

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

- (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
- 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.



Universities Legislation Amendment (Financial and Other Powers) Bill 2001

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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.

Γhe I	The Legislature of New South Wales enacts:			
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	9		
	in those Schedules.	10		

Sch	edule	1	Amendment of Charles Sturt University Act 1989 No 76	1 2
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical order in section 3 (1):	5
			<i>commercial functions</i> of the University means the commercial functions described in section 7 (3) (a).	6 7
[2]	Section	on 7		8
	Omit	the se	ection. Insert instead:	9
	7	Obj	ect 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, having particular regard to the needs and aspirations of the residents of western and south-western New South Wales,	16 17 18 19
			(b) the encouragement of the dissemination, advancement, development and application of knowledge,	20 21
			(c) the provision of courses of study or instruction to meet the needs of the community,	22 23
			(d) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	24 25 26
		(3)	The University has other functions as follows:	27
			(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	28 29 30 31

Sche	dul	e	1

Amendment of Charles Sturt University Act 1989 No 76

	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
	(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
Section 8		19
Omit the se	ection. Insert instead:	20
8 Fac	ilities 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
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
Section 18		31
Omit the se	ection.	32
	Section 8 Omit the set 8 Facion 9 Consert after (1A) Section 18	for example, study, research, knowledge and intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others, (b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community, (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, (d) the University has such other functions as are conferred or imposed on it by or under this or any other Act. (4) The functions of the University may be exercised within or outside the State, including outside Australia. Section 8 Omit the section. Insert instead: 8 Facilities for students, staff and others 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. Section 9 Council Insert after section 9 (1): (1A) The Council is the governing authority of the University and has the functions conferred or imposed on it by or under this

[6]	Section 19	Func	etions of Council	1	
	Insert before section 19 (1):				
	(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	Coun	cil:".	12	
	subsection	(1A), 1	Without limiting the functions of the Council under the Council may, for and on behalf of the University in the niversity's functions:".	13 14 15	
[8]	Section 19	(1) (a	a), (b), (e), (h), (i) and (j)	16	
	Omit "may	" whe	erever occurring.	17	
[9]	Section 19	(1) (c	e)	18	
	Omit the pa	aragra	ph.	19	
[10]	Section 19	(1) (d	1)	20	
	Omit the pa	aragra	ph. 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	

Schedule 1 Amendment of Charles Sturt University Act 1989 No 76

[11]	Section	on 19	(1) (f)	1
	Omit	the pa	aragraph. Insert instead:	2
			(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),	3 4 5 6
[12]	Section	on 19	(1) (g)	7
	Omit	the pa	aragraph.	8
[13]	Section	on 19	(2)	9
	Omit	"pow	ers". Insert instead "functions".	10
[14]	Section	on 19	A	11
	Insert after section 19:			12
	19A	Cor	ntrolled entities	13
		(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.	14 15 16 17 18
		(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.	19 20 21 22 23
		(3)	The Governor may make regulations providing that subsection (1) does not apply to functions or activities of a specified class.	24 25 26
		(4)	This section does not itself confer power on a controlled entity to engage in any activity.	27 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:	5
		` '	controlled entity means a person, group of persons or body of	6
			which the University or Council has control within the	7
			meaning of a standard referred to in section 39 (1A) or	8
			45A (1A) of the <i>Public Finance and Audit Act 1983</i> .	9
[15]	Section	ons 2	0A and 20B	10
	Insert	after	section 20:	11
	20A	Оре	eration of certain Acts	12
			Nothing in this Act limits or otherwise affects the operation of	13
			the Ombudsman Act 1974, the Public Finance and Audit	14
			Act 1983 or the Annual Reports (Statutory Bodies) Act 1984 to	15
			or in respect of the University or the Council.	16
	20B	Rec	commendations of Ombudsman or Auditor-General	17
			The Council must include in each annual report of the Council	18
			as part of the report of its operations a report as to any action	19
			taken by the Council during the period to which the report	20
			relates to implement any recommendation made in a report of	21
			the Ombudsman or the Auditor-General concerning the	22
			Council or the University:	23
			(a) whether or not the recommendation relates to a referral	24
			by the Minister under section 24E, and	25
			(b) whether or not the recommendation relates to a	26
			University commercial activity (as defined in	27
			section 24A).	28

Amendment of Charles Sturt University Act 1989 No 76

[16]	Part 4	4, Div	ision 3	}	1
	Insert	after	Divisi	on 2 of Part 4:	2
	Divis	sion (3	Commercial activities	3
	24A	Def	inition	s	4
			In thi	s Division:	5
				<i>Guidelines</i> means the guidelines approved for the time gunder section 24B.	6 7
			Unive	ersity commercial activity 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
	24B	Gui	delines	s for commercial activities	18
		(1)	Guide	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	19 20 21
		(2)		Council may submit proposals for the Guidelines to the ster for approval.	22 23
		(3)	with	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 with.	Council must ensure that the Guidelines are complied	8
	(5)	any p	Minister's power to approve Guidelines is not limited by proposals for Guidelines submitted by the Council or any re by the Council to submit proposals for the Guidelines.	10 11 12
	(6)	writing of the Guide	elines are approved by the Minister by giving notice in ag to the Council of the approved Guidelines. The power e Minister on the advice of the Treasurer to approve elines under this section includes the power to amend or and and replace the Guidelines from time to time.	13 14 15 16 17
24C	Reg	jister c	of commercial activities	18
	(1)	activi	Council is to maintain a Register of University commercial ities and is to enter and keep in the Register the following its 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 C	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

Schedule 1 Amendment of Charles Sturt University Act 1989 I	No 76
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			(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	Rep	orts 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	Ref	erral 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	n 25	A	21	
	Insert	after	section 25:	22	
	25A	Stamp duty exemption			
			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]	Sche Coun		1 Provisions relating to members and procedure of the	6 7
	Insert	"or o	mitted to be done" after "done" in clause 5 wherever occurring.	8
[19]	Schee	dule 2	2 Investment	9
	Omit	claus	e 2. Insert instead:	10
	2	Inve	estment powers	11
			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	Fun	nds 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

Schedule 1	

Amendment of Charles Sturt University	Act	1989	No	76
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	(4)	An approved funds manager may on behalf of the Council,	1
		subject to any terms and conditions of the Treasurer's approval,	2
		invest funds of the University in any investment in which the	3
		funds manager is authorised to invest its own funds or other	4
		funds.	5
	(5)	The terms and conditions of an approval under subclause (4)	6
		are to restrict the investment powers of an approved funds	7
		manager in connection with the University to the investments	8
		in which the funds of the University may be invested under	9
		clause 2.	10
[20]	Schedule	4 Savings and transitional provisions	11
	Insert after	r Part 4:	12
	Dart 5	Provisions consequent on enactment of	12
			13
		Universities Legislation Amendment	14
		(Financial and Other Powers) Act 2001	15
	39 Inv	restment powers	16
		Until an order is made under clause 2 of Schedule 2 (as	17
		substituted by the <i>Universities Legislation Amendment</i>	18
		(Financial and Other Powers) Act 2001), approval is taken to	19
		have been given by order under that clause to the investment by	20
		the Council of any funds of the University in any manner that	21
		the Council was authorised to invest those funds immediately	22
		before the Council ceased to be an authority for the purposes of	23
		Part 3 (Investment) of the <i>Public Authorities</i> (Financial	24
		Arrangements) Act 1987.	25
	40 Va	lidation	26
		Any act or omission occurring before the substitution of	27
		section 7 by the <i>Universities Legislation Amendment (Financial</i>	28
		and Other Powers) Act 2001 that would have been valid had	29
		that section as so substituted been in force from the	30
		commencement of that section as originally enacted is (to the	31
		extent of any invalidity) taken to be, and always to have been,	32
		valid.	33

Sch	edule	2	Amendment of Macquarie University Act 1989 No 126	1 2
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical 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	on 6		8
	Omit	the se	ection. Insert instead:	9
	6	Obj	ect 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

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Amendment of Macquarie University Act 1989 No 126

			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)		functions of the University may be exercised within or le the State, including outside Australia.	15 16
[3]	Section 7			17
	Omit the se	ection.	Insert instead:	18
	7 Fac	ilities f	or students, staff and others	19
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	20 21 22 23
[4]	Section 16	Funct	ions of Council	24
	Insert before	e secti	on 16 (1):	25
	(1A)	The C	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

re3	0		
[5]	Section 16 (1)		1
	Omit "The Counc	cil:".	2
	Insert instead "	Without limiting the functions of the Council under	3
		the Council may, for and on behalf of the University in the	4
	exercise of the U	niversity's functions:".	5
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
	Omit "may" whe	rever occurring.	7
[7]	Section 16 (1) (c	·)	8
	Omit the paragrap	ph.	9
[8]	Section 16 (1) (d)	10
	Omit the paragrap	ph. Insert instead:	11
	(d)	borrow money within such limits, to such extent and on	12
		such conditions as to security or otherwise as the	13
		Governor on the recommendation of the Treasurer may	14
		approve,	15
[9]	Section 16 (1) (f)		16
	Omit the paragrap	ph. Insert instead:	17
	(f)	promote, establish or participate in (whether by means	18
		of debt, equity, contribution of assets or by other means)	19
		partnerships, trusts, companies and other incorporated	20
		bodies, or joint ventures (whether or not incorporated),	21
[10]	Section 16 (1) (g))	22
	Omit the paragrap	ph.	23
[11]	Section 16 (2)		24
	Omit "powers". I	insert instead "functions".	25

Amendment of Macquarie University Act 1989 No 126

[12]	Section 16A				
	Insert after section 16:				
	16A	Cor	ntrolled 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	4 5 6 7	
			do so by the Minister under this section.	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	
		` /	controlled entity 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							
	Insert	after s	section	17:	2			
	17A	Oper	ation	of certain Acts	3			
	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.							
	17B	Reco	omme	ndations of Ombudsman or Auditor-General	8			
			as par taken relates the C	Council must include in each annual report of the Council to of the report of its operations a report as to any action by the Council during the period to which the report is to implement any recommendation made in a report of Ombudsman or the Auditor-General concerning the cil or the University: whether or not the recommendation relates to a referral by the Minister under section 21E, and	9 10 11 12 13 14 15			
			(b)	whether or not the recommendation relates to a University commercial activity (as defined in section 21A).	17 18 19			
[14]	Part 4	4, Divis	sion 3		20			
	Insert after Division 2 of Part 4:							
	Division 3			Commercial activities	22			
	21A	Defir	initions					
			In this	s Division:	24			
				<i>uidelines</i> means the guidelines approved for the time under section 21B.	25 26			
			Unive	ersity commercial activity means:	27			
			(a)	any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 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
21B	Gui	delines	s for commercial activities	7
	(1)	Guide	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	8 9 10
	(2)		Council may submit proposals for the Guidelines to the ster for approval.	11 12
	(3)	with	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 with.	Council must ensure that the Guidelines are complied	29 30
	(5)	any p	Minister's power to approve Guidelines is not limited by roposals for Guidelines submitted by the Council or any e by the Council to submit proposals for the Guidelines.	31 32 33

	(6)		elines are approved by the Minister by giving notice in	1
			ng to the Council of the approved Guidelines. The power	2
			ne Minister on the advice of the Treasurer to approve	3
			elines under this section includes the power to amend or and and replace the Guidelines from time to time.	4 5
		icscii	and replace the Guidelines from time to time.	3
21C	Reg	gister o	of commercial activities	6
	(1)	The C	Council is to maintain a Register of University commercial	7
			ities and is to enter and keep in the Register the following	8
		detail	ls of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		` '	considered and approved for the purposes of	15
			compliance with the Guidelines,	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	19
		` /	class from all or specified requirements of this section,	20
		(b)	altering the details to be included in the Register in	21
		(-)	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		(-)	activity for the purposes of the Register.	25
	(3)	The (Council must comply with any request by the Minister to	26
	` /		ide the Minister with a copy of the Register or any extract	27
		from	the Register.	28
21D	Rep	orts t	o Minister on commercial activities	29
	(1)	The	Minister may request a report from the Council as to	30
	(-)		ersity commercial activities or as to any particular	31
			ersity commercial activity or aspect of a University	32
			nercial activity.	33

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

Amendment of Macquarie University Act 1989 No 126

Schedule 2

[17]	Sche	dule 2	2 Investment	1		
	Omit clause 2. Insert instead:					
	2	Inve	estment 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	Fun	nds 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		

Amendment of Macquarie University Act 1989 No 126

[18]	Sche	dule 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 Universities Legislation Amendment	5
		(Financial and Other Powers) 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 Public Authorities (Financial	11
		Arrangements) 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 Other Powers) 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

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valid.

Schedule 3		3	Amendment of University of New England Act 1993 No 68		
			(Section 3)	3	
[1]	Section	on 3	Definitions	4	
	Insert	in al	phabetical order in section 3 (1):	5	
			<i>commercial functions</i> of the University means the commercial functions described in section 6 (3) (a).	6	
[2]	Section	on 6		8	
	Omit	the se	ection. Insert instead:	9	
	6	Obj	ect 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,	1 <i>6</i> 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	

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Amendment of University of New England Act 1993 No 68

			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)		functions of the University may be exercised within or the state, including outside Australia.	15 16
[3]	Section 7			17
	Omit the se	ection.	Insert instead:	18
	7 Fac	ilities f	or students, staff and others	19
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	20 21 22 23
[4]	Section 16	Funct	ions of Council	24
	Insert before	re secti	on 16 (1):	25
	(1A)	The C	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 Counc	cil:".	2
	Insert instead "	Without limiting the functions of the Council under	3
		the Council may, for and on behalf of the University in the	4
	exercise of the U	niversity's functions:".	5
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	6
	Omit "may" when	rever occurring.	7
[7]	Section 16 (1) (c)	8
	Omit the paragrap	ph.	9
[8]	Section 16 (1) (d)	10
	Omit the paragrap	ph. Insert instead:	11
	(d)	borrow money within such limits, to such extent and on	12
		such conditions as to security or otherwise as the	13
		Governor on the recommendation of the Treasurer may	14
		approve,	15
[9]	Section 16 (1) (f)		16
	Omit the paragrap	ph. Insert instead:	17
	(f)	promote, establish or participate in (whether by means	18
		of debt, equity, contribution of assets or by other means)	19
		partnerships, trusts, companies and other incorporated	20
		bodies, or joint ventures (whether or not incorporated),	21
[10]	Section 16 (1) (g)	22
	Omit the paragrap	ph.	23
[11]	Section 16 (2)		24
	Omit "powers". I	nsert instead "functions".	25

Amendment of University of New England Act 1993 No 68

[12]	Section	on 16	5 A	1		
	Insert after section 16:					
	16A	Controlled entities				
		(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		
			controlled entity 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		

Amendment of University of New England Act 1993 No 68

Schedule 3

[13]	Sections 17A and 17B						
	Insert after section 17:						
	17A	Operation of certain Acts					
		$\frac{th}{A}$	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				
	17B		r in respect of the University or the Council. nmendations of Ombudsman or Auditor-General	7			
	170			8			
			the Council must include in each annual report of the Council	9			
			s part of the report of its operations a report as to any action	10			
			ken by the Council during the period to which the report elates to implement any recommendation made in a report of	11 12			
			ne Ombudsman or the Auditor-General concerning the	13			
			Council or the University:	14			
		(a		15			
		(6	by the Minister under section 21E, and	16			
		(t	whether or not the recommendation relates to a	17			
		`	University commercial activity (as defined in section 21A).	18 19			
[14]	Part 4	4, Divisio	on 3	20			
	Insert after Division 2 of Part 4:						
	Divis	sion 3	Commercial activities	22			
	21A	Definit	nitions				
		Ir	n this Division:	24			
			ne Guidelines means the guidelines approved for the time eing under section 21B.	25 26			
		$oldsymbol{U}$	Iniversity commercial activity means:	27			
		(a	any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 30			

		1	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		
21B	Gui	delines	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.				
	(2)	The Council may submit proposals for the Guidelines to the Minister for approval.				
	(3)	with re	at limitation, the Guidelines may contain provision for or spect to the following in connection with University arcial activities:	13 14 15		
		(a) 1	requiring feasibility and due diligence assessment,	16		
			requiring the identification of appropriate governance and administrative arrangements (including as to legal structures and audit requirements),	17 18 19		
			requiring the undertaking of risk assessment and risk management measures,	20 21		
		1	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		
			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 Cowith.	ouncil must ensure that the Guidelines are complied	29 30		
	(5)	any pro	inister's power to approve Guidelines is not limited by posals for Guidelines submitted by the Council or any by the Council to submit proposals for the Guidelines.	31 32 33		

	(6)		lelines are approved by the Minister by giving notice in	1
			ng to the Council of the approved Guidelines. The power	2
			ne Minister on the advice of the Treasurer to approve	3
			lelines under this section includes the power to amend or	4
		resci	nd and replace the Guidelines from time to time.	5
21C	Reg	gister (of commercial activities	6
	(1)	The C	Council is to maintain a Register of University commercial	7
		activ	rities and is to enter and keep in the Register the following	8
		detai	ls of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		` /	considered and approved for the purposes of	15
			compliance with the Guidelines,	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	19
		` ′	class from all or specified requirements of this section,	20
		(b)	altering the details to be included in the Register in	21
		` /	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		` /	activity for the purposes of the Register.	25
	(3)	The	Council must comply with any request by the Minister to	26
		prov	ide the Minister with a copy of the Register or any extract	27
		from	the Register.	28
21D	Rep	orts t	o Minister on commercial activities	29
	(1)	The	Minister may request a report from the Council as to	30
	(-)	University commercial activities or as to any particular		31
			versity commercial activity or aspect of a University	32
			mercial activity.	33

Universities Legislation Amendment ((Financial	and Other	Powers)
Bill 2001	-		•

Amendment of University of New England Act 1993 No 68

		(2)		ouncil must provide a report to the Minister in	1 2
	accordance with the Minister's request.				
	21E	Ref	erral of n	natters to Ombudsman or Auditor-General	3
			The Mir	nister may refer a University commercial activity or any	4
			aspect of a University commercial activity (whether or not the		
			subject	of a report by the Council to the Minister):	6
			(a) to	o the Auditor-General for investigation and report to	7
			t	he Minister, or	8
			(b) to	o the Ombudsman under the <i>Ombudsman Act 1974</i> for	9
			i	nvestigation under that Act.	10
[15]	Section 22A				11
	Insert after section 22:				12
	22A	Sta	np duty	exemption	13
		(1)	Unless	the Treasurer otherwise directs in a particular case,	14
			neither 1	the University nor the Council is liable to duty under	15
				ties Act 1997, in respect of anything done by the	16
				ity or Council for the purposes of the borrowing of	17
			•	or the investment of funds of the University under this	18
			Act.		19
		(2)	The Tre	easurer may direct in writing that any other specified	20

person is not liable to duty under the Duties Act 1997 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.

Schedule 1 Provisions relating to members and procedure of the

Insert "or omitted to be done" after "done" in clause 5 wherever occurring.

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[16]

Council

Schedule 3

[17]	Schedule 2 Investment Omit clause 2. Insert instead:					
						2
		(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	Fun	nds 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		

Amendment of University of New England Act 1993 No 68

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

Sch	edule	4	Amendment of University of New South Wales Act 1989 No 125	1 2
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical 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	on 6		8
	Omit	the se	ection. Insert instead:	9
	6	Obj	ject 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

Sched	lu	le	4
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			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)		functions of the University may be exercised within or the state, including outside Australia.	15 16
[3]	Section 7			17
	Omit the se	ection.	Insert instead:	18
	7 Fac	ilities f	or students, staff and others	19
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	20 21 22 23
[4]	Section 15	Funct	ions of Council	24
	Insert before	re secti	on 15 (1):	25
	(1A)	The C	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 Counc	cil:".	2		
	Insert instead "V	Without limiting the functions of the Council under	3		
		the Council may, for and on behalf of the University in the	4		
	exercise of the Un	niversity's functions:".	5		
[6]	Section 15 (1) (a), (b), (e), (h), (i) and (j)	6		
	Omit "may" when	rever occurring.	7		
[7]	Section 15 (1) (c)	8		
	Omit the paragrap	ph.	9		
[8]	Section 15 (1) (d)	10		
	Omit the paragrap	ph. Insert instead:	11		
	(d)	borrow money within such limits, to such extent and on	12		
		such conditions as to security or otherwise as the	13		
		Governor on the recommendation of the Treasurer may	14		
		approve,	15		
[9]	Section 15 (1) (f)		16		
	Omit the paragrap	ph. Insert instead:	17		
	(f)	promote, establish or participate in (whether by means	18		
		of debt, equity, contribution of assets or by other means)	19		
		partnerships, trusts, companies and other incorporated	20		
		bodies, or joint ventures (whether or not incorporated),	21		
[10]	Section 15 (1) (g)	22		
	Omit the paragraph.				
[11]	Section 15 (2)		24		
	Omit "powers". Insert instead "functions".				

Amendment of University of New South Wales Act 1989 No 125

[12]	Section	on 15	5A	1
	Insert	after	section 15:	2
	15A	Cor	ntrolled 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
			controlled entity 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]	Section	ons 1	6A an	nd 16B	1			
	Insert	after	sectio	n 16:	2			
	16A	Оре	eration	n of certain Acts	3			
				ing in this Act limits or otherwise affects the operation of	4			
			Ombudsman Act 1974, the Public Finance and Audit	5				
	Act 1983 or the Annual Reports (Statutory Bodies) Act 1984 to							
				respect of the University or the Council.	6 7			
	16B	Rec	omme	endations of Ombudsman or Auditor-General	8			
			The (Council must include in each annual report of the Council	9			
				art of the report of its operations a report as to any action	10			
				by the Council during the period to which the report	11			
				es to implement any recommendation made in a report of	12			
			the	Ombudsman or the Auditor-General concerning the	13			
			Cour	ncil 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			
			(0)	University commercial activity (as defined in	18			
				section 20A).	19			
[14]	Part 4	4, Div	ision (3	20			
	Insert	after	Divisi	ion 2 of Part 4:	21			
	Divis	sion (3	Commercial activities	22			
	20A	Defi	inition	is.	23			
	_0,			is Division:				
					24			
				Guidelines means the guidelines approved for the time gunder section 20B.	25 26			
			Univ	versity commercial activity 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
20B	Gui	delines	s for commercial activities	7
	(1)	Guide	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	8 9 10
	(2)		Council may submit proposals for the Guidelines to the ter for approval.	11 12
	(3)	with 1	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 Cwith.	Council must ensure that the Guidelines are complied	29 30
	(5)	any pi	Minister's power to approve Guidelines is not limited by roposals for Guidelines submitted by the Council or any e by the Council to submit proposals for the Guidelines.	31 32 33

	(6)		delines are approved by the Minister by giving notice in	1
			ing to the Council of the approved Guidelines. The power	2
			ne Minister on the advice of the Treasurer to approve lelines under this section includes the power to amend or	3
			and and replace the Guidelines from time to time.	4 5
		TOSCI	nd and replace the Ouldennes from time to time.	3
20C	Reg	gister	of commercial activities	6
	(1)	The (Council is to maintain a Register of University commercial	7
			vities and is to enter and keep in the Register the following	8
		detai	ils of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		` /	considered and approved for the purposes of	15
			compliance with the Guidelines,	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	19
		` '	class from all or specified requirements of this section,	20
		(b)	altering the details to be included in the Register in	21
		(-)	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		(-)	activity for the purposes of the Register.	25
	(3)	The	Council must comply with any request by the Minister to	26
	()		ide the Minister with a copy of the Register or any extract	27
			the Register.	28
20D	Rep	orts t	to Minister on commercial activities	29
	(1)	The	Minister may request a report from the Council as to	30
	(1)		versity commercial activities or as to any particular	31
			versity commercial activity or aspect of a University	32
			mercial activity.	33

Universities Legisla	ation Amendmer	ıt (Financial	I and Othe	er Powers)
Bill 2001		•		•

		(2) The Council must provide a report to the Minister in accordance with the Minister's request.	
	20E	Referral of matters to Ombudsman or Auditor-General	
		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):	
		(a) to the Auditor-General for investigation and report to the Minister, or	
		(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	
[15]	Section	on 21A	
	Insert	after section 21:	
	21A	Stamp duty exemption	
		(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.	
		(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.	
[16]	Sche Coun	dule 1 Provisions relating to members and procedure of the cil	

Insert "or omitted to be done" after "done" in clause 5 wherever occurring.

27

[17]	Schedule 2 Investment				
	Omit	claus	e 2. Insert instead:	2	
	2	Inve	estment 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	Fun	nds 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	

Amendment of University of New South Wales Act 1989 No 125

[18]	Sche	dule 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	4
		substituted by the Universities Legislation Amendment	5
		(Financial and Other Powers) 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 Public Authorities (Financial	11
		Arrangements) 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 Other Powers) 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.

Sch	Schedule 5		Amendment of University of Newcastle Act 1989 No 68	1 2
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical 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	on 6		8
	Omit	the se	ection. Insert instead:	9
	6	Obj	ect 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, having particular regard to the needs of the Hunter region, the Central Coast and surrounding areas,	16 17 18 19
			(b) the encouragement of the dissemination, advancement, development and application of knowledge,	20 21
			(c) the provision of courses of study or instruction to meet the needs of the community,	22 23
			(d) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	24 25 26
		(3)	The University has other functions as follows:	27
			(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	28 29 30 31

Sc	hed	lu	le	5

			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
		(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)		functions of the University may be exercised within or le the State, including outside Australia.	17 18
[3]	Section 7			19
	Omit the se	ection.	Insert instead:	20
	7 Fac	ilities f	for students, staff and others	21
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	22 23 24 25
[4]	Section 16	Funct	tions of Council	26
	Insert before	re secti	on 16 (1):	27
	(1A)	The C	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	1 2
		to promote the object and interests of the University.	3
[5]	Section 16 (1)		4
	Omit "The Cound	cil:".	5
		Without limiting the functions of the Council under	6
		the Council may, for and on behalf of the University in the niversity's functions:".	7 8
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	9
	Omit "may" when	rever occurring.	10
[7]	Section 16 (1) (c)	11
	Omit the paragrap	ph.	12
[8]	Section 16 (1) (d)	13
	Omit the paragrap	ph. Insert instead:	14
	(d)	borrow money within such limits, to such extent and on	15
		such conditions as to security or otherwise as the	16
		Governor on the recommendation of the Treasurer may approve,	17 18
[9]	Section 16 (1) (f)		19
	Omit the paragrap	ph. Insert instead:	20
	(f)	promote, establish or participate in (whether by means	21
		of debt, equity, contribution of assets or by other means)	22
		partnerships, trusts, companies and other incorporated	23
		bodies, or joint ventures (whether or not incorporated),	24
[10]	Section 16 (1) (g)	25
	Omit the paragrap	ph.	26
[11]	Section 16 (2)		27
	Omit "powers". I	nsert instead "functions".	28

Amendment of University of Newcastle Act 1989 No 68

[12]	Section 16A			
	Insert	after	section 16:	2
	16A	Cor	ntrolled 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
			controlled entity 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							
	Insert after section 17:							
	17A	Operation of certain Acts						
		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						
	17B		r in respect of the University or the Council. nmendations of Ombudsman or Auditor-General	7				
	170			8				
			the Council must include in each annual report of the Council	9				
			s part of the report of its operations a report as to any action	10				
			ken by the Council during the period to which the report elates to implement any recommendation made in a report of	11 12				
			ne Ombudsman or the Auditor-General concerning the	13				
			Council or the University:	14				
		(a		15				
		(6	by the Minister under section 21E, and	16				
		(t	whether or not the recommendation relates to a	17				
		`	University commercial activity (as defined in section 21A).	18 19				
[14]	Part 4, Division 3			20				
	Insert after Division 2 of Part 4:							
	Divis	sion 3	Commercial activities	22				
	21A	Definit	tions	23				
		Ir	n this Division:	24				
			ne Guidelines means the guidelines approved for the time eing under section 21B.	25 26				
		\boldsymbol{U}	Iniversity commercial activity means:	27				
		(a	any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 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
21B	Gui	deline	s for commercial activities	7
	(1)	Guid	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	8 9 10
	(2)		Council may submit proposals for the Guidelines to the ster for approval.	11 12
	(3)	with	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 with.	Council must ensure that the Guidelines are complied	29 30
	(5)	any p	Minister's power to approve Guidelines is not limited by proposals for Guidelines submitted by the Council or any re by the Council to submit proposals for the Guidelines	31 32

	(6)		delines are approved by the Minister by giving notice in	1
			ing to the Council of the approved Guidelines. The power	2
			ne Minister on the advice of the Treasurer to approve lelines under this section includes the power to amend or	3 4
			nd and replace the Guidelines from time to time.	5
		10501	nd and replace the Odidennes from time to time.	3
21C	Reg	gister	of commercial activities	6
	(1)	The	Council is to maintain a Register of University commercial	7
			vities and is to enter and keep in the Register the following	8
		detai	ils of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		` ′	considered and approved for the purposes of	15
			compliance with the Guidelines,	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	19
			class from all or specified requirements of this section,	20
		(b)	altering the details to be included in the Register in	21
		` /	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		()	activity for the purposes of the Register.	25
	(3)	The	Council must comply with any request by the Minister to	26
			ide the Minister with a copy of the Register or any extract	27
		from	the Register.	28
21D	Rep	orts t	to Minister on commercial activities	29
	(1)	The	Minister may request a report from the Council as to	30
	` /		versity commercial activities or as to any particular	31
			versity commercial activity or aspect of a University	32
			mercial activity.	33

Universities Legislation Amendment	(Financial	and Other	Powers)
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		(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	on 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
		(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]	Scheo Coun	dule 1 Provisions relating to members and procedure of the cil	25 26

Insert "or omitted to be done" after "done" in clause 5 wherever occurring.

27

[17]	Sche	dule 2	2 Investment	1
	Omit	Omit clause 2. Insert instead:		
	2	Inve	estment 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	Fun	nds 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

Amendment of University of Newcastle Act 1989 No 68

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

Schedule 6		6	Amendment of Southern Cross University Act 1993 No 69				
	(Section 3)						
[1]	Section	on 3	Definitions	4			
	Insert	in al	phabetical 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	on 6		8			
	Omit	the se	ection. Insert instead:	9			
	6	Obj	ect 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, having particular regard to the needs of the north coast region of the State,	16 17 18			
			(b) the encouragement of the dissemination, advancement, development and application of knowledge,	19 20			
			(c) the provision of courses of study or instruction to meet the needs of the community,	21 22			
			(d) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	23 24 25			
		(3)	The University has other functions as follows:	26			
			(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,	27 28 29 30 31			

Schedule 6

	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
	(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.	1 <i>6</i> 17
Section 8		18
Omit the se	ection. Insert instead:	19
8 Fac	ilities 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
Section 16	Functions of Council	25
Insert before	re 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	30
	Section 8 Omit the se 8 Fac Section 16	intellectual property and the practical application of study, research, knowledge and intellectual property), whether alone or with others. (b) the University may develop and provide cultural, sporting, professional, technical and vocational services to the community, (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, (d) the University has such other functions as are conferred or imposed on it by or under this or any other Act. (4) The functions of the University may be exercised within or outside the State, including outside Australia. Section 8 Omit the section. Insert instead: 8 Facilities for students, staff and others 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. Section 16 Functions of Council Insert before section 16 (1): (1A) The Council: (a) acts for and on behalf of the University in the exercise

	(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 Counc	ગી."	5
		Without limiting the functions of the Council under	6
		the Council may, for and on behalf of the University in the	7
		niversity's functions:".	8
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	9
	Omit "may" when	rever occurring.	10
[7]	Section 16 (1) (c)	11
	Omit the paragrap	ph.	12
[8]	Section 16 (1) (d)	13
	Omit the paragrap	ph. Insert instead:	14
	(d)	borrow money within such limits, to such extent and on	15
		such conditions as to security or otherwise as the	16
		Governor on the recommendation of the Treasurer may	17
		approve,	18
[9]	Section 16 (1) (f)		19
	Omit the paragrap	ph. Insert instead:	20
	(f)	promote, establish or participate in (whether by means	21
		of debt, equity, contribution of assets or by other means)	22
		partnerships, trusts, companies and other incorporated	23
		bodies, or joint ventures (whether or not incorporated),	24
[10]	Section 16 (1) (g)	25
	Omit the paragrap	ph.	26
[11]	Section 16 (2)		27
	Omit "powers". I	nsert instead "functions".	28

Amendment of Southern Cross University Act 1993 No 69

[12]	Section 16A			1
	Insert	after	section 16:	2
	16A	Cor	ntrolled 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	4 5 6 7
			do so by the Minister under this section.	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
		` /	controlled entity 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

Schedule	6

[13]	Section	ons 17	A and 17B	1
	Insert	after s	ection 17:	2
	17A	Opera	ation of certain Acts	3
		1	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.	5
	17B	Reco	mmendations of Ombudsman or Auditor-General	8
		1 1 1	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:	9 10 11 12 13
		((a) whether or not the recommendation relates to a referral by the Minister under section 21E, and	15 16
		((b) whether or not the recommendation relates to a University commercial activity (as defined in section 21A).	17 18 19
[14]	Part 4	4, Divis	sion 3	20
	Insert	after D	Division 2 of Part 4:	21
	Divis	sion 3	Commercial activities	22
	21A	Defin	itions	23
]	In this Division:	24
			the Guidelines means the guidelines approved for the time being under section 21B.	25 26
		i	University commercial activity means:	27
		((a) any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 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
21B	Gui	deline	s for commercial activities	7
	(1)	Guid	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	8 9 10
	(2)		Council may submit proposals for the Guidelines to the ster for approval.	11 12
	(3)	with	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 with.	Council must ensure that the Guidelines are complied	29 30
	(5)	any p	Minister's power to approve Guidelines is not limited by proposals for Guidelines submitted by the Council or any re by the Council to submit proposals for the Guidelines	31 32

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

Universities Legislation Amendment (Financial and Other Powers
Bill 2001

		(2)	The Council must provide a report to the Minister in accordance with the Minister's request.				
	21E	Ref	ferral of matters to Ombudsman or Auditor-General				
			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):				
			(a) to the Auditor-General for investigation and report to				
			the Minister, or				
			(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for				
			investigation under that Act.				
[15]	Section 23A						
	Insert after section 23:						
	23A	Sta	mp duty exemption				
		(1)	Unless the Treasurer otherwise directs in a particular case,				
		, ,	neither the University nor the Council is liable to duty under				
			the Duties Act 1997, 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.				
		(2)	The Treasurer may direct in writing that any other specified				
			person is not liable to duty under the Duties Act 1997 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.				
[16]			1 Provisions relating to members and procedure of the				
	Coun	Cil					
	Insert	"or o	omitted to be done" after "done" in clause 5 wherever occurring.				

[17]	Schedule 2 Investment					
	Omit	mit clause 2. Insert instead:				
	2 Investment powers		estment 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	Fun	nds 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		

Amendment of Southern Cross University Act 1993 No 69

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

Schedule 7		7	Amendment of University of Sydney Act 1989 No 124	1 2
			(Section 3)	3
[1]	Section	n 3 I	Definitions	4
	Insert in	n alp	phabetical 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	า 6		8
	Omit th	ne se	ection. Insert instead:	9
	6	Obj	ect 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

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Amendment of University of Sydney Act 1989 No 124

			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)		functions of the University may be exercised within or le the State, including outside Australia.	15 16
[3]	Section 7			17
	Omit the se	ection.	Insert instead:	18
	7 Fac	ilities f	or students, staff and others	19
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	20 21 22 23
[4]	Section 16	Funct	ions of Senate	24
	Insert before	re secti	on 16 (1):	25
	(1A)	The S	Senate:	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 Senate to be best calculated to promote the object and interests of the University.	31 32 33

[5]	Section 16 (1)		1			
[-]	• •	o.''	2			
	Omit "The Senate:".					
	Insert instead "Without limiting the functions of the Senate under subsection (1A), the Senate may, for and on behalf of the University in the					
		niversity's functions:".	4 5			
[6]	Section 16 (1) (a	a), (b), (e), (h), (i) and (j)	6			
	Omit "may" whe	rever occurring.	7			
[7]	Section 16 (1) (c	:)	8			
	Omit the paragra	ph.	9			
[8]	Section 16 (1) (c	l)	10			
	Omit the paragraph. Insert instead:					
	(d)	borrow money within such limits, to such extent and on	12			
		such conditions as to security or otherwise as the	13			
		Governor on the recommendation of the Treasurer may approve,	14 15			
[9]	Section 16 (1) (f)	16			
	Omit the paragra	ph. Insert instead:	17			
	(f)	promote, establish or participate in (whether by means	18			
		of debt, equity, contribution of assets or by other means)	19			
		partnerships, trusts, companies and other incorporated	20			
		bodies, or joint ventures (whether or not incorporated),	21			
[10]	Section 16 (1) (g	1)	22			
	Omit the paragra	ph.	23			
[11]	Section 16 (2)		24			
	Omit "powers". l	Insert instead "functions".	25			

Amendment of University of Sydney Act 1989 No 124

[12]	Section 16A Insert after section 16:			
	16A	Cor	ntrolled 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
			controlled entity 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 Public Finance and Audit Act 1983.	24 25 26 27

Amendment of University of Sydney Act 1989 No 124

[13]	Sections 17A and 17B					
	Insert	after section	on 17:	2		
	17A	A Operation of certain Acts				
		Noth	ning in this Act limits or otherwise affects the operation of	4		
		Ombudsman Act 1974, the Public Finance and Audit	5			
			1983 or the Annual Reports (Statutory Bodies) Act 1984 to	6		
		or in	respect of the University or the Senate.	7		
	17B	Recomm	endations of Ombudsman or Auditor-General	8		
		The	Senate must include in each annual report of the Senate as	9		
			of the report of its operations a report as to any action	10		
			n by the Senate during the period to which the report	11		
			es to implement any recommendation made in a report of	12		
			Ombudsman or the Auditor-General concerning the Senate	13		
		or th	e 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	1, Division	4	20		
	Insert after Division 3 of Part 4:					
	Divis	sion 4	Commercial activities	22		
	26A	Definition	ns	23		
		In th	is Division:	24		
			Guidelines means the guidelines approved for the time	25		
			g under section 26B.	26		
		Univ	versity commercial activity 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		

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	(6)	writi	lelines are approved by the Minister by giving notice in ng to the Senate of the approved Guidelines. The power of	1 2
			Minister on the advice of the Treasurer to approve	3
			lelines under this section includes the power to amend or	4
		resci	nd and replace the Guidelines from time to time.	5
26C	Reg	jister (of commercial activities	6
	(1)	The S	Senate is to maintain a Register of University commercial	7
			rities and is to enter and keep in the Register the following	8
		detai	ils of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		` /	considered and approved for the purposes of	15
			compliance with the Guidelines,	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	21
		()	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		` /	activity for the purposes of the Register.	25
	(3)	The	Senate must comply with any request by the Minister to	26
		prov	ide the Minister with a copy of the Register or any extract	27
		from	the Register.	28
26D	Rep	orts t	to Minister on commercial activities	29
	(1)	The	Minister may request a report from the Senate as to	30
	` /		versity commercial activities or as to any particular	31
			versity commercial activity or aspect of a University	32
		comi	mercial activity.	33

Universities Legis	slation Amendme	nt (Financial	and	Other	Powers
Bill 2001		·			

Amendment of University of Sydney Act 1989 No 124

		(2)		Senate must provide a report to the Minister in accordance the Minister's request.	1 2		
	26E	Ref	erral of	f matters to Ombudsman or Auditor-General	3		
			aspec	Minister may refer a University commercial activity or any t of a University commercial activity (whether or not the ct 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	on 29	Α		11		
	Insert after section 29:						
	29A St		Stamp duty exemption				
		(1)	neithe Dutie or Ser	ss the Treasurer otherwise directs in a particular case, er the University nor the Senate is liable to duty under the ss Act 1997, in respect of anything done by the University nate for the purposes of the borrowing of money or the tment of funds of the University under this Act.	14 15 16 17 18		
		(2)	person respect mone	Treasurer may direct in writing that any other specified in is not liable to duty under the <i>Duties Act 1997</i> in ct of anything done for the purposes of the borrowing of the yor the investment of funds of the University under this and the direction has effect accordingly.	19 20 21 22 23		
[16]	Sche Sena		l Provi	isions relating to Fellows and to the procedure of the	24 25		
	Insert	"or o	mitted	to be done" after "done" in clause 5 wherever occurring.	26		

Amendment of University of Sydney Act 1989 No 124

Schedule 7

[17]	Schedule 2 Investment					
	Omit clause 2. Insert instead:					
	2	Inve	estment 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	Fun	nds 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		

Amendment of University of Sydney Act 1989 No 124

[18]	Sche	dule 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 Universities Legislation Amendment	5
		(Financial and Other Powers) 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 Public Authorities (Financial	11
		Arrangements) Act 1987.	12
	13	Validation	13
		Any act or omission occurring before the substitution of	14
		section 6 by the Universities Legislation Amendment	15
		(Financial and Other Powers) 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		8	Amendment of University of Technology, Sydney, Act 1989 No 69		
			(Section 3)	3	
[1]	Section	n 3 l	Definitions	4	
	Insert	in al _l	phabetical 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	n 6		8	
	Omit t	he se	ection. Insert instead:	9	
	6	Obj	ect 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	

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			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
		(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)		functions of the University may be exercised within or le the State, including outside Australia.	15 16
[3]	Section 7			17
	Omit the se	ection.	Insert instead:	18
	7 Fac	ilities f	or students, staff and others	19
		the ex	University may, for the purposes of or in connection with exercise of its functions, provide such facilities for its ents and staff and other members of the university munity as the University considers desirable.	20 21 22 23
[4]	Section 16	Funct	ions of Council	24
	Insert before	re secti	on 16 (1):	25
	(1A)	The C	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:".					
	Insert instead "	Without limiting the functions of the Council under	3			
	subsection (1A), the Council may, for and on behalf of the University in the					
	exercise of the U	niversity's functions:".	5			
[6]	Section 16 (1) (a	a), (b), (e), (h), (i) and (j)	6			
	Omit "may" whe	rever occurring.	7			
[7]	Section 16 (1) (c	:)	8			
	Omit the paragra	ph.	9			
[8]	Section 16 (1) (c	I)	10			
	Omit the paragraph. Insert instead:					
	(d)	borrow money within such limits, to such extent and on	12			
		such conditions as to security or otherwise as the	13			
		Governor on the recommendation of the Treasurer may approve,	14 15			
[9]	Section 16 (1) (f)		16			
	Omit the paragraph. Insert instead:					
	(f)	promote, establish or participate in (whether by means	18			
		of debt, equity, contribution of assets or by other means)	19			
		partnerships, trusts, companies and other incorporated	20			
		bodies, or joint ventures (whether or not incorporated),	21			
[10]	Section 16 (1) (g	u)	22			
	Omit the paragra	ph.	23			
[11]	Section 16 (2)		24			
	Omit "powers". l	Insert instead "functions".	25			

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

[12]	Section 16A				
	Insert	after	section 16:	2	
	16A	Cor	ntrolled 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	4 5 6 7	
			do so by the Minister under this section.	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	
		` /	controlled entity 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	

Sched	ule	8
		_

[13] Sections 17A and 17B			and 17B	1
	Insert	after sect	ion 17:	2
	17A	Operation	on of certain Acts	3
		the <i>Act</i>	thing in this Act limits or otherwise affects the operation of <i>Ombudsman Act 1974</i> , the <i>Public Finance and Audit 1983</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> to n respect of the University or the Council.	4 5 6
	17B	Recomr	nendations of Ombudsman or Auditor-General	8
		as j take rela the	e Council must include in each annual report of the Council part of the report of its operations a report as to any action en by the Council during the period to which the report ates to implement any recommendation made in a report of Ombudsman or the Auditor-General concerning the uncil or the University:	9 10 11 12 13
		(a)	whether or not the recommendation relates to a referral by the Minister under section 21E, and	15 16
		(b)	whether or not the recommendation relates to a University commercial activity (as defined in section 21A).	17 18 19
[14]	Part 4	1, Divisior	1 3	20
	Insert	after Divi	ision 2 of Part 4:	21
	Divis	sion 3	Commercial activities	22
	21A	Definition	ons	23
		In t	his Division:	24
			Guidelines means the guidelines approved for the time ng under section 21B.	25 26
			iversity commercial activity means:	27
		(a)	any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 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
21B	Gui	delines 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.	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)		elines are approved by the Minister by giving notice in	1
			ng to the Council of the approved Guidelines. The power	2
			e Minister on the advice of the Treasurer to approve	3
			elines under this section includes the power to amend or	4
		rescii	nd and replace the Guidelines from time to time.	5
21C	Reg	gister c	of commercial activities	6
	(1)	The	Council is to maintain a Register of University	7
			mercial activities and is to enter and keep in the Register	8
		the fo	ollowing details of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
		()	considered and approved for the purposes of	15
			compliance with the Guidelines,	16
		(e)	such other details as the Guidelines may require.	17
	(2)	The C	Guidelines may make provision for the following:	18
		(a)	exempting specified activities or activities of a specified	19
		()	class from all or specified requirements of this section,	20
		(b)	altering the details to be included in the Register in	21
		(0)	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		(0)	activity for the purposes of the Register.	25
	(3)	The C	Council must comply with any request by the Minister to	26
	(3)		de the Minister with a copy of the Register or any extract	27
			the Register.	28
21D	Rep	orts to	o Minister on commercial activities	29
	(1)		Minister may request a report from the Council as to	30
			ersity commercial activities or as to any particular	31
			ersity commercial activity or aspect of a University	32
		comn	nercial activity.	33

Universities Legislation Amendme	ent (Financial and Other Powers)
Bill 2001	

		(2)	The Council must provide a report to the Minister in accordance with the Minister's request.	
	21E	Refe	erral of matters to Ombudsman or Auditor-General	
			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):	
			(a) to the Auditor-General for investigation and report to the Minister, or	
			(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	
[15]	Section	on 22	A	
	Insert	after	section 22:	
	22A	Star	mp duty exemption	
		(1)	Unless the Treasurer otherwise directs in a particular case,	
			neither the University nor the Council is liable to duty under	
			the Duties Act 1997, 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.	
		(2)	The Treasurer may direct in writing that any other specified	
			person is not liable to duty under the Duties Act 1997 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.	
[16]			1 Provisions relating to members and procedure of the	
	Coun	cil		
	Insert	"or o	mitted to be done" after "done" in clause 5 wherever occurring.	

[17]	Sche	dule 2	2 Investment	1			
	Omit	Omit clause 2. Insert instead:					
	2	Inve	estment 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	Fun	nds 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			

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

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

23

valid.

Schedule 9		9	Amendment of University of Western Sydney Act 1997 No 116	1 2
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical order in section 3 (1):	5
			<i>commercial functions</i> of the University means the commercial functions described in section 8 (3) (a).	7
[2]	Section	on 8		8
	Omit	the se	ection. Insert instead:	9
	8	Obj	ect 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, having particular regard to the needs and aspirations of residents of Greater Western Sydney,	16 17 18
			(b) the encouragement of the dissemination, advancement, development and application of knowledge,	19 20
			(c) the provision of courses of study or instruction to meet the needs of the community, beginning in Greater Western Sydney,	21 22 23
			(d) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	24 25 26
		(3)	The University has other functions as follows:	27
			(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	28 29 30 31

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			which the University has a right or interest (including,	1
			for example, study, research, knowledge and	2
			intellectual property and the practical application of study, research, knowledge and intellectual property),	3
			whether alone or with others, with particular regard to	
			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	ç
			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 assisting the University to promote the object and	14 15
			interests of the University, or as may complement or be	10
			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)		functions of the University may be exercised within or de the State, including outside Australia.	21 22
[3]	Section 9			23
	Omit the se	ection.	Insert instead:	24
	9 Fac	ilities	for students, staff and others	25
		The U	University may, for the purposes of or in connection with	26
		the e	exercise of its functions, provide such facilities for its	27
			ents and staff and other members of the university	28
		comn	nunity as the University considers desirable.	29
[4]	Section 22	Func	tions of Board	30
	Insert before	re secti	ion 22 (1):	31
	(1A)	The I	Board:	32
		(a)	acts for and on behalf of the University in the exercise of the University's functions, and	33 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	3
	(•)	manner as appears to the Board to be best calculated to	4
		promote the object and interests of the University.	5
[5]	Section 22 (1)		6
	Omit "The Board	."	7
	Insert instead "	Without limiting the functions of the Board under	8
	subsection (1A),	the Board may, for and on behalf of the University in the	9
	exercise of the Un	niversity's functions:".	10
[6]	Section 22 (1) (a), (b), (f), (i), (j) and (k)	11
	Omit "may" when	rever occurring.	12
[7]	Section 22 (1) (c		13
	Omit the paragrap	ph.	14
[8]	Section 22 (1) (e)	15
	Omit the paragrap	oh. Insert instead:	16
	(e)	borrow money within such limits, to such extent and on	17
	` '	such conditions as to security or otherwise as the	18
		Governor on the recommendation of the Treasurer may	19
		approve,	20
[9]	Section 22 (1) (g)	21
	Omit the paragrap	oh. Insert instead:	22
	(g)	promote, establish or participate in (whether by means	23
		of debt, equity, contribution of assets or by other means)	24
		partnerships, trusts, companies and other incorporated	25
		bodies, or joint ventures (whether or not incorporated),	26
[10]	Section 22 (1) (h)	27
	Omit the paragrap	oh.	28

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[11]	Section	on 22	! (2)	1		
	Omit	"pow	vers". Insert instead "functions".	2		
[12]	Section	on 22	!A	3		
	Insert after section 22:					
	22A	Controlled entities				
		(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		
			controlled entity 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 Public Finance and Audit Act 1983.	26 27 28 29		

[13]	Secti	ons 23A ar	nd 23B	1	
	Insert	after section	on 23:	2	
	23A	Operation	n of certain Acts	3	
		Noth	ning in this Act limits or otherwise affects the operation of	4	
			Ombudsman Act 1974, the Public Finance and Audit	5	
			1983 or the Annual Reports (Statutory Bodies) Act 1984 to	6	
		or in	respect of the University or the Board.	7	
	23B	Recomm	endations of Ombudsman or Auditor-General	8	
		The	Board must include in each annual report of the Board as	ç	
			of the report of its operations a report as to any action	10	
			n by the Board during the period to which the report relates	11	
			mplement any recommendation made in a report of the	12	
			budsman or the Auditor-General concerning the Board or	13	
			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 section 32A).	18 19	
[14]	Dart /	4, Division	A	20	
[14]	ı aıt.	+, DIVISION	7	20	
	Insert after Division 3 of Part 4:				
	Divis	sion 4	Commercial activities	22	
	32A	Definition	าร	23	
		In th	nis Division:	24	
		the (Guidelines means the guidelines approved for the time	25	
			g under section 32B.	26	
		Univ	versity commercial activity 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,	1 2
			trust, company or other incorporated body, or joint	3
			venture, by or on behalf of the University, that is for the	۷
			time being declared by the Guidelines to be a	5
			University commercial activity.	6
32B	Gui	deline	s for commercial activities	7
	(1)	The 1	Minister on the advice of the Treasurer may approve	8
			elines requiring specified processes and procedures to be	9
		follov	wed in connection with University commercial activities.	10
	(2)	The 1	Board may submit proposals for the Guidelines to the	11
	()		ster for approval.	12
	(3)	With	out limitation, the Guidelines may contain provision for or	13
		with	respect to the following in connection with University	14
		comn	mercial 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 Board 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 32A.	28
	(4)	The I	Board must ensure that the Guidelines are complied with.	29
	(5)	The I	Minister's power to approve Guidelines is not limited by	30
			proposals for Guidelines submitted by the Board or any	31
		failur	re by the Board to submit proposals for the Guidelines.	32

	(6)		lelines are approved by the Minister by giving notice in ng to the Board of the approved Guidelines. The power of	1 2
			Minister on the advice of the Treasurer to approve	3
			lelines under this section includes the power to amend or	4
			nd and replace the Guidelines from time to time.	5
32C	Reg	gister (of commercial activities	6
	(1)	The	Board is to maintain a Register of University commercial	7
			vities and is to enter and keep in the Register the following	8
		detai	ils of each of those activities:	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	12
			University to relevant boards or other governing bodies,	13
		(d)	details of any meetings at which relevant matters were	14
			considered and approved for the purposes of	15
			compliance with the Guidelines,	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	21
		` /	respect of specified activities or activities of a specified	22
			class,	23
		(c)	enabling related activities to be treated as a single	24
		` '	activity for the purposes of the Register.	25
	(3)	The	Board must comply with any request by the Minister to	26
		prov	ide the Minister with a copy of the Register or any extract	27
		from	the Register.	28
32D	Rep	orts t	to Minister on commercial activities	29
	(1)	The	Minister may request a report from the Board as to	30
			versity commercial activities or as to any particular	31
			versity commercial activity or aspect of a University	32
		comi	mercial activity.	33

Universities I	Legislation.	Amendment	(Financial	and Oth	ner Po	owers)
Rill 2001						

		(2)	The Board must provide a report to the Minister in accordance with the Minister's request.	
	32E	Ref	erral of matters to Ombudsman or Auditor-General	
			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):	
			(a) to the Auditor-General for investigation and report to the Minister, or	
			(b) to the Ombudsman under the <i>Ombudsman Act 1974</i> for investigation under that Act.	
[15]	Section	on 33	A	
	Insert	after	section 33:	
	33A	Sta	mp duty exemption	
		(1)	Unless the Treasurer otherwise directs in a particular case,	
			neither the University nor the Board is liable to duty under the	
			Duties Act 1997, 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.	
		(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.	
[16]	Sche	dule 1	1 Provisions relating to members and procedure of Board	
	Insert	"or o	mitted to be done" after "done" in clause 5 wherever occurring.	

Schedule 9

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

Sch	edule	10	Amendment of University of Wollongong Act 1989 No 127	1
			(Section 3)	3
[1]	Section	on 3	Definitions	4
	Insert	in al	phabetical order in section 3 (1):	5
			<i>commercial functions</i> of the University means the commercial functions described in section 6 (3) (a).	<i>6</i>
[2]	Section	on 6		8
	Omit	the se	ection. Insert instead:	9
	6	Obj	ect 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, having particular regard to the needs of the Illawarra region,	16 17 18
			(b) the encouragement of the dissemination, advancement, development and application of knowledge,	19 20
			(c) the provision of courses of study or instruction to meet the needs of the community,	21 22
			(d) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards.	23 24 25
		(3)	The University has other functions as follows:	26
			(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,	25 28 29 30 31

Schedule	10	n

		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 se	ection. Insert instead:	19
	7 Fac	ilities 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	re 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 Counc	ગી."	5
		Without limiting the functions of the Council under	6
		the Council may, for and on behalf of the University in the	7
		niversity's functions:".	8
[6]	Section 16 (1) (a), (b), (e), (h), (i) and (j)	9
	Omit "may" when	rever occurring.	10
[7]	Section 16 (1) (c)	11
	Omit the paragrap	ph.	12
[8]	Section 16 (1) (d)	13
	Omit the paragrap	ph. Insert instead:	14
	(d)	borrow money within such limits, to such extent and on	15
		such conditions as to security or otherwise as the	16
		Governor on the recommendation of the Treasurer may	17
		approve,	18
[9]	Section 16 (1) (f)		19
	Omit the paragrap	ph. Insert instead:	20
	(f)	promote, establish or participate in (whether by means	21
		of debt, equity, contribution of assets or by other means)	22
		partnerships, trusts, companies and other incorporated	23
		bodies, or joint ventures (whether or not incorporated),	24
[10]	Section 16 (1) (g)	25
	Omit the paragrap	ph.	26
[11]	Section 16 (2)		27
	Omit "powers". I	nsert instead "functions".	28

Schedule 10 Amendment of University of Wollongong Act 1989 No 127

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

45A (1A) of the Public Finance and Audit Act 1983.

[13]	Sections 17A and 17B Insert after section 17:					
	17A	Operation of certain Acts				
	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					
			respect of the University or the Council.	7		
	17B	Recomm	endations of Ombudsman or Auditor-General	8		
			Council must include in each annual report of the Council	9		
			art of the report of its operations a report as to any action	10		
			by the Council during the period to which the report	11		
			es to implement any recommendation made in a report of Ombudsman or the Auditor-General concerning the	12 13		
			or the University:	13		
			whether or not the recommendation relates to a referral			
		(a)	by the Minister under section 21E, and	15 16		
		(b)	whether or not the recommendation relates to a	17		
		, ,	University commercial activity (as defined in section 21A).	18 19		
[14]	Part 4, Division 3			20		
	Insert after Division 2 of Part 4:			21		
	Divis	sion 3	Commercial activities	22		
	21A	Definition	finitions			
		In th	is Division:	24		
		the (Guidelines means the guidelines approved for the time	25		
			g under section 21B.	26		
		Univ	versity commercial activity means:	27		
		(a)	any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University, and	28 29 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
21B	Gui	deline	s for commercial activities	7
	(1)	Guid	Minister on the advice of the Treasurer may approve elines requiring specified processes and procedures to be wed in connection with University commercial activities.	8 9 10
	(2)		Council may submit proposals for the Guidelines to the ster for approval.	11 12
	(3)	with	out limitation, the Guidelines may contain provision for or respect to the following in connection with University nercial 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 with.	Council must ensure that the Guidelines are complied	29 30
	(5)	any p	Minister's power to approve Guidelines is not limited by proposals for Guidelines submitted by the Council or any re by the Council to submit proposals for the Guidelines.	31 32 33

	(6)		by the Minister by giving notice in	1
			the approved Guidelines. The power	2
			advice of the Treasurer to approve	3
			tion includes the power to amend or	4
		rescind and replace the G	duidelines from time to time.	5
21C	Reg	ster of commercial activ	rities	6
	(1)		aintain a Register of University	7
			d is to enter and keep in the Register	8
		the following details of e	ach of those activities:	9
		(a) a description of th	e activity,	10
		(b) details of all partie	es who participate in the activity,	11
		(c) details of any ap	pointment by or on behalf of the	12
		University to relev	ant boards or other governing bodies,	13
		(d) details of any mee	tings at which relevant matters were	14
			approved for the purposes of	15
		compliance with t		16
		(e) such other details	as the Guidelines may require.	17
	(2)	The Guidelines may mak	e provision for the following:	18
		(a) exempting specific	ed activities or activities of a specified	19
			pecified requirements of this section,	20
		•	s to be included in the Register in	21
			d activities or activities of a specified	22
		class,	a detivities of detivities of a specified	23
		,	activities to be treated as a single	24
		• •	rposes of the Register.	25
		•		
	(3)		y with any request by the Minister to	26
		•	a copy of the Register or any extract	27
		from the Register.		28
21D	Rep	orts to Minister on comr	nercial activities	29
	(1)	The Minister may reque	est a report from the Council as to	30
	` '		activities or as to any particular	31
			activity or aspect of a University	32
		commercial activity.	, i	33

Schedule 10	Amendment of University of Wollongong Act 1989 No 127
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		(2)	The Council must provide a report to the Minister in accordance with the Minister's request.	1 2
	21E	Ref	erral of matters to Ombudsman or Auditor-General	3
			The Minister may refer a University commercial activity or any	4
			aspect of a University commercial activity (whether or not the	5
			subject of a report by the Council to the Minister):	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			
	Insert	after	section 22:	12
	22A	Sta	mp duty exemption	13
		(1)	Unless the Treasurer otherwise directs in a particular case,	14
			neither the University nor the Council is liable to duty under	15
			the Duties Act 1997, in respect of anything done by the	16
			University or Council for the purposes of the borrowing of	17
			money or the investment of funds of the University under this	18
			Act.	19
		(2)	The Treasurer may direct in writing that any other specified	20
		` /	person is not liable to duty under the <i>Duties Act</i> 1997 in	21
			respect of anything done for the purposes of the borrowing of	22
			money or the investment of funds of the University under this	23
			Act, and the direction has effect accordingly.	24
[16]			1 Provisions relating to members and procedure of the	25
	Coun	Cil		26
	Insert	"or o	mitted to be done" after "done" in clause 5 wherever occurring.	27

clause 2.

Schedule 10

[17]	Sche	dule 2	2 Investment	1
	Omit	claus	e 2. Insert instead:	2
	2	Inve	estment 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
		(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	Fun	nds 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	28 29 30 31

Amendment of University of Wollongong Act 1989 No 127

[18]	Sche	dule 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	4
		substituted by the Universities Legislation Amendment	5
		(Financial and Other Powers) 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 Public Authorities (Financial	11
		Arrangements) Act 1987.	12
	12	Validation	13
		Any act or omission occurring before the substitution of	14
		section 6 by the <i>Universities Legislation Amendment (Financial</i>	15
		and Other Powers) 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

20

valid.

Amendment of Public Authorities (Financial Arrangements) Act 1987 No.33

Schedule 11 Amendment of Public Authorities (Financial Arrangements) Act 1987 No 33	1
(Section 3)	3
Section 3 Definitions	Δ
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 Senate of a University), or	<i>6</i>