15
 - (a) requiring feasibility and due diligence assessment, 16
 - (b) requiring the identification of appropriate governance 17
and administrative arrangements (including as to legal 18
structures and audit requirements), 19
 - (c) requiring the undertaking of risk assessment and risk 20
management measures, 21
 - (d) regulating and imposing requirements concerning the 22
delegation by the Council of any of its functions under 23
this Act in connection with University commercial 24
activities, 25
 - (e) declaring a specified activity to be a University 26
commercial activity for the purposes of paragraph (b) of 27
the definition of that expression in section 21A. 28
- (4) The Council must ensure that the Guidelines are complied 29
with. 30
- (5) The Minister's power to approve Guidelines is not limited by 31
any proposals for Guidelines submitted by the Council or any 32
failure by the Council to submit proposals for the Guidelines. 33

-
- | | |
|---|-----------------------|
| (6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time. | 1
2
3
4
5 |
| 21C Register of commercial activities | 6 |
| (1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities: | 7
8
9 |
| (a) a description of the activity, | 10 |
| (b) details of all parties who participate in the activity, | 11 |
| (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies, | 12
13 |
| (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines, | 14
15
16 |
| (e) such other details as the Guidelines may require. | 17 |
| (2) The Guidelines may make provision for the following: | 18 |
| (a) exempting specified activities or activities of a specified class from all or specified requirements of this section, | 19
20 |
| (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class, | 21
22
23 |
| (c) enabling related activities to be treated as a single activity for the purposes of the Register. | 24
25 |
| (3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register. | 26
27
28 |
| 21D Reports to Minister on commercial activities | 29 |
| (1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity. | 30
31
32
33 |
-

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 22A	11
Insert after section 22:	12
22A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after Part 6:	2
 Part 7 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	 3 4 5
 35 Investment powers	 6
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	7 8 9 10 11 12 13 14 15
 36 Validation	 16
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	17 18 19 20 21 22 23

Schedule 4 Amendment of University of New South Wales Act 1989 No 125

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,
for example, study, research, knowledge and intellectual

property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	4 5 6
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	7 8 9 10 11 12
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	13 14
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	15 16
[3] Section 7	17
Omit the section. Insert instead:	18
7 Facilities for students, staff and others	19
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	20 21 22 23
[4] Section 15 Functions of Council	24
Insert before section 15 (1):	25
(1A) The Council:	26
(a) acts for and on behalf of the University in the exercise of the University's functions, and	27 28
(b) has the control and management of the affairs and concerns of the University, and	29 30
(c) may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	31 32 33

[5] Section 15 (1)	1
Omit “The Council:”.	2
Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	3 4 5
[6] Section 15 (1) (a), (b), (e), (h), (i) and (j)	6
Omit “may” wherever occurring.	7
[7] Section 15 (1) (c)	8
Omit the paragraph.	9
[8] Section 15 (1) (d)	10
Omit the paragraph. Insert instead:	11
(d) borrow money 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,	12 13 14 15
[9] Section 15 (1) (f)	16
Omit the paragraph. Insert instead:	17
(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	18 19 20 21
[10] Section 15 (1) (g)	22
Omit the paragraph.	23
[11] Section 15 (2)	24
Omit “powers”. Insert instead “functions”.	25

[12] Section 15A	1
Insert after section 15:	2
15A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 16A and 16B	1
Insert after section 16:	2
16A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
16B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 20E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 20A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
20A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 20B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

-
- | | | |
|------------|---|----------------------------|
| (b) | any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity. | 1
2
3
4
5
6 |
| 20B | Guidelines for commercial activities | 7 |
| (1) | The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities. | 8
9
10 |
| (2) | The Council may submit proposals for the Guidelines to the Minister for approval. | 11
12 |
| (3) | Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities: | 13
14
15 |
| (a) | requiring feasibility and due diligence assessment, | 16 |
| (b) | requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements), | 17
18
19 |
| (c) | requiring the undertaking of risk assessment and risk management measures, | 20
21 |
| (d) | regulating and imposing requirements concerning the delegation by the Council of any of its functions under this Act in connection with University commercial activities, | 22
23
24
25 |
| (e) | declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 20A. | 26
27
28 |
| (4) | The Council must ensure that the Guidelines are complied with. | 29
30 |
| (5) | The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Council or any failure by the Council to submit proposals for the Guidelines. | 31
32
33 |

(6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time.	1 2 3 4 5
20C Register of commercial activities	6
(1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities:	7 8 9
(a) a description of the activity,	10
(b) details of all parties who participate in the activity,	11
(c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies,	12 13
(d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines,	14 15 16
(e) such other details as the Guidelines may require.	17
(2) The Guidelines may make provision for the following:	18
(a) exempting specified activities or activities of a specified class from all or specified requirements of this section,	19 20
(b) altering the details to be included in the Register in respect of specified activities or activities of a specified class,	21 22 23
(c) enabling related activities to be treated as a single activity for the purposes of the Register.	24 25
(3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.	26 27 28
20D Reports to Minister on commercial activities	29
(1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.	30 31 32 33

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
20E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 21A	11
Insert after section 21:	12
21A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after clause 9:	2
10 Investment powers	3
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	4 5 6 7 8 9 10 11 12
11 Validation	13
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	14 15 16 17 18 19 20

Schedule 5 Amendment of University of Newcastle Act 1989 No 68

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard, having particular regard to the needs
of the Hunter region, the Central Coast and surrounding
areas,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in

which the University has a right or interest (including, for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3 4 5
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	6 7 8
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	9 10 11 12 13 14
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	15 16
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	17 18
[3] Section 7	19
Omit the section. Insert instead:	20
7 Facilities for students, staff and others	21
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	22 23 24 25
[4] Section 16 Functions of Council	26
Insert before section 16 (1):	27
(1A) The Council:	28
(a) acts for and on behalf of the University in the exercise of the University's functions, and	29 30
(b) has the control and management of the affairs and concerns of the University, and	31 32

(c)	may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	1 2 3
[5]	Section 16 (1)	4
	Omit “The Council:”.	5
	Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	6 7 8
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	9
	Omit “may” wherever occurring.	10
[7]	Section 16 (1) (c)	11
	Omit the paragraph.	12
[8]	Section 16 (1) (d)	13
	Omit the paragraph. Insert instead:	14
	(d) borrow money 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,	15 16 17 18
[9]	Section 16 (1) (f)	19
	Omit the paragraph. Insert instead:	20
	(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	21 22 23 24
[10]	Section 16 (1) (g)	25
	Omit the paragraph.	26
[11]	Section 16 (2)	27
	Omit “powers”. Insert instead “functions”.	28

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

- (b) any other activity comprising the promotion of, 1
establishment of or participation in any partnership, 2
trust, company or other incorporated body, or joint 3
venture, by or on behalf of the University, that is for the 4
time being declared by the Guidelines to be a 5
University commercial activity. 6

21B Guidelines for commercial activities 7

- (1) The Minister on the advice of the Treasurer may approve 8
Guidelines requiring specified processes and procedures to be 9
followed in connection with University commercial activities. 10
- (2) The Council may submit proposals for the Guidelines to the 11
Minister for approval. 12
- (3) Without limitation, the Guidelines may contain provision for or 13
with respect to the following in connection with University 14
commercial activities: 15
 - (a) requiring feasibility and due diligence assessment, 16
 - (b) requiring the identification of appropriate governance 17
and administrative arrangements (including as to legal 18
structures and audit requirements), 19
 - (c) requiring the undertaking of risk assessment and risk 20
management measures, 21
 - (d) regulating and imposing requirements concerning the 22
delegation by the Council of any of its functions under 23
this Act in connection with University commercial 24
activities, 25
 - (e) declaring a specified activity to be a University 26
commercial activity for the purposes of paragraph (b) of 27
the definition of that expression in section 21A. 28
- (4) The Council must ensure that the Guidelines are complied 29
with. 30
- (5) The Minister's power to approve Guidelines is not limited by 31
any proposals for Guidelines submitted by the Council or any 32
failure by the Council to submit proposals for the Guidelines. 33

-
- (6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time. 1
2
3
4
5
- 21C Register of commercial activities** 6
- (1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities: 7
8
9
- (a) a description of the activity, 10
- (b) details of all parties who participate in the activity, 11
- (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies, 12
13
- (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines, 14
15
16
- (e) such other details as the Guidelines may require. 17
- (2) The Guidelines may make provision for the following: 18
- (a) exempting specified activities or activities of a specified class from all or specified requirements of this section, 19
20
- (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class, 21
22
23
- (c) enabling related activities to be treated as a single activity for the purposes of the Register. 24
25
- (3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register. 26
27
28
- 21D Reports to Minister on commercial activities** 29
- (1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity. 30
31
32
33
-

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 22A	11
Insert after section 22:	12
22A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after Part 2:	2
 Part 3 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	 3 4 5
 13 Investment powers	 6
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	7 8 9 10 11 12 13 14 15
 13 Validation	 16
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	17 18 19 20 21 22 23

Schedule 6 Amendment of Southern Cross University Act 1993 No 69

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard, having particular regard to the
needs of the north coast region of the State,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,

for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3 4
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	5 6 7
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	8 9 10 11 12 13
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	14 15
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	16 17
[3] Section 8	18
Omit the section. Insert instead:	19
8 Facilities for students, staff and others	20
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	21 22 23 24
[4] Section 16 Functions of Council	25
Insert before section 16 (1):	26
(1A) The Council:	27
(a) acts for and on behalf of the University in the exercise of the University's functions, and	28 29
(b) has the control and management of the affairs and concerns of the University, and	30 31

(c)	may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	1 2 3
[5]	Section 16 (1)	4
	Omit “The Council:”.	5
	Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	6 7 8
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	9
	Omit “may” wherever occurring.	10
[7]	Section 16 (1) (c)	11
	Omit the paragraph.	12
[8]	Section 16 (1) (d)	13
	Omit the paragraph. Insert instead:	14
	(d) borrow money 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,	15 16 17 18
[9]	Section 16 (1) (f)	19
	Omit the paragraph. Insert instead:	20
	(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	21 22 23 24
[10]	Section 16 (1) (g)	25
	Omit the paragraph.	26
[11]	Section 16 (2)	27
	Omit “powers”. Insert instead “functions”.	28

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

-
- | | | |
|------------|---|----------------------------|
| (b) | any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity. | 1
2
3
4
5
6 |
| 21B | Guidelines for commercial activities | 7 |
| (1) | The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities. | 8
9
10 |
| (2) | The Council may submit proposals for the Guidelines to the Minister for approval. | 11
12 |
| (3) | Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities: | 13
14
15 |
| (a) | requiring feasibility and due diligence assessment, | 16 |
| (b) | requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements), | 17
18
19 |
| (c) | requiring the undertaking of risk assessment and risk management measures, | 20
21 |
| (d) | regulating and imposing requirements concerning the delegation by the Council of any of its functions under this Act in connection with University commercial activities, | 22
23
24
25 |
| (e) | declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 21A. | 26
27
28 |
| (4) | The Council must ensure that the Guidelines are complied with. | 29
30 |
| (5) | The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Council or any failure by the Council to submit proposals for the Guidelines. | 31
32
33 |

-
- (6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time.
- 21C Register of commercial activities**
- (1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities:
- (a) a description of the activity,
 - (b) details of all parties who participate in the activity,
 - (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies,
 - (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines,
 - (e) such other details as the Guidelines may require.
- (2) The Guidelines may make provision for the following:
- (a) exempting specified activities or activities of a specified class from all or specified requirements of this section,
 - (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class,
 - (c) enabling related activities to be treated as a single activity for the purposes of the Register.
- (3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.
- 21D Reports to Minister on commercial activities**
- (1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 23A	11
Insert after section 23:	12
23A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after Part 6:	2
 Part 7 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	3 4 5
 30 Investment powers	6
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	7 8 9 10 11 12 13 14 15
 31 Validation	16
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	17 18 19 20 21 22 23

Schedule 7 Amendment of University of Sydney Act 1989 No 124

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,
for example, study, research, knowledge and intellectual

property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	2
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	3
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	4
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	5
[3] Section 7	6
Omit the section. Insert instead:	7
7 Facilities for students, staff and others	8
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	9
[4] Section 16 Functions of Senate	10
Insert before section 16 (1):	11
(1A) The Senate:	12
(a) acts for and on behalf of the University in the exercise of the University's functions, and	13
(b) has the control and management of the affairs and concerns of the University, and	14
(c) may act in all matters concerning the University in such manner as appears to the Senate to be best calculated to promote the object and interests of the University.	15

[5] Section 16 (1)	1
Omit “The Senate:”.	2
Insert instead “Without limiting the functions of the Senate under subsection (1A), the Senate may, for and on behalf of the University in the exercise of the University’s functions:”.	3 4 5
[6] Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
Omit “may” wherever occurring.	7
[7] Section 16 (1) (c)	8
Omit the paragraph.	9
[8] Section 16 (1) (d)	10
Omit the paragraph. Insert instead:	11
(d) borrow money 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,	12 13 14 15
[9] Section 16 (1) (f)	16
Omit the paragraph. Insert instead:	17
(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	18 19 20 21
[10] Section 16 (1) (g)	22
Omit the paragraph.	23
[11] Section 16 (2)	24
Omit “powers”. Insert instead “functions”.	25

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Senate must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Senate is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Senate to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Senate at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Senate has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Senate.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Senate must include in each annual report of the Senate as	9
part of the report of its operations a report as to any action	10
taken by the Senate during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the Senate	13
or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 26E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 26A).	19
[14] Part 4, Division 4	20
Insert after Division 3 of Part 4:	21
Division 4 Commercial activities	22
26A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 26B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the	28
University in the exercise of commercial functions of	29
the University, and	30

(b)	any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity.	1 2 3 4 5 6
26B	Guidelines for commercial activities	7
(1)	The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities.	8 9 10
(2)	The Senate may submit proposals for the Guidelines to the Minister for approval.	11 12
(3)	Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities:	13 14 15
(a)	requiring feasibility and due diligence assessment,	16
(b)	requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements),	17 18 19
(c)	requiring the undertaking of risk assessment and risk management measures,	20 21
(d)	regulating and imposing requirements concerning the delegation by the Senate of any of its functions under this Act in connection with University commercial activities,	22 23 24 25
(e)	declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 26A.	26 27 28
(4)	The Senate must ensure that the Guidelines are complied with.	29
(5)	The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Senate or any failure by the Senate to submit proposals for the Guidelines.	30 31 32

(6) Guidelines are approved by the Minister by giving notice in writing to the Senate of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time.	1 2 3 4 5
26C Register of commercial activities	6
(1) The Senate is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities:	7 8 9
(a) a description of the activity,	10
(b) details of all parties who participate in the activity,	11
(c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies,	12 13
(d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines,	14 15 16
(e) such other details as the Guidelines may require.	17
(2) The Guidelines may make provision for the following:	18
(a) exempting specified activities or activities of a specified class from all or specified requirements of this section,	19 20
(b) altering the details to be included in the Register in respect of specified activities or activities of a specified class,	21 22 23
(c) enabling related activities to be treated as a single activity for the purposes of the Register.	24 25
(3) The Senate must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.	26 27 28
26D Reports to Minister on commercial activities	29
(1) The Minister may request a report from the Senate as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.	30 31 32 33

(2)	The Senate must provide a report to the Minister in accordance with the Minister's request.	1 2
26E	Referral of matters to Ombudsman or Auditor-General	3
	The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Senate to the Minister):	4 5 6
(a)	to the Auditor-General for investigation and report to the Minister, or	7 8
(b)	to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15]	Section 29A	11
	Insert after section 29:	12
29A	Stamp duty exemption	13
(1)	Unless the Treasurer otherwise directs in a particular case, neither the University nor the Senate is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Senate for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18
(2)	The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	19 20 21 22 23
[16]	Schedule 1 Provisions relating to Fellows and to the procedure of the Senate	24 25
	Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	26

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Senate may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Senate may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Senate, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after clause 11:	2
12 Investment powers	3
Until an order is made under clause 2 of Schedule 2 (as	4
substituted by the <i>Universities Legislation Amendment</i>	5
(<i>Financial and Other Powers</i>) Act 2001), approval is taken to	6
have been given by order under that clause to the investment by	7
the Senate of any funds of the University in any manner that	8
the Senate was authorised to invest those funds immediately	9
before the Senate ceased to be an authority for the purposes of	10
Part 3 (Investment) of the <i>Public Authorities (Financial</i>	11
<i>Arrangements</i>) Act 1987.	12
13 Validation	13
Any act or omission occurring before the substitution of	14
section 6 by the <i>Universities Legislation Amendment</i>	15
(<i>Financial and Other Powers</i>) Act 2001 that would have been	16
valid had that section as so substituted been in force from the	17
commencement of that section as originally enacted is (to the	18
extent of any invalidity) taken to be, and always to have been,	19
valid.	20

Schedule 8 Amendment of University of Technology, Sydney, Act 1989 No 69

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,
for example, study, research, knowledge and intellectual

property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	4 5 6
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	7 8 9 10 11 12
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	13 14
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	15 16
[3] Section 7	17
Omit the section. Insert instead:	18
7 Facilities for students, staff and others	19
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	20 21 22 23
[4] Section 16 Functions of Council	24
Insert before section 16 (1):	25
(1A) The Council:	26
(a) acts for and on behalf of the University in the exercise of the University's functions, and	27 28
(b) has the control and management of the affairs and concerns of the University, and	29 30
(c) may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	31 32 33

[5] Section 16 (1)	1
Omit “The Council:”.	2
Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	3 4 5
[6] Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
Omit “may” wherever occurring.	7
[7] Section 16 (1) (c)	8
Omit the paragraph.	9
[8] Section 16 (1) (d)	10
Omit the paragraph. Insert instead:	11
(d) borrow money 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,	12 13 14 15
[9] Section 16 (1) (f)	16
Omit the paragraph. Insert instead:	17
(f) promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	18 19 20 21
[10] Section 16 (1) (g)	22
Omit the paragraph.	23
[11] Section 16 (2)	24
Omit “powers”. Insert instead “functions”.	25

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the	28
University in the exercise of commercial functions of	29
the University, and	30

-
- | | | |
|---|---|----------------------------|
| (b) | any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity. | 1
2
3
4
5
6 |
| 21B Guidelines for commercial activities | | 7 |
| (1) | The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities. | 8
9
10 |
| (2) | The Council may submit proposals for the Guidelines to the Minister for approval. | 11
12 |
| (3) | Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities: | 13
14
15 |
| (a) | requiring feasibility and due diligence assessment, | 16 |
| (b) | requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements), | 17
18
19 |
| (c) | requiring the undertaking of risk assessment and risk management measures, | 20
21 |
| (d) | regulating and imposing requirements concerning the delegation by the Council of any of its functions under this Act in connection with University commercial activities, | 22
23
24
25 |
| (e) | declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 21A. | 26
27
28 |
| (4) | The Council must ensure that the Guidelines are complied with. | 29
30 |
| (5) | The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Council or any failure by the Council to submit proposals for the Guidelines. | 31
32
33 |

-
- (6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time.
- 21C Register of commercial activities**
- (1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities:
- (a) a description of the activity,
 - (b) details of all parties who participate in the activity,
 - (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies,
 - (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines,
 - (e) such other details as the Guidelines may require.
- (2) The Guidelines may make provision for the following:
- (a) exempting specified activities or activities of a specified class from all or specified requirements of this section,
 - (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class,
 - (c) enabling related activities to be treated as a single activity for the purposes of the Register.
- (3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register.
- 21D Reports to Minister on commercial activities**
- (1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity.

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 22A	11
Insert after section 22:	12
22A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after Part 2:	2
 Part 3 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	 3 4 5
 13 Investment powers	 6
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	7 8 9 10 11 12 13 14 15
 14 Validation	 16
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	17 18 19 20 21 22 23

Schedule 9 Amendment of University of Western Sydney Act 1997 No 116

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 8 (3) (a).

[2] Section 8

Omit the section. Insert instead:

8 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard, having particular regard to the needs
and aspirations of residents of Greater Western Sydney,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community, beginning in Greater
Western Sydney,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in

which the University has a right or interest (including, 1
for example, study, research, knowledge and 2
intellectual property and the practical application of 3
study, research, knowledge and intellectual property), 4
whether alone or with others, with particular regard to 5
the need to contribute to the development of Greater 6
Western Sydney, 7

(b) the University may develop and provide cultural, 8
sporting, professional, technical and vocational services 9
to the community, with particular regard to the need to 10
contribute to the social, economic and intellectual life of 11
Greater Western Sydney, 12

(c) the University has such general and ancillary functions 13
as may be necessary or convenient for enabling or 14
assisting the University to promote the object and 15
interests of the University, or as may complement or be 16
incidental to the promotion of the object and interests of 17
the University, 18

(d) the University has such other functions as are conferred 19
or imposed on it by or under this or any other Act. 20

(4) The functions of the University may be exercised within or 21
outside the State, including outside Australia. 22

[3] Section 9 23

Omit the section. Insert instead: 24

9 Facilities for students, staff and others 25

The University may, for the purposes of or in connection with 26
the exercise of its functions, provide such facilities for its 27
students and staff and other members of the university 28
community as the University considers desirable. 29

[4] Section 22 Functions of Board 30

Insert before section 22 (1): 31

(1A) The Board: 32

(a) acts for and on behalf of the University in the exercise 33
of the University's functions, and 34

(b)	has the control and management of the affairs and concerns of the University, and	1 2
(c)	may act in all matters concerning the University in such manner as appears to the Board to be best calculated to promote the object and interests of the University.	3 4 5
[5]	Section 22 (1)	6
	Omit “The Board:”.	7
	Insert instead “Without limiting the functions of the Board under subsection (1A), the Board may, for and on behalf of the University in the exercise of the University’s functions:”.	8 9 10
[6]	Section 22 (1) (a), (b), (f), (i), (j) and (k)	11
	Omit “may” wherever occurring.	12
[7]	Section 22 (1) (c)	13
	Omit the paragraph.	14
[8]	Section 22 (1) (e)	15
	Omit the paragraph. Insert instead:	16
(e)	borrow money 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,	17 18 19 20
[9]	Section 22 (1) (g)	21
	Omit the paragraph. Insert instead:	22
(g)	promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	23 24 25 26
[10]	Section 22 (1) (h)	27
	Omit the paragraph.	28

[11] Section 22 (2)	1
Omit “powers”. Insert instead “functions”.	2
[12] Section 22A	3
Insert after section 22:	4
22A Controlled entities	5
(1) The Board must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Board is permitted to do so by the Minister under this section.	6 7 8 9 10
(2) The Minister may, by order in writing, permit the Board to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	11 12 13 14 15
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	16 17 18
(4) This section does not itself confer power on a controlled entity to engage in any activity.	19 20
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Board at its discretion.	21 22 23 24
(6) In this section:	25
<i>controlled entity</i> means a person, group of persons or body of which the University or Board has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	26 27 28 29

[13] Sections 23A and 23B	1
Insert after section 23:	2
23A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Board.	7
23B Recommendations of Ombudsman or Auditor-General	8
The Board must include in each annual report of the Board as	9
part of the report of its operations a report as to any action	10
taken by the Board during the period to which the report relates	11
to implement any recommendation made in a report of the	12
Ombudsman or the Auditor-General concerning the Board or	13
the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 32E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 32A).	19
[14] Part 4, Division 4	20
Insert after Division 3 of Part 4:	21
Division 4 Commercial activities	22
32A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 32B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

-
- | | |
|--|--|
| <p>(b) any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity.</p> <p>32B Guidelines for commercial activities</p> <p>(1) The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities.</p> <p>(2) The Board may submit proposals for the Guidelines to the Minister for approval.</p> <p>(3) Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities:</p> <p style="padding-left: 20px;">(a) requiring feasibility and due diligence assessment,</p> <p style="padding-left: 20px;">(b) requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements),</p> <p style="padding-left: 20px;">(c) requiring the undertaking of risk assessment and risk management measures,</p> <p style="padding-left: 20px;">(d) regulating and imposing requirements concerning the delegation by the Board of any of its functions under this Act in connection with University commercial activities,</p> <p style="padding-left: 20px;">(e) declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 32A.</p> <p>(4) The Board must ensure that the Guidelines are complied with.</p> <p>(5) The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Board or any failure by the Board to submit proposals for the Guidelines.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> |
|--|--|

-
- (6) Guidelines are approved by the Minister by giving notice in writing to the Board of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time. 1 2 3 4 5
- 32C Register of commercial activities** 6
- (1) The Board is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities: 7 8 9
- (a) a description of the activity, 10
- (b) details of all parties who participate in the activity, 11
- (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies, 12 13
- (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines, 14 15 16
- (e) such other details as the Guidelines may require. 17
- (2) The Guidelines may make provision for the following: 18
- (a) exempting specified activities or activities of a specified class from all or specified requirements of this section, 19 20
- (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class, 21 22 23
- (c) enabling related activities to be treated as a single activity for the purposes of the Register. 24 25
- (3) The Board must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register. 26 27 28
- 32D Reports to Minister on commercial activities** 29
- (1) The Minister may request a report from the Board as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity. 30 31 32 33
-

(2) The Board must provide a report to the Minister in accordance with the Minister's request.	1 2
32E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Board to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 33A	11
Insert after section 33:	12
33A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Board is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Board for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	19 20 21 22 23
[16] Schedule 1 Provisions relating to members and procedure of Board	24
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	25

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Board may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Board may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Board, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 4 Savings, transitional and other provisions	1
Insert after Part 3:	2
 Part 4 Provisions consequent on enactment of Universities Legislation Amendment (Financial and Other Powers) Act 2001	3 4 5
 24 Investment powers	6
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Board of any funds of the University in any manner that the Board was authorised to invest those funds immediately before the Board ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	7 8 9 10 11 12 13 14 15
 25 Validation	16
Any act or omission occurring before the substitution of section 8 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	17 18 19 20 21 22 23

Schedule 10 Amendment of University of Wollongong Act 1989 No 127

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

commercial functions of the University means the commercial
functions described in section 6 (3) (a).

[2] Section 6

Omit the section. Insert instead:

6 Object and functions of University

- (1) The object of the University is the promotion, within the limits
of the University's resources, of scholarship and academic
excellence.
- (2) The University has the following principal functions for the
promotion of its object:
 - (a) the provision of facilities for education and research of
university standard, having particular regard to the needs
of the Illawarra region,
 - (b) the encouragement of the dissemination, advancement,
development and application of knowledge,
 - (c) the provision of courses of study or instruction to meet
the needs of the community,
 - (d) the conferring of degrees, including those of Bachelor,
Master and Doctor, and the awarding of diplomas,
certificates and other awards.
- (3) The University has other functions as follows:
 - (a) the University may exercise commercial functions
comprising the commercial exploitation or
development, for the University's benefit, of any
facility, resource or property of the University or in
which the University has a right or interest (including,

for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others,	1 2 3 4
(b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community,	5 6 7
(c) the University has such general and ancillary functions as may be necessary or convenient for enabling or assisting the University to promote the object and interests of the University, or as may complement or be incidental to the promotion of the object and interests of the University,	8 9 10 11 12 13
(d) the University has such other functions as are conferred or imposed on it by or under this or any other Act.	14 15
(4) The functions of the University may be exercised within or outside the State, including outside Australia.	16 17
[3] Section 7	18
Omit the section. Insert instead:	19
7 Facilities for students, staff and others	20
The University may, for the purposes of or in connection with the exercise of its functions, provide such facilities for its students and staff and other members of the university community as the University considers desirable.	21 22 23 24
[4] Section 16 Functions of Council	25
Insert before section 16 (1):	26
(1A) The Council:	27
(a) acts for and on behalf of the University in the exercise of the University's functions, and	28 29
(b) has the control and management of the affairs and concerns of the University, and	30 31

(c)	may act in all matters concerning the University in such manner as appears to the Council to be best calculated to promote the object and interests of the University.	1 2 3
[5] Section 16 (1)		4
	Omit “The Council:”.	5
	Insert instead “Without limiting the functions of the Council under subsection (1A), the Council may, for and on behalf of the University in the exercise of the University’s functions:”.	6 7 8
[6] Section 16 (1) (a), (b), (e), (h), (i) and (j)		9
	Omit “may” wherever occurring.	10
[7] Section 16 (1) (c)		11
	Omit the paragraph.	12
[8] Section 16 (1) (d)		13
	Omit the paragraph. Insert instead:	14
(d)	borrow money 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,	15 16 17 18
[9] Section 16 (1) (f)		19
	Omit the paragraph. Insert instead:	20
(f)	promote, establish or participate in (whether by means of debt, equity, contribution of assets or by other means) partnerships, trusts, companies and other incorporated bodies, or joint ventures (whether or not incorporated),	21 22 23 24
[10] Section 16 (1) (g)		25
	Omit the paragraph.	26
[11] Section 16 (2)		27
	Omit “powers”. Insert instead “functions”.	28

[12] Section 16A	1
Insert after section 16:	2
16A Controlled entities	3
(1) The Council must ensure that a controlled entity does not exercise any function or engage in any activity that the University is not authorised by or under this Act to exercise or engage in, except to the extent that the Council is permitted to do so by the Minister under this section.	4 5 6 7 8
(2) The Minister may, by order in writing, permit the Council to authorise a controlled entity to exercise a function or engage in an activity of the kind referred to in subsection (1). Permission may be given in respect of a specified function or activity or functions or activities of a specified class.	9 10 11 12 13
(3) The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	14 15 16
(4) This section does not itself confer power on a controlled entity to engage in any activity.	17 18
(5) This section does not affect any obligations imposed on a controlled entity by or under any Act or law, other than an obligation imposed on the controlled entity by the Council at its discretion.	19 20 21 22
(6) In this section:	23
<i>controlled entity</i> means a person, group of persons or body of which the University or Council has control within the meaning of a standard referred to in section 39 (1A) or 45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	24 25 26 27

[13] Sections 17A and 17B	1
Insert after section 17:	2
17A Operation of certain Acts	3
Nothing in this Act limits or otherwise affects the operation of	4
the <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit</i>	5
<i>Act 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to	6
or in respect of the University or the Council.	7
17B Recommendations of Ombudsman or Auditor-General	8
The Council must include in each annual report of the Council	9
as part of the report of its operations a report as to any action	10
taken by the Council during the period to which the report	11
relates to implement any recommendation made in a report of	12
the Ombudsman or the Auditor-General concerning the	13
Council or the University:	14
(a) whether or not the recommendation relates to a referral	15
by the Minister under section 21E, and	16
(b) whether or not the recommendation relates to a	17
University commercial activity (as defined in	18
section 21A).	19
[14] Part 4, Division 3	20
Insert after Division 2 of Part 4:	21
Division 3 Commercial activities	22
21A Definitions	23
In this Division:	24
<i>the Guidelines</i> means the guidelines approved for the time	25
being under section 21B.	26
<i>University commercial activity</i> means:	27
(a) any activity engaged in by or on behalf of the University	28
in the exercise of commercial functions of the	29
University, and	30

(b)	any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the Guidelines to be a University commercial activity.	1 2 3 4 5 6
21B	Guidelines for commercial activities	7
(1)	The Minister on the advice of the Treasurer may approve Guidelines requiring specified processes and procedures to be followed in connection with University commercial activities.	8 9 10
(2)	The Council may submit proposals for the Guidelines to the Minister for approval.	11 12
(3)	Without limitation, the Guidelines may contain provision for or with respect to the following in connection with University commercial activities:	13 14 15
(a)	requiring feasibility and due diligence assessment,	16
(b)	requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements),	17 18 19
(c)	requiring the undertaking of risk assessment and risk management measures,	20 21
(d)	regulating and imposing requirements concerning the delegation by the Council of any of its functions under this Act in connection with University commercial activities,	22 23 24 25
(e)	declaring a specified activity to be a University commercial activity for the purposes of paragraph (b) of the definition of that expression in section 21A.	26 27 28
(4)	The Council must ensure that the Guidelines are complied with.	29 30
(5)	The Minister's power to approve Guidelines is not limited by any proposals for Guidelines submitted by the Council or any failure by the Council to submit proposals for the Guidelines.	31 32 33

-
- (6) Guidelines are approved by the Minister by giving notice in writing to the Council of the approved Guidelines. The power of the Minister on the advice of the Treasurer to approve Guidelines under this section includes the power to amend or rescind and replace the Guidelines from time to time. 1
2
3
4
5
- 21C Register of commercial activities** 6
- (1) The Council is to maintain a Register of University commercial activities and is to enter and keep in the Register the following details of each of those activities: 7
8
9
- (a) a description of the activity, 10
- (b) details of all parties who participate in the activity, 11
- (c) details of any appointment by or on behalf of the University to relevant boards or other governing bodies, 12
13
- (d) details of any meetings at which relevant matters were considered and approved for the purposes of compliance with the Guidelines, 14
15
16
- (e) such other details as the Guidelines may require. 17
- (2) The Guidelines may make provision for the following: 18
- (a) exempting specified activities or activities of a specified class from all or specified requirements of this section, 19
20
- (b) altering the details to be included in the Register in respect of specified activities or activities of a specified class, 21
22
23
- (c) enabling related activities to be treated as a single activity for the purposes of the Register. 24
25
- (3) The Council must comply with any request by the Minister to provide the Minister with a copy of the Register or any extract from the Register. 26
27
28
- 21D Reports to Minister on commercial activities** 29
- (1) The Minister may request a report from the Council as to University commercial activities or as to any particular University commercial activity or aspect of a University commercial activity. 30
31
32
33
-

(2) The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
21E Referral of matters to Ombudsman or Auditor-General	3
The Minister may refer a University commercial activity or any aspect of a University commercial activity (whether or not the subject of a report by the Council to the Minister):	4 5 6
(a) to the Auditor-General for investigation and report to the Minister, or	7 8
(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	9 10
[15] Section 22A	11
Insert after section 22:	12
22A Stamp duty exemption	13
(1) Unless the Treasurer otherwise directs in a particular case, neither the University nor the Council is liable to duty under the <i>Duties Act 1997</i> , in respect of anything done by the University or Council for the purposes of the borrowing of money or the investment of funds of the University under this Act.	14 15 16 17 18 19
(2) The Treasurer may direct in writing that any other specified person is not liable to duty under the <i>Duties Act 1997</i> in respect of anything done for the purposes of the borrowing of money or the investment of funds of the University under this Act, and the direction has effect accordingly.	20 21 22 23 24
[16] Schedule 1 Provisions relating to members and procedure of the Council	25 26
Insert "or omitted to be done" after "done" in clause 5 wherever occurring.	27

[17] Schedule 2 Investment	1
Omit clause 2. Insert instead:	2
2 Investment powers	3
(1) The Council may invest the funds of the University in any manner approved by the Minister from time to time by order in writing with the concurrence of the Treasurer.	4 5 6
(2) The Minister is to maintain a Register of approvals in force under this clause. The Register is to be open to inspection by any person on payment of such fee as the Minister may require.	7 8 9
(3) A certificate issued by the Minister certifying as to an approval in force under this clause is evidence of the matter certified.	10 11
2A Funds managers	12
(1) The Council may, with the written approval of the Treasurer and in accordance with that approval, engage an approved funds manager to act in relation to the management of the funds of the University.	13 14 15 16
(2) An approved funds manager is a person designated as an approved funds manager for the University in the Treasurer's approval.	17 18 19
(3) The Treasurer's approval may be given only on the recommendation of the Minister and may be given subject to terms and conditions.	20 21 22
(4) An approved funds manager may on behalf of the Council, subject to any terms and conditions of the Treasurer's approval, invest funds of the University in any investment in which the funds manager is authorised to invest its own funds or other funds.	23 24 25 26 27
(5) The terms and conditions of an approval under subclause (4) are to restrict the investment powers of an approved funds manager in connection with the University to the investments in which the funds of the University may be invested under clause 2.	28 29 30 31 32

[18] Schedule 3 Savings and transitional provisions	1
Insert after clause 10:	2
11 Investment powers	3
Until an order is made under clause 2 of Schedule 2 (as substituted by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i>), approval is taken to have been given by order under that clause to the investment by the Council of any funds of the University in any manner that the Council was authorised to invest those funds immediately before the Council ceased to be an authority for the purposes of Part 3 (Investment) of the <i>Public Authorities (Financial Arrangements) Act 1987</i> .	4 5 6 7 8 9 10 11 12
12 Validation	13
Any act or omission occurring before the substitution of section 6 by the <i>Universities Legislation Amendment (Financial and Other Powers) Act 2001</i> that would have been valid had that section as so substituted been in force from the commencement of that section as originally enacted is (to the extent of any invalidity) taken to be, and always to have been, valid.	14 15 16 17 18 19 20

Schedule 11	Amendment of Public Authorities	1
	(Financial Arrangements) Act 1987 No 33	2
	(Section 3)	3
Section 3	Definitions	4
	Insert after paragraph (f) of the definition of <i>authority</i> in section 3 (1):	5
	(f1) a University (or the Board of Trustees, Council or	6
	Senate of a University), or	7